

Condo Smarts July 13th – 16th, 2016

How do we Collect for Repairs?

Dear Tony: What happens when an owner refuses to repair water damages to their strata lot? Last year an owner had a pipe break in his strata lot resulting in \$8,000 damages to the drywall and carpets. Our insurance deductible is \$10,000 so we did not have an insurance claim. The owner did not have insurance to cover the damages, and refused to have the repairs done, so our council decided to repair the strata lot and charge back the amount. The owner has not paid the amount and our strata manager filed a lien against the strata lot, but now the owner is selling his unit and his lawyer demanded that we remove the damages from the Form F Payment Certificate, so he can sell his unit. What now? How do we collect the money? Jason

Dear Jason: Unless the strata bylaws require the strata corporation to maintain and repair a strata lot, the strata is not responsible to maintain and repair a strata lot. If the strata had an order from an authority, such as the local government or fire marshall, and the owner has not met the obligations of the order, the strata would have the authority to perform the repairs. It is easy to understand why the council wanted the repairs completed, to avoid problems with adjacent units, mold, rot, and pest infestations, but the strata has no authority to do the work. At some point if the owner does not do the repairs and maintain their strata lot, the council would make an application to the courts or the Civil Resolution Tribunal (CRT) to seek an order the repairs, and the costs. The owner's lawyer is correct, a strata corporation is not permitted to include damages on a Form F payment certificate. They could include a judgement for damages from the courts or the CRT, and while those amounts cannot be included in liens filed against the strata lot, they may be registered against the title of the strata lot and a judgement may be claimed on a Form F.

Strata corporations must closely monitor amounts owing for strata fees, special levies, fines, damages and insurance deductibles. The Limitation Act sets out a period for the collection of the amounts to 2 years under specific conditions. The Civil Resolution Tribunal has started strata claims for early intake as of July 13, which will stop the two year Limitation Period from running out. Once the CRT is fully operational this fall, strata councils will be able to use the CRT for decisions on bylaw enforcement, collection of fees, fines, damages and insurance deductibles. To commence an action with the CRT, the strata council are required to pass a resolution at a council meeting authorizing the action. A strata council member accesses the CRT web site and commences the action on line. For more information about the CRT, go to: civilresolutionbc.ca

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