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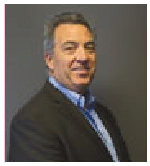

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Fraud and Financial Crime
in Condominiums

Financial crime in condominiums is not as common as in other organizations, but it has severe and often disastrous consequences when it occurs. If the offence involves one or more directors, owners can and do lose trust in everyone responsible for the governance of their community. Suspicion of a director's motives and actions never results in a positive environment. If the crime involves management, either the site manager or others within management, it destroys that relationship and taints future management relationships with suspicion and distrust. If it involves a supplier, the integrity of all suppliers may be questioned. It is vital that residents, directors, and management support measures that minimize risk and participate in their supervision and enforcement. By doing so, the condominium has the best chance to be a pleasant place in which to live.

There are four general types of financial crime in condominiums that have been around for several years: kickbacks, improper payments, unsupported or altered payments and diversion of funds. There is also a relatively newer type of crime that condominiums need to protect themselves from cyber-crime.

Kickbacks, sometimes called "secret commissions," occur when directors or management are paid money or receive other value to influence decisions to contract with a particular supplier or provide a supplier with the opportunity to change their price after receiving bids. The term "secret commissions" may imply that they are a commission earned, but they are kickbacks and are a crime no matter how these transactions are dressed up.

Improper payments are those for which the condominium does not receive value. For instance, when a condominium pays for items such as in-suite repairs (for which the condominium is not responsible?) or the personal expenditures of directors or management.

Unsupported disbursements are those for which supporting documentation is either missing or does not provide clear evidence of the nature and amount of the expenditure. Altered invoices are self-explanatory and are rarely altered to lower the price from the original.

Diversion of funds happens when monies in bank and investments

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accounts are stolen; for instance, mail can be intercepted after a cheque is issued, or a manager can forge signatures on cheques to divert funds.

With more people working remotely in the last year and a half due to the pandemic, another potential threat to condominiums is unknowingly putting data at risk. Working remotely can potentially lead to data breaches, identity theft and a host of other issues. These risks may be minimized if management and directors educate themselves and obtain training related to cybersecurity, such as identifying malicious emails, best practices for passwords and safe use of the internet and social media. If in doubt, consult a cybersecurity or IT professional to help assess the condominium's cybersecurity risks and ensure that people, data and assets are protected.

There have also been other financial crimes in condominiums. Some years ago, the owner of a management company perpetrated a sophisticated fraud on several condominiums using fake directors to authorize bylaws and borrow over 20 million dollars. Thankfully, crimes such as these are rare.

The First Line of Defence

The first line of defence against fraud is the policies and procedures that management companies put in place to minimize risk internally. Policies such as:

- no gifts;
- segregation between personnel initiating and approving payments, between those issuing cheques and those dealing with bank and investment accounts;
- cheque signers and payment authorizers who are independent of site management and accounting personnel;
- use of a purchase order system with approvals to ensure that payments made are authorized;
- establishment of a vendor vetting system that involves procedures such as title search, HST verification, verification that vendor staff are employees, not contractors;
- WSIB verification and confirmation of and a search for related companies.

If your management company has these policies and procedures in place, they are doing their part to protect their condominium clients from fraud and financial crime.

The Second Line of Defence

The second line of defence is the policies and procedures that directors put in place to minimize risk. These policies should include hiring a site manager with experience appropriate to the size and complexity of the condominium and ensuring that management is licensed – a requirement of the Ontario Government through the Condominium Management Regulatory Association of Ontario (CMRAO). The possibility of losing their livelihood through loss of licence provides managers and property management firms incentive to act appropriately and honestly.

The first line of defence against fraud is the policies and procedures that management companies put in place to minimize risk internally.

Other procedures to help prevent fraud are:

- directors confirming in writing their agreement to follow a code of ethics;
- having a no-cash policy;
- mandating a closed bid procedure on large contracts;
- approving major contracts at board meetings and documenting the approval in the minutes;
- vetting electronic payments; reviewing financial statements monthly and understanding reasons for significant variances; verifying old receivables;
- looking for odd disbursements or amounts that seem excessive for a particular vendor;
- verifying cash and investment accounts in this increasingly paperless environment; and
- reviewing support for petty cash reimbursement payments.

Finally, directors should consult with their insurance company to determine the appropriate types and levels of insurance to ensure adequate protection from financial loss.

Red Flags

There are common red flags that indicate further investigation may be warranted:

- a manager who aggressively promotes one vendor;
- not tendering on large contracts or tenders brought to the directors that are already opened;
- pressure to make payments too quickly;
- monthly financial statements consistently not provided on a timely basis;
- bank and investments statements are not included in the financial statements;
- unclear or vague answers to questions;
- reluctance and undue delay in providing documentation;
- suppliers who submit tenders identified only as numbered companies and do not have much of a presence on the internet.

Protecting condominiums from fraud and financial loss is not that difficult and mainly involves using the same common-sense protective measures we use in our personal lives. In brief, be aware, be careful; be a little skeptical, believe what you are told and then ask for proof; if it looks too good to be true, it probably is. As an old saying goes, trust in your God and count your change. If you have doubts, trust your instincts, ask questions and investigate until you are satisfied. It is no more complicated than that. ■

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