

Headline: Strata fees and special levies: What happens when an owner doesn't pay?

Topic: Strata Fees

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Strata lot owners and strata councils often find themselves bogged down in disputes because the owner has not paid their strata fees, special levies, interest on fees and levies, and the strata corporation has not applied a consistent business decision to the collections. Combine unfair business applications with poor monthly reporting and inaction by council and you have a recipe for unnecessary costs imposed on both the strata and owners in arrears. There are essentially two types of debts that are owed to a strata corporation. Secured debts, like strata fees, special levies and interest where permitted that may form part of a lien against a strata lot to secure the debt. Unsecured debts such as bylaw fines, insurance deductibles, damages, user fees and alteration agreement costs may not be included in a lien amount and the strata will have to collect this by means of a small claims court action or an action in the Civil Resolution Tribunal once it is enacted in 2016. To make the collection process even more complex strata corporations are also limited to a two year collection period under the amendments that were adopted in the *Limitation Act* in 2013.

Strata corporations in BC have a significant privilege for collections. The *Strata Property Act* grants strata corporations a super priority for secured debts over other types of registered debts. If properly filed they will take priority over mortgages, second mortgages and other debts or judgements that do not precede government debts such as taxes or family maintenance enforcement payments. It is essential for a strata council and strata manager to work actively on the collection of any debts that are owed, otherwise the strata corporation will lose their ability to collect within the limitation periods. For this reason strata councils must routinely review debts and makes decisions on how they are going to proceed with the collection to ensure the strata manager and council have the

authority to begin a collection process. Strata fees and special levies are a simple collection process. Strata fees are generally due monthly as set out in the bylaws and special levies are due on the dates set out in the resolution. Once an owners fails to make the payments as scheduled the strata sends a demand notice giving the owner 14 days to pay the amount or the strata will be entitled to file a lien. This does not require the strata to file the lien immediately; however, once the 14 day period has passed, and the owner has not paid the amount or made satisfactory arrangements with council, the strata may proceed with filing the lien to secure the debt. This is where the collection process becomes very costly for owners. A \$500 strata fee can easily double with the additional costs of filing, legal service and administrative costs. As the debt increases a strata will take this to the next level which will result in an application to Supreme Court of BC for an order for the sale of your strata lot. It is critical in the collection process to separate secured debts and unsecured debts on the accounts. If your strata attempts to collect unsecured debts on an order for sale application, don't be surprised when the application is dismissed. Apply a 5 step rule for collections.

1. Monthly review all receivables
2. Council vote on the collection actions and minute the decisions
3. Notices of the debts/ demand notices are issued
4. File liens for secured debts if owners are not responsive or do not pay the amounts
5. Commence court action before the 2 year limitation runs out.