

Condo Smarts

Headline: Insurance deductible special levy

Topic: Insurance

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Dear Tony: I was dismayed to open my mail yesterday to discover our strata council has issued a notice of special levy to pay for a \$100,000 insurance deductible for damages caused as a result of a flooded roof top area and backup that occurred during one of our spring storms. There were damages to 11 strata lots in addition to common areas and one elevator. Our strata corporation is a combination of townhouses and apartments, and the apartment units operate as a separate section where the damages occurred, so we don't understand why the townhouse owners are having to pay for their damages and why the owners are not being given an option to pay for the deductible from their contingency reserve funds as opposed to a special levy as we have sufficient funds to cover the cost. Our insurance renews end of August, so this is likely going to have an impact on costs and raise our strata fees once again, in addition to the added levy.

Pamela K. Fraser Valley

Dear Pamela: When a strata corporation creates sections, it creates separate legal entities that are responsible for maintenance, repairs, operating and use of those areas that are exclusive to that section. A section can basically do anything the strata corporation can do but it does not eliminate or dissolve the obligations of the strata corporation. Sections could be a division between different types of housing, or a division between different uses such as commercial and residential.

To guarantee all owners are protected, the corporation is still required to maintain insurance on the common property, common assets, the buildings shown on the strata plan, and all original fixtures constructed by the owner developer, plus all the perils and coverage as required by the *Strata Property Act*.

The creation of sections does not change this obligation or divide the liability for claims between sections.

When a claim arises, if the amount is above the deductible, the claim is processed through the strata corporation policy and the deductible is a common expense of the strata corporation. The deductible may be paid in a variety of options; through the operating account or the contingency reserve fund of the corporation if there are sufficient funds available, or the strata corporation may special levy all owners, based on the unit entitlement of all units for common expenses of the strata corporation.

The strata corporation does not require a $\frac{3}{4}$ vote at a general meeting for this type of special levy. The levy must identify the amount, the purpose of the levy, which is a common expense insurance deductible, the due date(s) of payment either in one lump sum or over several payments and show how the levy was calculated. There are benefits to applying a levy for a common expense deductible for both the strata corporation and the owners. The strata corporation will not deplete its much needed cash reserves from either the operating or contingency funds and if owners have purchased appropriate home owner insurance, the owners may be eligible to have their home owner policy cover the deductible claim in exchange for a lower home owner deductible.

Because your townhouses are larger, you are paying a higher unit entitlement with your share of the levy being \$1,850. Your homeowner policy does cover this claim and your deductible will be \$300. It is your choice to either pay the deductible or file a claim on your homeowner policy, which may have an impact on your homeowner policy in future years.

The increase in deductibles is having a dramatic effect for strata corporations. It is either resulting in scenarios such as yours where owners will more commonly be faced with shares of deductible costs, or the amount of the claim will not exceed a deductible amount and each owner who has experienced damages, along with the strata corporation for common property repairs, will be faced with managing the restoration and repair costs to their own units whether they have home owner insurance or not.

This is a serious wake up call for strata lot owners. If you operate without insurance coverage for your personal contents, betterments in your strata lot, the cost of deductible claims, or the general restoration of your strata lot, you could be facing serious financial hardship. If this claim had been the responsibility of an owner, their occupants or tenants, an owner could easily discover they are liable for the entire cost of the \$100,000 deductible. With the increasing rise in strata corporation deductibles up to \$250,000 and \$500,000, I advise all strata property owners to obtain a copy of their strata policy renewal documents and speak with an insurance broker about your best options for coverage.