

Condo Smarts May 11, 2022

Too Many Pets

Dear Tony: What happens when an owner exceeds the number of pets permitted under our strata bylaws. We prohibit pets in our building and a new owner has a dog and a cat. Our strata council has given notice they are violation of our bylaws, but they have responded that the pets are medically certified and necessary for the mental health of their daughter who is disabled. Is there such a situation where pets are medically certified? The strata council are not rushing any type of enforcement but we are curious what type of information we can ask for and if we have to grant this exemption which is contrary to our bylaws? Caroline V.

Dear Caroline: All bylaws and rules of strata corporations must comply with the Strata Property Act the BC Human Rights Code and every enactment of law. While a strata corporation is permitted to adopt bylaws that limit or restrict the number of pets, the age of persons occupying a strata lot, or limiting conditions on alterations, strata corporations are still required to accommodate persons with disabilities or medical conditions to the extent of undue hardship under the Human Rights Code. The Civil Resolution Tribunal (CRT) may also make orders that require strata corporations to accommodate occupants who can provide evidence of credible conditions where the strata corporation may be required to accommodate them, contrary to the bylaws. A recent CRT decision ruled in favour of an owner with 3 cats, exceeding the total number of pets, because the owner could provide medical documentation of a requirement for emotional support. Kate Campbell, the adjudicator for the CRT determined the issue facing the tribunal was two-fold. First, the owner needed to prove that she has a disability, and that there would be an "adverse impact" if she was prohibited from keeping her cats. The CRT found the documentation from a social worker and two doctors was enough to establish both of these conditions. Second, it needed to be established that what was being asked of the strata would not cause "undue hardship." According to the adjudicator, the strata presented evidence that the majority of other owners support the single-pet by-law, and claimed that the owners knew about the by-law before moving in; however, the CRT did find the strata has not shown how allowing the owner to keep her three cats creates any hardship. The fact that it requires an exception to the bylaws is not a hardship. It is incumbent on both the strata corporation and the affected parties to cooperate when requesting accommodation under the bylaws. An earlier decision of the CRT, Leary vs VR 1001, resulted in a test that is a helpful checklist for strata corporations to evaluate and consider applications. Both the person seeking accommodation and the strata council have a duty to act reasonable and cooperate. Occupants requesting accommodation from a bylaw restriction have an expectation of providing documentation to support their request, and strata councils have a duty to reasonably evaluate the evidence, protect the privacy of the owner, and consider the application. Tribunals provide broader flexibility to address individual disputes and often the decisions are unique to those circumstances, but they do provide helpful information for council decision making. CRT decisions are published on their web site at civilresolutionbc.ca, click on decisions and enter a topic.

Tony Gioventu, Executive Director CHOA

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We bring together industry experts to discuss the many issues affecting BC's strata community. Click here for a link to our archived webinars: <https://choa.bc.ca/resources/webinars/>

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.