

**Condo Smarts**

Headline: New Contingency Regulations for Majority Vote

Topic: Contingency Reserve Funds, Voting

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**Dear Tony:** Our strata corporation had a general meeting in Kelowna last week and on the agenda we were approving an amount of 710,000 by special levy for roof replacements in our complex. The levy for the special resolution did not pass as we only had 54% of the owners at the meeting in favour. The next option presented by the strata manager was for us to approve the amount from our contingency reserve fund by majority vote. That resolution did pass by 54%, but now we have a reality problem. We only have \$218,000 in our reserves and will only collect another \$60,000 this year from strata fees. I think there is a serious amount of confusion over the new regulations that were passed. How and when exactly will a majority vote apply for the contingency fund expenses?

*Darryl T.*

**Dear Darryl:** The *Strata Property Act* amendments that were adopted this spring were consistent with a past amendment which essentially permits strata corporations to now contribute any amount to the contingency fund as a majority vote as part of the approved annual budget contributions, and to expend amounts by majority vote resolution. There are conditions and perhaps some common sense that needs to be applied to the implementation of the majority vote decisions. When a strata corporation sends out the notice of an annual general meeting, they will include a proposed budget which will include proposed contributions for the contingency reserve fund for the next fiscal year. At the general meeting the owners will discuss the budget and contributions, and are permitted by the Act to amend the proposed budget by majority vote. Those amendments could include the contributions to the contingency reserve fund

and the annual operating budget, potentially resulting in a significant change to the proposed budget and strata fees as either an increase, decrease or reallocation of the annual budget. For the provisions of a majority vote to work for the expense of contingency funds, the strata corporation will have to meet a number of conditions. First, the strata corporation has a valid depreciation report. Second the related repair, maintenance or replacement of that component is recommended in the depreciation report. Third the strata corporation passes a majority vote resolution, which will have to be included with the agenda as required under section 45 of the Act for the contingency expense approval and last, the strata actually has to have the funds available within the contingency reserve fund to be able to spend them. The problem with approving funds you do not have, is that the strata corporation now has a legal and financial dilemma. The owners have approved and instructed you to proceed with the repair, but you cannot because you do not have the funds. The legislation is unclear as to the time period for the approval. For example, if the strata corporation has approved a budget for the coming fiscal year that ensures there are enough funds, will that still permit us to approve a majority vote resolution to execute the repairs? Strata corporations who have approved contingency expenses without the funds or who are planning to approve an expense for funds that are authorized to be collected the this next fiscal year should seek some legal assistance on the procedures to ensure they have the authority to collect the funds and approve the expenses.

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