



CHOOSE YOUR OWN ADVENTURE®

The Various Twists and Turns of Condominium Enforcement

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For Larlyn Property Management Ltd.



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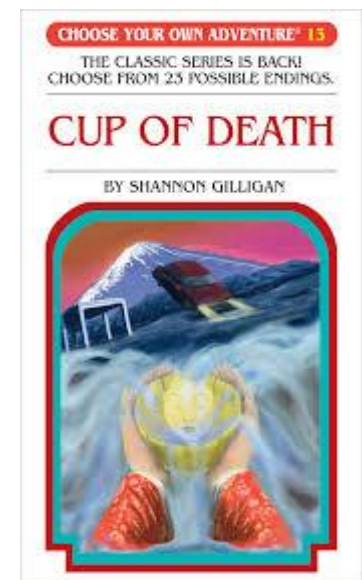
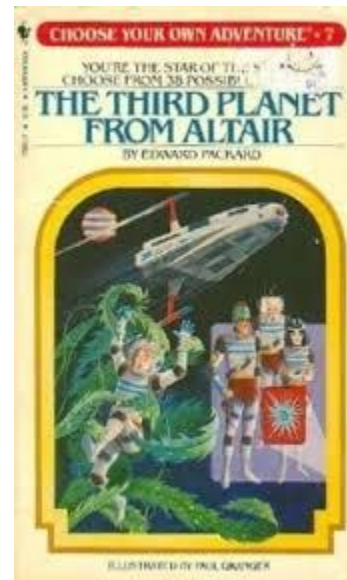
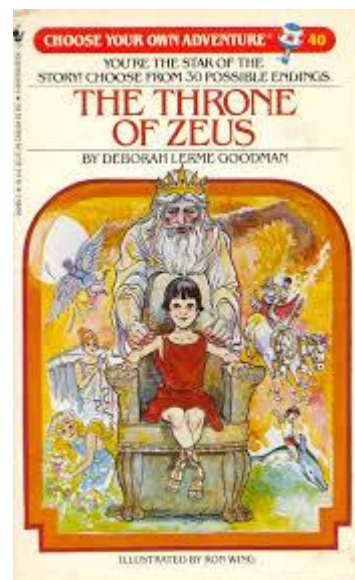
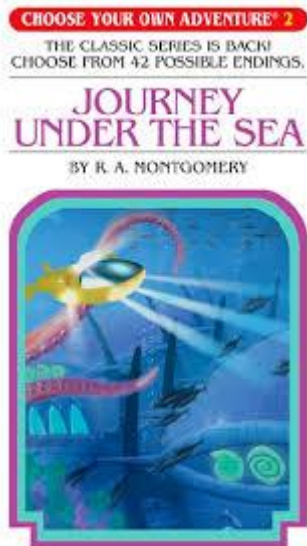
Who am I?

- Litigation Partner at Macdonald Sager Manis LLP
- Focus on condominium disputes & governance issues
- Significant experience dealing with enforcement issues

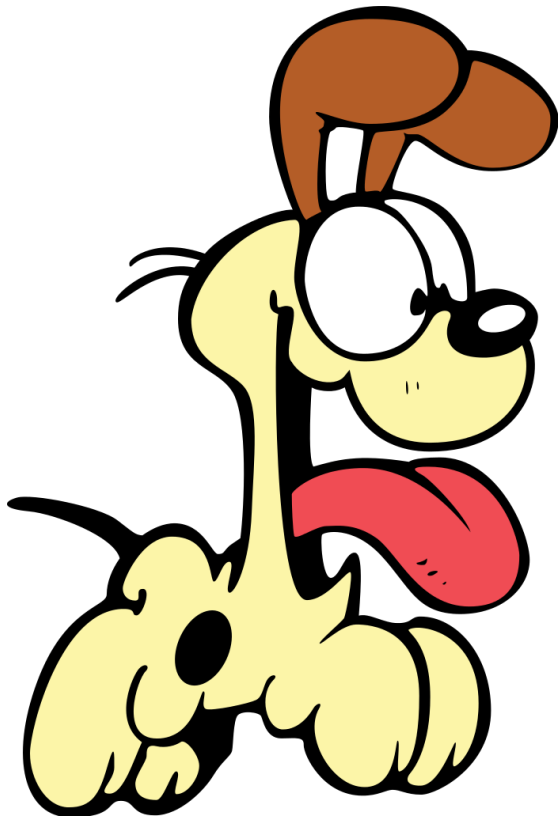


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- These popular children's books allowed you to choose how a story would end.
- Condo enforcement is similar – there are many different “adventures”, depending on which options are selected.



The Scenario



- Property manager receives complaint:
 - Owner has a dog in the building, contrary to the declaration/rules
- All owners should be aware of rules:
 - Contained in Status Certificate
 - Should be disclosed before closing

Why is Enforcement Important?

