

Condo Smarts

Headline: Smoke Free Housing
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Dear Tony: What happens if you are a smoker that lives in a strata building and the building adopts a bylaw that prohibits smoking in all areas of the building including within your strata lot? My mother lives in her condo in Coquitlam and the strata council have been talking to the owners about changing their bylaws, which will include an age restriction of 55 and over and a bylaw that prohibits smoking. The penalties they are proposing are steep, at \$200 per offense. My mother bought her unit in 1978 and at the time many of the people were smokers and no one was concerned about the lifestyle of their neighbours. I understand if there are ventilation problems and complaints about the smoke, but there have been none in the building at all, so why would the strata consider a bylaw to solve a problem that doesn't seem to exist? *Gerard D.*

Dear Gerard: Strata corporations are permitted under the *Strata Property Act* in British Columbia to adopt bylaws that apply to the use and enjoyment of strata lots, common property and common assets of the strata corporation. Several restrictive use types of bylaws are specifically permitted or identified by the Act and those include bylaws that limit the number of rentals, the age of occupants, a restriction on pets or the number of rentals permitted in the strata. While smoking within a strata lot is not specifically identified, there is a provision under standard bylaw 3 that permits a strata corporation to enforce the bylaws if there is a complaint about nuisance, and the strata council eventually determines that there is a credible finding for the complaint. A bylaw that relates to smoking within a strata lot will essentially have the same effect. If a person is smoking within

their strata lot, and the second hand smoke is not migrating to another strata lot or the common property that poses a nuisance, the strata corporation will not have a complaint or evidence of any alleged violation of the bylaws. A strata corporation may consider a bylaw that strictly prohibits smoking within the strata property; however, they will have to consider whether there are conditions that require a sensitive approach and seek advice on the potential accommodation due to a health issue, for example prescribed medical marijuana, or an addiction such as smoking. The type of building construction and location of the smokers will also have a significant impact on the issue of second hand smoke. Older combustible/wood construction buildings that do not have interior ventilation or pressurization may be subject to more complaints as the transference of smoke between strata lots may be a higher risk. Likewise there is an increase in complaints during the summer about smoking because smokers like to sit on their balconies and smoke while at the same time most of our non air conditioned buildings are best cooled by leaving doors and windows open. This is also the same time that we experience a much higher number of complaints related to use of barbeques, which also contribute to smoke damage and health risks within strata lots. For more information on smoke free housing in BC go to <http://www.smokefreehousingbc.ca/smokefreehousingmonth.html>.

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