
Condo Smarts

Headline: Common errors strata councils and managers can avoid

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Written by: Tony Gioventu

Dear Tony, is the starting line of most emails asking for help on technical errors or compliance issues within strata corporations. With over 32,000 strata corporations across BC, varying in size from 2 units to over 1,100 units, including residential, commercial, hotel, industrial, recreational, and bare land strata corporations, half of the BC population either owns, invests, rents or resides within a strata. There are typical routine errors that expose our communities to costly conflicts. These are commonly in the form of complaints to the Human Rights Tribunal, Civil Resolution Tribunal, and the BC Provincial and Supreme Courts. In addition to the *Strata Property Act*, Regulations and the Standard Bylaws of the Act or amended bylaws of a strata corporation, strata corporations are also regulated by every other enactment of law, and interact routinely with the *Residential Tenancy Act*, *The Personal Information Protection Act*, *the Real Estate Services Act*, *The Homeowner Protection Act*, WorkSafe BC Regulations, and legislation that daily affects all corporations and businesses in Canada.

On review of 2021, there are common errors that strata councils and managers can avoid. If your strata corporation and manager implement the following simple basics correctly, your exposure to actions and disputes will dramatically decrease. Get it right for 2022:

1. **General Meetings:** Proxies included in the notice packages are not ballots. The proxy is the person who has been assigned an owner's voting rights, and must attend the meeting and actively vote. Notice of general meetings is 14 days notice, 4 days delivery plus 2 days for issue and receipt. Other than a meeting for an 80% vote, the notice period is 20 days in total. Notice by email may only be issued if the owner has provided an email address and consented to receiving notice by email. A strata corporation cannot impose electronic notice requirements through a bylaw and posting notice to a web site does not constitute notice of a general meeting. Electronic general meetings under provincial order are permitted until December 31, 2022. During periods of emergency orders an additional 60 days is provided for notice of Annual General Meetings and petitioned Special General Meetings.
2. **Voting:** Majority votes at general meetings are not 50% plus one, they are a majority of the votes cast. Non-residential strata lots have proportional size voting to their strata lots and they may have fractional votes. Provided the calculation is 50.01% or greater the majority vote is passed. For 3/4 and majority votes, the voting is only calculated on those votes for or against and who have not abstained. An abstention or absentee is not a vote counted against. For 80% votes, the calculation requires 80% of the schedule of voting rights must vote in favour of a resolution, and unanimous votes require 100% of the voting rights/owners to vote in favour.

3. Bylaw and Rule Amendments: User fees may not be imposed on strata lots, they are applicable to common facilities such as health clubs, additional parking spaces or storage lockers or electrical services for charging stations. User fees must be reasonable and cannot be imposed or collected until the rule has been ratified at a general meeting. Bylaws must be registered before they are enforceable, and they are not retroactive. If your corporation is mixed use residential and non-residential voting on bylaw amendments, the proposed bylaw must be passed by 3/4 vote of both the residential and non-residential strata lots separately.
4. Bylaw Enforcement: Before a strata corporation fines or imposes a penalty against an owner or tenant, they must give the person a written notice and particulars of the complaint, and an opportunity for the person to respond in writing or request a hearing. If a hearing or response is raised, the council must inform the person of the result and if any fine or penalty has been imposed. Council decisions to impose fines or penalties are a majority vote of council, not an individual council members or property manager. Strata corporations cannot prevent an owner from accessing their strata lots or common entries as a bylaw enforcement action.