

Condo Smarts

Headline: Who Makes the Decisions?
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Dear Tony: How much authority do we give our managers when we hire a strata management company? Our strata had its annual meeting in January, when we approved our annual budget for 2014. We have normally had the pleasure of a small operating surplus, which we transfer to our contingency fund. This year, we had a \$21,500 deficit due to additional expenses, which we have to pay back in next year's budget, causing a greater increase in strata fees in addition to our planned increases for operating. One of our owners at the meeting wanted to know the reason for the deficit. The manager explained there was an emergency repair to our elevator of \$26,995.00 resulting in the cost. The same owner wanted to know why this was expensed to the operating fund placing us in a deficit, and not expended from the reserve fund as an authorized emergency repair? He also wanted to know who made the decision to expend this from the operating fund and force us into a deficit? The strata council did not approve the expense from any specific funds, it was determined by the strata agent, who then advised whether we expended it from the operating or reserve funds we would have to pay it back in any case. Is this true?

Jan Nelson, Vancouver

Dear Jan: When a strata corporation approves an annual budget or a special levy or a resolution to spend reserve funds, they give the council the authority and the responsibility to manage those funds and make those decisions. The authority over the funds, how they are spent, invested, loaned or transferred rests with the strata council. Unless the strata agency agreement specifically grants this authority to determine which funds expenses are allocated to, the expenses and their allocations are matters that are decided by the strata council at your monthly council meetings. I am yet to see an agency agreement delegate the authority to the strata agent that allows them to determine how expenses are allocated to funds or the transfer of funds for loans to operating, or the investment of funds without the direction of the strata corporation, and still comply with the *Strata Property Act* and the *Real Estate Services Act*. If

there is an emergency expense, then the strata council would be required to approve where that expense is being applied. The *Strata Property Act* permits an emergency expense from either the operating fund or the contingency reserve fund (CRF), which is essentially one of the purposes of the CRF. If you deem an expense an emergency expense from the CRF, the strata corporation does not have to repay that amount the next year. Ultimately it is the strata council who are delivering, approving and proposing the financial reports and proposed budgets for the next fiscal year, so why would they not be approving the expense allocations? It's your money, not the agents. There is a problem with your financial report indicating that the operating fund is in a significant deficit. Your strata agent also transferred/borrowed funds from the contingency fund to pay regular bills for your operating expenses due to the deficit. The transfer of the CRF funds to operating also required the approval of the strata council. If there were sufficient funds remaining in the operating fund under your repair and maintenance category, the expense from the operating fund for the repairs would have been reasonable, but it makes no sense whatsoever to put a fund into deficit and then borrow from another fund to pay the bills. The strata council can easily prevent these misunderstandings by insisting upon a routine agenda for strata council meetings each month where expenses and allocations are approved. Create a short monthly template that itemizes the categories of decisions you have to make. 1) Are there any expenses requiring council approval? 2) Were there any unapproved or emergency expenses? 3) Where are those expenses allocated? 4) Is there any money owing, and what are we doing about it? 6) Do we have any cash shortfalls?

Each of the categories should be reviewed and the decisions approved by council are recorded in the minutes.

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