



Best Practices in Collections

By Tracey Gunn, RCM

Condominiums depend on common element fees collected from homeowners to fulfil their financial obligations.



When homeowners are delinquent with their payments, this may lead to a shortage of cash in the bank, which may present financial challenges for the corporation.

The *Condominium Act*, 1998 gives residential condominiums a great deal of power when it comes to collecting common element fees. A condominium has an automatic lien against a unit owner in default. This automatic lien expires 90 days after the arrears arise, unless the corporation has taken steps to secure its right to the debt by registering a Certificate of Lien on title to the unit.

Registration of a lien should be done by the corporation's solicitor. Once a lien has been registered on title, the solicitor's instructions regarding any payments

made by the owner should be communicated to all involved in the collection process. It is essential that the manager, the accounting department and the solicitor have an open line of communication.

A collection policy that relies on the registration of a Certificate of Lien will not solve cash flow issues. Avoidance of arrears is the best practice to ensure that a corporation will have the funds necessary to meet their operational requirements.

Property Manager's Role in Collections

There are two reasons that a corporation may encounter issues with collections: First, if the property management firm has neglected its duties to collect those arrears, and second, if a board of directors intervenes and circumvents the collection process.

Almost all management contracts contain a clause that requires the

property management firm to be financially responsible for amounts outstanding as a result of their failure to properly register a lien on a unit. This serves as an added layer of protection for corporations when it comes to delinquent accounts.

Management contracts will also provide the authority necessary for the management firms to collect fees. Boards of directors should not micro-manage the collection process. Boards should be updated on collection activity at board meetings, but should not be involved in decisions to lien units, or subsequent collection activities.

Collection of common element fees should be a joint effort between the accounting department and the manager. Managers should review their financial statements each month and follow up with their accounting department for those units that are sixty days or more in arrears.

There are times when extenuating circumstances make collections difficult. For example, if an ownership change has taken place, and management has not received any notification. This change may only be discovered when the prior owner

ship with the community. High handed collection procedures can only end badly for everyone involved.

Economic factors can also present their own challenges. Homeowners may suffer traumatic life events such as

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calls to complain that their fees have been deducted from their account in error.

Catching this early in the collection process means there is time to track down the registered owner of the unit. While some may say that it is incumbent on the current owner to initiate contact with management, this author believes that a little bit of detective work on behalf of the property management firm and manager may save the current owner a great deal of money in legal fees, as well as foster a positive relation-

ship with the community. High handed collection procedures can only end badly for everyone involved. Economic factors can also present their own challenges. Homeowners may suffer traumatic life events such as a job layoff or other factors that affect their ability to meet their financial obligations. Very often these owners will plead their case to the manager in the hopes that a reasonable plan can be put in place to avoid a lien being placed on their unit.

As managers, we must be empathetic to our residents, but resolute in our duty and obligations to our clients. Payment plans for arrears put the corporation at greater risk of losing their lien priority and should be avoided.

Policies and Procedures

Management firms should have processes in place that involve communication to homeowners in default in the form of reminder letters. The timing of these reminders will vary between management firms, but are typically issued during the first and second month of arrears, followed by the Notice of Lien at the beginning of the third month of arrears.

The most important form of communication in the collection process is the Notice of Lien. This is a prescribed notice that must be sent to an owner in default a minimum of ten days prior to registering the Certificate of Lien. Typical timing for the Notice of Lien is for it to be issued at the beginning of the third month of arrears. At this point in the collection process, the homeowner will incur additional collection costs, which must be paid in full before the lien process can be halted.

Managers should familiarize themselves with their employer's collection policies. Following up on delinquent accounts should not be a last minute rush before a board meeting. Consistent communication with delinquent homeowners and the accounting department will ensure that arrears are dealt with in a timely manner.

In conclusion, collections should be an automatic process. When proper procedures are in place for collections, arrears should not pose an issue for the manager or the corporation. Managers should keep a close eye on arrears to ensure that liens are placed in a timely manner.

Managers face many challenges throughout the day and the *Condominium Act* provides the legal framework to ensure that arrears are not one of those challenges! ■

Tracey Gunn is a licensed condominium manager and an RCM who has taught financial management for condominiums for over 13 years at post-secondary institutions across Ontario. She is a recipient of the Donna Farr Award for teaching excellence from ACMO, a member of the Professional Development Committee and the author of *Financial Management for Condominiums*, a manual used in condominium management instruction by all licensed managers in Ontario. traway.com

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