

# Recording Minutes

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What position should a strata council take if an owner asks to voice record a strata corporation meeting, or if an owner simply starts recording the meeting while it is in progress without asking for permission? Also, with the proliferation of video cameras, can owners showing up to strata corporation meetings with video cameras be far behind? How about voice recording council meetings?

An owner may want to record a meeting so that he can review the recording later to ensure that the minutes of the meeting are accurate and complete. Also, an owner may want to record a meeting so that he can prove the council is not treating him fairly. However, when an owner turns on a tape recorder at a meeting, strata council members and other owners can feel intimidated. Owners may be afraid of saying something that is legally “wrong” and may not want to talk at the meeting if their every word is recorded.

How much privacy a person is entitled to in our society is the subject of a proliferation of legislation in Canada, both federal and provincial. However, the legislation is geared towards dealing with the issue of privacy and government record keeping and private communications intercepted by the police.

Everyone attending a general meeting for a strata corporation should be aware that the strata council has an obligation to ensure that minutes of the meeting are kept, including the results of any votes. Therefore, by attending a strata corporation meeting an individual is submitting to a certain amount of record keeping. However, owners may be much more intimidated if they are being recorded than if they know that a strata council member or property manager is taking minutes of the meeting by hand or on a laptop computer.

As an aside, under the Schedule of Standard Bylaws to the *Strata Property Act*, a vote has to be by secret ballot if an owner requests it, so unless that bylaw is changed by a strata corporation an owner can ensure that how he voted on an issue is not recorded in the minutes.

It is important in a strata corporation to encourage the free exchange of ideas of all of the owners. There, it is my recommendation to strata corporations dealing with the issue of whether to allow an audio or visual recording of a strata corporation meeting to consider passing a bylaw that no audio or visual recording device will be taken into or used at a Strata Corporation meeting without the approval of the majority of eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained from voting. I consider the use of a majority vote to be appropriate because section 50 of the *Strata Property Act* provides that matters are decided on the basis of a majority vote unless a different voting threshold is required or permitted by the *Strata Property Act* or the regulations. A bylaw helps in that owners are given advanced notice about how the situation will be dealt with. However, even if a bylaw is not created, section 50 still supports the position that the owners should decide by a majority vote whether a strata corporation meeting can be recorded.

Under the Schedule of Standard Bylaws to the *Strata Property Act* decisions at strata council meetings are made by a majority vote of the strata council, so the council can decide on whether or not a council meeting can be recorded. However, strata councils should be very careful with respect to voice recording council meetings. Although council minutes must be made available to all owners, it is not always appropriate for a council meeting to be recorded. For instance, section 17 of the Schedule of Standard Bylaws in the *Strata Property Act* lists various types of meetings that no observers may attend, including meetings dealing with bylaw contravention hearings, rental restriction bylaw exemption hearings and any other matters if the presence of observers would, in the council’s opinion, unreasonably interfere with an individual’s privacy. Certainly, an audio or visual recording of a meeting dealing with any of these matters brings into question whether or not the meeting will be heard or viewed by non-strata council members at a later date and whether the owner’s privacy will be respected.

In my opinion, to promote the free exchange of ideas, strata corporations and strata councils should err on the side of not allowing meetings to be recorded. It is the outcome of any votes at the meetings that have lasting effect on the strata corporation and the owners and the outcome of any votes need to be recorded in the minutes.

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