

## Condo Smarts February 10, 2022

### What is Undue Hardship?

**Dear Tony:** As an aging resident of our high-rise condo building, I am growing increasingly frustrated by the lack of access or complicated access to our building. I use a walker now to support my back, and still drive. Our main building access has an electronic door opener, but our 3 parking garage elevator lobbies do not. They are also heavy steel fire doors. I have requested the strata corporation convert all 3 doors to automatic activators and they refused, indicating the ramp is sufficient for me to park and use the front entry. I am on 2<sup>nd</sup> level and our ramp does not have a pedestrian sidewalk only driving lanes. There are also 4 handicapped parking spaces on level 1, which assumes the users will also have to use the parking ramp. What do I do? Marjorie S.

**Dear Marjorie:** Accessibility to common areas and entries is a serious challenge for both owners and strata corporations. Under the BC Human Rights Code, strata corporations must accommodate persons' disabilities to the point of "undue hardship". As a first step, you can request a hearing before your council outlining the reasons for your requested accommodation. The Council must hold the meeting within 4 weeks of your request and give you its written decision at least 1 week after your hearing. If you do not achieve a solution, you may wish to make a complaint to the BC Human Rights Tribunal or initiate a dispute before the BC Civil Resolution Tribunal.

Lisa Mackie, a Vancouver lawyer who works with strata corporations on these issues, encourages councils to look to *Leary v Strata Plan VR1001, 2016 BCHRT 139* for guidance. According to Lisa, "*councils should respond to the request promptly, ask for information to understand the accommodation, keep medical information confidential, and obtain professional advice where needed.*" Lisa also notes that owners play an important part in the accommodation process too, by "*sharing relevant medical information with their council, considering a range of possible solutions, and cooperating with professionals when evaluating accommodation options.*"

Strata councils are volunteers. They are often placed in situations well beyond their expertise. If there is a shadow of doubt of what to do, consult with a professional to help navigate through the options. While not all accommodations may be possible, dialogue with council and owners to find a viable solution is essential.

Tony Gioventu, Executive Director CHOA

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at: <https://www.choa.bc.ca/about-choa/join-choa/>

Effective December 20, 2021 the Province extended strata corporations' ability to hold electronic meetings, without a strata bylaw, beyond December 31, 2021. This new extension will be in effect until December 31, 2022 unless the *COVID-19 Related Measures Act* is repealed before then. Thus, strata corporations are encouraged to adopt strata bylaws allowing electronic meetings if they wish to continue having that option.

Updated strata housing information related to the Province's Restart Plan and COVID-19 is also available at: <https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/covid-19-and-strata-housing/covid-19-information-for-strata-housing>.

**Tuesday Lunch & Learn Live with CHOA:** CHOA is hosting a series of webinars. Join us on the following Tuesdays as we bring together industry experts to discuss the many issues affecting

BC's strata community. January 25<sup>th</sup>: Communications and Fibre Optic Installations, February 15<sup>th</sup>: Pets, Pet Bylaws and The BC Human Rights Code, February 22<sup>th</sup>: Winding up a strata corporation.  
**Registration will open January 15<sup>th</sup> at <https://www.choa.bc.ca/seminars/>**

**COVID-19:** To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.