
Condo Smarts

Headline: Reversing Old Claims

Topic: Collections

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Written by: Tony Gioventu

Dear Tony: I am new to my strata council, and at our first meeting our property manager gave us a list of amounts outstanding with a request for instructions on how to proceed with collections. The total is over \$31,000, consisting of an insurance deductible of \$10,000 from 2018, damages to the building from 2020, and fines for bylaw violations between 2019 and 2022. This amount has been posted to our 2022 financials. We have several new council members with accounting experience who are challenging these debts and requested the backup information to support these claims. There is no evidence of these claims in the minutes and the manager has not been able to provide detailed information relating to the bylaw violations or claims of damages. Is it possible for the new strata council to reverse these debts and write them off if we can't support the claims?

Daniella J. Surrey

Dear Daniella: There are several factors that will determine how your strata will address the receivables. The first will be whether these have been posted as revenues in a budget term. If they have, the approval of the budget for the next fiscal year would show these as bad debts, if it was determined they could not be collected.

Before you make this decision: request copies of all correspondence including emails to the identified strata lots to confirm whether the strata corporation has continued to attempt collections, received confirmation of the debts owing, confirmed if the strata corporation has followed the proper procedures for notice of bylaw violation, giving owners/tenants the opportunity to respond in writing or request a hearing, whether there is sufficient documentation to support the claims, and most important, if the 2 year limitation period on collections has expired. Once you have gathered the

details, obtain legal advice on the 2 year limitation period which is likely going to impact the 2018 insurance claim and violations in 2019.

Proactive collections and adherence to proper notice procedures under the *Strata Property Act* are mandatory. Claims adjudicated by the Civil Resolution Tribunal are frequently dismissed because strata corporations did not follow the required procedures of notice. Collections are matters that form part of monthly financials, decisions are made by council and documented in the minutes, and notices of the claims are issued to the strata lots in question. 4 years is an unreasonable time to delay collections. Limitation periods expire, evidence is lost, strata lots sell, and the remaining owners are left holding the uncollected debts.

A monthly or quarterly receivables chart that identifies correspondence, council decisions and aging of the receivable will ensure a strata council makes timely decisions. With an insurance deductible, a strata corporation requires a decision of the tribunal or the courts to register the claim on the strata lot, and secure the debt for the corporation. Did you know, that a claim for an insurance deductible or damages cannot be added to a Form F Payment Certificate when someone sells their unit, unless the strata corporation has obtained a judgement for that amount?