



Term: Spring | Issue 42 | Date: March 7, 2019

## **YOU DON'T OWN IT: YOUR BALCONY AS "COMMON ELEMENT" (ARTICLE FROM CMHC PUBLICATION)**

**Surprise!** It's one of the things that surprises many first-time condo owners. That balcony that you can access only through your suite, through sliding glass doors from your own unit... the one that only you or someone from your condo can get to (without dangerously crawling over the railing from the neighbouring unit) -- isn't yours.

Nine times out of ten the balconies in condo buildings are owned and operated by the building's property manager and it's strata council or condo board. (Check your condominium's governing documents to find out precisely where your unit's boundaries are.) It's called "exclusive use common element" and it causes much confusion, some challenges and in some cases the confusion results in extra costs for the suite owner.

**\*\*\* Winterra Balconies are Limited Common Property\*\*\***

### **Tom & Sue's Story:**

The move from their country estate north of Toronto to a brand new 1-bedroom plus den condo in a sparkling building near Toronto's waterfront was an exciting and busy time for Susan and Tom (not their real names). Planning the painting, picking the flooring and fixtures in the late stages of construction was fun, too. Once they took possession and the interior of their new suite started to look a little more like home, Susan and Tom turned their attention to their 200 square foot west-facing balcony.

First they added some floating, interlocking outdoor flooring. Then they turned their attention to lighting, and installed some chic hanging fixtures from the ceiling of the balcony, drilling into the concrete to properly anchor the lights. They carefully planned the electrical cords and had them stapled and tastefully attached to the exterior wall running surreptitiously to the exterior power outlet.

As they were choosing the right outdoor furniture, they received a letter from the newly-elected condo board: they had violated the bylaws and must immediately remove the lighting, all cords, and an engineering inspection was being scheduled to assess the damage. And yes, they'd be responsible for covering the associated costs.

Susan and Tom were shocked. They had no idea what they were doing was wrong. After all, they had made hundreds of similar upgrades to their country estate over the years and they were conscientious, clean and careful with their changes.

**Why Most Balconies Are A Common Element:** Balconies form part of the external envelope of a building. Proper maintenance, structural upgrades and visual conformity, if applicable, fall under the purview of the building because it is inextricably linked to the rest of the building's exterior: waterproofing or leaks, weight-bearing load, cracks or damage, railing or guard safety (Remember the falling glass issues in Toronto? Yes, part of the building's responsibility). Any upkeep or repairs would come out of the building's maintenance budget and reserve fund -- not the individual owners' -- unless the individual owners caused the need for the repairs in the first place.

It is also a common element because of the potential impact on neighbours. When you're out on your exterior balcony you're often very close to your neighbour. You can hear their conversations clearly, smell their cigarette smoke or cologne, and in the case of lighting, your neighbour's exterior lighting will most likely be visible to you. In this environment, the fact that legal ownership rests with the building helps clarify and underscore that you are not in fact in your own home out on your balcony, you are enjoying common space in close confines to your neighbours. It helps eliminate, or at least mitigate, potential conflicts between neighbours because the "rights" of each unit owner are removed from the equation and the building has absolute authority on how those balconies can be used.

**What it means to you:** Obviously, this means you don't have carte blanche with decorating or upgrading activities on your balcony. It means thinking about your balcony as a shared space rather than a space exclusively for you. Read your bylaws. To be safe, if you're not sure whether something you plan is kosher, check with your property manager first. Understand whether your plans will result in actual modifications or alterations to the building exterior in any way. For example, if you wish to add ceramic tile to the floor, the adhesive required could be viewed as an alteration to the structure. Something like that makes it easier for your condo governing body to refuse to grant permission.

**Seeking approval for changes:** When you're seeking the proper approvals for something you'd like to do on your balcony, be patient. Your request may need to go before your strata council or condo board, and it's unlikely that a special meeting will be called simply to address your request. There are a number of other variables that can affect the time it takes to get a response, as well: Will this decision set a precedent? How will it impact your neighbours? Could it lead to additional maintenance costs down the road? The first response you receive may only be a request for more information or documentation, as well. So, plan ahead, know the rules and your rights, and be patient.

**Back to Tom and Sue:** They ended up paying to repair the holes they'd drilled into the ceiling of their balcony (the base of their upstairs neighbour's balcony). And they gained a better understanding of the rules in their building restricting exterior lighting on balconies due to the potential for unwanted light spillage into neighbouring balconies. They opted instead for strategically placed electric candles, and they are enjoying the urban outdoor space as they continue to adjust to the differences between city life, condo community and their former rural ways.

## **What does this article have to do with Winterra?**

Our balconies are limited common property. It has been brought to council's attention that not all residents are complying with Winterra balcony bylaws. The building has gone through a lot of owner/tenant changes in the past year so this would be a good time to remind everyone of what our balcony bylaw states:

Section (9)

(b) The placing of items on patio/balcony areas shall be limited to freestanding planter boxes or containers, summer furniture and accessories and not used for storage of garbage or other items. If "puppy pads" are used on balcony, they must be changed and disposed of regularly.

(c) no items are to be thrown from balconies including cigarette butts, soil, plants etc. Care should be taken when watering plants to avoid overspill.

Section (10)

No propane tank devices or cylinders are to be used on balconies or patios.

