

PUBLICATION

The Importance of Updating your Bylaws

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Updating the Bylaws for your Condominium Project

To ensure that Condominium Boards and Property Managers can effectively do their jobs, properly drafted and up to date Bylaws are essential. It is nearly impossible for the Board and Property Manager to operate a Condominium Project without current Bylaws. The list below represents some of the many issues that can be avoided or limited by maintaining proper Bylaws.

1. Fees, Expenses and Charge backs

- The Corporation can be faced with costs in the thousands which cannot be charged back to an owner and recovered because of insufficient language in the Bylaws. Older Bylaws may take away priority with respect to recovery by making the Corporation's lien subject to the rights of the registered mortgage

2. Interest

- Default interest should be set at 18%

3. Fines

- An owner cannot be fined for breach of a Bylaw unless the Bylaws specifically allow for monetary sanctions

4. Insurance Deductibles

- The Bylaw language should refer to the Owners 'responsibility' rather than 'act or omission' to ensure the Corporation is able to charge back insurance deductibles

5. Levying Contributions

- The Bylaws must state that the Corporation may charge back expenses or levy contributions on something other than a unit factor basis, without which they cannot assess owners by other more practical or efficient methods

6. Define responsibilities, powers of the Corporation and Owners, Use and Occupancy restrictions and responsibility for windows and doors

- Restrictions must apply to 'Occupants' as well as 'Owners' to ensure misbehaving individuals and the legal 'Owner' are both held accountable.
- Specific Bylaw provisions are needed to set out who is responsible for maintenance, replacement and repair, and therefore who will also be responsible for the associated costs

7. Improvements and Betterments

- The Corporation is not obligated to insure improvements and betterments and most now want the Owner rather than the Corporation to have responsibility

8. Short-term Rentals

- Bylaws cannot restrict rentals in a project but can restrict use and occupancy which may address the short-term rental/air bnb issue

For further information or to speak to us about updating Bylaws, please contact anyone in our Condominium Law Group.