

Condo Smarts April 17, 2019

Unlawful Access

Dear Tony: The story of the owner who raised alarms in her unit over unlawful access by an employee has also raised serious concerns in our condo. We live in downtown Vancouver and were the first people to move into a new building 5 years ago. We recently received notice of a bylaw violation because we allegedly had altered our kitchen and installed a refrigerator with a water and ice unit which is prohibited in our bylaws; however, was installed by the developer as an upgrade when we purchased. We requested a hearing and at the council hearing, the property manager produced a photograph of our kitchen, which dated by the note on our fridge was taken within the last month. When we asked how the photo was taken the property manager refused to respond and no council members would answer the question. It was clear to us that someone has been in our unit when we were not home. We immediately ordered a locksmith and when he arrived to change our locks, our building manager informed him only the strata could change the locks as they were required to retain a key for access. We threatened court action and the matter was resolved. We have no such bylaws, and no one in our building I have spoken to was aware the strata council and building manager had keys to their units. Now owners are demanding a general meeting to address this issue as everyone is concerned about personal and property safety. Any help would be grateful appreciated. Nastasia K.

Dear Nastasia: Whether you are an owner or tenant, when you move into a condo you do not have to provide keys for access. Living in a condo does not mean you surrender your personal safety and security. When a new development is created, individual lock sets are installed in each unit; however, there is a master key system which is essential for the contractors' access as they move from suite to suite installing products and finishing construction. When the project is complete, the master keys still remain, unless the master lock access has been removed, which in my experience is rare. Even after 5 years it is possible the original master lock set system exists in your building. It is appalling the strata council and manager are aware there is a master access and have not informed the owners, sought their permission to retain keys, and have insisted the corporation has a key to each unit. A bylaw that requires owners provide keys to access their units is virtually impossible to enforce and I suspect will not be enforceable when challenged because security and privacy rights of owners will be compromised. The Strata Property Act and Standard Bylaws provide conditions for access to strata lots. For routine service and inspection of the unit, the strata must inform the owner or tenant in writing with 48 hours written notice, which really means 6 days as the notice periods must be respected. It is your responsibility as an owner or tenant to ensure access. If access is not granted then a potential bylaw enforcement issue exists which could result in penalties or an application through the Civil Resolution Tribunal ordering access. It does not give the strata corporation the authority to retain a locksmith to enter a unit. In the event of an emergency, access may be gained without notice; however, if there is an emergency a 911 call or emergency response protocols should be executed and the owners and tenants immediately notified. If the owners, tenants and strata corporation agree to the provision of keys for access, here are a few tips. A consent form to provide a key is recommended and the following information is essential. Identify how the keys are accessed, when and how the key access may be used, who has access to the keys and whether that person(s) is bonded, how the keys are stored to ensure there is no risk of theft or identity of the keys, and in the event there is a security breach, a requirement that every owner and tenant be immediately notified. A strata corporation may potentially incur a significant amount of liability if they have retained master keys for access to strata lots without the consent of the owners or tenants. All residents of condo units have the right to feel safe in their homes.

Tony Gioventu, Executive Director CHOA

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