

The Proline Pulse

COMMUNITY EDITION



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ANDY'S ADDRESS

by Andy Spurling, President of Proline Management

Our roller coaster of a year has continued into the Fall with the predicted second surge of COVID-19 hitting our communities. As we again hunker down to combat the spread of COVID-19 in our communities, most of us are having to consider many new ways to live this winter and holiday season.

For some, that means scaled down holiday celebrations and having to connect with family and loved ones electronically, rather than in person. A situation we are all familiar with in the world of strata meetings! At Proline, we did not gather together in person for our annual holiday appreciation party but instead connected electronically this past weekend to share some good times in the best way possible in the circumstances.

In the strata world, in a rare silver lining for 2020, the insurance industry has announced an agreement to end the “best pricing” practice in the industry that appears to have been a significant driver of rapidly rising insurance premiums in BC. Information on this can be found [here](#). Hopefully more good news is on the way! Bring it on 2021.

As we wrap up what has been an incredibly challenging year for all of us, we would like to extend our sincerest thanks and appreciation for all our client communities have done to work with us through this unprecedented moment in our lifetimes. All the best for 2021!!

INDUSTRY INSIGHTS

Quiet Enjoyment in a Residential Property and Strata Corporation

By Kimberly Hui, Haddock & Company

It is common to hear stories about nightmare neighbours who blast music all night long or neighbours who cause a nuisance that disturbs the enjoyment of one's home.

I have had cases where a landlord or strata corporation gets involved in these types of disputes where a tenant may make a claim for a loss of quiet enjoyment at the Residential Tenancy Branch or a strata owner makes a claim that the strata corporation is failing to enforce its bylaws at the Civil Resolution Tribunal. To avoid such disputes or respond to them, a landlord and strata corporation should build a strong foundation by knowing the following obligations.

The Residential Context

A tenant's right to enjoy the premises free from unreasonable disturbance has been a long held covenant in tenancy agreements and common law. It has since been codified in section 28 of the *Residential Tenancy Act* (RTA). Essentially, the RTA protects a tenant's entitlement to quiet enjoyment including but not limited to reasonable privacy, freedom from unreasonable disturbance, and the use of common areas.

For further clarification, a landlord can turn to the RTB's policy guidelines. Policy guideline #6 elaborates on the meaning of a tenant's right to quiet enjoyment. A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment

is protected. A breach of this entitlement means substantial interference with the ordinary and lawful enjoyment of the premises. This does not only include situations where a landlord has directly caused the interference but also situations where the landlord was aware of the interference but failed to take reasonable steps to correct them.

A few examples are,

- Entering the rental premises frequently, or without notice or permission;
- Unreasonable and ongoing noise;
- Refusing the tenant access to parts of the rental premises; and
- Preventing the tenant from having guests without cause.

A tenant may be entitled to compensation for loss of use of a portion of the property that constitutes loss of quiet enjoyment even if the landlord has made reasonable efforts to minimize disruption to the tenant.

The RTB policy guideline states that temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. However, frequent and ongoing interference or unreasonable disturbance may form a basis for a claim of a breach. A tenant's case can be made stronger when there are multiple disturbances for a long period of time.

As such, it will be important for a landlord to take reasonable steps to correct any interference directly or indirectly caused by the landlord. For example, if a landlord is aware of a noisy neighbor who is disturbing another, it is important to investigate the situation

and perhaps appropriate to send a caution notice to said tenant.

The Strata Context

Many strata corporations in B.C. have bylaws that prohibit actions of an owner that causes a nuisance or hazard to another person, or that unreasonably interferes with the rights of other persons to use and enjoy their premises. Section 3(1) of the Standard Bylaws states:

Use of property

3 (1) An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that

(a) causes a nuisance or hazard to another person,

(b) causes unreasonable noise,

(c) unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot,

(d) is illegal, or

(e) is contrary to a purpose for which the strata lot or common property is intended as shown expressly or by necessary implication on or by the strata plan.

This Standard Bylaw covers many situations and is quite broad in protecting an owner's use of property. It is important to note that a strata corporation plays a part in ensuring owners are complying with its bylaws – a complaint between neighbours rarely stay between those parties and the strata corporation is often roped into such complaints.

