

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-342

Condo Smarts

Headline: Privacy Rights and Reasons

Topic: Privacy

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Dear Condo Smarts: I have a dog in a strata in Kitsilano. I bought my unit two years ago, and ever since moving in have been harassed by owners constantly about having a dog, even though the bylaws permit one dog per strata lot. A group of owners have allegedly complained about the noise my dog makes during the day when I am work, and council have notified me that I will be fined if I do not get rid of my dog. Oddly enough, my dog goes to work with me every day, so I am challenging their claims. I have requested a hearing as the Act permits and requested copies of the complaints. Council claims that due to privacy laws they cannot release the complaints; however, the Act requires that they must identify the particulars of the complaint(s), yet at the hearing they could or would not identify any valid complaint, other than their desire that I must remove my dog. How do I access the complaints if council won't release them? If they don't release them, how do I have any sense they are even valid? Steve J.

Dear Steve: Our offices receive hundreds of calls regarding privacy matters every month, but the Privacy Legislation is not intended to protect strata councils or owners from the requirements of the Strata Act. The particulars of a complaint can include a number of issues such as the time and date of the complaints, the duration of the alleged violation, and the frequency of the violations. To permit strata councils to release

complaints, they may insist that they be in writing and that the complainant consent to the release of that information, although it isn't always that simple. For example, if an owner notices that someone has made an alteration to common property without written approval and submits a complaint, the council may want to first investigate the claim and photograph the alteration. Then the complaint itself is no longer necessary. There may also be concerns about retribution over the complaint or personal security issues. The strata council will have to decide on the limit of information they can release to both ensure they can prove they have a credible claim and also protect the privacy of owners. Remember, that as an owner, the council has only informed you of an allegation. They have a duty to provide credible information or evidence proving the allegation, and you still have the option to dispute the claim, or proceed with arbitration or a court action against the strata corporation. The Office of the Information and Privacy Commissioner has posted a new information guide on privacy matters for strata councils, owners, and strata agents. While these are only guidelines, they do provide valuable insight into the complexity of balancing both the requirements of the Strata Property Act and the needs of protecting privacy and personal information. Go to: <http://www.oipcbc.bc.ca>. The guidelines are found under "What's New".

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