

## Condo Smarts

Headline: Hearings & Council Meetings

Topic: Hearings, Strata Council

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Written by: Tony Gioventu

**Dear Tony:** My strata council has recently imposed a number of fines against my townhouse for claims that I altered the front doors of my unit contrary to the bylaws. Luckily, we have the realtor listing photo showing the front doors and this was the condition and exact hardware and screen door that was installed by the previous owner. I reviewed the information we received from the strata corporation and on the Form B Information Certificate the strata corporation did not disclose any alterations that were made by a previous owner which I may have to be responsible for. There were not outstanding fines or bylaw infraction notices, nothing in any of the previous 2 years' minutes, and no mention by the vendor. Council have ordered us to replace the door and hardware, plus remove the screen door and return it back to the original. In addition, they are fining us \$200 per week until we do. What recourse do we have to stop this incredible harassment? We seemed to have a reasonable strata council until an owner who was recently elected to council has imposed herself as the strata police. She is constantly inspecting every unit for violations and issuing fines, and ironically she has a nonconforming door! Many owners are upset at the conflicts arising in our strata corporation so we are looking for some options.

*Marilyn C. North Vancouver*

**Dear Marilyn:** Strata councils often misunderstand their role with respects to the enforcement of bylaws. Under the *Strata Property Act* Schedule of Standard Bylaws, the strata corporation must not impose a fine against a person, require a person to pay the costs of remedying a contravention, or deny a person the use of a recreational facility unless they have received a complaint about the contravention. They must first give the owner/tenant the particulars of the complaint in writing and a reasonable opportunity to respond in writing, or provide the opportunity for a hearing if requested by an owner or tenant. A bylaw enforcement decision, the convening of a hearing or receipt of a written response is an action of the

strata council not a single person. The strata council must convene a meeting and address the bylaw matter and vote on the outcome. Councils decision becomes part of the strata minutes. There is no instant fining unless there is a continuing contravention that has already complied with the notice requirements. This applies even to monthly late payment of strata fees. Neither the strata nor property manager can automatically add fines to a late payment of a strata fee.

You have a few options to resolve this matter. Request a copy of the complaint. Write to the strata corporation providing your evidence of the existing alteration and request the decision be reversed as this was a previous alteration you were not responsible, or request a hearing with council to state your case. If you request a hearing the strata council must provide you with a written response on the matter within 1 week following the hearing.

From there you can then decide your next course of action. If there are as many people as you suggest who are not satisfied, owners by 25% petition can always demand an SGM to remove the council member by majority vote and elect a new council member. You may also consider an application to the Civil Resolution Tribunal which can order the strata corporation to comply with the *Strata Property Act*, issue proper notice of complaints and dismiss any of the imposed penalties if they were not applied appropriately, unfairly, or in a harassing manner.

During our current Covid-19 restrictions hearings are frequently being held electronically. A hearing is simply a council meeting that has been requested by an owner for an opportunity to be heard on a specific manner. If you are involved in a hearing electronically, confirm before the hearing begins who is attending the hearing, that there are no observers, and whether or not the hearing is being recorded. This requires your consent as well.