
Condo Smarts

Headline: What is undue hardship?

Topic: Human Rights

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Dear Tony: As an aging resident of our highrise condo building, I am growing increasingly frustrated by the lack of access or complicated access to our building. I use a walker now to support my back, and still drive. Our main building access has an electronic door opener, but our 3 parking garage elevator lobbies do not. They are also heavy steel fire doors. I have requested the strata corporation convert all 3 doors to automatic activators and they refused, indicating the ramp is sufficient for me to park and use the front entry. I am on 2nd level and our ramp does not have a pedestrian sidewalk, it only has driving lanes. There are also 4 handicapped parking spaces on level 1, which assumes the users will also have to use the parking ramp. What do I do?

Marjorie S. Victoria

Dear Marjorie: Accessibility to common areas and entries is a serious challenge for both owners and strata corporations. Under the BC Human Rights Code, strata corporations must accommodate persons' disabilities to the point of "undue hardship". As a first step, you can request a hearing before your strata council outlining the reasons for your requested accommodation. The Council must hold the meeting within 4 weeks of your request and give you its written decision at least 1 week after your hearing. If you do not achieve a solution, you may wish to make a complaint to the BC Human Rights Tribunal or initiate a dispute before the BC Civil Resolution Tribunal.

Lisa Mackie, a Vancouver lawyer who works with strata corporations on these issues, encourages councils to look to *Leary v Strata Plan VR1001, 2016 BCHRT 139* for guidance. According to Lisa, "*councils should respond to the request promptly, ask for information to understand the accommodation, keep medical information confidential, and obtain professional advice where*

needed." Lisa also notes that owners play an important part in the accommodation process too, by "*sharing relevant medical information with their council, considering a range of possible solutions, and cooperating with professionals when evaluating accommodation options.*"

Strata councils are volunteers. They are often placed in situations well beyond their expertise. If there is a shadow of doubt of what to do, consult with a professional to help navigate through the options. While not all accommodations may be possible, dialogue with council and owners to find a viable solution is essential.