

Condo Smarts June 19, 2019

Vehicle Damages

Dear Tony: The parking garage under our strata corporation has been leaking for several years and our owners continue to defeat the resolutions to approve the necessary repairs. A $\frac{3}{4}$ vote is impossible to pass. We have several owners who claim they could do the repairs for much less than has been estimated by our consultants, but every alternate proposal fails to have specific details of the construction, fixed pricing or supervision of an independent consultant to ensure we are not swindled. We also have 18 owner vehicles that have been seriously damaged from the leaks over their vehicles and there are no spare dry parking spaces. As one of the owners I have had enough. The value of our property is being affected, our car is one of the damaged parking spaces and we have serious concerns over the long-term structure of our parking garage if nothing is done. What can we do? Jeremy T.

Dear Jeremy: There are several options available to owners for strata corporations who fail to approve the funds and projects to maintain and repair their properties. The first option which is voluntary takes a bit of planning, but it makes it possible to proceed within a 1-year period. If a strata corporation has a depreciation report, and the depreciation report recommends a specific repair, the strata corporation may approve the expense from their contingency reserve fund by a majority vote. While many strata corporations often do not have sufficient funds in their contingency account to be approved by majority vote, then like approving expenses from the contingency fund, they are only required to approve contingency contributions as part of the annual general meeting by a majority vote. There is no limit to the amount. Several strata corporations have already approved a substantial contingency contribution to move forward with major repairs. While the ideal option would have been to contribute sufficient funds over the years to plan for this event, this is really no different than a special levy. The result is for a one-year period and everyone pays their special levy through their strata fees. This may have a significant psychological impact on sales, but unapproved special levies also have the same affect. In your strata corporation of 104 units for a 1.3 million dollar levy, the contingency contribution would average to \$1,041 per unit monthly for 1 year. It is essentially the same as a special levy except the payment dates are fixed with the monthly strata fees.

Other options result in court intervention or an application to the Civil Resolution Tribunal. The tribunal has the authority to issue an order to an owner, tenant or strata corporation to do something or stop doing something. Any owner may apply to the Civil Resolution Tribunal seeking an order for the repairs. The strata council may also apply to the Supreme Court of BC for an order for the repairs and the special levy, if at the time the $\frac{3}{4}$ vote is taken and does not pass, more than half of the votes cast were in favour. At your recent special general meeting, 66% of those who voted on the resolution, voted in favour of the special levy. Your council have the authority now to consult with a lawyer and proceed with a Supreme Court application for the repairs. This is one of the most common applications and remedies for failing to proceed with necessary maintenance and repairs to buildings. If you do not reach more than half of the owners voting in favour, the two other court options would be for an owner to make an application to Supreme Court for a Tadeson order, where the court orders the repairs and levies, or where a strata corporation cannot no longer competently function and an application is made to the courts by an owner(s) where an administrator is appointed to manage either the project or the corporation. My recommendation is always to take control of your projects, hire reliable consultants, consult with a lawyer on your resolutions and contracts, and do whatever is necessary to approve your own funding, otherwise the owners will be wasting time and money on disputes and failing to repair their property.

Sign up now for Spring Seminars in your area. Topics this spring will highlight Insurance, Above and Below the Deductible, Creating an Operations Plan for Maintenance, Renewals, & Annual Budgeting, and Bullying and Harrassement in your strata and the workplace. Go to: <http://www.choa.bc.ca/seminars/>