

Condo Smarts October 9, 2019

Equal Access & The Human Rights Code

Dear Tony: I live in a condo apartment building that was completed in 1995. We have 48 units in our building on 8 floors. Our family has lived in the building since day one but our community is rapidly aging and we find ourselves facing some new challenges. Our underground parking is easily accessible off the main street and anyone with a walker or wheel chair uses the main gate to our parking garage, but we do not have an isolated walkway area or separate door for access. Owners are growing more concerned each day that the age and physical limitations of the owners, lack of lighting and lack of shelter over the garage entry is a safety risk and it's only a matter of time before a resident is injured. Several owners have requested a modification to our front entry to ensure owners have safe, well lit access, in a covered area that also has a security camera. This would require a minor modification to our front area to level the walk to eliminate one small 10" step and the installation of an automatic front entry door system. We took this to a meeting of the owners with a total estimate for the cost of \$18,500, including the door activator to our front lobby and the parking garage lobby, security FOBS and the concrete grading increasing of our walk to eliminate the step to meet the building code. One owner who showed up insisted that people who can't make the step or open the door shouldn't be living in our building and convinced enough owners to vote against the alterations. How do we resolve this issue before a resident suffers the consequences? Elizabeth M.

Dear Elizabeth: Every strata corporation in British Columbia must comply with the provisions of the BC Human Rights Code. Part of that code has the requirement, up to the point of undue hardship on the owners, to accommodate access to facilities and common property of the strata corporation. Undue hardship is measured as an extreme financial imposition or condition that would not be reasonable or possible for the owners to meet. An example of that may be the installation of an elevator in a building where no such elevator existed and the cost would be excessive and cause a hardship to the owners. There are many examples of access or accommodation for special needs that have been ordered by the Human Rights Tribunal and your building would be no exception. Conversions of doors handles to levers, installation of FOB activated door entries, alterations to strata lots exempt from bylaws, modifications for access of common areas and main entries of buildings, and continuous operation of the remote door activation system are all decisions where strata corporations have been ordered to permit an alteration or pay for the alteration to ensure access. Whether an owner or occupant knew about the limitations before they moved in, or their physical conditions have changed is irrelevant. It is the obligation of the strata corporation to accommodate wherever possible to ensure safe access. Like all conflicts whether they relate to maintenance and repair of buildings, fair treatment of owners, tenants and occupants, or access to common property and strata lots, the most prudent and inexpensive course of action is for your strata corporation to make this decision before an owner or tenant files a complaint. Every time a strata corporation fails to meet a lawful obligation with the result of a tribunal or court intervention, the costs simply balloon. Take control of the matter, make the decision. Your building is not unusual. There are many strata corporations that refuse to upgrade their entry systems and force the occupants to use the parking garage driveway and underground for direct access. They are essentially treating persons with limited accessibility as different classes of persons. No one should be intimidated into feeling guilty because they are requesting their strata upgrade access to their homes.

In partnership with BC Housing and CMHC, CHOA is hosting a forum for National Housing Day on building access, the human rights code and modernizing buildings to take advantage of energy upgrades. Join us on November 22, at the Italian Cultural Centre in Vancouver. To register please call 604 515 9672 or email info@choa.bc.ca.

Tony Gioventu, Executive Director CHOA

Sign up now for Spring Seminars in your area. Topics this spring will highlight Insurance, Above and Below the Deductible, Creating an Operations Plan for Maintenance, Renewals, & Annual Budgeting, and Bullying and Harassment in your strata and the workplace. Go to:
<http://www.choa.bc.ca/seminars/>