

# Law Offices of Howard S. Dymant

## Condo Tribunals expand their jurisdiction to include disputes over nuisances



### Greetings!

The long awaited changes to section 117 of the Condo Act (dealing with dangerous activities and nuisance) will finally be enacted on January 1, 2022! On that same date, the Condo Authority Tribunal will also expand its jurisdiction to deal with complaints related to various nuisances. In this post, we explore what this means for condos.

**Changes to section 117: prohibition against dangerous activities**  
As of January 2022, section 117 of the Condo Act will be amended to expressly prohibit activities or conditions existing in units or common elements which are likely to damage the property or to cause an injury or an illness to an individual.

The province is adding, as prohibited activities/conditions, those likely to cause an illness to an individual. This addition, which was planned well before the current pandemic, is interesting and very relevant in the current public health crisis. Could someone's refusal to wear a mask or show proof of vaccination be an activity or condition that is likely to cause an illness to an individual? Other activities that could likely cause an injury or illness to an individual could include smoking

and the resulting second hand smoke. Time will tell.

### Prohibited nuisances

More importantly perhaps, section 117 will be changed to prohibit:

any unreasonable noise that is a nuisance, annoyance or disruption to an individual; or other prescribed nuisances, annoyance or disruption. This past week, the province enacted new regulation defining what other nuisance, annoyance or disruption will be prohibited. They include:

- Odour
- Smoke
- Vapour
- Light
- Vibration

Of interest, the province was originally contemplating a 6th prohibited nuisance: Infestation by animal, virus, fungus, bacterium or other organisms. This additional prohibited nuisance was included in the consultation process which took place in December 2019 but did not make the cut. I wonder why. Certain infestations (think of bedbugs, cockroaches and mould) can be quite problematic for condos and neighbours.

On January 1, 2022, the Condo Tribunal will expand its jurisdiction to deal with disputes over nuisance (or disputes over governing documents regulating nuisance). You can review here the [regulation](#) adopted last week allowing for this expansion of jurisdiction.

It is important to note however that the Condo Tribunal will not be dealing with disputes over the “dangerous activities” listed under section 117(1), namely the activities or conditions likely to damage property or cause injury or illness to an individuals. These disputes will continue to have to go to the Superior Court of Justice.

You may read Rodrigue Escayola's full article by clicking [here](#). Mr. Escayola is Partner with Gowling LLG and he can be reached at 613-783-8684 [rod.escayola@gowlingwlg.com](mailto:rod.escayola@gowlingwlg.com)

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