

VISOA Bulletin - June 2008

EDITOR'S COLUMN

Harvey Williams, Bulletin Editor

Last fall, in an article entitled “Strata Hell”, Vancouver Magazine regaled its readers with tales of condo conflict and mismanagement. Strata funds went for “boozy parties”, dog owners were hassled, strata council members paid themselves illegally, an owner drove the residents living below around the bend with noise when they installed new floors without sound insulation, a pending special assessment was concealed from purchasers, the building crawled with cockroaches, and a resident set off firecrackers on his balcony. The writer of the article

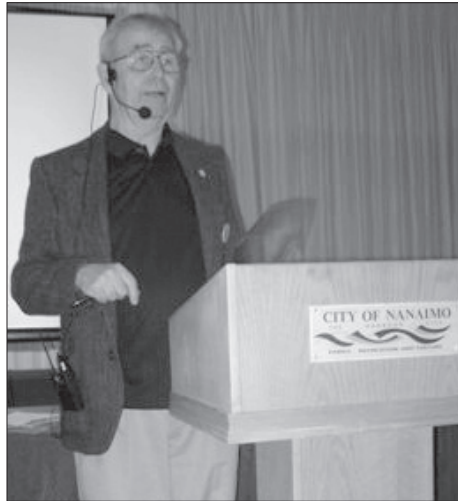


Photo by Claudio Procopio

VISOA past president Harvey Williams explains strata financial reporting at the April Seminar.

had a way with words. He remarked that, “a little power can bring out the inner Napoleon in people”.

Even after allowing for a bit of hyperbole, to those of us experienced in helping strata corporations solve problems, the account had the ring of truth. The conditions described in the article were unacceptable and in clear violation of the Strata Property Act. How could such conditions prevail?

Every problem described in the article could be traced directly to the self-enforcing feature of BC's Strata Property Act. With no guidance or assistance from government, owners and strata councils, uncertain about their rights and responsibilities, are on their own and must go to court to seek justice.

The absence of any government agency to support strata corporations in enforcing the Strata Property Act or to provide affordable conflict resolution services is the root cause of most of most strata conflict. VISOA with the leadership of Deryk Norton, board chairperson for government relations is seeking to correct this and other deficiencies in the Strata Property Act.

In this issue...

• Editor's Column Harvey Williams.....	1
• Strata keybox: Innovation, Security, Safety VREB	2
• Bylaw enforcement - steps to take Joyce Johnston.....	3
• Get it in writing Sandy Wagner	4
• The roof - common property John Grubb	5
• Apathy and its consequences Deryk Norton.....	6
• Update on VISOA legislation initiative Deryk Norton.....	8
• You asked Harvey Williams.....	10
• VISOA seminar - The nuts & bolts of strata life	11

BOARD OF DIRECTORS 2008

President Felicia Oliver • **Vice President** Tony Davis • **Secretary** Claudio Procopio
Treasurer Daryl Jackson • **Past President** Harvey Williams

~ Members at Large ~

Sandy Wagner, Elsie Lockert, Deryk Norton

Strata KeyBox • Innovation - Security - Safety

by Victoria Real Estate Board

The Victoria Real Estate Board has developed a new, more secure solution to address the previous security concerns expressed by some strata developments. This new Strata Keybox solution involves the use of three integrated parts; an electronic metal key container called an iBox, a robust metal container for the iBox called a Master Housing, and an electronic keypad used to access the iBox called a DisplayKey.

iBoxes

The iBox is an electronic metal key container that is used widely in North America by the real estate industry. Primarily designed for residential use, the iBox has found its way into a more commercial environment on strata buildings.

The iBox is an intelligent key container that records dates, times and the identification codes of every REALTOR® that opens it. This electronic data allows iBox activity to be tracked to determine which REALTORS® have accessed any particular iBox.

DisplayKeys

The electronic keypad used by REALTORS® to open iBoxes is called the DisplayKey. Every day, REALTORS® must update these DisplayKeys or they simply stop working. DisplayKeys also require the use of a personal PIN code, much like the system that controls access to your bank card.

The update code and the PIN code are also tied together. An update code for a lost DisplayKey cannot be obtained without knowing the personal PIN code for the specific DisplayKey. These two features make the DisplayKey useless to anyone other than the actual owner.

