

Judge orders B.C. man to stop smoking while appealing condo's ban

Tamsyn Burgmann, The Canadian Press
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VANCOUVER -- A "life-long smoker" has been ordered to butt out inside his Langley, B.C., apartment while he waits to challenge his condo corporation with a human rights complaint.

A British Columbia Supreme Court judge has concluded that Paul Aradi must follow a no-smoking bylaw in his building, despite having difficulty standing and walking.

In a ruling posted online Tuesday, Judge Wendy Harris said she will not allow the 70-year-old to continue disregarding the bylaw until the Human Rights Tribunal holds a hearing.

PHOTOS



Paul Aradi, 70, has been smoking for 50 years. He lives in a building where it is prohibited to light up inside common areas and suites – a rule that was passed by the condo board, or strata council, in 2009.

Aradi's rights complaint asks the corporation to accommodate his disability, which he said affects his ability to smoke his cigarettes outside. It's expected the hearing will be held in July, although it has not been formally scheduled.

"That would be approximately six months away from now, which is a significant period for those owners who have expressed concerns about the smell of cigarettes and the effects of second-hand smoke on their health and the use and enjoyment of their property," Harris wrote.

"I reject the respondent's contention that their concerns are exaggerated or ideologically based."

The Canadian Forces veteran purchased his condo in 2002, seven years before the corporation prohibited smoking inside individual units. The corporation did not attempt to enforce the bylaw until December 2013, after other residents began complaining.

Aradi began accumulating fines, but did not pay the \$2,300.

He instead filed short, hand-written responses.

Aradi asserted the bylaw is discriminatory in creating two classes of citizens, smokers and non-smokers. He also accused the corporation of trying to force him to move because he had complained about certain bills from the corporation.

In affidavits filed in the case, the corporation's secretary states that at least five owners made complaints, ranging from health risks of second-hand smoke to fire risks, foul odour and negative effect on property values.

In her ruling, the judge found that the smoking bylaw was valid and residents have a "reasonable expectation" that it will be consistently enforced.

Harris also found that Aradi did not file his human rights complaint until more than a year after he was first fined.

She accepted he has an addiction to smoking and has mobility limitations. But she also found evidence -- including TV news footage -- that the man has been able to walk a relatively short distance from his unit to smoke.

He can also drive his car to another location where smoking is permitted, Harris said.

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Karen (Calgary) 16 hours ago

IMO if he moved in PRIOR to the Condo Corporation changing the bylaws, then he should be allowed to smoke in his condo until he moves out ... there are usually rules about "grandfathering" this sort of thing in, isn't there?

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sharptack 16 hours ago

He was there BEFORE, wow, if he was smoking pot it would probably be all rosy.

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Alexie Greene 15 hours ago

He moved in the place before this prohibition was made. This is all we need to know. As far as I see, he has every right to smoke in his suite. And this is coming from a former smoker, but fair is fair!

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tratata73 15 hours ago

i do not see how this is fair. He purchased the home before the bylaw was introduced. If, for instance, he bought a home before a no-dog bylaw was introduced and he had a dog would he be required to get rid of the dog? prejudicial nonsense....

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Aaron Washisnameo 4 hours ago

When you buy a condo you buy shares in a condo association. Those shares are assigned a unit. This is why when there is a special assessment all owners pay for things like balcony repair even if they don't have balconies. You don't buy the unit per se. You buy a percent ownership of the building.

Also it is a multiple family dwelling, not a freehold single family dwelling.

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over taxed 13 hours ago

They changed the speed limit on the road I live on, since I was here with the old limit I should be allowed to stick with the old limits ? Laws change, and he should follow them

Reply

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Fred Doyle 13 hours ago

Since my religion prohibits pork-chops and toasted bacon sandwiches I gotta see 'that judge' and have all the christian and non-believers STOP their cooking in this apartment complex!

PS: it makes me drool and gives the impression I've contacted rabies...

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gabby grafenauer 13 hours ago

Bylaws change all the time and people have to adapt to the changes even if they were there before the bylaw existed. This is true whether it's a municipal bylaw or organizational bylaw. Imagine if it was a bylaw dealing with garbage and someone wanted to protest that it didn't exist when they purchased the place.

Reply

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Pauline 15 hours ago

He was there first. That reminds me of a friend of mine who parked her car in a parking lot one day and was gone 5 hours. When she returned, they'd turned the parking spot into a disabled spot and she had a ticket on her windshield.

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Gundula Baehre 16 hours ago

While I agree with the smoking ban in principle, if he moved into the condo unit before smoking was banned, he should really be allowed to continue smoking in his apartment (perhaps in an area where

cigarette smoke and the smell of the same would be the least bothersome, and perhaps with a limit on the amount and kind of cigarettes that can be smoked).

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