

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-288

Condo Smarts

Headline: Written Documents are a Must

Topic: Contracts

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Dear Condo Smarts: Our strata recently replaced the roofing system on our building. The special levy that was approved was for the amount of \$175,000 to cover the total cost of the project. We have just discovered the actual amount of the project was \$261,000, a cost over run of \$86,000. This amount was paid out of our reserve funds and leaves us with barely \$1,000 for emergencies. Council claim the bid was only a verbal quote and once the project started damages were discovered. When they received the invoice the contractor pointed out it was only a quote and there was nothing in writing. So are we stuck with these cost over runs? Doesn't the council have to come back to the owners before paying the additional costs? J. Banks, Nanaimo

Dear J: No matter what the agreement, whether it's a major contract or an owner agreeing to cut the lawns for your strata at \$10 per hour, put it in writing. Allyson Baker, a lawyer with Clark Wilson LLP in Vancouver, has some helpful tips and advice that every consumer should consider. "A verbal agreement is a contract; however, important issues and conditions that protect consumers are frequently not negotiated. It is also much

more difficult to enforce the agreement when the standards of performance and the scope of work are not written. The result is the consumer cannot manage expectations if you don't have a written record. Establishing the insurance expectations, WorkSafeBC obligations, warranties, timing of payment, work schedules and site restoration conditions are all critical parts of a written agreement. If the strata corporation ends up in court over a dispute, what the parties agreed to is much more difficult to establish without a written agreement."

In the situation of this strata, they should have considered seeking the approval of the owners for the additional costs. The owners may have chosen a special levy, use of reserve funds, or even the option to dispute the matter in the courts before paying the additional costs. At this point the contract is fully paid. The strata can't holdback any funds to dispute, and the council has paid an unauthorized expense. Before anyone enters into an agreement for service, construction, buying or selling a home, or other products get the agreement in writing and get legal advice. If a contractor/supplier or agent is unwilling to enter into a written agreement move on to someone who is.

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