



Vancouver Island Strata Owners Association

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THE STRATA PROPERTY ACT AMENDMENTS IN FORCE - 1 JANUARY 2010

The government passed Bill 8, the *Strata Property Amendment Act*, in October of 2009. On December 10, Order in Council 707 brought several sections of Bill 8 into effect and on January 1, 2010 regulations were approved in support of those sections.

Among the sections still awaiting Orders in Council necessary to bring them into effect are:

1. Provision for stratas and owners to seek relief in Provincial Court instead of Supreme Court. Provincial Court is more informal and less expensive for resolving strata issues. Cases can be adjudicated without lawyers. Small claims court is a branch of the Provincial Court.
2. The requirement for preparation of depreciation reports by a qualified person. Depreciation reports are used to plan for long term maintenance without special assessments.
3. Requirement for audited financial statements.

Bill 8 in its entirety can be read or downloaded from the following link:

http://www.leg.bc.ca/39th1st/3rd_read/gov08-3.htm

It is not certain when the sections that require the enactment of Orders in Council will be released.

The sections of the Strata Property Act and the Regulation below contain the amendments from Bill 8 that are now in effect. The amended portions of each section are in **red**. Page numbers and Directions are in **blue**.

Passing resolutions after first conveyance – **Page 14**

11 In the period after the first conveyance of a strata lot to a purchaser but before the first annual general meeting, the strata corporation may pass a resolution requiring a 3/4 vote as follows:

- (a) for a resolution to amend the bylaws under section 127 (2) or (4) (b), the resolution may be passed in accordance with section 127 (2) or (4) (b), as applicable;**

- (b) for a resolution under section 139 to change a Rental Disclosure Statement, the resolution may be passed in accordance with section 139;**
- (c) for any other resolution requiring a 3/4 vote, the resolution must be passed by a unanimous vote at a special general meeting.**

Control of council - Page 19

- 27**
- (1) The strata corporation may direct or restrict the council in its exercise of powers and performance of duties by a resolution passed by a majority vote at an annual or special general meeting.**
 - (2) The strata corporation may not direct or restrict the council under subsection (1) if the direction or restriction**
 - (a) is contrary to this Act, the regulations or the bylaws, or**
 - (b) interferes with the council's discretion to determine, based on the facts of a particular case,**
 - (i) whether a person has contravened a bylaw or rule,**
 - (ii) whether a person should be fined, and the amount of the fine,**
 - (iii) whether a person should be denied access to a recreational facility,**
 - (iv) whether a person should be required under section 133 (2) to pay the reasonable costs of remedying a contravention of the bylaws or rules, or**
 - (v) whether an owner should be exempted under section 144 from a bylaw that prohibits or limits rentals.**

(Section 32 is repealed and the following substituted:)

Disclosure of conflict of interest – Page 20

32 A council member who has a direct or indirect interest in

- (a) a contract or transaction with the strata corporation, or**
- (b) a matter that is or is to be the subject of consideration by the council, if that interest could result in the creation of a duty or interest that materially conflicts with that council member's duty or interest as a council member,**

must

- (c) disclose fully and promptly to the council the nature and extent of the interest,**

- (d) abstain from voting on the contract, transaction or matter, and**
- (e) leave the council meeting**
 - (i) while the contract, transaction or matter is discussed, unless asked by council to be present to provide information, and**
 - (ii) while the council votes on the contract, transaction or matter.**

(New Section)

Request for a council hearing – page 21

- 34.1 (1) By application in writing stating the reason for the request, an owner or tenant may request a hearing at a council meeting.**
- (2) If a hearing is requested under subsection (1), the council must hold a council meeting to hear the applicant within 4 weeks after the request.**
- (3) If the purpose of the hearing is to seek a decision of the council, the council must give the applicant a written decision within one week after the hearing.**

Strata corporation records – page 22

35 (2)

[....]

- (k) correspondence sent or received by the strata corporation and council;**
- (l) bank statements, cancelled cheques and certificates of deposit;**
- (m) Information Certificates issued under section 59;**
- (n) the records and documents referred to in section 20 or 23 obtained by the strata corporation;**
- (o) any other records required by the regulations.**

(3) Records referred to in this section must be retained by the strata corporation for the periods set out in the regulations.

