

Condo Smarts

Headline: Collecting strata fines

Topic: Collections; Fines

Publication date: Jan 20, 2013

Publication: The Province

Written by: Tony Gioventu

Dear Condo Smarts: We have just been elected as a new strata council on December 14th. All of the past council members after many years of dedicated service decided to take a well deserved break. At our first meeting with the property manager last week, we reviewed the financial reports and discovered that our strata corporation has over \$18,000.00 of unrecovered fines on our books. The manager advised that these were fines that applied to strata lots over the past 10 years, and include an insurance deductible cost from 2006. We have requested a detail of the fines, and a summary of the fines for each strata lot so we could assess the application of the fines and the procedures that were used. We have reviewed the minutes of the council meetings since 2005 and there is nothing in the records that indicate that council had ever made any decisions on any fines or costs, so we are confused about how we can collect these fines when we have no information about them? To make matters worse, the unit that has the insurance deductible cost that was claimed back in 2006, sold in 2009 and there was no attempt at collecting the funds before that. The new owner had no idea of this claim on their account and has now requested that we remove the amount or they will take us to court. The property manager advised that council cannot reverse fines or claims once they have been decided by a previous strata council. Could you please advise the proper procedure on this matter and whether we are permitted to correct or reverse fines or penalties? *Iris V. North Vancouver*

Dear Iris: First it is important to review the enforcement process, including the collection of any penalties or damages. Before strata corporations may impose a fine, require that

they pay costs of remedying a contravention, or deny a person the use of a recreational facility, they must first have received a complaint, and given the owner & tenants the particulars of the complaint in writing, and a reasonable opportunity to respond to the complaint either in writing or request a hearing. It's a basic three step process. Step 1 we get a complaint Step 2 we give written notice to the owner or tenant of the complaint and the particulars. Step 3 Once the hearing/response process is complete, council then make a decision at a council meeting whether they are going to impose a fine, penalty or proceed to recover the costs of damages or deductibles for insurance claims. Those decisions of council must be in the strata council minutes to show that a lawful decision by majority vote was made by council authorizing the penalty. The minutes do not have to include particular information; however, for the amount to be tracked and collected, they do need to show the decision. For example, " it was moved, seconded and carried that after several unsuccessful warnings, council impose a fine of \$200 against a strata lot that has continued to violate the fire lane parking prohibition bylaw." The decision is recorded, the date is logged in the minutes, the procedures have been followed, and the strata corporation can now track the collection as part of their monthly and annual receivables. The actual strata lot number is not necessary in the minutes as there should also be back up correspondence relating to the enforcement proceedings and the decision of the strata corporation. The same application should also apply to collections for damages or insurance deductibles. It protects the strata corporation in the event there is a discrepancy over the

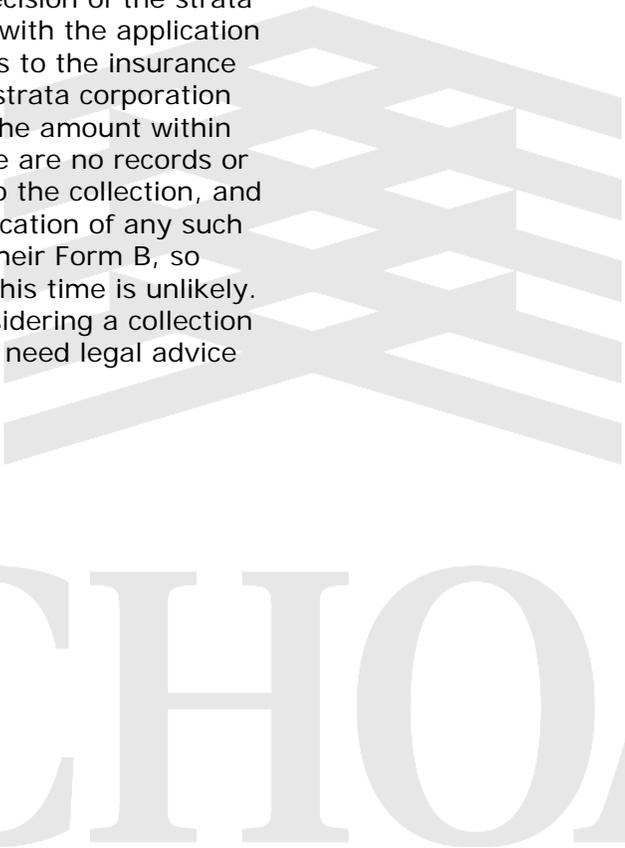
For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.

penalty and collection process, and it provides your council with a monthly record of collection decisions.

If the strata corporation cannot provide documentation that verifies the action of the council for enforcement and collection, the strata council may have no other choice but to reverse the fines. Remember, that until these are actual court judgments, there are purely allegations and it is the decision of the strata council how they proceed with the application of the fines. With respects to the insurance deductible collection, the strata corporation made no effort to collect the amount within the limitation period, there are no records or correspondence relating to the collection, and the buyer received no indication of any such outstanding amounts on their Form B, so collecting this amount at this time is unlikely. If the strata plans on considering a collection proceeding they definitely need legal advice before they proceed.



CHOA

**For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.**

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.