

Condo Smarts April 20, 2022

Council Decision Making

Dear Tony: Our strata council is divided over the enforcement of a pet bylaw that has been in place for 10 years. Our current bylaw limits pets to 1 cat and 1 dog, but several owners, including past council members have 2 dogs or 2 cats and in one case 2 dogs and 2 cats. There are no complaints about the pets behaviour, but we have 2 new owners on council insisting the bylaws must be enforced and the owners should be fined and ordered to remove the non compliant pets. Is there a rational way to deal with this issue? Marissa M.

Dear Marissa: Council decision making must consider several factors when enforcing bylaws. These apply to alteration requests, unauthorized alterations, pets, parking, use of property, payments of fees and administration of the corporation. The decision process is also influenced by historic practices of the strata corporation. There is an obligation of the strata corporation to apply bylaws in a fair and reasonable manner. While strata corporations often take the casual approach to bylaws, where enforcement is a last resort, the results can jeopardize your bylaws. The objective of bylaws and rules is to ensure everyone is regulated by the same standards. There is no obligation to impose fines or penalties, and the Strata Property Act identifies a corporation “may” fine or impose penalties. The ideal objective is the voluntary compliance by owners, tenants and occupants. Where that fails, it may be necessary to enforce the bylaws by imposing fines, penalties, or an application to the Civil Resolution Tribunal (CRT) for the enforcement of the bylaws. It is problematic for a strata corporation to start enforcing bylaws when they have not enforced the bylaws historically, such as your pet situation. This may require a fresh start on a pet bylaw and the owner ratification or an amendment of the existing pet bylaw at a general meeting. If the owners ratify the existing pet bylaw or approve a new bylaw, the existing pets within the complex would be exempt from the new bylaw. Whenever a strata corporation adopts new bylaws that pertain to existing rentals, pets or persons that don't comply with age restrictions, the current occupants or relationships are not affected. To support future enforceability of such bylaws, the strata corporation will need to establish an inventory of those persons or pets who are exempt the time the bylaws are passed. It is the only method to establish exemptions on the record. When those person are no longer residents, or the pets are no longer residents, the exemptions expire, and the strata lot must comply with the bylaws. There is no short cut, seek legal advice on the enforceability of the bylaws, whether they can be enforced today because the corporation has not been enforcing the bylaws, and how to implement an enforceable bylaw if that is the direction of the corporation. CHOA is hosting 3 weeks of seminars on council decision making and the CRT starting April 26. For more information go to www.choa.bc.ca and link to seminars and workshops.

Tony Gioventu, Executive Director CHOA

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at: <https://www.choa.bc.ca/about-choa/join-choa/>

We bring together industry experts to discuss the many issues affecting BC's strata community. Click here for a link to our archived webinars: <https://choa.bc.ca/resources/webinars/>

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.