

Condominium Home Owners Association

A non-profit association serving strata owners since 1976

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Condo Smarts

Headline: Stratas have power to make you pay

Topic: Liens

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One Chilliwack strata unit owner recently decided to protest the strata corporation's decision to paint the buildings a colour she did not like, by withholding strata fees and her portion of the special levy for some required repairs and the painting.

The strata had properly ratified a resolution for both the special levy and the change of colour by a three-quarter vote at a special general meeting and had met every requirement of the strata act and bylaws. Now, the owner has received notice that not only has a lien been filed against her unit as previously notified by the council, but that a lawyer has been retained to proceed with an order for sale of her strata lot, in order that the strata may collect the funds. Either she pays or the strata will proceed with the application for sale. The owner, naturally, is outraged and wonders if the strata has any right to do this.

Strata Law: The strata act is clear: owners must pay special levies, and they must pay strata fees as set out by the bylaws and resolutions. The act also grants significant authority to the strata to recover those fees and most of the associated costs. An owner who refuses to (or cannot) pay a special levy may also be facing liens charges, and the costs of legal and courts costs. That amount may double in debt if the owner drags this on, with a good chance that the ultimate outcome could be sale and loss of their home.

Tips: When owners sell or remortgage, a Form F is required to disclose any debts incurred and still unpaid to the strata. This, unfortunately, creates an easy out for councils who do not want to go to the considerable trouble that enforcing strata law involves when it comes to non-payment of fees or special levies, which is to simply defer the issue until later. However, the law is clear and in cases such as these should be followed to the letter. In this case the strata is acting well within its rights. Further, it must act to protect the strata rights. In this case, if the non-payment had been deferred to be disclosed on some future, theoretical Form F, the strata could lose its priority and therefore not serve the remaining owners well. If one owner can't or won't pay, it's not within the strata act to force everyone else to end up paying for them

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