

Condo Smarts August 21 – August 27, 2021 Institutional Memory

Dear Tony: Our strata council has sent a notice out to owners advising we are only limited to a small elections window sign shown from our strata lots and no signs on common property. During the provincial election they attempted this as well and were advised from their lawyer the strata did not adopt any rules or bylaws relating to election signs and could not impose these conditions. The strata council approved a rule 2 weeks ago that limits the size of signs from units and prohibits them on common property. They did send out the rule within 7 days, and many owners have voiced opposition to this rule. Is there anything the owners can do about this? It seems its being pushed by one council member more than anything. Darren W.

Dear Darren: A strata corporation cannot impose restrictions on use of a strata lot through a rule. Rules only apply to the use and enjoyment of common property or common assets. Only bylaws apply to all property. A strata corporation may set a reasonable limit to the size of a sign in a strata lot; however, given that test, who can see an election/campaign sign if they are on the 35th floor and the size limit is a small sign or a sign that cannot be seen? A reasonable expectation is a window sign that is a limit of 1m x 1m or that fits within a single window space. Your rule as it applies to a strata lot is unenforceable. The rule passed by council that applies to common property may be enforced, but 20% of the owners may sign a petition demanding a special general meeting, and by majority vote they can defeat the rule.

Campaigning access to strata lots and common areas of buildings is just as important for our election process. Under the Canada Elections Act, which overrides any of your bylaws and rules, a strata corporation/condo corporation cannot prohibit a legitimate candidate from access to your building to campaign. **Canvassing, etc., in residential areas 81 (1)** No person who is in control of an apartment building, condominium building or other multiple-residence building or a gated community may prevent a candidate or his or her representative from, **(a)** in the case of an apartment building, condominium building or gated community, canvassing, between 9:00 a.m. and 9:00 p.m., at the doors to the apartments, units or houses, as the case may be; or **(b)** in the case of a multiple-residence building, campaigning, between 9:00 a.m. and 9:00 p.m., in a common area in the multiple residence. You cannot adopt bylaws that prohibit campaigning or access. It is up to the discretion of each owner, tenant, occupant, staff person, strata council or manager to permit access to the common areas, for the purpose of campaigning. While access cannot be prohibited, candidates must still comply with the rules or bylaws of the strata corporation such as those where the communities have adopted mandatory mask requirements in common areas, and specific limitations associated with special security systems within buildings. There are many buildings that only allow security access by the residents on designated floors. The strata corporation is not required to compromise their security, provide an access FOB, or codes to any candidates as many owners rely on the security of the common front doors for their personal safety. Like any strata meeting, city council, provincial or federal election, remember to exercise your rights and vote.

Tony Gioventu, Executive Director CHOA

Covid-19 Notice: As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at: <https://www.choa.bc.ca/seminars/>