

Condo Smarts

Headline: Bare Land Strata Bylaws
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Written by: Tony Gioventu

Dear Condo Smarts: Our strata council has decided to bring our bylaws up to date in our bare land strata. The last time we looked at our bylaws was back in 1992, and a recent challenge to our bylaws made us realize that we needed to make some changes. There are several bare land strata corporations in the South Okanagan, and contrary to your sage advice, we have been all sharing each other's bylaws. Most of the bylaws seem to work fine, but without really reviewing the bylaws from our neighbours, we ended up adopting a bylaw that prohibited pets. No one in the last 20 years has apparently read the bylaws, and a new owner demanded a hearing with council and wanted to know what we were going to do about all the dogs in the strata. Please understand we were not intentionally neglecting our bylaws, but our 38-unit community is very informal, and to my recollection, this is the first bylaw complaint/violation that we have had to address. The strata council have given notice of a special general meeting to remove this bylaw, but until that time it still is one of our filed bylaw amendments, and what happens if it does not pass? Could this mean we have to go back and enforce the bylaws over the last 20 years? Doris Caverly

Dear Doris: For the benefit of the readers, a bare land strata, is exactly what the title describes. When you purchase the strata lot, it is a bare land lot, and the buildings on the strata lot are generally not shown on the strata plan. The normal application of this concept is that the strata corporation is not responsible for the repair, maintenance or insurance of buildings not shown on a strata lot of a bare land strata. We are often surprised at the significant level of informality that many bare land and small strata corporations find themselves in. It does come as a great surprise to many home owners in a bare

land strata that most of the standard bylaws and the *Strata Property Act and Regulations* still fully apply to your strata. Bare land strata corporations are often marketed in such a way that you don't even realize it is a strata plan, until you go to sign the conveyance papers for your sale. An eight-unit bare land strata on Vancouver Island, recently wanted to know how to go about adopting the Standard Bylaws so they could collect money from owners for road repairs. When we reviewed all of the supplied marketing info, we discovered there was absolutely nothing in their sales materials that identified them as a bare land strata. Since 2009 they never had a general meeting, approved a budget, and more critical, had never purchased insurance for their common property coverage and liability. The remedy was simple. Properly convene a general meeting to approve an annual budget for their expenses, elect a council, buy insurance, and apply the Standard Bylaws. Bylaws that relate to how strata council is elected and their governance, the agenda and business of general bylaws, use of property including nuisance, pets, and administration of the strata operations, including collection of strata fees, special levies, and voting eligibility likely all apply to a bare land strata. The real problem that Doris raised relates to the deferred enforcement of bylaws. If their strata corporation does not repeal their pet bylaw by $\frac{3}{4}$ vote, they may very well be in an awkward position of having to enforce the bylaw, but at some point the bylaw seems to be of little benefit or purpose when more than half of the owners have pets. Just because a strata does not enforce a bylaw does not necessarily imply that it is unenforceable, but if bylaws no longer seem practical or current, it is time for a review.

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