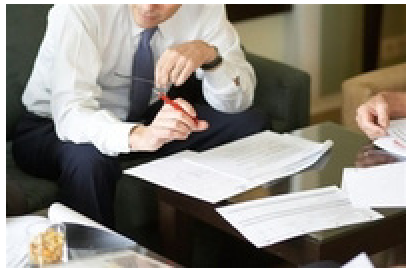
Condo Fraud

By Barbara Holmes on September 16, 2011



A recent article in the Toronto Star about a property manager who bilked several condo corporations out of a total of $20 million dollars made the paper's front page headlines. It is alleged that the property manager defrauded one condo corporation by registering a bogus borrowing by-law on title, which enabled the manager to then borrow three million dollars against the property. Another condo corporation was the victim of a fraudulent bid for major repair work on the condominium. It is alleged that a corporation controlled by the manager submitted the lowest bid, but once the work started the contract price escalated, while the work was done by a subcontractor for half of the bid price. Apparently the manager was able to land the management contracts with the condo corporations by submitting bids that were lower than the others.

What can a condo corporation do to protect itself from fraud by its manager?

- Do thorough reference checks on all parties that the corporation is engaging, including the manager. Relying on personal impressions is risky. Fraudsters are frequently masters at schmoozing their victims.
- Beware of bids that are substantially lower than the others. As the old adage goes "If it sounds too good to be true it probably is". This applies not only to the management contract itself, but to all contracts for services.
- The management contract should obligate the manager to obtain a fidelity bond that will protect the corporation from any fraudulent act or omissions of the manager or the manager's employees. Ensure that the bond is renewed annually and a certificate from the bonding company is delivered to the board members annually. The bond should not be cancellable by either the manager or the bond insurer unless prior notice of cancellation is given to all board members (not in care of the manager). As for who is responsible for the premium costs to pay for the bond that is a matter to be negotiated with the manager.
- The management contract should prohibit the manager from engaging related companies to provide goods or services to the corporation.

- The condo corporation should not give the manager sole authority to sign cheques. At a minimum all cheques should be signed by one board member along with the manager.
- Board members need to be vigilant. Some frauds are conducted over a lenghty course of time. In order to avoid detection the fraudster needs to be constantly monitoring things and taking steps to cover up the fraud. Employees engaged in fraudulent activities are reluctant to take vacation time for fear that the fraud will be exposed during their absence. Management employees who do not take any vacation time or who seem to have an excessively lavish lifestyle should raise red flags.

In view of how the manager in the reported story was able to fraudulently borrow money in the corporation's name, perhaps corporations should consider instructing their legal counsel to conduct periodic and/or random title searches. Of course the manager cannot be privy to any information as to when and how often these searches are being conducted.

While the above measures may not completely stop a determined and clever fraudster who is willing to engage in forgery, hopefully they will make it more difficult for a fraud to be committed.
