
Condo Smarts

Headline: Special Levy Refunds

Topic: Special Levies

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Dear Tony: Our strata corporation raised a special levy of 2.2 million in 2019 to replace the roofing in our complex. With the delays from COVID-19 and construction supplies, the project finished in the fall of 2021. There was \$57,000 left from the project and owners anticipated money back but since that time the council have held the funds and refused to release refunds. Their argument is we will need the funds for other projects and will be reallocated. Every owner is entitled to receive a refund around \$500. How do we get the council to release the funds?

Alex M.

Dear Alex: The *Strata Property Act* sets the conditions for funds remaining from a special levy. If any owner is entitled to a refund of \$100 or more, the strata corporation must refund the remaining amount to all owners based on the same formula the funds were collected. This is generally unit entitlement. The one omission of the *Act* is the timing of the refunds. Essentially, when the contracts are complete, all invoices are paid, and any hold backs are released, that would be the end of the special levy period.

It is incumbent on the strata corporation/council to release the refunds to the owners. If a strata council is unwilling to release the funds, the owners may petition for a special general meeting to pass a majority resolution directing council to immediately release the refunds. Unless the original 3/4 vote resolution authorized other expenditures beyond the scope of the project, the strata corporation is not authorized to allocate the funds to other projects.

A frequently misunderstood principle is who is entitled to the refund? When a refund is issued, the funds are issued to the owner of the strata lot at the time the refund is issued. When an owner has sold or conveyed

their strata lot, they dissolve their relationship with the strata corporation and no longer entitled to refunds, or the opposite, subject to any subsequent levies. If any owner enters into an agreement with a buyer over levy refunds, your refund is issued to the owner on title at the time of the refund. The strata corporation is not party to any refund agreements between a buyer and seller.

Strata corporations are required to report any special levy accounts for each fiscal year they have a balance. Interest earned on the account becomes a part of the special levy account and included in any refund balances.