

Condo Smarts

Headline: Hiring a strata management company

Topic: Management

Publication / Date: The Province, Sept 7, 2016

Written by: Tony Gioventu

Dear Tony: Our strata council is in the process of interviewing for a new management company. Our previous company constantly changed our manager and council did all of the work we had contracted for. In the last 3 months, no one has come to our council meetings or provided us with any assistance, so we convened a special general meeting and terminated the contract. Are there basic pitfalls we should watch out for when negotiating a new contract?

Martin K. Coquitlam

Dear Martin: When you engage strata management the company you retain and their staff are your agents. Meaning, they do what you instruct, what you contract for and act as you whenever they are doing your business. Your strata must be clear on roles and responsibilities within the scope of the contract and the services being provided if you are expecting a successful relationship. Confirm that everything a company claims they will do for you is detailed in the written service contract. Clearly define the performance description of the manager, when the duties are performed, and how they are reported to the strata council. My contract mantra : " if it isn't in writing, it likely isn't true or going to happen".

A number of strata management companies demand compensation or user fees from the contractors/service providers which are often not disclosed to a strata, and many councils are unaware that they have signed a consent of some sort permitting other fees or compensation from third parties. The complication with this relationship is establishing who your manager is acting for. You, the contractor/service provider or their own interests. Under an agency agreement, they have a duty to act in your best interest. That's why you hire them. There are two options to solve this problem. Insert a clause in the contract that a) prohibits any fees, compensation or commissions from any third party, or b) as required by the Real Estate Services Act, any fees, compensation or commissions are disclosed to the strata

corporation, and your consent to retain the fee is required.

A legal review of strata management contracts *before you sign* is always advised. The company holds your trust funds, acts as your agent and business manager, advisor, record keeper, and represents your strata through most business transactions. Negotiate a fair contract that holds both the company and the strata to a mutual level of accountability. Usually, for under \$2,000 you can have a legal review of your contract and save yourself many heartaches. Put this into perspective, what is it worth to protect your 150 unit high rise with an asset value of \$45 million dollars and a million dollar budget?

When things go wrong, make sure you can end the agreement fairly. While the *Act* defaults to a $\frac{3}{4}$ vote, you can negotiate termination by majority vote, or unanimous vote of council. If your strata can hire a company by majority vote, then why can't you terminate them by majority vote? It is a reasonable expectation that the owners at a general meeting would be competent to make this type of decision. This is a contract and may be negotiated. There is no such thing as a standard form of contract or contract that cannot be negotiated. Finally, review the schedule of fees closely and ask questions. Are there additional costs for extra services? How are they authorized? Do you pay additional fees to manage major projects or collect special levies? Have you authorized the company to transfer your assets and services to another company in the event they sell? How are decisions made that affect investments and trust funds? Many strata corporations have successful management relationships that span over 20 years. A fair contractual relationship is essential.