

Condo Smarts November 3, 2021

Authorized Contingency Expenses

Dear Tony: Our strata council has an ongoing dispute between our treasurer and property manager about the payment of our annual insurance policy. Our owners approved a budget of \$82,000 for this year based on the previous value of the policy. We had not anticipated a substantial claim this year, that had a significant impact on our renewal in September to \$124,000. We discussed options for the payment of the additional insurance cost from a special levy to a payment schedule for the insurance or loan from our contingency fund. Our final decision was to approve the additional amount from the contingency fund as a loan to the operating budget. The problem that has come up is the repayment of the loan. The Act requires the loan be repaid in the same fiscal year, but our insurance is renewed 3 months before our AGM/new fiscal year and we don't have the funds to repay the amount. Our treasurer insists we have a special levy at our upcoming AGM to repay the amount, the manager has instructed that we can extend that period by passing a 3/4 vote at the AGM, but that just defers the problem to the next year. With the unpredictable rates of insurance and other rising costs how do other strata corporations manage this issue? Kendra C .

Dear Kendra: There are several options for unapproved expenditures under the Strata Property Act. These applications include a specific recent amendment that addresses insurance applications for the payment of an insurance policy. A loan for cash flow purposes or a special levy are both options, but the amendment now permits a strata corporation to use the contingency fund to pay the additional cost of the insurance policy. This is a majority vote of the strata council to authorize the payment of the additional insurance cost and there is no requirement to repay the amount to the fund. I rarely quote the legislation in the column, but the change is significant in this situation. Section 98 of the Act is as follows. *(1) If a proposed expenditure has not been put forward for approval in the budget or at an annual or special general meeting, the strata corporation may only make the expenditure in accordance with this section. (2) Subject to subsection (3), the expenditure may be made out of the operating fund if the expenditure, together with all other unapproved expenditures, whether of the same type or not, that were made under this subsection in the same fiscal year, is (a) less than the amount set out in the bylaws, or (b) if the bylaws are silent as to the amount, less than \$2 000 or 5% of the total contribution to the operating fund for the current year, whichever is less. (3) The expenditure may be made out of the operating fund or contingency reserve fund if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise. (3.1) For the purposes of subsection (3), the prevention of significant loss includes, without limitation, the obtaining and maintaining by the strata corporation of insurance that is required under section 149 or 150 or the strata corporation's bylaws. (4) A bylaw setting out an amount for the purposes of subsection (2) (a) may set out further conditions for, or limitations on, any expenditures under that provision. (5) Any expenditure under subsection (3) must not exceed the minimum amount needed to ensure safety or prevent significant loss or damage. (6) The strata corporation must inform owners as soon as feasible about any expenditure made under subsection (3).*

It is important for the council to vote on this expenditure, include the decision in the council minutes and distribute these minutes so the owners are informed. While the repayment of the expense is not required, at your next annual general meeting, you can increase your contingency contributions as part of your annual budget to ensure your reserves are restored or increased for future needs. If you do not have sufficient funds in your contingency to cover this cost, a special general meeting will be required to approve a special levy of the owners to cover the additional cost. For an updated version of the *Act and Regulations* go to: www.bclaws.bc.ca

Tony Gioventu, Executive Director CHOA

Always include your strata plan number if you are requesting assistance.

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at:
<https://www.choa.bc.ca/about-choa/join-choa/>

Join us this Fall in the ‘Condo Classroom’: Both weekday and weekend registration options for the convenience of attendees! For more information visit our website at:
<https://www.choa.bc.ca/seminars/>

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.