

Condo Smarts June 14th-18th, 2017

Do complaints have to be in writing?

Dear Tony: I am on our strata council and deeply concerned over a policy change the property manager has imposed on us. They have provided us with that prescribes how bylaw complaints are filed, that they must be in writing, or they will not be addressed by council. Several of our council members see this as a barrier to owners coming forward when there are issues that may be obvious to everyone, but an owner or tenant has been exposed to the ongoing problem and needs to bring it to council's attention. The concern we have is over this complaint form. The management company and the form says the BC Strata Property Act require that a complaint must be in writing. We cannot find this information anywhere and are concerned we could be facing some broader complaints about council setting up barriers and not doing their jobs. Any words of wisdom would be helpful.
Barbara

Dear Barbara: There is absolutely nothing in the *Strata Property Act, Regulations or Standard Bylaws* that require a complaint be in writing before the council addresses it. In contrast section 34.1 permits an owner or tenant to demand a hearing with council, provided they specify the reason for the hearing in writing. The section does not limit, restrict or compel owners to disclose broader information. It could simply be a request for a hearing to "provide a complaint and accounting about an owner who is in violation of the bylaws over a specific issue". At the hearing, it would be up to the person who requested the hearing to provide the details, and council would be entitled to pose questions to determine if they have sufficient information to be able to respond to that owner in writing within 7 days. Council cannot demand an owner provide all the details of the hearing request, simply the reason. The same in many ways applies to a bylaw complaint. When someone complains to any council member or the strata manager, it would be important for the person receiving the complaint to record as much information as possible. The date and time, reason for the complaint, and any particulars or evidence that may be helpful. That information may then form part of the written complaint the strata council must provide to the alleged party, giving that person an opportunity to respond to the complaint in writing or request a hearing. Remember these are only allegations. The alleged party at any time may challenge the claim of the strata corporation through the courts or the tribunal, including the veracity of the evidence against them. If you limit a complaint process in the same manner strata councils have tried to limit hearing periods, the outcome is unlikely in your favour. Most important, the decision on procedures is solely that of the strata council who have the elected authority of the owners, not the strata manager.

Sincerely,

Tony Gioventu, Executive Director
Condominium Home Owners' Association (CHOA)
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