

Condo Smarts March 13, 2019

Borrowing funds: What's the limit?

Dear Tony: I am new to my strata council. I purchased 5 years ago and our strata is very well run; however, a number of questions came up at our AGM that made me start to wonder if everything really is as reported. We did not have any items reported as expenses from our contingency fund this year, and yet I know we had at least 3 emergencies of significant expense. The treasurer advised that emergency expenses are at the discretion of council and can be expended from the operating fund, the operating surplus or the contingency fund. Is this correct? Another owner also questioned a line item called "service charges for accounts". When questioned about the authority for this expense, the treasurer advised these were financing charges for our annual insurance and credit card. How does a strata corporation have a credit card? Caroline M. Saanich

Dear Caroline: It is a bit surprising how strata corporations and some management companies are creative with accounting and reporting to their owners. Owners are entitled to be informed about all expenses such as operating, contingency, special levy, and operating surplus expenses. If a strata corporation maintains an operating surplus that is not a slush for council at their discretion. Operating surplus funds may only be expended by $\frac{3}{4}$ vote approval at a general meeting or may be deposited to the contingency reserve fund by majority vote. Emergency expenses may only be expended from the operating fund or the contingency reserve fund. If they are spent from the operating fund surplus, a special levy or an approved contingency expense, those expenses may only be used to offset a deficit at the end of the year if approved by a $\frac{3}{4}$ vote of the owners. If you approve an emergency expense from the contingency fund it simply becomes an allocated expense to that fund, identified as an emergency in the council minutes and it does not have to be paid back to the fund. If a deficit results with no approved fund by $\frac{3}{4}$ vote, the deficit must be paid back to the operating fund within the next fiscal year and becomes a payable line item in next year's operating budget. Insurance deductibles as a common expense are the only exception where a strata council may automatically impose a special levy for an insurance deductible without the need for a $\frac{3}{4}$ vote authorization at a general meeting. In regards to a line of credit, credit card or loan, the strata corporation is only permitted to borrow funds, if the strata corporation has approved the loan or credit by a $\frac{3}{4}$ vote. That would include a line of credit or credit card or financing of an insurance policy. If your strata corporation intends on using a long-term line of credit or credit card, I recommend you seek legal advice on drawing up a bylaw to satisfy the $\frac{3}{4}$ vote requirement setting limitations and terms and conditions on the use and reporting of the card. My experience with strata corporations who hold credit cards is not positive. At some point in the history of the card, there is always someone on council who ends up abusing the card or spending on personal or unauthorized expenses. Here is a thought to consider about credit cards. A tenant or family member who is a tenant may be granted permission by the owner of a strata lot to be elected to council. This person is not on title and may not have any personal assets to risk. You may also have an owner or tenant on council with a very poor credit history or more serious financial issues. As volunteers and fellow owners, you have no knowledge of their financial record and you are about to entrust them with a credit card that holds everyone within your strata corporation liable for any charges. Does this sound like a prudent decision?

Tony Gioventu, Executive Director CHOA

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