Master Housing

To increase the security of the iBox, the Victoria Real Estate Board has developed an exterior casing called the Master Housing. The Master Housing encompasses the iBox and is designed to protect the shackle. The shackle is normally used to affix a stand-alone iBox to a door knob, fence or railing.

An iBox is installed inside the Master Housing which is intended to be located very near the main door of a building. The iBox inside the Master Housing only contains a key for the main door. Any other suites for sale in the strata will have an iBox installed on the suite door inside the building. If no suites are for sale, the strata can also arrange to have the building key removed from the Master Housing. There are two major benefits associated with the Master Housing; increased security for the lone iBox outside and a reduction in the number of main door keys outside the strata. The Master Housing eliminates the need for multiple iBoxes outside.

iBoxes located on suites listed for sale are located inside the building on the individual suite door. They can be secured to the door knob or on a door hanger that fits over the top of the door. iBoxes mounted on a door hanger can be removed when the seller is at home or even outside of showing hours (e.g. at night).

Mounting and Installation

The Master Housing is permanently installed on site, either fixed to the actual building or mounted on a secure in-ground metal post. The location of the Master Housing will be determined with input from the strata.

Costs for Housing and Installation:

The VREB will supply a Master

Housing and iBox for the exterior of the building. Installation costs may be covered by the VREB during the initial phase-in period. REALTORS® will supply iBoxes for individual units for sale within the building.

Warranty

In the unlikely event that the Master Housing or iBox are damaged beyond repair, the VREB will replace both units. The VREB has tested the Master Housing and is confident that the solution is secure enough to withstand an attack. If necessary, the Victoria Real Estate Board will also pay reasonable costs to re-key the main building door(s).

Need Assistance?

For further information and to see a video about the Strata KeyBox initiative please go to: http://www.vreb.org/vreb/strata_initiatives.html

If you need assistance or have a question or suggestion email us: stratadocs@vreb.org or contact Doug Taylor at 656-9173 or 889-1414 (cell) or VREB Member Services by telephone during business hours: 385-7766.

Editor's comment: *We were first given this information a few months ago and were asked to do a mail-out to you, our membership, but hesitated not knowing how "admail" would be received. In hindsight, this KeyBox information could have helped prevent some security issues, if the facts were in your hands sooner. As we may have similar requests in the future, we would like to hear from you by phone or email - what would you think if we send you this type of information directly? Or would you prefer that we put all such information into The Bulletin? Please let us know - editor@visoa.bc.ca or (250)920-0222 or 1-877-33VISOA*

Bylaw enforcement - steps to take

by Joyce Johnston, Attorney

A Strata Corporation can enforce bylaws in several ways. Under section 129 of the Strata Property Act (SPA), the strata corporation may enforce a bylaw by:

Imposing a fine, Remedying a contravention, or Denying access to a recreational facility

The strata council exercises the powers and performs the duties of the strata corporation, including the enforcement of bylaws and rules; therefore I refer throughout this article to the enforcement of bylaws by the strata council.

The council may decide to warn a person, or give the person time to comply with the bylaw before using one of the above methods of enforcement.

The persons who must comply with a bylaw are :

**Owners
Tenants
Visitors**

Imposing a fine is the most common method of enforcement. Whichever method of enforcement is undertaken, several pre-requisites must be met before the enforcement is undertaken.

PROCEDURE

Section 135 of the SPA sets out the procedural steps that a council must take before enforcement. The council must:

Receive a complaint about the contravention

Give the owner or tenant particulars of the complaint in writing

Give the owner or tenant a reasonable opportunity to answer the complaint, including a hearing if requested

If the person is a tenant, give notice to the person's landlord or the owner.

Receive A Complaint

It should be noted that a complaint can be made by a member of the strata council.

Give the owner or tenant particulars of the complaint in writing

The first letter the council sends should be one setting out the action complained of, and the bylaw contravened by the action. The letter can indicate the proposed fine, but the first letter should not impose the fine. Details of the contravention should be included.

Give the owner or tenant opportunity to answer, including hearing

The first letter can also include the opportunity to answer, including the

opportunity to request a hearing.

