
Strata Living

Headline: Who pays the damages?

Topics: Bylaws; fines, Insurance

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Written by: Tony Gioventu

Dear Tony: A council member had a barbeque over heat last summer and caused \$650 of damage to the siding of our townhouses. At the time the strata corporation immediately had it repaired to prevent any damage to our walls. Everyone in the strata assumed the amount was paid by the owner of the barbeque, but as it turned out there was never any attempt to collect the funds. Nothing showed in the minutes of the council meetings and there were no revenues at the end of the year other than the strata fees, and no receivable shown on the balance sheet. The new strata council had a similar situation this past week with a cracked plexi-glass panel from a barbeque too close, and we had the glass replaced immediately for safety reasons and notified the owner of their responsibility to pay for the damages as a result of their carelessness. The owner has responded back to us challenging why he has to pay for this repair when the council member did not have to pay for last year's damages. Can we go back and charge the previous owner for the damages or do we have to waive this fee as well or do we start from here and move forward?

Kate J. North Vancouver

Dear Kate: It is only reasonable for an owner to be responsible for either an insurance deductible or amounts below an insurance deductible when damages are caused to the common property and common assets of the strata corporation. If there was no cost, why would anyone care about their actions?

Administering bylaws and addressing matters such as insurance deductibles is often challenging for strata corporations when there is a history of unfair or inconsistent application or enforcement. Rather than waive the debt, most strata councils simply don't raise the issue and the matter is often forgotten.

This is one of the principle reasons for strata councils to develop itemized meeting agendas with action items that form the minutes. The agenda and minutes provide a record of what was done, a financial record of what funds are owed, why they are owed and the reason they are owed.

The hardest part of the job for a new council is trying to understand what decisions the previous council made. It may still be possible to collect the amount from both the previous council member and the current owner. Start by reviewing the previous year's minutes. One item to look for is whether the council member who caused the original damages was a part of the discussions or any decisions relating to the damages. Council members must recuse themselves from portions of council meetings that relate to bylaw enforcement or matters where they have an interest in the outcome of the decision.