
Strata Living

Headline: Who decides when it's time to file a lien against a strata lot?

Topics: Collections

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Written by: Tony Gioventu

Dear Tony: Our strata has had a difficult time controlling our receivables in the past year. Of our 138 units we have 24 owners who owe either a special levy, strata fees, fines, interest, or all of them. We have been told by our manager that we don't consider going to start collection proceedings or court action until someone owes at least \$5,000, otherwise it isn't worth the legal and court costs. So we have been reluctant to take much action. We have just been informed by an owner that a lien has been filed against their unit for damages that were trying to collect, but are being disputed by the owner. We contacted the manager who advised they had to file liens against all the accounts because the Limitation period was running out. Council did not decide to file liens, and we now have a lot of angry owners. Is there a better way to do this?

Declan K. New Westminster

Dear Declan: Collecting money is a fairly simple process for strata corporations; however, there are differences between the fees that can be included in a lien like strata fees, interest permitted by the act and strata fees as a secure debt, and other fees such as fines, damages and insurance deductibles that are unsecured debts, which cannot be included in a lien. When someone owes money, it is important to always segregate the two different types of debt, and account for them separately.

A lien may be filed after a demand notice has been issued for the amounts, and the owner of the strata lot, after receiving at least 14 days notice has not resolved the debt or made satisfactory arrangements with the strata. A lien DOES NOT protect the debt from the two year limitation period. Only a court action, and

eventually Civil Resolution Tribunal actions will essentially "stop the clock".

The lien registers the amount against the strata lot in the Land Title Registry, and after taxation, proceeds of crime applications, family enforcement maintenance payments, those permitted amounts take priority over mortgages and other charges or judgements. It secures the debt for the strata. There is no need to wait for a certain amount owing to be reached for a lien to be filed to protect the strata interest as the cost of filing and removing the lien, legal and admin costs are included and paid by the owner.

Collections are an enforcement issue, and to insure the proper procedures are followed, it is ideal for council to review the receivables monthly and make decisions on the next steps, so whoever is doing the collections has the authority to proceed. Step 1 a demand notice indicating a lien may be filed is issued, Step 2 no resolution after 14 days and a lien is filed, Step 3 the strata seeks legal advice on the correct time to consider a court action for sale of the strata lot.