

Lien on Me – The Problems with Construction Liens Being Registered on the Common Elements

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Condominium corporations routinely hire contractors to perform work on the common elements of their respective buildings. Most of the time, the contractors are paid for their work, and owners are not impacted in any way. However, what happens if the contractors are not paid, and a dispute arises between the parties regarding the work that was performed? I would safely assume that most condominium owners in Ontario are unaware of the fact that a contractor has the legal right under the *Construction Lien Act* to register a lien that will **show up on title to every unit in the building**.

In other words, if a contractor has a \$15,000.00 dispute with a condominium corporation that has 100 units, and the contractor decides to register a construction lien, the lien will be registered against title to all 100 units. If any of the 100 unit owners want to sell their unit(s), they will need to take steps to have the lien vacated or discharged before closing. This can be a tremendous inconvenience and cost for many owners.

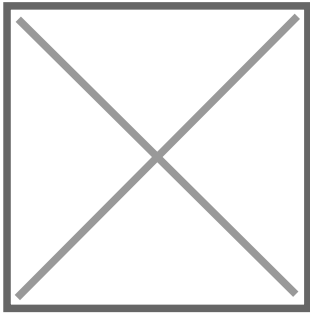
While recent *Construction Lien Act* amendments have further clarified these rules (see [Bill 142](#)), and there is a specific allowance for owners to apply to court to have the liens affecting their individual units vacated, the basic problem still remains, in that contractors have a significant amount of leverage when performing work on the common elements.

If construction liens are registered against the common elements, the Board of Directors will often have their lawyers move to vacate (pay into court) the amount of the lien. However, this is not always possible if the lien is for a significant amount of money.

Condominium Boards and property managers need to be acutely aware of the legal consequences of not paying their contractors. There is far more at risk than simply a lawsuit.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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