Section 26 of the *Strata Property Act* (SPA) requires that a strata corporation enforce its bylaws. In other words, a

strata corporation has a duty to exercise its powers and perform the duties of the strata, which includes the enforcement of bylaws.

For instance, if a strata council or property manager receives a complaint regarding a noisy neighbour, the complaint must be reasonably investigated. Strata councils are able to obtain more information from the parties regarding the extent of the complaint and to ask for supporting documents. However, a strata council should also undertake its own investigations, whether that means attending the suite when the noise is being made or obtaining a sound testing report.

This may become a challenge when a strata council is left to determine whether a complaint is legitimately a “nuisance” or “unreasonably interferes” with another person’s rights to use and enjoy the premises. It has been held by the Courts that whether a behaviour is considered a nuisance depends on whether the average person would take the same view, that is, it is an objective test as opposed to a subjective test.

If there is evidence that the complaint is legitimate, then it is incumbent on the strata corporation to enforce its bylaws and to resolve the issue. If the complaint cannot be resolved between the parties, there are remedies available to a strata corporation. For example, a strata corporation may implement fines, remedy the contravention and/or deny access to a recreation facility.

The important aspect to remember is that the strata council should respond to all complaints in accordance with the SPA and strata bylaws within a

reasonable amount of time. Further, strata councils should keep in mind that enforcement of bylaws should be applied consistently; an inconsistent enforcement of a strata’s bylaws for one owner versus no enforcement for another could create further litigation for the strata corporation.

The New Frontier

Electronic General Meetings

By Kristy Kulyk, Manager, Mid-Island

We have all been navigating the changes required to continue to function over the course of the COVID-19 pandemic and strata corporations have been no different. Business must go on; new budgets still require approval and strata councils must be approved so that leadership is in place to guide communities through these challenging times. As a result, general meetings are taking a very different shape than ever before.

To ensure that these important decisions take place and stratas can continue to function, a new way to hold general meetings has been adopted. The vast majority of stratas, up until recently, have held their general meetings in person. With provincial health orders in place to keep our communities healthy and protected against the virus, the opportunity to hold those in person general meetings is simply not an option. As a result, we have embraced the notion of electronic meetings with the use of restricted proxies for voting.

So, what does this all mean? Strata councils, with the support of their strata managers, are working diligently to ensure that the information contained in the general meeting notice package is as

robust as possible. We want to ensure that owners have all of the information they need to make informed decisions without, necessarily, having the opportunity to gather and discuss the topics they must consider. Where possible, we are issuing the notice packages in advance of the notice period required by the Strata Property Act to allow owners as much time as possible to digest the details.

As part of the notice package, a restricted proxy is included and owners are encouraged to submit the restricted proxy indicating their preferences for the resolutions proposed by their strata council for the new fiscal year. This is no standard proxy, though, it is a proxy on steroids – it provides owners with clear options to express their interest (or opposition) to each of the motions that are to be moved at the general meeting. Owners are provided with several options to submit their restricted proxies to ensure that their vote counts at the general meeting.

Prior to the date of the general meeting many stratas hold information sessions (or town halls) to allow owners to virtually gather and discuss the information in the general meeting notice package. This is a fantastic opportunity to review the details of what is proposed and provides a platform for questions. For those owners interested in joining the soon to be elected strata council, they can introduce themselves to the ownership and express why it is they wish to join.

Following that, owners submit their restricted proxies in whatever format is most convenient for them – email, mail, hardcopy to a ballot box/current council member, etc. The general meeting, as

scheduled in the notice package, is conducted electronically and often only two council members attend, along with the strata manager. As mentioned, owners are strongly urged to submit their restricted proxies in order to ensure their vote counts; however, if owners wish, they are permitted to attend the electronic general meeting. There is no discussion or debate during the general meeting itself so as to respect the vast majority of owners that submit their restricted proxies and do not attend. The agenda is followed as with any other general meeting, the votes are tallied based on the restricted proxies received, and the minutes are recorded and issued to owners following the meeting itself.

As we are now into our tenth month of the pandemic, we have held many general meetings from Victoria to Campbell River using this new format; our experience has been extremely positive.

