

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-196

Condo Smarts

Headline: What to do when your strata is sued

Topic: Insurance - lawsuit

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Dear Condo Smarts: Our strata received notice of a court action for damages related to an injury that occurred this last summer. A visitor stepped on a piece of broken glass in our swimming pool which resulted in a significant injury and long term damage to his use of the foot.

The result was our pool was closed for the rest of summer. Our strata have bylaws and signage that advise visitors, guests and residents to use care when using our facilities and that the strata corporation is not responsible for any damages or losses that may occur as a result.

We had always assumed that, provided we posted those disclaimers and had sufficient bylaws that the strata corporation would not be liable for any damages, but now we're facing a substantial claim. What do we do?

-- *KC, Vernon*

Dear KC: Before anything else occurs - and this applies to all strata corporations - immediately contact your insurance provider and your lawyer to advise them of the action. Most strata corporations carry directors' and officers' liability insurance, and all strata corporations must maintain minimum liability insurance of \$2 million. Your insurer and lawyer will instruct your council what the next steps are. You will also be required to notify the owners of your strata corporation as soon as feasible that you are being sued, and any Form B Information Certificates

issued must disclose any court proceeding which the strata corporation is a party to.

While a strata corporation may take every precaution to avoid liability, it simply doesn't go away because you post a sign or pass a bylaw.

The strata still has an ongoing duty to maintain and repair the property and keep the facilities in a safe manner. Accidents do happen and this may have been unavoidable, but don't rely on signs, disclaimers or bylaws for your last line of protection.

Make sure your properties meet the safest requirements possible, review your insurance every year and increase coverage for special risks such as swimming pools, golf courses, marinas, meeting rooms, guest rooms, and any other facilities that pose a greater risk.

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