

Board cannot reveal information relating to the tenant

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SPECIAL TO THE STAR

Q: Police were called to a leased unit and had to Taser a tenant. An owner who was upset by the incident suggested it would be a good idea if owners knew the identity of persons who lease units in our complex. The board received a legal opinion that a lease forms part of the condominium corporation's file for the owner of each leased unit and cannot be seen by other owners.

The Condominium Act, however, provides the owner of a leased unit must provide the corporation with the lessee's name and a copy or summary of the lease. The information is to be retained as a record of the corporation and the act provides that owners have access to the condominium's records. Am I correct in maintaining that owners are entitled to know the identity of tenants?

A: One of the exceptions in the Condominium Act to a unit owner's right to examine and receive copies of the corporation's records is a record relating to another unit or unit owner. That exception is the reason for the corporation lawyer's advice that the board cannot reveal information relating to the tenant.

Q: I have been concerned the board has entered into contracts for major common element repairs with uninsured contractors. I have requested to see the contracts and the contractors' liability insurance certificates but have been refused. Am I wrong to conclude that those records must be made available to me in accordance with Section 55 of the Condominium Act?

A: You are entitled to examine and obtain copies of all corporation records except for employee records, records relating to actual or pending litigation or insurance investigations involving the corporation and, as mentioned in the answer to the last question, records relating to any other owner or unit.

Q: I am unable to find anything in the Condominium Act that states whether a unit owner or his designate may attend directors' meetings. Can he?

A: In the absence of a provision in the act permitting owners to attend directors' meetings, owners may only attend if invited. Various matters discussed at the meetings are confidential, including those relating to individual owners or residents. A few boards set aside time at the beginning of some or all meetings for owners to attend to raise concerns.

Q: Our board has mandated that all owners use the white plastic vertical blinds that have been in place since the condominium was created 25 years ago. Such blinds are no longer popular and are prone to twisting so that they won't fully open. I can understand a requirement that window covers must be white or off-white to maintain a uniform building appearance but is the board requirement enforceable?

A: The blind requirement must be contained in a rule in order to be enforceable. If there is a rule, owners of at least 15 per cent of the units could submit a requisition to the board requiring an

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owners' meeting to vote on the rule being amended or repealed.

Rules must be reasonable, although the courts have held that a court should not overturn a rule unless it is clearly unreasonable. I assume that if there is a rule it does not prevent the replacement of worn blinds with new but similar plastic blinds. Even so, a rule preventing owners from using any window coverings other than the plastic vertical blinds may be considered by a court to be unnecessary in order to achieve a uniform appearance for the building and to be clearly unreasonable.

Send questions to gerry@gerryhyman.com or fax to his attention at 416-925-8492.

Lawyer Gerry Hyman is an expert in condominium law.