

Condo Smarts June 29, 2022

Owner Tenant Occupant Responsibilities

Dear Tony: We are selling our town house in the Kootenays because of an owner who was essentially running a wood working business out of their garage. We have over 50 units with the townhouses being clustered in groups of 8. The strata council refused to do anything about the chronic noise, dust, blockage of our driveway and odours of epoxies because his wife also happens to be the vice president. It came to a point during winter when we threatened to take them to court, they started fining us for being a nuisance about complaining. The opposite town house owner has also complained, but as a single senior, she has become afraid of the aggression and bullying. Now they have published false allegations in the minutes to punish us for complaining and frustrate our chances of a sale. Help! Francis and Rob K.

Dear Francis and Rob: Most publications and legislation refer to the roles and responsibilities of a strata corporation and strata councils, yet we fail to understand successful communities are a result of reasonable behaviour, respect and fair application of bylaw enforcement. There are many communities that rarely apply fines for bylaw enforcement because they address issues as soon as they arise, enlighten the parties on reasonable expectations. When bylaws and rules are not enforced, troublesome individuals will take advantage. Their behaviour is without consideration of neighbours, and they will confront anyone who challenges them. The Civil Resolution Tribunal (CRT) in BC has a specific division that address strata corporation issues under the Strata Property Act and amended bylaws of a corporation. The Tribunal can order a person or the strata corporation to do something, stop doing something, or to pay for something. If your strata corporation is not enforcing bylaws, its time to take formal steps to address the situation. Request a hearing of council, and if they agree, state your case and evidence. They are required to grant a hearing within 30 days and provide a written decision to you within 7 days of the hearing. If that fails, file a claim with the CRT. They can order the corporation to address the bylaw enforcement issues. If your order is successful, have it filed in the BC Supreme Court registry to ensure you can apply for enforcement orders if necessary. Also consider contacting your local municipal office. Chances are, the townhouse is a residential complex and not intended for industrial/commercial use. This may also impact the strata corporation liability and insurance coverage. Unfortunately, a battle with the strata corporation can be a “no win” situation. Even if you are successful, the ongoing acrimony won’t change.

Owners, tenants and occupants have a duty to comply with the bylaws of a strata corporation and the Strata Property Act. This isn’t just about nuisance, noise, odours or disruptions. If you invest in a strata property, be prepared to take a turn at serving on the strata council, attend meetings and participate in decision making, and support long term planning for renewals, including voting in favour of special levies for repairs. Deferred construction and lack of council support for administration significantly increases the costs of repairs that are now urgent, and failed maintenance that results in emergencies.

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/>

We bring together industry experts to discuss the many issues affecting BC’s strata community. Click here for a link to our archived webinars: <https://choa.bc.ca/resources/webinars/>

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.