

Condo Smarts June 19 – June 25, 2021

Flags & Signs

Dear Tony: As we head up to Canada Day, on June 1, our strata council decided to impose a new rule that prohibits any type of signage or flags including any Canadian flags on Canada day. As a group of owners, 65% of the owners have petitioned for a special general meeting to defeat this rule, but with the continued emergency orders extending general meetings, the latest our petition would be held is in end of August. Our annual meeting is routinely in February so that is not an option turn this either. Is there an earlier mechanism the owners might consider that would enable us to reverse this issue earlier? Jenna M.

Dear Dave: Flags, signage, balcony umbrellas and shades, hanging plants and outside furniture are a frequent debate in most strata corporations. The reason this is being considered is often just as important as the decision. Strata corporations and strata councils typically consider new bylaws and rules that address chronic disputes or complaints. In most circumstances these are some type of nuisance where a neighbour is blocking other owners use and enjoyment of property, negatively affecting property values or resulting in damages to common property. A petition that includes a resolution to defeat the proposed rule is your quickest method. A common error that is being made by strata councils is the scope of authority that may be extended from a rule. Rules may only be adopted and ratified that apply to the use and enjoyment of common property. Your strata corporation has adopted several rules, including the rule relating to signage and flags that applies to both the common property and strata lots. Any regulatory function that applies to a strata lot or the administration and operation of the corporation, including the governance of council and general meetings must be a bylaw. While strata corporations are permitted to adopt rules or bylaws that apply to the use and enjoyment of common property, they must also remember provincial and federal legislation will override any of these conditions. For example, a generic bylaw or rule that applies to signs will also include real estate signs or elections signs. Under the Elections Act of BC and Canada, a strata corporation cannot prohibit the display of election signs from a strata lot. They may reasonably limit the size of the signs; however, our freedom of political affiliation and expression is still a fundamental right of Canadians. The Strata Property Act permits a strata corporation to limit or restrict signage that relates to real estate but does not permit a strata corporation to prohibit the sale of a strata lot. Many strata corporations have installed attractive real estate notice boards or sign trees to facilitate notice and listing. In the same spirit, strata corporations have also installed a flagpole on the common property. Ultimately the ratification of rules is a majority vote at the next general meeting will determine the outcomes. If a rule that applies to a common area facility such as rental for additional parking, storage locker, electrical surcharge for vehicles, or a marina slip, the user fees are not in force until the rule has been ratified at the next general meeting. Before your strata corporation heads into a confrontation, perhaps a group of owners could request a hearing with council and determine the reason for the rule or the options. If the result cannot be defended, council can always agree to reverse the rule before it is ratified. Once it is ratified at a general meeting, it would have to be repealed or amended at a subsequent general meeting.

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/>