

Registering a Strata Plan in Belize? Don't make this common mistake.

By Stevanni L. Duncan

The recent decision of *David Title and another v The Proprietors, Strata Plan No. 57*¹ emanating from the Supreme Court of Belize has put to right a practice that some strata (condominium) developers have gotten wrong.

The Strata Titles Registration Act provides that a strata development comes into being upon the registration of the strata plan with the Registrar of Lands. Consequent to registration of the strata plan, a “body corporate” is born with the primary function to manage and administer the strata development. The body corporate is that body more colloquially referred to as the homeowners’ association comprising of all the owners of strata lots within the strata development.

The Act sets out statutory by-laws that guide the body corporate in the management of the strata development. In particular, the Act makes provision for the management of the common property which is jointly owned by strata lot owners according to their share or “unit entitlement” within the development. These statutory by-laws can be amended subject to a clearly defined procedure prescribed in the Act. One critical aspect of the procedure is that it is the body corporate which is empowered to amend the statutory by-laws by way of resolution. Such a resolution can only be carried by a vote or poll at a duly convened meeting of the strata owners, notice of which ought to be given at least seven (7) days prior to the scheduled date of the meeting. In certain instances, the resolution must be unanimous.

Where developers seem to go wrong is when they register amended by-laws at the same time they register the development as a strata plan under the Act. This runs afoul of the legislation because the developers are not empowered to make amendments to the statutory by-laws, save in perhaps unique and exceptional circumstances yet to be determined. Rather, the body

corporate is the entity lawfully empowered to amend the statutory by-laws.

In the *Title* case, the developer, Las Terrazas Belize Limited, took it upon itself to prepare amended by-laws and register them simultaneously with the registration of the development as a strata plan. There was no convening of a meeting of the body corporate (which was not even in existence at the time); there was no vote of the body corporate for the amendment of the by-laws; and there was no proper resolution passed to this effect. The court, in its decision, said that this could not have been done as it was inconsistent with the clear procedure set out under the Act. The amended by-laws were, therefore, determined to be unlawful, null and void.

There is, however, a silver lining for developers or body corporates which find themselves in a similar situation. The court in the *Title* case made it clear that a body corporate can, at a duly convened meeting, subsequently ratify any amended by-laws that were improperly passed or erroneously registered by the developer.

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¹ Claim No. 837 of 2019, Supreme Court of Belize