

Condominium Foreclosures

STAGE 1: DEMAND

- Only the arrears ledger together with the municipal address, name of project and certificate of title need be provided
- A copy of the Bylaw provision is necessary to determine the interest rate
- A demand for payment is issued with a deadline of 7-10 business days
- The correspondence is copied to the mortgagee(s)
- The cost for a demand only is a flat rate of \$497.44; with registration of a caveat the costs is a flat rate of \$791.05

STAGE 2: STATEMENT OF CLAIM

- Upon expiry of the demand deadline, instructions are confirmed to proceed with issuance of the Statement of Claim
- The Statement of Claim is filed together with a Certificate of Lis Pendens which is then registered on title
- The Statement of Claim is served upon the Defendant
- A copy of the Statement of Claim is provided to the mortgagee(s)
- The cost for the Statement of Claim is typically a flat rate of \$1,100.00 to \$1500 for legal fees plus disbursements (average \$400 – \$550)
- The cost/ fees are subject to increase in the event the Defendant is difficult to locate or serve

STAGE 3: COURT APPLICATION

- Should the Defendant and/or mortgagee(s) fail to provide payment an application is brought before the Court seeking Judgment against the Defendant for the arrears and permission to list the property for sale
- The Court will order a redemption period, a period of time in which the Defendant can redeem through payment of all arrears, costs and expenses including solicitor client costs; the redemption period will be 6 months except in rare and specific circumstances
- Average cost is approximately \$2,500 but is based on hourly rate as opposed to a flat fee; more often than not the mortgagee will have provided payment before this stage

STAGE 4: LISTING

- After the expiry of the redemption period, the Court will decide the appropriate listing price for the property and it will be listed for sale
- The Court must approve any sale
- It is very rare that a file will reach this stage; generally this only occurs if there is no mortgage registered on title

IMPORTANT NOTE: Having current Bylaws is extremely important. The ability to recover costs is dependent on the language found in the Bylaws. If “solicitor client costs” are not particularized they will not be awarded.

For further information or to speak to us about foreclosures, please contact our Condominium Law Group.