How Far Do You Go To Measure A Building For A Strata Plan? - A Duty of Care

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Many provincial condominium acts place not only the responsibility of survey to the land surveyor, for the ascertained size of intended strata occupation, as well as common property, but the land surveyor is the prime inspector under the legislation; the professional guardian for the approval and registry authorities (and a particular client) in creating these properties.

In British Columbia, there are recent insurance claims resulting from strata plans conflicting with existing space or walls of a condominium; a question has arisen about the responsibility of the land surveyor in measuring a building in the preparation of a strata plan. It seems there may be at least three possible routes a commissioned surveyor could take to achieve the end product. The surveyor may choose to rely on the architectural building plans and draft a strata plan from the design, performing a location survey with a few overall field checks and a visual inspection to complete the plan. This surveyor may also choose to not rely on any construction drawings and diligently go to the field during the construction phase and carefully measure the as-built structure(s), preparing the plan, documenting fully from field measurements. The third option is somewhere in between where the architectural design is used as a guide and all or most dimensions are confirmed by field measurements.

It is important to remember that eventual real estate sales may be by area or mathematical size and, as well, the subsequent proportioning of expenses in a condominium will be based on your interpretation of each strata lot and your calculation of unit entitlement. Throughout the life of a strata plan, each new owner of a strata unit will likely look at dimensions on the strata plan and try to rationalize them against the area they occupy. If you have an error, your liability will increase the longer it goes undetected.

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For example, you create a strata plan for a simple duplex that allots a unit entitlement of 40 to strata lot A and 60 to strata lot B. In fact, the unit entitlement should have been split 50/50 and the error occurred because you proceeded with the plan at the design stage and you didn't detect a significant change when you did a few cursory field checks about the foundation. Ten years go by and every year strata lot A pays $400 in common expenses and strata lot B pays $600. Lot B sells several times over a ten year period but the same owner keeps strata lot A. In year ten, a new owner of B notices that something is wrong and does some measuring and realizes there should be a split of 50/50 on the maintenance costs, not 60/40 and seeks compensation from the owner of strata lot A; over a ten year period a $1,000 liability plus interest has been accumulated. Although this particular problem was from first-hand experience and while the financial liability in this case was not huge, please consider an extrapolation of this sample over a longer period in strata developments where there are fifty or more units. As well as damage, there is an enormous loss in professional time to resolve issues from a simple lack of check measuring.

To initially measure the walls and space of each unit and to take a final walk through just prior to the signing of any strata plan to ensure the plan prepared represents the structure on the date of signing, is cheap insurance and assures a credible, respected and relatively stress-free practise in land surveying.

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