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## Strata Living

Headline: When is special levy money refunded?

Topics: Special Levies

Publication / Date: 24 Hours, July 20, 2017

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**Dear Tony:** Our strata corporation replaced our roofing in 2016. In addition to the \$300,000 in contingency funds that were authorized, the owners also authorized a special levy of \$200,000 with the understanding that if any funds were left over they would be returned to the owners. When the project ended, we had \$80,000 remaining, but the strata council deposited the money back into the contingency fund. Owners are now petitioning for a special general meeting to pass a motion to return the funds back to the strata lot owners. We cannot find any clear instruction on how the mix of funds is used or applied. Is there a typical solution that most condos use?

*Barry P. Coquitlam*

**Dear Barry:** When a strata corporation approves the use of both contingency funds and a special levy, the resolutions the owners vote on will determine what funds are applied first. This is a key step in determining how surplus funds are returned. If the resolution approves the special levy funds to be used first and any amount up to the \$300,000 is authorized to be spent from the contingency fund, the solution is simple. The special levy is collected, applied first to the expenses and then an amount up to \$300,000 is spent from the contingency fund. Any amount unspent simply remains in the contingency fund. If the contingency funds are spent first, the balance is used from the special levy and any surplus is returned to the owners. Unless the resolutions have defined how the funds are applied and in what order, the strata corporation may be required to convene a special general meeting to correct the omission.

Another common problem that we often find linked to this issue is the contingency money and the special levy funds are drawn and placed into the operating budget as revenue with an expense item. They are not part of the annual operating budget and should never be shown in the financial statement of the operating fund. The *Strata Property Act* and Regulations specifically require that they be accounted for separately. This prevents mingling of accounts and ensures accurate reporting of the expenditures. The operating fund is for annual reporting on a budget approved by the owners. Special levies and contingency expenses can easily take 1-5 years to complete. This is why the annual financial report requires a statement of detailed balances, revenues and expenditures for contingency funds and special levy funds.