- Obligation of board under Condominium Act and Common Law to enforce Rules/Declaration
- Boards need to be consistent and fair
- Precedent is very important



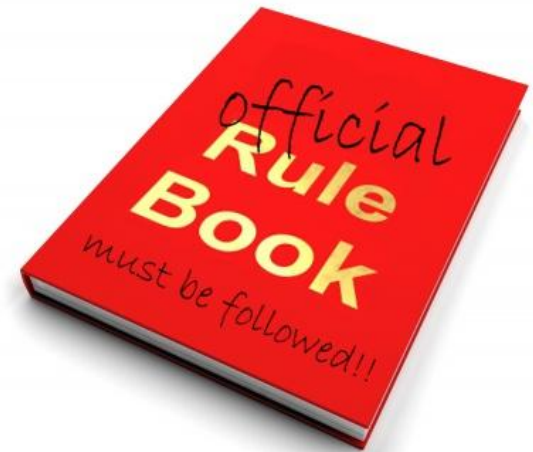
Step 1: Document

- Document the complaint
- Investigate & preserve any evidence:
 - Barking outside unit?
 - Stains on the carpet in the hallway?
 - Smells?
 - DNA testing?
- Keep everything in writing



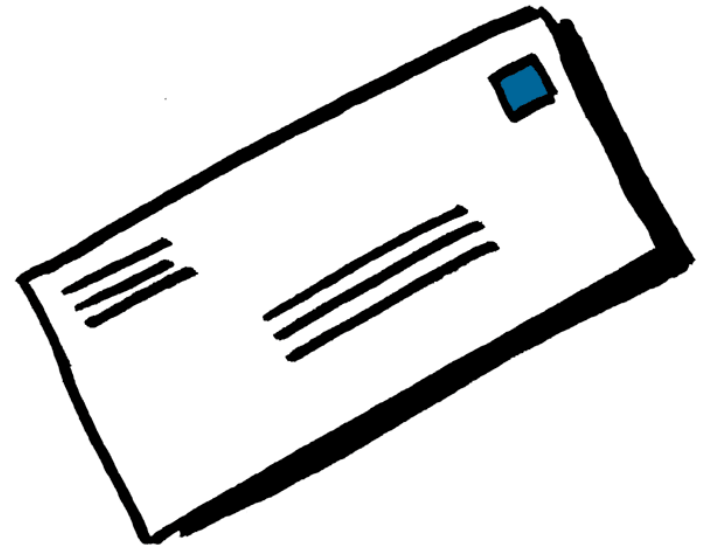
Step 2: Write Letter

- Property management to send owner a letter referencing the violated rule/Declaration
 - Critical to reference specific rule/section in Declaration that has been violated
- Complainant should be referenced, without specific reference to unit #
- Key point: rule is breached, regardless of whether a complaint is received



Step 3: Second Letter

- If owner ignores first letter, property management should send final demand
- 2 letters before counsel becomes involved, unless urgent safety issue
- State that Condo Company's lawyers will get involved, and costs can be charged back to owner



Step 4: Outside Counsel

- If owner ignores second letter, refer matter to outside counsel
- Counsel will send demand letter requiring compliance within set period of time
- Legal fees: Indemnification under the Declaration
 - The biggest deterrent for owners



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Door # 1: Unit Owner Meeting

- Try to reach settlement without mediator
- Lawyers may be present
- Costs need to be addressed



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Door # 2: Mediation

- Condominium Act Section 132
- Try to reach settlement
- Possible outcomes:
 - Owner must get rid of dog
 - Owner can keep dog
 - Owner can keep dog for X months until alternate arrangements can be made
- What happens with costs?



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Door # 3: Arbitration

- Condominium Act Section 132
- If no success at mediation, proceed to binding arbitration
- Arbitrator can make final decision
- Costs can be high – settlement needs to be reached if at all possible

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Door # 4: Court

- If Act breached, may apply directly to court
- Breach of Section 117:
 - Is the dog likely to cause injury?
 - Is the dog likely to damage the property?
- If so, may be able to go to court due to severity of issue
- Condominium Act Section 134(5): Court may order costs



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Door # 5: Human Rights Tribunal

- Complication: Owner claims to require the dog for medical reasons
- Does the owner have a disability within the meaning of the Code?
 - May request objective medical information
 - Owner must have diagnosis of recognized disability
 - “Stress” is not a disability recognized under the Code
- Duty to accommodate if dog is truly required for medical reasons, up to point of undue hardship

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Door # 5 (Cont'd)

- These issues are not always black and white
 - Eg. What if owner develops anxiety as a result of removing the dog? Dog wasn't allowed in the first place!
- Note: Human rights issues may also be introduced as part of Court application

Questions?



THANK YOU FOR ATTENDING TODAY'S SEMINAR

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