

**Condo Smarts**

Headline: Bulk Cable Services

Topic: Contracts

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**Dear Tony:** I would consider myself to be a reasonable person when it comes to community living. I pay my fees, support the council, help my neighbours, and tolerate the usual noises and inconveniences that sometimes arise from living in close proximity with other people. Our strata council has decided to sign a bulk services agreement for a fiber optic upgrade to our building and bulk cable and internet package for owners. The argument that has been made is that it will cost us less, everyone pays the same amount, and we'll get better services. However, I don't want to use the cable-internet provider that the council has decided to choose, and at this time I do not subscribe to any cable services, so why should I have to pay for something I don't want?

*Claire E. Kelowna*

**Dear Claire:** The *Strata Property Act* sets out the obligations and authority of a strata corporation. Those are essentially the maintenance, repair and administration of the common property, common assets and the business of the strata corporation. The corporation is granted the authority to enter into contracts in respect of its powers and duties that set out under the Act; however, it does not necessarily give the strata corporation the authority to enter into exclusive cable or internet services that are used within a strata lot, as the cable television and internet services are for the benefit of the individual strata lot owners, not the strata corporation. There is an interesting court decision in the Supreme Court of BC, strata plan LMS2223 vs Tsubota, where an owner challenged the strata corporation on its authority to impose the fees for the exclusive cable and internet services. The owner refused to pay for the cable services, which

were included in the strata fees, and the strata corporation made an application to the courts for the order for payment of the common expenses for the cable services. The court determined that the Strata Corporation did not have the authority, or an enforceable bylaw, to enter into a contract for bulk cable and internet services for strata lots which would bind the individual strata lot owners or to invoice the strata lot owners for those services as a common expense. Before your strata corporation considers entering into any agreements for bulk services of cable or internet, or upgrades to fiber optic systems or communications systems, consult with a lawyer who has experience with the strata legislation and communications contracts. It could be argued, similar to other jurisdictions in Canada that a strata corporation in BC may be eligible through bylaws to engage in bulk communications systems; however, at the very least, the strata corporation would need to consider legal assistance with drafting a bylaw that would establish the authority for the contract, service and the requirement for payment of the fees as a common expense. This is no longer a simple majority vote at the annual general meeting. If enforceable, the bylaw amendment would require a three quarters vote at a general meeting. If the strata corporation were permitted to adopt the operation of cable and internet services, they would then be treated the same as all common expenses, and everyone would not pay the same equal amount, but rather the amounts based on unit entitlement. As one owner in your building put it: "I gave up my rights of quiet, privacy and sole use of my hot tub to live in a strata. Why should I give up my freedom of choice of who I buy my cable service from?"

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