
Condo Smarts

Headline: Record keeping

Topic: Records

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Dear Tony: Our owners changed management companies in March. An issue has come up regarding our boiler that was still under warranty, but our new management company cannot find any of the warranty or transaction documents relating to the boiler. With our new manager we have looked at the documents that were transferred, and there is nothing that relates to projects or contracts older than 2 years ago. We know there are a substantial number of documents missing. Is there a mechanism to recover the records?

Keith Marshall

Dear Keith: A strata corporation is required to maintain all documents prescribed in the *Strata Property Act* and Regulations. The property management company are acting as your agent under contract. Within the scope of the contract there will be terms set out for record keeping that match the *Act*, and will define how the records are maintained, the cost for maintaining the records and most important, what happens to the records if the contract is terminated or transferred.

The *Act* sets out record retention in 4 divisions. Records that must be current and updated, those that are maintained for 2 years, 6 years, and permanent or perpetually. Record keeping is a mandatory requirement of the *Act*. A strata council will rely on their records to support operations. These will include: collections and financial reports, contracts and warranties, bylaw enforcement decisions, court and tribunal disputes, engineering and environmental reports, parking and storage locker plans, alteration agreements, any resolutions that deal with changes to common property, including the designation of LCP, any decision of an arbitrator, a tribunal or judge in a proceeding in which the strata corporation was a party, any legal opinions obtained by the strata corporation, plans and drawings, warranty documents, a list of

owners and tenant agreements, minutes of all meetings, the annual budget, and a depreciation report.

Review your contract with the previous company and determine the obligations for record keeping. Issue a formal written notice to the broker for all the records maintained within their contract period. If there is no satisfactory response, it's time to instruct the strata corporation's lawyer to intervene. If there is still no resolution, contact BC Financial Services Authority (BCFSA) and have the strata council authorize a complaint be commenced against the brokerage.

When a strata corporation is negotiating a new contract, look closely at record keeping, the transfer of records, and any costs. These transactions can be very costly. If you are changing companies, instruct your new brokerage to itemize closely what records have been provided. To avoid this problem, many strata corporations have set up a digital record storage service that provides access to the property manager, the strata council and owners for designated information.