
Condo Smarts

Headline: How do I give proper notice to my strata?

Topic: Notice

Publication / Date: The Province, Aug 8, 2019

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Every day 100's of emails and calls are managed by CHOA advisors from strata councils, property managers, owners, tenants, and commercial users. Most complaints relate to matters involving relationships and conflicts between occupants. Most of these issues are bylaw enforcement and may be easily managed by strata corporations; however, the nature of most strata councils is to often ignore the easy solutions until those matters become a costly and disruptive crisis in their community. Enforcing bylaws is not an option for strata corporations.

Strata corporations must have bylaws and must enforce their bylaws. How bylaws are enforced is optional and at the discretion of council. Bylaw enforcement could be as simple as a cordial warning letter that often resolves most infractions. Fining, penalizing or taking action through the Civil Resolution Tribunal (CRT) is optional, but when a strata council refuses to enforce bylaws the best option for owners and tenants is a Supreme Court action or an application to the CRT seeking a decision where the strata corporation is ordered to enforce the bylaws.

Noise or nuisance are the most common complaints. Often inquiries begin with: "We live in a unit on the first floor and our strata council permitted an owner to install hardwood floors in our wood frame building on the second floor contrary to our bylaws. The noise is unbearable and our council will not enforce the bylaws." The sequence that follows requires the affected owners to file court applications or a CRT complaint. Herein lies the problem.

Many strata corporations are not filing a formal address for the strata corporation as required by the *Strata Property Act*, resulting in default orders through the CRT. A strata corporation must ensure the correct

mailing address for the strata corporation is filed in the Land Title Office, and if the address changes, such as when a new property management company is hired, the corporation must file a change of address. Notice to the strata corporation may also be delivered to any council member or directly to the property manager, in the methods permitted by the Act.

Under the current CRT rules, amended April 1, 2019, the CRT now serves most respondents named in a Dispute Notice by regular mail. The Dispute Notice is deemed received 10 days after mailing in most circumstances. For strata corporations, this means the Dispute Notice is mailed to its most recent registered address filed at the Land Title Office. In the event the strata corporations' registered address is incorrect or not filed and the CRT is not notified, it is likely that the dispute will proceed through the CRT's default process and result in a default decision. Although the strata corporation is able to file a cancellation request after it is notified of a default decision against it, the strata corporation could avoid that process, and the possibility its cancellation request is denied, by ensuring its registered address at the Land title Office is accurate.

The solution is simple. Confirm your strata corporation has filed a Form D, Strata Corporation Change of Mailing address in the Land Title Registry. If you are a smaller strata corporation, serve notice on all council members in the event there is no address filed. A print out of the General Index from the Land Title Registry will identify when your most recent address filing was completed. When a strata corporation is created, the official address is often filed by the developers' lawyers identifying their offices. Once the first Annual General Meeting is held, file a change of address to ensure your strata corporation receives proper notice.