

Condo Smarts June 1, 2022

Record Keeping

Dear Tony: Our owners changed management companies in March. An issue has come up regarding our boiler that was still under warranty, but our new management company cannot find any of the warranties or transactions documents relating to the boiler. With our new manager we have looked at the documents that were transferred, and there is nothing that relates to projects or contracts older than 2 years ago. We know there are a substantial number of documents missing. Is there a mechanism to recover the records? Keith M.

Dear Keith: A strata corporation is required to maintain all documents prescribed in the Strata Property Act and Regulations. The property management company are acting as your agent under contract. Within the scope of the contract there will be terms set out for record keeping that match the Act, and will define how the records are maintained, the cost for maintaining the records and most important, what happens to the records if the contract is terminated or transferred.

The Act sets out record retention in 4 divisions. Records that must be current and updated, those that are maintained for 2 years, 6 years, and permanent or perpetually. Record keeping is a mandatory requirement of the Act. A strata council will rely on their records to support operations. These will include: collections and financial reports, contracts and warranties, bylaw enforcement decisions, court and tribunal disputes, engineering and environmental reports, parking and storage locker plans, alteration agreements, any resolutions that deal with changes to common property, including the designation of LCP, any decision of an arbitrator, a tribunal or judge in a proceeding in which the strata corporation was a party, any legal opinions obtained by the strata corporation, plans and drawings, warranty documents, a list of owners and tenant agreements, minutes of all meetings, the annual budget, and a depreciation report.

Review your contract with the previous company and determine the obligations for record keeping. Issue a formal written notice to the broker for all the records maintained within their contract period. If there is no satisfactory response, its time to instruct the strata corporation's lawyer to intervene. If there is still no resolution, contact BC Financial Services and have the strata council authorize a complaint be commenced against the brokerage.

When a strata corporation is negotiating a new contract, look closely at record keeping, the transfer of records, and any costs. These transactions can be very costly. If you are changing companies, instruct your new brokerage to itemize closely what records have been provided. To avoid this problem, many strata corporation have set up a digital record storage service that provides access to the property manager, the strata council and owners for designated information.

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.