

What happens when owners or councils violate the Strata Property Act?

Enforcing the act, regulations, bylaws and rules can be tricky. The head of the Condominium Home Owners' Association offers some advice

By Tony Gioventu

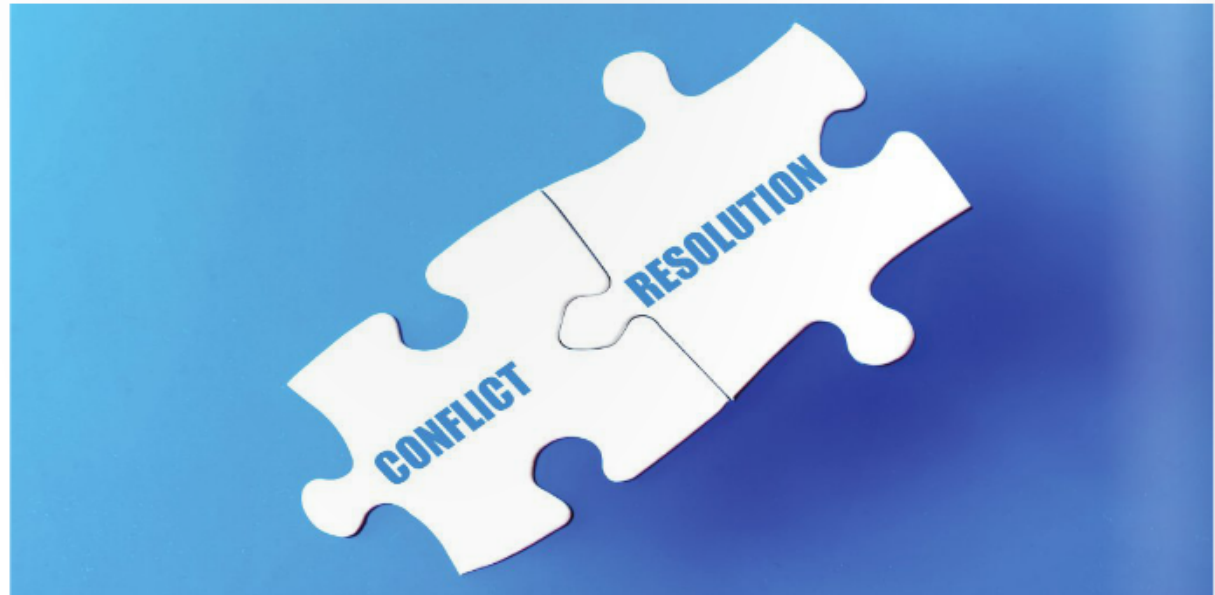
Strata corporations, councils and owners in BC are regulated by the Strata Property Act and Regulations and their amended bylaws and rules. On the surface this appears to be sufficient regulation to ensure the property and assets of strata corporations are well managed and protected. The challenge for many strata owners and councils is the lack of consequences. The dispute options for strata councils and owners do not provide economic, timely or procedural access to deal with the day-to-day matters in a strata that seem trivial to most of us, but may have a very deep impact on the day-to-day lives of the people who live there.

A typical bylaw problem that relates to pets, age, rentals, parking, or access to strata lots for maintenance and repairs has two basic enforcement mechanisms.

The strata council's options

The first option for a strata council is to apply the enforcement procedures of the Act and eventually impose fines as a first step to encourage enforcement. The real trouble starts when the imposition of fines is not sufficient to remedy or change the behaviour of the owners, or their tenants or occupants.

The second option is the intervention of the courts or an arbitration proceeding where the parties can be ordered to do (or stop doing) something. Commonly known as injunctive relief, the only options for enforcement are for the strata corporation or an owner to obtain an order or injunction from the courts that orders compliance with the bylaws or the Act. If a strata council is unwilling to comply with the Act or owners, tenants and occupants refuse to comply with bylaws or the Act, the only remaining option is a Supreme Court application or to commence arbitration.



While both options ultimately obtain a solution, the costs are often prohibitive or far exceed the cost of the violations, and the time required is too long to ensure effective enforcement.

Getting access to units

Access to strata lots for routine maintenance and inspection is a constant conflict with strata lot owners and tenants. The 10-minute inspection of a heat or smoke detector if it is common property will cost less than \$25 per unit; however, if the owner does not provide access, the only remedy is for the strata corporation to enforce the bylaws and apply fines. This does not guarantee that the owner/tenant will provide access and the strata corporation is then required to obtain a court order if access is essential.

What was a \$25 cost and 10 minutes now takes the approval of a three-quarters vote at an annual or special general meeting, court and legal costs that could easily start

at \$10,000, and at least two to six months to hopefully obtain the order.

The same limitations and costs would apply to an owner when their strata council is not complying with the Act or enforcing the strata bylaws. Unless the strata is willing to change the council, the only option for an owner is a court application to order the strata to enforce the bylaws or comply with the Act. If my neighbour is causing a nuisance such as noise, and my council is unwilling to enforce the bylaw, my only option is the courts or arbitration for an order to enforce the bylaws. For the 31,000 strata corporations and one million owners, tenants and occupants in BC, this is an overwhelming and costly process.

New tribunal process

The introduction of the Civil Resolution Tribunal in BC will make a significant change to strata operations. The tribunal will provide strata councils, owners,

tenants and occupants with a quick and cost-effective solution for disputes that relate to the Act, bylaws and operations. Once in effect, strata councils for a minimal cost will be able to use the tribunal to obtain a decision to order a person to do or stop doing something, such as complying with the bylaws, and the strata council will no longer require a three-quarters vote of the owners to proceed with a bylaw enforcement application. Owners and tenants will have quick and affordable access to obtain orders for strata councils to comply with the Act and the bylaws, and orders for them to enforce bylaws if they are failing to act.

The tribunal will also be able to make decisions on financial matters such as claims of damages, insurance deductibles, fines, strata fees, special levies and user fees. In addition, the tribunal will be able to order a strata corporation to do repairs or remedy damages that are the responsibility of the strata. From the start

of an adjudicated dispute to a decision will be around a 60-day window and the costs will be comparable to small claims court.

Online resolution service

The real benefit of the tribunal will be the online user service. From the comfort of your home or council meeting, the parties will be able to use resources to analyze their complaint, identify the options for problem solving, and even file their complaint to start an adjudication process. Disputes will generally be managed entirely online, so each party will be entitled to file their information and claim, and the adjudicators will issue decisions. An order for access to a strata lot will go from a costly, time-consuming process to a quick application on the decision of

council with minimal cost.

With more strata units than any other type of housing being built in BC each year, this is an ideal option for problem solving in strata corporations and greater harmony in communities. For more information about the Civil Resolution Tribunal, go to: www.civilresolutionbc.ca.

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