If a hearing is requested, the strata council must turn their minds to the format for the hearing. The Strata Property Act does not set out the procedure for a hearing. If a hearing is requested, it should be held where both the complainant and the person answering the complaint feel comfortable. Council must decide whether the complainant presents his or her case first, or whether the person complained about should speak first. Council should have a draft procedure, which includes how the hearing will proceed when both parties attend, and how it will proceed if only one party attends.

Give notice of their decision in writing

At the hearing, after the presentation of information from both sides is complete, council should indicate that they will consider all information and issue a written decision.

If no answer is made, or no hearing is requested, the strata council must still write indicating that the matter has been considered, in the light of the written response, or in the light of no response, and indicate whether there is a conclusion of bylaw violation and the penalty.

CASE LAW

Dimitrov v. Summit Square Strata Corp. 2006

The strata corporation's building manager notified Ms. Dimitrov that a complaint had been made against her for having a cat as a pet, contrary to bylaw, and presented the appellant with written notice of complaint. The notice also informed the appellant that a fine of \$50.00 had been imposed against her as a penalty, and demanded that the cat be removed.

Subsequently every seven days, the building manager delivered a notice indicating that a new fine

BARBARA ZIMMER (250) 727-9743

SPECIALIZING IN STRATA BOOKKEEPING

Over 20 yrs. experience
Assisting you in Budgeting, Financial
Statement, Assessment Formulation
Depreciation Report, Maintenance Log

Please call for a complimentary quotation

Continued on page 9

Get it in writing

by Sandy Wagner, VISOA Board Member

How well do you know your Strata's bylaws? Pretty well, I bet. You likely have your own well-thumbed copy. BUT are you sure they are up to date with all revisions which are filed in the Land Titles Office? And do you have a copy of the Standard Bylaws as well? Unless your strata has registered a conflicting bylaw, the Standard Bylaws apply.

What does that mean? Here are a few examples:

Story of the Stressed-out Skylight:

John and Mary have just moved into their new strata home, and see that some of their neighbors have skylights while their own unit does not. They assume it's probably OK to add a skylight but just to be safe, they check their bylaws, conveniently left in the kitchen drawer by the previous owners. Good news, they think, our bylaws are silent on the subject of skylights. They also

check with Fred, the Property Manager, who tells them he thinks a skylight is a great idea. John and Mary install a skylight, and then a few months later they get a notice from the strata council, informing them they are in violation of a bylaw, and giving 10 days to remove the skylight or pay a fine! They are confused, and think a mistake has been made, because they know the bylaws don't forbid it, Fred liked the idea and besides, many of the neighbors have one. Next month they receive another letter from council, and this time the fine has doubled! A bit upset, John corners the strata President who says "I think your skylight looks great, but we voted and you have to take it out". John tells Mary that the President is on their side, but was outvoted. Mary digs in her heels and decides they will not remove the skylight. Each month, they get another letter from the council and each month their fines escalate, until

the strata takes them to small claims court for the unpaid fines.

What happened here? First, John and Mary were looking at an out-dated copy of their strata bylaws. Amended bylaws listed specific units which were exempted from Standard Bylaw #5. John and Mary didn't have a copy of the Standard Bylaws, so they were unaware that Standard Bylaw # 5 says they must have written permission for skylights or any other modification to the exterior of the building. And what about the permission they got from Fred the Manager? Well, Fred is not authorized to give permission for changes to common property: that must be given by the Strata Council. Even if the Council had delegated that responsibility to Fred, according to the Bylaws the permission should have been given in writing.

Continued on page 7



▶ Full Service Painting, Wallcoverings, Drywall Repairs, Ceiling Textures.

▶ Skilled, Experienced Crews.....Prompt Courteous Service.

▶ Longest Serving Business Member of VISOA.

▶ Serving Victoria & Region Since 1989.

▶ Bonded & Insured

Free Estimates!
383-5224

CALL NOW FOR DETAILS

Limited Time
20%
Rate Reduction

The Roof

The “universal” common property - Part 1

by John Grubb, SMA, RPA, RRO

There is one building system that, no matter what you live in, Townhouse, Condominium or any other Strata Property (bare-land excepted, unless there is a common facility or building), the roof is a portion of the Common Property that most owners are aware of, and understand to be a major replacement expense.

Though we all have one, all roofs are not the same and we'd like to take some time to review some of the most common types, to better understand the options available to the Strata when it comes time for replacement.

