

Strata Living

Headline: Who gets a special levy refund?

Topic: Special Levies

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Dear Tony: Our strata passed a special levy last year for 1.5 million dollars for major upgrades, roofing and a new elevator. The project progressed very well and through the construction several owners sold their units. The final report has just been issued showing that there is \$147,000 that was unspent and is being distributed back to the owners on October 1st when the final accounting is complete. Word has got out quickly that there are refunds and 3 of the past owners who paid the levy have come forward demanding that they receive the refund because they paid the assessment. Council are confused over who to issue the refunds back to?

Allan M. Surrey

The same individuals may be the beneficiaries of any settlements, refunds, awards, or responsible for any additional costs.

Dear Allan: The *Strata Property Act* stipulates that refunds are repaid back to the owners based on the same formula as they were assessed, which is generally unit entitlement. A refund must be issued if any owner is entitled to a refund of \$100 or more. The owner is the person who is on title at the time the refund is issued. If the seller intended to negotiate the benefit of the refund, they will have established a written agreement with the buyer. In the event the buyer (the new owner) agrees to release the refund to the seller, the strata corporation should only do so on the explicit written instructions and release by the purchaser. There are many variations of special levies that may require legal assistance to determine the eligible recipient of the refund. A law suit is a common example where specific individual owners are named as the claimants and pay the special levy.

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