

HOLIDAY DECORATIONS

It's that time of year again, when many people want to spread holiday cheer by decorating their homes with seasonal decorations, including displaying them on their windows or lawns. For many homeowners and renters, there is no need to think twice, but condominium occupants and boards need to be mindful of what rules, if any, the condominium corporation has, or should have, which may restrict plans for holiday decorating.

As board members, there are a number of considerations when making rules for decorations. First, it is important to listen to the owners in your condominium community and get feedback on what they want. For some condominium communities, a complete prohibition on exterior decorations could work best, while others might simply want to restrict the types of decorations and the periods of time in which they may be displayed. In addition, any actual alterations to the common elements are governed by section 98 of the *Condominium Act, 1998* (the "Act") and unit owners, board members and property managers need to be mindful of any decoration that would constitute such an alteration (even a temporary one).

Often times, unit owners make the mistake of thinking hanging holiday lights on their windows, or affixing wreaths to their doors, or similar common decorating traditions, won't constitute alterations subject to section 98 of the Act (especially since they are temporary), or they may believe that they simply have the right to set up any display on a part of the property over which they have legal or effective exclusive use. Unfortunately, neither is the case. Rules respecting decorations can apply in respect of common elements, whether exclusive use or not, and even in respect of the owner's unit itself (though such rules are typically restricted to deal with what is visible externally).

Amongst the things board members need to consider when establishing policies and condominium rules about how and where decorations can be displayed, is that some decorations may pose a risk of fire, other property damage, or even injury. All these constitute potential insurance risks for the corporation as well as personal risks for the homeowners. In addition, even minor holiday decorations that are affixed to the common elements might not only violate section but also could cause damage to the property or interfere with others' enjoyment of it. While not an insurance risk, such damage could give rise of unanticipated extra repair and maintenance costs. The board also might consider whether there are issues with electricity usage when the supply in use for a decoration is on a common meter. Lastly, there is the nuisance factor. For example, some unit residents might just not find a glowing, hand-waving life-size (or larger) Santa that plays Christmas carols all night long to be a welcome addition to the community.

Any rules respecting decorations should also be made to reflect the diverse nature of the condominium community. When decorating a common area or lobby with poinsettias or a small Christmas tree, don't forget to consider other religious holiday symbols at the same time or at other times of the year, and be receptive to requests from unit owners.

Another important consideration when drafting rules regarding holiday decorations is when they can go up and when they must be taken down. It is important to be specific about the range of dates (which, again, should be flexible enough to embrace diverse holiday periods and traditions). In addition, the board may want to consider what time of day some decorations may be used – for example lights, or musical decorations. This is especially important if electricity is paid for as a common expense and to respect unit occupants' work and sleep schedules.

Finally, don't forget that any rules, including those respecting holiday decorations, whether expressing restrictions, prohibitions or permissions, should always be reasonable.

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