
Dollars and Sense: A Strata Council's Guide to Fines

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When it comes to issuing fines in a BC strata corporation, not every fine is ...well...fine. A Council's ability to fine an owner or a tenant is governed by the community's bylaws and the *Strata Property Act*. Even after a Council completes the bylaw enforcement steps required to issue a fine under section 135 of the *Strata Property Act*, questions remain: How much? How often? How come?

The Bottom Line

By default, every strata corporation in British Columbia is equipped with the ability to render a fine for a bylaw or rule infraction. The Schedule of Standard Bylaws to the *Strata Property Act* permits Councils to render a fine of up to \$50 for every infraction of a bylaw, and up to \$10 for every infraction of a rule. The Strata Property Regulations also permit strata corporations to increase these fining amounts to up to a maximum of \$200 per bylaw infraction, and \$50 for a rule infraction. In addition, the Regulations allow strata corporations to institute fines of up to \$1,000 for each infraction of a bylaw prohibiting or limiting a strata lot's use as a vacation, travel or temporary accommodation (the proverbial "Airbnb Bylaw"), and \$500 for each infraction of a bylaw prohibiting or limiting rentals of a residential strata lot. The law also permits strata corporations to level fines with more frequency when a bylaw or rule is continuously contravened. Whereas a continuous contravention of an ordinary bylaw or rule can yield a new fine every 7 days, a continuous contravention of an Airbnb bylaw or rental bylaw can rack up a daily fine.

Another Day, Another Dollar

Although the law certainly enables a strata corporation to levy fines, the law also imposes obligations on the strata council to exercise this authority within certain parameters and a level of care. The standard of care of Strata Council is imposed by section 31 of the *Strata*

Property Act, which provides that Council members must (a) act honestly and in good faith with a view to the best interests of the strata corporation, and (b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances. There may well be circumstances in which a Council elects not to impose the maximum fining amount. What is important is that the Council consider what amount would be a sufficient remedy for the breach, and avoid the habit of issuing blanket maximums or minimums without some residual discretion and common sense in the circumstances (*Lau v. Strata Corp. LMS 463*, *Kok v. Strata Plan LMS 463*).

Common Cents

Just as a strata corporation is tasked with bylaw enforcement, so too is the corporation tasked with collections. If fines are racking up against a ledger, the Council should remain mindful of its collections obligations and the applicable limitation period. Under our current BC Limitation Act, fines that accrued on or after June 1, 2013 must be collected within two years. The Courts have also been mindful that a strata corporation's bylaw enforcement obligations extend beyond merely collections, but may require more proactive steps such as seeking injunctive relief in respect of repeated or serious bylaw or rule infractions. In short, running a tab will not get a strata corporation very far.

Feeling Fine

Although levying a fine may lead to fewer bylaw infractions, there are no guarantees that such remedies will actually resolve the situation. In cases where a Council is faced with a series of fines, and potentially fine payments from an obstinate owner, Council should consider whether or not it is appropriate to keep issuing

finer for further infractions. Indeed, owners who have a history of receiving fines and remitting payments may not escape judicial intervention. Rather, strata corporations who can demonstrate that fines have not been a successful bylaw enforcement tool or deterrent can obtain injunctive relief from the Court (Strata Plan LMS 4255 v. Newell, Strata Plan VR 2000 v. Grabarczyk, affirmed 2007 BCCA 295; Strata Plan LMS 2768 v. Jordison, varied 2012 BCCA 303; Bea v. Strata Plan LMS 2138, affirmed 2015 BCCA 31). Such circumstances serve as a special warning to chronic bylaw offenders who seek to evade more stringent consequences than a fine can provide. You may get what you pay for, but you cannot buy your way out of habitual bylaw offenses.