
Strata Living

Headline: Suing an Owner

Topics: Lawsuits

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Dear Tony: Our strata corporation are voting to authorize a lawsuit against an owner who has altered their townhouse without permission. They recently had their windows changed and 2 skylights installed. There was no communication with council and by the time a council member arrived home from work the job was done. This has significantly changed the look of our property and resulted in damage to the roof. The owner has refused to respond to bylaw complaint notices or cooperate so we have no choice but to seek a court order to restore the windows and repair the damages. Our question: does this owner have a right to attend the meeting where we deal with this lawsuit? Another owner has told us he plans on making a proposal to owners and avoid the council.

without the need for a vote of the owners at a general meeting, and that will include the enforcement of bylaws, and the collection of fines and damages.

Darryl T.

Dear Darryl: When a strata corporation proposes a three quarters vote resolution to approve a court action or arbitration against an owner, that owner is not an eligible voter for that resolution. They are not permitted to attend that portion of the meeting where the resolution is voted on and discussed and they do not contribute to the cost of the court action. The wording of the resolution is critical. A general resolution may authorize a court action but does not identify a specific strata lot; therefore, anyone under the bylaws may be eligible to vote or speak to the motion. It is essential to be specific. Who are you suing? What jurisdiction, provincial court, supreme court or arbitration? How is the funding approved for the action and how much is approved? Who is acting for the strata corporation, a council member or your lawyer? One of the significant changes that will take place over the next year will be the Civil Resolution Tribunal. Under the tribunal, the council will be authorized to apply to the tribunal to resolve a dispute