Access to records – Page 22

- 36 (1) On receiving a request, the strata corporation must make the records and documents referred to in section 35 available for inspection by, and provide copies of them to,**
- (a) an owner,**

(b) a tenant who, under section 147 or 148, has been assigned a landlord's right to inspect and obtain copies of records and documents, or

(c) a person authorized in writing by an owner or tenant referred to in paragraph (a) or (b).

(1.1) On receiving a request from a former owner, from a former tenant referred to in subsection (1) (b) or from a person authorized in writing by the former owner or former tenant, the strata corporation must, with respect to records and documents referred to in section 35 that, whenever created, relate to the period during which the former owner or former tenant was an owner or tenant, make those records and documents available for inspection by, and provide copies of them to, the former owner, former tenant or person authorized in writing, as the case may be.

(2) [No change]

(3) The strata corporation must comply with a request under subsection (1) , **(1.1)** or (2)

....

Special general meeting called by voters - [Page 24](#)

43 (1) Persons holding at least **20%** of the strata corporation's votes may, by written demand, require that the strata corporation hold a special general meeting to consider a resolution or other matter specified in the demand.

Agenda and resolutions at an annual or special general meeting - [Page 25](#)

46 (1) Subject to subsection (2), the council determines the agenda of an annual or special general meeting.

(2) Persons holding at least **20%** of the strata corporation's votes may, by written demand, propose a resolution or raise a matter specified in the demand.

Number of votes per strata lot - [Page 28](#)

53 (1) At an annual or special general meeting each strata lot has one vote unless different voting rights are set out in a Schedule of Voting Rights in the prescribed form in accordance with section 247, 248 or 264.

(2) Despite subsection (1), a strata corporation may, by bylaw, provide that the vote for a strata lot may not be exercised, except on matters requiring a unanimous vote, if the strata corporation is entitled to register a lien against that strata lot under section 116 (1).

(3) If, in accordance with a bylaw passed under subsection (2), a vote for a strata lot may not be exercised, the strata lot's vote must not be considered for the purposes of determining a quorum in accordance with section 48 or for the purposes of sections 43 (1), 46 (2) and 51 (3).

(4) Despite subsection (1), if there is a tie vote at an annual or special general meeting, the president, or, if the president is absent or unable or unwilling to vote, the vice president, may, if the bylaws so provide, break the tie by casting a second, deciding vote.

Notice given by strata corporation - [Page 31](#)

61 (1) A notice or other record or document that the strata corporation is required or permitted to give to a person under this Act, the regulations, the bylaws or the rules must be given to the person,

(b) if the person has not provided the strata corporation with an address outside the strata plan for receiving notices and other records or documents,

(i) by leaving it with the person,

(ii) by leaving it with an adult occupant of the person's strata lot,

(iii) by putting it under the door of the person's strata lot,

(iv) by mailing it to the person at the address of the strata lot,

(v) by putting it through a mail slot or in a mail box used by the person for receiving mail,

(vi) by faxing it to a fax number provided by the person, or

(vii) by emailing it to an email address provided by the person for the purpose of receiving the notice, record or document.

(2) The notice, record or document may be addressed to the person by name, or to the person as owner or tenant.

(3) A notice or other record or document that is given to a person under subsection (1) (a) (ii) or (b) (ii) to (vii) is conclusively deemed to have been given 4 days after it is left with an adult occupant, put under the door, mailed, put through the mail slot or in the mail box, faxed or emailed.

