

Drawing the line on strata renovations

There's often a blurred line between what you can and can't touch when renovating your strata-titled unit or townhouse. **Peter Cerexhe**

YOU'D think that with 130,000 strata or unit schemes in Victoria and New South Wales together, and tens of thousands of others elsewhere, the rules would be crystal clear about what renovations, maintenance and repairs a strata owner can undertake without seeking approval of the owners corporation. But for most of Australia what you own and what you can therefore mess around with is not a simple question.

Before I start it's necessary to simplify the terminology. I'll call the lot owner 'LO', the owners corporation ('body corporate' in Queensland and Tasmania, 'strata corporation' or 'community corporation' in South Australia and 'strata company' in Western Australia) will be 'OC', and the rules are the by-laws ('articles' in the Australian Capital Territory and SA, 'standard rules' in Victoria). And I'll call the whole thing 'strata' though other terms are used elsewhere (community title, subdivision, unit title). Phew!

What is absolutely clear is that you shouldn't rely on anything you've been told by an estate agent or other owners in your building. The only way to be certain before you start renovating – indeed, before you buy or move in to your apartment – is to get a copy of the registered plan that created your 'strata' subdivision. This document sets the ground rules and you must follow the drawn lines (with expert assistance from your solicitor or conveyancer where at all possible because the plans can be confusing) so you know what's yours and what belongs to the OC as common property. This is the line we're looking at: the boundary between your lot and the common property. If it's in your lot, or you have exclusive rights to a piece of

common property through an amendment to the strata plan or by-laws, it's your responsibility to maintain and repair as well as your right to decorate (within limits as discussed below). If it's common property – generally the roof, footings, gardens, services, walls, floors, driveways etc. – it belongs to the OC.

Understand the plan

The lines drawn on the plan show the outline of the building for each floor, if it's a tower or block design, or each plot if it's a townhouse style by reference to survey marks. The plan should make clear where the lot boundaries begin and end. There are four options in play and I'll indicate a general position for each state and territory:

1. The inner line of the walls, floor and ceiling. This is probably the most common dividing line and it means, in rule-of-thumb terms, you only own the airspace, not the dividing or external walls themselves. Think of your apartment as a cardboard box – and you don't own the cardboard. This line applies in much of NSW, Victoria, NT, SA, WA, and ACT Class A schemes which are units in blocks or semi-detached (Class B are standalone townhouses in style with no unit above or below and different rules may apply – see 4 below).

2. The mid-line of boundary walls. This sometimes applies in Victoria, Queensland for a Building Format Plan, Tasmania, SA for strata plans deposited prior to September 1, 1988, and in WA

where there's a common or party wall, for example.

3. The exterior edge of boundaries.
4. By survey markers on the ground.

This is the general situation for free-standing townhouse-style developments where each lot has a garden or courtyard and no unit is directly below or above it (ACT Class B, Queensland Standard Format Plan, SA's Community Title and WA's survey-strata schemes, as well as certain schemes in NSW, Victoria etc.). Here the LO is generally responsible for the structures and grounds including exterior walls and roof but not for services which pass through the lot and are to the benefit of more than one lot, such as sewer or water supply, or possibly even guttering which overlaps unit boundaries.

The message is this: search your registered plan to know with accuracy which of these four options applies to your situation. Plans can amend the general position and legislation sometimes creates new categories.

Services within the walls, such as electrical wiring, internet/television cabling, gas pipes, air-conditioning ducts and plumbing, are generally common property.

The LO becomes responsible once these services emerge from the

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walls/ceiling/floor of their unit or where the service within the common property is solely for the benefit of that single lot owner. The precise point may be disputed. In the ACT the OC is responsible for maintenance of a service "up to the point of the individual pipe (cable, etc.) servicing each individual unit". In Queensland with a 'Building Format Plan', if the pipes are in a boundary structure they're common property but are the LO's problem if they're within a wall internal to the unit and they service only that unit.

