

Why Education is Critical for Strata Councils and Managers

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"If only we had known, we could have avoided this disaster!" Those words ring true for all of us at some critical moment. For strata councils and strata corporations these sentiments only result in conflicts, disruptions in property use and uncontrollable costs. Not every disaster can be avoided, but they can be managed and controlled. Education is a vital part of being an active and prudent council member and property manager. The best consumer protection is being informed and understanding the next steps in decision making before you proceed.

A proactive strategy of continuing education and proper documentation review will always serve a strata council and owners well. Know your strata bylaws. Know your strata rules. Review the *Strata Property Act* and understand how it applies. Gather documents and ask questions. Stay informed and knowledgeable, and never take anyone's word for it. If you are unable to verify someone's claim with documentation it probably isn't true. All too often we are told a lawyer has looked at these bylaws. If that is true there should be a bill and a letter or email to confirm the lawyer's opinion.

CHOA advisors apply the same strategies of information gathering and analysis when providing your strata corporation with assistance. What many people assume is a simple, common question we quickly discover is likely far more complicated. For example, "Who is responsible to maintain the balconies?" The correct answer depends on a variety of factors and is not straight forward.

This same exercise can be applied by your strata council. When faced with a strata question, your strata council will need to review various strata records. Whether it be bylaw enforcement or understanding

how the costs and obligations of maintenance and repairs could be applied, council needs to ensure they review all necessary documents before they render a final decision. This may seem like over kill, but once all of necessary documents are assembled into strata council folders they provide quick access and aid with easy solutions.

Using the above question "Who is responsible to maintain the balconies?" as an example, here is a list of the documents you will need to review:

- A copy of the *Strata Property Act*, Strata Property Regulations and the Schedule of Standard Bylaws.
- A copy of the complete current bylaws of the strata corporation
- A copy of the registered strata plan for your strata corporation illustrating how the area is designated.
- Copies of any easements, alteration agreements or licenses which may impose responsibility or obligation to pay for related costs.

Once we have assembled the documents the question is analyzed by property designation, use, and then bylaw or rule application.

- Is it common property, limited common property, part of a strata lot or part of an adjacent property where the owner or the strata corporation has the right of use and access?
 - If the balcony is common property, the strata must maintain and repair the area and is not permitted by the regulations to make an owner responsible.

- If the balcony is limited common property the standard bylaws require owners to perform maintenance that occurs less than once a year, that mean's sweeping and cleaning. It is essential all strata council review their strata's registered bylaws to determine if they stipulate the same repair and maintenance requirements as the SPA Schedule of Standard Bylaws.
- If the balcony is part of the strata lot the owner may be responsible for the repairs, but this is where we need to look closely at the definition for the term "responsible" and also the remaining bylaws to determine if this is a cosmetic matter, building envelope, warranty issue or a structural issue.

There is no benefit in deferring the repairs of a failing balcony to an owner who is simply going to ignore it. A research study undertaken by CHOA in 2015 identified the failure of a balcony membrane that required replacement at a cost of \$3,800 or with a minor design change would have cost only \$2,500. The repairs eventually cost the strata corporation over \$150,000 8 years later in structural damages because the owner refused to do repairs which the strata tried to down load by making a common property balcony an owner's responsibility. The strata corporation waited until the wall was leaking into the suite below. "If we had only known..."

Bylaw enforcement is also a chronic defect for many strata corporations. Here is another example of needing to gather all necessary documents and follow the requirements of the *Strata Property Act*. It is essential all strata councils know the proper procedures to follow when enforcing your bylaws - be prepared to be challenged by owners and tenants at the Civil Resolution Tribunal (CRT) when they claim you did not properly enforce your bylaws. It amazes me how many strata council members do not vote on bylaw enforcement which is essential because council cannot delegate the enforcement of bylaws to any other party. It is also necessary for council to record those same decisions in the council meeting minutes. Personal information is not being included, but strata lot or unit numbers, the infraction and the amount imposed plus

how council is enforcing the bylaws is all information the owners are entitled to know. A persistent problem in the industry is the automatic imposition of fines for late payment of strata fees. Late payments of strata fees do not automatically incur a fine. Like all bylaw enforcement procedures, the strata corporation must give written notice of the complaint. The owner is entitled to respond in writing or request a hearing to challenge the claim, and eventually the council will have to vote on an outcome of the enforcement. You must always comply with Section 135 of the Act before you impose a fine, penalty or proceed with enforcement of bylaws.

It is important for a strata corporation to support its strata council and strata managers and plan for continuing education. This is a combination of ensuring they have the proper resources, technical and legal support and funding to access seminars and workshops.