

Condo Smarts

Headline: Noise complaints on the rise

Topic: Bylaws; Enforcement, Noise

Publication / Date: Times Colonist, Jan 16 2021

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Dear Tony: With so many people at home now we have an increasing number of complaints that relate to noise. As a midsized Nanaimo apartment building constructed as a wood structure, normal noises and sounds like washing machines, flushing toilets, cabinets closing and people walking around are on the increase. Our council has issued a guide to all residents to be tolerant, talk to each other to resolve concerns, and to try to reduce their impact on their neighbours. We have a few owners who have simply taken the position that they will do what they want at their homes and for the most part that has not been a problem as they reside on the ground floor, but we have a 4th floor owner who has decided playing her piano at 3am when she can't sleep or vacuuming, and laundry are her right. At what point does the strata council have to intervene? We have had complaints from two of the units below her, but as council we are also trying to exercise some tolerance around bylaw enforcement. Council would appreciate some guidelines to help us administering this situation.

Gillian R.

Dear Gillian: The first rule of strata living is "your home is not your castle". When you reside in a strata property whether it is a duplex, high rise, bare land, or town house complex, every owner, tenant, and occupant must comply with the bylaws and rules of their strata corporation. Likewise, every strata council member must enforce bylaws. How they enforce the bylaws is a decision of council and does not necessarily involve fines or penalties, but it does require a proactive effort to address credible complaints.

Under the Standard Bylaws of the *Strata Property Act*, which have been adopted in principle by most strata corporations, there is a provision in the bylaws that addresses nuisance. An owner, tenant or occupant

must not cause a nuisance that interferes with the use and enjoyment of common property or another strata lot. Nuisance is found in many forms such as noise, smoke from cigarettes or BBQ's, obstructing access to a strata lot or common property or excessive cooking odours or scents that affect other occupants.

To start, the extent and frequency of the nuisance is reported by the person affected and complaining, then the strata council investigates the evidence provided to determine if the complaint is credible and inform the offending party of the complaint. The offending party then has the ability to respond in writing or request a hearing of council at which time the matter could be resolved, may result in further investigation, or may result in penalties being imposed. If an offending party is unwilling to respond and resolve the situation the strata council has the authority to commence a complaint with the Civil Resolution Tribunal seeking a decision ordering the offending party to comply with the bylaws and for the payments of the penalties.

What happens when a strata council refuses to take a complaint seriously and enforce the bylaws? In a recent Tribunal decision, a strata council was ordered to pay \$2,000 in damages to an owner who has been complaining about excessive noise. The frequency of the complaints was extensive, and the affected owner experienced significant disruption to sleep and use of her strata lot. For occupants who are affected by the behaviour and nuisance of their neighbours, the strata council must respond and address the complaints seriously. If not, any owner or tenant may seek a decision of the Tribunal to order the strata corporation enforce bylaws and order the corporation to pay damages. For occupants exposed to chronic nuisance, it is essential that you document and report every

incident. The evidence and frequency of the violations is essential.

With so many of us now working and living our life cycles from our homes, noise is on the increase. If you are in a situation where there are ongoing problems, evaluate whether the actions result in your disrupted use of your strata lot or affecting your ability to use the strata lot or common property in a reasonable manner.