

Condo Smarts

Headline: Hearings & Bill 8 Amendments
Topic: Strata Council - Hearings
Publication date: April 4, 2010
Publication: The Province
Written by: Tony Gioventu

Dear Condo Smarts: The Act says we have to hold a hearing on an owner's request or for a hardship application for example, but what does it mean to have a "hearing?" Our council recently granted an owner a hearing and he showed up with a two-page list of gripes about what we were allegedly doing wrong. When the hearing was over he wanted to know why we didn't answer any of his questions and demanded another hearing one week later. We want to respond to the hearing in writing but as there was no request for any decision we simply do not know what to do. Jeff C. Chilliwack

Dear Jeff: As part of the amendments to the Act last fall, hearings on request became a mandatory requirement as part of Section 34.1 of the Act and Regulation 4.01. Because they were in the standard bylaws, and strata corporations often removed the provision, or amended the bylaw limiting the ability to request a hearing, owners rights were being affected, therefore the provisions were incorporated in to the amendments under Bill 8.

According to Veronica Franco, a lawyer with Clark Wilson LLP in Vancouver, "the concept of a hearing is vague and not well understood. Most assume that hearings are generally for the purpose of seeking or disputing a decision of council. The owner(s) or tenant(s) demanding the hearing are often seeking a decision on an interpretation of the bylaws as they may be applied to rentals, pets, age, parking, alterations, or use of

property. Once they have obtained a decision of council, they can they decide on how to proceed with resolving their concerns. Hearings that appear to have no specific purpose other than to provide an opinion will not likely result in any decision or actions being taken, wasting the time of all the parties and potentially generating a conflict within the community. The Regulation defines a hearing as "an opportunity to be heard in person at a council meeting." Owners are required as part of the request for a hearing to advise of the purpose of the hearing. Before owners request hearings, they may wish to contemplate their intended result of the hearing. Before the hearing starts, councils may also want to explain the way the hearing will be conducted to avoid any misunderstandings."

As the hearing is being conducted within the proceedings of a council meeting, the council also has an obligation to create minutes of the meeting, and without the context of a decision what will council write in the minutes? How can you describe the proceedings of a hearing if no decision is being sought, or there is no context to the hearing. While there is no obligation to provide any response in the hearing, it may be an excellent opportunity for the strata council to ask questions and gather information to better manage your community. If owners raise genuine concerns, the sooner they are addressed, the less chance of a growing conflict in your strata.

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