

Condo Smarts

Headline: Negotiating Management Contacts

Topic: Management

Publication / Date: The Province, June 23, 2016

Written by: Tony Gioventu

ppDear Tony: Our 200 unit strata is searching for a new management company and one of our requests was for the companies to provide us with a proposed contract for services and fees. In every proposal except one, the companies have provided the Strata Property Agents of BC contract. The contract has a number of terms and conditions which our strata council is not prepared to accept, but the companies are telling us this contract cannot be changed because it is a standard industry contract. If we are not permitted to negotiate the contract, then how do we get to services and conditions that are fair for our strata corporation as well as the management company?

Carter J. Vancouver

Dear Carter: To being with, there is no such thing as a standard industry contract for strata management agreements in BC. A contract was created for the strata agents of BC, and while that contract may have some copyright value, nothing prohibits amendments being attached to the contract when a strata corporation is negotiating a new contract, or renegotiating an existing contract. It is important for both the strata corporation and the management agent to negotiate terms and conditions that are in the interest of both parties. For strata corporations with existing strata management agreements, every time your company wants to renegotiate a term or fee in the contract it also provides you with an opportunity to reopen negotiations on terms and conditions of the contract. Everything in the contract is open to negotiation, unless Real Estate or Strata Legislation requires a specific condition. The whole basis of contracts is an exchange of services and products and money. What will you give us? What service will you provide? What terms and conditions apply to this contract? All in exchange for how much you will pay, and what authority you are delegating in the contract. The termination and assignment of

contract clauses are often them most contentious. The *Strata Property Act* sets the default, or worse condition scenario to terminate a strata management agreement requiring the strata to pass a 3 / 4 vote at a general meeting and 60 days' notice. The strata corporation may negotiate whatever they feel is prudent. It could be a majority vote of owners at a general meeting, or a unanimous vote of council, circumstances that result in termination, or any other condition, provided both parties agree. In the event a company sells, they also sell their book of business to the next company. Assignment of contracts clauses are also disputed and they are not a standard form. It is your decisions to determine whether your business can be transferred to another company or whether the contract terminates at point of sale. Every strata corporation has the right to negotiate whatever they believe is in the best of their strata, which is their principle duty to the owners.

The best and often only time for negotiations is before you sign. Remember your council are volunteers, they are not experienced contract negotiators. Retain an independent lawyer with experience in strata management agreements to help your strata understand and negotiate your contracts. No one complains when you do this right, everyone complains when something goes wrong.