

Condo Smarts

Headline: Conflict of Interest

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Written by: Tony Gioventu

Dear Condo Smarts: Our strata had a typical flood before the holidays where an overloaded washing machine went manic and soaked out three units in our building. The council were contacted, they made arrangements for restoration and we had fans in hallways and holes cut in the walls for dryers. The owners were impressed that it happened so quick. As for the owner with the manic washing machine, she just received a bill for the deductible amount of \$5,000. She was about to pay it, but noticed the bill was not from the insurance company so called the insurer to see the insurance invoice. Council refused to file the claim and we've now found out the council hired themselves to do the restoration work and bill it back to the owner. There was no adjuster involved, and no report on the scope of the work that was done, or if even all the restoration was complete. One owner is still left with a wet stained ceiling and no one coming to her aid. Is it a conflict of interest when council members pay themselves? Liz W, Richmond

Dear Liz: Conflict of interest is a common bone of contention in strata corporations when the council execute decisions that result in personal benefits without the consent of the strata owners or exempting the benefited strata council member. According to the Strata Property Act: *a council member who has a direct or indirect interest in a contract or transaction with the strata or decision that is a subject being addressed by the strata where the result in the creation of a duty or interest that materially conflicts with that council member's duty or interest as a council member, must 1) disclose fully and promptly to the council the nature and extent of the interest 2) abstain from voting on the transaction or matter, and 3) leave the council meeting with the contract, transaction or matter is discussed and while the*

remaining council votes on the contract, transaction or matter. It can all be a bit overwhelming for owners, but here are the fundamental basics. Strata council must act in the best interest of the strata corporation, they cannot be compensated for their duties as council members, without the approval of the corporation either, in the budget, in the bylaws or by approved 3/4 vote at a general meeting, and, a council member cannot vote on the awarding of a contract, transaction, or matter where they have some sort of direct or indirect personal or beneficial gain. Strata council can determine who they contract with, and that could include a council member, but are they qualified? Would it be a prudent decision to contract with a council member who may not be qualified, covered by WCB, insured or even competent to perform the work? Were the repairs and restoration completed properly? Were there any environmental or health restoration requirements such as grey water or a sewage backup? Was any restoration contemplated to prevent future mould? In addition, the owner affected by the alleged deductible claim, likely also now has a problem with their own insurance company's willingness to cover the deductible claim, as it is not a deductible but an invoice from the strata corporation of a related repair. Council members who try to cut corners on the cost of claims or who attempt to compensate each other for any of the strata council duties, without the strata approval are just opening the door for conflicts. Even if a claim was not processed, it is likely once the insurance company was contacted, that the damages and loss reported form part of the strata claims history and will result and higher future policy costs and deductible rates.

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