

---

## Strata Living

Headline: Fair enforcement of bylaws

Topics: Buying & Selling; Liquidation

Publication / Date: 24 Hours, July 21, 2016

Written by: Tony Gioventu

**Dear Tony:** Our strata is 66 townhouses in Burnaby. We are a relatively new development, and our community has quickly developed into a cohesive group of like minded owners who want to protect our property. Several owners have decided to install hooks or brackets for hanging baskets, chimes or ornaments on their patios or near their front door. We have raised this issue with council as it may affect our building warranties, but other than nasty letters to a few owners the council have done nothing. One owner has told us she has received a \$200 fine, even after she took her chimes down, but nothing has been done to the other owners. How can council enforce bylaws against some owners and not others? Does this make our bylaws null and void?

*Sharon B.*

**Dear Sharon:** The *Strata Property Act* says the strata corporation must enforce bylaws; however, it does not take that to the next level to say what that enforcement means. It could be fines, costs for damages or an application to the Supreme Court of BC and now the Civil Resolution Tribunal (CRT) to seek an order for owners and tenants to comply with the bylaws. It is essential for strata corporations to follow the natural justice system set out in the *Act* when enforcing bylaws. Before the strata imposes any fine or penalty, they must first send a notice of complaint, identifying the alleged infraction and the particulars of the complaint, and permit the person to respond in writing or request a hearing. If after the process is followed the infraction continues or is upheld, the strata corporation may start imposing fines and penalties set out in their bylaws. It is important for the strata corporation to maintain records of their decisions and correspondence so they can defend their actions.

The CRT has started operations and owners, tenants, and strata councils may start an application process for adjudication. One of the challenges that will be commonly heard, will be the unfair application of bylaws. Strata councils are notorious for enforcing bylaws against targeted owners and ignoring the infractions of council members and friends. While bylaws may not be deemed to be null and void by unfair enforcement, it is possible a tribunal adjudicator may decide the council acted unfairly in the application of fines and dismiss the fines and any related penalties. As volunteers, council members are well advised to verify they are acting fairly with all owners and tenants.

For more information on the tribunal go to: [www.civilresolutionbc.ca](http://www.civilresolutionbc.ca)