

Condo Smarts

Headline: New changes to the Strata Property Act

Topic: Voting; thresholds, Repair & Maintenance

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Dear Tony: Our strata council is in the process of preparing a resolution to repair our balconies for our owners to approve at our annual meeting in April. We have several areas that are rotting, with serious concerns for the owners safety. Our building is almost 40 years old, so we're due for some major repairs. We tried to pass the resolution in October but the owners did not approve our three quarters vote for the special levy. Since then we have learned that the legislation changed in December 2013. We understand from recent information that it only now requires a majority vote for a special levy but we cannot find the information. It would be very helpful if you write about this issue in your next column.

Lisa J.

Dear Lisa: In the amendments that were brought into effect in the *Strata Property Act* in December of 2013, the change you are referring to relates only to a failed three quarters vote resolution that relates to the maintenance or repair of common property, or common assets that are necessary to ensure the safety or to prevent significant loss or damage, whether physical or otherwise. Under these conditions, if the strata corporation cannot pass a three quarters vote, but more than half of the votes cast were in favour of the resolution, the strata corporation (strata council) are in a position to make an application to the courts to order the repairs. Here is a common example. An 80 unit strata corporation is experiencing leaks in its aging roof. They do not have sufficient reserve funds to pay the amount, so they convene a special general meeting for a special levy. At the meeting 44 votes are in favour and 22 are opposed. A three quarters votes would require

75% of the total 66 votes cast, which is 49.5 votes. Even though the resolution failed, more than half of the votes were in favour, leaving the strata corporation in a position to seek a court order for the repairs. The application would be made to the Supreme Court and I would definitely recommend legal assistance in the decision to make the application and the process of the application. There is another amendment to the legislation which is currently being debated in the legislature, which applies to the voting threshold for contingency funds. In the proposed amendment, a strata corporation will be permitted to approve recommended expenses identified in the depreciation report by a simple majority vote, from the contingency reserve fund. Once the new legislation has passed, only a majority vote will be required if the following conditions apply: your strata corporation will be required to have commissioned a depreciation report; the report recommends specific repairs, maintenance or renewals and you have enough money in your contingency fund. This does not apply to special levy or other three quarters votes, and still requires that the majority vote has to be approved at an annual or special general meeting.

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