

Condo Smarts April 28, 2020

Do We Continue to Pay Strata Fees?

Dear Tony: Our strata council has decided to defer strata fees for several months during the COVID restrictions. Of the 7 council members, 5 are people who are off work for the short term, but the remainder of owners who are retired or work from home have no objection to the continuing of strata fees. Is this possible? If council members have a direct interest in an outcome is that not a time in council meetings when they should remove themselves during the decision making? We are very concerned we will end up in a serious deficit and drain what little reserve funds we have left for an emergency. The council simply advised they will not contribute our allocated contingency amount in the annual budget to make up the difference. Maria C.

Dear Maria: During these difficult times, everyone is scrambling to make their best efforts in attempt to accommodate hardships and reduce the day-to-day stresses of financial management. A strata council does not have the authority to undo a decision of the owners at a general meeting. Once the owners have approved the annual budget, the duty of the strata council is to enforce the bylaws and collect strata fees on the 1st of each month, as approved in the schedule of fees in the annual budget. While there are no strata police, any owner may simply make an application to the Civil Resolution Tribunal ordering the strata corporation to collect the fees. If a strata corporation wishes to use contingency reserve funds for any purpose other than an emergency, or a recommended depreciation expense approved by majority vote, the strata council must hold a properly convened special general meeting to obtain a 3/4 vote to approve the expense. An allocated and approved amount to the contingency reserve fund is a payable and budgeted item in the annual budget like every other expense, and it must be accounted for monthly. These designated contingency funds will require the approval of the owners at a special general meeting; however, that type of expense to defer the payment of strata fees may still be subject to a challenge in the tribunal and your strata council should seek legal advice before they consider this option. Many strata corporation insurance policies include some level of legal services for these types of emergencies.

There are 3 possible methods of convening a special general meeting to approve the possible expense. The first, permitted by a recent emergency order is for the strata corporation to convene a special general meeting electronically. A typical 20-day notice must still be issued to the owners, including the agenda and the specific wording of the resolution for the contingency expense, and the strata corporation must establish a method for the voting registration, procedures, and ensure eligible voters are capable to communicate with each other. The second option would be a conventional special general meeting where a physical meeting is conducted. Because of the assembly restrictions, owners would be required to submit a proxy which could be restricted solely to their instructions and only for the purpose of that resolution. The third option would be a waiver of notice where each owner is provided the resolution and as condition of waiving notice of a meeting, every eligible voter must vote in favor of the resolution for it to be approved. In smaller strata corporations this is frequently an option where all owners agree. As council members it is your duty to comply with and enforce the bylaws and the resolutions of the strata corporation. That includes upholding the approved annual budget or any special levies. It is not impossible to make changes or find alternatives when the proper procedures and approvals are applied. Don't cut corners and consider the consequences of your decisions.

Tony Gioventu, Executive Director CHOA

As a precautionary measure to prevent the spread of COVID-19 and support the safety of strata owners and employees CHOA Staff will be working remotely and our offices will be temporarily closed.

During this period our advisors are online and available by phone and email to assist you with general meetings and insurance updates and we are equipped to assist your council and owners with prescheduled conference calls.

Please stay safe and healthy. Thank you

Kindly note, CHOA has made the decision to postpone the spring seminar season to the fall. CHOA's Conference 2020 has also been postponed till September 26th, subject to improving conditions.