

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-314

Condo Smarts

Headline: What to do when we are sued?

Topic: Lawsuits

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Written by: Tony Gioventu

Dear Condo Smarts: I own a two bedroom unit in a highrise development in Vancouver. Someone has anonymously put a note under everyone's door in the building advising that the strata corporation was sued in September and what are we doing about it? My neighbour and I started asking the council questions and they refused to answer. Now a notice has been sent by council advising that they in fact did receive notice of a suit in the fall. We found out it's relating to a cancelled sale because the strata corporation did not supply the proper forms or building reports on request. One of the council members has advised that the law suit is none of our concern and they will advise it once it is settled. Our owners are fuming. Shouldn't the owners have the right to know what's going on?
Sincerely, Miss K Lee

Dear Miss Lee: When a strata corporation is given notice of a lawsuit, including notice of arbitration, the strata corporation must inform the owners as soon as feasible that it has been sued. The strata corporation also needs to notify its insurance provider of the claim. If there is any possibility that the claim may be covered under your liability or directors' and officers' coverage or another peril, your policy may also require that you inform your insurance provider of the claim as soon as feasible and that you mitigate any

additional risks. At the same time your strata council needs to contact your lawyer and seek advice on the extent of information that should be provided to your owners in the notice, and to ensure they do not release information or evidence that may compromise the strata corporation's ability to defend the suit. The other side of this issue is the cost. Many strata corporation just believe whatever the cost is will be paid from their reserve funds or operating surplus, but does the strata have the authority to expend these funds without the owners' permission? Not likely, unless it's an insurance deductible or within your budget limitations. If the insurance does not apply, strata corporations may also convene a special general meeting of the owners to provide sufficient information to those persons/strata lots not suing the strata corporation. It may also be necessary to have the owners vote on either the use of reserve funds or a special levy to ensure the defense is properly funded. Communication is critical for either the commencement or defense of a law suit, but the procedures and residual effects of the decisions of the strata are often much more complicated than they first appear. If you're on council, contact the insurer, contact your lawyer and inform the owners, as soon as feasible.

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