

# Condo ownership comes with a duty to serve

## Responsibility of filling board vacancies rests with all owners

BY ROBERT NOCE, FREELANCE JUNE 19, 2010

Dear Robert: Our condo board has not met for a monthly meeting for five consecutive months now, something that has not happened in my 28 years of living here. They are short on board members and cite this as a reason for not holding meetings. However, the board has not sent any notices out to owners to try to recruit new board members.

Also, at the 2008 annual general meeting, I pointed out some serious errors in the new reserve fund study, the most serious being that it was meant to be a study of our complex alone, yet there were elements of another complex included.

Is there anything I can do about these two issues?

A: With respect to monthly board meetings, I believe that if there is nothing to discuss, there is no need to call a board meeting. Volunteers lose interest in an organization when people meet for the sake of meeting. However, I would review your bylaws to determine what legal obligations the board has with respect to meeting.

In terms of recruiting new members, that onus rests with all of you, not just the board. It can be a challenge to find people to sit on a condo board, and the responsibility of finding new members rests with all owners.

I suggest that you take the time to talk to your neighbours about volunteering their time on the board to ensure that your condominium complex remains a nice place to live.

Next, your issue with respect to the reserve fund study concerns me. There is a legal obligation on the part of a condominium corporation to have a reserve fund, subject to certain rules. If the information is incorrect, or if the person who conducted the reserve fund study made errors in the document, then the condominium corporation, through the board, could demand that the incorrect information in the reserve fund study be corrected at no cost to the condominium corporation.

The reserve fund study is an important document, and current owners will rely on this document when deciding whether they can afford to continue to live in the complex, and other things of that nature. It is important to verify problem areas in the study so that errors may be corrected.

Helpful hint: When you buy into a condominium corporation, you are buying into the concept, which means being an active participant on some level. Becoming a board member is not for everyone, but there is, in my view, a duty to serve in some capacity at some time during the life of your ownership

within the condominium corporation.

Dear Robert: We moved into our condominium 10 years ago. There had always been large binders in our main office, containing copies of minutes of our condo board's monthly meetings. A couple of years ago, they disappeared.

We asked the board why, and they said that Alberta privacy laws prevent them from making meeting minutes available to condo owners. Our condo bylaws allow any owner to attend monthly meetings, so why can't the minutes be put in the binder for other owners to read?

A: From your information, it would appear that the board is taking privacy to the extreme. As an owner, you are entitled to review the minutes of the board. If the board were to make copies of the minutes and supply them to all owners every month, there would be a cost element to consider.

However, the board's previous practice seemed reasonable. Did the board receive a legal opinion on this issue, or are they simply acting in a manner they think is correct?

Helpful hint: I would suggest that you contact the Office of the Information and Privacy Commissioner to obtain additional information on this topic.

Dear Robert: I live in a 130-unit condo comprised of 28 buildings on about 12 acres of land. The complex is about 30 years old. So far, the windows have been replaced, new shingles have been installed and the parking and roadway areas have been redone, all without any special levy.

We are in a levy position of \$3,300 per unit to cover the cost of vinyl fencing and siding and removal of the trellises off of two-storey units. It looks to me like the main reason for the levy is the board wants to do all of this work this summer. Although the work needs to be done, I am questioning whether it all needs to be done right away.

I am concerned that the board wants to finance major repairs through a levy, rather than accumulating funds through condo fees. How can the owners go about making the board plan for future requirements through condo fees, rather than relying on a levy to accomplish future major expenditures?

A: The board is within its right to implement a special levy to achieve a particular objective of the condominium project. There may be a good reason why the condominium corporation wants to do all of the work over the summer, instead of in phases. For example, there may be a cost saving to doing the work all at once.

You have provided very little information as to the rationale behind the board's decision. In terms of what an owner can do, you may want to consider having a special meeting with the board, subject to your bylaws, to discuss this issue. Are you in the minority or the majority with respect to the issue of the special levy?

Generally, a board will react to a majority of owners, and if there is genuine concern with respect to a decision, the board can reverse its decision.

Helpful hint: This question shows the importance of being involved in your condo board, or electing board members who share your views, to minimize these types of issues.

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