

## Condo Smarts January 15, 2020

### Unlawful Charges

**Dear Tony:** Our strata corporation recently approved a special levy at our Annual Meeting to pay for a deficit of \$37,000 from 2019 over runs. The resolution required 3 equal payments March, April and May 1<sup>st</sup>. At the meeting several owners objected to the resolution as the payments were due in a short period of time and the fee of \$10 to collect the levy was added on to each payment. When questioned, the property manager admitted to writing the resolution and advising council the Act required the deficit had to be repaid in the next fiscal year and this was the only option. The owners at the meeting agreed to amend the resolution and spread the payments out over 6 months. We have now received notice of a new schedule of payments with a \$10 addition to each of the 6 payments. Are there other options to paying for a deficit that does not impose additional collection fees on the owners? Claire L.

**Dear Claire:** When a strata corporation is left with a deficit at the end of their fiscal year, the Strata Property Act permits three options to repay that amount. A special levy is not the only option, but it is the option that permits the management company to charge an additional fee. The first option is to add a line item to the agenda of the next year's budget to repay the deficit. This does not incur any fees for special levies, it is paid over 12 months, and only requires a majority vote for approval. While this does increase the strata fees for the next year, it is the best payment method because of the least cost and approval requirements. The other two options require a 3/4 vote resolution approval. The strata corporation may approve a special levy, and depending on your service agreement with your management company, there may be charges for the collection of the special levies. This charge is paid by the strata corporation, not by each individual owner and is a common expense based on unit entitlement the same as the deficit amount being levied. The management company does not have the authority to charge owners directly for their fees or services for collections of special levies. This additional amount is included in the special levy to pay the deficit. The special levy schedule must be re-issued and is only based on the total amount approved by the owners at the meeting. A third option is for the strata corporation to approve a one-time payment from the contingency reserve account to cover the deficit. While there is no immediate impact on the owners, it will result in the depletion of valuable savings for future renewals or emergencies.

While deficits occur for strata corporations due to insurance deductibles or emergencies, the cause of the expense is also important to identify. In Claire's strata corporation, over \$40,000 of emergency expenses for a deck leak and repair was allocated to their operating fund, while they have over \$250,000 in their contingency fund. Emergency expenses may be allocated from either the operating fund or the contingency reserve fund. How the funds are allocated is a decision of the strata council. If you are an active strata council member, take a direct interest in your monthly operations and expenses. While it is not mandatory, an emergency expense can be replenished to the contingency fund simply by approving by majority vote a higher contribution in the following year's budget, eliminating the need for special levies. Persons who are not licensed legal professionals, such as strata managers and consultants, and who are compensated for their services, are not permitted to write resolutions or bylaws for strata corporations as this is defined as a practice of law under the Legal Professions Act in BC.

Tony Gioventu, Executive Director CHOA

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