

Condo Smarts October 1, 2018

Who Has My Keys?

Dear Tony: Without the knowledge of most owners and tenants in our complex, our strata council is holding a master key for every unit and insist that when anyone changes ownership or occupancy the key must be changed to include the master key system. At our annual general meeting last week, the president of council who was accused of misusing keys and entering an owner's unit without permission or notice, was not re-elected to strata council. This person has refused to pass over the keys to the strata common areas or the master key to the building. Our council have always struggled with the concept of a master key and once again we have a good reason to eliminate the master key access. Does the strata council have a right to demand owners provide keys access to their units? Doreen C.

Dear Doreen: No, the strata corporation does not have the authority to demand a key or maintain a master key access. Your strata council should immediately advise your owners and tenants of the breach in security, and contact your lawyer to ensure the past president is notified of the security breach and the liability he is exposed to. If he does not immediately return the keys, it may be necessary to re-key everyone's strata lots and the common areas and file a claim with the Civil Resolution Tribunal (CRT) against the past president to recover the cost.

Even if the strata corporation has a bylaw regarding the provisions of strata lot keys and use of master keys, owners and tenants must consent to access. There are many strata corporations who secretly hold master keys and do not disclose that information to the strata lot owner, occupants or tenants. If you apply some common sense it is obvious that even under the most ideal circumstances, owner, occupant and tenant personal safety, security and privacy are compromised when the strata corporation is holding keys to their strata lots. If your strata council, an employee or contractor of the strata corporation enters a strata lot without consent they are essentially breaking and entering. There have been several instances in strata corporations involving investigations where valuable pieces of art, coin collections, guns and ammunition, jewelry and other personal property has gone missing from strata lots with no signs of forced entry, only to discover the strata corporation possessed master keys and not informed the owners or tenants. The other serious risk that few councils are willing to admit is there is no way to prevent the duplication and misuse of keys.

Each owner's strata lot is their private residence, and while the strata corporation may be required to access strata lots for maintenance, or inspection under the bylaws, the owner or tenant is not obliged to provide a key. Unless there is an emergency which requires immediate access by emergency services or a person authorized by the strata corporation, no one should be permitted to access a strata lot without the consent of the owner or tenant and with proper notice that defines the reason for access, as set out in the bylaws. The Standard Bylaw requires 48 hours written notice to access strata lots, that also means the notice period of 4 days is also imposed under most circumstances. If an owner or tenant does not provide access on proper notice for a valid reason, the strata corporation has the option to enforce the bylaws, which may result in fines, the possible recovery of costs associated with delayed maintenance or servicing, or an application to the CRT to order the owner or tenant comply with the bylaws. For an information guide on keys and access, go to www.choa.bc.ca and enter "keys" into the search category.

Sincerely,

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