Notice given to strata corporation - [Page 32](#)

63 (1) A notice or other record or document that is required or permitted under this Act, the regulations, the bylaws or the rules to be given to the strata corporation must be given to the strata corporation

- (a) by leaving it with a council member,
 - (b) by mailing it to the strata corporation at its most recent mailing address on file in the land title office,
 - (c) by faxing it or emailing it to**
 - (i) the strata corporation using the strata corporation's fax number or email address, or**
 - (ii) a fax number or email address provided by a council member for the purpose of receiving the notice, record or document, or**
 - (d) by putting it through the mail slot, or in the mail box, used by the strata corporation for receiving notices, records and documents.
- (2) A notice or other record or document that is given to the strata corporation under subsection (1) (b) to (d) is conclusively deemed to be given 4 days after it is **faxed, emailed, or put through the mail slot, or in the mail box.**

Special levy - [Page 46](#)

- 108 (1) The strata corporation may raise money from the owners by means of a special levy.
- (2) The strata corporation must calculate each strata lot's share of a special levy
- (a) in accordance with section 99, 100 or 195, in which case the levy must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or
 - (b) in another way that establishes a fair division of expenses for that particular levy, in which case the levy must be approved by a resolution passed by a unanimous vote at an annual or special general meeting.
- (3) The resolution to approve a special levy must set out all of the following:
- (a) the purpose of the levy;
 - (b) the total amount of the levy;
 - (c) the method used to determine each strata lot's share of the levy;
 - (d) the amount of each strata lot's share of the levy;
 - (e) the date by which the levy is to be paid or, if the levy is payable in installments, the dates by which the installments are to be paid.
- (4) The strata corporation must**
- (a) account for the money collected separately from other money of the strata corporation,**
 - (b) invest all of the money collected in one or both of the following:**

- (i) investments permitted by the regulations;
- (ii) insured accounts with savings institutions in British Columbia,
- (c) use the money collected for the purpose set out in the resolution, and
- (d) inform owners about the expenditure of the money collected.

(4.1) A strata corporation may, by bylaw or by a resolution approving a special levy, establish a rate of interest, not to exceed the rate set out in the regulations, to be paid if an owner is late in paying his or her strata lot's share of the special levy.

(4.2) The interest payable on a late payment of a special levy in accordance with a bylaw or resolution referred to in subsection (4.1) is not a fine, and forms part of the special levy for the purposes of section 116.

(5) If the money collected exceeds the amount required, or for any other reason is not fully used for the purpose set out in the resolution, the strata corporation must pay to each owner of a strata lot the portion of the unused amount of the special levy that is proportional to the contribution made to the special levy in respect of that strata lot.

(6) [No Change]

(7) In subsections (4) and (5), "money collected" means the money collected on a special levy and includes any interest or income earned on that money.

Limits to pet and age bylaws - Page 51

123 (1) A bylaw that prohibits a pet does not apply to a pet living with an owner, tenant or occupant at the time the bylaw is passed and which continues to live there after the bylaw is passed.

(1.1) Without limiting a strata corporation's power to pass any other bylaws, a strata corporation may pass a bylaw that restricts the age of persons who may reside in a strata lot.

(2) A bylaw that restricts the age of persons who may reside in a strata lot does not apply to a person who resides in the strata lot at the time the bylaw is passed and who continues to reside there after the bylaw is passed.

Amendment of bylaws - Page 52

- 127 (1) Despite section 128, if a strata plan is a bare land strata plan or if all the strata lots in a strata plan are residential, no amendment may be made to the bylaws **before the second annual general meeting unless the amendment is approved by a resolution passed by a unanimous vote at an annual or special general meeting.**
- (2) If all the strata lots in a strata plan are nonresidential, the bylaws may be amended, in accordance with section 128, **at an annual or special general meeting held before the second annual general meeting.**
- (3) If a strata plan is composed of residential and nonresidential strata lots, no amendment may be made to the bylaws **before the second annual general meeting, unless**
- (a) it is approved by a resolution passed by a unanimous vote at **an annual or special general meeting, or**
 - (b) separate residential and nonresidential sections are formed.
- (4) If separate sections are formed,
- (a) **the residential section may not amend the bylaws before the second annual general meeting unless the amendment is approved by a resolution passed by a unanimous vote at an annual or special general meeting of the section, and**
 - (b) **the nonresidential section may amend the bylaws in accordance with section 197 at an annual or special general meeting of the section before the second annual general meeting.**

Bylaw amendment procedures – Page 53

- 128 (1) Subject to section 197, amendments to bylaws must be approved at an annual or special general meeting,
- (a) in the case of a strata plan composed entirely of residential strata lots, by a resolution passed by a 3/4 vote,
 - (b) in the case of a strata plan composed entirely of nonresidential strata lots, by a resolution passed by a 3/4 vote or as otherwise provided in the bylaws, or
 - (c) in the case of a strata plan composed of both residential and nonresidential strata lots, by both a resolution passed by a 3/4 vote of the residential strata lots and a resolution passed by a 3/4 vote of the nonresidential strata lots, or as otherwise provided in the bylaws for the nonresidential strata lots.

