
Strata Living

Headline: Smoking problems and no smoking bylaws

Topics: Smoking

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Dear Tony: Our strata has unsuccessfully tried for many years to adopt a no smoking bylaw in our building. As an older building, we do not have hallway air circulation which tends to allow leakage of smoke between strata lots. Owners complain if they smell incense, marijuana or cooking odours. One owner is a chain smoker and everyone in her corner of the building is suffering. Help!

Gary W.

Dear Gary: Strata corporations who adopt smoking bylaws, do so to set a lifestyle statement as much as the ability to enforce the bylaw. Buyers who see no smoking bylaws will generally be aware of the strata tolerance before they decide to buy. There is a bylaw within the Schedule of Standard Bylaws of the *Strata Property Act* which may solve the same problem. Most strata corporations who have decided to amend the Standard Bylaws, and yours is no exception, have retained the nuisance bylaw. A nuisance is caused when someone in one strata lot or on the common property does something that disrupts the quiet use and enjoyment of their strata lot, common property or limited common property. The standard bylaws set fines at \$50 for a nuisance violation, which may be imposed weekly for ongoing violations or per event. The fine amounts may also be increased by amended the bylaws to \$200.

But what happens when an owner just ignores the fines or just pays them and doesn't change their behavior? The Civil Resolution Tribunal (www.civilresolutionbc.ca) is now in effect and can be used by strata corporations to obtain an order for fines and penalties, and even obtain an order that requires a person to do or stop

doing something. In this case, stop smoking in areas that are causing a nuisance. The strata council does not require a 3/4 vote of the owners at a general meeting to make a CRT application, and there is no limit on the amount that can be adjudicated for strata disputes. It starts with council receiving a complaint, issuing notice to the accused party and permitting them an opportunity to respond in writing or request a hearing. After that process, if the strata corporation is imposing fines and the person is still violating the bylaws, the council meets and by majority vote decides to commence a CRT complaint and authorizes a representative/council member to start the on line process. If and when you obtain a decision or order, that decision may be filed against the strata lot as a judgement.