

Condo Smarts

Headline: Petitions & Deficits

Topic: Petitions

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Written by: Tony Gioventu

Dear Condo Smarts: Our strata council has just sent notice to owners advising that our strata is almost 25% over budget in our expenses. Council refuses to tell the owners the cause of the deficit and we are only half way through the year. A group of owners got together on December 15th to talk about the solution and decided to submit a petition to the council demanding a special general meeting be convened to remove the council and elect a new council and 26 out of 97 units signed the petition. Council have claimed that 5 of the people who signed the petition were not owners and were therefore not eligible to sign the petition so our petition was denied. We have just received a notice of a special general meeting that does not include our petition requests, and has 1 item for a special levy of \$100,000 to pay for the projected budget shortfall relating to the settlement of a lawsuit. None of the owners know anything about a lawsuit. We have two questions. Does council have the right to deny the petition? How can the owners approve the special levy if the council refuses to tell us what caused the deficit? Marni K. Kelowna

Dear Marni: If the strata council does not hold the special general meeting within 4 weeks after receiving the petition, the petitioners may themselves hold the special general meeting. Prior to December 10, 2009 all petitions did require the signatures of 25% of the strata corporation's votes. As of December 10th, petitions demanding special general meetings or items be placed on a general meeting agenda, have been reduced to 20% of the strata corporation's votes. That may also include tenants who have been assigned an owners' voting rights under

the Act. Even in your case with 5 signatures declined, the petition is still valid as it reaches the 20% requirement. One part of the Act relating to petitions did not change. If less than 50% of a strata corporation's votes pass a 3/4 vote for items like bylaw amendments, or special levies, then the owners may petition demanding a special general meeting to reconsider the vote. That petition thresh hold is still 25%. You are absolutely correct regarding the deficit issues. The strata corporation must include the purpose of the levy in the resolution that was sent with the notice. The owners are entitled to full disclosure of the transactions and balances in the operating fund, the reserve fund and any special levy funds. Allocation of funds from the operating account for emergencies or insurance deductibles may create a significant deficit situation; however, the reserve funds may also be accessed in those circumstances. A court action and settlement are not an emergency and generally provide more than enough time for the strata corporation to hold a special general meeting to approve the settlement, the amount and the method of payment. All by 3/4 vote. The strata corporation must inform the owners as soon as feasible if it is sued and the strata council does not have the authority to impose a special levy for a settlement without their consent. There are some serious questions that need to be raised with your strata council. Your owners need a lawyer representing the strata corporation to provide you with legal advice on the legal proceedings to date, and the terms and conditions of a settlement, before you vote on it.

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