There are two distinct roofing types – Steep Slope and Low (flat) Slope and, generally speaking the latter is found on large, multi-storey buildings (condos), while the former is more likely to be part of a townhouse-style residential complex. In this first part of a two-part series, we'll discuss Steep Slope roofing.

Modern townhouse designs tend toward the use of the same sloped roof structural style found on most residential housing, and are typically covered with either asphalt shingles or cedar shakes. Other sloped roof materials can include natural slate tile (and its manufactured facsimiles), metal panels or interlocking shingles, and concrete or clay tile.

The latter, while they will certainly provide an extended life expectancy for the roof assembly (50-plus years), also require additional structural consideration in order to support their significant weight, and are not generally considered suitable for re-roofing projects.

Steel panel roofing has become relatively common in recent years, particularly on the sloped roof details of larger condominium buildings. While aesthetically it can be less appealing to some, its main advantage is, again, an extended life expectancy of 50-plus years but without the concrete/clay tiles' need for significant structural accommodation.

Interlocking metal shingles have been sold and installed by various companies for many years but have never really hit the “mainstream” as a common roofing or re-roofing product. We assign this to the fact that most of these products are proprietary and their manufacturers, for the most part, have decided that only their own companies' crews can install their products, thus limiting access to the broader roofing contractor community and product distributors.

Split cedar shakes and milled shingles have been in common use as a roofing material on the West Coast for more than 100 years but, with the diminishing old growth forest resources affecting both the cost (higher) and quality (lower) of the material, we do not normally recommend that our clients renew their roofs using the cedar materials commonly available today.

By far the most common sloped roofing materials for both new and re-roofing projects are asphalt shingles, in all their various qualities, shapes, colours and manufacturing methods.

In general terms, the labour costs to install any of the asphalt shingles is (or should be) the same, so it is

important to buy the best quality product possible. In today's market, 30-year and 40-year fiberglass laminate shingles have become the product of choice for most new and re-roofing projects. The figures denote the length of the Manufacturer's pro-rated warranty on their products.

There are other standard types such as Square-butt or 3-tab, and T-lock shingles that have been in common use for many years but, as these are typically manufactured using organic felts rather than the superior fiberglass or polyester felts, their pro-rated warranty periods (and general life expectancy) are significantly shorter with most rated at 20 years.

For once, we will not beat our maintenance “drum” other than to say that, with regular care, many roofing products will last well past their rated warranty periods. We can only ask why anyone would choose to ignore this significant investment in their property.

There is one other significant factor that is critical to the success of any (re) roofing project – the Roofer.

There are likely as many horror stories about fly-by-night roofing contractors as there are about polyester leisure-suited car salesmen and, unfortunately, many of them are true. It is a fact that our economic system allows anyone with a ladder and a pick-up truck to call himself a roofer. He need not have any proven experience or training of any type.

Continued on page 6

On the other end of the spectrum, there are large, well established firms that maintain very high standards of installation quality, safety and, most importantly, staff training to ensure their clients a quality roof installation that will meet or exceed the manufacturers' warranty requirements.

The currently over-heated construction industry lends itself to new contractors starting up business, because the well established contractors are swamped with work and are often several months behind schedule. In new construction, work cannot start inside a structure until it is water-tight with a roof in place.

This puts pressure on the re-roofing industry and it is here where the "tailgaters" tend to operate, because they are generally dealing with residential clients who are completely

ignorant of the re-roofing process.

A Strata Corporation is no less vulnerable than a single-family home owner and, in some ways, can be more susceptible because of the inherent "political" turmoil often found within the Owners Group when dealing with a project costing many thousands of dollars.

Once again, this is about Risk Management and we can only advise the Owners to do their due diligence before hiring any contractor. This is accomplished by developing a set of standards, specifications and a clear scope of work before asking roofing contractors to bid on the work.

Finally, the need to install a new roof should never come as a surprise to anyone living within a Strata and, in our opinion, there is absolutely

no valid excuse for a Corporation to avoid setting funds aside in the Contingency Reserve Fund for its replacement from the very first day of operation!!

Every owner benefits from the roof, and contributes to its deterioration and, thus, has a responsibility to fund a proportionate share of the cost of its replacement. The only fair way to accomplish this is to include an appropriate sum within the annual reserve fund assessment.

