

Condo Smarts

Headline: What restricts the sale of a strata lot?

Topic: Buying & Selling

Publication date: Jan 13, 2013

Publication: The Province

Written by: Tony Gioventu

Dear Condo Smarts: We live in a townhouse complex of only 14 units in Port Moody. Our strata corporation has only ever adopted 3 bylaw amendments: a rental bylaw limiting the number of rentals to 3 at any time, a parking bylaw that ensures no residents park in visitor parking, and a pet bylaw that limits the number of pets to 1 dog or 2 cats.

One of our owners has just listed their unit and an offer has been made subject to the purchaser being able to bring in their 2 dogs. Council agreed to considering a bylaw amendment at a general meeting if other 13 owners were in some consensus. We contacted all 13 other owners (including those on council) who opposed any such amendment. We have advised the seller that the strata corporation will not be convening a meeting to amend the bylaw. The real estate agent of the vendor has contacted us and advised that if the sale does not complete because of the bylaw which he claimed was invalid because of the change in legislation, we would be sued for the loss of the sale. Our strata corporation has had this bylaw in effect since 1988, and other than limiting the number of pets, has no other conditions. Is it true that we can be sued by the vendor for having adopted a bylaw that is permitted by the legislation? *Donna RL*

Dear Donna: Strata corporations are permitted by the *Strata Property Act* to adopt bylaws that provide for the control, management, maintenance, use and enjoyment of strata lots, common property and common assets of the strata corporation and for the administration of the strata corporation. The *Act* specifically refers to the application of the *Schedule of Standard*

Bylaws, which by default limits the number of dogs and cats to only 1 cat or 1 dog. If the

argument of the agent applies, and your previously amended bylaw was not in effect, the Standard Bylaw would automatically apply unless repealed or amended, limiting the number of dogs to only 1 in any case, so the argument is simply a bullying tactic.

A bylaw, which was amended under the *Condominium Act* continues to be in effect under the *Strata Property Act* provided it does not contravene the *Act*, the regulations, the *Human Rights Code* or any other enactment of law.

There may be occasions when a strata corporation will have to make special accommodations for owners, residents, or buyers, if there is a requirement due to a disability or limitation under the *Human Rights Code*. Buyers and sellers often try to get council to bend the rules or bylaws to accommodate their needs; however, the strata council, does not have that authority, unless the corporation have adopted an amendment at a duly convened meeting, or there is some evidenced requirement for accommodation under the *Human Rights Code*.

Subject to the *Act*, the regulations and bylaws, the council must exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules. It is also important to remember that in the event that a strata council does not enforce/comply with the bylaws, an owner(s) may sue the strata corporation by seeking a court order to compel the enforcement of the bylaw.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.