(2) If an amendment to a bylaw is approved, an Amendment to Bylaws that sets out that amendment and is in the prescribed form must be filed in the land title office and, until that filing, the amendment has no effect.

(3) Repealed

(4) The strata corporation must inform owners and tenants of any amendment to the bylaws as soon as feasible after the amendment is approved.

Limits to rental restriction bylaws - Page 57

- 142 (1) For the purposes of this section, "family" and "family member" have the meaning set out in the regulations.**
- (2) A bylaw referred to in section 141 (2) does not apply to prevent the rental of a strata lot to a member of the owner's family.**
- (3) A rental of a strata lot to a family member under this section creates an assignment of the owner's powers and duties under section 148.**
- (4) If the bylaws of a strata corporation include a bylaw referred to in section 141 (2) (b) (i), a residential strata lot that has been rented**
- (a) to a member of the owner's family, or**
 - (b) under an exemption from the bylaw granted or allowed under section 144**
- is not to be considered, for the purposes of that bylaw, as a residential strata lot that has been rented.**

Rental restriction bylaw does not immediately apply to some strata lots - Page 57

- 143 (1) Subject to subsection (4), a bylaw that prohibits or limits rentals does not apply to a strata lot until the later of**
- (a) one year after a tenant who is occupying the strata lot at the time the bylaw is passed ceases to occupy it as a tenant, and**
 - (b) one year after the bylaw is passed.**
- (2) Subject to subsection (1), if a strata lot has been designated as a rental strata lot on a Rental Disclosure Statement in the prescribed form, and if all the requirements of section 139 have been met, a bylaw that prohibits or limits rentals does not apply to that strata lot until,**
- (a) in the case of a Rental Disclosure Statement filed before January 1, 2010, the earlier of**

- (i) the date the strata lot is conveyed by the first owner of the strata lot other than the owner developer, and
 - (ii) the date the rental period expires, as disclosed in the Rental Disclosure Statement as it read on December 31, 2009, and
 - (b) in the case of a Rental Disclosure Statement filed after December 31, 2009, the date the rental period expires, as disclosed in the Rental Disclosure Statement.
 - (3) Even if a Rental Disclosure Statement filed before January 1, 2010 is changed under section 139 (2) after December 31, 2009, subsection (2)(a) of this section applies.
 - (4) Subsection (1)(b) does not apply to a bylaw that is passed under section 8 by the owner developer.

Exemption from rental restriction bylaw - Page 58

- 144 (1) An owner may apply to the strata corporation for an exemption from a bylaw that prohibits or limits rentals on the grounds that the bylaw causes hardship to the owner.
- (2) The application must be in writing and must state
- (a) the reason the owner thinks an exemption should be made, and
 - (b) whether the owner wishes a hearing.
- (3) If the owner wishes a hearing, the strata corporation must hear the owner or the owner's agent within **4 weeks** after the date the application is given to the strata corporation.
- (4) An exemption is allowed if**
- (a) the strata corporation does not give its decision in writing to the owner,**
 - (i) if a hearing is held, within one week after the hearing, or**
 - (ii) if no hearing is requested, within 2 weeks after the application is given to the strata corporation.**
 - (b) the owner requests a hearing under subsection (2) (b) and the strata corporation does not hold a hearing within 4 weeks after the date the application is given to the strata corporation.**
- (5) An exemption granted by the strata corporation may be for a limited time.

(6) The strata corporation must not unreasonably refuse to grant an exemption.

