

Condo Smarts

Headline: No Construction Approval

Topic: Repairs & Maintenance, Court Actions

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Written by: Tony Gioventu

Dear Tony: How does a strata corporation get a project to move forward when the owners keep voting against it? Our strata is a 88 unit townhouse complex in the lower mainland that was built in the 80's. It is a typical design of 2 and 3 bedroom units, sloped roofing and wood siding. Our owners have always kept strata fees extremely low, and as a result we have sadly neglected our buildings. A neighbouring property identical to ours have paid higher strata fees, maintained their properties and are not facing any crisis. Our property is not located in an area that is desirable for development, so we have no choice but to maintain our units and dig deep to pay for some major repairs. We now have some serious leaks to our roofing and several locations where the wood cladding has literally fallen off the buildings. Even with these serious problems, owners are still voting against the repairs. We are desperate for some ideas on how to move forward as we cannot seem to get more than 65% of the owners to approve.

Colin E.

Dear Colin: Without question the most costly decisions that are made by strata corporations are the decisions to oppose major repairs. The costs of the repairs continue to climb as a result of damages to the structure and finishes, and the delays result in higher construction and contingency allocations, legal fees for disputes and court actions, personal bankruptcies, costs to the strata to administer collections on accounts, and the overall damage to the community. Plan to replace a roof before it fails you can predict the cost of the construction with nominal contingencies of 5-15%. Wait until the roof is leaking and add another year of legal battles with the owners and you will be allocating another 15-35% of the cost. The message is clear, plan to maintain, repair and renew before the buildings fail or pay needlessly inflated prices.

Special levies are not necessary if your strata corporation develops and funds a financial plan for major repairs. If

you apply the principles of depreciation planning, a strata corporation should be able to avoid most special levies, which are after all just deferred strata fees.

Your strata repairs of roofing and siding are projected at \$4.4 million, so about \$50,000 per unit, which is extreme because the option to maintain the siding no longer exists. The report has indicated that the siding, which is \$2.2 million of the cost, has failed due to lack of maintenance. Your neighbouring property has just approved \$320,000 to reseal and paint their exteriors, which are performing well and were maintained in 1995 and 2005.

At this stage of life in your building, your council has no choice but to start court proceedings if the owners don't approve the repairs. If a strata corporation proposes a special levy to raise money for maintenance and repairs of common property that is necessary to ensure safety or to prevent significant loss or damages, and the number of votes cast in favour of the resolution is more than half the votes cast but did not reach a three quarters vote, the strata may make an application to the court to approve the resolution and proceed with the special levies and the construction.

Talk to your lawyer to confirm you have done this right. Veronica Franco, a lawyer with Clark Wilson in Vancouver points out a number of areas where strata corporations get into trouble. Make sure that the strata has an enforceable resolution that covers the complete scope of the project, the authority for the council to engage the contractors and to collect the special levies. The strata also needs to make sure they have given proper notice of the meeting, and when the vote is taken record the exact count so they can determine whether they have the authority to make an application for the order for the resolution"