CONDO LAW FOR ALBERTANS

www.condolawalberta.ca



The Big 3: Condominium contributions, special levies and reserve funds

Condominium contributions (also known as condo fees), special levies, and reserve funds are different. Condo board members need to understand how they differ. The following chart with frequently asked questions will help clarify how they differ.

Frequently Asked Questions

What happens if an owner fails to pay the condo contributions or the special levy?

The condo corporation can take a number of actions against an owner who fails to pay condo contributions and/or a special levy, including:

- charge interest on the unpaid amount (up to 18% per year)
- sue for the unpaid amount, plus any interest and legal costs
- if the owner has a mortgage, ask the mortgage company to pay the outstanding amount
- if there's a tenant in the unit, require the rent to be paid to the condominium corporation to cover the unpaid amount
- file a caveat against the property title
- foreclose on the title to the unit

Centre for Public cplea Legal Education Alberta

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You should **NOT** rely on this booklet for legal advice. It provides general information on **Alberta law only**.

Why did I get a special levy notice when the reserve fund seems adequate?

A condominium corporation's operating budget and reserve fund are separate and distinct accounts with their own rules. For example, money from a reserve fund cannot be used to cover operating expenses. But a special levy may be levied against condo owners to cover operating expenses.

Can reserve funds be used to make capital improvements?

Capital improvements are usually changes, enhancements, alterations, or additions to the condo corporation's property that are not listed in the reserve fund study report. Condo corporations cannot use reserve funds to make capital improvements unless:

- authorized by owners by special resolution or it is necessary to comply with health, building and maintenance and occupancy standards required by law and
- there will be sufficient funds remaining in the reserve fund

Can reserve funds be used to cover operating expenses?

In Alberta, a condominium corporation's operating budget and reserve fund are separate and distinct accounts with their own rules. Money from a reserve fund can only be used to cover the cost of repairing and replacing the corporation's real, personal, common and managed property; it cannot be used to cover operating expenses.

TIP

Under the *Condominium Property Regulation*, condominiums can access reserve funds in emergencies. A corporation (that is not controlled by an interim board) may transfer funds in the reserve fund into the operating fund if certain conditions are met. There are also limits on the amount that can be transferred, as well as notification and board resolution requirements that the board must meet before transferring funds.

Alberta Real Estate Foundation

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Can the reserve fund be returned to owners?

Condo corporations cannot return reserve funds to owners once money has been collected from them. Any surplus collected stays in the reserve fund. For example, if a condominium corporation repairs the roof but it takes less money from the reserve funds than anticipated, the corporation cannot return the surplus funds to the owners.



CAUTION

Different rules about the return of reserve funds may apply when a condo corporation has been terminated. You should always seek legal advice when dealing with this type of situation.

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	Condominium Contributions	Special Levies	Reserve Funds
What is it?	Money paid by unit owners to the condo corporation.	A financial contribution imposed on unit owners in addition to condo contributions. Can be a one-time lump sum or an extra payment.	Money set aside by the condo corporation for the costs of major repairs and replacements. A portion of condo fees goes into this fund.
What is it used for?	Goes towards the operating account (to cover operating expenses) and building or topping up the reserve fund.	A special levy can be ordered by the board in certain situations: • To pay for unexpected and urgent maintenance and repairs • To cover shortfalls in the operating account • To increase the balance of the reserve fund to meet the requirements in a reserve fund plan • To pay for capital improvements (a special resolution is required) • To satisfy a judgment against the corporation • For any other purpose allowed under the *Condominium Property Regulation*	Used for major repairs to and replacement of the condominium's real, personal, common and managed property. Can also be used for: • A reserve fund study and reserve fund report • Any other report prepared by an expert about the corporation`s real, personal, common and managed property • Any other purpose allowed under the *Condominium Property Regulation*
How is it determined?	By unit factor unless the bylaws say otherwise.	By unit factor unless the bylaws say otherwise.	By a reserve fund study, report and plan (to be completed every five years).

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