Wink, Nod, and a Lawsuit? The Truth About Those Patios

Thanks to RON SANDLER for the information for this story.

Thinking about adding a patio or already enjoying one outside your unit? At CVE, ignorance can cost you thousands. Many patios have been built over the years without proper formal approval, or in some cases, any approval at all. Even if they've been there for years, or you were told by a realtor or seller it "came with the unit." Verbal promises or informal agreements mean nothing without written, documented approval.

Here's the hard truth: Patios used only by one unit aren't just material alterations. They're exclusive-use common areas, which usually require unanimous approval of all owners, a much higher bar than the 75% required for material alterations, or the specific percentage set by your governing documents. Even if a patio qualifies as a material alteration, it still requires proper approval before installation. Informal agreements won't hold up in court.

Even patios that qualify as material alterations still require proper approval before installation. Treating them like shared space with a "wink and nod" and saying, "anyone can use any patio," won't fool a judge. Skip the right approvals and you risk lawsuits, insurance complications, and being ordered to tear it all down.

Think it can't happen to you? Think again. It's already happened here in the Village, and it only takes one disgruntled neighbor or one board member committed to enforcing the rules to spark a costly legal fight. Once that challenge begins, there's no turning back, and the financial burden will fall squarely on you.

Act now. Owners should contact their board immediately to confirm whether their patio has written board approval. They should also verify if it's properly recorded as a limited common element. Boards should audit all patios, adopt clear policies, and consult with their association attorney before a complaint arises.

That small slice of heaven outside your door can turn into a full-blown legal storm before you know it.