

Condo Smarts

Headline: Unauthorized Expenses

Topic: Spending Authority, Depreciation Reports

Publication / Date: The Province, Sept 17, 2015

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Dear Tony: Our strata in Abbotsford has melted down into conflict and dispute over an unauthorized expense. Our strata council of 3 decided it was time to renovate our lobby, we came home last week to find a very new and freshly decorated lobby with new flooring, lighting and furniture. I was pleased with the outcome and it is also much brighter, but no one approved the money. Now there is a petition going around the building to remove the council and make them pay for the renovations. The cost was just over \$25,000 from our contingency fund, and our strata had never approved the renovation or the changes. The strata council has sent out a letter advising that they checked this with the property manager and verified that the lobby renovations with an estimate of \$25,000 was shown in the depreciation report for 2015. Even if we do remove the council, is there any penalty in the Act or any way of making the council pay for the costs?

Jennifer Hall

Dear Jennifer: Strata corporations seem to have a serious misunderstanding of the purpose of the depreciation report. The report itself does not give the strata corporation authority to proceed with a project. The report is a planning tool that enables the strata to identify future estimated costs, the time period when work should be considered, and when they will need to go to their owners to get approval for projects. This could be a very simple approval process or a complicated process depending on the type of project and the scope of service and cost.

Take your lobby renovation for example. The report identified the flooring, finishes, lighting and furniture had reached a normal life expectancy in 2015. An estimate was determined to consider the replacement of the components in your strata at \$25,000.

The *Strata Property Act* does not impose any minimum requirements for the purchasing of goods and services on strata corporations, so the owners need to decide an acceptable process. Because your depreciation report recommends the renewal in 2015, the vote is only a simple majority for a contingency expense to approve a \$25,000 allocation for the lobby. Without any limitations, it would permit the council to make the decisions on designs, contractors and the schedule of the work.

However, strata corporations are the decision makers and may impose conditions on the contracts. The owners could require a minimum of 3 bids for the general contractor or the specific components, or they could require that a design is first brought to the owners to consider before the final scope of the project is being approved. All of these conditions are up to the council to present to the owners or the owners to impose at a general meeting.

The underlying challenge is that council members and owners are all volunteers and few people are experienced with procurement knowledge that will enable them to go through a major project without complications. The *Act* does not establish any specific penalties or consequences for strata councils who proceed without authority, and the nature of procurement disputes are often so complicated their ultimate destination is the frequently the courts or arbitration. Even then, what has occurred is the strata corporation has renewed a component in the depreciation report within the projected budget. Ultimately the cost of challenging the decision or seeking damages from the council members may cost more than the expense of the repair with nominal results.

Changing council may solve the problem, but in most cases one group of volunteers has been changed for another. There is an alternative solution. Strata corporations may consider adopting procurement bylaws. The bylaws can set minimum limits that require specifications and a minimum number of bids, the procedures on how construction over a certain value is managed and the conditions for approval and management of the projects. The most common complaint: "one of our council members had a friend who is a contractor". The contractor may be the right person, but without a detailed negotiation, several estimates, and disclosure of the relationships, the strata is likely in for troubling times ahead. Never under estimate the value of a written detailed contract. Even an email between the parties confirming the details of a minor fence repair, or lobby carpet can ensure the strata has the tools it needs to resolve a dispute.