**At this time all residents are asked to please take inventory of their balconies and clear any items that do not comply with Winterra bylaws. Please note that the following are not allowed on patio/balconies: bikes; refrigerator; drapes, sheets or curtains of any kind, e.g. bamboo variety; lattice board; tarps; or hanging baskets.**

**Failure to comply with the bylaws could result in a warning or fine.**

## REMINDERS

### Annual Fire Alarm Testing

**MARCH 18, 8am - 4pm**

**Please ensure:**

- Access to units is available by having someone home or arranging key access with the Resident Coordinator.
  - Your unit smoke alarms should be attached to your ceiling.
  - Fire Regulations require that no vehicle summer/winter tires be stored in our storage rooms.
  - An 18" clearance from the storage room sprinklers is also required. Please check your storage units adhere to code.
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**Please keep dogs on a leash on Winterra property**

**There is no poop fairy**



**Please clean up after your pet**

**Urine kills grass & plants, please be mindful**

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## NOISE & SOUNDPROOFING

**Council wants to help you find solutions for soundproofing. There's not much we can do structurally, because of costs but here are some ideas to help in your place.**

When you live in an apartment or condo you might find that you hear a lot of noise from your neighbors coming through the walls and ceilings. Or maybe they hear a lot of noise from you! Even if you can't get behind the walls to solve the problem there are still plenty of things you can do to help reduce the amount of noise in your home. Whether it's for your benefit or the benefit of those around you, try some of these techniques to soundproof a room using home decor.

**Thick Carpet / Underpad:** Sound bounces off hard surfaces and is absorbed by soft surfaces, so the first thing to do is invest in a thick carpet (or area rug) and make sure it has a good quality underpad underneath it. The carpet will absorb a little bit of sound, but it also helps because it will prevent furniture from making noise when it's moved around (for instance when you sit down in a chair and it shifts slightly). If a thick carpet isn't for you, consider layering some area rugs over each other to achieve your desired style while still absorbing some sound. For instance, layering a geometric flat-weave rug over a sisal area rug looks great and will help with noise issues.

**Heavy Drapes:** If you currently have hard window treatments such as wood shutters or blinds consider switching them out for fabric alternatives. Or add fabric drapery but if you switch to curtains or drapes it's important that you choose a heavy fabric such as velvet. Likewise, if you currently have cotton or linen window coverings you'll want to replace them with a heavy fabric that will absorb some sound. Also, consider choosing pleated styles as pleated curtains can double and even sometimes triple the noise reduction compared to flat curtains of the same weight. (\*Note that Winterra blinds must not be changed without an application for alteration to council, but drapes can be added.)

**Soft Furnishings:** Wherever it makes sense in your home switch out hard furnishings for soft furnishings. You'll never be able to eliminate them completely (nor should you) but it's worth it to consider switching out a hard side chair for a soft one or perhaps opting for an upholstered bench or stool instead of a hard coffee table. Noise reverberates off of hard surfaces so it stands to reason that if you can reduce the number of hard surfaces you can reduce the noise to a certain degree. I recommend using some of the furniture to cover the walls between condos/apartments. I myself have found bookshelves as some of the most useful ones. The more wall it covers- the better.

Of course, feel free to fill it up with books. That way, you will have a thicker line of defense.

**Wall Hangings:** Most people think of hanging paintings or photographs on the wall, but if you're looking to dampen sound think about mounting fabric wall hangings instead. They can help to dampen sound. Felt wall art is another fun and creative option. Try attaching a piece of foam to the back of your existing artwork pieces. It's a small thing, but it can help!

Unit owners to some degree have to accept at some point that they will ultimately not have an entirely soundproof home, and some noise will likely leak through.

It's important to recognize that none of these elements will reduce noise completely, but using a combination of them in your home will help to dampen some of the sounds that might currently be bothering you.

**Here are more websites with ideas.**

<https://newenglandcondo.com/article/can-you-hear-me-now/full>  
<https://chicagocooperator.com/article/can-you-hear-me-now/full>

# Parking



Recently, more vehicles have neglected to display appropriate permits or no permit in both the outside resident parking lot, visitor parking spaces and the underground parking lot. This has resulted in:

- an inability of the Resident Coordinator to apply the parking rules in a fair manner
- caused outside parking spaces to be unavailable to registered residents
- liability issues
- affecting the security of building
- unrecoverable costs for damaged surfaces
- visitors having no available spaces

In addition, failure of some residents to adhere to the parking rules has resulted in countless hours of managerial time to fairly inform and administer the parking lots.

In 2016 residents addressed the board concerning the aforementioned issues. Following three town hall meetings and the passing of the parking rules at the 2017 AGM, the first 'parking rules' were implemented.

It is not a desirable choice to fine or tow a vehicle from the parking lots. However, in order to create available spaces for both residents and visitors, notices have been sent to units who are failing to follow the parking rules. Unfortunately, it only takes a few to create the non-wanted parking issues. The Resident Coordinator has spent countless additional work hours trying to work with residents to avoid expensive and unwanted outcomes.

A new position of building manager will be starting on April 1st. This individual will be required to administer the Winterra rules and bylaws. In order to make their situation more productive, please take time to ensure that **your permits are visibly displayed at all times.**

If you have any questions or concerns please contact the Resident Coordinator.

## New Building Manager Position

The Winterra council is in the process of vetting over 12 applications for the new position of building manager. The job posting will close on March 12th. Council will then choose the successful applicant who will begin on April 1st.

Thank You to Fran Baggaley - Winterra has indeed been fortunate to have had Fran in the position of Resident Coordinator since November of 2017. Her full time position at a local winery has taken on more responsibility and she will not be applying for the new building manager's position. On behalf of Winterra, council sincerely thanks Fran for her solid work as Resident Coordinator.