John Grubb is a Facilities Maintenance Consultant and VISOA Business Member and welcomes Member inquiries at usc@shaw.ca or www.unityservices.ca/

Apathy and its consequences

by Deryk Norton, VISOA Board Government Relations Representative

Many strata owners do not want to "become involved" in their strata organization. They only want to live in their home with as few complications as possible. As a result many do not read their strata council meeting minutes or even attend the Annual General Meeting or AGM.

Being an apathetic strata owner can have serious consequences. Some of these consequences have been:

- AGM convened but, lacking a quorum, business had to be conducted a week later by the few owners who showed up,
- No one willing to serve on the strata council resulting in the appointment of an administrator at considerable cost to all owners,
- No one looking critically at council minutes, financial statements or bank account statements resulting in

fraud, embezzlement or other misappropriation of funds and the need for a special levy on all owners to replace lost funds,

- AGM approval of a major expenditure without assurance of competitive bids,
 - Passage of a bylaw by the minority of owners present at an AGM resulting in a bylaw that is wildly unpopular with the absent majority, and
 - Acclamation of a reluctant strata council consisting of a dictator and a few obsequious followers serving personal agendas rather than the interests of the strata corporation.
- If think you cannot afford the time to "become involved" in your strata now, do you think you can afford the time and money later when bad decisions literally hit home ?

**YOUR AD-HERE
FOR PENNIES
A DAY!**



Members in good standing may place an ad in the Bulletin. Rates are based on 5 Bulletins a year, and are as follows:

- **Business Card Size:**
\$50/yr (\$15/single issue)
- **¼ Page Size:**
\$100/yr (\$30/single issue)
- **½ Page Size:**
\$200/yr (\$60/single issue)

Ads must be paid for in advance, and are subject to VISOA Board approval. Ads must be "camera ready", in BMP, PDF or TIFF format - additional fees for scanning or layout may otherwise apply.

If John and Mary had checked the Standard Bylaws, they would have seen that permission must be given in writing for skylights. They would have written to the strata council, who would have replied that the complex used to give permission to install skylights but with their recent new roof, the installation of skylights could void the warranty. The strata owners had agreed to exempt owners who had already installed skylights, so long as the owners signed an agreement to pay costs, if any, for leaks into neighboring units or into the building envelope. They designed a bylaw to specifically exempt these few units. They would have advised John and Mary that, unfortunately, the council could not authorize the installation of a skylight in their unit. The Smiths would have been disappointed, but at least they would have their answer in writing.

Legend of the Legal Laundry:

Carol moves into a strata unit, but soon her health takes a turn for the worse and she finds it too difficult to get to the laundry room which is in the basement of their building, as there is no elevator for her wheelchair. She asks for permission from the strata council to install a washer and dryer in her unit, and permission is given in writing. Flash forward twenty years.....

Bob has purchased Carol's suite and lived there for 3 years. He loves the fact that he has a built-in laundry and finds it very convenient. His new upstairs neighbor writes a complaint letter to the council, because he can hear the dryer running late at night and it bothers him. The council investigates, and is shocked to find that Ted has an in-suite laundry. None of the council lived there twenty years ago, they've been through 4 property managers since then, and nobody remembers anything about Carol. Bob is ordered to remove his in-suite laundry facilities, as they are in violation of a strata bylaw. Bob produces the permission letter written to Carol 20 years previously. It is signed by the council presi-

dent of that time and specifically states that the permission is for the suite to install and use a washer and dryer, and that it is transferable to any subsequent purchaser of the unit. Bob had it in writing.

Dilemma of the Decorated Doors:

Five neighbors in an older strata townhouse development are chatting one afternoon, and the discussion turns to a newer townhouse complex in the area. The newer development has an unusual and modern décor palette – all the front doors are painted a different colour. The five neighbors wish they could brighten up their drab brown doors but they are sure that nobody will give permission. One of the group, Sally, happens to run into a council member and says she wishes she could paint her door; the reply is "I don't care if owners paint their doors". Sally takes this as permission and happily tells the rest of the group. They rush out to the local build-it store to purchase paint for their project. Working together, it doesn't take long to paint five doors....while the first coat on one is drying, the second door is

Continued on page 9



Been asked or ordered to upgrade your fire alarm system?!

