
Strata Living

Headline: Refunds to owners

Topics: Special Levies; refunds

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Dear Tony: Our strata had a special levy year for re-piping of our building. The levies for owners ranged from \$7,500-13,100 depending on the size of the units. The total cost was \$950,000 and the owners paid their levies over a 3 month period. The project was complete in June with all of the inspections done and contracts paid out. We have heard that the total cost was only \$847,000 so there is a \$103,000 surplus, which we understand must be returned back to the owners. We wrote a letter to the strata council and management company and were told the strata is required to wait 6 months before any refunds are issued. We have never heard of this before. Are there new regulations we don't know about?

Bob & Marlene K. Richmond

Dear Bob & Marlene: When a project is complete there may be a delaying period to deal with hold back accounts under the Builder's Lien Act, or there may be defects or deficiencies that are pending, but there is absolutely nothing in the legislation that requires the strata corporation or the strata management company to wait 6 months to refund the money. The funds may only be used for the purpose approved by the special levy so there is no reason to retain the funds for another project. If there is an outstanding legal issue in relationship to the contractor or consultants that may also result in delays; however, the council has an obligation to inform the owners.

One of the most powerful tools in the *Strata Property Act* that is seldom used by owners is the ability to demand a special general meeting to address a matter. Under the *Act* it only requires the signature of 20% of the owners to demand a special general meeting and the council must hold the meeting within 4 weeks after the demand has been given to the strata. The owners

can include on the petition a resolution by majority vote to direct the council to immediately refund the surplus funds back to the owners. I would suspect that given the time window, someone on council or your strata manager has invested your levy funds into a GIC that is locked in for another 6 months. If that is the case, they may have done so without the authority of the owners in the resolution. This may place the strata in a legally awkward position if there are any sales in the next 6 months as a seller will be demanding the refund.