

# Condominium Home Owners' Association

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Bulletin: 300-343

## Condo Smarts

Headline: Troublesome Owners

Topic: Strata Council

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**Dear Condo Smarts:** What do you do when you have an owner that is always costing your strata frivolous money? At our AGM in June we almost elected a great council. The exception was an owner who causes so much trouble that when she was nominated and elected because we didn't have more than seven nominated, the five remaining council members immediately resigned. So she is once again in charge of our strata and our funds and we are seriously concerned that we'll end up in another law suit. The last law suit she caused left us \$20,000 poorer, because she refused an alteration to the interior of a unit for a special needs person. There must be a way to keep her off council. Help. Jenny D. Abbotsford

**Dear Jenny:** If you apply the Standard Bylaws and Section 50 of the Act, you will discover two distinct provisions that will help you resolve this problem. The first, is that in the Standard Bylaws, there is only a requirement for your strata to have a minimum of three and a maximum of seven council members. That tells us that it is not mandatory to elect seven. Many strata corporations run into this confusion and feel obliged to accept everyone just because they are nominated. This is not true unless your bylaws specifically require that all seven positions must be filled. Section 50 of the Act is the second part. At general meetings, matters are decided by a majority vote, unless a higher vote is required for a 3/4 vote or unanimous resolution in the Act or

Regulations. If you apply this logically, the outcome is that the strata corporation by majority vote then decides on who is elected to council. Whether you do this by secret ballot or by show of hands, the result is that those persons who are elected by a majority of the votes cast for or against the resolution will determine who is elected to council. There is no provision in the Act or the Bylaws for acclamation by nomination. It still requires a majority vote of the owners to elect those nominated. A word of caution here for readers. Many strata corporations have adopted different governance bylaws that address elections, nominating committees, and voting thresholds for council election or removal, so double check your bylaws before you proceed. It is also helpful for strata corporations to adopt bylaws that address voting eligibility. If the strata corporation is entitled to file a lien against a strata lot, a nominee is not eligible to be elected to council or to continue to sit on council with the proper bylaw amendments. Lastly, before you elect someone to council, make sure they are eligible. I did a title search on the unit of this council member and discovered she is not on title. She is the spouse of an owner, and because the strata have no bylaws permitting the spouse of an owner to be elected, she is ineligible to be on council. The strata could have saved a lot of time and trouble for both parties just by asking the nominee about her ownership status.

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