



# Real Estate Primer

WITH LAURA HOLLAND

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## Strata Parking

by Stanley Leo, Associate Lawyer

The growth in strata developments has seen a corresponding increase in the value of strata parking. Purchasers are now often willing to pay significant value to obtain parking or additional parking for their strata lots. As a result, one can imagine why purchasers may get frustrated and angry when they discover that they cannot use the parking that they thought they paid for.

This problem revolves around the question of whether a strata plan designates its parking as common property ("CP") or limited common property ("LCP"). Parking can also be rented or assigned by long-term lease.

The problem is exacerbated by a lack of accurate information about the legal status of strata parking, often from strata corporations (referred to in plural as "Stratas") themselves. As realtors, it is important for you to be aware of these issues and to advise your clients accordingly.

### 1. Responsibility for Strata Parking Information

A major problem with the designation between CP and LCP is that there have not been set standards for retention and disclosure of strata property parking stall information in British Columbia. As a result, purchasers must rely on whatever information Stratas have on record, if the information is provided at all.

In addition, a poor understanding of CP and LCP by Stratas raises questions about the reliability of the information provided. Purchasers should know that Stratas have a duty to manage all CP for the benefit of all owners. This includes parking designated as CP. As a result, it is possible for parking designated as CP to be altered by Stratas. For example, if a purchaser paid for a CP parking stall thinking that he or she would have a specific numbered stall (perhaps due to a preferred location), a strata corporation can change which stall the purchaser can use at any time in the future.

On December 14, 2011, the BC Legislature passed Regulation 238/2011 amending the *Strata Property Act*, SBC 1998, c. 43 ("Reg. 238/2011"). Reg. 238/2011 purports to change the above mentioned circumstances by increasing the amount of information that Stratas must keep with regard to identifying how parking is allocated to strata property lots. The regulation will be effective as of January 2014. As a result of Reg. 238/2011, responsibility for retaining and disclosing strata parking information will lie largely on Stratas.



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Good advice.  
Good law.  
Good people.



## 2. Current Liability for Misinformation

Although the retention and disclosure of strata parking information will rest on Stratas, in *Adibfar and Alipour v. Kaulius*, 2005 BCPC 461 (“*Kaulius*”), the vendor of the strata property, but not the strata corporation itself, was found liable for damages arising from a misrepresentation by the vendor that two parking stalls were LCP and thereby saleable to the purchasers. Although neither realtor involved in *Kaulius* was sued, this does not mean that future claims brought by frustrated purchasers will leave realtors unharmed.

This case is an example of how important it is for realtors who are representing sellers of property with strata parking to provide accurate information about parking not only to potential purchasers but to their own clients who could also be liable for wrong information.

## 3. What Can You Do?

In a real estate transaction involving strata parking, realtors for sellers should thoroughly investigate the legal status of parking with Stratas in order to ensure that accurate representations about strata parking are made to purchasers.

If the strata parking information from Stratas are not satisfactory, realtors for both purchasers and sellers can further investigate whether parking is CP or LCP by looking at the relevant strata plans. We have attached two examples of strata plans for your reference, one with a strata plan with parking designated as CP and another strata plan with parking designated as LCP.

In addition, we have attached a copy of the proposed changes to Form B of the *Strata Property Regulation*, B.C. Reg. 43/2000 as amended by Reg. 238/2011.

