

## Condo Smarts

Headline: Bylaws and commercial strata lots

Topic: Bylaws, Commercial Stratas

Publication / Date: The Province, Aug 6, 2015

Written by: Tony Gioventu

**Dear Tony:** What happens to bylaws in a strata that is mixed residential and commercial? I own two commercial strata lots, and at the recent annual general meeting the strata voted a number of bylaw amendments that control signage, access to the building and visitor parking. I was the only commercial strata lot owner who attended, and along with 7 residential owners I voted both of my votes against the bylaw amendments because they unfairly affected the owners. The manager who chaired the meeting declared the bylaws passed by three quarters vote and one owner who requested an exact count which was 52 in favour and 9 opposed out of 104 units. There seems to now be a lot of confusion on council about whether the bylaws actually passed and if they have created a problem for the commercial owners, so council are delaying filing the bylaws.

*Jason D. Vancouver*

**Dear Jason:** When a strata corporation has mixed residential and commercial strata lots, and the corporation proposes bylaws amendments that apply to the corporation, those bylaw amendments require two separate votes. The residential strata lots and the non-residential strata lots are both required to pass the resolutions for the bylaw amendments by three quarters vote, unless the bylaws require a different voting threshold for the non-residential strata lots.

On review of your minutes there was only one vote recorded, and had there been two separate votes, your votes representing the commercial strata lots would have defeated the proposed amendments. The failure to pass separate votes is a frequent error of mixed use strata corporations; however, an easy solution for mixed use strata corporations is to include two separate resolutions in the notice package. One for the

residential and one for the non-residential. To ensure the non-residential and residential strata lots are accurately counted, it is helpful to have separate coloured voting cards issued to the different types and the strata lot numbers on the voting cards to verify who is voting and how many votes they are entitled to.

There is one other problem that involves the vote count. Your two commercial strata lots have 9.11 and 5.34 votes, not 1 vote per strata lot. Commercial strata lots have a different voting entitlement based on the relative size of the strata lots. Always refer to the registered strata plan showing the voting entitlement or the filed schedule of voting entitlement.

Also check your bylaws, as commercial strata lots may have a different voting threshold requirement for bylaw amendments. Your vote count, if conducted properly should have shown 21.45 votes against and 52 in favour. The total cast were 73.45. Three quarters of 73.45 requires a minimum of 55.08 votes to pass. Your resolution was actually defeated.

It seems like an onerous technical process, but it is intended to ensure the rights of residential and non-residential owners are protected. Because of the numerous errors, I would advise your strata corporation to consult with your lawyer and you will probably be required to hold a special general meeting to properly vote on the bylaws and calculate the votes correctly to determine if your bylaws are approved.