

Condo Smarts

Headline: Do the owners have a say

Topic: Petition for an SGM

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Dear Tony: Our strata council have not had a meeting or provided us with any financial information for over 6 months. We have a large strata corporation and our annual budget is well over \$500,000 a year. We have been self managed since 2007, and while that has seemed to work well, we do not have any type of 3rd party to call when the strata council don't comply with the condo laws of BC. As a result, 23 of our 96 owners signed a petition demanding a special general meeting so we could get answers about council meetings, bylaw enforcement issues, strata business and financial information. When we handed the petition to the strata council president, we were refused the meeting because we didn't have enough eligible voters who signed, as the strata bylaws require a minimum of 25% of the eligible voters. What takes priority? The bylaws or the Act, and how do we force these people to report to the owners?

Jonathan D.

Dear Jonathan: Strata corporations operate with a bit of a veil of secrecy around meetings and operations if the bylaws are unclear about the expectations. The *Strata Property Act* and Standard Bylaws set out conditions for council meetings, hearings, and reporting to the owners; however, they do not stipulate how many council meetings a strata corporation has to convene each year. That would require a bylaw amendment. Monthly meetings are most common as they allow the strata council to address monthly financial reports, and enforce bylaws that relate to payment of strata fees. The strata council is not permitted to delegate it's authority regarding the enforcement of a bylaw. As a result, a simple matter of the decision to enforce a bylaw and impose a fine or penalty requires a council meeting for the action to meet the minimum requirements of the Act. Strata corporations may set a meeting for every 2nd month or quarterly, but there are going to be limitations on the authority of council without a meeting be routinely held.

The ideal solution is for regular council meetings to be set at a specific time each month. For example,

council meetings are held on the 2nd Tuesday of each month. This provides owners and tenants with the opportunity of requesting hearings or submitting information to council in advance of the meetings. It is also easier for council members to set their routines and schedules, making it easier for decisions and reporting to the ownership. It is unpopular to stir up trouble in any community. If your elected officers are not representing the owners' best interests, it may be time to remove the elected council and elect a new council. The denied petition is a problem that your strata corporation will have to remedy. When legislation sets a definition or term, it can only be amended through the bylaws, if the Act permits a bylaw to make such amendments. For example, the definition of a Quorum starts out by saying, "subject to the bylaws". This is an indication that the section may be amended through the bylaws. The bylaw on petitions and meetings does not permit a bylaw amendment. The petitioners must meet 20% of the strata corporation's votes, in your case 20 votes, and is not influenced by whether the petitioners are or are not eligible voters. The definition and terms are specifically set to prevent a strata corporation from making these amendments. It is likely that your strata corporation adopted parts of the Act into their bylaws, and the Act changed since the bylaws were passed. This is a valid reason why bylaws should not include sections of the Act or Regulations, as your bylaws must comply with the Act to be enforceable, and in the event the Act changes, bylaws may not be enforceable

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