

18. Acquisition of additional common property

- (1) A strata company may, pursuant to a resolution without dissent (or unanimous resolution, in the case of a two-lot scheme), accept a transfer or lease of land which is part of, or contiguous to, the parcel and is not subject to a mortgage, charge or other encumbrance, for the purpose of creating, or creating additional, common property.
- (2) A transfer or lease referred to in subsection (1) shall be accompanied by —
 - (a) the certificate of title comprising the land described in the transfer or lease or, in the case of a transfer of a lease or sub-lease, the registered lease referred to in the transfer or sub-lease;
 - (b) a certificate under the seal of the strata company certifying that the resolution authorizing the acceptance of the transfer or lease was a resolution without dissent (or unanimous resolution, in the case of a two-lot scheme),

and, in the case of a transfer other than a transfer of a lease, there shall be lodged in the office of the Registrar of Titles a plan showing as a single lot the land comprised in the transfer and the land comprised in the parcel before the registration of the transfer.

- (3) Upon the registration in the prescribed manner of any such transfer, other than a transfer of a lease, the land comprised in the transfer becomes common property and is subject to the provisions of this Act relating to common property and the Registrar of Titles shall make an appropriate recording on the registered strata/survey-strata plan to which the parcel relates and on the certificate of title of the land transferred.
- (4) Upon the registration of any such lease, transfer of a lease or sub-lease —
 - (a) the leasehold interest becomes common property and thereupon is subject to such of the provisions of this Act relating to common property as are applicable to a leasehold interest;
 - (b) the strata company is responsible for all payments and the performance of all duties required of the lessee by the terms of the lease or sub-lease, as the case may be; and
 - (c) the Registrar of Titles shall make an appropriate note on the registered strata/survey-strata plan to which the parcel relates and on the certificate of title or the lease, as the case may be, comprising the demised land to the effect that during the term of the lease or sub-lease the demised land is incorporated with and as part of the common property.
- (5) A strata company may, pursuant to a resolution without dissent (or unanimous resolution, in the case of a two-lot scheme) and with the concurrence of the lessor, surrender a lease accepted by it under this section, but if the lessor is also a proprietor, that proprietor may participate in debate on the resolution that the lease be surrendered but may not vote on that resolution.
- (6) Upon the registration of any such surrender, the Registrar of Titles shall make an appropriate recording on the registered strata/survey-strata plan on which the lease was recorded.

- (7) The share of a proprietor in common property vested in the proprietors pursuant to this section shall by operation of law be subject to any encumbrance registered or caveat lodged with the Registrar of Titles against his lot and every such encumbrance or caveat is deemed to be amended accordingly.

[Section 18 amended by No. 58 of 1995 ss.20, 92 and 95.]