
Condo Smarts

Headline: Eligible Voters at General Meetings

Topic: Voting

Publication / Date: Province, October 20, 2022

Written by: Tony Gioventu

Dear Tony: Our strata corporation approved a special levy in August for major repairs to roofing and decks. Each unit paid between 51 and 68 thousand dollars on September 1st, for their share. The strata corporation held a special general meeting last week as the project was delayed and the design has to be changed to accommodate for ventilation systems. During registration, several owners were advised they had not paid their special levy. We were told the Act and our bylaws determined that they were not entitled to vote at the meeting. The result was a significant confrontation with owners claiming they had paid, or were unaware they had not paid. We cannot find anything within in our bylaws that affects voting at general meetings.

Georgia M. Victoria

Dear Georgia: You are correct. None of your bylaws addresses voting eligibility and this is not a regulation of the Act. The *Strata Property Act* sets out very specific conditions on how voting eligibility is determined at general meetings in relationship to accounts. The Act permits a strata corporation to adopt a bylaw that addresses the same conditions for voting eligibility, strata council election or continued council participation.

A strata corporation is permitted to adopt a bylaw where a person may not be an eligible voter, be elected to council or continue on council, if a strata corporation is entitled to file a lien against that strata lot. The bylaw is the first requirement, the conditions of filing a lien is the 2nd part that must be met.

To be entitled to file a lien against a strata lot, a strata corporation must first send notice of a demand payment for those items that may form part of a lien such as strata fees, special levies and interest, if permitted on strata fees or special levies. The time period of the notice is the same as the notice for a general meeting. It

requires 14 days notice, plus 4 days for delivery of notice and the date of issue and receipt are added. In total a strata corporation would only be entitled to file a lien at the point when 20 days have expired. If they have not issued demand notices with the required time period, and with the appropriate bylaw in place, the strata corporation would not be entitled to determine they were ineligible voters.

I still review many notice packages where the strata council or management company have placed a generic statement on the notice that incorrectly determines an owner is not entitled to vote if they have unpaid fines, damages or insurance claims. None of these may form part of a lien, and the monthly strata fees collected by the strata corporation for the annual budget cannot be deferred to other penalties.