



Strata Corporations and the Most Recent Public Health Order

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By Shawn M. Smith

Strata corporations continue to have to navigate Covid related restrictions. The most recent Provincial Health Officer's Order issued December 22, 2021 (the "PHO Order") has again changed how those restrictions apply to strata corporation settings. (Additional regional restrictions exist in certain areas such as Fraser East and Northern Health).

The restrictions in the PHO Order affect strata corporations and owners in relation to the following activities:

- General meetings (AGM's and SGM's);
- The use of common rooms for social gatherings;
- The use of gyms and other recreational facilities such as pools;

General Meetings

When it comes to the first category, the PHO Order requires all persons attending indoor events to be fully vaccinated, regardless of the size of the event. However, the venue can only be filled to 50% capacity. Since strata corporations cannot restrict the number of owners who may attend a general meeting, an appropriately sized venue will need to be located if an in person meeting is to be held.

If a strata corporation intends to hold an in person general meeting between now and when the restrictions expire (currently January 18, 2022) then it, as "organizer", is required to ensure that only persons with a vaccine card enter the meeting. This means having someone check both the person's identification and the vaccine card against the owner's list. Those persons who do not meet the vaccine card requirement cannot be permitted entry to the meeting. They will need to give a proxy to a vaccinated person who can attend in their place.

Masks must be worn during the meeting. Certain requirements such as having washroom facilities and hand sanitation supplies available also apply.

Social Gatherings

The current PHO prohibits social gatherings outside of a private residence. This would include using a common room or clubhouse for such purposes. Neither owners nor the strata corporation may host social events in the common room.

Gatherings within a strata lot are limited to the occupants of the strata lot plus the greater of 10 people or one other household. All persons attending gatherings in a strata lot must be vaccinated.

Gyms and Recreation Facilities

The PHO Order continues to exempt “fitness facilities or pools which are located... in a residential building for the benefit of residents”. Residents may continue to use these facilities. However, use by visitors and non-resident owners would appear to be prohibited.

The status of recreation facilities which are shared with other strata corporation(s) is not entirely clear. However, given that the PHO Order also specifically exempts such facilities when located in a work place or a hotel, the “residential” exemption would seem to apply to shared gym or pool facilities not open to the general public. The remainder of any shared amenity space would be closed to social gatherings.

Going Further

A strata corporation wishing to impose its own restrictions on use or requirements for vaccination in order to access services and facilities not captured by the mandatory requirements of the PHO Order should seek legal advice as there are several potentially problematic legal issues to navigate.

This article is intended for information purposes only and should not be taken as the provision of legal advice. Shawn M. Smith is lawyer whose practice focuses on strata property law. He frequently writes and lectures for strata associations. He is a partner with the law firm of Cleveland Doan LLP and can be reached at (604)536-5002 or shawn@clevelanddoan.com. He can be followed on Twitter @stratashawn.