



What are Chattels?

By Brian Madigan

Recently, a reader was concerned about an upcoming closing and was somewhat worried that the vendor was planning to take the garden shed with him. The buyer wanted to know whether the vendor could take the shed and what other things might be considered to be chattels.

In this case the answer is not entirely clear. It all depends on the shed, its purpose and the degree to which it is affixed to the property.

A chattel is a moveable object that has not been “annexed” to the property in a legal sense.

A stand-up dishwasher is a chattel. A built-in dishwasher is not. Built-in appliances are part of the real estate. Independent stand-alone appliances are chattels.

Electric lights fixtures are part of the real estate, but the light bulbs are not.

An uprooted tree in a storm is part of the real estate, as are the shingles that were blown off the roof in the same storm.

It often depends upon the degree to which the item was affixed to the real estate. If it can be removed just by loosening screws, then it is probably a chattel. Pictures can be removed, but you have to leave the wall hooks behind. If there is substantial damage to the premises by reason of the removal, then it is a fixture.

If it was a fixture, the mere fact that it broke does not change its character. The damaged shingles that blew off the roof are fixtures. Oddly, the brand new leftover shingles stored in the garage are still chattels.

You can't take something out of a fixture, even if it can easily be removed. So, the filters for the furnace have to stay. Same thing for integral parts needed for the operation of the swimming pool; the basket in the skimmer has to stay, but the portable leaf skimmer, you can take with you.

So, what kind of shed is it? Any shed of any kind that is affixed to the land is a fixture. Is there any kind of foundation? There usually is, with the better wooden sheds and cabanas. OK, let's assume it is just an inexpensive metal shed just sitting on the ground. So far it's not connected (affixed physically) to the land. But, what was the purpose of the shed? If the vendor just kept his lawnmower and garden tools in there, then it's a chattel. However, if it covered the pool heater and filter (which are fixtures) then the shed is considered to be "annexed to the land" and is a fixture, even though it is not physically attached.

Hopefully, this matter will be resolved long before closing to eliminate any last minute difficulties.

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