

Condo Smarts May 24th – 28th, 2017

No Complaint Bylaws

Dear Tony: We are at war with our strata council. Ever since we became owners in 2015 they have continued to harass us over a parking debacle. We obtained a Form B Info Certificate and were advised we were allocated 2 parking spaces. Immediately upon moving we were told the 2nd space did not exist. Since then we have been parking our second car in a visitor spot with what we assumed was the consent of council as there was no complaint. Two weeks ago, we received notice of a violation of the strata bylaws and fines going back to April 1st for unauthorized parking. They are fining us every day \$50, for a continuing contravention under their bylaws. That makes our parking for the second car more than our mortgage and strata fees. We asked for a hearing with council and their response was “we removed hearings from our bylaws, move the car, or just keep paying”. Is this legal? Marjorie W.

Dear Marjorie: You have a number of issues that you need to address. Because the strata have refused your request for a hearing, my first recommendation is to start a claim with the Civil Resolution Tribunal and challenge the problems with the Form B, the fines, and the non-compliance with the Strata Property Act & Regulations. I have seen a number of recent bylaw amendments surface that do not comply with the Act and are likely unenforceable. It takes a great deal of legal and procedural knowledge to effectively write bylaws. Many strata corporations have either borrowed other strata bylaws or written their own. I am yet to come across any owner or council member who has competently written bylaws for their strata. The maximum frequency that is permitted under the Strata Property Act Regulations for an ongoing contravention of bylaws or rules is only once every 7 days. The maximum fines are \$200 per violation of a bylaw or rule, or \$500 for violation of a rental bylaw. Before a strata corporation imposes a fine or penalty they must notify the tenant and/or owner of the particulars of the complaint and entitle that person an opportunity to respond in writing or have a hearing with council. Hearings are not part of the standard bylaws any longer and are a mandatory requirement under the Act.

Common violations of home grown bylaws usually affect property use or obligation. In addition to fines and hearings strata corporations frequently adopt amendments that are unenforceable. They try to incorrectly change property designations within the bylaws from common property to limited common property so they can download the obligation to maintain and repair doors and windows onto owners, or they try to claim any type of rental applies to the maximum number permitted in the bylaws, or they will adopt one bylaw that permits one activity while prohibiting the activity in another bylaw. Bylaws may have a profound impact on a strata community. Talk to your lawyer before you adopt any amendments. To start a tribunal claim go to www.civilresolutionbc.ca

Sincerely, Tony Gioventu, Executive Director
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