Call Sterling Fire & Safety Services FIRST!

We work with you, from start to finish,
making the upgrade process as painless as possible
by providing a **"One-Stop-Shop"** for all of your upgrade needs.

- Electrical drafting services
- B.C. Building & Fire Code consultation services
- Full installation services
- Verifications
- Crown molding (if needed)
- Code compliant evacuation and annunciator graphics
- Full Fire Safety Plans

FREE initial consultation and quote.

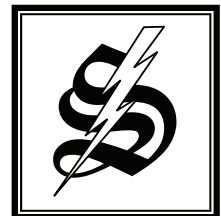
Sterling Fire & Safety Services Ltd.

"Your Safety is Our Business"

Phone: (250) 478-9931

Email: sterlingfire@vicbc.com

Web: sterlingfire.vicbc.com



Locally owned and operated. Listed with Underwriters' Laboratories of Canada in the Testing, Inspection, Maintenance & Verification of Fire Alarm Systems

Update on VISOA Legislation Initiative

by Deryk Norton, VISOA Board Government Relations Representative

Following a series of public meetings with strata homeowners on Vancouver Island a legislation report was completed and released to meeting participants on May 2 under the title of Beyond the Sales Pitch: Ensuring Transparency and Accountability in BC Strata Developments. The report describes the main issues heard from strata homeowners regarding deficiencies in BC's strata legislation and makes the case for a public review of the legislation. The report can be viewed on the VISOA website ([www.visoa.](http://www.visoa.bc.ca)

[bc.ca](http://www.visoa.bc.ca)) under "Legislation Issues". Also, copies of the report are being provided to VISOA members.

The report was the subject of a News Release on May 5 that went to dozens of print and electronic media across the province. The report has been sent to the Government Caucus Whip for submission to the provincial government, as follow-up to our Board's April 9 presentation to the Caucus. Copies of the report have also been sent to all MLAs on Vancouver Island as well as several MLAs in the lower mainland where

there are large numbers of strata homeowners. VISOA will continue to speak with interested MLAs and media in advocating a public review of strata legislation.

We continue to urge all VISOA members and other strata homeowners to write to the Premier, their MLAs and their local newspapers asking for a public review of the legislation. It would also be helpful if VISOA members shared the report and the issues with any strata homeowners they know on the mainland.



Does it seem like most of the Bulletin articles are about problems, solving problems and preventing problems? Does it seem to you that VISOA focuses too much on complaints? That's simply the nature of our work – our mandate is to provide education and assistance to strata owners. If you live in a smoothly functioning strata, you've likely never needed our help and wonder what all the fuss is about.

We'd like to hear from you! Tell us your positive stories.

**Do you have a fabulous strata council?
An irreplaceable property manager? An incredible grounds-keeper?
What makes them so great?**

Tell us – we'd love to share your encouraging, helpful experiences with other strata owners in an upcoming bulletin article. We won't share any information which would identify your strata, unless you tell us it's alright to do so.

*Send your stories in confidence to editor@visoa.bc.ca
Next issue of the bulletin, we'll show other stratas how it's done!*

had been imposed for a continuing contravention and demanding that the cat be removed. The letters invited the unit owner to contact the building managers if she had any questions or concerns, and they would set up a meeting with the strata council.

The strata corporation eventually sued the unit owner for the fines. One of the unit owner's arguments in court was that the council had no power to impose fines on her, because it had failed to comply with the mandatory provisions of s.135 of the Strata Property Act. She submitted that the council failed to give her an opportunity to answer the complaint, before the strata corporation had decided she had contravened the bylaw and imposed the fine.

The court holds the fines are not enforceable because the strata corporation had not complied with section 135.

Strata councils should take from the case:

Invitations to contact the council and provide answer to complaint must occur before a conclusion that the bylaw has been broken and a fine imposed

There must be a consideration, on the evidence, at a council meeting, for every imposition of a fine, including a fine for a continuing contravention.

Cheng v. Owners, Strata Plan VR 1902

The Strata Corporation had provided Mr. Cheung with particulars of complaints regarding three fines, and an opportunity to respond, which he did through his lawyer. Previous fine notices where the procedural steps had not been complied with had been withdrawn. Mr. Cheung wrote a response indicating the circumstances under which the proposed offences had taken place and requesting a fine not be imposed. In previous circumstances, the strata council had withdrawn complaints or reduced fines. In the case of the last three fines they did not, and the court upholds the fines.

