

Condo Smarts

Headline: Is Your Strata Emailing Secrets?

Topic: Strata Council, Emails & Electronic Communication

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Dear Condo Smarts: Our strata council have been using email for 3 years now to make decision in between meetings. We generally have 4 meetings a year where we review our business and then as items come up, we will email around until we reach a majority consensus. Now we have one council member who refuses to use email and demands that we have a meeting every month. After a recent email decision to proceed with bylaw enforcement, the council member told everyone in the strata we were not following the strata bylaws and managed to get more than half of the owners to sign a petition for a special general meeting for two reasons. The first to stop email meetings and the 2nd is for the strata to hold monthly council meetings open to all owners and to make copies of all of the emails available for review by the owners. As a result, most council members have resigned. Our council members are unclear on the use of email for communication and meetings. We would appreciate some insight into a solution so we can continue to email and ensure we are complying the Act and our bylaws. Rosemary J., West Vancouver.

Dear Rosemary: Before a strata corporation and strata council consider using email as a means of decision making, communication or notice, it is important to understand some of the limitations imposed by the *Strata Property Act and Regulations*. With the coming into affect of Bill 8 in 2010, it is now possible to give official notice of meetings or requests for meetings or information either by the strata or an owner; however, it requires that both the strata and an owner who are receiving notices, must provide an email address to the other party. This is a simple form of consent where an owner, for example, provides the strata corporation with an email address for the purpose of receiving information and notice. If the strata corporation is sending the notice of the Annual General Meeting by email, it still requires 14 days notice, plus the period deemed to have been received adds 4 days notice, and the dates of the meeting and notice are added. So whether notice is given by mail, fax, putting it under the door or email, the period is still essentially 20 days of clear notice. Notice given to the strata corporation from an owner, for example, a

hearing request, request for information certificates or documents, or a hardship exemption request, is deemed to be given 4 days after it is sent.

The business of council meetings may vary in each strata corporation, if the strata have amended the *Schedule of Standard Bylaws*. Here's where a strata council might get into a bit of trouble. Email for council members is very convenient, especially for those council members who live out of town or have limited access for meetings, but the standard bylaws didn't make a provision for email decisions, hearings, or bylaw enforcement and, unless your council members are actively engaged and responding "reply all" they are likely disengaged from the council procedures. The standard bylaws permit meetings held by electronic means, provided all council members and participants can communicate with each other. If your strata corporation need to make an emergency decision between meetings, it is important that you ratify and record the decision in the next council minutes. We also have limits on items such as bylaw enforcement and hardship application requests. A serious risk for a strata corporation can result, if confidential information is communicated by email and a person's private information is breached. Assume that nothing on email is confidential. Once you hit the send, you cannot control the destination of the information. People often type things on email they would not say in public, but your emails can be part of accessible correspondence and used as evidence. Bylaws also permit observers at meetings. How would the strata plan on complying with the bylaws to permit observers, if you conduct meetings by email? Another concern is credibility. How do you establish that the person at the other end of the email is actually the elected council member? A well written bylaw amendment that would permit "non hearing" type decisions could enable a strata council to conduct routine email business; however, you will still require minutes of decisions, and possibly full council meetings to address bylaw enforcement and hearings.

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