

Condo Smarts

Headline: Voting eligibility depends on bylaws set up by strata

Topic: Voting

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Dear Tony: I just received the notice package for my strata corporations AGM and it states no owner may vote if they are in arrears. What does this mean? What are considered "arrears"? My monthly strata fees are up-to-date however the strata says I owe money for a disputed bylaw fine. Can I still vote at the AGM? *Jon Thomas, Parksville*

Dear Jon: Good question, we are often asked about voting eligibility. The answer can be found in the *Strata Property Act*. The only time a strata may restrict an owner from voting is when: 1) the strata has an appropriate bylaw, and 2) the strata corporation is entitled to register a lien against that strata lot.

The first step is to review the bylaws for your strata corporation to determine if your strata has a bylaw that determines an owner is ineligible to vote at an annual or special general meeting if the strata corporation is entitled to file a lien against a strata lot. In Jon's case I reviewed the registered bylaws for his strata and no, his strata does not have such a bylaw.

If the strata had such a bylaw, the second step is to determine if the strata is entitled to register a lien against the strata lot. It should be noted the strata corporation may only register a lien in limited situations - specifically, only when an owner owes strata fees, a special levy, a reimbursement of the cost to comply with a public or local authority work order, or the strata lot's share of a judgment against the strata corporation. Note, general collections such as bylaw contravention fine, insurance deductibles and damages cannot be included with the demand notice for lien purposes.

The prescribed time period is at least 14 days for notice, which also means we add four days for the notice period and the 2 days under the interpretation Act for delivery and receipt. If your strata is sending out notice, this period also coincides with notice requirements for a general meeting. The issue of eligible voters is a bylaw matter and must be determined by the strata council at a duly convened council meeting.

Also, the strata is not in the position of registering a lien until they have sent a proper demand notice and the required time period has passed. This means the strata cannot restrict an owner from voting at a general meeting until the strata has adopted and registered the proper enforceable bylaw, a demand notice has been sent in accordance with the *Strata Property Act* and the required demand notice period has expired.

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