
Condo Smarts

Headline: Owners fees for services

Topic: Management; Contracts

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Dear Tony: We are an older strata corporation in Vancouver that has been considering the sale of our property as a wind up. Our strata council signed a new management agreement in August and in the contract, they have permitted the management company to direct charge owners additional fees for the inspections of records and documents. The fee is \$100 per hour to cover an office and staff time to provide these services. It is beyond any of our owners financial ability and is used to prevent owners from inspecting records. The contract also grants the management company .25% of the gross amount of the sale of the property, in the event we successfully wind up the strata with a buyer. Is there a limit on the type of fees that can be charged by a strata corporation or a property management company?

Helen B.

Dear Helen: A strata management contract is an agency agreement. When the company is hired, the brokerage and their employees who are the managers, act as the agents of the strata corporation. There are many duties that involve financial transactions, but none of them are between the management company and the owners. When the company is issuing notices for collections of strata fees, special levies, insurance deductible claims, damages, fines and penalties, damages, and user fees, these are technically the corporation issuing these fees and the management company is simply acting as the agent.

The strata corporation cannot sign a contract that enables the company to collect fees for additional services where they are not acting as the agent of the corporation. The *Strata Property Act* and Regulations does not permit the charge of fees to owners or tenants for the inspection of records, and neither the strata corporation nor the manager is permitted to charge a

fee for these services. The management company may have contracted with the strata corporation for an hourly rate to cover the cost of owners inspecting records, but these costs are an expense of the corporation and not the owner. Any fees that are charged to the corporation must be included with the service agreement. These include the fees for issuing certificates such as a Form F Payment Certificate and a Form B Information Certificate.

When a strata corporation proceeds with a wind up to sell the property, all of the fees associated with the wind up must be approved in the wind-up resolutions, along with a successful 80% vote at a general meeting. Once the agreements, meetings and court applications are complete, if required, the liquidator will disburse the funds to the interest holders and owners, based on the relevant formula that applies to your strata corporation. The strata council does not have the authority to authorize an advance commission share of each owner's proceeds through a management agreement. If there are any charges or services to be rendered, those must be included in the schedule of fees with the management agreement, but they apply to the corporation, not a disbursement of the owner fees on a windup.

A successful management agreement with your brokerage is a valuable asset for your owners and often develops into a reliable long term relationship. Whether your strata corporation is signing a new agreement, negotiating a renewal, or considering major construction or a wind up, make an appointment to have your lawyer join an electronic council meeting. It will be the best 1-2 hours invested on behalf of your owners.