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Resolving condominium disputes

Resolving disputes

Condominiums are self-governing communities, and their bylaws and rules guide their day-to-day operations. Condominiums enable individuals to own their own units while also jointly owning common property and common assets. Disputes can occur between anyone involved in a condominium, including unit owners, occupants, tenants and the corporation. If there is a dispute with the corporation, a unit owner or a tenant, there may be information in the corporation's bylaws that will help address the issue.

Where possible, try to resolve the dispute at the earliest time possible and through dialogue. If the dispute cannot be resolved, then it may be advisable to seek legal advice. The Government of Yukon does not take part in disputes between condominium unit owners or disputes between condominium unit owners and boards or managers.

The Government of Yukon has a Residential Tenancies Office which can provide information specifically on landlord and tenant matters. For more information, please visit yukon.ca/en/housing-and-property/landlords-and-tenants-responsibilities.

Rights and duties

You may submit a complaint to the board if the conflict involves non-compliance with, or contraventions of, the corporation's bylaws, or rules, the *Condominium Act, 2015* (the Act) or its Regulations. The condominium corporation is responsible for enforcing requirements of the Act, the Regulations or the bylaws or rules through the board of directors after determining that there has been a contravention. In doing so, the corporation must give written notice to allow those involved reasonable time to respond.

Either party involved in a complaint may request a hearing before the corporation's board of directors. The board must provide its decision in writing to the unit owner, any tenant or occupier involved in the dispute, and the person who made the complaint. If a complaint is made against a board member, that person cannot participate in the hearing or decision. This does not apply if all the unit owners are on the board (e.g. if the condominium has five units and all unit owners are on the board).

Before enforcing a requirement of the Act, the Regulations, the bylaws or a rule, the board may give a person a warning or reasonable time to comply. The board may pursue one of the following options in an effort to obtain compliance with the Act, the Regulations, the bylaws or the rules, specifically:

- the board may impose a fine in accordance with the bylaws and rules; or
- the board may require repairs to be paid or the removal of objects from the unit, common property or common assets; or
- the board may deny access to recreational facilities; or
- the board may collect money that is owed to the corporation.

In addition, if a tenant is breaking bylaws or rules continually, and the unit owner fails to evict the tenant, the corporation can act as the landlord to start the eviction process. Once the tenant has been evicted, the unit owner may not rent the unit to the same tenant again.

The *Condominium Act, 2015* also allows disputes to be dealt with through voluntary or alternative resolution processes without going to court.

Voluntary dispute resolution

A condominium corporation may include in its bylaws voluntary dispute resolution processes that do not allocate the power to make binding decisions to an individual or entity.

The processes outlined in the bylaws may not forbid anyone from taking matters to court or arbitration; however, no records from these processes may be used in a court action or arbitration.

Alternative dispute resolution

Condominium disputes may be resolved using mediation, conciliation, arbitration or similar processes. These types of alternative dispute resolution processes involve using an objective third party. A mediator or a conciliator helps the parties negotiate a resolution to the problem. Conversely, an arbitrator makes a decision after all the parties present their case.

Where the other mechanisms to resolve a dispute have not been successful, an owner, corporation or an interested party may apply to the Supreme Court of Yukon to resolve the problem if they believe there has been improper conduct by a condominium:

- developer;
- corporation;
- employee;
- director;
- owner; or
- occupant of a unit.

An example of improper conduct would be non-compliance by a developer, a condominium corporation, a director or board of directors, a unit owner or an occupant of a unit, with the Act, the Regulations or the bylaws.

Court action by or against the corporation

If you have a dispute with a condominium corporation and you do not agree to alternate dispute resolution or it has not been successful, you may start a court action. The condominium corporation's legal costs and any potential judgment amounts will be shared amongst unit owners. This means that using court action to resolve a dispute may affect more than just the original parties involved.

⚠ Note: this fact sheet is based on the *Condominium Act, 2015* and its Regulations which will come into force on October 1, 2022. It is intended as a simplified general resource and is not to be considered legal advice or legal opinion.

The condominium corporation may sue or be sued as a representative of all unit owners or join with a unit owner in a court action.

As soon as the corporation learns it is involved in any court action, it must let all the unit owners know since the legal costs and judgment amounts are shared. If unit owners disapprove of the corporation starting a court action, they can call a special general meeting to consider the matter.

Additionally, if the court action started because of the act or omission of a unit owner, the condominium corporation may add the owner to the lawsuit.

Court action between the corporation and a unit owner

A unit owner suing or being sued by the corporation will not be entitled to the information, documents or notices that the corporation is required to give to other unit owners as a result of the lawsuit. The unit owner also loses the right to attend meetings or vote on decisions related to the court action.

Court decisions

If disputes alleging improper conduct or not performing duties do go to court, the Supreme Court of Yukon can:

- appoint an investigator or administrator to look into the issue;
- give directions on how to stop the issue from happening again; and
- award costs and compensation.

Judgment against a condominium corporation

Unit owners are responsible for contributing funds in any judgment against the condominium corporation in the same proportion as their unit entitlements. In a lawsuit that arose before a unit owner became the owner of the unit, that owner has a right to indemnity from the prior owner unless the vendor disclosed the cause of action.

Where a unit owner sues the corporation and costs are awarded in their favour, that unit owner is not liable to contribute to the costs. As well, if a unit owner must pay costs, they are not entitled to receive any share of costs awarded to the corporation.