Asking permission

Before renovating your apartment you should realistically assume you require approval of the OC and, possibly, local council. Because each state has different laws an owner must always check the requirements but some things can generally be done without anyone's approval, including:

- painting or wallpapering internal walls and ceilings;
- carpeting and using soft or noise-reducing floor coverings;
- changing light fittings;
- changing taps or shower head;
- fitting blinds and curtains;
- attaching fixtures to an internal wall; locks; and
- security or insect screens.

You'll note it's not a long list.

So write to your OC and get approval for things such as a kitchen or bathroom renovation, decorating the exterior of your lot, knocking a hole in a wall, changing the plumbing, enclosing a balcony, adding an awning to block sunlight, installing an air-conditioner or replacing a window frame or door. The OC can stop your alterations from proceeding if your activity might interfere with the common property or any support for part of the building.

Approval might require a special resolution of the OC in response to your written proposal (and please provide accompanying plans). In the ACT it must

be by "unopposed resolution" of the OC, and in the NT "unanimous resolution" (although the OC can adopt its own rules). Check the prevailing notice period (eg. 14 days in NSW) so you aren't caught short with your tradespeople.

If approved, the OC should then complete the move by passing a by-law to ensure that maintenance of this improvement/addition or alteration becomes the responsibility of the LO and not the OC.

Life moves faster than written rules. Floating timber flooring is an example of a product that's emerged since the strata laws were framed. There are two main ways this is controlled or prevented: by specific by-laws or through the general noise prevention by-laws. For example in NSW by-law 14 says, "An owner must cover the floor of their lot or treat it to stop noise which may disturb another resident. This does not apply to the kitchen, laundry, lavatory or bathroom of a lot." Tread carefully.

Watch out for the front door, too – it could be the responsibility of the OC or LO. For example, in Queensland it belongs to the OC in a Building Format

Plan and LO if a Standard Format Plan – but doors/windows leading to a balcony of a lot are LO in a Building Format Plan.

In all the inevitable grey of this a key issue will be whether a single lot benefits from the renovation, repair or maintenance of a service, or whether the benefit is shared widely – and, of course, the rules can change over time. For example, in NSW balcony doors are common property if the strata plan was registered after July 1, 1974; parquet flooring and timber floorboards are common property if they were originally installed in the apartment but not necessarily if added later. Queensland law is more explicit in its test. For Building Format Plan units, there's a threefold test for services:

"The service is not considered common property if it: 1. supplies a utility service to only one lot; and 2. is within the boundaries of the lot; and 3. is not within the boundary structure for the lot."

Finally, the strata laws place an obligation on the LO to maintain their property. If you fail in this the OC can gain access, get the work done and charge you for it.

Check the relevant notice period (eg. seven days in Victoria) but emergencies can override the requirement to give notice.

In summary:

- Find your boundaries on a copy of the plan of subdivision.
- Check the by-laws.
- You can decorate internally.
- If decorating externally or truly renovating, get OC approval first.
- Often there's room for negotiation about who does what and who pays for it – don't just accept what you're told by the OC. ■

Peter Cerexhe is the author of *Smarter Property Improvement* and *Smarter Property Investment* (Allen and Unwin). He has worked as a development solicitor and finance writer for CHOICE.

FINDING YOUR PLAN

ACT: Office of the Registrar General in Civic, www.palm.act.gov.au

NSW: Department of Lands, www.lands.nsw.gov.au

NT: Land Titles Office, www.nt.gov.au/justice/graphpages/landtitl/

Queensland: Land Registry, Department of Natural Resources and Water, www.nrw.qld.gov.au

SA: Land Titles Registration Office, www.landservices.sa.gov.au

Tasmania: Land Titles Office, www.dpiw.tas.gov.au

Victoria: Land Registry, www.land.vic.gov.au

WA: Landgate – Western Australia Land Information Authority, www.landgate.wa.gov.au