
Strata Living

Headline: A special levy surplus

Topics: Special Levies

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Dear Tony: If there is a refund of \$2000+ to the strata corporation from a special levy, is the strata council permitted to put the amount into the contingency fund or do they have to return it to the owners? What would happen if the owners approved a 3/4 vote at a general meeting to authorize the excess funds be deposited into the contingency fund? What happens if the resolution that was approved for the special levy authorized any excess amount be deposited to the contingency fund?

Rick Eyberson, Cloverdale

Dear Rick: The *Strata Property Act* sets out very clear instructions for a surplus that remains from a special levy. The total amount does not determine whether a refund is required. The refund is defined by the unit share of each owner. If any owner, based on the same schedule of unit entitlement that was used to approve the special levy, is entitled to receive \$100 or more, the strata corporation must refund the surplus to all owners. The *Act* does not permit variations to the surplus, and a 3/4 vote cannot override the *Act*. In addition to the owners who contributed to the special levy, there may be some owners who are waiting for their refund before they consider selling their strata lot, which may impact time periods of sales. If a refund is made after an owner has sold their unit, the refund is paid to the owner, which is the person registered on title at the time of the refund. If a seller and buyer have made special arrangements regarding special levy refunds, those terms and conditions are between the buyer and seller and not the strata corporation. If your strata has received notice of such an agreement, do not release the funds to anyone other than the registered owner unless the registered owner has consented in writing. Even in recent major construction, with close management and bidding on projects, there are frequent refunds that exceed 5-10 thousand per unit, so

the correct management of the special levy and the proper refund to the owners is essential.

I have also recently noticed strata corporations who have experienced a surplus in their operating accounts refunding the amount back to the owners. No such refund is permitted. If there is a surplus the strata corporation by majority vote may choose to retain the surplus in operating, carry it over to next year's strata budget to offset revenue or increases, deposit it in the contingency fund, or by 3/4 vote approve the expense on specific project.