
Condo Smarts

Headline: Vaccine Passports

Topic: COVID-19

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Written by: Tony Gioventu

Dear Tony: A notice has just been issued by our strata council demanding disclosure of vaccine passports. They insist it is for everyone's safety although they have **not** provided any evidence of where they get this authority, what they intend to do with the information, how they intend to collect this information, who will have access to these records or if they intend on preventing anyone from accessing any facilities or even our building to enter our units. They claim to have a legal opinion supporting this decision although are unwilling to provide a copy to any of the owners and there are no new published rules or bylaws. At the very least I would expect because this is requesting personal information a special general meeting would have to be called to consider a bylaw amendment approved by the owners before such a claim could be made. Our strata corporation is not a business, we are a residential community and have no ability to deny access to our building or facilities that we all share and pay for. To be clear, I am fully vaccinated and have already registered for my passport and fully support vaccinations, but this is far over-reaching by a strata council.

Claire W. Richmond

Dear Claire: A strata corporation does not have the authority to enforce provincial orders unless the legislation or the orders identify this form of housing, however, there may be conditions where the corporation must comply. There are many variations of strata corporations across the province, including commercial and business and the orders may apply to those operations. While strata corporations must comply with orders identifying their specific class of housing, they must also comply with their bylaws, unless an order is issued to the contrary.

With respects to attending general meetings, if the strata corporation is convening the meeting within their

community either in a club room or outdoors, you must comply with the limits imposed by the orders; however, with the ability of strata corporations to hold meetings electronically until December 31, 2021, why would anyone place their owners in such peril? If your strata corporation is using a public venue for a meeting, such as hotel or community hall, that business may be required to request the Vaccine **Card** for gatherings over 50 persons, but now we have the issue of whether that capacity was met, whether **we are** compromising voting rights of owners or proxy holders, and whether this is consistent with our bylaws.

We also have the issue of the current vaccine order that extends to January 31, 2022, but the electronic voting provision only extends to December 31, 2021. As of January 1, we may have a situation where strata corporations that have not adopted an electronic bylaw are required to hold in person meetings, but the provisions of the **vaccine requirement** are preventing the corporation from complying with their own bylaws. One solution is the provincial government amends the *Strata Property Act* and the *Standard Bylaws* to permit electronic meetings and addresses the issues of secret ballots, ending the uncertainty of orders for the many strata corporations who have not adopted such bylaws.

The 4th wave is happening. Electronic meetings are an easy solution to gatherings, business can be conducted safely, and anyone still uncomfortable with the process is entitled to assign their proxy to a neighbour. The **BC Vaccine Card** is required for the following: *"Indoor organized events with 50 or more people, For example: wedding and funeral receptions (outside of a funeral home), organized parties, conferences, trade fairs and workshops" Gyms, exercise/dance facilities/studios and these activities happening in recreation facilities"*.

There are many unknown issues with the application of Vaccine cards at this time. A strata corporation will be collecting and gathering personal information, and this may require at the very least an amendment to your privacy bylaws to permit the collection of this information and how the information is managed, accessed and the purpose. Add to this the application of enforcement. Who is monitoring the collection and management of the data? The exercise becomes daunting for the most sophisticated community and likely leaves your strata corporation open to a Human Rights or Civil Resolution Tribunal challenge if owner/tenant rights are compromised. In perspective, your residents are likely the lowest risk, while the daily entry of visitors, delivery persons, contractors and service providers who encounter much more of the broader public will be transiting your hallways, elevators and common areas, without the obligation to disclose any information.

Safe practices are still the best option. Adopt rules to require masks in all common areas by all users. Set use of gyms to single use cycles, ensure social distancing is maintained for any types of gatherings, use electronic meetings whenever possible to reduce contact, continue contact tracing when possible **and** ensure your air circulation systems are at peak performance.

For more info, CHOA is hosting a noon webinar panel on Tuesday September 28 to update strata corporations and managers on COVID-19 the 4th wave. Go to choa.bc.ca to sign up and encourage the provincial government to include BC's 32,000 strata corporations in public orders and amend the legislation to address the issue of electronic meetings. **Send** an email to: premier@gov.bc.ca