Unit holders should take from this case:

If you write a letter of response, indicating that a bylaw has not been broken, or that it be excused in the circumstance, also request a hearing in the event that the strata council does not do as you request in your letter.

CONCLUSION

Procedural steps should be complied with to assure the validity of a fine, or other enforcement method. It should be remembered that fines cannot be secured by a lien; fines must be collected by suing in court for a judgment, or by the withholding of a Form F until the fines are paid.

being sanded, and so on. By that evening the row sports five freshly painted doors: burgundy, black, navy, cream and forest green – all replete with new matching stainless steel house numbers.

At the next council meeting, the topic arises and in the discussion one councilor admits to saying he didn't care if owners painted their doors but he assumed they meant just a fresh coat of the original brown. The council decides to fine the owners for breaking a bylaw. The owners found nothing about doors in their own strata's bylaws, but they forgot to check the Standard Bylaws of the Strata Property Act. If they had, they would have seen that, for alterations to doors that front on the common property, permission must be given in writing.

Late-Payment Lament:

You lost your job, your savings are almost exhausted, you are three months behind on your strata assessments and late charges specified in your bylaws are mounting. The strata is about to send your account to the lawyer to place a lien on your strata unit. You just began a new job but can't get all your late payments caught up at once. You propose to your neighbor, the strata treasurer, that you pay an extra \$50 per month until the arrears are caught up, and she agrees. What's wrong with this plan? You should submit your proposal in writing to the Strata Council, and wait for a reply in writing.

Saga of the Saggy Spruce:

What would you do if you were sitting on your balcony one afternoon, and leaves from an overhanging tree limb tickled your back? Would you be tempted to trim the branch to keep it out of your way? Would you phone your neighbor, who was on council last year, to find out if it was OK to trim the branch? OR would you check your bylaws and the Standard Bylaws, write to the current council, ask for permission and get it in writing? Let's hope this saga has a happy ending.

Get it in writing!



Bill Claybo
36 Years Experience
For all your telephone wiring, data & equipment needs

TELME COMMUNICATIONS

Your home and office telephone specialist

Residential & Small Business
Installation/Repair/Renovations

5260 Arbour Cres.
Nanaimo, B.C.
V9T6E5

Phone: 250-758-0636
Cell: 250-616-6731
Website: www.tellme.ca
Email: tellme_@telus.net



- ☎ Guaranteed
- ☎ Affordable
- ☎ Payphones
- ☎ Enterphones
- ☎ All Entry Systems

You asked:

Can the strata property manager overrule the strata council?

by Harvey Williams

Have a question about managing your strata corporation? Ask us, we've had a lot of experience helping strata corporations solve problems, perhaps we can help you. Questions may be rephrased to conceal the identity of the questioner and to improve clarity when necessary. We do not provide legal advice, and our answers should not be construed as such. However, we may and often will advise you to seek legal advice.

Question:

Our strata property manager told us that we must have an engineering study done on our building so owners be able to sell their units. Our property appears to be in good condition with no sign of water penetration or other major problems. Are we required to have an engineering study because our strata manager tells us to?

Answer:

To begin with, the strata council is the strata manager. To call the strata property agent the strata manager is a misnomer. The council contracts with a company to provide management services under the direction of the strata council. This concept is reflected in the name of the association to which most strata management companies belong, The Strata Property Agents of British Columbia (SPABC).

There are very specific limitations on what a strata manager can do. The strata property manager cannot:

- Hold proxies at general meetings;
- Hold hearings relating to enforcement of bylaws or rules on such matters as bylaw violations or rental restrictions;
- Enforce bylaws;
- Levy or rule on fines for infractions of bylaws or rules;
- Deny access to recreational or other facilities;
- Hold hearings on behalf of the strata council;
- Spend strata corporation funds without strata council authorization or a delegation of spending authority as in a strata corporation's annual budget, from the Contingency Reserve Fund or special assessment as approved at a general meeting.

Unfortunately, too many strata councils and strata property managers are unaware of these limitations. A strata manager can draft and deliver notices of bylaw infractions and fines on behalf of the strata council when directed to do so but they cannot actually levy a fine.

