

Condo Smarts February 14, 2019

Use of Common Facilities

Dear Tony: Our highrise building has a recreation room that can be rented for private parties and is used for social events and meetings in our community. As a result of several owner events where there have been additional janitorial costs, our strata council has decided to close off the recreation room. Our community plans pot luck gatherings for most holidays and festivals like Valentine's day, St Patrick's Day, Easter and Christmas. Our council tends to rule the building with a number of policies and change them without any consultation of the owners. How do we change this behavior to ensure fair access to our recreation room? Nina R.

Dear Nina: The use of common facilities is regulated and managed through bylaws or rules. Once a bylaw or rule has been properly approved or ratified by the owners at a general meeting, the strata council must enforce those bylaws and rules and are required to convene a meeting of the owners to approve any amendments. If the council approves a rule at a council meeting, that rule is in place until the next general meeting where the owners are required to ratify the new rule by majority vote, or it will cease to have effect.

Rules are a very useful form of governance in strata corporations as they may be created by council by majority vote at a council meeting, or the owners may petition to demand a special general meeting to approve a new rule or add a new rule to the agenda of the next general meeting. Rules are not filed in the land title registry, they only apply to the use and enjoyment of common property, and they may include user fees to cover the costs of recreational facilities, key fobs, the recovery of operating costs for electric vehicle charging stations and other common facility costs. If the strata corporation is going to impose user fees, deposits or charges for common area facilities or services in a rule, the rule must be first ratified by the owners at a general meeting.

Strata councils routinely try to impose building policies on owners and tenants and on fellow council members to avoid the scrutiny and approval of owners at general meetings. There is no ability in the Strata Property Act to enforce a building use policy unless it has been ratified as a rule or approved as a bylaw.

Many strata corporations have adopted and used rules effectively. To ensure your owners and occupants are aware of the rules, confirm you have a consolidated set that is published and available. While we often assume rules are general use and easy to create, rules must still comply with all enactments of law, the human rights code and the Strata Property Act and Regulations. A legal review of bylaws and rules is recommended at least every 5 years or when there are changes to legislation.

Tony Gioventu, Executive Director CHOA

Sign up now for Spring Seminars in your area. Topics this spring will highlight Insurance, Above and Below the Deductible, Creating an Operations Plan for Maintenance, Renewals, & Annual Budgeting, and Bullying and Harrassement in your strata and the workplace. Go to:
<http://www.choa.bc.ca/seminars/>