

\$147.00 HOA Assessment Ends with HOA Judgment for Over \$10,000.00 Plus Additional Attorney Fees by Lawrence Szabo, Esq. | Oct 25, 2018 | Case Decisions, Dispute Resolution, Dues and Assessments Washington State

This case involved a dispute between homeowners (“Owners”) and their homeowners association (“Association”) over Association’s claim for unpaid assessments and the imposition of a lien on Owners’ property without first providing Owners with an opportunity for a hearing.

In January 2016, Owners failed to pay their annual assessment of \$147.00 to Association. In February 2016, Association assessed a \$20 late fee and advised Owners that interest was accruing on the unpaid amount and that a lien would be filed if the assessment was not paid. In April 2016, Association recorded a claim of lien against Owners’ property for \$525.52, which consisted of the original assessment amount, late fee, interest, and the cost for recording the lien. In August 2016, Association filed a complaint against Owners seeking a money judgment for the \$525.52 plus interest, attorney fees, and an order validating the lien and authorizing foreclosure in the event of non-payment. Thereafter, Owners made a payment of \$200.00, leaving a balance of \$325.52 exclusive of interest and attorney fees. The trial court granted summary judgment in favor of Association for \$325.52 in unpaid assessments, plus an additional \$9,540.00 for attorney fees and \$429.00 for costs. Owners filed an appeal.

In their appeal, Owners contended that Association was required by statute to provide notice and an opportunity to be heard prior to filing a foreclosable lien against Owners’ property for collection of past due assessments. The language in the Washington statute relied upon by Owners stated in part, “Unless otherwise provided in the governing documents, an association may...(11) Impose and collect charges for late payments of assessments and, after notice and an opportunity to be heard by the board of directors ...”

Referring to the plain language of the statute in question, the appellate court ruled that the words in the opening sentence of the statute, “unless otherwise provided in the governing documents” granted Association discretion to establish its procedures within its governing documents. The appellate court also ruled that the relevant statutes delineated between the language about late payments of assessments and additional language that required an opportunity to be heard with levying reasonable “fines” (not assessments). Thus, the appellate court affirmed the trial court’s judgment and also awarded Association additional attorney fees and costs incurred in connection with the appeal.