

Condominium Home Owners Association

A non-profit association serving strata owners since 1976

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Condo Smarts

Headline: Strata need clear rules on spending

Topic: Refunds

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Many major projects are coming to a close at this time of year and whether it's the end of a contract, settlement from a legal dispute or rebate the strata corporation could receive a substantial amount of money.

A North Vancouver strata council in a 28-unit building received a settlement of \$55,000 from a claim filed last year. After major construction the common areas were in serious need of replacement and the strata chose to use the money to replace interior carpets and repaint hallways. While 50 per cent of the owners were pleased with the decision, the remaining owners were upset, believing the council did not have the authority to make this decision. The work is complete and the strata corporation has no choice but to pay the cost of repairs, even though the council did not have the authority to proceed.

Strata Law: The Act sets out specific legislation for refunds or settlements. If there is a refund for a special assessment that has been levied during the year, and an owner is owed \$100 or more, then the refunds must be returned to the strata owners based on the same formula the assessments were levied. This also applies if the amount received is a settlement. The exception is if the owners, by a three-quarter resolution, allocate the funds for another purpose. One problem with having a three-quarter vote is the

existence of other legislation such as the like the Homeowner Protection Act, which requires owners use refunds or settlements to pay interest free loans before spending the monies on anything else. As a result, the strata may not be eligible to reallocate funds

Tips: When writing resolutions to approve special assessments or for actions, the strata corporation should take some care to consider the future impacts of the decision. A consideration for refunds or additional costs should be contemplated. The writing of three-quarter resolutions for significant levies, major repairs or court actions is extremely technical. Our office frequently recommends that strata corporations engage legal advice to have the resolutions reviewed before they are considered by the owners.

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