
Condo Smarts

Headline: Incorrect unit allocations

Topic: Unit Entitlement

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Written by: Tony Gioventu

Dear Tony: We live in a large strata corporation with 300 units in multiple buildings. Our strata lots on the strata plan are numbered 1-300 and the unit entitlement is based on the measured areas shown on the strata plan. A new owner approached council in December and complained that her unit entitlement was incorrect and she was being overcharged by 12% for her strata fees. Our property manager advised the strata corporation has no choice but to apply the schedule of unit entitlement registered in the Land Title Registry. She has responded and advised she believes the schedule that the strata corporation and management company has been using is mixed up because a duplicate unit in the next building has a 12% lower unit entitlement. If the same units have different unit entitlements can we approach the Land Title office and have this corrected?

Paul Renfrew

Dear Paul: If there is a correction to the schedule of unit entitlement, the voting rights or the schedule of interest on destruction, that will require a unanimous vote by the owners at a general meeting. A unanimous resolution is a vote by all the votes of all the eligible voters to vote in favour of the changes. Yes, that would be 300/300 are required to vote in favour.

There is a provision in the *Strata Property Act* that permits a strata corporation to make a court application to ratify a unanimous vote if 5% of the owners or less did not vote in favour of the resolution. It will be difficult to obtain the votes you require for over 300 units as anyone who does not respond or attend the meeting in person or by proxy to vote will automatically be counted as a vote against; however, large strata corporations with proper legal advice and communications have accomplished unanimous votes.

For your strata plan and schedule of units, the owner has a valid complaint. I cross referenced the schedule your strata corporation has been using since 2002, and she is correct. Someone in the past has mixed up the strata lots and the unit numbers. Owners have been identified by unit number and not strata lot number connected to their address and 17 units have been incorrectly mixed up. It is very easy to understand how this has occurred because the units are not consecutive building by building. That appears to be the root of the problem.

My recommendation is to immediately correct the strata plan unit entitlement for this fiscal year as it relates to each strata lot and unit number and talk to your lawyer about the possible consequences and remedies. Errors in unit entitlement occur frequently. New owners, changing strata councils, new property managers and property management companies often expose errors that have been historic. No one gets to make up the unit entitlement or change the calculations through a bylaw amendment or decision of council. You must use the schedule of unit entitlement or any amendments filed in the Land Title Registry.