



Strata Alert: The cold Hard Truth About Enforcing Strata Liens

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The Owners, Strata Plan NW57 v. Lambert, 2019 BCSC 64.

One of the hardest parts of my job is collecting unpaid strata fees and special levies from condominium homeowners. I am not talking about owners who pay their strata fees in one lump sum every year or two by credit card. I am talking about the owners who have a lien on their property for a small amount of money with no possible way of paying it. Those cases break my heart. Sometimes.

In this case, an owner with mental illness fell behind on his strata fees in the amount of \$1958.73. With legal costs, the total cost to discharge the lien was \$2,482.33. Try as he might, the owner had no way to pay.

Eventually, the unit owner's mom became involved. She told the strata that the unit owner was unable to pay due to his mental illness and she made an offer to settle the entire debt for \$1800 inclusive of costs. The strata rejected the offer and proceeded to enforce the lien and obtain an order for sale of the owner's strata lot.

The unit owner challenged the validity of the lien and the strata's entitlement to costs on the basis that the strata unreasonably refused to consider the settlement offer. At the time of that settlement offer, the parties were only \$650 apart.

The court upheld the validity of the lien and rejected the owners' argument against an award of costs for the strata. The court held that a strata corporation is entitled to its reasonable legal costs and reasonable disbursements in registering and enforcing a lien, and

those form part of the amount owing under the lien: SPA, s. 118. Accordingly, the strata has no legal obligation to discharge a lien until the full amount secured by the lien is paid to the strata or into trust.

The court was not unmoved by the unit owner's mental health issues. The unit owner clearly had no ability to manage his own affairs and the amount at stake was small. The unit owner tried arguing that the strata was being unreasonable, taking into account the owners unique circumstances. The court concluded that there is no legal obligation on the strata to negotiate its strata fee debts, or waive amounts that it is legally entitled to under the SPA or its bylaws, because doing so would undermine the ability of the strata to deal fairly with the other owners who meet their financial obligations to the strata month in and month out.