

LASH CONDO LAW RECOMMENDED CONDOMINIUM LIEN POLICY

- I. After fifteen days of unit owner arrears, it is recommended that the property manager send or deliver to the unit owner, an arrears notice detailing the charges outstanding - i.e., arrears of common expenses and/or other charges.
- II. Further reminders with updated charges should be forthcoming every two weeks if the arrears are not paid in a timely fashion.
- III. After the default by the unit owner and if no response is received by management to these notices, the property manager could make verbal contact directly with the unit owner; however, it should be noted that the unit owner is responsible to monitor common expenses payments and managers are under no legal obligation to contact owners in person or by telephone, but could do so as a courtesy only.
- IV. Interest, at the rate specified in the corporation's By-laws, should be charged and added to the outstanding arrears after the first month of arrears.
- V. The property manager should provide the Board on a monthly basis with a list of outstanding common expenses/charges together with particulars of arrears notices sent to date and advise whether there has been any personal contact with the unit owner.
- VI. If the arrears continue into the third month, it is imperative that a Notice of Lien to Owner (formerly Form 14) (in accordance with the Condominium Act, 1998) be prepared and delivered personally or by regular mail to the unit at the address of record of the delinquent owner. This notice must show the amount of arrears and other charges owing plus interest and any reasonable legal costs incurred to date.
- VII. The Condominium Corporation's solicitors should issue the Notice of Lien to Owner on the corporation's behalf. There is more of an impact if the Notice of Lien to Owner is sent by the solicitors, often resulting in payment without proceeding to a more costly lien proceeding. Please note that Management should complete the Lien Instruction Form by, at the very latest, the tenth day of the third month of default, instructing the solicitors to proceed with issuing the Notice. The unit owner is to pay the arrears to Management within the ten-day period under the Notice of Lien to Owner by certified funds, bank draft or money order as set out in the Notice.
- VIII. If the full amount owing as detailed in the Notice of Lien to Owner, is not paid by the end of the notice period, Management must advise the solicitors to register the lien, as without this notification the solicitors cannot proceed with registration.
- IX. Uncertified funds are not considered payment, until a cheque has cleared; therefore, payments must not be accepted by Management once the Notice of Lien to Owner is sent unless payment is made by certified funds, bank draft or money order. Cash should not be accepted as all payments should be traceable in the event of any challenge by any unit owner. If payment is not made, Lien proceedings should be initiated immediately within the three-month period as specified under the Condominium Act, 1998, so that all arrears are recoverable and Management fulfils its obligations to the Corporation.
- X. When a Lien has been registered and the arrears (including legal costs and interest) are not paid within a two-month period after registration of the Lien, it is recommended that the Board consider further legal action, such as where the unit is rented, the tenant is instructed to pay the rent to the condominium corporation or issuance of power of sale under lien or a foreclosure action.
- XI. NOTE: Management should not accept payment after registration of a Lien as all funds should flow through the solicitor's office to ensure full and final payment.