

Condo Smarts

Headline: Approving an Increase in Contract Services
Topic: Contracts
Publication date: June 27, 2011
Publication: The Province
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Dear Condo Smarts: We are at a logger heads with our property manager, and frankly the only place we can see this ending up is the termination of our agreement. It all started with the notice of the AGM going out without the approval or direction of council, and the proposed budget included a 5% increase in management fees for 2011. Council decided that as we could amend the budget at the meeting and there were no other issues on the agenda of concern, we would let it go. Our AGM went without a hitch and the owners decided to approve the budget that was sent with the notice. Without informing council, our manager has paid themselves the increase retroactive to January 1 this year, and did not inform us of the change. Our treasurer discovered the increase when we finally received our financial statements, three months late. The property manager insisted that once the budget was approved, their fee increase was automatically increased back to January 1st because that's when their contract renews each year. By the way, our fiscal year begins on June 1st. Does the manager have the authority to call a general meeting without the approval of council and who controls our budget? If the manager has this authority, what's the point of strata council? JL, North Vancouver

Dear JL: The obligations and authority of convening council meetings and general meetings rest with the strata council. Unless your bylaws differ, the strata council meets prior to the AGM each year and they determine by majority vote the proposed budget, agenda resolutions that may relate to bylaw amendments, special levies or other types of decisions of the strata. The owners of the strata may also issue a petition to demand a special general meeting or to place a specific resolution or agenda item on the agenda. The conditions of service and the authority that is delegated to a strata manager are set out in the written contract that is agreed upon between the

strata management brokerage and the strata corporation. The strata council are the representatives of the strata corporation, and even though the annual budget may have authorized council to negotiate or approve and increase, that increase is only in effect once the strata council have met, decided upon the increase, and negotiated that increase in the written service agreement with the manager. The strata corporation may have already negotiated a contract that has a specific schedule of fees and set out dates for specific increases and those would be triggered by the manner set out in the contract; however, unless the contract has set out these provisions, no increase exists until the strata corporation (council) have agreed to an increase and the renegotiation of the contract. When any supplier comes to your council and wants to renegotiate the terms of a contract or the fees, they are opening up the contract entirely to renegotiation. So that may also be an opportunity to renegotiate other services or conditions of the contract, in exchange for agreeing to a rate change on services. There is no industry approved or standard contract for strata management services. Each contract has significant variances that can greatly impact your costs and the comparative services you receive. I am always asked for a top five list of the best companies for management, but that is an impossible answer. Even with a top rated company with excellent consumer response it is still possible to have a management disaster. The backbone of your relationship is established through the terms and conditions of your written service agreement. You will get what you pay for, but don't pay for commissions where no service is rendered. Before you sign, confirm the services that are promised are itemized in the contract, have a legal review of the contract, and make sure that all related fees are clearly itemized.

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