

Condo Smarts

Headline: Decisions on investing our funds?
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Dear Condo Smarts: Our strata corporation recently proposed a special levy of \$280,000 for a roof replacement. We know it is time for the new roof and we have been contributing the funds over the past ten years, and have collected \$350,000 in our reserve funds to date. It should come as no surprise that with this amount in the bank, the owners flatly defeated the levy and the council were instructed to convene another special general meeting to approve the money from the contingency fund. I have sat on council for the past ten years and I was in support of the owners' direction along with my fellow council members. The notice package was sent out by the property manager without our review, and no one had ever agreed to a special levy. We met with our property manager last week to draft the notice for the meeting, and he advised us that we could not use the reserve funds. He had invested them in a 3 year bond, and while it yields much higher than general GIC's, we cannot get the funds back until it matures. Our council are at an impasse. We know we cannot go back to the owners with a special levy, and we cannot access our funds. Please help, so we can get going with our roofing this summer.
Keith M. Vancouver Area

technically a loan and the circumstances are a bit complicated, I would advise you to seek legal counsel on the writing of the resolution and the loans before you proceed. If the strata council did give instructions to the manager to invest the funds in a fixed three year term, the owners have a credible claim and gripe with the strata council who gave the instructions; however, if the strata manager proceeded without the proper authority, it is a valid complaint with the Real Estate Council for which they may be disciplined, and your strata may wish to consider an action to recover any of the net costs of the loan and additional meetings. Section 3-3 of the Council Rules under the Real Estate Act prescribe that the agents must act only within the scope of authority given by the client. If you have given the strata manager or the brokerage an instruction, and this could include items such as borrowing funds from the contingency fund for shortfalls in operating as well the decision to invest your funds as permitted by the legislation, that instruction needs to be documented. For more information on Strata Manager Standards, licensing and consumer complaints go to the Real Estate Council web site @ recbc.org

Dear Keith: The strata corporation, represented by the strata council, are the authority who make the decisions regarding your financial operations and investments. Your strata should review your minutes of meetings and contractual services and identify if your strata have given any instructions to the strata manager to lock your investments into 3 year bonds. Lawful instructions to the strata manager should either be by council minutes, contractual obligations, or an email or memo from council instructing the manager to take direction. The immediate issue that your strata council needs to address is access to funds to proceed with the repairs. The owners could pass a three quarters vote resolution permitting the strata corporation to borrow the funds, using the bond as a security, and once the bond matures, use the principle and interest to pay the balance of the account. It would require a short term payment schedule for strata owners, but at least would relieve them from the obligations of a long term or large special levy. As it is

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