

Condo Smarts May 30, 2018

User Fees

Dear Tony: Our strata corporation has set a policy that each strata lot is entitled to 1 FOB for the access to our building and each additional FOB costs \$50. We have several families in the building with school children who are claiming this is unfair and they are being discriminated against because of their family status, but if we allow unlimited FOBs the cost to the strata corporation will also be excessive. Is there a requirement for us to provide FOBs for every resident in the building? What if someone rents out their strata lot? Do we have to provide a FOB for both the tenant and the owner or landlord of the strata lot? If someone has a daily caregiver do we have to provide an additional FOB for each attendant? We do not have a concierge or on-site manager so we really need to control the number of FOBs for security and access. Miller T. Victoria

Dear Miller: A strata corporation is permitted to charge fees for common expenses through 3 basic methods. Owners pay strata fees for common operating expenses and contingency reserve contributions, by special levy for projects approved by three quarters vote at a general meeting or a strata corporation common expense insurance deductible, or by user fees approved in a bylaw or a rule that has been first ratified at a general meeting. Many strata corporations impose fees for rentals of guest suites, elevator blankets, FOBs, additional parking, or facility rentals as a policy, but have never ratified these as rules or approved them as bylaws. In your strata, there is no evidence the strata corporation ever approved user fees as a rule or bylaw so that must be addressed first. Common access to a building for owners to enter their units is not the same as renting a guest suite, and while the strata corporation may approve the cost for the FOBs through the operating account, they may also need to offset the ongoing expenses through user fees. Ultimately this comes down to what each strata corporation approves through the annual budget as a common expense or user fees in the rules or bylaws. Every strata corporation is different and some corporations provide 2 or more FOB's per strata lot while others only provide 1 per strata lot, but step back for a moment and ask what is reasonable. If most units in the building have more than one occupant, perhaps 2 FOBs per strata lot are required with an additional cost for extra FOBs but remember you don't have the authority to simply impose a fee for a service or asset unless it is approved by the owners.

FOBs are common in most new buildings and an inexpensive conversion in many older buildings. They may also enhance security and reduce operating costs. If someone misuses a FOB or a FOB has been lost, that specific FOB can be deactivated without needing to pay the cost of rekeying a building and distributing new common area keys to all owners. If your strata corporation monitors the use of FOBs, that is a form of surveillance and collection of personal information and you will also be required to adopt a bylaw that meets the requirements of the Personal Information Protection Act in BC.

Sincerely,

Tony Gioventu, Executive Director
Condominium Home Owners' Association (CHOA)
website: www.choa.bc.ca