

# Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-346

## Condo Smarts

Headline: Construction Insurance

Topic: Insurance

Publication date: September 6, 2009

Publication: The Province

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**Dear Condo Smarts:** A year ago, our strata council engaged a contractor to remove the landscaping and waterproof our parking deck and replant our grounds. The project is still not complete, the costs have over run by 30% and we're now being asked to pay another special levy, that none of us can afford. The whole point of seeking bids from different contractors was to find a reliable company for the project and to guarantee this mess wouldn't happen. Now we're left with plummeting property values because of the mess and the over runs, and the contractor won't continue unless we pay them another \$200,000 advance. One of the reasons that we chose this company because they advertised that they were fully insured and fully bonded. That seems to have been totally for nothing. Council refuses to ask for any help solving the mess. As owners we understand, they are faced with a disaster they feel like they created, but we all made this decision at a general meeting. How do we get out of this disaster? Marilyn K. Burnaby

**Dear Marilyn:** You have two issues going on here. Construction procedures and bonding/insurance. The first task is to get a competent construction manager to sort out the construction mess and at the same time have your lawyer review the contracts to find out if the contractor is meeting their agreed terms and conditions. The sooner your council understands the scope of the work and the terms of the contract, the sooner you can put an end to the nightmare. Just having contractors bid on a contract is not sufficient to protect your interests as a consumer, unless you have a qualified third party write the specifications for the scope of work. Make sure the terms and conditions of the contracting process and the subsequent contract format are part of the bidding process. If you receive proposals or bids on a project, and then try to negotiate the format of a contract afterwards, you as the consumer may likely lose the advantage to negotiate what you get, the

terms of the contract, what you're paying for, and the performance requirements. I have yet to see the down side of sound, tendered specifications or well negotiated construction management contracts. Don't be intimidated by a contractor who claims that a tendering process simply increases the costs and holds up the project. From what I have researched, that seems to be how your strata got into this mess. When you publish competent specifications along with the contractual expectations, you will achieve a good level of security in the outcome of the project and what you end up paying. Now for bonding and insurance. No one knows for sure what the terms "fully bonded and fully insured" imply. There are many types of bonds. Construction bonds are basically insurance policies to protect you or the contractor in the bidding and performance of a contract. All bonds have specific terms and conditions that must be in writing and should be reviewed as part of your contract process by your lawyer, before you issues tenders or sign the contracts. Fidelity/employee bonds are often for employees or staff where there may be an issue around theft of money or products. Once again, if the contractor claims they are fully bonded, get a copy of the bond to verify what it implies, the validity of the bond, and who it protects. The same conditions apply to the term "fully insured." Obtain copies of the insurance policy if the implication is that you as the consumer will be protected by the insurance, and find out if the insurance is valid, who it covers, what the limitations are, what the exclusions are, and how you file a claim in the event you have to access the insurance. Any legitimate consultant/contractor will gladly provide verification of their insurance and bonding as part of the contractual process. This is just a thumbnail summary of a very complex part of the industry, so remember - get everything in writing. Verify accuracy and validity and seek legal advice before you start the process. Whether your project is \$25,000 or 2.5 million do it right. There is no protection in 20/20 hindsight.

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