### Sources

<http://www.housing.gov.bc.ca/strata/regs/>

Order in Council 623/2011, Reg 238/2011

CanLII

*Adibfar and Alipour v. Kaulius*, 2005 BCPC 461

### Disclaimer

*Information, strategies and opinions contained in this newsletter are provided for general information and convenience only. Since the particulars of each situation may differ and information may change rapidly, the reader should seek specific, appropriate, qualified professional advice before acting based upon any information provided by Drysdale Bacon McStravick LLP.*



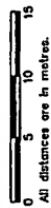
LCP

FILED MREK52981 RCV0:2008-07-09 ROST:2011-02-22-09.10.15.877

**EXPLANATORY PLAN TO DESIGNATE LIMITED COMMON PROPERTY OVER  
A PORTION OF THE COMMON PROPERTY OF STRATA PLAN BCS2981  
SECTION 16 TOWNSHIP 16 NEW WESTMINSTER DISTRICT  
FOR THE BENEFIT OF STRATA LOTS 1-17 INCLUSIVE**

PURSUANT TO SECTION 258 OF THE STRATA PROPERTY ACT  
BCGS 926.009

SCALE 1:300



**LEGEND**

P INDICATES PARKING STALL

PARKING STALLS ARE LIMITED COMMON PROPERTIES  
FOR THE USE OF STRATA LOTS INDICATED (Cf P1)

EXCEPT PARKING STALLS DESIGNATED AS  
LIMITED COMMON PROPERTIES,  
ALL OTHERS ARE COMMON PROPERTIES

PARKING MEASUREMENTS ARE 90°  
OR 45° UNLESS NOTED OTHERWISE.  
PARKING LOT DIMENSIONS  
ARE MEASURED TO:

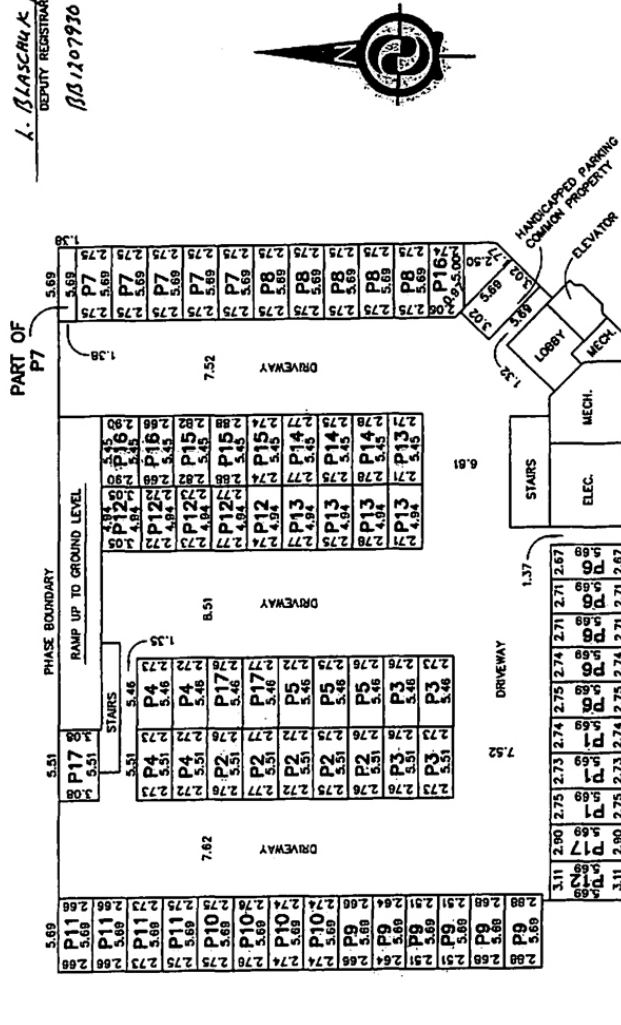
- OUTSIDE FACE OF EXTERIOR WALL
- CENTRE OF PAINTED LINE

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(fx) 563-1737

Job : 062402LS  
File : 062402\_PARKING\_AMO1.DWG

PHASE 1 AMENDED SHEET 1A OF 9 SHEETS  
**STRATA PLAN BCS2981**  
DEPOSITED IN THE LAND TITLE OFFICE OF  
NEW WESTMINSTER, B.C.  
THIS 9 DAY OF SEPT 2009.  
I. BLASCHUK / EP  
DEPUTY REGISTRAR  
BB1207930



**UNDERGROUND PARKING**

THIS PLAN LIES WITHIN THE FRASER VALLEY REGIONAL DISTRICT - CITY OF ABBOTSFORD

DATE: AUGUST 24, 2009

*Sydney*

B.C.L.S.

