

## Condo Smarts July 5<sup>th</sup> – 11<sup>th</sup>, 2017

### Who Provides the Documents?

Dear Tony: Our strata corporation has a bylaw that requires owners to maintain copies of minutes, bylaws and rules, and makes each owner responsible to provide them to the next buyer. I sit on our strata council and we have a buyer who was given the bylaws that we provided to each strata lot, but it was an older version from a year ago and it did not include the new pet bylaw limiting each strata lot to 1 dog. They have two dogs and council are now struggling with the valid complaints from owners, but our strata seems to have caused the problem by requiring owners to provide documents which may or may not be accurate. How can we resolve this problem? Gordon

Dear Gordon: The official record keeper and record provider is the strata corporation. It is the obligation of the strata corporation to maintain records. On request of either a Form B Information Certificate, or a request for documents such as copies of the bylaws and rules, copies of financial information, minutes of council and general meetings, engineering and environmental reports, or other records the strata is required to maintain, copies of the records must be provided within the identified time period. The strata corporation is permitted to charge 25 cents per page per document, and may withhold the documents until the amount is paid.

Your bylaw is a good example of an unenforceable bylaw as it does not comply with the Strata Property Act. The strata corporation is not permitted to download the responsibility of record keeping and disclosure of strata records to owners. In hopes of reducing continual production of paper and records strata corporations will often create consolidated versions of bylaws, or summaries of rules and owner/tenant operating manuals, but these can only be used for the day to day operations to provide occupants with relevant lifestyle information. Even then, many operations manuals are not current, resulting in confusion. When the strata amended their bylaws a year ago, they chose not to have a legal review done. Reviewing bylaws for compliance with the Strata Property Act, Human Rights Code and any other enactment of law is a primary task for lawyers conducting bylaw reviews and could have avoided the confusion now facing the strata council.

Bylaws are filed in the Land Title Registry and open to public access; however, because of your bylaw that requires owners to provide information to buyers, the sequence of events that took place and inaccurate information, your strata corporation may not be in a position to enforce the new bylaw. In viewing the documents provided by the seller, the buyer may have a reasonable argument that they could rely upon the information provided as it was required by the bylaws. I would always insist that a buyer obtain copies of bylaws, strata plans and schedules of voting and unit entitlement directly from the registry. There are many versions of documents that circulate in strata corporations and nothing is truly reliable unless you are viewing official documents.

Sincerely,

Tony Gioventu, Executive Director  
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