
Condo Smarts

Headline: Tenants Obligations

Topic: Tenant

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Written by: Tony Gioventu

Dear Tony: I have been a tenant since 2016 in a new highrise in Vancouver. About a third of our building are rentals and none of the tenants has been elected to council. I received notice from council that I am in violation of the strata bylaws for using an electric barbeque on my balcony. I read the bylaws that were given to me by the owner of my unit at the time I rented and they permitted only electric barbeques.

I responded in writing requesting which bylaw they were quoting as I have nothing in the bylaws provided by my landlord. The strata responded they adopted new bylaws at the June 2018 annual meeting and the bylaw was amended prohibiting all outdoor cooking and that it was my landlord's responsibility to inform me of the bylaws. Neither the strata corporation nor the landlord provided any bylaw updates. How is it possible for tenants to comply with new bylaws if they don't know about them?

Terri M.

Dear Terri: When an owner rents their strata lot, they must provide a completed Form K Notice of Tenant's Responsibilities, to the strata corporation. Both the landlord and the tenant must sign the form. The Landlord's obligation is to ensure that all current bylaws and rules of the strata corporation at the time the form is signed, are attached to the form and provided to the tenant. While the form acknowledges that the tenant must comply with any changed bylaws and rules, the duty to inform the tenants of any changes of new rules or bylaws falls on the shoulders of the strata corporation.

Under the *Strata Property Act*, the strata corporation must inform owners and tenants of any amendment to the bylaws as soon as feasible after the amendment is

approved. Unfortunately, many strata corporations and managers assume the owners will inform their tenants or that the notice of a general meeting and the minutes that follow will be sufficient. This is not formal notice in the same manner as a general meeting but still applies to any general communication format your strata corporation employs, provided every tenant and owner has access to the information.

Best practice: if your strata corporation has adopted new bylaws or ratified new rules, as soon as feasible, have them posted to a web site where everyone has access or post them in public areas where residents will see notices, and send out a written copy advising of the new bylaws or rules. The minutes of the meeting may be an acceptable form of notice; however, attach the new ratified rules or approved bylaws so they are clearly identified.

To ensure you have given notice of enforceable bylaws, within a week of your meeting confirm the new bylaws have been filed in the Land Title Registry before you send the minutes or notice of new bylaws. We have identified many circumstances where bylaws were adopted and never filed. Bylaws are only enforceable once they are filed in the registry. Notice of bylaw amendments after an amendment has been approved but not filed, is required as there may be bylaws that have exemptions created for age restrictions, pet bylaws or rental restrictions, and these exemptions apply when the bylaw is approved, not when it is filed, so timing is everything. Don't forget if you are a landlord and renting your unit to a family member, or qualify under any of the rental exemptions, you must still provide a completed Form K to the strata corporation.