

Condo Smarts November 8-11, 2017

Rules vs Bylaws: When can a strata corporation limit the number of dogs I have?

Dear Tony: Last September was my strata corporations AGM. At the AGM the strata corporation adopted a pet rule that prohibits more than one dog per strata lot. My mother recently passed away and in addition to dealing with the stress and sadness of that situation I have inherited her two small dogs. My strata council has advised me that I must get rid of one of the dogs. Surely the strata council has the ability to exempt me from the rule due to these extenuating circumstances? Wendy G, Qualicum Beach

Dear Wendy: A good place to start is with understanding the difference between a rule and a bylaw. As per the *Strata Property Act (SPA)* “*The strata corporation may make rules governing the use, safety and condition of the common property and common assets*”. To adopt a rule is a 2-step process that starts with strata council. First, the rule is proposed and passed by a majority vote of strata council. Once passed, the strata council must inform owners of the new rule and the rule takes effect once owners are notified. Second, the rule must then be ratified, by a majority vote of the owners, at the next general meeting – either the AGM or an SGM, whichever meeting comes first. Once ratified it is in effect until repealed, replaced or altered. If the rule is not ratified at the general meeting it becomes null and void.

The SPA indicates a bylaw “*...may provide for the control, management, maintenance, use and enjoyment of the strata lots, common property and common assets of the strata corporation and for the administration of the strata corporation*”. To amend or propose a new bylaw a 3/4 vote resolution of the owners must be passed at a duly convened general meeting (either the AGM or an SGM). It is important that the exact wording of the proposed bylaw amendment be included in the general meeting notice package that is distributed to owners in accordance with the SPA prior to the meeting.

As you can see there is a difference between a rule and a bylaw. Specifically, if a strata corporation wishes to prohibit or limit the number of pets living in a strata lot a bylaw is required – a rule would not suffice. Take a look at the minutes from your AGM. Did the strata ratify a new rule or adopt a bylaw to restricts the number of dogs per strata lot? If the strata did indeed pass a rule request a hearing with your strata council. A hearing is the opportunity to be heard in person at a strata council meeting. Once you request a hearing the council must convene the hearing within 4 weeks and if the purpose of the hearing is to seek a decision of the council, the council must give the applicant a written decision within one week after the hearing. If after the hearing the strata council proceeds with enforcing the rule, and is demanding you get rid of one of the dogs, you may have to make a Civil Resolution Tribunal application. For more information go to:

<https://civilresolutionbc.ca>

Sincerely,

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