
Condo Smarts

Headline: Special levy for insurance

Topic: Insurance

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Written by: Tony Gioventu

Dear Tony: Our strata high rise was one of many hard hit by the insurance increases last year. Our deductible increased to \$100,000 for water escape. Unfortunately, we had a unit that involved a claim resulting from a tragic incident with an owner who passed away. We did not have sufficient funds in our contingency in the event of an emergency, so we had to resort to a special general meeting and approving a special levy to all owners. Our strata council has reached an agreement with the family to pay for the deductible when the unit is sold this year, but in the duration every owner was required to pay their share of the levy. This did raise a question that no one seems to have an answer. If the unit sells and the \$100,000 is paid back to the corporation, what happens to that money? Because we were all levied, and the levy account would be totally restored does this mean the levy is refunded to each owner?

Darren K. Penticton

Dear Darren: How special levies are managed, the purpose of the levy, and in this case, what happens to the proceeds in the event the funds are recovered, are all conditions that should have been written into the language of the levy. This is the one exception of the *Strata Property Act* that does not require a special general meeting or the approval of a 3/4 vote.

The strata council may issue the special levy, but the levy must still comply with the requirements of the Act which includes the following:

- (a) the purpose of the levy;
- (b) the total amount of the levy
- (c) the method used to determine each strata lot's share of the levy
- (d) the amount of each strata lot's share of the levy
- (e) the date by which the levy is to be paid or, if the levy is payable in instalments, the dates by which the instalments are to be paid.

This will require the strata council to establish the wording of the resolution for the levy. The resolution is voted on by a majority vote of council, at a council meeting, and recording in the council meeting minutes. For insurance deductible levies, I strongly recommend the strata council consult with their lawyer to ensure all required provisions are met. It will make this process much easier if the language includes the management or refund of the levy if the deductible is recovered at a later date, and clarify as to who the money is refunded to and on receipt of the funds, when the refunds will be issued.

An insurance deductible resulting from a claim on the strata corporation policy is a common expense. While an owner's insurance may cover the deductible and pay that amount directly to the strata insurance provider, there are frequent delays or refusals to authorize or pay a deductible until the strata corporation seeks an order through the courts or the CRT. To proceed with the claim and the repairs, the strata corporation is required to pay the deductible and in return may issue a special levy to avoid depleting the reserve funds or if they do not have sufficient funds. The reason the Act does not require a 3/4 vote is the insurance deductible is not optional. What would have occurred if your owners had simply not voted in favour of the special levy? Delays, legal consultation and likely another meeting to follow would have extended the claim and increased costs for everyone. Most strata corporations have a legal service package as part of their insurance policies. This is a valuable time to take advantage of those services before you decide how to pay for, recover and refund deductibles.