



Air Space
 2016
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 (City of Langford)

Air Space General Discussion

- Perception of complexity
- Not frequently encountered by many AO's
- Subdivision may occur prior to Building Permit (or post)
- Guide for Approving Officers
 - 2.2.2 (introduction)
 - 2.7
- Land Title Act s.138 to 146



Air Space Discussion

Definition

"a volumetric parcel, whether or not occupied in whole or in part by a building or other structure, shown as such in an air space plan"¹

An air space may take any shape and consist whole of:

- Air space & land, OR
- Air Space, land & Water

An air space plan must show one (or more) air space parcels consisting of or including air space.

There is no limit to the number of air space parcels that can be created from a single parcel of land.



Air Space Discussion

- Can be occupied in whole or in part by a building or other structure²
- Is "land" and may be transferred, leased, mortgaged, **subdivided** (again) or... - same as any other parcel of land
- Further subdivision can occur under the Strata Property Act (same as surface [or 2D] subdivisions)
 - It's not possible to create additional air space parcels from a "parent" air space parcel because the air space (original plan) forms a single parcel of land, so further subdivision is within the space that was created by the parent "Air Space" subdivision³.
- There are no implied easements in an Air Space subdivision
 - Different than a building created under the Strata Property Act where easements can be implied
 - Easements must be considered / created (in reciprocity) for structural support, utilities, cost sharing arrangements etc.



Air Space Role of the AO

- An Air space plan must be approved by the *proper* Approving Officer ⁴
 - Reading the Guide for Approving Officers, the approval process can be confusing due to s.146(2) LTA which says that Part 7 of the LTA does not apply (Part 7 being the descriptions and plans which includes restrictions on subdivisions, approval of subdivision plans etc.
- What does this mean?*
- The approval of the AO is as to form **ONLY**. ⁴
 - Provisions of the LTA should be met, such as the ensuring the air spaces comes from 1 (one) fee simple parcel. ^{4,5}
 - Public Interest would not be regarded when deciding whether to approve an air space plan



Air Space

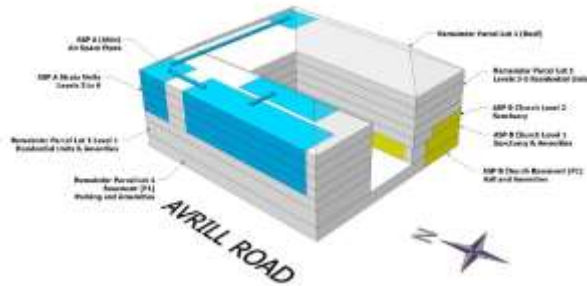
How to... continued

Upon receipt of a plan prepared by a BCLS, the AO *might* consider;

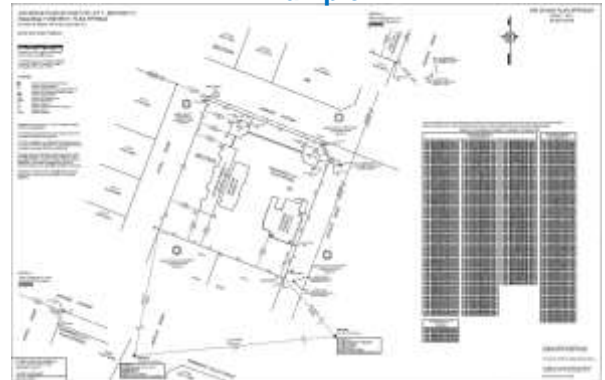
- A s.219 Covenant that the site will be considered a "single site"
- An agreement from the owner of the parcel being created (and remainder) on how general maintenance will work
 - Parking, common elements like elevators, stairs and hallways, amenity areas, ...
- Building Inspection Coordination – confirmation that after subdivision, that the development will comply with all relevant aspects of the BCBC
- An agreement from the owner of the parcel being created (and remainder) on granting access easements (pedestrian, mustering, vehicle, etc.)
- A s.219 covenant that all private easements remain in-place & **unmodified** unless agreed to by the City (and AO).



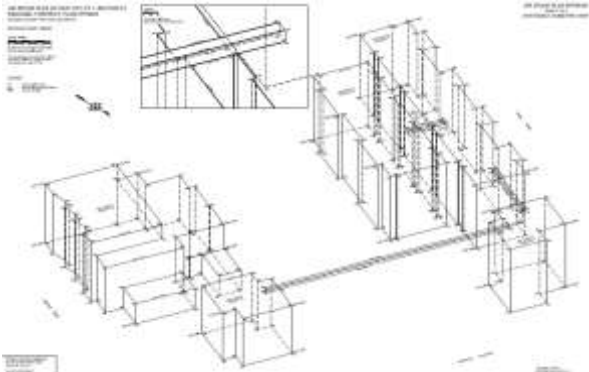
Air Space Example



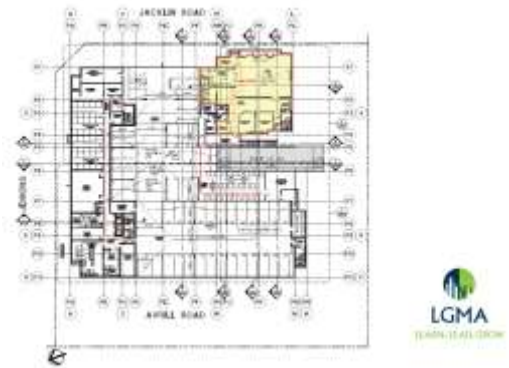
Example



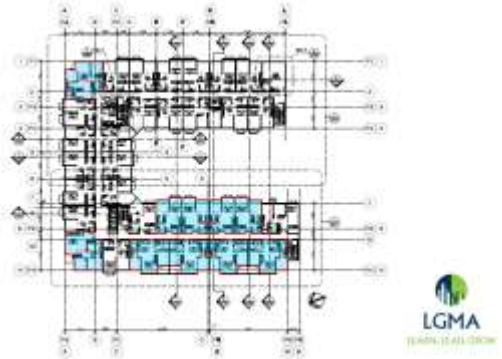
Example



Example



Example



Example

Owner specifics;

- Parking – Below grade (residences) and Surface (public usage)
- Owner wishes to specify usage for specific areas as defined by owner and have the ability to amend from "time to time"
- Owner does not wish to define the remainder at this time, just the 2 air-space components

General Discussion...

Help me think of what is important when considering this subdivision





Air Space References

- 1 – s.138 LTA
- 2 – s. 2.7.1 (Guide for Approving Officers [GAO])
- 3 – s. 2.7.3 (GAO)
- 4 – s. 144(s)(f) LTA / s. 2.7.5 (GAO)
- 5 - s.143 (1)(b) LTA