ORIGINAL





**SCHEDULE 3**

**1 Form B of the Strata Property Regulation, B. C. Reg. 4312000, is amended by repealing everything after paragraph (1) and substituting the following:**

(m) Are there any parking stall(s) allocated to the strata lot?

no  yes

(i) *If no, complete the following by checking the correct box*

No parking stall is available

No parking stall is allocated to the strata lot but parking stall(s) within common property might be available

(ii) *If yes, complete the following by checking the correct box(es) and indicating the parking stall(s) to which the checked box(es) apply.*

Parking stall(s) number(s) ..... is/are part of the strata lot

Parking stall(s) number(s) ..... is/are separate strata lot(s) or parts of a strata lot ..... *[strata lot number(s), if known, for each parking stall that is a separate strata lot or part of a separate strata lot]*

Parking stall(s) number(s) ..... is/are limited common property

Parking stall(s) number(s) ..... is/are common property

(iii) For each parking stall allocated to the strata lot that is common property, check the correct box and complete the required information.

Parking stall(s) number(s) ..... is/are allocated with strata council approval\*

Parking stall(s) number(s) ..... is/are allocated with strata council approval and rented at \$ ..... per month\*

Parking stall(s) number(s) ..... may have been allocated by owner developer assignment

Details:

.....  
.....  
..... *[Provide background on the allocation of parking stalls referred to in whichever of the 3 preceding boxes have been selected and attach any applicable documents in the possession of the strata corporation.]*

**\*Note: The allocation of a parking stall that is common property may be limited as short term exclusive use subject to section 76 of the Strata Property Act, or otherwise, and may therefore be subject to change in the future.**



(n) Are there any storage locker(s) allocated to the strata lot?

- no  yes

(i) If no, complete the following by checking the correct box

- No storage locker is available
- No storage locker is allocated to the strata lot but storage locker(s) within common property might be available

(ii) If yes, complete the following by checking the correct box(es) and indicating the storage locker(s) to which the checked box(es) apply.

- Storage locker(s) number(s) ..... is/are part of the strata lot
- Storage locker(s) number(s) ..... is/are separate strata lot(s) or part(s) of a separate strata lot .....  
[strata lot number(s), if known, for each locker that is a separate strata lot or part of a separate strata lot]
- Storage locker(s) number(s) ..... is/are limited common property
- Storage locker(s) number(s) ..... is/are common property

(iii) For each storage locker allocated to the strata lot that is common property, check the correct box and complete the required information.

- Storage locker(s) number(s) ..... is/are allocated with strata council approval\*
- Storage locker(s) number(s) ..... is/are allocated with strata council approval and rented at \$ ..... per month\*
- Storage locker(s) number(s) ..... may have been allocated by owner developer assignment

Details:

.....

.....

.....

.....

.....

..... [Provide background on the allocation of storage lockers referred to in whichever of the 3 preceding boxes have been selected and attach any applicable documents in the possession of the strata corporation.]

**\*Note:** The allocation of a storage locker that is common property may be limited as short term exclusive use subject to section 76 of the *Strata Property Act*, or otherwise, and may therefore be subject to change in the future.



### Required Attachments

In addition to attachments mentioned above, section 59(4) of the Strata Property Act requires that copies of the following must be attached to this Information Certificate:

- The rules of the strata corporation;
- The current budget of the strata corporation;
- The owner developer’s Rental Disclosure Statement under section 139, if any; and
- The most recent depreciation report, if any, obtained by the strata corporation under section 94.

Date: ..... [month, day, year]

.....

Signature of Council Member

.....

Signature of Second Council Member (not required if council consists of only one member)

OR

.....

Signature of Strata Manager, if authorized by strata corporation.