

Condo Smarts

Headline: Strata Governance: Council Authority to make decisions

Topic: Strata Council; Authority

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Dear Tony: We have a newly elected council as of June 15th in our strata and we are trying to figure out why and how our previous council made some of the decisions they did. A simple example is a construction project repairing two decks. The owners approved \$80,000 for the repairs based on the proposal of a contractor. This included a 20% - \$15,000 contingency. The council decided to make a number of substantial change orders to the project as it progressed over 6 months and the final cost has been \$107,000. Another example is an alteration that permitted an owner to enclose a grounds area beside their unit that is twenty by fifteen feet, behind a 6 foot fence with concrete footings and posts. We are not looking for trouble, but we also have complaints from the owners who are unhappy with some of the council decisions. If there are some helpful guidelines we would appreciate the response.

The strata council of Evergreen Place

Dear council members: Strata governance is essentially about decision making of strata corporations to ensure the council and owners have the authority to make decisions, such as hiring contractors and consultants, awarding projects, spending money, authorizing alterations, collecting money, borrowing money, amending and enforcing bylaws and commencing court actions to name a few. Authority originates from a variety of sources.

The *Strata Property Act and Regulations* provide the strata corporation with a governance framework to administer the business of the strata corporation, and the basic "how to" procedures. In general, the strata council are responsible as the elected representatives of the strata to administer the strata and enforce the bylaws.

For example, the *Strata Property Act* permits the strata corporation to allocate the exclusive use of common property to a strata lot; however, it also limits the period to a term of one year. If a strata corporation wishes to allocate property for a longer time period and allow for a permanent alteration, the strata could consider designating the area as limited common property. That change would require the approval of the owners at an Annual or Special General meeting by three quarters vote to agree to the designation, along with the approval of a sketch plan and filing of the designation in the Land Title Registry.

Another common method of giving a strata council authority is through the bylaws. The terms and conditions imposed on the alteration of strata lots, limited common property or common property is created through the language of the bylaws. The bylaws will set out what type of alterations are permitted, any documentation or agreements the strata will be required to obtain prior to granting the approval and any conditions imposed on the requesting owner.

Bylaws may also have been amended to grant the strata council to spend larger amounts other than what was authorized by owners for a specific project. The Act permits a strata to spend the lesser of either up to \$2,000 or 5% of the annual budget on unauthorized expenses.

The other common method of delegating authority is through resolutions approved by the owners at general meetings. Whether they are the annual budget, special levies, majority vote resolutions for contingency expenses under depreciation report recommendations or unanimous votes for amendments to the formulas of cost sharing, the strata council are limited by the authority granted to them in the resolution. If the resolutions only authorized an expense up to \$80,000,

the strata council is venturing into conflicting territory if they overspend the amount. Emergencies may occur, and the council can easily resolve these conflicts by immediately notifying the owners of the cause and cost and reason for the emergency allocation, but it is difficult to defend if the council hides the decision from the owners.

Always read your bylaws that are currently in effect. Many strata disputes can be avoided if owners, strata councils and property managers just read the bylaws that apply to the strata before taking the next step. A valuable question to raise at council meetings: where did we get the authority to proceed with the decision or to spend the money?