

## Strata Living

Headline: Sale of a Strata Lot

Topic: Collections

Publication date: May 31, 12

Publication: 24 Hours

Written by: Tony Gioventu

---

**Dear Tony:** I received a notice from our property manager dated May 1, 2012, that we were in arrears for our strata fees and that a lien had been filed against our strata lot. We were also advised that if we do not pay the amount within 14 days, the matter would be sent for collection. While this looks like a typical form letter, we also acknowledge that this seems pretty harsh, especially considering we have never missed a strata fee payment in the last 7 years, and we were away on vacation and had not realized our post dated cheques ran out. Do we have any recourse against this action?

*Marvin L.*

**Dear Marvin:** Before a strata corporation enforces a bylaw or files a lien against a strata lot, they must give written notice of the pending action, and entitle the strata lot owner a reasonable opportunity in the prescribed time period to respond to the allegation and dispute it. Before the strata corporation registers a lien against an owner's strata lot under Section 116 of the Strata Property Act, the strata corporation must give the owner at least 2 weeks' written notice demanding payment and indicating that a lien may be registered if payment is not made within that 2 week period. It is also important to understand that while the sending of a demand notice is simply procedural and may be performed by the strata manager, the decision of filing the

lien is that of the strata corporation and should have been a decision of council by a majority vote at a council meeting. This is similar to the enforcement of bylaws, as the enforcement of a bylaw and application of fines are a decision of the strata council. Your option at this point is to demand a hearing of council or respond in writing, demanding that the lien be removed as it was not applied in accordance with the provisions of the Act and you did not have the opportunity to respond or remedy the late payment without notice. Because your strata fee was late, the strata council could still consider fining you in accordance with their bylaws for late payment of the strata fee. The filing of a lien is a serious step as it secures the strata fees and special levies owing to the strata corporation as a priority over other charges on your title. It is a useful tool for collections when properly applied; however, it can place a strata corporation at serious risk when they do not follow the procedures by filing liens without notice.

---

For more information on CHOA resources and benefits visit [www.choa.bc.ca](http://www.choa.bc.ca)  
or contact the office at 1-877-353-2462 or email [info@choa.bc.ca](mailto:info@choa.bc.ca).

**No part of this publication may be reproduced without the prior written permission of CHOA**

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.