

Workable,
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for clients.



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Maria Durdan is the head of the Condominium Practice Group at SimpsonWigle LAW LLP, practicing primarily in condominium law, development and administration. Maria supports over 650 of the firm's residential and commercial condominium clients throughout Ontario. Maria has also obtained her Associate of Canadian Condominium Institute (ACCI) designation in law, which recognizes that Maria has achieved a level of knowledge and skill of condominium law that qualifies her as a specialist in the condominium field. Maria's practice includes advising boards of directors, property managers and developers on all areas of condominium law.

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I live in a condominium and would like to renovate my family room. What do I need to do before I begin?

A

There are a number of requirements that you will need to comply with before you begin a renovation.

First, you need to determine whether the renovation will affect only your unit or if the renovation will also affect the common elements of the condominium. In order to do this, you need to verify the boundaries of your unit.

You can verify the boundaries of your unit by reviewing the condominium's declaration and description. Be careful to review the declaration in its entirety, including schedule "C", which provides the horizontal and vertical boundaries of your unit, together with the plans of the condominium. Reviewing these documents will enable you to determine whether your renovation will involve changes to your unit only or to the common elements as well. For example, in most declarations you will see that the boundaries of the unit stop at the "backside surface of the drywall sheathing on walls." If you are installing a gas fireplace in your family room, which requires you to connect to the existing pipes running outside of the unit wall or to install a vent to the outside of your unit, you would be making changes to both your unit and to the common elements. You should also contact your property manager to confirm that there aren't any support beams, wiring, piping etc. located in the area you wish to renovate, which would not be illustrated in the condominium's documents.

Determine whether your renovation will affect your unit only, and confirm that the renovation is not prohibited by the condominium's governing documents (declaration, by-law, rules etc.) and does not compromise the structural integrity of the condominium, the condominium's insurance or the safety and security of the assets of the condominium.

If you've determined that your renovation will also affect the common elements, then you will be required to comply with section 98 of the Condominium Act, 1998, which states that before an owner is permitted to make a change to the common elements, they must first enter into an agreement with the condominium. The agreement includes such things as the owner's responsibility to maintain, repair, replace and insure the change and it must be registered against the title to the unit before any renovation begins. In addition to the agreement and depending on the change, the Act also requires that certain procedures be fulfilled prior to an owner being able to make changes to these areas, such as giving notice of the changes to the other owners at the condominium. Once the agreement is registered on title you may proceed with the renovation, subject to compliance with the terms of the agreement.

It is not always easy to determine if your planned renovation will affect only your unit or if it will also affect the common elements. Nor is it easy to negotiate the terms of the requisite agreement with a condominium. If in doubt, it is always best to seek the advice and assistance of your lawyer to review the declaration, description, by-laws and rules to ensure that you meet your legal obligations before proceeding with any renovation.



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