
Strata Living

Headline: Bylaws never enforced

Topics: Bylaws

Publication / Date: 24 Hours, May 19, 2016

Written by: Tony Gioventu

Dear Tony: Our strata is 20 years old and a typical mid-sized apartment style building in Burnaby. Our councils have always maintained a very tolerant attitude towards bylaw enforcement. When an issue comes up, we talk to the owner or tenant and resolve the problem rather than engage in a hostile exchange of letters and fines and disputes. A new owner is now complaining that we are not enforcing our bylaws. We have a bylaw that permits only cats. One owner has had a small dog for 6 years, and there has never been a complaint about the dog or the owner, but the new owner is insistent that we have to enforce the bylaw and remove the pet. Council have always viewed the small dog as one of the "cats" as we never see him. How do we enforce this bylaw after all of these years?

Kelly J.

Dear Kelly: The irregular enforcement of bylaws is an issue that plagues most strata corporations. Strata councils are owners and volunteers. They are generally not looking for a fight and often only enforce bylaws when there is a chronic problem or are pressed to deal with a situation. Taking a casual approach to bylaw enforcement if the complaints can be easily solved is actually a solution. The *Strata Property Act* requires a strata corporation to enforce its bylaws, it does not require the strata to fine or penalize if the complaint has been resolved. The strata must still issue a notice of complaint for any bylaw enforcement matter and provide the owner or tenant with the ability to respond in writing or request a hearing. Once the notice and response are complete, the strata council then determines whether there are any fines imposed or further action is required. It is the imbalance or unfairness of bylaw enforcement that is the greater problem. If a strata corporation has not been enforcing its bylaws, or enforcing the bylaws against some parties and ignoring others, the ability to enforce bylaws may

be jeopardized. At some point the strata may be faced with an application in the courts to remedy an unfair act. Before your strata is dragged into a protracted dispute that will be costly, it may be time for your owners to reconsider your bylaws and possible amendments. Communities change over time and your owners may wish to amend the pet bylaw to include small dogs, or readopt the current pet bylaw that only permits cats and exempt the current pet till it is no longer in residence. It's time to invest in legal advice for a bylaw review and solution before you start responding to court applications.