

**Condo Smarts**

Headline: Personal Insurance Policies

Topic: Insurance

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**Dear Condo Smarts:** We have been reading your column for years but have never seen the following issue addressed. At the recommendation of legal counsel, our strata corporation adopted a bylaw in 2007 that requires owners to purchase home owner insurance and to provide a copy of the policy to the strata council each year. As an owner I did not agree with the bylaw but as I have been recently elected to council and have been given the responsibility of collecting these policies, I have discovered a number of problems, not the least of which is what happens when an owner does not even buy home owner insurance. I have a sneaky suspicion as a strata council member we are crossing a line here, and would welcome your comments on how we administer this bylaw.

*D.S. Saanich*

**Dear Greg:** The enforceability of a bylaw requiring owners to purchase home owner insurance, the bylaw requiring a copy of the insurance be issued to council, and the enforcement of the bylaw and compliance with privacy laws each have some serious problems and consequences. A strata corporation has no interest in the personal liabilities of an owner, resident or tenant and cannot force owners to protect their personal liabilities. Your bylaws only refers to owners, but what about tenants and occupants who are not owners? Sometimes questions are a valuable method in assessing if a bylaw is a good idea or even enforceable. If the owners do buy homeowner insurance and provide a copy to the strata corporation, will the strata council review the policy to determine if the insurance is sufficient? Will they notify an owner if there is a defect, error or exemption in the home owner policy? If the strata currently has a \$25,000 deductible for water escape, and the home owner policy only covers for \$2,500 or no coverage at all, will the strata corporation notify the owner of the risk or possibly assume the difference in the event the owner is responsible for a claim? What is the transfer of risk to the corporation if the strata does not advise the owner of a defect in their insurance as result? What

if the owner does not provide a copy of the insurance policy because of personal information that would place them at risk? If an owner/tenant or occupant is insuring for personal property such as an art collection, antiques, musical instruments, jewelry or collectibles, their personal security and property could be placed at risk if the policy was provided to the strata corporation and the privacy of the documents was breached. While a strata corporation must absolutely protect personal information, there are often few secrets. What if an owner chooses to self insure? The *Strata Property Act & Regulations* only sets mandatory insurance provisions for strata corporations and does not extend to owners' personal property or personal liabilities.

Your strata corporation may want to confirm your legal advice. It is common to see bylaws that "advise" owners, tenants and occupants maintain homeowner insurance for their potential personal liability and property risks. The strata has an obligation to report on insurance at the Annual General Meeting, and it is essential for the strata corporation to provide a written notice to owners, occupants and tenants along with the policy summary, highlighting the deductibles for water escape, earthquake and other perils. When the policy renews, immediately provide a copy to all of the parties so they may take immediate action to adjust their homeowner/tenant policies to reflect the changes and increased risks or exemptions. Keeping owners well informed and educated will result in fewer conflicts and surprises.

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