

Talk to neighbour about pet peeve; Living in a condo means having to compromise

The following article is property of the Edmonton Journal.

Edmonton Journal

Sat May 28 2011

Page: J2

Section: Condos

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Source: Edmonton Journal

Dear Robert: My condominium unit's balcony is flanked on either side by my neighbours' balconies, which affords me a direct view onto both neighbouring balconies. I try to keep my own veranda neat and tidy, both for my own benefit and in consideration of my neighbours. One of my neighbours has both a small dog and a cat who each use a litter box. Now that spring has come, my neighbour has placed both litter boxes on her balcony, so now I have to watch her pets use their litter boxes, and when I am on my balcony, all I see are these litter boxes. It is gross.

Can I do anything about it without her knowing that I was the person who complained?

A: If your condominium bylaws allow pets, then your neighbour is probably within her rights, unless there is a specific restriction with respect to balconies. However, generally speaking, each balcony is part of the unit or the owner has an exclusive use agreement, and the unit owner can control what happens on their balcony. You could try nicely asking her to keep the litter boxes farther away from your balcony, or to shelter your view.

Helpful hint: Condominium living is all about compromise, and if your condominium allows pets, then this may be an issue that you face, especially during the summer months. If you don't like seeing your neighbours' messy balconies, then you need to talk to your neighbour and find a resolution to the problem or sell your unit and move or buy the penthouse.

Dear Robert: Our condominium in Calgary suffered a hail loss in August 2010. Our board met with the insurance company and it was deemed to be a \$130,000 claim. At least half of the owners in the condominium were not aware of the claim.

In September, the board accepted a cash payout without consulting the owners. Is the board required to advise the owners that there was a claim? Are they allowed to make a decision like this to accept a cash payout without consulting the owners?

A: The board is well within its rights to make a decision on behalf of the condominium corporation.

The board is the directing mind of the condominium corporation and courts generally give the board deference in terms of the decisions it makes.

Whether or not the board should or should not have advised the owners is really a question of communication. It would have been prudent on the board's part to keep the owners updated with respect to any insurance claim, because it does have an implication for all of the owners with respect to the premiums paid by the condominium corporation.

Helpful hint: Although they are not required to do so, it is nonetheless helpful and considerate for a board to keep owners informed of these types of issues.

Dear Robert: My condominium corporation bylaws contain a section which states that the corporation, through its board, may pay an honorarium, stipend or salary to members of the board in a manner and in the amount as may be from time to time determined by ordinary

resolution at a general meeting. This is the only provision in the bylaws that relates specifically to payments by our board to its members.

The terms honorarium, stipend and salary are not defined. It has been suggested that in the absence of a resolution at a general meeting, there is no authorization of the corporation through its board to pay an honorarium, stipend or salary to members of the board. Is this correct?

A: It is difficult to give an opinion on the wording of a bylaw without having the benefit of reading all of the bylaws. However, based on your summary, it would appear that some form of ordinary resolution at a general meeting is required to set out the amount of the honorarium, stipend or salary.

Without that resolution, the board does not appear authorized to pay an honorarium, stipend or salary. If there is any doubt in terms of whether or not the provision is applicable, the condo board should seek legal advice.

Helpful hint: To obtain a full appreciation of any condominium issue, it is important to read the bylaws in their entirety.

Dear Robert: The property manager of my condominium will not provide me with contact information for members of the board. Am I entitled to know who is currently serving and in what capacity? How am I supposed to contact board members (outside the annual general meeting)? What are the general rules regarding the withholding of such information?

A: You are entitled to know the names of all of the board members of your condominium corporation. In fact, the names of board members are registered at the Land Titles Office and that information is public.

As well, you have the right to know who is the president, vice-president, secretary and treasurer, and any other board position.

I would like to think that the condominium corporation would, as a matter of course, provide all owners with a contact name for any building-specific issue that they wish to raise with the board.

Helpful hint: When you live in a condominium, take the time to meet your neighbours. As well, attend the annual general meeting so that you can put names to faces of board members.

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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.

Illustration:

- Larry Wong, The Journal, File / When a condo board allows pets, problems can arise between those who own pets and those who don't.

Edition: Final