

**Condo Smarts**

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**Dear Condo Smarts:** We live in a 6 floor concrete mid rise apartment. Our strata corporation permits barbeques on the balconies and the patios. There are no guidelines for use or limitations on hours of use. Like most buildings in the greater Vancouver area we have no air conditioning in our unit, and rely on a window mounted intake for a portable air conditioner to cool our unit in the summer. The problem we have been experiencing is that the owners on the 2 floors below us often use their barbeques later in the evening, and our window that houses the air conditioner is directly above. On two occasions now, we have taken in enough smoke to activate the fire alarms. Our strata council, all of whom have barbeques are unwilling to address this issue, but we have a majority of owners now taking a stand on barbeques, but not enough to change the bylaws. Is there some amicable way of resolving this issue? *Barbara Kelly, Vancouver*

**Dear Barbara:** The use of barbeques could be coordinated in such a way that would permit owners to use their barbeques but at the same time specifically limit the time of day of use so owners could be aware of the need to control their air intakes and air conditioners. Many of the modern air conditioners operate on timers and the strata corporation could consider a bylaw amendment that applies to BBQ's that restricts their use to certain hours of the day. At least owners could have access to their BBQ's and the affected owners could ensure their strata lots are secure to prevent smoke damage. Like other second hand smoke, there are health hazards for people with medical conditions, and the smoke from BBQ's could potentially cause physical damage to the property of owners as well as personal risk. If you consider the Standard Bylaws of the Strata Property Act, smoke from a BBQ could also be a nuisance that causes an

unreasonable disruption to the use and enjoyment of common property, limited common property or a strata lot. If the strata council is unwilling to enforce the bylaws if there is a nuisance complaint, the owners could consider a petition demanding a special general meeting for the removal of council and election of a new council. Most petitions for special general meetings require 20% of the owners to sign the petition; however, the Standard Bylaws require a 25% petition for the removal of council. If the strata corporation does not enforce the bylaws and there is damage to a strata lot or a medical issue raised by an owner, the strata corporation may find they have contributed to a greater liability and risk. An ideal solution is for the owners to find some common ground that meets the wishes of the barbeque owners and respects the health and safety of the residents in the building.

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