

## Condo Smarts June 28<sup>th</sup>-July 1<sup>st</sup>, 2017

### Land Title Filing Errors

Dear Tony: Our strata of 48 townhouses passed new bylaws in April this year. One of our council members had agreed to file the bylaws that were issued with the notice, and properly passed by a 3/4 vote resolution with no amendments. However, a new buyer has just moved in and produced a set of bylaws that have a number of changes from what we had passed. When challenged, the council member had indicated she chose to consult with a notary on the bylaws before they were filed and made a number of amendments and what she thought were corrections, and then filed the bylaws with her changes. For example, we adopted a bylaw that limited the number of pets to 1 cat or 1 dog. The bylaws now say 1 cat and 1 dog or additional pets as approved by council. We contacted The Land Title Registry who have indicated they cannot undo what someone has filed on behalf of a strata corporation and advised we obtain legal advice on the procedures. We now have 8 owners away for the summer and are at a stalemate for next steps. Conroy P.

Dear Conroy: The Land Title Registry office is correct. They cannot file a correction. They are simply a filing office and not a regulator. When a person files a bylaw amendment in the Land Title Registry, they are also filing a Form I Certificate of the Strata Corporation. The form indicates they have filed the bylaws approved at a general meeting; however, in your case any such declaration is incorrect. The person who filed the bylaws has misrepresented the information and has placed themselves at risk for having potentially falsified the document and the bylaws. Whatever bylaws a strata corporation approves at a general meeting, the strata corporation has an obligation to file. No corrections, no amendments, no changes. The best and easiest solution is for the strata corporation to convene a new general meeting, vote on the original bylaws and once ratified, instruct their lawyer's office to file the bylaws as passed and repeal the incorrect bylaws that were filed. If you cannot reach a 3/4 vote to repeal the incorrect bylaws, an owner or tenant may make an application to the Civil Resolution Tribunal, commence an Arbitration or file an application with the Supreme Court of BC to order the bylaws as unenforceable as they were not the bylaws approved by the owners at a general meeting. This also places your strata corporation in an extremely awkward situation in relationship to your current bylaws and any measure of enforcement. The new buyer relies upon the bylaws filed in the Land Title Registry when they make their purchase, even though your bylaws are significantly different. Your strata corporation may also wish to consider a complaint against the notary if they did recommend any changes as the writing of bylaws and constitutions is a practice of law in BC.

Sincerely,

Tony Gioventu, Executive Director  
Condominium Home Owners' Association (CHOA)  
website: [www.choa.bc.ca](http://www.choa.bc.ca)