

## Condo Smarts October 3-9, 2020

### Accommodating Pets

**Dear Tony:** I moved into my dream condo back in the fall of 2019 before the Covid crisis was a new reality. Since the limitations on gathering and requirements for isolation started, I have struggled to emotionally survive. I finally decided to see my doctor who recommended I find a companion pet that would be beneficial for emotional support as I have now been diagnosed with chronic depression. My challenge is my strata council. The building has a bylaw that prohibits all pets, and when I asked for an exemption, they told me the only type of pet they would consider is a Certified Assistance Pet under the legislation. I requested a hearing with council, and they were quite rude to me and suggested I consider moving to a building that allowed pets. Considering the ongoing conditions of the pandemic, is there some way to encourage this community to be reasonable about people's mental health issues? Candice M.

**Dear Candice:** There are two separate options where pets may be exempt or accommodated under the Strata Corporations Bylaws. The Guide Dog and Service Dog Act of BC is the first. Pets that are certified assistance pets under the Guide Dog and Service Dog Act of BC are not subject to the consideration of a strata council. They are exempt from strata bylaws. The strata corporation does not have the authority to prohibit, restrict or screen the service animals. The second option is accommodation under the BC Human Rights Code. Both an applicant and the strata council have obligations when a request for accommodation is submitted. Under the BC Human Rights Tribunal, several decisions have resulted in tests that if applied reasonably will help both applicants and strata councils evaluate their process when they are considering a request for accommodation. Here is an overview to help assess your situation.

Whether it is a physical or mental disability, a strata corporation may be required to accommodate a resident of the strata corporation if the applicant can:

- A) Verify they have a disability, this would require documentation from your doctor including a recommendation for therapy or solution. In this case a pet.
- B) Advise the strata council of their disability and provide sufficient information to inform the strata council of the disability and the reason for the accommodation request. Provide the strata council with sufficient medical information. A detailed report may be required.
- C) Cooperate with the strata council to find a solution that reasonably addresses the applicant's needs.

The strata council has a duty to:

- A) Address requests for accommodation promptly and take them seriously. A strata council should consider how it will process accommodation requests on a timely basis.
- B) Gather enough information to understand the nature and extent of the need for accommodation. The strata council is entitled to request medical information that is related to the request for accommodation. It is not entitled to any more information than is strictly necessary for this purpose.
- C) Restrict access to a person's medical information to only those individuals who are involved in the accommodation process and who need to understand the underlying medical condition. The strata council should keep medical information confidential from the general membership of the strata.
- D) Obtain expert opinions or advice if additional reports are needed.
- E) Take the lead role in investigating possible solutions. Co-operate with the person seeking accommodation to constructively explore those solutions.
- F) Rigorously assess whether the strata can implement an appropriate accommodation solution. In doing so, the strata may have to consider the financial cost and competing needs of other strata members with disabilities. In some circumstances, a solution may not be possible without the strata suffering an undue hardship. Unfortunately to their discredit and often needless expense, not all communities act reasonably. When a strata corporation will not act reasonably to accommodate owners, tenants and their occupants, your only choice may be a claim under the BC Human Rights Tribunal or through the Civil Resolution Tribunal of BC. Both tribunals have the authority to issue orders and impose damages. Find more information on the tribunals @ [www.bchrt.bc.ca](http://www.bchrt.bc.ca) or [www.civilresolutionbc.ca](http://www.civilresolutionbc.ca)

Tony Gioventu, Executive Director CHOA

**Covid-19 Notice:** As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

**Tuesday Lunch & Learn Live with CHOA:** CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at: <https://www.choa.bc.ca/seminars/>