

Condo Smarts

Headline: Budget Allocations

Topic: Budgets

Publication date: Mar 24, 2013

Publication: The Province

Written by: Tony Gioventu

Dear Condo Smarts: Our strata council is totally out of control. An owner attended last week's council meeting to find out that council has decided to re-allocate the annual budget funds so they can spend money on installing a security system in the building and change over our locks to fobs and swipe cards. This matter came up two years ago at our AGM and the owners flatly turned it down. The council have moved the \$7,500 snow removal budget, and the \$15,000 landscape budget into a security budget. Along with that, they have allocated half of our maintenance to the security system. The property manager's comment was that council had the authority to allocate the funds once they were approved by the strata corporation, but the most appalling was the comment made to the observing owners. She said the Strata Property Act is just a guideline for the strata corporation. There's no doubt the manager and the council are supporting each other. The problem is we are a small minority in the strata who want to correct the problems. How do we get out of this mess?
Robyn C.

Dear Robyn: The strata council does not have the authority to re-allocate the annual budget. The budget is essentially a direction under section 27 of the Strata Property Act that was approved by a binding, majority vote of the owners. If the council wanted a generic budget with little detail, they should have proposed such a budget to see if the owners would agree. There are times when a strata corporation needs to re-allocate the budget items, and unless the bylaws of the corporation or the motion to approve the annual budget gave specific authority, the council would be required to convene a special general meeting. More important however is

the purchase of the security equipment and the change from keys to FOBS. Any purchase of assets over \$1,000, without a separate bylaw provision, would require approval by three quarter's vote at a special general meeting. The change of keys to FOBS would also be considered a significant change in use or appearance of common property or a common asset, and would likewise require the same approval of the owners. To prevent this going any further, your owners could issue a petition signed by 20% of the owners demanding a special general meeting to vote on those issues by three quarters vote, and to direct council on the expenditure of the funds. If the council is unwilling to comply with the Act, the bylaws of the strata or the owners' directions, it is time for a new council.

This does raise a more complicated in strata corporations. What happens if a strata corporation or an overwhelming majority agree to ignore the Act or the strata bylaws? The only recourse an owner currently has an application to the Supreme Court of BC or a notice of Arbitration, which the strata may still ignore. These are costly and timely for everyone. Now there is a bit of hope on the horizon for strata owners and the public. In May of 2012 the provincial government passed the Civil Resolution Tribunal legislation. With the appointment of Cheryl Vickers as the chair of the Tribunal last week, we hope to see changes in our civil justice system to enable these types of disputes to be solved quickly and with minimal cost. For the first time in history, strata corporations who do not comply with the legislation or their bylaws will be faced with real consequences, when compelled by an owner(s) into the dispute process.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.