

Strata Living

Headline: Unexpected Special Levy

Topic: Special Levies

Publication date: Sept 11, 2014

Publication: 24 Hours

Written by: Tony Gioventu

Dear Tony: Our strata has been delaying the repair of our piping in our building, and after 2 years of attempting to pass a special project and special assessment, we have finally convinced the owners to go ahead. The special levy is due on October 1st and the work is commencing in November. Unfortunately we have a \$50,000 insurance deductible because of so many claims and delays with broken pipes in our aging building. We had a major leak a week ago, and the damages will be well over the amount of our deductible. The strata has almost nothing left in our reserves as a result of all of the emergency repairs, so we have no way of paying for the deductible. How are we supposed to pay for this repair?

Andrea K.

Dear Andrea: The *Strata Property Act* has a contingency built into the legislation for exactly this type of problem. In the one rare exception of the Act, the strata council, without the need of a special general meeting and the approval of the owners, are permitted to pass a special levy for the total amount of the deductible, and issue the notice of the levy and due dates to the owners. This is not only limited to situations where the strata corporation has insufficient funds to pay the insurance deductible, but also circumstances where the strata corporation chooses to levy for a deductible as opposed to depleting reserve funds. There is also the benefit of this provision in that it defines the special levy as an owner's share of an insurance deductible, which may be covered by the owners who have valid condominium homeowner insurance.

Unfortunately for the owners who have not purchased home owner insurance to cover this peril, they will still be obliged to pay the special levy on the due date. To approve the levy, the strata council will need to convene a council meeting and pass the resolution that identifies the purpose of the levy, the total amount of the levy, the method used to determine each strata lot's share of the levy, the amount of each strata lot's share, and the due date(s) on which the levy is to be paid. You may consider one due date to collect this quickly, or a schedule of payments over a longer period; however, you will need to discuss the payment of the deductible with your insurer as payment of the deductible will likely be required to proceed with the construction. There are building components that simply cannot be run to failure without placing a strata corporation at a risk of significant cost over runs. Roofing, balconies, window and wall systems, plumbing systems and elevators are all components that greatly increase the costs and liabilities to the owners.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email info@choa.bc.ca.

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.