

Condominium Home Owners Association

A non-profit association serving strata owners since 1976

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Condo Smarts

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A group of Burnaby owners were surprised to discover at their recent AGM that their council had commenced an expensive Supreme Court action without their knowledge. One owner had violated the strata bylaws by removing a wall in his unit and the council launched a Supreme Court suit. At the meeting the horrified owners discovered council had spent \$40,000 on legal fees, almost all of their reserve fund.

This kind of event – court actions in strata communities – is becoming all too common. Bylaw enforcement, collection of funds, neighbourhood disputes, building damages and insurance losses are all day-to-day procedures and events that can lead to crippling court costs. Who decides if the strata goes to court and who pays?

Strata law: Before proceeding with a Supreme Court action or arbitration, strata councils must obtain a properly ratified $\frac{3}{4}$ resolution of the eligible voters at an annual general meeting. If the action is against an owner, that owner is not eligible to vote and does not contribute to the cost of the action. As the council in the above case did not obtain that vote and spent the funds without permission, the owners are now considering their own court action to sue the council members for their unapproved expense and action.

Tips: There are some exceptions to the $\frac{3}{4}$ resolution rule, especially if an emergency situation exists and the council must proceed quickly to protect strata interests. Situations that can call for this kind of quick action include forced selling of units or requesting court-appointed administrators. Strata lots can be sold if the owners do not pay strata fees or levies and, if a strata's affairs have been badly managed, it's often necessary to apply to the court to appoint an administrator. In most other cases the $\frac{3}{4}$ vote applies. Supreme Court actions are technically complicated and a costly endeavour. A strata council should only consider proceeding under the direction of legal council.

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