
Condo Smarts

Headline: Limitation Periods

Topic: Collections, Limitation Act

Publication / Date: The Province, Feb 4, 2016

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Dear Tony: Our strata approved a project in August 2013 for painting of our townhouses. Most of the funds were taken from the contingency fund but we also had a special levy that cost each unit \$350. Two owners did not pay their levy, and now one of the units has sold and the lawyer for the seller is refusing to pay the levy citing the limitation period. The amount was only for \$350 so we didn't see the point of filing liens or courts actions or legal advice because it would have incurred more cost than the levy. Is there a better way for a strata to collect small amounts without incurring unrecoverable costs?

The Evergreen Strata Council

Dear Council Members: Claims for damages or funds owing in British Columbia are established by the Limitation Act. In 2013 the time limitation for collections was basically reduced to 2 years. Collection of small amounts for special levies, fines, user fees, damages and alteration agreements is just as important as major special levies and strata fees. You are correct, to commence an action in the Supreme Court of BC, there is a minimum cost to consider because of the legal and court costs, but there are steps that can be taken that will secure the debt to avoid running out the two year limitation period. If an owner does not pay a special levy, strata fees or permitted interest, the strata may after issuing a demand notice of payment and after waiting for 14 days, the strata may file a lien against the strata lot. In addition to the amount owing, the cost of the lien, including the reasonable land title filing and legal costs, court registry fees and other reasonable disbursements may be added to the amount owing. For the owner this is a significant penalty as it would likely double the amount owing for a \$350 levy. Filing a lien does not stop the clock running on the two year limitation period, but it does secure the debt as a priority. If the strata is approaching the 2 year

limitation period, and the owner has not acknowledged they owe the debt, the strata will be required to commence an action in Provincial Court (small claims), Supreme Court of BC or once the Civil Resolution Tribunal (CRT) comes into effect later this year, an action commenced under the CRT will stop the period from running out. One of the benefits of the CRT is that the strata council will not require a bylaw authorizing Provincial Court actions or a 3/4 vote of the owners to commence a Supreme Court action. This will enable strata councils to respond to most strata issues much quicker. In addition to fees, bylaw fines, damages and insurance deductibles, the strata will be able to address bylaw enforcement that may include ordering an owner, tenant or occupant to do or stop doing something.

It is essential that strata corporations/strata managers maintain a monthly list of receivables and identify when they may be coming to a two year collection so the strata council may start an action on the debt.