

Condo Smarts April 6th – 9th, 2016

Dissolving Contracts

Dear Tony: Our strata council is having a number of problems with our elevator company and we need some help. Back in 2012, our council signed a new agreement for servicing and maintenance. The standard agreement was for a 10 year period. Our council have been trying to terminate the agreement but have been told the cost of the legal services or a lawsuit is not worth the effort, and the company has told us if we cancel, they'll sue. There must be a solution. We have weekly calls for repairs, shut downs and people getting stuck. The company responds but in a building of seniors we cannot be without our elevator for 48 hours every time they break down. The company is not providing accurate reporting of the work they are doing. We have no way of knowing whether they are replacing parts or doing the minimal job. Why would council members stick us in these contracts? Gerald

Dear Gerald: Many of the service contracts strata councils' sign are extremely complicated to understand and intentionally weighed in the favour of the service provider. Unfortunately most strata councils are volunteers who do not understand the agreements they are signing when contracting for services. A contract is an agreement, either written, verbal or implied where one party provides a service or product, and the other party agrees to pay them for those services and products at the rates set out in the contract or that they agreed to pay. Companies routinely send a representative who makes a good promotion and hands over a contract that is claimed to be a "standard agreement" or the property manager puts the agreement in front of them at a council meeting and the strata rely on the manager to assure them the contract is fair. Question everything. There is no such thing as a standard service contract for maintenance. Companies may create boiler plate contracts and call them standard contracts, but everything is up for negotiation. A fair contract includes a clear description of the services, products and fees, and will address disagreements or procedures for termination. Before you sign any service agreements, consider spending a few dollars on a legal review. The cost is generally under \$2,000, and your strata could have avoided such a broad contract that runs for 10 years and left them no ability to solve the problems or move to a better service provider. According to Sat Harwood, a Vancouver lawyer who addresses contract issues for strata corporations, "the fundamental problem with entering into a 10 year service agreement is that it hinders a strata corporation's ability to seek multiple competitive quotes in the face of ever increasing repair costs." Before your strata signs their next contract apply a simple test. Do you understand the services or products that are being provided? Who is paying for any materials or supplies? What is the quality of products that are being used? Are they new or reconditioned? Is the company providing the service or subcontracting to someone else? How long will the contract run? How can we terminate the contract? Is there an option for arbitration in the event of a conflict? Do we understand how the cost of materials and fees for services are applied? As most strata councils say, "they were so nice when they came to our meeting". Protect your investment and get legal advice before you sign.

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