

Condo Smarts

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Dear Condo Smarts: Our strata corporation is engaged in a dispute over the enforcement of a bylaw and the collection of fines. We commenced a claim in Small Claims courts over a year ago, with respects to the collection of the fines owing, which are \$ 8,000 owing for renting in violation of a rental bylaw, and now the strata lot owner is counterclaiming that our rental bylaw is not enforceable; therefore, claiming we have no valid bylaw and no claim. Rather than address whether the amounts owing are payable by the owner, we are now mired in arguments over whether the bylaw is even enforceable. With court delays and scheduling problems, the dispute has been going on for almost 2 years with no end in sight, and our legal fees are almost as high as the fines we are claiming. Is there any other option to for dispute resolution? Otherwise, it makes a sham of the whole system.

Thomas Wang

Dear Thomas: Unfortunately today, no there are no better options. I am optimistic that this week's announcement of the Civil Resolution Tribunal Act is good news for strata owners. First reading was introduced into the Legislature on Monday May 7, and the enabling legislation allows for the creation of a Tribunal Process to address disputes in strata corporations for most civil matters between the parties. In addition to a reduction in time periods the costs would also be lower than Small Claims and strata owners and corporations around the province would have much easier access to on line services for dispute resolution and hearings. The service will use on line technologies and be mandatory for strata corporations until a voluntary or binding settlement was reached. The service has 4 stages. The first phase would be an interactive dispute resolution guide, with information, tips

and templates to help the parties reach a settlement. Stage two would be party to party negotiations, suing online tools to make contact and exchange information. The tribunal would monitor and intervene in the discussions if necessary. Stage three would involve a case manager, who would contact the parties by phone or online to discuss the issues and attempt a facilitated settlement. If that failed, the final stage would be a tribunal hearing. A tribunal member would discuss the issues with the parties online, by phone, videoconference or occasionally in person and give a binding decision on the dispute. Strata corporations and owners are not prevented from going to court, and there still matters over which the tribunal would have no jurisdiction, such as: removals of liens and other charges on strata lots, court orders respecting rebuilding damages property, appointment of an administrator, matters relating to phased developments no proceeding or completion, amendments to the schedule of unit entitlement, vesting authority of a liquidator and an application to wind up a strata corporation. The real essence of most strata disputes that may be addressed by the tribunal will include matters that relate to the interpretation or application of the Strata Property Act, Regulations, Rules or Bylaws under the Act, disputes over common property or common assets of the strata corporation, use and enjoyment of a strata lot, and money owing, including money owing as a fine, under the Act, Regulations, Bylaws or Rules. Bill 44 is only the first step. The Regulations under the Act and the rules of the tribunal all still need to be created. This is a great first step for strata corporations and owners to have this bill introduced. For more information go to:

www.housing.gov.bc.ca/strata/tribunal

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