

Strata Living

Headline: How bad does it have to get?

Topic: Eviction, Insurance

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Dear Tony: Our strata corporation has a serious problem with an owner who resides in the building. This person has a serious drug and alcohol problem and we have been constantly dealing with the police over noise complaints, damages to the building, threats against residents and strata council, and constant security problems in our complex. The most recent incident occurred 2 weeks ago when the owner broke his toilet tank and allowed the water to run without reporting it to the strata or attempting to shut it off. When we finally had the emergency services force entry into the unit, the owner was passed out on the couch, the suite flooded, with water damaging 9 units below. While we do have insurance, this is the 6th claim from this person in 4 years, so our insurance deductible is now at \$250,000 for water claims, and the likely hood of collecting any of the funds is remote. He has a high mortgage and the cost of recovery in the courts would be futile because the legal costs would not even be recovered. He still owes us a \$100,000 deductible from 2 years ago that has not been collected. How bad does this have to get before a strata corporation can get these people out of our buildings?

Dawna R.

Dear Dawna: I wish your story was fictional, but there are several strata corporations in BC that are experiencing the same problems with the same high risks and costs. Until quite recently, the prospect of removing an owner from a building, or forcing the sale of an owner's strata lot for these very reasons, was somewhat

vulnerable, because the courts had never rendered a decision evicting an owner or ordering the sale of a strata lot to solve the problem. Your strata corporation and all of your owners are not only at personal risk but as a collective your community is at extreme risk of significantly unfair financial liabilities due to the action of an owner. This week's decision in the Court of Appeal For British Columbia, Strata Plan LMS 2768 vs Jordison, does support the right of strata corporations to seek a court injunction in extreme cases to ensure owners of property either comply with the directives of the court or suffer the consequences which may include the ordered sale of the strata lot to remove the owners.

This may be your best option in an attempt to stop the ongoing threats and damages to the property. The courts have upheld that Section 173 (c) of the Strata Property Act , if reasonably exercised, can provide a remedy to force an owner to sell. At this time, your strata will hopefully have sufficient resources to pay the deductible without having to special levy the owners; however, if you do special levy the owners for an insurance deductible, their personal homeowner insurance may also cover their share of the \$250,000 insurance deductible cost. It might be time for an information meeting with your owners and legal counsel to consider your options.

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