Appointment of administrator - Page 66

174 (1) The strata corporation, or an owner, tenant, mortgagee or other person having an interest in a strata lot, may apply to the Supreme Court for the appointment of an administrator to exercise the powers and perform the duties of the strata corporation.

(2) The court may appoint an administrator if, in the court's opinion, the appointment of an administrator is in the best interests of the strata corporation.

(3) The court may

(a) appoint the administrator for an indefinite or set period,

(b) set the administrator's remuneration,

(c) order that the administrator exercise or perform some or all of the powers and duties of the strata corporation, and

(d) relieve the strata corporation of some or all of its powers and duties.

(4) The remuneration and expenses of the administrator must be paid by the strata corporation.

(5) The administrator may delegate a power.

(6) On application of the administrator or a person referred to in subsection (1), the court may remove or replace the administrator or vary an order under this section.

(7) Unless the court otherwise orders, if, under this Act, a strata corporation must, before exercising a power or performing a duty, obtain approval by a resolution passed by a majority vote, a 3/4 vote or a unanimous vote, an administrator appointed under this section must not exercise that power or perform that duty unless that approval has been obtained.

Disputes that can be arbitrated – Page 67

177 (1) Subject to section 178 (1), the strata corporation may refer to arbitration a dispute with an owner or tenant if the dispute concerns a matter set out in subsection (3) of this section.

(2) Subject to section 178 (1), an owner or tenant may refer to arbitration a dispute with the strata corporation or with another owner or tenant if the dispute concerns a matter set out in subsection (3) of this section.

(3) A dispute may be referred to arbitration **under subsection (1) or (2)** if it concerns any of the following:

[...]

Effect of court proceedings on arbitration - Page 68

178 (1) A dispute must not be referred to arbitration under section 177 (1) or (2) once a court proceeding has been commenced in relation to the same dispute.

(2) A court having jurisdiction may hear a dispute that has been referred to arbitration, but a party to the arbitration may apply to the court for an order to stay the court's proceedings.

(3) On application for a stay under subsection (2), the court must stay its proceedings unless the court is satisfied there is good reason to continue its proceedings.

(4) In determining whether to stay its proceedings, the court may consider all of the following:

- (a) the legal and factual complexity of the dispute;
- (b) the suitability of the intended arbitrator;
- (c) the comparative expense and delay of the court proceedings and the arbitration;
- (d) the interests of any other parties;
- (e) the likelihood that all the parties to the arbitration will cooperate to do all things necessary for the proper conduct of the arbitration;
- (f) any other matter the court thinks proper.

Strata Property Act, sections 179 to 186 are repealed. [Provisions rendered unnecessary by the dispute resolution provisions added as proposed section 292.1 of the Act.]

Conversion to freehold strata plan - Page 81

216 (1) When the leasehold landlord transfers the fee simple estate in each of the strata lots included in a ground lease to each of the leasehold tenants and the registrar registers each leasehold tenant as the fee simple owner of their strata lot described in the strata lot lease,

- (a) the strata plan continues as a strata plan and the land shown on the strata plan is not subject to a ground lease,

- (b) the strata corporation continues as if it were originally created by deposit of a strata plan that was not a leasehold strata plan,
- (c) the strata lot lease ceases to exist and the leasehold tenant and the leasehold tenant's successors in interest cease to be liable for the performance of obligations in the strata lot lease, **and**
- (d) any charge in existence against the leasehold tenant's interest immediately before the registration of the fee simple becomes a charge against the fee simple estate acquired by the leasehold tenant, and, if the charge was registered, the registrar must register it against the fee simple title, **and**
- (e) any schedule of restrictions filed under section 206 is repealed and the restrictions set out in it cease to apply.**

(2) The registrar may register the fee simple title in the strata lot only if the registrar has

- (a) received a similar application for registration in respect of all leasehold strata lots included in the leasehold strata plan, and
- (b) determined that all the applications are registrable.

