

Headline: Who decides the consequences when someone violates the bylaws?

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Strata living provides us with many benefits that enable property owners to share in the benefits of recreation facilities and the shared used and maintenance of property, which often provide us with a higher level of security and services. A common benefit of strata living is that the buildings, except for a bare land strata, are common property and the gutter and window cleaning, and roof inspections, and tree pruning, landscaping and snow removal are all a part of our common services. The collective services are affordable and reduce our obligations and are attractive features of strata living, but what the conflict side of strata living? When an owner, tenant or occupant behaves in such a way that impacts the use and enjoyment of our strata lot or the common facilities how do we resolve the conflicts? A strata corporation is a simple form of government that is governed by the *Strata Property Act*, the Regulations and the bylaws of the strata corporation. The *Act* contains a Schedule of Standard Bylaws that automatically apply to all strata corporations, until a strata corporation adopts amendments. The bylaws regulate the use and enjoyment of strata lots, common and limited common property, common assets and recreational facilities, and the administration and governance of the strata corporation. So what does this mean to a strata lot owner when the neighbour decides to do renovations at 3am, or their dog barks all day while they are at work, or someone has parked in the wrong place?

Under the *Act*, the strata corporation represented by the strata council, must enforce bylaws. They may impose fines or penalties or deny the use of recreation facilities and even in some cases take court action, but the council has no choice, they must deal with bylaw enforcement. The *Act* sets out a mandatory step by step process which requires a complaint be received or filed by the council, a notice of the complaint including the details must be issued to the owner or the tenant,

landlord and owner, and they are entitled to respond in writing to the complaint or request a hearing which must occur within 4 weeks after the request. Once the strata council has issued the complaint and reviewed a written response or held the hearing, the council meet to determine if a bylaw or rule was violated and determine the action of the strata and the decision whether a person has violated a bylaw or a rule cannot be delegated to any other party. The *Standard Bylaws* permit fines of up to \$50 per week or complaint, and \$10 per rule, however these can be amended in the bylaws up to \$200 per week or event and \$50 per rule, and \$500 per week for violation of rental bylaws. A common error of strata corporations is to automatically apply bylaw fines for items such as late payment of strata fees. Even a bylaw that creates "automatic fines" they cannot be imposed without following the enforcement procedures. Whether strata council members agree or not, they are required to act as the enforcement, the judge and the jury to determine if someone is at fault for violating bylaws or rules, and the consequences. Once the *Civil Resolution Tribunal* comes into effect later this year, the dynamics of enforcement will change dramatically. Owners and tenants will be able to make an application to the Tribunal regarding bylaw and rules to challenge the decision of council, whether bylaws and rules are being properly and fairly enforced, if they are enforceable, to order the strata to comply with the bylaws and rules to order enforcement. The strata council will be able to make an application to order and owner or tenant to comply with bylaws and rules and to collect fines and penalties associated with bylaw enforcement. For more information go to: www.civilresolutionbc.ca