

# CONDO LIVING

THE TORONTO STAR Saturday, June 2, 2001 P5

## FINE PRINT

# Owners floored by condo board's stand

Can directors impose decorating rules on unit owners?

### Ask and Expert

**Q** I have lived in my condo in Ajax for over six years and read the declaration carefully before moving in. We installed 88 inches by 117 inches of Pergo floor covering in the entrance to our unit. We made sure to install a "whisper underlay" that reduces noise. Most of this area is covered by our kitchen table (seats four). Only a small area is walked on, to travel to the living room from the kitchen and to the hall closet. Our condo corporation instructed us that we must remove the flooring, citing two clauses from our declaration:

■ Each unit shall be occupied and used only as private, single-family residence in such a manner so as not to interfere with the use and enjoyment by other owners of their units or the common elements.

■ No owner shall make any structural change or alteration in, or to, his unit, including the removal and installation

of toilet, bath tub, wash basin, sink, heating, air conditioning, plumbing or electrical installation contained in or forming part of his unit; or alter the exterior design or colour or any part of his unit where such change, alteration, decoration or painting is normally visible from the exterior thereof or make any change to an installation upon the common elements, or maintain, decorate, alter or repair any part of the common elements, except for maintenance of those parts of the common elements, which he has the duty to maintain, without prior consent in writing of the board, which may attach any reasonable condition to its consent or which may, in its discretion, withhold consent.

Can they enforce this, as nowhere in the declaration does it mention flooring? We have had this flooring for a

year and a half and have never had a complaint about it. My husband and I are desperate to settle this issue.

**A** *Condo Living sent this question to investigative architect and building science specialist Martin Gerstrup. He is the principal of Best Consultants Inc., with more than 18 years' experience with condos and is an adjunct assistant professor at U of T's Faculty of Architecture, Landscape, and Design:*

The reader's question raises several interesting issues.

The first is whether a board of directors has the right to impose decorating rules upon unit owners. The condo corporation's declaration will likely contain bylaws governing the use of units to ensure the security and welfare of the residents and property.

The board of directors will determine the corporation's responsibilities and has the right to enforce rules and regulations as set out in the declaration. The declaration and/or its bylaws

will set out the unit owner's responsibilities.

Bylaws may require an owner to obtain the consent of the board for the purpose of painting or decorating.

The second issue raised is whether the replacement of one type of flooring with another constitutes a change that may interfere with the reasonable use and enjoyment of the common elements or other units in the building.

If a change in flooring from carpet to hardwood or tile results in increased noise transmission to the unit below, there may be restrictions on the type of floor finishes set out in the corporation's declaration or its bylaws. Any change that will interfere with the reasonable use and enjoyment of the adjoining units may require the consent of the board of directors.

The flooring referred to as "Pergo" is a laminate floor that is neither hardwood nor vinyl. Laminate flooring normally uses a floating installation technique with a layer of foam under the laminate flooring.

It is not unusual to hear a little bit of a tapping echo when you walk on laminate flooring, which could be objectionable to an occupant on the floor

below.

This brings up the third issue, which is whether the reader's laminate flooring replaced carpet or tile. If the laminate flooring replaced tile, it is not likely any increase in sound transmission would occur from one floor down to another.

Whether the installation of laminate flooring is restricted depends on the specific wording of a corporation's declaration. In the event there are no bylaws specifically restricting the type of flooring, there may be a bylaw that imposes the responsibility on unit owners to seek the consent of the board.

Based on the information provided, which appears to be limited to only a small part of the declaration, the reader is not under any obligation to remove the laminate flooring in question because the replacement of floor finishes is not normally considered a structural change or alteration.

*Do you have a question about condominiums? Send it to Condo Living, The Toronto Star, One Yonge St., Toronto M5E 1E6, fax it to Ask an Expert, 416-865-3635, or send it by e-mail to [condos@thestar.ca](mailto:condos@thestar.ca)*

**If a change in flooring from carpet to hardwood or tile results in increased noise transmission to the unit below, there may be restrictions on the type of floor finishes**