Condominium Home Owners' Association
Serving BC's Strata Property Owners since 1976
Bulletin: 300-440

Condo Smarts
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Dear Condo Smarts: Our building in Abbotsford is undergoing some major repairs and maintenance this fall to roofing, balconies, and windows on the exposed walls. We have already passed a special levy for $1.6 million and the average levy is about $20,000. A group of nine owners have approached council asking the strata corporation to borrow funds just for their group. They found a private lender on the web who will loan the amount needed specifically for those people who cannot pay the special levy. The strata corporation can approve the loan, which is secured by the nine strata lot's unpaid fees. Our council have been approaching other lenders who have given us contrary information. Is it possible for a strata corporation to borrow funds on behalf of a specific group of owners and then make them pay back the costs? Tom G

Dear Tom: Before a strata corporation can borrow funds or secure a line of credit it must first pass a ¾ vote resolution. This triggers a number of conditions, especially how the loan is getting paid back and who is paying it. If the strata corporation borrows the funds or secures the credit, then the strata corporation is paying the amount back plus any interest or any costs. In turn the strata corporation will at the time of the loan either approve a special levy for the cost of the loan and interest if they are fixed or projected amounts, or will establish a line item in the annual budget that will cover the cost of the payments plus interest until the loan is paid out. Because the strata corporation is borrowing the funds, the owners are simply paying their share cost based on unit entitlement to the corporation to repay the loan. If an owner does not pay their special levy or strata fees, then the strata corporation has the ability to impose a lien and a rate of interest up to 10% per annum as prescribed by the Strata Property Act and Regulations, and subsequently proceed with a collection process that could eventually result in a court ordered sale of the unit. A strata corporation cannot special levy or budget for an isolated group of owners for the cost of a loan. If the strata corporation is the borrower, the loan is a common expense of the corporation and the common expenses are based on the unit entitlement of all strata lots, including the principle and interest. As a result, if the strata corporation approved a loan for a specific group of owners, what would happen when one of them defaults? If the resolutions were not in compliance with the Act, how would you collect the funds? If the strata entered into a contract with each of the owners who wanted to borrow the funds, that could be a potential solution, but again the strata corporation would have no remedies for collections or filing of liens, as they do not relate to unpaid strata fees and special levies. In the event the strata borrowed the funds and an owner defaults, the strata corporation (all owners) will be liable for the unpaid amounts of the loans and interest, based on unit entitlement. With no right to lien as an unsecured lender for those contractual amounts the strata could lose their ability to collect any of the unpaid funds at all.

Strata corporation loans can be extremely confusing. The resolution to borrow the funds can be just as complicated as the contract to borrow. There are some options for strata corporations to consider with major banks and credit unions, so before you vote on borrowing and signing those contracts, budget for legal services to ensure the strata corporation is not left in an awkward position. Contingencies to cover the short falls of unpaid levies or a flexible line of credit to ensure the strata has enough funds to complete the project are important, and may provide you with sufficient flexibility to complete your projects.