

Condo Smarts September 15, 2021

Masks and Vaccine Cards

Dear Tony: Our strata council has planned to use our local church hall for our annual general meeting. They have advised anyone attending will be required to provide proof of double vaccines more than 30 days prior to the meeting and that everyone must wear a mask if they are attending the meeting, or they will not be permitted to enter and register to vote. They have suggested, with a pre-printed proxy form, that owners provide a proxy to a council member to enable their vote and avoid the meeting if they have any health or safety concerns. Does a strata corporation have the right to restrict voting rights of owners based on a valid vaccine card? Do the current regulations of masks apply to strata corporations? If so, who would enforce them with so many strata corporations across the province? Margaret V.

Dear Margaret: From your local owners and strata council up to the Chief Medical Health officer everyone shares the same concern, that being the best actions in the interest of public safety. The virus is airborne, and the variants appear to have even higher transmission rates. The best evidence shows reduced/cancelled gatherings, wearing masks, vaccinations, and increased ventilation whenever possible, produce the best results.

On September 2, under the Public Health Act, the Chief Medical Health Officer has imposed a mandatory mask regulation for all common areas of public spaces, specifically: *a building or structure that is provided for the common use of all occupants and invitees of the building or structure, including lobbies, hallways, public bathrooms and elevators, that is used as (i) a retail business, (ii) a service business, (iii) an office building other than office, cubicle or other room in an office building to which a member of the public has been invited by an operator or worker for the purpose of receiving a service; (iv) a hotel, (v) a restaurant, pub, bar or other business that prepares and sells food or drink, (vi) a mall or shopping centre, (vii) a pharmacy, (viii) a fitness facility or a sport facility, (ix) a place in which a non-profit organization provides goods or services to the public, (x) a place that provides cultural, entertainment or recreational services or activities, including a theatre, cinema, concert hall, arcade, billiard hall, museum, gallery or library, or (xi) a conference centre, community hall or other place that hosts public events; (xii) a courthouse; or (b) a taxi, limousine, perimeter seating vehicle, perimeter seating bus, vehicle used for a commercial ride sharing service or other vehicle for hire; (c) a public transportation vehicle; (d) the indoor or sheltered portion or a terminal, station or other location at which persons (i) load onto or unload from a public transportation vehicle, or (ii) wait to load onto a public transportation vehicle; (e) an airport, heliport or seaplane terminal.*

This order does not include common residential areas or facilities of multi family buildings or specifically strata corporations. With over 32,000 strata corporations across BC, it would be impossible for the regulators to monitor and manage each location; however, strata corporations do have some key tools available that enable them to meet the same standards while still operating on a functional level. A strata council may adopt a rule, which is approved by majority vote at a council meeting, that requires, whenever possible, occupants, contractors, service providers, delivery persons, staff and visitors, to wear masks when they are in any common property area. This would include hallways, entries, elevators, club rooms recreational facilities, or other amenities that share indoor common spaces. You may also limit the number of persons at any time in specific areas to ensure safe social distancing. For example, this may include limiting elevator use to two persons or one family at a time, or a booking system for single use gyms, pools or laundry facilities. While meetings may still be conducted in person, there may be individuals who cannot participate due to medical conditions or other circumstances that may be recognized by the order or the Human Rights Code, but to that extent, electronic meetings are still enabled for strata corporations until December 31, 21. It is the strata corporation that is obliged to accommodate

owners and eligible voters, not the other way around. In a key statement by the Health Officer, the order articulates the need for public safety while respecting all persons. *“I (the chief medical health officer) recognize the interests protected by the Human Rights Code and have taken these into consideration when exercising my powers to protect the health of the public from the risks posed by COVID-19.”*

I have facilitated several meetings through summer, that are simultaneously in person and electronic, enabling full participation without compromising voting rights or failing to comply with the bylaws of the strata corporations. If your strata corporation is meeting in a location that is not within your strata corporation and it is public location, this order applies. All commercial/retail sections of strata corporations accessible to the public, and any areas that are part of a commercial operation such as strata hotel, marina, golf course, gym, health club, these areas within the strata corporation are open to the public and affected by the mask order. At this time there is no definitive answer on vaccine cards and application to strata corporations, but we can expect as case numbers and infections rise, the activities of a strata corporation may require such evidence before persons may participate in gatherings or meetings with the continued need to accommodate via electronic meetings. Avoid imposing conditions that insist on proxies, disclosure of personal information, or that may compromise voting rights or participation at meetings. Safe, in person meetings are possible, but they require significant space and management. Above all, plan your meetings in advance and create a safety plan that explains how the meeting will safely function. Still have more questions? Contact info@choa.bc.ca A full copy of the order is at: <https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-face-coverings.pdf>

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/>