NEWS & WELCOMES

Updated Office Protocols

As you probably know, there have been many updates to the PHO orders over the last few months. Some of those updates have resulted in changes to our office protocols. Here's a quick summary of our office policies if you need to drop off or pick up anything from any of our offices:

- All offices are open by appointment only during the times of 9:30am-4:30pm.
- All visitors are asked to book an appointment prior to arriving to the office by speaking to one of our team members.

- Before arriving at a Proline office, visitors will be asked three standard screening questions to ensure the health and safety of our employees.

All visitors are required to:

- Be wearing a face covering when arriving at the office;
- Sanitize their hands upon arrival; and
- Maintain a 2-metre distance from others and follow instructions posted at the front entrance of each office.

In case one of our team members is exposed to COVID-19, we will be required to complete contact tracing to

notify individuals who might have been exposed to the virus. To ensure this is possible, all visitors are recorded in the visitor log located at reception. Upon arrival, visitors will be asked to provide their first and last names as well as a phone number to be recorded in the visitor log.

We do our best to accommodate every visitor arriving at the office. However, please note that we may not be able to help you as we would like, if these important requirements are not met.

LEARNING STATION

Seminars and Sessions



CHOA LUNCH AND LEARNS

Periodically CHOA will be bringing together industry experts to discuss the many issues affecting BC's strata community. Written and presented to assist strata councils, strata managers, owners, contractors, service providers and industry partners, these webinars are conducted via Zoom and are free to attend.

The next two sessions are:

- **Jan. 19, 2021: Homeowners & Landlords Insurance**
- **Feb. 23, 2021: Voting Methods & Options for Electronic Meetings**

For more information and to register for upcoming seminars, go to <https://www.choa.bc.ca/seminars/>.

New Community Members

We are delighted to have welcomed **Langford Tower** strata to our Proline community as of December 1st and look forward to welcoming **Harbour Landing** in Esquimalt on January 1st.

New Team Members

Our Proline team is constantly growing, and we are happy to welcome a number of new team members. **Yvonne** (front desk) and **Jen** (ops) came to our Victoria office in October, **Dane** (IT) in Victoria and **Jennifer** (front desk/ops) in Courtenay joined us in November and **Manu** (accounting), **Steve** (rental), **Harjot** (admin) and **Tanner** (admin) have come on board in Victoria this month.



PROLINE ACADEMY SESSIONS

While our regular academy sessions were postponed in 2020 in order to focus on COVID specific topics and updates, we look forward to inviting strata owners and council members to our renewed and revamped academy sessions in the new year. Topics include Nuts and Bolts of Strata Corporations, Bylaws, and Financial Statements. Stay tuned for more information and invitations in the new year!

PROLINE FORUM UPDATE

A big thank you to all the clients and speakers who joined us for our 3rd client forum at the end of October! While it was our 3rd forum, it was the first held entirely virtually, which gave us the opportunity to connect community members and experts from all over the island and mainland. Another benefit of the virtual format is that we are able to share recordings of the sessions. If you didn't get the chance to attend, be sure to check out the recordings on our YouTube channel. Here are a few of the sessions available – click the links to watch!

- [Landlords and the Law](#)
- [Notable Cases from the CRT](#)
- [Proposed Regulation Changes of Bill 14](#)
- [Insurance Overview](#)
- [CMHC Rental Industry Overview](#)



INSIDE PROLINE - THE HEART OF THE BUSINESS

Upending Traditions

By Andy Spurling, President

Every Christmas of my life has been the same. Surrounded by family, with cheese-filled croissants in the morning

an afternoon Christmas dinner and jovial banter. When I lived in Toronto and had relationships with people from other places, Christmas was still in Victoria at my parents' house. As my sisters and I each had kids of our own, the tradition remained. We were all at my parents' house. When my wife's parents moved to Victoria, they joined

us for Christmas at my parents' house. For 44 years, I have always known where I would be on Christmas. But the unchanging has now changed. And it sucks.

While there was the common thread of "Christmas at home", there were also so many aspects of the holiday tradition that were evolving. Being together as one big, happy family, though, was such an important part of the tradition. That made for 19 of us around the table last year. That is some wonderfully choreographed chaos! And man, we are going to miss that this year.

