

Condo Smarts

Headline: Rules apply to common property, not strata lots

Topic: Rules

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Written by: Tony Gioventu

Dear Condo Smarts: Our strata corporation over the years has adopted rules & regulations that we use for almost everything. The owners agreed it would be easier to change them each year and we wouldn't have to pay for the filing costs. An owner has recently moved in with 2 dogs, and our rules specifically prohibit pets in our strata corporation. The owner requested a hearing and informed us that the rules we have adopted are unenforceable, and that only bylaws are permitted to apply to strata lots and the business of the strata corporation. We have had our rules for almost 20 years without any conflict and our owners have insisted that we continue with rules. Could you please explain the difference between rules, regulations and bylaws? Thanks

Jerome F. Richmond

Dear Jerome: Strata corporations are permitted to adopt bylaw amendments that apply to all property and all operations of the strata corporation. Rules may only be adopted to govern the use, safety and condition of the common property and common assets. We frequently see rules that attempt to limit the number of pets, set out conditions for payment of fees, regulate tenants, or sets rules of order for general meetings; however, they are unenforceable in that they do not comply with the provisions set out in the Strata Property Act. A rule is not enforceable to the extent that it contravenes the Strata Property Act, the regulations of the Act, the Human Rights Code or any other enactment of law. A common error that strata corporations make is assuming that if the rule applies to the strata corporation and not the strata lot, the rule will not contravene the Act. Stick with the basics for rules. Rules apply to common

property. For example: the pool hours are 7am-7pm, bikes must be stored in common storage lockers and cannot be wheeled through the building, visitor parking is permitted for a maximum of 8 hours. Rules may be created by strata council, who must immediately notify the owners and tenants of the new rules, and the new rule must be ratified at the next general meeting of the strata corporation by majority vote to continue to be enforceable. Rules may also include user fees that apply to common property. A common example is additional parking where residents may rent additional parking at a monthly fee set out in the rule. User fees or changes in user fees may only be collected by a rule, once the rule has been ratified at the next general meeting. A copy of the rules must also be attached to a Form B Information Certificate when requested. Rules have a limit of \$50 per violation if the fine schedule has been amended in the bylaws, and they are enforced in exactly the same manner as bylaws.

Anything that deals with a strata lot or the governance and operation of the strata corporation must be a bylaw. Bylaws also apply to the use, enjoyment and safety of all common and limited common property, and often replace the need for rules. Bylaws are passed by a three quarters vote at general meetings and must be filed in the land title registry before they are enforceable. There is no provision in the Strata Property Act for a strata corporation to create "regulations". Regulations are the addendum of legislation passed by government by an order in provincial council, where the Strata Property Act permits. Simple solution: Bylaws apply to everything, rules may only apply to common property.

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