

Take a Minute to Consider Minutes

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If you have prepared the minutes for strata council or strata corporation meetings you have probably thought at one time or another “What should I leave in, and what should I leave out?” This article provides some tips for strata council secretaries, strata managers and anyone else who is involved in preparing or approving the minutes of strata council meetings and general meetings.

Section 35 of the *Strata Property Act* sets out a list of important records that a strata corporation must prepare and make available to owners. The first item on the list is minutes of annual and special general meetings and council meetings, including the results of any votes. So, if you are taking minutes, it is important to record the results of any votes. Remember to record not only the vote on the final motion or resolution, but also the vote on any amendments to the motion or resolution. In my opinion, minutes of council meetings should disclose decisions made by the council, but not necessarily every detail about the discussion leading up to the vote.

It is no wonder that minutes are listed first in section 35 of the *Strata Property Act*. Minutes, together with the financial documents and certain documents that are available in the land title office, such as the strata plan and the bylaws, form the basic records of a strata corporation. If there are other important documents, they usually are referenced in the minutes and the reader is alerted to their existence. In fact, many times a realtor who is preparing a Contract of Purchase and Sale for potential purchasers adds a provision like “This agreement is subject to the purchasers perusing and approving the strata council’s minutes, bylaws and financial statements”.

In the case of *Sask v. Brooke et al* (November 3, 2000) New Westminster No. SO50062 (B.C.S.C.), Shirley Sask, the owner of a strata lot, sued the previous owners who sold it to her. However, Ms. Sask’s realtor had included a clause in the Contract of Purchase and Sale like the one set out above. Shirley Sask alleged that the previous owners induced her to purchase the strata lot by false or negligent representations made in their property condition disclosure statement. However, the Judge found that “In light of their concurrent provision of minutes from strata council where leakage problems were discussed, the sellers’ disclosure obligations were fulfilled in a manner that should have alerted a prudent purchaser to the need to make further inquiries”.

So, careful disclosure of leaks, repairs and other matters concerning the complex in the strata council minutes may protect owners who sell their strata lot from purchasers claiming that they did not receive proper disclosure about the complex.

Strata council minutes also provide an appropriate opportunity for the strata corporation to inform the owners of important developments. For instance, section 167 of the *Strata Property Act* provides that:

Defending Suits

167 (1) The strata corporation must inform owners promptly if it is sued.

(2) The expense of defending a suit brought against the strata corporation is shared by the owners in the same manner as a judgment is shared under section 166, except that an owner who is suing the strata corporation is not required to contribute.

Generally, the first opportunity that a strata council has to disclose that the strata corporation is being sued is to mention it in the minutes of a strata council meeting.

Section 19 of the Standard Schedule to *The Strata Property Act* provides as follows:

Council to Inform Owners of Minutes

19 The council must inform owners of the minutes of all council meetings within 2 weeks of the meeting, whether or not the minutes have been approved.

Section 17 of the Standard Schedule to The Strata Property Act provides as follows:

Council Meetings

17 (1) At the option of the council, council meetings may be held by electronic means, so long as all council members and other participants can communicate with each other.

(2) If a council meeting is held by electronic means, council members are deemed to be present in person.

(3) Owners may attend council meetings as observers.

(4) Despite subsection (3), no observers may attend those portions of council meetings that deal with any of the following:

- (a) bylaw contravention hearings under section 135 of the *Act*;
- (b) rental restriction bylaw exemption hearings under section 144 of the *Act*;
- (c) any other matters if the presence of observers would, in the council's opinion, unreasonably interfere with an individual's privacy.

Reading these two sections together, it appears that the individuals who drafted the *Strata Property Act* realized the importance of preparing and distributing minutes to the owners. However, they also realized that not all personal information from each owner should be disseminated to all owners.

It is my opinion strata councils should publish their decisions in the minutes (the outcome of any votes), such as whether or not an owner will be fined. However, not every detail about how the discussion was arrived at needs to be included in the minutes. I have acted for strata corporations in cases where owners have insisted that their names should not appear in council minutes. This has never been my view. Council should be able to advise owners through the minutes about the outcome of their decisions.

For preparing minutes of general meetings, it is my opinion that the most important matter is to clearly document how resolutions are amended and what the outcome is when they are voted upon. Later, if the strata corporation has to defend the outcome of the vote, the minutes will be important evidence.

Also, with respect to general meetings, it is important to document that each item of the agenda was dealt with properly. If you take minutes for a strata corporation, please consider taking one of Tony Gioventu's seminars on effective procedures for running general meetings. You may also want to buy a ticket to the seminar for the chair of your meetings. If the correct procedures are used to run a meeting, drafting the minutes will be much easier.

First published:

CHOA Journal – Spring 2002

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