

### Condo Smarts

Headline: Collecting Funds

Topic: Collections

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Written by: Tony Gioventu

**Dear Condo Smarts:** Three owners in our strata have not made any payments on a special levy which was due the end of February this year. The each owe roughly \$ 9,000, and our suites currently sell for around \$325,000. Our property management company has placed a lien against the two strata lots but has advised us not to proceed with a court ordered sale as we are told the judge would be very unlikely to force a sale. Part of the problem is our manager is afraid of one of the owners. If we can't go to court how do we get money from these owners? NB, Surrey

**Dear NB:** If a strata lot has not paid their strata fees, special levies, the Strata Property Act gives you substantial authority to protect the strata interests, but also to ensure those funds are collected. Take this chronologically. On February 28, the special levy was due. Those units that missed that deadline should then receive a demand notice advising if they do not pay the amount within 14 days the strata corporation will be entitled to file a lien against a strata lot. Once that period has expired, the strata council then needs to decide when a lien will be filed, if the owner is not co-operative in providing payment. The lien provision is there to ensure the strata corporation interest in the money owing can be collected, and it takes a priority over other items like personal debts and

mortgages. The cost of filing the lien is also included in the lien amount the person owes. If at that time, the owner is not co-operative, the next step is to proceed with a court application for a forced sale of an owner's strata lot. Depending on a number of conditions, and with the advice of legal counsel at this point, you will decide on what the appropriate time and amount are for proceeding to the application for sale. According to Stephen Hamilton, a lawyer in Vancouver, "most strata corporations would consider proceeding to court for the application when the amounts reach \$2,000- \$5,000 or a long period of time has passed for the amount owing. While most of the costs are recovered, the strata corporation does have some cost associated with court fees that may not always be recovered." Don't wait for the owner to go into bankruptcy or worse yet, lose their asset because of proceeds of crime, tax evasion, or long unpaid family maintenance requirements. Your strata corporation may not be in a priority to get paid what they are owed. The strata corporation must enforce the bylaws and has a duty to collect the funds. It is reasonable to take the necessary steps to protect the interest of the other owners who have paid their assessments and are shouldering the costs.

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