
Strata Living

Headline: User Fees

Topics: Keys, User Fees

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Written by: Tony Gioventu

Dear Tony: After years of expenses from changing locks our strata council have finally upgraded our entry system in our building to FOBS. The access will be monitored, each one can be changed as needed and we are hoping this will save us a few thousand dollars a year. Several owners and tenants in our strata are refusing to pay for the FOBS that now replace common area keys. The council set a cost at \$100 per FOB to help us pay for the change and hopefully deter people from being so careless, but people are claiming hardship for the cost. Council have voted to refuse access to the building until owners pay the cost. Two council members are opposed to the cost and have now resigned. What other options do we have?

Karen W. Langley

Dear Karen: I agree that FOBS provide a higher level of security and control over access; however, your strata corporation has made a significant change to the use of common property, spent over \$10,000 from your contingency reserve fund and imposed a user fee on the owners without the authority or consent of the strata corporation. A strata corporation requires the owners to approve a resolution by three quarters vote for contingency expenses that are not an emergency, a work order, an insurance deductible or planned contingency expense. Your FOB project does not fall within any of these categories.

You are also required to seek the approval of the owners before you make any significant change in the use or appearance of common property. Changing the method of access to your building, parking garage,

storage lockers and games rooms is a significant change in use of common property.

While user fees may be imposed, a user fee cannot be charged until the user fee amount is approved in a rule and ratified by the owners at a general meeting or approved in a bylaw. Council does not have the authority to impose user fees. They can only be collected when they are approved. The cost for items such as FOBS should be reasonable to recover cost and not profit driven. Denying access to a building because someone has not paid a user fee not authorized by the strata corporation is not what was intended by the *Strata Property Act*. The *Act* permits a strata corporation to deny access to a recreational facility if that person has contravened the bylaws or rules relating to that facility.

If your strata corporation is planning on monitoring the FOB access, you will be required to also adopt a privacy bylaw that permits surveillance and how the information is managed.