



Reserve Fund Planning

Best-practice Report

Recent BC Legislative Changes that Affect Strata Living

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1. What are Recent Legislative Changes?

Recent changes in BC's Strata Property Act (ACT) make it practical for strata councils to use an updatable financial plan to maintain, repair and replace a development's components. Other recent changes affect how monies can be invested and how a corporation can be terminated – these are covered in another report as we focus here on the particulars of reserve fund planning.

Two legislative amendments have made saving and drawing monies for these expenditures an easier process. First, if a mandated $\frac{3}{4}$ vote on a resolution for a special levy fails, a strata council can proceed with a court application, if more than 50 percent of the votes were in favour of the resolution.

Second, at a general meeting of owners (AGM) a simple-majority vote is now needed – rather than a $\frac{3}{4}$ vote – for funding a depreciation report and the future expenditures recommended in the report. Sporadic last-minute special levies are now engineered to disappear, and setting aside money for time consuming court cases is no longer required.

As of April 9, 2014, the SPA's Section 92 was amended – a depreciation report is defined as an operating expense that can be approved by simple majority vote at an AGM. As of April 9, 2014, the SPA's Section 96(b)(i)(A)(I) was amended – a depreciation report is defined as a reserve fund expenditure that can be approved by simple majority at an AGM. As of April, 9 2014, the SPA's Section 96((b)(i)(A)(II) was amended – a reserve fund expenditures planned in the depreciation report can be approved by simple majority at an AGM. The SPA's Section 108 limits special levies to $\frac{3}{4}$ votes at an AGM. But as of December 13, 2013, the SPA's Sections 173(2) and 173(3) allows for a strata corporation to apply to the Supreme Court for an order to approve the special levy as long as it received more than a 50 percent vote at an AGM and that the depreciation report planned for it. The SPA'S Sections 108 and 111 still imply that borrowing for a project requires a $\frac{3}{4}$ vote at an AGM.

In effect, the operating and reserve fund budgets are now on the same financial footing but more importantly, an exception to the $\frac{3}{4}$ general rule has been put in place. Funding – as defined in the most recent depreciation report – is now permitted by a simple-majority vote. A strata corporation can fund both a depreciation report and the expenditures it projects from the reserve fund and leave the operating budget for operating expenses.

2. What Does this Mean?

It is expected that more depreciation reports will be requested and that more common asset management, funding and planning will be conducted in a reasonable and timely manner. This is the best way to set standards



and to have strata corporations meet their mandatory statutory duty to replace and repair common assets as imposed by the SPA.

Implicit in the changes is a team approach process to strata component renewals. Work is to be conducted by certified and qualified professionals, inclusive of property managers, lawyers, reserve fund planners, engineers, trades, accountants etc. Minimum standards come with safeguards, scopes, due process, inspections, reports, transparency and compliance.

3. How Are Expenditures Going to Unfold?

In light of these recent legislative changes, the table below illustrates the options that a condo | strata corporation now has when it comes to reserve fund expenditures:

HOW FUNDING A RESERVE FUND EXPENDITURE WILL OCCUR

- The property manager and/or strata council considers an expenditure that is planned for in a few years.
- Quotes and estimates are acquired from contractors before the work is scheduled:
 - the professionals' and contractors' background is investigated for their reputation, their insurance coverage etc.
 - engineers, project managers, reserve fund planners, lawyers may be hired to manage this part of the process.
- The options for funding the project are determined and considered in terms of a full replacement and/or major repair depending on the economic life of the development and the existing condition of the project's focus:
 - if the work is in the depreciation report, the strata council writes a resolution for the next AGM that will require a simple-majority 50 percent vote to pass
 - if work is not in the depreciation report, the strata council writes a resolution for the next AGM that will require:
 - a 75 percent vote for a resolution to draw from the reserve fund for the expenditure or
 - a 75 percent vote for a resolution to pass a special levy or
 - a 75 percent vote for a resolution to pass a borrowing to finance the project and/or
 - a separate resolution in case a partial repair rather than a full replacement might pass instead



- The owners are kept informed throughout with minutes, information meetings, webpages and other means and political, legal or construction related issues are addressed in a reasonable and timely manner.
- Implementing the project is a different process that requires fresh eyes and renewed energy.

4. What is Going to Happen?

The legislation is encouraging the use of the reserve fund – as long as it is accompanied with a long-term plan in a depreciation report. Special levies will be used less. More condo | strata corporations will consider financing options to minimize the burden of replacements and major repairs.

Ensuring that owners do not lose their homes if they cannot afford special levies is one of the objectives of the amendments. Putting in place a transparent mechanism for developments to have their common assets maintained, major repaired or replaced is good for all stakeholders.