
Strata Living

Headline: Eligibility for council

Topics: Strata Council

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Dear Tony: Is a spouse of an owner allowed to be elected to council? Our strata manager told us all we needed was for the owner to assign their rights as a tenant so they could be elected to council. This seems like a bizarre way to get extra people on council, when we are constantly short, and now we have a number of owners who are challenging the election as they were unaware of the status at our AGM when they were elected.

Marty Q, Port Coquitlam

Dear Marty: The *Act* permits 3 classes of persons to be elected to council. An owner, individuals representing corporate owners, and tenants under the *Act* who have been assigned a landlord's right to be council members. Owners are persons of any shared interest who are registered on the title as an owner. Corporate representatives are those assigned by the corporation so a strata may want to request a copy of the assignment and verify it was assigned by an authorized party. And finally tenants assigned rights.

We commonly see this where there is a commercial lease or long term residential lease or rental. By written assignment, the tenant is authorized by the landlord to stand for council. However, the *Act* also provides that, where there is a rental of the strata lot to one of the family members identified in the Strata Property Regulations (which includes a spouse), that rental creates an assignment of all of the owner's powers and duties (other than the owner's obligation for fines and bylaw enforcement costs), which assignment is to be confirmed by the tenant giving written notice of the assignment.

Allyson Baker, a lawyer with Clark Wilson LLP, notes that a spousal relationship does not automatically create a rental relationship nor does it completely preclude one. While uncommon, some spouses may have chosen to order their financial affairs so as to create a rental arrangement between them. Ms. Baker further commented that, where a tenancy relationship did exist between spouses, she would expect that the spouse that owned the lot would have produced a signed Form K confirming the relationship in addition to the assignment document. Once the assignment and Form K have been provided, the tenant spouse would then exercise all of the powers and duties of the owner except as provided by the *Act*.

A simple solution to adding additional council members is for the strata to adopt a bylaw that would permit a spouse of an owner, or other classes of persons who are not on title to be eligible for council with the consent of the owner.