

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-333

Condo Smarts

Headline: Portable Hot Tubs

Topic: Hot Tubs

Publication date: June 7, 2009

Publication: The Province

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Dear Condo Smarts: We live in a townhouse complex of 48 units. Each unit has its own private back yard and patio area that is fenced off from the other units, although the back areas are not fenced in, so someone can walk into our back yard. Two owners have decided to install hot tubs in their back yards without the permission of council and now we are being plagued with complaints from all the other owners. Council has sent these two owners a letter advising they needed permission to alter the common property and as they did not receive permission in advance they must remove them immediately. One of the owners went to their lawyer and we've received a letter back advising that the bylaws don't prohibit hot tubs, therefore we have nothing to enforce. Our owners really don't want hot tubs so what can we do? The Mirage Council, Okanagan Valley

Dear Strata Council: Adding additional furniture or portable items to areas adjacent to a townhouse that may be for exclusive use is not always a violation of the bylaws. They may simply be portable components sitting on the property. Before you can enforce the bylaws you need to know what is the property designation affected, what bylaw is being

violated, and what are the remedies. In your specific townhouse complex, like many, the building exterior is common property. The back yard is partially common property in the grass area, and the patio areas are limited common property. While your bylaws do not prohibit the use of portable hot tubs, garden sheds, barbeques, or patio furniture, they do expressly require that any alteration to common property must be first approved in writing from the strata corporation before the owner can proceed. Both of the hot tubs installed in this case required new 220V electrical services, drains and a gas line. These items did require written permission from the strata council and some required building permits. In this area the strata corporation has the ability to enforce the bylaws, and may consider a number of remedies including the removal of the hot tubs if the owners do not cooperate. In addition, nuisance complaints such as noise can still be enforced against the owners if a neighbor is being disturbed by the noise of pumps or operations to the extent that is set out in your bylaws. If you don't want hot tubs in your strata, adopt a bylaw that prohibits hot tubs before it's too late.

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