

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-317

Condo Smarts

Headline: Back Charging

Topic: Bylaw enforcement

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Dear Condo Smarts: During the heavy winter snow and rain, our ground-level condo experienced flooding through a bedroom window. The window has a well to permit light and manage water, but the amount of water held in the well because of the frozen ground, resulted in the water rising half way up our window before it started to seep into our home. The moment we saw the water we started removing furniture and my husband put a fish pump in the well to remove the water and reduce the risk of further damage. We then called the property manager to advise him of the damages, who called an emergency plumbing service to come and free up the frozen drains. We received a bill in the mail yesterday for \$813.00 for the emergency plumbing call and the itemized service to the drains. Our council knew nothing of the claim or the cost being back charged to our unit. In the property manager's letter we are advised if we don't pay the amount in 14 days, a lien will be filed against our unit. Is this a common practice in the strata industry to back charge costs to owners when a common service fails? We were told by the manager that it's our cost because we placed the call and failed to maintain the window according to the bylaws. Mrs. D. Carter, Vancouver

Dear Mrs. Carter: Just because you reported the failure is no grounds for the

strata corporation to back charge the costs. The strata corporation is responsible for the maintenance and repair of common property, and that includes in most building type strata corporations, common drainage, exterior building drainage systems, doors, windows, roofing, decks and balconies. If an owner/tenant causes an insurance claim and is found responsible, the strata may charge back the amount of the deductible. Likewise, if the strata has to enforce a bylaw contravention, they may require that the reasonable costs of remedying the contravention are covered. For example, if the decks are limited common property, and you fail to keep drains clear as part of the bylaws resulting in damages caused by your neglect, the strata may have reasonable grounds to enforce the bylaw to recover those costs. The big question here though, is how the decision was made. The decision to back charge or charge for bylaw enforcement or an insurance deductible is a decision for strata council not the property manager. The decision to enforce a bylaw, first requires a notice of the alleged violation from council and the opportunity for you to request a hearing or respond to the allegation in writing. Review your bylaws, request a hearing with council to review the history and the allegation, and if it is unsuccessful, seek legal advice.

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