

Condo Smarts

Headline: Cancelling Sections

Topic: Sections

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Dear Tony: We live in a 16 unit strata corporation that has 2 commercial units and 14 residential that are divided into two separate sections created by the developer for the commercial and residential. Our management company have updated us on the requirements of their contact obligations with respects to managing the strata and having separate contracts and service agreements for the sections and all 16 units have come to realize that there is no need for us to have separate sections. We do not have any exclusive uses of property or expenses that are separate, no separate bylaws, and all of our expenses are common anyhow. In reading your column from a week ago, we suddenly realized that we actually can "de-sectionize" provided all the sections and the strata corporation agree by three quarters vote. Could you provide us some direction on how to proceed with the transition? *Fred Wolf*

Dear Fred: CHOA is just about to publish an article on the process of cancelling sections and some of the pitfalls to watch for in the process. Elaine McCormack, a lawyer with Alexander Holburn LLP, provides some valuable insight about the process, and the lawyers in the province who have helped strata corporations adopt bylaws to create sections will be a good resource in assisting you with using the correct procedure to cancel your sections. As Ms. McCormack puts it, *"the main attraction to have sections is that they allow for a certain amount of independent decision making and financial separation. For instance, owners within a section have their own section executive and can vote on and file bylaws for matters that relate solely to the section. For some strata complexes, the added time and expense involved in running sections*

outweighs the benefits. Having sections means extended administrative time, extra expenses, and more complicated governance that may not be required."

The cancellation and creation of sections is a provision under the *Strata Property Act*. While the *Act* sets out the basic requirements for the bylaws, the unravelling of the business can be much more complicated. Drafting the resolutions is only one of many tasks that need to be accomplished in order to properly cancel sections. The cancellation of sections also likely involves transferring the assets (money and property) and liabilities (debts and service agreements) of each section to the strata corporation. Ms McCormack's advises, *"in addition to the resolutions to amend the bylaws each section should enter into an agreement (referred to as a Succession Agreement) with the strata corporation. The Succession Agreement carefully sets out the process and timing for transferring the assets and liabilities of the section to the strata corporation. Examples of assets that need to be transferred are the operating fund, contingency reserve fund and monies owing to the section, such as strata fees and special levies. An example of a liability that needs to be paid prior to the cancellation of the section or transferred to the strata corporation is a repair expenses incurred by the section."* Don't be afraid to get legal advice. Think of it as un-divorcing and remarrying. How complicated could that be?!

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