

**Condo Smarts**

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**Dear Condo Smarts:** One of the strata council members in my condo has told me that it is required that I leave a key to my apartment with the Strata Council. I understand that this can be useful in case of an emergency, but I do not see this 'requirement' anywhere in our by-laws, and I feel it should be an option. And I am not happy with where and how the keys are kept, and the lack of a written policy as to what constitutes an emergency. Can you tell me what my rights are in this matter?

*Theo G. Victoria*

**Dear Theo:** We have actually had an increase on this question lately. For some reason, strata councils believe they have a right to access a private strata lot whenever they deem appropriate. There are two sides to this issue, and both raise serious concerns over personal safety of a resident, protection of their property, and the limitations on access to a strata lot by a strata council or their agents. The strata corporation has a duty to maintain and repair the common property of the strata corporation and to enforce their bylaws with respects to the use and enjoyment of common property, common assets and strata lots. This also includes the security and safety of the building and its owners. A strata lot owner has a duty to comply with the bylaws and the Act and expects a reasonable use and enjoyment of the same property, including their strata lot, without unreasonably interfering with the rights of other persons' use of the common property, a common asset or another strata lot. The residents also anticipate, similar to any freehold residential situation, that they are entitled to their privacy and security. If a strata corporation seeks to enter a strata lot, they must, under the Standard Bylaws provide 48 hours written notice to inspect, repair or maintain property. This also requires an owner's consent

to access the property. If an owner is away or does not respond, the council does not have the authority to unlawfully enter the strata lot. They only have a potential bylaw violation and have to go through the same procedures of enforcing the bylaw for access like any other bylaw: notice, opportunity for a hearing or response from an owner or tenant, possible fining or court order to access the strata lot. Only in an emergency situation, to ensure safety or to protect significant loss or damage, may a person authorized by the strata corporation enter a strata lot. In most emergencies forcible entry is used, as is often the case with fire, police incident or water escape. In early spring we were contacted by a 187 unit strata whose resident manager had lost the master keys and suite keys for the building. It was only after 3 days of mysterious break-ins to strata lots did she finally come forward and admit to the council she had lost the keys. It was surprising how many strata lot owners did not know that the strata held keys or a master key for the new building. The strata corporation does not have a right to demand a key for a strata lot. Owners may voluntarily consent to the strata holding an additional key, but those agreements should be in writing and include the conditions of access, who is responsible in the event the keys are lost or misused, where the keys are stored, who has access to the keys, and an inclusion on the strata insurance policy of the liability of holding these keys. Here is a perfect example of why strata corporations should not hold suite keys. Strata corporations do not perform criminal record checks on council members and as a result have little means of screening who would have access to strata lots. Who is going to pay for the stolen art collection where there is no sign of forcible entry to a strata lot?

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