



Red Flags



Be Alert When Taking Over a Property



Managers are likely familiar with the horror stories of condominium corporations being defrauded and, unfortunately, some of you may have experienced this first-hand. But, my guess is that the vast majority of you have only seen a limited number of examples of fraud, if any. With the enactment of the Condominium Management Services Act, it appears that there is more legislated responsibility being placed upon property managers to be increasingly vigilant for potential improprieties.

The purpose of this article is to give you some tools for detecting fraud to add to your existing arsenal, and to reinforce those tools you already have. Red flags are out there, typically in plain sight. As managers, you have to be on the lookout for them. Let's look at 11 examples of where red flags can be found.

1

Major Service Contracts – Security, Cleaners, HVAC

Red Flags:

- The contract is awarded shortly after a new board took over.
- The contracts are not awarded to businesses your company would deal with.
- Long-time service provider's work is sub-standard – someone on the inside is likely benefiting.

2

Property Management company has changed "frequently"

If the property management company has changed frequently, then you have to look at why they were changed.

- Was it a new board coming in that didn't like the old property manager.
- Was it simply that they were not getting appropriate value for money,
- Or was it that the company was hard to "control" and the board could not conduct things their way.
- The property manager caught on to something the board was doing.

3

Hydro Electricity Contracts

If hydro costs have been significantly higher in say the past 12 months than they would have been through an energy provider such as Toronto Hydro, it would be prudent for you to look deeper and see if there was possibly any malfeasance involved.

4

Minutes

- Board meets infrequently. For a condo with activity taking place, this is cause for concern – how are the decisions made and by whom. Are discussions held by phone or by email so that a trail is not readily available? Are different people being told different things?
- Minutes lack details regarding major decisions. Is one person or a small group making the decisions off-line, with the rest of the board then acquiescing.

5

Reserve Fund Studies (RFS)

Two potential fraud red flags would be, if different "engineers" prepared RFS during a relatively short period of time, or if there are significant variances between two RFS.

6

Natural Gas Contracts

How do you know if the natural gas contract made economic sense to begin with? Watch for these red flags:

- a) Rates were significantly higher than the “Enbridge” posted rate when the contract was entered into.

For example, if the posted Enbridge rate was 14¢/m³ and the contract was for 30¢/m³, then you know that the fix was likely in — but some digging is needed — the Enbridge rates are typically adjusted every three months after approval has been received from the Ontario Energy Board. It may be that there was a dramatic shift in the marketplace once Enbridge’s last rate had been set — “fracking stopped in the U.S. and so the supply of natural gas had been greatly reduced!” and the price is rising sharply. This would, therefore, be an exception to the fix being in.

- b) Rates were still significantly higher than the posted “Enbridge” rate post-signing. If the Enbridge rates did not increase after the contract was entered into, then there were likely no market conditions that existed when the contract was first entered into to justify the higher rate at the start of the contract.
- c) Rates are significantly higher than similar contracts. Finally, the reality check is comparing the contract to others that were entered into at approximately the same time with similar terms. If the rates are significantly different, then you likely have a problem.

7

Financial Information

Financial ratios and trends usually tell a story. Some red flags are:

- a) Large unexplained variances in the year-to-date monthly financial statements.
- b) There are very old accounts payables or receivables; closer examination may lead to a financial problem.

8

Auditors

- a) The corporation’s auditors have changed “frequently”. An auditor that has a history with a condo would be much more likely to be able to identify red flags than a new auditor.
- b) Auditor is an “unknown”. The audit of a condo corporation is very different than that of other not-for-profit organizations due to the many nuances associated with operating a condo. If the auditor is not generally known in the “condo” community, they may lack the experience and expertise required to identify financial and/or operational anomalies and may have been retained for that very reason.

9

Directors

- a) Directors’ manual does not exist. If a manual does not exist detailing the board’s role and responsibilities, they may just be carrying on business based on informal practices that developed over time. These practices typically lack the checks and balances that are required for those in a fiduciary position and the bad guys can use this to their advantage.
- b) Code of ethics not signed. If a code of ethics exists but has not been signed, it may point to a problem. If a bad guy signed one, it would be difficult for them to say “I didn’t know that was improper because where I came from, that was a normal business practice”. If the condo does not have a code of ethics, then some directors who are not familiar with terms that would be included in a code of ethics, could be at the mercy of other directors.

10

Tenders/Contracts

- a) The processes for tendering contracts are undocumented. If the condo does not have any formal tendering processes that it follows, then chances are there may be room for abuse, which may include:
 - Limited number of invited tenders or no tenders at all on a contract.
 - Contracts over a certain amount may not be referred to the appropriate professional for review e.g., engineer, lawyer.
- b) The processes are not adhered to.
 - Here the chances are even greater that something improper may be occurring, as there are guidelines in place that are not being followed.
 - If tenders are supposed to be opened at the same time by the board and the engineer but the president has been opening the tenders as they come in, then the president can advise their “buddy” of what the competing bids have been.
 - If tenders or quotes have unreasonable turnaround times, it may be evidence that the fix is in — as only one party — the “buddy” who received advance information is able to respond on a timely basis.

11

Communication to Residents

- a) Infrequent communications to residents.

A lack of information regarding projects in the building may be an indicator that due process is not being followed properly.

- b) Little advance notice.

The board may realize that owners must be told something, but not enough time has been given to owners to impact the board’s decision. This might be an indicator that the “fix” was in. Remember, if you see something, say something!