Owners with concerns about some strata matter sometimes

asked me to be their proxy at a general meeting of their strata corporation. Too often, at these meetings, the strata manager dominates the proceedings. When that happens, it's often because council members are passive or haven't adequately prepared themselves for the meeting. But of even greater concern is when an manager provides advice that is contrary to the Strata Property Act.

A dramatic example of a strata manager both exceeding his authority and being grossly ignorant of the Strata Property Act was described in a newspaper column recently. A manager requested that strata owners send him their proxies in lieu of holding a special general meeting to approve a special levy. Such a procedure violates the Strata Property Act on several counts, something one would expect any licensed strata property manager to know.

To answer your specific question, NO you are not required to do anything just because your Strata Property Agent tells you to. He or she can, and should, make recommendations to the Strata council. But it is ultimately a council decision; and if it involves spending money greater than that available in the current Operating Budget, it is a decision for all the owners at an Annual or Special General Meeting.



The Vancouver Island
Strata Owners Association
www.visoa.bc.ca
1-877-33-VISOA (877-338-4762)

The Vancouver Island Strata Owners Association ~ PRESENTS ~

THE NUTS AND BOLTS OF STRATA LIFE

Facilitators – Professionals and Experienced Strata Council Members

PARTICIPANTS CHOOSE UP TO 3 OF THE FOLLOWING WORKSHOPS:

- Strata Financial Records and Depreciation Reports
 - Developing and Amending Bylaws
 - Strata Maintenance
 - Council Meetings and Minutes
 - Strata Service Contracts
- Conflict Resolution & Bylaw Enforcement
 - Strata Managers & Issues
 - Strata Legislation

SUNDAY, JUNE 22, 2008, 1:00 – 4:00 P.M.

Registration begins at 12:30 p.m.

Please bring your strata plan number with you

VISOA Information Publications will be available for purchase

**Saanich Commonwealth Place
4836 Elk Lake Drive, Victoria**

There is no charge for VISOA members

*(If your strata plan is a member,
all owners in your strata may attend)*

Non – Members \$20

Memberships will be available at the door



BUSINESS MEMBERS

Empress Painting

(250) 383-5224 • 1-888-788-5624

office@empresspainting.com

www.empresspainting.com

Focus Tax & Accounting Ltd.

Income Tax, Accounting and Bookkeeping Services

(250) 656-9797

Island Basement Systems

Foundation Waterproofing Specialists

(250) 882-1061 • 1-877-DRY-BSMT (379-2768)

sales@islandbasementsystems.ca

www.islandbasementsystems.ca

Sterling Fire & Safety Services

Fire Safety Services & Fire Alarm Upgrades

(250) 478-9931

sterlingfire@vicbc.com • www.sterlingfire.vicbc.com

Top Coat Painting

Commercial & Residential Painting

(250) 385-0478

saldat@islandnet.com • www.topcoatpainting.ca

Unity Services Corporation

Strata Maintenance Planning & Consulting

(250) 616-9298

john@unityservices.ca • www.unityservices.ca

Seafirst Insurance Brokers

(250) 656-9886

jmccutcheon@seafirstinsurance.com

www.seafirstinsurance.com

Strata Various Handyman Services

Improvements & Installation • Repairs & Maintenance

(250) 208-7160

goodhound@gmail.com

Coastal Community Insurance Services

Business Insurance Expert including

Commercial Property and Liability

(250) 386-7737

shawn.fehr@cccu.ca



STRATA·VARIOUS HANDYMAN SERVICES

*Improvements & Installation
Repairs & Maintenance
Services of Quality for
Strata or Condo*

PATRICK NELSON

250.208.7160

goodhound@gmail.com

BULLETIN SUBSCRIPTION

VISOA provides five information-packed bulletins each year. Non-members may subscribe to these bulletins at the following rates:

**By email: \$15.00 per year and
by postal mail \$25.00 per year**

For more information regarding Business Memberships please contact

Daryl Jackson at (250) 920-0222

or membership@visoa.bc.ca

(Please note that VISOA does not guarantee or warranty the goods, services, or products of their business members.)

~ DISCLAIMER ~

The material in this publication is intended for informational purposes only and cannot replace consultation with qualified professionals. Legal advice or other expert assistance should be sought as appropriate.