

Unexpected guests unwelcome at board table

Contravening bylaws at meetings may call decisions into question

BY ROBERT NOCE, FINANCIAL POST JULY 17, 2010

Q: Can our board of directors refuse to allow observers to attend regular board meetings? Our condominium bylaws do not say that observers cannot attend, nor do they specify who may attend. When observers tried to attend the first meeting, they were told to leave. The board has also chosen to provide owners with only a summary of board meetings, rather than the actual minutes. Finally, can you suggest where or how we might go about seeking legal or professional advice regarding owner/board disputes?

A: In your question, you use the word "observers," as opposed to owners. Not just anyone can attend a board meeting. It is difficult to answer your question effectively without knowing who are the "observers." It is reasonable for a board to know who, in fact, is attending meetings. If "observers" means third parties without any connection to the condominium corporation, then the board's position is reasonable.

With respect to your next point, owners are entitled to copies of the minutes. If there is an issue in that regard, then I would suggest that you contact the board in writing, requesting a copy of the actual minutes, or the opportunity to inspect the minutes at a scheduled time and date. Finally, in terms of finding legal or professional advice regarding owner/board disputes, I would encourage you to contact the Canadian Condominium Institute in Edmonton and ask for a list of professionals who are active in the condominium industry.

Helpful Hint: Issues come up on a daily basis when you live in a condominium corporation. Some things are worth fighting for, while others require a more reasonable approach in terms of finding some middle ground. Just because the board has taken a position on a particular issue, your first instinct should not be litigation or contacting a lawyer, but rather trying to work it out with your fellow owners.

Q: I think that our condominium corporation was registered under the Societies Act instead of the Condominium Property Act. I wrote the board a letter asking whether or not my information was correct, and have received neither an acknowledgment nor a reply. Should I follow up with the board?

A: If your information is correct, and your condominium corporation was not properly registered under the Condominium Property Act, then there are a number of issues that come to mind in terms of how your condominium corporation is being administered, particularly how you deal with the collection of condominium fees and other related issues.

Your approach was the correct approach, in that you sought the opinion of the board prior to taking any further steps. You should follow up with the board and request an answer.

Helpful Hint: Condominium boards should respond to owners' letters and/or e-mails on a timely basis. Although we are all busy in our personal lives, and serving on the board is usually a volunteer position, board members have a responsibility to respond to owners. At minimum, always acknowledge a letter or e-mail from a fellow owner/ tenant and indicate to them when you intend to respond.

Q: Our bylaws state that the board shall consist of not less than three and no more than seven members. This year, we have operated with a three-person board, but one member had to step down early. The remaining two members have sent a letter to residents requesting volunteers to the board. Several residents have submitted their names, but to date have not heard back from the board. The other two members are carrying on, signing cheques, sending letters to residents, etc., under the heading of the condo board. Some of the residents think this is illegal and a special meeting should be called to resolve this situation. I would appreciate any assistance you could provide.

A: If your bylaws state that the board must consist of not fewer than three and no more than seven members, anything fewer than three or more than seven would be contrary to your bylaws. Therefore, some of the decisions that the two-member board has taken may be called into question. This is an issue that requires immediate attention and I would suggest that all of the owners come together quickly to resolve this issue.

Helpful Hint: When boards become aware that they are doing something contrary to their bylaws, they must stop such action immediately, because any action taken may be challenged at a later date. As a board, you do not have the ability to pick and choose the bylaws you intend to enforce or apply. You have a legal obligation to comply with all of the bylaws.

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