At Proline, we have a long history of holiday appreciation parties. And for the first time on our Proline family history, we will not be gathering together for a big celebration. And just like our own family traditions, the Proline family holiday traditions have continued to evolve over time. From a night out with a small group in a small restaurant, to parties that saw people finally making their way home as the light rose on the next morning, to parties with a huge crew of 80 of us. And every one of them with some element of choreographed chaos. And I am really going to miss that this year.

But instead of focusing all of our energy on what we are going to miss, we also have the ability to focus on what we aren't going to miss. Our Proline family still gets to gather virtually to spend time together in celebration of the holidays and in appreciation of all that our team does for our client communities. At home, we are looking to different traditions to supplement the treasured ones we will miss this year. For us, that meant our first trip out into the bush to cut down our Christmas tree. And

while it is far from the "perfect" tree that we have purchased in years past, it is beautiful to us and a source of joy for our family.

So in these difficult times, let's look for new traditions and approaches that create joy for us and those that we love. And believe that in making the best of this year's strange holiday season that we will all be gathered together somewhere reflecting on that crazy year we had in 2020 and all of the beautiful little insights and learnings that can only come from such a difficult journey.

May you find a new tradition this season that will bring you joy now and forever...

COMMUNITY CORNER

Creating Magic Moments

[Santas Anonymous](#) is one of Greater Victoria's longest-running children's charities. They work to serve families with children in need with a focus on helping them break out of a cycle of poverty. Despite the name, Santas Anonymous provides community support year-round, mainly through their Special Grants program that provides much-needed funding for projects and programs that support children, youth (ages 17 and under), and families in Greater Victoria. Some funded programs include school snack programs, playground enhancements, summer camps, and emergency room comfort kits for children visiting local hospitals.

The other main Santas Anonymous program is the Christmas Hamper program, where registered families receive gifts for the children and food for the family. Once a family is registered, Santas volunteers send instructions for the parent to call in at their convenience and discuss gifts their child would love to receive at Christmas. Those wishes go to the Santas Anonymous workshop where volunteers gather the gifts and package for delivery to the family.

All families supported by Santas Anonymous also receive a food hamper, as children are home from school for up to two weeks during Christmas break, and don't have access to school breakfast, lunch, and snack programs to help them fight the pangs of hunger.

Santas achieves all of this with a lean operation comprised of Executive Director, Christine Hewitt, a 14-member board of directors and many other volunteers, some of whom have been working with the organization for over 30 years.



“Santas”, as we often call it, holds a place close to our hearts here at Proline. We have had the honour of being involved with the organization for many years in a variety of ways. Two of the current board members are Proline team members, and we always have an enthusiastic contingent of volunteers to lend their hands for events throughout the year.

We have an annual tradition of answering the phones to take pledges for the Miracle on Broad Street, a 12-hour radio- and tele-thon. Though this event took place in an alternative format this year, our founder Eric and president Andy still joined in the livestream broadcast in our usual timeslot at noon to help garner donations and to share Proline’s connection with the event.

Another yearly tradition around the holidays is to volunteer at gift drop off locations for the Tree of Wishes. Volunteers assist donors in picking out an ornament from the tree, with each ornament representing a child’s wish for a gift, and in turn volunteers receive the purchased gifts. The exceptional Santas team turned this into a Virtual Tree of Wishes this year, giving donors the option to purchase gifts on a new website. Proline volunteers helped to receive gifts at a socially distanced Toy Drop-Off location this year for donors still wanting to bring gifts in person.

This year 23 of our team members contributed donations of over \$2,000, doubling our initial fundraising goal, to grow our Proline family with Santas Anonymous by supporting other families in our community.

We are delighted to support such a thriving local organization that provides support to children in our community year-round, and encourage our community members to learn more and support this amazing organization in whatever way they are able. This is a magical time of year when seen through the eyes of a child. We invite you to help us create more magic throughout our communities by lifting up and creating moments of joy for our neighbours, friends, and strangers.



WE'RE WORKING HARD FROM JANUARY UNTIL DECEMBER, AND THE RESULTS SHOW.

...

1,500 families served in 2019

\$130,000 special grants awarded in 2019

20,200 volunteer hours throughout 2019