Changes to the Land Title Act hope to stimulate the construction of free-hold rowhouses

Bill 41, *Miscellaneous Statutes Amendment Act (No. 2), 2012* amended the *Land Title Act* to ensure that new party wall agreements are binding on owners upon the sale or transfer of property. This will benefit both existing and new owners of property separated by shared walls (or party walls), such as in freehold row-house construction. It allows for the transfer of the legal requirements to maintain the party wall without necessitating a new agreement upon the sale of the property.

Detached dwellings in the Lower Mainland are becoming increasingly unaffordable, and developers are seeking innovative ways to provide quality housing at a reasonable cost. Due to the elimination of strata title and fees, freehold row-housing fills this affordable market housing niche, but because of legal concerns over shared walls, some municipalities have been reluctant to approve construction. Before the amendment, a new owner would need to assume these responsibilities and obligations, and in the absence of this a party wall agreement may not be binding and enforceable against new owners after the property is sold or transferred. This uncertainty discouraged some communities (notably the City of Vancouver) from permitting the construction of freehold row-housing, which is otherwise attractive because it is both an affordable and environmentally sustainable form of housing.

As a result, owners sharing a party wall (such as in a freehold row-house) will now have greater certainty that their legal obligations and entitlements under party wall agreements will transfer to new owners with the sale of property. The amendment therefore closes a “loophole” and provides existing owners with certainty following sale, removes risks for municipalities, and thereby supports future construction of freehold row-housing throughout the Province.