

**Condo Smarts**

**Headline: Commercial Strata Lot Bylaws**

Topic: Bylaws

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**Dear Condo Smarts:** I own two commercial units on the ground floor of a mixed-use strata corporation. One office is an insurance broker, the other office has been a retail outlet/store. The store has ended its lease and our new tenants will be a small family-run restaurant. The location is properly zoned, and the new tenants have been extremely cooperative with the strata corporation in accommodating any special needs or requests relating to parking, waste disposal, utilities, and any other nuisance that may arise in their building. One owner has decided they don't want a restaurant and so she has been rallying the troops against us, and now the owners have petitioned for a special general meeting to change bylaws attempting to curb our use at the strata lot. How much control can the residential owners have over the strata as a whole? It seems unfair that they have the overwhelming balance of power because they control 95% of the votes. It isn't our fault the building was designed with a residential and commercial section. What is our best course of action in the event that the residential section attempts to block the use of our commercial units? JG

**Dear JG:** In the event the strata corporation attempts to block or prevent the permitted use of your commercial strata lots, you need to immediately contact your lawyer. Mixed residential and non residential (commercial) strata corporations are a very successful use of the limited land we have in BC. They afford many economies and conveniences to both the residential and commercial properties, and are very common in city centres across the province.

When reviewing the limitations on your use of a commercial strata lot, close attention should be paid to the registered strata plan, schedule of unit entitlement, allocation of use of common facilities and common utilities, allocation of parking, storage and waste disposal. The registered strata bylaws, designations of exclusive use of property, and any type of building use easements or rights of use covenants may also provide vital information on use of strata lots, common property or common assets. In addition there may be limitations on zoning use and occupancy. Some municipalities, such as a resort, may have imposed restrictive covenants as well.

The *Schedule of Standard Bylaws of the Strata Property Act* automatically applies to all strata corporations. The owner developer, before the marketing and sale of strata lots, will publish the intended bylaw amendments for each specific strata plan. When the strata plan is filed, those amendments are also filed. The strata corporation may adopt additional bylaw amendments at a later date, but the provisions for bylaw amendments are different where they apply to both residential and non residential strata lots. In a mixed use strata of both residential and non residential lots, where a bylaw amendment applies to both, must be passed separately by 3/4 vote of the residential strata lots and also by a separate 3/4 vote of the non residential strata lots. This prevents one group from acting unfairly and controlling the outcome.

If you look closely at the Act, you will also notice that certain types of bylaws only apply to just residential lots. Rental restrictions are a very good example. While the Act permits bylaws prohibiting or limiting the number of strata lots that may be rented, it is very specific in that it only refers to residential strata lots. In many strata corporations with both residential and non residential/commercial strata lots, separate sections are often created. These sections are in addition to the strata corporation and created through a bylaw amendment. Each section has the same authority over its specific section, as does the strata corporation, and, subject to the bylaws, may do all of those things the strata corporation may do, such as amending bylaws that apply only to that section, borrowing money, holding general meetings, electing a council, and commencing court actions.

In some ways, our legislation may seem rather broad and complicated, but that is because the same laws apply to every type of strata. Not only do the act, regulations and bylaws apply your 18 unit townhouse, but they also apply to an 80 unit industrial strata complex. Whenever there are amendments to the Act or Regulations or a decision in the courts, the implications potentially impact every one of the 27,000 different strata corporations across the province.

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