

Owners can force spending limits on board; It's not easy, but bylaws can be amended to impose restrictions

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Dear Robert: I recently moved into a condominium where the board makes all the spending decisions without a vote by the residents, who do not have any say as to how the money is spent.

It seems pointless to me to attend an annual general meeting when all of the decisions have already been made, and the money has already been spent. Our condo fees are now more than \$500 per month.

We are told that boards are elected to make these types of decisions. In British Columbia, I lived in condos where the residents have to vote at the AGM or special meetings on resolutions regarding spending in excess of \$5,000. Can we do this at our condominium corporation here in Edmonton?

A: Yes, you can place spending limits on a board. If your bylaws do not currently limit the amount the board can spend, the owners can come together to amend the bylaws and impose such a restriction. Any amendment to your bylaws would require the approval of 75 per cent of the unit factors and owners, which is a high threshold to satisfy.

If amending the bylaws does not work, you may want to consider electing people to the board who will campaign on a different approach in terms of how money is spent at the condominium corporation.

Helpful hint: It is easy to be critical of a board when it decides to spend certain funds on particular items. However, boards usually obtain information from third-party consultants to assist them in terms of what the repair and spending priorities are for the condominium corporation. An effective board makes decisions on a timely basis and communicates with the owners to ensure that the board is addressing the priorities of residents.

Dear Robert: For the past 10 years, our condominium board has been passing large special levies in order to renovate the entire complex. Being on a fixed income, I am fearful that we will be subject to further levies.

At the last annual general meeting, I asked whether or not the board was planning any special levy for the year, and the answer was no. However, two months later, the board assessed another special levy. What are your thoughts and advice on this issue?

A: Subject to your bylaws, the board does have the authority to issue a special levy to deal with a particular issue or issues. The board may be relying upon a reserve fund study which has identified a number of items that need to be addressed.

If that is the case, obviously implementing a special levy would indicate to me that the reserve fund is either extremely low or non-existent. Or perhaps the monthly condo fees are too low to cover the costs of operating the condo corporation on a yearly basis. This is something that the board should be looking at.

Unfortunately for you, if the board is acting within the law, there isn't much an owner can do with respect to the special levy other than electing a new board to determine whether or not these special levies are in fact necessary. You are still required to pay the special levy.

The consequences of not paying the special levy are significant. I know from experience that some boards undertake certain projects that add no real value to the corporation, but rather are nice to do.

Helpful hint: Condominium living can be extremely rewarding in that there are real benefits to living in such an arrangement. However, the reality is that the board has the authority to issue special levies.

You may want to consider obtaining insurance whereby your insurer would pay for the special levy up to a certain amount, provided that you fall within the parameters of your insurance policy.

Dear Robert: Is there any benefit to posting private property signs on the extremities of our condominium complex? Would it provide any protection if someone fell or slipped while crossing our property?

A: Signs that warn people of a particular danger are helpful. If there is a known risk, then signage, or some kind of notice, becomes very important. Unfortunately, having such signage will not prevent someone from advancing a claim should they fall or slip while crossing your property. You may want to consider fencing your property if this is a genuine concern.

Helpful hint: Posting a sign will not prevent a third party from pursuing a claim against the condominium corporation should they be injured on the property; however, you can mitigate your damages by identifying hazards and carrying out repairs in a timely fashion.

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He welcomes your questions at condos@edmontonjournal.com. Answers are not intended as legal opinions; readers are cautioned not to act on the information provided without seeking legal advice on their unique circumstances.

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