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# ADVISORY / UPDATE: Canada Post Worker's Union Strike

November 2024

### URGENT UPDATE & ADVISORY!

The Canada Post Worker's Union went on strike Friday November 15th, 2024 - suspending most mail delivery. According to Canada Post the parties "remain far apart". Aside from economic impacts and personal inconveniences as the holidays loom; postal strikes cause serious problems for Strata Corporations.

Section 61 of the Strata Property Act requires specific methods for delivery of formal notice (End Note 1) for an Annual or Special General Meeting under section 45, notice of intention to place a lien for non-payment of strata fees under section 112, bylaw enforcement steps under section 135, for access to a strata lot by bylaw, and for a variety of other purposes.

The valid methods of delivery of any such notice are exhaustively specified in section 61: [Link to Section 61](#)

Regular Postal Mail (End Note 2) is the default method for notice distribution for most medium and large strata corporations because the other methods for delivery of notice can be problematic and are often misunderstood. Most other methods of providing notice attract concerns which are avoided by using regular postal mail addressed to "the owners" of a strata lot. Regular postal mail delivered to "the owners" of a strata lot at the strata lot address is a valid means of delivery as long as owners haven't requested delivery of notices to a provided email address, fax number or postal address outside the strata plan. Importantly, notices sent by postal mail are deemed delivered 4 days after they are sent –

however that deeming provision may not be sufficient if the Strata Council is aware that the postal strike will actually prevent delivery.

How is a Strata Council to best ensure that a strike doesn't cause problems for official strata notices sent by mail? Any plan for addressing notices must address legal requirements, as well as practical and fairness concerns.

For general meeting notices which have already been sent, there is a saving provision in section 47 of the Strata Property Act for delivery of notice packages of annual or special general meetings as long as the Strata Corporation "made a reasonable attempt to give notice" in accordance with section 45. That may help ease the legal requirements for meeting notices, however I expect that saving provision will only apply if the notice has already been posted before the strike commenced on November 15th. Further, as regards "reasonable attempt" language as well as practical and fairness considerations, I expect that section 47 will only save the validity of a meeting if the Strata Council makes thorough additional efforts after the strike commenced to communicate the meeting details to all potential attendees who cannot be assured to have received the notice by mail. This is important because it isn't clear that there is any valid method to cancel, postpone or reschedule a general meeting once called.

For any other notices such as lien or bylaw enforcement notices; section 47 does not apply and notice will likely have to be re-sent by a different method unless the strike is quickly converted to a rotating strike, or delivery resumes in short order (in which case a reasonable extension of time communicated to the recipient may be sufficient to address legal, fairness and practical concerns).

No strata corporation should rely on deemed delivery by mail pursuant to section 61 of the Strata Property Act when the strata council is aware that postal distribution of notices may be disrupted or significantly delayed. Strata corporations will need to make the decision of whether to provide additional notice, postpone sending out notices, or provide notices to owners by a different method as permitted under section 61 of the Strata Property Act.

The alternative methods available to strata corporations depend on whether an owner has provided an address within or outside of the strata plan. For most owners, multiple alternative methods are available:

1. Handing it to each and every owner in person;
2. Leaving it with an adult occupant of each strata lot;
3. Putting it under the door of each strata lot;
4. Putting it through the mail slot or in a mail box used by each person for receiving mail;
5. Faxing it to a fax number provided by the person; or

6. Emailing it to an email address for each person who has (in writing) specifically provided an email address for the purpose of receiving notice.

If a postal address outside of the strata plan has been provided by an owner for receipt of notices, the only alternative method available during a postal strike is to hand a copy of the notice to that owner in person. This is awkward if the Strata Council cannot easily confirm who all of the owners are, or where they may be located.

The Act's reliance on a functional postal system is a serious problem when a person has communicated that they require notice by postal mail under section 61(1)(a)(ii), and section 61 contemplates that notice cannot be provided any other way, except for in-person delivery to their physical person. That is obviously problematic if they are not in Canada, or their physical location is unknown. That is by far the most difficult issue to resolve, and may require reaching out to owners in that circumstance to obtain their consent to send notice only by email, or wait until the strike is resolved.

Most postal strikes are resolved in a matter of weeks, and postponing discretionary steps requiring notice to owners is a good option where that is legally viable and doesn't create risks. However, delaying an annual general meeting beyond the statutory deadline isn't recommended unless there is no valid way to hold the meeting on time due to the proximity of the distribution deadline to the strike commencement date, and no alternative delivery methods can be arranged in time.

Recurring postal strikes are a good motivator to consider obtaining consent of all owners to send notices by email – or even contemplating a bylaw which requires that owners consent in writing to receive notices by email.

There can also be cash-flow issues for strata corporations which rely on postal delivery of strata fee contributions or special levies. Unless the strata corporation has bylaws which require pre-authorized payments or otherwise doesn't permit payment by mailed cheque, the strata corporation may need to be somewhat more lenient than usual in relation to payments which are due during a blanket postal strike and not received on time. That may also require that funds be temporarily borrowed from the CRF to cover an operating fund shortfall.

If the strike is protracted, it might be wise to informally encourage owners to provide payment by other means of delivery to avoid cash flow disruption. In the event of a possible protracted strike (now or in future), some strata corporations may wish to consider amending their bylaws in ways which reduce reliance on postal mail, including adopting a properly drafted pre-authorized payment bylaw or a bylaw which expressly puts the onus on owners to provide payment by some other means.

**Specific legal advice may be required if outstanding levy payments risk putting the strata corporation in breach of a contract or if a shortfall of strata fee contributions leaves the strata unable to attend to statutory obligations. Also, legal advice should be sought before placing a lien or taking other formal collections steps if , the strata corporation is aware of a backlog of mail delivery resulting from the postal strike, particularly if it is only a single month of delayed strata fee contributions at issue.**

**(End Note 1) Remember 20 days notice is required wherever the Strata Property Act specifies "at least 14 days" as required notice and the notice method used contemplates deemed delivery 4 days afterwards in section 61 of the Act and the provisions of the Interpretation Act.**

**(End Note 2) Case law has established that registered mail and courier delivery are not valid means of delivery.**

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#### **Fischer & Company**

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