

Condo Smarts

Headline: When a council member violates bylaws
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Dear Condo Smarts: We have a strata council member who refuses to acknowledge that he has broken bylaws. On a number of occasions he has paid strata fees late, and has made alterations to his unit without the written consent of the corporation. The neighbouring owners have complained several times about the noise of construction, during late night hours and on weekends. This council member refuses to leave the council meetings to let the remaining council address the bylaw matter. Any guidance you can provide would be greatly appreciated. The remaining council are ready to resign and any potential buyers that come along get scared away by this guy, if they happen to cross paths with him. Our strata is only 24 units, so as you can imagine, almost everything that goes on is everyone's business and everything always seems to be personal. Kelly W. Langford

Dear Kelly: You have obviously attempted to enforce the bylaws correctly by providing the person with notice of complaints and allowing them an opportunity of a hearing or written response. The rogue council member in question has decided that he will not only ignore the application of the enforcement but also the authority of the council and the Strata Property Act with respects to his duties as a council member and the conflict of interest that he has placed himself in. Section 32-33 of the Act has set out very clear conditions both for council's actions in the event of a conflict where they have a direct or indirect interest in a matter that is to be the subject of consideration by council. A bylaw complaint against a council member falls under section 136 of the Act. If a complaint is made about a council member, the council member must not participate in a decision that has to be executed by council. Council treats the council member in the manner of any other

owner or tenant with regards to bylaw enforcement. The minutes should reflect that the council met, the council member was granted a hearing or the council reviewed a written response, that the council member if in attendance was then required to leave the meeting, and then the remaining council were obliged to make a decision on the enforcement of the bylaw. In the event the council member does not comply with the Act and directions of council, the remaining council have a few options. One option is to seek legal advice on what steps should be taken to enforce the bylaws. A second option may be for the strata council to vote to convene a special general meeting, or have the owners petition for a special general meeting for the removal of the rogue council member. It is often easier to deal with a problem owner if they are not on council, especially if there is a chronic problem of bylaw violation and the council need to make decisions that may involve the personal complaints of owners and the necessity for possible legal action. Smaller strata corporations that are self-managed often have a difficult time removing their personal relationships from the business of the strata. No matter what happens you still see the same people when you come home at night. In many ways, living in a strata is much like a marriage, and it comes with the same vows. For better, for worse, for richer, for poorer. When you buy into a strata, you are in many ways sharing the strata community property and liabilities of your neighbours. It only works when everyone follows the rules, and if all the parties treat the operations of their strata like a business. There is no room for council members to be bullies or to behave without respect for their neighbours.

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