

Working Your Way Through the Haze

LEGALIZATION OF CANNABIS

And its Impact on Strata / Condominium Insurance

On October 17, 2018 the Canadian federal government will legalize the use of non-medical cannabis. Bill C-45, the Cannabis Act, will create a new national framework that allows adults to possess and consume a regulated supply of cannabis. While many will be lighting up in celebration, there are a number of considerations for strata/condo communities.

British Columbia, Alberta and Ontario will align with the federal legislation and will allow adults to grow up to four cannabis plants and allow consumption at a person's residence.

Consumption in a Strata/ Condo – “What Risk?”

Consumption is a big issue. Although many owners and tenants are concerned about the possibility of the unit next door shrouding the building in a marijuana haze, consideration should also be given to cannabis vaping and edibles. A number of corporations have already dealt with this by amending their by-laws to restrict cannabis consumption much the same way they do for smoking – but with the inclusion of vaping and edibles.

Insurance Considerations

Smoking cannabis at home is likely to carry the same property insurance risk as tobacco smoking does, and we have yet to see the industry react to the pending legislation. This said, one could predict that at some point in the future, insurance companies may want to underwrite the risk and could start to ask additional underwriting questions to set out premiums.

From a liability standpoint, homeowners should be careful especially if others are consuming cannabis in their unit. What if during a party someone ate

a cannabis cookie unbeknownst to them and had medical distress or got in an accident while driving home after smoking cannabis? This puts additional liability on the host and the corporation if consumption is not addressed in the by-laws.

Cultivation – “Let’s Get Growing?”

Adults will be allowed to grow up to four (4) plants per household. From the experience of large scale grow operations, there is the assumption (right or wrong) that growing plants will add moisture in units, which could lead to mould and condensation issues. The risk assessment starts to get even trickier when you consider the powerful heating and lighting equipment used to make the plants grow quicker and taller. Many condominium communities across the country have addressed this issue by adding a strict “No Cultivation” by-law.

Insurance Considerations

While the question of whether growing plants in your unit can cause additional moisture and condensation is under debate, your insurance policy is clear regarding how it responds to damage. Some strata/condo policies include an absolute mould exclusion, and while others can include damage from mould, that damage has to originate from an insured peril. This essentially means that most, if not all strata and condominium insurance policies will exclude mould and rot damage as a result of the cultivation of cannabis. This will obviously have a big impact in the decision making process when people are considering growing cannabis in their home.

Moving Ahead

As the legislation takes effect, a challenge regarding both consumption and cultivation in strata and condominium buildings will be regulating usage and dealing with accommodation. I suspect the Civil Resolution Tribunal (CRT) here in BC and the Human Rights Tribunal (HRT) will see a peak in disputes as communities navigate their way through these complex situations.

Conclusion

Because of the real risks associated with cannabis consumption and cultivation the insurance community will likely still consider cannabis a “high risk” activity in the home. It may only be a matter of time before insurers launch independent reviews on the risks associated with use and cultivation, but until then we recommend your community take the following approach:

- Gather information and discuss with your broker how your strata/condo insurance policy will address any posed risks. For the most part, it will be business as usual until insurance companies assess the risk.
- Meet with the owners to get a sense on how your property will want to consider addressing consumption and cultivation.
- If your building will regulate cannabis use, get some legal help to develop by-law wordings.
- Message any changes to all owners.

We are sure that the legislation will continue to generate interest and so we will keep you up to speed on any insurance related developments.

To be continued on the other side of Bill C-45...

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