Condominium Home Owners' Association
Serving BC's Strata Property Owners since 1976
Bulletin: 300-480

Condo Smarts
Headline: Strata Owners Vote Themselves into Difficulty
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Dear Condo Smarts: Our 37 unit townhouse development has discovered a problem with the new regs on depreciation reports. We were told at a seminar that we could only pay for our report from our contingency reserve fund, so we put a resolution on the agenda for last week's agm, for the expense, which we are estimating at $4,500. At the meeting, 60% of the owners voted in favour of the resolution however the balance of the voters were opposed, defeating our resolution. The next resolution was a three-quarter vote to exempt our strata from the required depreciation report but 40% voted in favour and 60% opposed, so that was defeated. This all occurred after our budget was approved. So we now have to wait for next year's budget and try that option which we understand is not permitted anyhow. Either way we're in trouble. Is there some solution?

Suzanne F

Dear Suzanne: The regulations requiring depreciation reports do not define where the funds for the report will come from. That is determined by the strata corporation's financial practices and the Strata Property Act definitions for operating and contingency reserve funding (CRF) and use. The operating budget, is used for those expenses that occur once a year or more frequently. The strata corporation determines the definitions of the expenses in their budget, and the annual budget may include items such as general maintenance, general expenses or consulting. If you do include items that cover a broad scope of expenses, it is important to include a definition to determine what those items include. For example, general maintenance may include items that relate to: fence repairs, locks and security, painting touch ups, carpet repairs, common area repairs. Likewise, consulting could define a scope of services to include items such as legal, engineering, appraisals, depreciation reports and their administration. The important factor to remember is that they must occur once a year or more frequently. If the strata corporation develops it's budget to contain the ongoing consulting services they also need to be budgeted accordingly. If your strata corporation has experienced a failed three-quarters vote for a CRF expense, or has not included this as an ongoing expense, then I would recommend you obtain some legal advice on converting this to an operating expense. Essentially the defeated three-quarters vote is a no vote for funding, so there may be other implications to consider. The exemption option along with a three-quarters vote expense from the CRF has created a bit of a legislative trap for strata corporations because the threshold is so high, potentially creating a no win cycle for some strata corporations like yours. The provincial government and policy staff have done an excellent job creating the new regulations in a way that provided a level playing field for all strata corporations as they relate to reports, funding options and exemptions, but perhaps a tweak of the regulations to define this ongoing report as an acceptable operating expense would simplify the process. The exemption requirement is a unique provision to BC, and by virtue of failed funding through a CRF expense is somewhat similar to a negative billing. Your owners did not vote in favour of an exemption, but the strata corporation is going to have difficulties, if by December 13, 2013, they have neither exempted or complied with the legislation.