

Describing Parking Stalls and Storage Lockers on Listings

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Determining how to describe parking stalls and storage lockers when listing a strata lot for sale can be difficult. Simply because the seller has the use of parking stalls or storage lockers does not necessarily mean that they are available for the purchaser. Unless it is confirmed that the stall or locker will be available for use, it should not be on a listing.

Property on a strata plan is designated as either a strata lot or common property (CP), which can be further designated as limited common property (LCP). Both CP and LCP are owned by all owners within a strata corporation; individuals exclusively own their strata lots.

Strata Lot or Part of a Strata Lot

Strata plans can designate parking stalls/storage lockers as part of a strata lot, in which case the new purchaser will automatically have the use of the area and the listing can identify the stall or locker number. Alternatively, the stalls or lockers would be part of separate strata lots. If the seller is selling both the lot and the parking strata lot, both must be listed for sale and separately transferred to the buyer.

Limited Common Property

LCP is common property that is designated for the exclusive use, not ownership, of a particular strata lot owner and is shown on the strata plan. Where a parking stall/storage locker has been designated as LCP for the use of a strata lot, it should be indicated as LCP on a listing. The listing can include the specific stall or locker numbers.

Common Property

If a parking stall/storage locker is designated as CP, it is within the control of the Strata Council, unless there is a developer's lease. The Strata Council has the authority to grant an owner or a tenant exclusive use under the *Strata Property Act*. When listing a strata lot where the parking stall/storage locker is CP, entitlement of use cannot be included, unless there is a developer's lease or unless the Strata Council has confirmed the use of the stall/locker.

When CP has no lease or sublease and the Strata Council confirms the parking stall/storage locker numbers that the buyer would use, they can be referenced on the listing with "subject to the provisions of the *Strata Property Act*." If no stall or locker numbers are confirmed, they cannot be referenced in a listing.

Developer's Leases

Developers can enter into leases of CP parking stalls/storage lockers to either themselves or to related companies. They then often enter into agreements with purchasers to sublease one or more parking stalls/storage lockers to each purchaser.

One parking stall is often assigned to each purchaser who is either charged for only the additional stall or locker or for all subleases. Generally, the sub-lease provides that the owner must assign the sub-lease to a new purchaser at the time the strata lot is sold and the listing can

reference the stall or locker numbers.

If a seller sub-leased a parking stall/storage locker from the developer, they can reference the stall or locker when listing the strata lot for sale, indicating that the area in question is CP but subject to a sub-lease. The stall or locker number can be shown on the listing.

Purchased Parking Stalls/Storage Lockers

In many cases, sellers of strata lots insist that the listing should include the parking stall/storage locker because the seller bought it from the developer.

If the area in question is designated as CP, unless there is a lease/sublease arrangement or the Strata Council has confirmed what parking stall/storage locker the buyer will be entitled to use, the stall or locker should not be included on the listing even though it was paid for. Unfortunately, developers can charge purchasers for an *additional* parking stall or storage locker without designating the area as LCP or entering into a lease/sublease arrangement and the area remains CP which cannot be "bought."

If there was no lease and no designation of LCP, although the developer may have charged the buyer to allocate a parking stall/storage locker, the buyer may not have realized that the developer was acting as the Strata Council who can technically only grant the buyer the use of CP for a one year maximum.

If that is the case, the seller could obtain written confirmation from the Strata Council that the same stall or locker would be allocated to the new purchaser. The listing could then reference the stall or locker number and include that it is "subject to the provisions of the *Strata Property Act*." Without confirmation from the Strata Council, the listing should not reference the stall or locker number.

Practical Points

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Recommendations to the Provincial Government

BCREA recently submitted recommendations to the provincial government regarding the *Strata Property Act* addressing, among other issues, the challenges around describing parking stalls and storage lockers when listing a strata lot for sale. To view the full BCREA *Strata Property Act* brief, visit www.bcrea.bc.ca/govt/2010-09StrataPropertyAct.pdf.

Prior to the conveyance of a strata lot, the strata council, strata corporation accountant or strata property management company fills out a Form B Information Certificate (usually ordered by the REALTOR® on behalf

of the seller). Based on extensive consultation and feedback from member boards, BCREA noted that potential buyers of strata properties need more and better information as the Form B Information Certificate does not address critical information.

In particular, BCREA recommended that the government add new provisions to section 59(3) of the Act to require strata corporations to disclose information about the designation of parking as either CP, LCP, part of the strata lot or subject to a lease with the developer; if the parking and storage is designated as CP, the strata corporation should indicate how it will be allocated to a new buyer and what stall

numbers and storage lockers will be assigned to the buyer.

For further information about describing parking stalls and storage lockers on listings, check out the *Practice Standards Manual* on the Real Estate Council of BC's website.

Thank you to the Real Estate Council for permission to reprint portions of this article that originally appeared in the Report from Council, April 2009.