

Condo Smarts July 12th – 15th, 2017

Consolidated Bylaws

Dear Tony: Thank you for your column that acknowledged a strata corporation is not permitted to alter bylaws that have been approved by the owners for the purpose of filing in the Land Title Registry. We are a new strata council and were given a set of “convenience” consolidated bylaws by our strata manager. We appreciate having the bylaws in one set, but when cross referenced our recently approved bylaws, we noticed they are not the same as what was filed in Land Titles. The management company filed a consolidated set of our 44 bylaws even though we only approved 5 bylaws at our meeting. In the consolidated set that was filed, we also noticed the wording of several bylaws that we had not voted on, did not match what was originally approved and filed. Should we call a meeting of the owners and vote on a complete new set of bylaws or should we just file a correction repealing the consolidated set? Spruce Gardens Council

Dear Council Members: When council members sign a Form I Amendment to Bylaws for filing in the Land Title Registry, they are performing a statutory action. The Form I requires council members to certify that the bylaws attached were approved by a resolution passed at a specific annual or special general meeting. Your owners did not vote on a consolidated set of bylaws that included renumbering sections, or changing the wording of your collective bylaws. Your owners only voted on adopting 5 bylaws. In a spring decision posted on the Civil Resolution Tribunal Web site, Fournier vs Strata Plan 768, the adjudicator found that consolidated bylaws were improperly registered by a strata corporation, and the strata was ordered to refile the original bylaws as filed in the Land Title Registry including the newly adopted bylaw.

Elaine McCormack, a strata lawyer in New Westminster, suggests strata councils address the problem before it becomes a crisis. “If your strata corporation wishes to adopt the consolidated set, properly convene a special general meeting, and pass a 3 / 4 vote resolution to approve the set, or have a legal review conducted of the bylaws and propose a different set of bylaws for the approval of the owners. Don’t forget that the wording of resolutions amending, repealing or replacing rental, pet and age restrictions bylaw may significantly affect their enforcement. A variety of exemptions may apply to current residents and pets if the bylaws are changed without using specific wording. ”

The basic message: your strata corporation cannot file bylaws that were not voted on at the meeting, and cannot make changes to bylaws approved by the owners, before they are filed. Either way, your strata corporation will end up with unenforceable bylaws which may interfere with the sale of a strata lot, or result in court or tribunal actions and will most definitely result in disputes and misunderstandings in your strata corporation

Sincerely,

Tony Gioventu, Executive Director
Condominium Home Owners' Association (CHOA)
website: www.choa.bc.ca