

## Condo Smarts July 4, 2020

### Disclosing Broker Fees

**Dear Tony:** Our strata council met with our strata manager last week after the issue around compensation and commissions from insurance brokers arose to discuss whether our representatives receive any of these types of commissions or fees. The broker followed up with us afterwards. We are happy to say our long-term relationship is intact, and our brokers and managers to the best of our knowledge have never received an undisclosed fee. A major part of our success that we hope to share with other strata corporations is that we have a clear and fair contract with our management company. It clearly defines what services they provide from emergencies, to meeting support, to building inspections and supervision of staff and contractors, to monthly reporting of financials, council meetings and minutes and our annual requirements. We also have detailed additional fees for major construction at an hourly rate approved by council if there are additional services required. At the time we negotiated the contract, we spent \$1,500 on legal review to ensure the relationship was fair and it has worked well for both parties. Most important, as a strata council we review the contract every year to ensure we understand both of our responsibilities and the work schedules are met. All our fees for monthly costs, administration, the provision of forms and records to buyers and financial services are clearly detailed and can be easily cross matched to our monthly invoices. Our strata management agreement specifically prohibits the retention of any type of fees and commissions. Wouldn't it be a conflict of interest for the manager or broker being paid from our service providers or contractors especially as they work for us? Isn't the best practice to negotiate directly with the strata corporation and set your fees accordingly? We pay \$45 per unit a month for great service, plus additional services as they arise. It works very well and there are no surprises. JMF

**Dear JMF:** A well negotiated contract is essential for any business relationship. Understanding the responsibilities, products, and services in exchange for itemized compensation removes doubt and ambiguity. Transparency is essential to ensure responsible business practices and enables a strata corporation to identify the services provided and compensate for them appropriately. The issues that have arisen in Strata Management Services is the lack of disclosure around commissions and fees earned, while the strata managers or brokers are in the process of managing your business affairs as your agent. Under the Real Estate Council Rules, if a licensee receives or anticipates receiving, directly or indirectly, remuneration, other than remuneration paid directly by a client, while in the process of acting for the client, they must promptly disclose: 1. the source of the remuneration, 2. the amount of the remuneration or, if the amount of the remuneration is unknown, the likely amount of the remuneration or the method of calculation of the remuneration, and 3. all other relevant facts relating to the remuneration. It isn't a conflict of interest for an agent or brokerage to receive a fee or commission if they have disclosed that they have or will receive a commission from a service provider who is acting for your strata corporation and your strata corporation has consented. Without any knowledge or disclosure, a number of strata corporations are discovering they are wrapped into larger portfolio negotiations for insurance renewals, which may be impacting their renewal costs and status, and the management company has been negotiating commissions and fees as compensation to the management company as a condition of bringing the business to the insurance brokers. With insurance rates climbing for the same buildings at a rate of 300-500%, those fees at a rate of 5-10% of the gross cost are having a significant impact on the cost for the consumer. As your agent, the strata manager and broker are essentially acting as you, the strata corporation. They have your delegated authority and in the process of managing your services they have a duty to act lawfully and in your best interest. Most of the management companies across BC refuse to participate in commission compensation through insurance brokerages, service providers and contractors as it often leads to conflicts, barriers to competitive pricing for the clients, and risking unlawful activity without

disclosure. Some of the many reasons why the BC Government has introduced legislation prohibiting the paying of commissions by insurance brokerages to strata manager companies and agents. If a strata council is in doubt, obtain a written disclosure from your management company and request they declare if the company or the managers receive any types of fees, commissions or compensation from any other party in the course of acting as your agent.

Tony Gioventu, Executive Director CHOA

**Covid-19 Notice:** As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

**Tuesday Lunch & Learn Live with CHOA:** CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at:

<https://www.choa.bc.ca/seminars/>