

Condo Smarts July 11 – July 17, 2021

Institutional Memory

Dear Tony: Our strata council is attempting to build a web site for our council and owners and have hit a roadblock. We have a past council member who is refusing to release all the records of our strata corporation to the new council. She had been on council for the past 15 years, acted as the treasurer and secretary and worked directly with our property manager. Our management company has experienced similar issues with the same person. How do we recover our documents? Is there any way we can prevent her from destroying documents? Tracy H.

Dear Tracy: Council members are volunteers and there are times when you require professional services to administer contracts, enforce bylaws and address legal matters to enable your strata corporation to operate efficiently and in compliance with the Strata Property Act. This is one of those times. Your lawyer will inform the past council member the records are the property of the strata corporation, she must return them in a specified period, and the strata corporation will seek damages against her for the cost to recover any documents that may be damaged or destroyed. Act quickly, give clear directions to your lawyer, and the authority proceed if this person does not cooperate. There is always the risk this person has not been maintaining the documents over the years, resulting in fewer documents than anticipated. It is also a valuable exercise to routinely check your garbage bins for documents until this matter is resolved.

Developing institutional memory is one of the most valuable efforts of strata corporations in relation to bylaw enforcement, contract, and warranty application, building maintenance and operations and financial planning and budgeting. Many strata corporations actively maintain web sites which provide access for strata councils and owners to documents and enables reliable decisions sourced from actual records, and not speculation. It is surprising how many strata councils still do not have access to the essential records they require before they make decisions. The basic documents essential for every council member and property manager are: the Strata Property Act, any bylaw amendments ever filed by the strata corporation, all land titles documents including a copy of the registered strata plan, the schedule of voting entitlement, schedule of unit entitlement, any easements filed on the common property, copy of a registered building scheme if you are a bare land strata, a copy of the annual insurance policy, service agreements and contracts, any warranties that are still in effect, rules of the strata corporation, the most recent depreciation report and minutes of current meetings that authorize special levies and expenses from the contingency reserve fund, and financial reports. At the bare minimum, these are the documents your strata council members require to execute competent decisions. Your property manager also requires copies of any alteration agreements, rental Form K's, and Form B Information Certificates and Form F payment Certificates, all of which may impact the sale of a strata lot or disclosure of information that may result in a dispute.

Strata corporations have the option of using the services provided by their management company to host their documents or setting up an independent web site maintained and owned by the strata corporation to avoid complications in the transfer of documents if your agency ever changes. Never underestimate the power of records. Many tribunal and court disputes may have significantly different results if better records and documents were provided, and strata corporations with well organized records are empowered to plan for operations on a much higher scale.

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/>