



Instruction Guide 29

Parking Spaces and Storage Lockers

Important Notice: This Instruction Guide has been prepared by the Superintendent of Real Estate to provide information about the *Strata Property Act* (the “Act”). This is only a guide to certain parts of the Act and Regulations. Please consult the Act and Regulations to determine the complete and precise requirements of the Act and Regulations. In addition, please remember when reviewing statements about the Standard Bylaws that they may have been amended or removed if the strata corporation has filed bylaw amendments in the Land Title Office. Please check all filed bylaw amendments to determine whether and how the Standard Bylaws may have been amended.

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1. **Why Owners Need to Understand the Method of Allocating Use of Parking Stalls and Storage Lockers**

Not all parking areas or storage lockers in strata developments are allocated in the same way. The specific rights of owners or tenants to use parking stalls or storage lockers may vary depending on how the use of these areas has been allocated in the development. This Instruction Guide, therefore, identifies the different methods of allocating the use of parking stalls and storage lockers and explains how each method of allocation may affect owners.

2. **The Different Parts of a Strata Plan**

The three different kinds of areas in a strata plan are: A strata lot or part of a strata lot; limited common property; and common property.

(a) Strata Lot or Part of the Strata Lot

- The strata lot is owned solely by the owner.
- A building strata lot usually ends at the center of walls, floors and ceilings, but may have different boundaries, if shown on the strata plan.
- A bare land strata lot consists of land, and the boundaries of the land will be shown on the strata plan.
- The strata plan will contain a legend which explains how strata lots are noted on the strata plan.

(b) Limited Common Property

- Limited Common Property is common property that has been designated on the strata plan, or on a sketch plan filed at the Land Title Office, for the exclusive use of one or more strata lots.
- Limited Common Property is often designated on the strata plan as “LCP” with a strata lot number after it.
- The strata plan will contain a legend which explains how the limited common property is noted on the strata plan.

(c) Common Property:

- Common Property is the part of a strata plan that is not part of a strata lot.
- Each owner owns a share of the common property, as a tenant in common, which is in proportion to the strata lot’s unit entitlement.
- The strata plan will contain a legend which explains how the common property is noted on the strata plan.
- Any areas on a strata plan without any designation are deemed to be common property.

Owners should therefore examine their development’s strata plan to determine whether their parking and storage areas are designated as a separate strata lot or part of a strata lot, limited common property or common property.

3. **Allocation Methods**

An owner may have the ability to use parking and storage areas by one of the following methods of allocation.

(a) Strata Lot or Part of the Strata Lot

Parking and storage areas may be designated on the strata plan as a separate strata lot or part of a strata lot.

Parking and storage areas which are intended for commercial use can be designated as a separate strata lot, in which case, they will have their own strata lot number.

Parking and storage areas which are intended to be used in conjunction with a residential strata lot cannot be a separate strata lot, but can be designated as part of the strata lot and so share the same strata lot number as the residential unit.

A parking or storage area which is designated as part of a strata lot will always be owned by the strata lot owner, and a strata lot owner will transfer ownership of these areas to a purchaser upon the sale of his or her strata lot.

(b) Limited Common Property

Parking and storage areas are often designated on the strata plan as limited common property (“LCP”) for the exclusive use of a particular strata lot. An owner who is entitled to the exclusive use of an LCP parking or storage area does not own the area, but he or she will have the exclusive right to use the area. LCP areas are still common property, which is owned by all of the owners in the strata corporation in proportion to their respective unit entitlements.

If parking and storage areas are designated on the strata plan as common property and are not limited to the use of a specific strata lot, a strata corporation can create LCP designations of these areas by passing a resolution either by a unanimous vote or a 3/4 vote (see Instruction Guide 18 for a more detailed discussion).

The right to exclusive use of an LCP area attaches to the strata lot and not to the individual owner. Therefore, when an owner sells his or her strata lot, the right to exclusive use of the LCP area will automatically transfer to the new owner of the strata lot.

(c) Common Property

Parking and storage areas may simply be designated on the strata plan as common property. Just like limited common property, common property is owned by all of the owners in a strata corporation in proportion to their respective unit entitlements. However, the use of areas designated as common property can be allocated to owners in three different ways.

(I) A Grant of Exclusive Use

Under section 76 of the Act, the strata corporation may give an owner the exclusive privilege to use parking and storage areas which are designated as common property. This permission or privilege may not be given for a term which exceeds one year and may be subject to conditions. However, the strata corporation can renew the term of the privilege, alter the conditions, and cancel in the middle of a term by giving reasonable notice to the owner. Permission to exclusively use common property under section 76

is therefore temporary in nature and is not as secure as a right to use common property under an LCP designation or a lease.

An important element of short term exclusive use arrangements is that the ability to use the common property only attaches to the owner and not the strata lot. Vendors, therefore, cannot contractually assign their permission to use parking stalls or storage lockers to new owners, as with a lease. The new owner must ask the strata corporation for permission to use the area exclusively. The strata corporation has full discretion to grant the exclusive use of the same or a different parking or storage area, or even to deny the new owner the right to use any parking or storage area.

(II) An Assignment of Rights Under a Lease or License

When a developer creates a strata development, the developer will sometimes grant a lease or license over parking or storage areas to a related company or to itself (a head lease). The developer or related company will then assign its lease or license interest in individual parking or storage areas to purchasers when they buy their strata lot. Usually head leases or licenses of common property are created in developments with large underground parking and storage areas to enable the developer to control which purchasers get which parking and storage areas after the strata plan is filed.

Some head leases or licenses are worded so that the sale of a strata lot to a purchaser automatically triggers an assignment of the individual parking or storage area to the new purchaser. However, if the head lease or license does not contain an automatic assignment, the vendor can contractually assign his or her lease or license in the contract of purchase and sale.

(III) Common Use of Parking Spaces

Sometimes a strata plan will contain a parking area designated as common property that is not allocated to the use of any specific owners. Owners can often use common property parking areas on a first come first served basis. However, there may also be strata corporation bylaws or rules which govern how owners may use the parking area.

References:

Sections of the Act: 66, 68, 71-77, 257, 258

Sections of the Regulations: 13.6