
Condo Smarts

Headline: Voting Bylaws Not Enforceable

Topic: Voting

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Written by: Tony Gioventu

Dear Tony: Our strata corporation was constructed in 2015 and the developer filed a set of bylaws that have created some serious problems for the strata corporation. One bylaw requires that any bylaw amendments must be approved by a unanimous vote. This means we cannot amend our bylaws or repeal this bylaw without a unanimous vote. This is not only awkward, but we are in the position where we have a bylaw that discriminates against persons who are not within a religious community, and while we are attempting to avoid conflicts, we find this bylaw is creating serious issues for the strata corporation. We also have bylaws that require a unanimous vote of council for decisions of expenses over \$25,000. Even if the owners approved a special levy, this enables one council member to hold out and hijack any progress we make. How do we remove or amend the bylaws when we have this unanimous vote requirement.

Carter J.

Dear Carter: A principle of the *Strata Property Act* is that bylaws must comply with the *Act*, Regulations, BC Human Rights Code and any other enactment of law. Whether it is a strata corporation or the owner/developer creating bylaws, you cannot alter the provisions of the *Act* unless there is specific permission. The requirement for amendments to bylaws is always a 3/4 vote. If the strata corporation is solely residential it is a 3/4 vote of those who attend the meeting in person or by proxy and have not abstained at the time the vote is taken. A unanimous vote by definition requires every owner to attend and vote yes. Impossible in all but the smallest of strata corporations where there is a common objective. If the strata corporation is mixed use, then both the residential and commercial units must vote separately by 3/4 vote to approve bylaw amendments.

When your strata corporation is prepared to amend your bylaws, have a legal review of the proposed amendments, including the proposed bylaw and the specific wording of the resolution by 3/4 vote in your general meeting notice package. Vote by 3/4 vote at the meeting. Remember to count those who vote for and against the resolution at the meeting. It is 3/4 of that total number and does not include abstentions or anyone who does not attend or vote.

Strata council decisions are part of the Standard Bylaws, not the *Act*, and your strata corporation may set whatever voting threshold you wish by amending the bylaws. Majority vote of those council members attending the meeting is the most common, and a tie breaking additional vote by the president is helpful to ratify tied vote. The removal of council by petition is often a majority vote, but it is possible to amend any decision of the council to a majority, 2/3, 3/4 or unanimous vote; however, if the votes are different than a majority, you must include a definition of how that vote is calculated. Is it based on the number of council members who vote, are at the meeting, or elected?