



## Being Part of a Condominium - Rights and Obligations.

### Definition of a Condominium

Condominium originated from the Latin words *condominus* which means the owner of a separate unit, including the emphyteuta or usufructuary of such unit.

A condominium is a building/group of buildings, the common parts of which are owned, used and/ or enjoyed by 2 or more persons, and the ownership of the various separate units is vested in the same 2 or more persons.

Condominium does not include:

- 2 or more tenements only having a common outer staircase or common outer landings.
- Tenements with only a number of servitudes over each other and only the drains/drainage system or piped/ cabled services are owned in common.

The common parts of the Condominium shall be presumed to be divided equally between the owners of the separate flats, unless otherwise resulting from the title.

### Alterations and Innovations

Alterations and innovations to improve, increase comfort and/ or enjoyment of the common parts, may not be implemented unless a 2/3 MAJORITY VOTE of the *condomini* is passed.

What are deemed to be alterations or innovations?

- Widening of the entrance door
- Installation of a lift
- Installation of a hall-porter system
- Conversion of a yard into a garden or internal parking space

Moreover, the following alterations to the common parts require the UNANIMOUS CONSENT of the *condomini*

- Change in aesthetics and décor of the condominium
- Changes which seriously affect the use or enjoyment of any common part of the condominium by any of the *condomini*
- Changes which may prejudice the stability or security of the building

Any *condominus* that does not intend to benefit from the alterations or installations which are purely decorative or the costs of which are excessively onerous and are susceptible of separate use by each *condominus*, are EXEMPT from contributing to such costs. Such decision entails that such *condominus* is prohibited to benefit from such alterations or installations. In the eventuality that the latter wishes to benefit from the alterations or installations carried out, then he/she is to contribute to the costs incurred for the execution and preservation of the said works. Such costs must be equivalent to the cost that such *condominus* would have incurred had he/she originally contributed to benefit from the alterations or installations. These contributions must be paid through the administrator who would then pay the other *condomini*. If there is no administrator then these costs must be affected in the manner agreed upon to by the *condomini*.

In the case that the alterations to be carried out are not susceptible of separate use by each *condominus* and TWO-THIRDS of the represented units in the meeting vote in favour of such alterations, then ALL *condomini* must contribute to the costs of said alterations in proportion to their shares within the condominium.

**As a general rule, no *condominus* may execute works in his individual property which may cause damage to the common parts of the condominium.**

### Problems of mobility?

Any tenant has a right to install or erect any necessary facility which mitigates or eliminates problems of mobility, unless it seriously prejudices other *condomini*. This must however be carried out at the sole expense of the resident requiring such installation or erection of facility.

In the case of resistance from another tenant/s, and the consent of the owner or the other *condomini* is withheld, then the matter maybe be referred to arbitration. The arbitrator will have the right to decide whether such installation conflicts with the aesthetics, use, enjoyment or security of the common parts of the condominium.





### Apportionment of Costs

Costs attributable to the common parts necessary for the:

- Preservation
- Maintenance
- Ordinary Repairs
- Extraordinary Repairs
- Enjoyment of the common parts
- Rendering services in the common interest
- Alterations agreed upon by the condomini
- are to be divided between ALL the condomini in proportion to the value of the property of each condominus, unless agreed otherwise.

In the case the condominus leases the property to third parties, the tenant has the right to request such third party to contribute for such expenses.

Expenses which are incurred with respect to anything which serves the condomini in an UNEQUAL measure, shall be apportioned in proportion to the use made by each condominus. Similarly, if there are various staircases, yards, roofs or anything else which only serves a particular part of the building, the expenses for their maintenance are to be paid by those condomini who can make use of them. It is important to point out that a condominus who feels aggrieved by the imposition of such expense or considers it unfairly distributed in proportion to the respective ownership of the condominium, may refer the matter to arbitration.

A condominus may only have the right to be **reimbursed** for costs personally incurred, when authorisation in writing is attained by the administrator or with the approval of the tenants following a meeting in favour of incurring such costs. The only exception to this rule is in the case of urgent matters, and therefore the condominus would not have had the time to consult with the administrator/call a meeting beforehand. If there is no agreement as to whether the costs were of an urgent nature or not, then the matter shall be referred to arbitration.

### Maintenance and repairs of Ceilings

If a ceiling is also acting as the floor of a higher storey of a condominium, the costs for maintenance and ordinary and extraordinary repairs of such ceiling shall be divided equally between the condominus of the lower storey and the condominus of the higher storey.

The condominus of the higher storey shall bear all the costs connected with the laying of the paving of the floor, while the condominus of the lower storey shall bear the costs for the painting/decoration of the ceiling and any services above the roof which relate to the lower storey. If the higher or the lower storey forms part of the common parts and therefore there is no particular condominus with whom to share the expenses with, such share of costs are borne by the administrator on behalf of the condomini.

### Construction of new structures on the airspace above the Condominium

A condominus who has the exclusive ownership and exclusive use of a part/whole of the airspace of the condominium may construct new structures, as long as such structures do not cause any damage to the stability of the building or effect the enjoyment by the other condomini or their rights in the condominium. Needless to say, this is only permissible if the condominus is not restricted from doing so in terms of his/her title of ownership.

These are merely a few of the salient features of the rights and obligations which one must be abreast with. Ignorance of the law is no excuse in the eyes of justice. Legal advice should be sought by all parties concerned. LexPractis can provide the legal assistance required to ensure all rights and obligations are being safeguarded and ascertained.

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