

Condo Smarts

Headline: What does the privacy officer do?

Topic: Privacy

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Dear Condo Smarts: Our strata corporation is a very large development that includes 11 buildings and sections for both the commercial and residential. As you can imagine, the strata council routinely addresses issues that relate to confidentiality and security, or are issues where a legal opinion needs to be protected for the interest of our corporation. Over the years we have appointed privacy officers to address the confidential information. Some have been council members and last year we had our property manager acting as our privacy officer. This year we had a council member who volunteered for the job as privacy officer with disastrous results. The privacy officer has essentially stopped all information being distributed to the council members, so even if we have a letter requesting a hardship application, we are not being allowed to see the letter or the information that is being provided. We are being told that this is the role of the Privacy officer, to ensure that confidential information is being protected. Is there some type of job description of the role of the privacy officer?

Karen Fraser

Dear Karen: The office of the Privacy Commissioner has published an information bulletin on understanding the privacy legislation and the obligations of a strata corporation to protect privacy and personal information. Common personal information that strata corporations manage includes: name, address and phone numbers, banking/credit information, emergency contacts, insurance particulars, debt collection and vehicle information. In brief, strata corporations have an obligation to tell owners and tenants what information they collect and retain, how they manage it, who is responsible to protect it, and how their information is accessed. The strata corporation is the entity who collects and manages the personal information, and the privacy officer is the appointed person responsible to ensure a strata corporation's privacy policy and procedures are being followed. The strata council members, are the legal representatives of the strata corporation, and while they are required to appoint a privacy officer, they

do not surrender their access or requirement to access the information. The strata council conducts business at council meetings and executes decisions by majority vote. It would be almost impossible for a strata council to competently address bylaw complaints, hardship applications or correspondence that dealt with personal information, unless the council members had direct access to that information. The council as the representatives of the strata corporation are always bound to the requirements of the privacy legislation. Remember that if a bylaw complaint or personal information is a dispute relating to a council member, that council member has to remove themselves from the council decision making process.

It is important to understand that the Personal Information Protection Act does not over ride the Strata Property Act. It is the protection and management of the personal information that is critical. For example, if an owner or tenant requests a copy of the owner's list, the strata corporation must still provide a copy of the list, however, the privacy officer must ensure that phone numbers and emergency contact/personal information is not included on the list.

The information bulletin is a great starting place for strata corporations. It is available at www.choa.bc.ca select articles & bulletins, or go to www.oipc.bc.ca

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