

Condo Smarts

Headline: Flag week and Canada Day

Topic: Flags

Publication / Date: The Province, June 30, 2016

Written by: Tony Gioventu

Dear Tony: Every year we have Canada Day, our strata council goes through the same problem with the same owners. They start a petition to amend the bylaws that would allow owners to install flag poles on their units. Every year we have the meeting and every year the amendment gets defeated. We are now in year five, and they never manage to get enough support for the amendment. This year they have advised that they will use the Civil Resolution Tribunal to enforce the strata to permit the installation of the Canadian flag. We are a bit concerned by this issue because we do not want owners attaching holders or poles to our buildings and causing long term damages, even though one owner has already attached a flag pole to the side of his townhouse. We are mostly concerned about the jurisdiction of the Civil Resolution tribunal and whether the tribunal could order something like this.

JVW Nanaimo

Dear JVW: Many owners still have the perception that their home is their castle. In a strata, your home is not your castle, you simply reside in a part of the castle. Even in bare land developments where owners have more control over their individual homes, a strata may still adopt bylaws that regulate use and appearance of strata lots, including the buildings on the strata lots. For all other strata corporations such as town houses, apartment style or highrise, the bylaws of the strata corporation will apply to the strata lots, and the use and enjoyment of common property. Anyone who alters common property without written permission will be subject to those bylaw applications.

The Civil Resolution Tribunal will come into effect later this year and most strata type disputes that relate to the collection of money, enforcement of bylaws, your strata compliance with the *Strata Property Act*, *Strata Regulations* and bylaws of the strata, and owner or

tenants requirements to comply with the bylaws will all be potential disputes that may be resolved through the Tribunal.

In your situation where an owner installed a flag pole attached to a building that has altered the common property without the permission required in the bylaws, the strata corporation may enforce the bylaws, impose fines and may remove the alteration and seek the damages for the repairs back against that owner. A successful decision from the Tribunal may include an order for the owner to pay those fines, any damages to the common property that had to be repaired, an order to comply with the bylaws and an order to cease altering common property without written permission. The same type of orders to comply with the Act or other enactments of law could apply against a strata corporation. There are no laws that permit owners to install flags and override strata legislation.