

Condo Smarts

Headline: Investing your funds
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Dear Tony: Our strata corporation currently has \$350,000 invested in GIC's with an investment brokerage. We have used the same company for the past 5 years and are very satisfied with the returns and the management of our funds. It takes little work for the strata council, we get a quarterly report on the financials which we publish in our council minutes, and we simply provide instructions to the broker when we require funds or how they are reinvested. Our manager has instructed us that the brokerage is not permitted to hold the funds as they are not licensed and it is a violation of the Real Estate Services Act. The brokerage is not actually holding the funds, they are in GIC's in Canadian banks, so we don't understand the licensing problem.

Jennifer Morgan

Dear Jennifer: You are correct. Provided the brokerage or is not holding your funds in trust, and the funds are invested in GIC's that comply with the new Regulations as of July 16, 2014, and they are solely in trust in the name of your strata corporation, your strata corporation and the investment brokerage are not in violation of the *Real Estate Services Act*. There are however a number of practices where there are problems that may result in placing a strata corporation's investments at risk.

Here are a few tips to avoid violations or risks to your strata corporation. Do not permit your funds:

- a) to be consolidated with any other funds
- b) to be in the name of any party other than the strata corporation, in trust
- c) that allow any party to retain any of the revenues from the fund
- d) to be transferred without a written or documented decision of the strata council
- e) to be invested in any instrument that is not within the requirements of Regulation 6.11
- f) to be transferred on line without the explicit knowledge and permission of the strata council.

The strata council may delegate it's authority for the administration of the funds to a licensed strata manager or to a council member, such as the treasurer; however, that delegation of authority to manage the funds should also include a detail of instructions on how the funds are invested, the length of the investments (term) and how the investments are reported to the strata council on a monthly basis. Your bank, credit union or brokerage may require documentation to verify the scope of authority and instructions conveyed to the person making these decisions. The issue of fees for the service also needs to be verified to ensure the strata is authorized to pay for the costs. A perfect example is a GIC for the contingency reserve funds. Any interest earned on a contingency investment must be consolidated back into that fund, as it is also reported as a revenue for your strata tax return. As a result, a brokerage or service is not permitted to retain a share of the interest as their fee will have to be approved either through a CRF expense, which would require a three quarters vote at a general meeting, or the approval of the fee as a line item as part of the annual budget. Your strata may have also contracted through your strata management agreement a fee or structure of services that authorize your strata management company to invest your funds at with specific directions on rates of interest, limits of costs, and instructions on the type of investments. Review all of your service agreements closely to verify that you are receiving a best return on your investments, while also ensuring you have funds accessible for emergencies or planned major renewals as they arise.

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