

Condo Smarts

Headline: Does a strata have to get 3 quotes for a contract?

Topic: Contracts

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Dear Tony: Our strata is replacing the roof of our highrise and the property manager and strata council are recommending one contractor to do the work. It will require the removal of landscaping and common area facilities and the cost is estimated over \$200,000 and 3 months for the construction as it has to be completed in sections. The owners are being asked to vote on the contract at a special meeting in October, but there are no quotes and the resolution is only to approve the contract and price. As a retired city official I am concerned that we may be getting ourselves into a project that is over everyone's head and steering into big trouble. Does the Act not require a strata to get a minimum number of bids for projects over \$100,000?

Glen C. Vancouver

Dear Glen: The Strata Property Act and Regulations sets out limits how and where money may be spent and under specific conditions, but it does not set procurement procedures or guidelines for strata corporations.

For example, under the Act a strata council is permitted to spend the funds:

- authorized in the Annual Budget set out for the approved purposes,
- Special Levy funds approved for the purposes in the 3 / 4 vote resolutions,
- contingency funds approved by a 3 / 4 vote or a majority vote if the component is recommended in the depreciation report,
- unauthorized expenses in a fiscal year up to \$2,000 or 5% of the annual budget whichever is less (unless amended in the strata bylaws) , and

- for emergencies where the strata must take immediate action to ensure safety or prevent significant loss or damage, whether physical or otherwise.

None of these requirements set out conditions on buying goods and services. Procurement or purchasing guidelines may be helpful if they do not restrict the ability of the strata conducting routine the business. Once the funds are authorized at a general meeting, the council at its discretion generally starts the contracting purchases for goods and services unless the resolutions set specific limitations or instructions, or the resolutions set specific procedures.

In a planned step by step process, a major contract is often triggered either when a building condition assessment, roofing inspection or depreciation report is completed. At this time the strata will identify the project and get a sense of the general scope of work. Just because a project is a small or large value does not necessarily imply that the purchasing and contracting process is simple. A \$2,500 power washing job may result in much more damage and risk to a building system than a \$75,000 fence replacement. As a result, both the scope of the project and value should be reviewed.

At the beginning of the project engage a consultant as an inspector, evaluator and technical writer to enable the strata to clearly identify the scope of the work, and obtain estimates based on a real job, not just someone's estimate of what might be required. Construction associations are good place to start. For roofing projects, the Roof Contractor's Association of BC / rcabc.org, provides services for roofing inspectors and technical writers. The writing process also gives the strata a chance to have proposed contracts or estimating/bidding documents legally reviewed before

you start the process. If the strata has prepared this information along with their resolutions to approve the funding, your owners will generally be more confident to support the work, the funding, and understand how the risks are managed. A negotiated contract with a single contractor may also be a valid option.

The important step in a negotiated contract is to ensure that you have everything in writing, the scope of the work, services, products, warranties, technical requirements and any consulting services. Then have the agreements reviewed before you sign them. Legal review of contracts and bidding documents for most strata projects will often cost less than a few thousand dollars or 1-3 % of the total contract and save your strata from a disaster. Every strata I have spoken to over the years who has ended up in a legal battle over a contract or purchasing mess always wish they had talked to their lawyer first. Preemptive review is the best insurance stratas can buy.