

Condo Smarts July 20th – 24th, 2016

Enforcing Bylaws

Dear Tony: We are a 65 unit bare land strata in the Okanagan. Generally everyone gets along very well, but we have had an obnoxious owner move in who has decided he can do whatever he wants. His neighbors on both sides are constantly his targets and the noise, constant construction and blocking their access occurs daily. We have tried to enforce the bylaws and impose fines but he ignores us. We had a special general meeting on the advice of our lawyer to approve a court action to obtain an injunction, but the owners voted it down because they didn't want to pay a special levy for the Supreme Court action. Is this a common problem for other stratas in BC? We are concerned that all these problems could result in violence. Margery

Dear Margery: Active enforcement of bylaws has been a chronic challenge for strata councils since condo life began in 1965. Reasonable people will comply with bylaws, pay fines, change their habits and activities and work with strata communities. The challenge we all face is our frequent bylaw violators are rarely reasonable. They know the strata will likely avoid a major confrontation because of cost, time, the 2 year Limitation Period, and the need for a $\frac{3}{4}$ (three quarters) vote at a general meeting. All of that has suddenly changed in favour of strata corporations and owners. On July 14th, the Civil Resolution Tribunal commenced operations. At this time strata corporations, owners and tenants are now able to officially start a claim to address a variety of strata matters that were once only possible through a Supreme Court of BC action or arbitration. The implementation of the CRT will be in stages over the coming months, so while your strata, or an owner or tenant can now file a claim to stop the 2 year Limitation Period from running out, it will be a few months before case management and hearings are functioning.

Here are the big changes of the types of disputes that can be addressed through the CRT either as a strata, owner or tenant. The CRT will be able to determine whether a bylaw is enforceable, whether it was passed and registered properly, whether it is being enforced properly and fairly, and whether a party owes the fines and damages that may have been imposed. The CRT will be able to issue an order for a party to comply with the bylaws and to pay any of the fines or damages that may have been incurred. In addition the CRT will be able to issue orders to strata corporations, orders and tenants, ordering them to comply with the Strata Property Act, the Regulations and the bylaws of the strata.

Owners and tenants may commence a claim on line, and a strata council may commence a claim once they have passed a majority vote at a council meeting, authorizing the claim. This no longer requires a $\frac{3}{4}$ vote at a general meeting. In addition, there is not monetary limit to the amount that may be claimed. If there is a dispute over who owes a \$100,000 insurance deductible, that dispute may be resolved through the CRT. As you proceed through the CRT, the parties will be required to engage in a case management process in hopes the parties can reach a consensual solution. Even these solutions will form a binding agreement. Once a decision is reached by an adjudicator, or is agreed in case management, the decision or agreement may then be registered and enforced through the courts. Owners, tenants, occupants and strata councils, it's time to stop flaunting the law and your bylaws. The day of reckoning is close at hand. For more information go to:

www.civilresolutionbc.ca

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