

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-194

Condo Smarts

Headline: Council voted but didn't send us notice

Topic: Notice requirements and use of email.

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Dear Condo Smarts: We own two apartments in a highrise building in the Okanagan Valley. As investors, it is critical that we receive all of the notices of general meetings to ensure we attend the meetings and exercise our voting rights to protect our investment.

Our strata council has decided that they will only send notices by email to avoid the costs of mailing and in their terms "prove quicker notice for owners."

We have protested the instructed the council in writing, which they acknowledge they received, to send all of our notices and materials for the strata corporation to our home in California.

We are more than willing to pay the additional costs. A meeting was held in August, of which we never received notice, and now we are informed that the bylaws were passed that prohibit rentals and we have to evict our tenants, both of whom are pensioners. Can the strata legally do this?
--JJ & Vera, San Francisco

Dear JJ and Vera: Email correspondence and notice is becoming a chronic problem in strata corporations.

Email is often misused for notices of general meetings (which the *Strata Property Act* does not permit), and for decision making by council instead of meeting (also which the Act or the bylaws often do not permit).

The strata corporation is bound to deliver your notice by mailing it to the address you provided or by leaving it with you if you are on site.

Improper notice has been deemed by the courts to be an error that has rendered bylaws unenforceable and the proceedings improper.

Because this decision will alter the use of your property, you need legal advice on the next steps. Your tenants, however, cannot be evicted. Those tenants at the time the bylaw was passed are exempt from the rental-restriction bylaw.

Email can be a useful method to quickly correspond with owners and fellow council members; however, it is not official, not confidential and not dependable.

Everyday we encounter misdirected, stray or incomplete transmissions with no records to back them up. The Act permits electronic attendance at meetings, but only if all persons participating in eh meeting can communicate with each other.

The same should apply to council meetings, which require debate and decision by majority vote.

The other challenges with email are security: what is sent can be altered; censoring: people often send hasty and harsh responses; and privacy: they are not confidential

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