
Condo Smarts

Headline: Unauthorized purchases

Topic: Spending Authority

Publication / Date: Province, July 6, 2023

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Dear Tony: Our strata council has terminated our landscapers and decided to undertake the management of our townhouse complex gardens and lawns on their own. We did not approve this in the annual budget, but they are dividing the budgeted allowance between 3 council members and using the balance of the funds to buy a riding lawn tractor that will double as a snow blower. Owners have been informed the purchase of this equipment will cost an initial \$9,000, but they anticipate saving the strata corporation the snow removal cost. They have reallocated the snow removal allowance to landscaping to justify access to the funds. One council member has purchased the equipment and we assume has been reimbursed for the purchase, but have been informed council were advised to remain silent until the transactions were complete. Owners have petitioned for a special general meeting to remove the council and cancel the purchase and reinstate the landscapers. What happens if the equipment is already paid and delivered? Can we hold the council members liable for the cost of the equipment? We had council volunteers doing landscaping 10 years ago and it was a disaster. Even if they are paying themselves from our funds, there is no reliability on fulfilling the contract as they would be supervising themselves.

Jeanette C.

Dear Jeanette: A strata corporation must obtain prior approval for the purchase of any personal property owned by the strata corporation if the amount exceeds \$1,000 or an amount that is permitted in the bylaws.

The reimbursement of an owner for the purchase is still a purchase of the corporation, but remember warranties apply to the purchaser.

When a strata corporation passes an annual budget, they are essentially giving the council a lawful instruction on

what is permitted for authorized expenses and classifications. If the strata corporation/council want to reallocate the use of expenses for another purpose, they would require a special general meeting to change the classification of the budget; however, the *Strata Property Act* does not permit the amendment of the budget amounts other than at the annual general meeting. Council members are limited in their authority to the approved budget, resolutions passed by the corporation and the bylaws of each corporation.

Your owners may have a cause of action against these council members as they appear to have acted with full knowledge contrary to the limitations of the Act. While the standard of each council member is held to that of a volunteer, they must act honestly, and in good faith with a view to the best interests of the corporation and exercise the care, diligence, and skill of a reasonably prudent person in comparable circumstances.

The contract to purchase the equipment is between the council member and the supplier, but there is a provision in the Act that protects suppliers and contractors. Even where a council member was acting outside their scope of authority or was not a valid council member because of a defect in an appointment, the transaction is still valid. These types of infractions occur frequently, and at the expense of owners. They are often not reversible, leaving the strata corporations with unrecoverable expenses.