
Condo Smarts

Headline: Authority to Contract

Topic: Management

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Written by: Tony Gioventu

Dear Tony: Our strata council is having a power struggle with our strata manager. We have had the same manager for 6 years and have been pleased with her service, but we have discovered a number of contracts that the manager has signed where the terms and conditions of the contracts were different than what we approved. The council approved elevator service contracts and waste removal contracts at fixed prices for no longer than 3 years. Our strata decided to change waste removal contractors and find we are locked into a 7 year contract and we are spending money on legal advice to terminate the agreement. The manager told us it is normal for them to sign contracts on behalf of their clients, but if we don't sign and approve our own contracts, how can we guarantee we are getting what we approve?

Ryan A. Surrey

Dear Ryan: The strata manager/management company are the agents of the strata corporation. In an agency agreement, the manager/management company has the authority to act on behalf of the strata corporation under the terms of the agency agreement which is your written contract, and the instructions that are given to the strata manager by the strata council. There is no such condition as "normal" in relationship to the strata manager signing contracts. That varies in every strata management agreement. The instructions that your council give should constitute decisions that are recorded in your strata council meeting minutes in the same manner as any other decision of council. While a single council member, such as the president, may give directions to the manager, even those decisions are often not what the strata council had agreed to.

The best solution is for your strata council to review all decisions, ratify them by majority vote at a council

meeting, and record the decisions and the instructions in the minutes. Your strata council may also instruct your manager that all agreements and contracts must be reviewed and signed by the strata council. It is very easy to overlook a change in a contract, and depending on the nature of the contract, a small amount of funds spent on legal advice before the contract is signed is in your strata corporation's best interest.

If your strata corporation has given an instruction to the strata manager, and they have acted contrary to that instruction, it is a possible breach of their agency agreement and of the *Real Estate Services Act*, plus the Regulations and Rules of the Real Estate Council. Your strata council should start with a discussion with the strata manager and the broker of the company and if you have not reached a satisfactory solution contact the Real Estate Council of BC to file a complaint. For more information go to www.recbc.ca.