

Condo Smarts May 20, 2020 Hearings and Council Meetings

Dear Tony: My strata council has recently imposed a number of fines against my townhouse for claims that I altered the front doors of my unit contrary to the bylaws. Luckily, we have the realtor listing photo showing the front doors and this was the condition and exact hardware and screen door that was installed by the previous owner. I reviewed the information we received from the strata corporation and on the Form B Information Certificate, and the strata corporation did not disclose any alterations that were made by a previous owner which I may have to be responsible for. There were not outstanding fines or bylaw infraction notices, nothing in any of the previous 2 years' minutes, and no mention by the vendor. Council have ordered us to replace the door and hardware and remove the screen door back to the original and have fined us \$200 per week until we do. What recourse do we have to stop this incredible harassment? We seemed to have a reasonable strata council until an owner who was recently elected to council has imposed herself as the strata police. She is constantly inspecting every unit for violations and issuing fines, who also has a non-conforming door! Many owners are upset at the conflicts arising in our strata corporation so we are looking for some options. Marilyn C.

Dear Marilyn: Strata councils often misunderstand their role with respects to the enforcement of bylaws. Under the Standard Bylaws, the strata corporation must not impose a fine against a person, require a person to pay the costs of remedying a contravention, or deny a person the use of a recreational facility unless they have received a complaint about the contravention. They must first give the owner/tenant the particulars of the complaint in writing and a reasonable opportunity to respond in writing or a hearing if requested by an owner or tenant. A bylaw enforcement decision, the convening of a hearing or receipt of a written response is an action of the strata council not a single person. The strata council must convene a meeting and address the bylaw matter and vote on the outcome. Their decision becomes part of the strata minutes. There is no instant fining unless there is a continuing contravention that has already complied with the notice requirements. This applies even to monthly late payment of strata fees. Neither the strata or property manager can automatically add fines to a late payment of a strata fee. You have a few options to resolve this matter. Request a copy of the complaint. Write to the strata corporation providing your evidence of the existing alteration and request the decision be reversed as this was a previous alteration you were not responsible, or request a hearing with council to state your case. If you request a hearing the strata council must provide you a written response on the matter within 1 week of the hearing. You can then decide your next course of action. If there are as many people as you suggest who are not satisfied, owners by 25% petition can always demand an SGM to remove the council member by majority vote and elect a new council member. You may also consider an application to the Civil Resolution Tribunal which can order the strata corporation to comply with the Act, issue proper notice of complaints and dismiss any of the imposed penalties if they were not applied appropriately, unfairly, or in a harassing manner. During our current Covid-19 restrictions hearings are frequently being held electronically. A hearing is simply a council meeting that has been requested by an owner for an opportunity to be heard on a specific manner. If you are involved in a hearing electronically, confirm before the hearing begins who is attending the hearing, that there are no observers, and whether or not the hearing is being recorded. This requires your consent as well. Sign up for the next CHOA public Webinar for strata councils, managers, owners and industry partners on Tuesday May 26 at 12 noon. **Conducting hearings & council meetings using electronic communication.** Go to www.choa.bc.ca Registration is open at 12noon every Wednesday.

Tony Gioventu, Executive Director CHOA

Covid-19 Notice: As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at: <https://www.choa.bc.ca/seminars/>