Power to make regulations – Page 114

292 Empowers the Lieutenant Governor in Council to make regulations relating to these amendments.

- (2) (n) respecting the maximum rate of interest that may be established under a bylaw or resolution referred to in section 107 (1) or 108 (4.1);**

Section 15 of the Schedule of Standard Bylaws is repealed [because that provision is now section 34.1 of the *Strata Property Act*.] - Page 122

Section 36 of the *Strata Property Amendment Act [SPAA]* does not seem to have a place in the *Strata Property Act [SPA]*. It seems to deal with one specific transition from the *SPA* to the *SPAA*, and will concern only those strata corporations which have recently made bylaw amendments but did not have the time to have them approved by the Land Titles Office as of 1 January, 2010. For this reason, it has a time limitation and will no longer apply after 31 December, 2010.

36 (SPAA)

Transition — bylaws

(1) In this section, “bylaw” and “strata corporation” have the same meanings as in the Strata Property Act.

(2) Despite section 127(1), (3) and (4) of the Strata Property Act, as amended by this Act, an amendment may be made to the bylaws of a strata corporation before the second annual general meeting of the strata corporation if

(a) one of the following situations applies:

(i) the amendment to the bylaws was approved by a resolution that was passed before the coming into force of this section but the amendment had not come into effect before the coming into force of this section;

(ii) the amendment to the bylaws was proposed for the annual general meeting or a special general meeting of the strata corporation held before the second annual general meeting, notice of that meeting was given in accordance with the Strata Property Act before the coming into force of this section, the meeting is held after the coming into force of this section and the resolution approving the amendment to the bylaws is passed at that meeting, and

(b) an Amendment to Bylaws that sets out the amendment and is in the form prescribed under the Strata Property Act is filed in the land title office within one year after the coming into force of this section.

ENACTED AMENDMENTS TO THE STRATA PROPERTY REGULATION

[The complete, amended, *Regulations & Forms* can be viewed or downloaded from the link on “Resources” page of this website.]

Add new section:

Definition for section 34.1 of the Act

4.01 For purposes of section 34.1 of the Act, “hearing” means an opportunity to be heard in person at a council meeting.

Maximum amount of interest for late strata fees

6.8 (1) For the purposes of section 107 (1) of the Act, the maximum rate of interest that a strata corporation may set out in its bylaws for the late payment of strata fees is 10% per annum compounded annually.

(2) For the purposes of section 108 (4.1) the maximum rate of interest that a strata corporation may establish under that section is 10 % per annum compounded annually.

Permitted investments for investment of money from contingency reserve fund

6.11 A strata corporation may invest money from the contingency reserve fund or money collected on a special levy in the following investments for the purposes of section 95 (2) (a) or 108 (4) (b)(i), as the case may be of the Act.

Add New section

Investment of money collected under special levies

6.12 (1) Subject to subsection (2), a strata corporation need not comply with section 108 (4) (b) of the Act with respect to money collected on a special levy if that money was invested by or on behalf of the strata corporation before the coming into force of this section.

(2) If an investment referred to in subsection (1) is disposed of after the coming into force of this section, the proceeds from the disposition may only be invested as permitted by section 108 (4) (b) of the Act.

Section 14.13 repealed and replaced [amended in November, 2009]

Court ordered amendments to Schedule of Unit Entitlement

14.13 An application must not, after November 24, 2009, be brought under section 246 (7) of the Act in respect of a strata lot

(a) if the inaccuracy referred to in section 246 (7) (b) of the Act was contained in the Schedule of Unit Entitlement at the time of the deposit of the strata plan in a land title office, or

(b) in any other case, unless one or both of the following conditions apply:

(i) the actual habitable area or square footage of the strata lot is at least 10% greater than, or at least 10% less than, the habitable area or square footage used to determine the unit entitlement of the strata lot;

(ii) the actual habitable area or square footage of the strata lot is at least 20 square metres greater than, or at least 20 square metres less than, the habitable area or square footage used to determine the unit entitlement of the strata lot.

Sections 17.15 and 18.1 are repealed.

Forms I is amended (at the bottom of the form).

*** Section 128(2) of the Act provides that an Amendment to Bylaws must be filed in the land title office. (Delete the current wording)**

Form J is amended. It is for developers and can be found elsewhere on the “Resources” page (Strata Property Regulations and Forms) of this site.