

Condominium Home Owners' Association

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Bulletin: 300-269

Condo Smarts

Headline: Smoking in Buildings

Topic: Smoking

Publication date: March 12, 2008

Publication: The Province

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Dear Condo Smarts: Our 111 unit condo building in Vancouver is at war over the issue of smoking. We have been unsuccessful in the past years on passing a bylaw that would restrict smoking in common areas, and the thought of owners not being able to smoke in their strata lots evokes a hostile response from every camp. We have an older building that is not well ventilated so whether someone is smoking in their strata lot or in the hallway everyone on the floor shares the smoke. Council is ready to propose another bylaw at our AGM in May, but what we need to know, is a bylaw that prohibits smoking on common property or in a strata lot enforceable?

Jill Robertson

Dear Jill: There is some relief in store for every strata in the province when it comes to smoking on common property. As of March 31, 2008, under the Tobacco Control Act, smoking is prohibited in places customarily available to the public. These places could include common property areas of a strata complex. Those would include, elevators, hallways, parkades, common rooms like reception areas and swimming pools, laundries and lobbies or in the buffer zones around public areas, such as doorways or adjacent patios or entries.

So the question about smoking in common areas and enforceability has been somewhat addressed by the legislation. But what about the strata lot? This is nothing less than a very complicated and contentious issue. The balance is how to protect the rights of the non-smokers from second-hand smoke, especially when they share common walls, ceilings or floors, and at the same time respecting the rights of the smoker within their strata lot. If your strata corporation are contemplating prohibiting smoking in strata lots then you most definitely need to seek legal advice in the creation of the bylaw, and consider accommodating those persons existing in the building who are smokers that may be heavily addicted to smoking or who have entered into tenancy agreements before the bylaw is enacted. The strata should also consider why they are adopting this bylaw. Is it for nuisance or property impact matters or health concerns? The Heart and Stroke Foundation of B.C. & Yukon is developing a two-year project to address second-hand smoke in multi-unit dwellings, and is seeking your input on an important survey. Please respond by April 15, 2008. You can complete the survey by clicking on the link below:

<http://ws4.voxco.com/IntWeb.dll/online/NRG/25380993>

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