

Condo Smarts

Headline: Accommodation for alterations

Topic: Human Rights; Alterations

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Dear Tony: As president of our strata, I am trying to prevent our strata council from taking a position that I am certain will result in either a complaint with the Civil Resolution Tribunal or human rights. There are 2 townhomes for sale in our Maple Ridge complex, and in one of the townhouses, the buyers have requested permission to install a small four-foot ramp as their youngest child currently requires a wheelchair. We have a bylaw that prohibits any types of alterations to the exterior of the units including the addition of screen doors, awnings or ramps. A group of owners have already submitted a petition directing council to enforce the bylaws. Our council members insist that we must enforce our bylaws unless the owners agree to an amendment. We are at an impasse. We have a bylaw that we have an obligation to enforce and we have a request to alter common property to accommodate access. How could this be best managed?

K.D.R

Dear K.D.R: Unless there is an exempting provision, a bylaw is not enforceable if it contravenes the *Strata Property Act*, the *Human Rights Code* or any other enactment or law. Accommodation for access under the BC Human Rights Code is a requirement to the extent the accommodation is reasonable and does not result in undue hardship for the owners of the strata corporation. A test of undue hardship is generally financial. Would the alteration result in a serious hardship for the corporation? A common example may be the requirement or request for the strata corporation to install an elevator in a building where one does not exist. The installation, construction, costs could easily result in undue financial hardship for the strata corporation owners and may also result in loss of common areas or parts of strata lots.

A common argument against alterations: "The buyers knew when they bought in that we had no ramp at the front door, why should we install it now?" or "They are not owners yet and the strata corporation does not have to respond to their request or inquiry". The rights to accommodate, or the intent to accommodate, are both protected under the Human Rights Code. Whether the party is a buyer or the owner, the strata corporation has an obligation to comply with the Human Rights Code, consider the request, and in good faith negotiate with the applicants.

As the request relates to common property, the strata corporation may request reasonable conditions be met, such as the type of construction, the requirement to meet building codes and obtain building permits if required, and the obligations for maintenance.

If an alteration is to the main common entry, or access to a common area is requested, the strata corporation may be responsible for the costs and the alterations on a voluntary basis or may be ordered by the Civil Resolution Tribunal or the Human Rights Tribunal to complete the alterations. Items such as common FOB activated powered doors, lifts and ramps, may all be ordered to accommodate owners, tenants and occupants.

If a strata corporation has discovered they have adopted an unenforceable bylaw, seek legal advice before you consider enforcing or applying the bylaws. A small investment to ensure the right decisions are made before your strata corporation is named in a CRT or human rights claim will significantly reduce your liabilities.