
Condo Smarts

Headline: How are council members paid?

Topic: Strata Council; Compensation

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Dear Tony: Our strata corporation is undertaking some major construction that are planned upgrades. The work is projected to take 2 years. On our behalf, one of our council members has agreed to manage the project, coordinate communication with owners, and approve invoices for payment. The total cost projected is 1.8 million. Is the council member an employee or contractor? We want to manage this correctly and it's a good deal for us at a rate of \$2,400 per month.

HK, Richmond

Dear HK: There are several facets to this business relationship for the strata council to consider. Under the *Strata Property Act*, a strata corporation may remunerate (pay) council members for their duties as a council member if, the amount is approved in the annual budget, or approved as part of a 3/4 vote resolution at a general meeting. When you approve the special levy resolution, include a provision for the compensation of the council member. Identify the amount to be authorized for payment and frequency, and a brief description of the role. This will identify the types of decisions the council project manager can make without consulting the strata council.

There are also potential cost and liability conditions to consider. Contact the insurance broker for your strata corporation and identify if the council member will be covered under the Director's and Officer's liability coverage or if additional insurance will be required. There is also the question of liability insurance. If this person is an employee, the corporation will be assuming all the liability in the event of a loss or injury on site. If they are a contractor, the strata corporation will require them to provide proof of insurance for the purpose of managing the project. To determine if this person is an employee or a contractor, review the *BC Employment Standards Act*. A person is not a contractor just because

they make that claim. The employment relationship will determine the financial obligations of the strata corporation and reporting for taxation purposes.

The strata corporation will also be required to maintain a lien holdback account under the *Builder's Lien Act*. The management of this account requires a separate fund, and provides the corporation with leverage at the end of the project to ensure all sub trades and suppliers are paid and the work is complete.

I have experienced major projects managed by a strata council member or owner with positive outcomes. To avoid misunderstandings and confusion each strata council consulted with a lawyer to draft the employment agreement, reviewed the delegated authority for change orders and spending limits, and addressed insurance risks and how to manage potential conflicts that may arise at council meetings. Considering the scope of work and value of this project, legal advice is essential. Don't forget the obvious. Is this person experienced, qualified and competent to act as a project manager?