

Condo Unit Owner Successfully Challenges Lien

In a recent case, [Washington v. Y.C.C. No. 441](#), a commercial condo unit owner successfully sued the condominium corporation after the corporation registered a lien against his unit for repair costs related to clearing a blockage in the plumbing system.

For ten years, the unit owner operated a business in unit 48 that trimmed and marinated meats to supply to various restaurants. No food was cooked in the unit. The owner had installed a grease trap in the unit that was cleaned and maintained on a regular basis (every 6 to 8 weeks) by an independent grease trap company.

A plumbing blockage occurred affecting the owner's unit, as well as units 47, 49 and 51. This was the first time that the owner of unit 48 had experienced a blockage, but there had been similar blockages in the past affecting other units. Unit 51 and other units surrounding unit 48 were used as auto mechanic shops. Unit 47 was used as an upholstery shop and unit 49 was used for recycling and disposing of oil and grease.

The condominium corporation took the position that the blockage was caused by grease emanating from unit 48 and that the owner of unit 48 was responsible for the costs to clear the blockage as he had failed to properly maintain his unit.

However, the corporation did not produce any evidence that definitively concluded that the grease blockage was food-related, or that the blockage emanated from unit 48 and not from the auto mechanic shops in the condominium. The corporation also failed to provide any evidence that the unit owner's grease trap maintenance and cleaning frequency was inadequate.

For that reason, the Judge concluded that the source of the blockage was not unit 48. In the decision, the Judge chastised the condominium's board of directors for being irresponsible and flippant in quickly determining that the owner of unit 48 should pay to clear the blockage. The unit owner was awarded damages in excess of \$17,300.00 to recover costs paid by the unit owner for the plumbing repairs plus the costs relating to the lien registered against his unit. We understand that the condominium corporation is currently appealing this decision.

In a [prior blog post](#) we reported about another case in a residential condominium where the Court similarly concluded that the condominium corporation had wrongfully tried to hold a unit owner responsible for repair costs relating to a water leak, without producing evidence that the leak had in fact emanated from the owner's unit.

Both of these cases stress how important it is for the board and management to do their homework before assigning responsibility to a unit owner for a plumbing leak or blockage and then proceeding to register a lien against the owner's unit. Not only does there need to be a thorough investigation, but the board should have a written report from a plumber or other independent qualified professional that clearly and unequivocally spells out that the cause of the problem emanated from an owner's unit.