
Condo Smarts

Headline: Council Fraud

Topic: Fraud

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Written by: Tony Gioventu

Dear Tony: I was transferred to work in Taiwan for the past 5 years and have returned to my condo in Vancouver. We are a 12 unit townhouse complex and self managed. I asked when our Annual General Meeting would be held this year, and told by the owner controlling our bank accounts and records, the strata corporation decided to waive the requirement for an AGM to reduce costs. Two of my neighbours advised they have never agreed to such a condition and were told an AGM wasn't necessary for small strata corporations. We obtained copies of our bank statements and 3 years of cancelled cheques and discovered numerous cheques paid to the spouse of the controlling owner, and payments to contractors and appliance suppliers with no indication of any work done on our common property. We discovered the owner renovated their town house at the expense of the strata, and paid themselves \$500 a month to "manage" our strata, which is the amount of our monthly strata fees. Our owners have taken control of our strata, but the offending unit refuses to repay any amounts and have suddenly put their unit up for sale. They have easily benefit from \$80,000 in our fees over 5 years. Can we file a police complaint, or stop the sale of the strata lot until this is resolved?

Leslie C.

Dear Leslie: Fraud of this nature can occur in any size of strata corporation or association. Vigilance is important. Large amounts of special levy funds, reserve fund management, investments, special projects and operating funds are often targets of unscrupulous individuals. Prior to the introduction of the Civil Resolution Tribunal (CRT), strata corporations were left to a supreme court action or arbitration to remedy the problems, with significant cost and delays.

If you discover unauthorized expenses of funds, unfair allocation of repairs and expenses, and lack of compliance with the *Strata Property Act* or bylaws, a strata council or an owner may make an application to the tribunal for an order to supply all the records and documents. The tribunal may ultimately determine whether the expenses and payments were properly authorized by the corporation, complied with the Act and the strata bylaws, and may order they be repaid to the strata. The CRT cannot order special levies or an order for sale proceeding to collect unpaid strata fees or special levies.

Every strata corporation regardless of number of units must convene an annual general meeting to approve the operating budget and elect a council. Your strata must conduct an AGM each year, but you may waive the notice of meeting, or waive the meeting as long as every eligible voter agrees to the budget, any resolutions, and acclamation of the nominated council. Minutes of this waiver of notice are still produced like any other type of meeting.

As for remuneration of strata council, members may be compensated but only if the amount is approved in the budget, in a bylaw of the corporation, or resolution approved by 3/4 vote at a general meeting. Legal support is essential at this time to determine your collection options before this unit sells. Check your schedule of unit entitlement. Your strata fees may not be the same for each unit!