
Condo Smarts

Headline: Liens on Strata Property

Topic: Liens

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Written by: Tony Gioventu

Dear Tony: We are a bare land strata of only 24 units. Our common expenses are road maintenance, snow removal, insurance, street utilities and our gate maintenance. Monthly fees are only \$75 for all units, but we have 2 owners who have not paid their fees for a year. It seems ridiculous to get a lawyer involved for less than a \$1,000 per unit, but it is also extremely unfair for everyone else to be paying their costs. Is there an easy method to collect the fees without court action?

Robert F. Kamloops

Dear Robert: The *Strata Property Act* permits a strata corporation to register a lien on a strata lot for unpaid strata fees, special levies, interest that complies with the *Act*, and work orders that the strata has received from a BC authority. Filing a lien is a significant step and will protect the debt of the strata corporation making it a priority over mortgages and other loans on the title. The cost of filing and removing the lien, including reasonable legal costs, becomes part of the lien and the owner is required to pay the amount before the lien is removed.

There may be a variety of reasons to file a lien. In addition to the amount owed, it may be a matter of time because we have a 2 year limitation period on collections, or an indication a person has abandoned their unit or about to declare bankruptcy.

Record keeping is critical when filing a lien. I always recommend strata corporations retain a lawyer who is experienced with strata collections and filing liens. They will provide you with clear instructions of what may be included on the lien, the records required, and (just as critical) the importance of proper notice.

Before a strata corporation files a lien they must give the owner of the strata lot written notice of the detailed amount owing, such as overdue strata fees, or special

levies, and any interest that was calculated if permitted by a special levy resolution or the strata bylaws. The notice must be in the form of a demand for payment, and indicate the strata corporation will be entitled to file a lien if the amount is not paid within 21 days of notice. The notice period is 14 days, plus the issuing period of 4 days plus the days of mailing and receipt becomes 20 days. Your lawyers will provide you with clear instructions for the demand or manage this on your behalf.

A strata corporation is not permitted to include on the lien any of the following charges: insurance deductibles where an owner was responsible for the claim, damages, bylaw violations, user fees, costs of judgments through the Civil Resolution Tribunal, the Human Rights Tribunal or the courts. If there are decisions or judgements with compensation orders, those orders must be enforced through the courts. The best practice when administering collections is to keep all amounts owing accounted for and reported separately. This will expedite the collection process.