



CONDO LAW
FOR ALBERTANS

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What a Condo Board can do if bylaws are not followed

Bylaws are rules governing the condominium corporation. Every condominium corporation is required to operate according to its bylaws. Bylaws have a broad reach – applying to unit owners, tenants, and guests. As part of their duties under the *Condominium Property Act*, condo board members have the power to enforce the condominium corporation's bylaws. Here are some steps that a condo board can take if the bylaws are not followed.

Step 1: Address the matter right away

If a board is aware of a bylaw breach, the board cannot ignore it. Boards have a legal responsibility to enforce the bylaws and meet their obligations under the *Condominium Property Act*. Ignoring a bylaw issue can expose board members to personal liability.

If a condo board suspects that an owner, tenant, or guest is not following a bylaw, it should take the matter seriously and address it right away. For example, board members may want to discuss incidents at regular board meetings and agree on a plan to deal with the problem.



TIP

It is a good idea for the board to involve legal counsel early to ensure that it is acting according to legislation and condominium bylaws.

Step 2: Gather information

The condo board should record as much information as possible about alleged bylaw breaches. If a condo board needs to take enforcement proceedings in Court, evidence is critical. Information a board may want to take note of includes:

- How did the board become aware of the breach(es)?
- Who did not follow the bylaw(s)?
- Was there a single incident or multiple incidents?
- What bylaw(s) were breached?
- When did the breach(es) occur?

- Where did the breach(es) occur?
- How did the breach(es) occur?
- Is there any physical or photographic evidence of the breach(es)? Are there any witnesses to the breach(es)?



TIP

If an expert is required to investigate an incident, the board should determine who is responsible for expenses beforehand and consult with a lawyer regarding right of entry.



TIP

If the board receives a complaint about a bylaw violation from other people, it should take note of the person(s) making the complaint. The board must ensure that any collection, use, and disclosure of personal information related to the complainant, complaine, or witnesses follows privacy laws.

When gathering information on an alleged bylaw breach, the board should determine if its bylaws are legally enforceable and whether it can charge a penalty related to the bylaw breach. To be legally enforceable, a bylaw must be properly registered and filed with the Land Titles Office.

If a board is considering imposing a penalty for a bylaw violation, it should consider the following:

- What does the bylaw say about imposing penalties for non-compliance?
- Does the bylaw say that a penalty can be imposed?
- If so, what is the penalty?
- If there is a financial penalty, does the bylaw state the exact amount of money or the range of money that can be charged for failing to follow the bylaw?



TIP

You can check whether the bylaws are properly registered and filed on the Condominium Additional Plan Sheet (CAD). The CAD will note any additions or changes to the bylaws. You can obtain a copy of the CAD at your local registry agent or through the Alberta Land Titles Spatial Information System (SPIN 2) (<https://alta.registries.gov.ab.ca/spinii/logon.aspx>).

Step 3: Communicate with the parties

Sometimes a prompt, friendly reminder is enough to stop someone from breaching the bylaws. If a tenant or guest is breaching the bylaws, the condo board or its condo manager may want to send a written letter directly to the person and provide a copy to the unit owner. If an owner is breaching the bylaws, the condo board or condo manager can send the written letter directly to him or her. In the letter, the condo board or condo manager may want to:

- Include specific details of any incidents
- Refer to the bylaw that is being breached
- Give a specific, reasonable time period to solve the problem



TIP

With bylaw breaches, keep a paper trail of all communication and warning notices in case a dispute ever goes to Court.

Step 4: Reassess the matter

If the problem is not resolved, the board may follow up with a written warning notice. The notice should be professional in tone. The condo board and condo manager may want to:

- Include specific details of any incidents
- Refer to the rule that is being breached
- Give a specific, reasonable time period to solve the problem
- Outline any consequences for not solving the problem

The board may want to see if the notice is acknowledged by the complainee before taking any further action. If the person has failed to abide by the bylaw and/or failed to pay the monetary penalty, then the board has the option to take enforcement proceedings under section 36(1) of the CPA.



TIP

Even if a problem is resolved without any further action, the board should keep details of bylaw incidents including information such as:

- incident dates
- who was involved
- who was contacted to resolve the problem
- how the problem was resolved

Step 5: Take enforcement proceedings

As a last resort, a condo board can take enforcement proceedings in Provincial Court or the Court of Queen's Bench to recover damages and/or unpaid financial penalties. At a hearing, the corporation must satisfy the Court that all bylaws relating to the problem were properly enacted and that the bylaw was breached. The Court can do one or more of the following:

- Give judgment for the amount being sued for or another appropriate amount in the circumstances.
- Grant an injunction or other relief (Queen's Bench only).
- Dismiss the action.
- Make a cost award.



CAUTION

The board should seek advice of a lawyer who is familiar with condominium law. The board should have all of the background information and correspondence ready. The board will help their lawyer do his or her job by being well organized regarding the facts of the matter.

Resources

Condo Law for Albertans

www.condolawalberta.ca

Lawyer Referral Service

www.lawsociety.ab.ca/public/lawyer_referral.aspx

1-800-661-1095



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