

Bylaws cover messy properties, not unkempt owners

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Dear Robert: I live in a well-kept condominium building; however, one of the residents is an eyesore. He has long, unkempt hair, a greasylooking beard, wears dirty clothes and often smells unwashed.

We have bylaws to deal with the look of the building in terms of upkeep and window coverings.

Is there anything we can do about the dirty hippie?

A: The short answer to your question is no. The Condominium Property Act, its regulations and your bylaws will not allow you to deal with this particular issue.

Helpful hint: If you want to live happily in a condominium complex, you should be tolerant of other people, because you live in close quarters with your neighbours.

Dear Robert: Three people have taken control of our condo board.

One has had new windows installed without approval, and another has had her deck oversized. We have no newsletters advising residents of any problems, and the board is marching to its own beat. Is there any way of getting these people off the board?

A: At the next annual general meeting, you have an opportunity to elect new people to the board. However, as an owner, it is up to you to ensure that people come to the meeting (or you should obtain their proxy so that you can vote on their behalf) and up to you to find people who share your particular point of view in terms of how the condominium corporation should be operating.

That would be the most cost-effective way of dealing with this issue.

If, however, you feel that the board has breached the Condominium Property Act or the bylaws, then you may make an application in court alleging improper conduct on the part of the board. The Condominium Property Act gives a judge wide powers to deal with improper conduct. The court application route can be expensive, and you would require evidence to support your position.

Helpful hint: If you do not agree with the direction of the board or how the board makes decisions, then your alternative is to find people who want to sit on the board and share your philosophy.

Condominium living can be difficult if the board is not communicating effectively with the owners, or if there is a lack of interest on the part of the owners to participate in the future of the condominium corporation.

Condominium living requires owners to work with each other for the betterment of the corporation.

Dear Robert: Our board is in the process of updating our bylaws. We realized that we require 75 per cent of the owners and unit factors to approve the changes.

Can the changes be submitted to the owners as "approve all or nothing?"

Or should they be given the option to approve or disapprove of each change/addition?

A: Amending bylaws can be a huge undertaking, and it is prudent on the part of the board to first seek the opinion of owners to determine whether or not there is any interest in amending the bylaws.

There is absolutely no value in spending all of this time and money amending bylaws when in fact there is no appetite within the condominium corporation to amend the bylaws.

The threshold of 75 per cent of the owners and unit factors is significant so as to provide certainty to the owners regarding the affairs of the condominium corporation.

It is up to the owners to decide which amendment(s) they wish to approve.

One of the problems I see with picking and choosing which amendment(s) to approve or not approve is that you have to make sure that approving one amendment will not conflict with any other section under the bylaws that is not being changed.

There is no requirement to take an all-or-nothing approach. Owners are free to accept any changes.

Helpful hint: It can save a condo board a lot of grief to seek the help of a lawyer early on in this process, so that you can ensure accuracy in drafting proposed bylaw changes, and avoid introducing conflicting bylaw amendments.

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He welcomes your questions at condos@edmontonjournal.com. Answers are not intended as legal opinions; readers are cautioned not to act on the information provided without seeking legal advice on their unique circumstances.

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