

Condo Smarts

Headline: What's going on with sections?

Topic: Sections

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Dear Tony: Do you have any idea what is happening with strata corporations who have sections? We are getting all kinds of pressure from our management company to sign additional agreements and divide up our operations between our joint operating, the apartments, townhouses and commercial strata lots. Our strata is 278 units constructed in the 90's and we have always functioned with an annual joint meeting and joint operating accounts. We have now been told that we have to separate all of our accounting and operations because of the real estate laws. All we can see is a lot more cost and no additional benefits. We would appreciate a brief explanation.

Linda Jeffries

Dear Linda: It is important to first understand what sections are and how they are created. An ideal way of understanding sections is to think in terms of our strata corporation being a country, and the sections are provinces. The sections are still part of the strata corporation, but they are also independent legal entities like the provinces, with their own obligations, duties and laws. Sections are created when bylaws are either filed in the Land Title Registry by either the owner developer creating sections, or the strata corporation and the owners of each proposed section passes a separate three quarters vote resolution agreeing to the bylaw that creates the sections. Except for representing contracts or lawsuits in the name of the strata corporation, sections basically have the same authority and obligations of a strata corporation. They maintain and repair those areas that are the responsibility of the section under the bylaws and the Act, pay for and manage those expenses for operating and contingency that are exclusive to the section, enforce bylaws adopted by the section, and convene general and council meetings for the business exclusive to the section. Essentially we have a mini strata(s) within a strata. One of the most valuable provisions of the Real Estate Services Act was to no longer permit the pooling of trust funds, and this applies to sections. The operating, contingency and special levy funds can no longer be held in the accounts of the strata corporation,

because they represent the interest of a separate legal entity. This is very much for the benefit of the strata corporation and the sections, who can now easily scrutinize their annual operations and costs to avoid errors and duplications. This also requires that the sections and the strata corporation are required to convene separate annual and special general meetings and separate minutes of those meetings, records and documents. While many sections bylaws do not contemplate real estate transactions or collections, the sections are also responsible to manage their own financial accounts and collections, and issue forms such as the Form B Information Certificate, separately from the strata corporation. As a result of the separate administrative operations, many strata corporations with sections are now seriously reviewing the application of their sections bylaws to determine if they actually serve a benefit. With the creation of sections, both operating and non-operating expenses that are exclusive to a section may be allocated entirely to that section. A common example of the benefit of sections is a mixed use commercial –residential building. The residential tower has a hot water boiler and elevators exclusive to the tower. Under a sections bylaw both the annual operating expenses and the eventual replacement of the elevator and boiler are paid for by only the residential owners. Likewise the same can apply for commercial trash compactors and commercial utilities that are exclusive to the commercial section. Many strata corporations who have finally segregated their operations, have been surprised to discover that the divisions of costs have not been exclusive, based on unit entitlement of the sections or of the corporation. Sections will also be required to enter into a service agreement with the strata management company of their choice, to ensure the strata manager has the authority they require to act on behalf of the section. This is a good opportunity to review the budgets and operations of the strata corporations to verify the allocations of costs and expenses are being applied correctly.

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