

# Choose condo board members who can commit

## Half-time residents may not be best option for important jobs

BY ROBERT NOCE, EDMONTON JOURNAL JULY 10, 2013

**Q:** I am treasurer for our condominium board, and my term will end this summer when I move. Recruiting new members is difficult. As a result, the board intends to assign the treasurer position to a board member who is out of the country six months a year. I am against this, and am hoping you can point me in the right direction in terms of how we can deal with this issue.

**A:** I too would be concerned about assigning an officer position to a person who spends half the year away. Check your bylaws to determine whether or not this board member can participate in any board meeting by way of Skype, email or any other electronic method. If not, the board should re-think its position. It's also possible that your bylaws stipulate that board members should be automatically removed from their position if they miss a certain number of meetings in a row.

**Helpful hint:** There is nothing wrong with participating on your board when you spend some of your time out of province. It is important for condominium corporations to update their bylaws to allow for attendance at board meetings via electronic means.

**Q:** I have taken possession of a brand new condominium unit in a four-plex, and have been advised that the builder does not have title cleared by the City. As a result, my mortgage lender will not release the funds to the builder. I am to pay rent to the builder at a day rate that was calculated from my mortgage interest rate until the title clears. Does this day rate formula come from a bylaw?

**A:** I hope that you have a lawyer helping you with this issue. Your question is not unusual in that there are delays from time to time with respect to new developments. If you are moving into the unit and do not have title, you are simply a tenant of the owner and you are required to pay the owner something for that benefit. The contract between you and the builder should set out how this issue would be resolved.

**Helpful hint:** Buying a new condominium unit can be stressful, and the purchase contract ought to provide for contingencies such as this.

**Q:** I bought a bare land condo seven years ago, and we have a board, bylaws and monthly condo fees that are for a reserve fund to finance replacement costs for doors, windows and siding in the next 10 to 15 years. I have recently received a letter saying the board is no longer responsible for any outside maintenance, and will be operating as a bare land condo. What happens to the \$500,000 in our reserve fund, now that the rules have changed?

**A:** Many bare land condominiums in Alberta operate as traditional apartment-style condominiums by enacting bylaws that assign certain owner responsibilities to the condominium corporation, thereby creating a concept known as "managed property." Recently, the government of Alberta amended the Condominium Property Act to allow condominium corporations to collect fees from individual owners to pay for maintenance, replacement and repair of "managed property." I suspect that the bylaws of your

condominium corporation were amended to reflect this new reality. Ask the board to provide you with a written explanation as to what they intend to do with current money in the reserve funds.

**Helpful hint:** Communication is vital in condominium living. If the condominium corporation have decided how they intend to deal with money in the reserve fund as a result of the change in how the corporation is managed, then that information should be communicated to owners.

**Q:** What can a condominium corporation do when it enforces a bylaw and issues a fine, but the owner refuses to pay? Can it file a caveat on the person's title?

**A:** A condominium corporation cannot register a caveat against a title to a unit with respect to outstanding fines. As an alternative, it can commence an action for debt in Provincial Court to recover the corporation's fines.

**Helpful hint:** If you believe that the condominium corporation should have more options with respect to enforcing fines, then you should contact the minister of service Alberta and advise him of your desire to see certain amendments under the Condominium Property Act. The province is currently reviewing the act, and I am hopeful that we will see some significant changes in the next year or so.

**Q:** As a member of my condominium board, I am wondering whether we can distribute the minutes from board meetings to owners of the building units.

**A:** Yes, you are entitled to circulate the minutes of board meetings. However, if there are personal or private issues in the minutes, you may want to redact/black out that information.

**Helpful hint:** When owners are aware of what is happening in their condominium project, they are less concerned about issues that arise from time to time. Transparency is important in condominium living.

**Q:** My partners and I are building a three-unit townhouse that will become a condominium. We are having the condo survey completed, but are not sure of what steps we need to take from there. Do you know of any publication that will guide us through this process?

**A:** A lawyer will guide you through the steps. There are a few publications and online resources that you can look to; however, I do not know of any written resource that will give you a step-by-step guide. I appreciate that many developers want to keep their costs down, but if they want to avoid costly problems later, they should factor in the cost of legal counsel at the outset.

**Helpful hint:** If you want to be part of the development industry, then you cannot be afraid to spend money on the required professionals to help you put together a proper product. When you get a toothache, do you try to drill your own teeth, or do you go to the dentist? Enough said.

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