



Vancouver Island Strata Owners Association

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**VISOA Bulletin - November 2008**

## *President's Report*

In addition to holding the office of President, I also answer the VISOA Helpline by phone and email. In that capacity I hear from stratas that cover the whole gamut from dysfunctional to the exemplary.

A common problem is a lack of transparency by councils, causing mistrust and a feeling of "them against us", when ideally everyone should be pulling together for the common good. My advice to councils is to err on the side of giving too much information rather than not enough.

Some folk are hard to get along

with and they are found on council and off, and hopefully our life experience has taught us how to handle them. There is a lot of strife about councils not enforcing bylaws, arbitrary decisions from presidents, minutes not being distributed and in some cases no council meetings being held. Yet most councils I work with on the Helpline are hardworking and trying their best. There is no school for strata councils and that means every newly elected member has to learn by doing - feeling her way as she goes along. It is a considerable responsibility to sit on your strata council - a job most people take on without experience,

a job that will greatly impinge on their time spent with family or at their hobby. The time is willingly given up for the sake of all owners.

It behooves us to take our turn on council; it behooves us to appreciate our councilors. Send a thank-you note at the end of a term to a retiring councilor, send Christmas cards to your council, even a modest bouquet or a small house plant for the president would not be out of place. It is little things like this that foster good relations in a strata, and make life so much more pleasant when we live in close quarters.

*- Felicia Oliver, President*

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### VISOA's upcoming seminar ~ Mark your calendar ~

**SUNDAY,  
NOVEMBER 16, 2008**  
**LESSONS LEARNED AS A  
STRATA ADMINISTRATOR**  
**Register 12:30 pm**  
 Trafalgar/Pro-Patria Legion,  
 411 Gorge Rd East, Victoria  
*No charge for VISOA members*  
*\$20 for non-members*

# URBAN LEGENDS

by Sandy Wagner, VISOA Board Member

Do you have the *Strata Property Act* memorized? Of course not, no-one does. If you are on your Strata Council you've probably referred to the SPA many times in the course of your duties; or if you are an enthusiastic new strata property owner you may have read through the rather dry document to see what you have gotten yourself into. There are some portions that stick in your mind better than others, perhaps because they've applied to a specific situation in your strata. Other parts of the SPA are so open to interpretation that even the most experienced of us need to refer to them frequently.

In question periods at VISOA seminars and calls to the VISOA Helpline, common questions come up. We have dubbed these "Urban Legends". Like the alligators in the sewers of New York, these stories have been repeated so often that many people believe them. Check your knowledge of the SPA: How many of these statements are TRUE?

- 1) We have only 3 units in our Strata, therefore the *Strata Property Act* doesn't apply to us. The SPA is for big complexes.
- 2) The bylaws cannot be changed. We can make new ones, but can't change the original bylaws.
- 3) The Strata Council President doesn't pay strata fees; that's fair exchange for

all the work she does.

- 4) The property manager has to attend all council meetings. We cannot have a meeting without him.
- 5) Special assessments are shared equally by all owners.
- 6) If the cost of running our Strata for next year's budget goes up by 5%, then everyone's strata fees go up by 5% to pay the expenses.
- 7) The tree that is in my front yard is mine and I can prune it if I want to.
- 8) The tree that is in the back parking lot can be cut down if the council decides.
- 9) My window is drafty and leaks when it rains. I have to improvise repairs with weather stripping and caulking because I can't afford to have it replaced.
- 10) I may not attend council meetings; they are private meetings for council members and manager only.
- 11) We don't need to have a meeting if we canvass the owners to get our 75% vote.
- 12) I have to give a key to my unit to the council, to use in case of emergency.
- 13) If the President or other executive council member resigns their position, they must also step down from council.
- 14) We must have an AGM each year.
- 15) We are not allowed to use all of our Contingency Fund.

Turn to page 5 for the answers.

## You asked:

*Do I have to pay to examine our strata corporation's financial records?*

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:

Can our management company charge me for inspecting our strata corporation's records as allowed by Section 36 of the Strata Property Act?

### Answer:

No - Strata agents often charge owners for staff supervision time while inspecting strata records but this appears to violate Section 42(2) of the Regulations. This regulation reads: No fee may be charged to an owner, a tenant or person authorized by an owner or tenant for inspection of a record document under Section 36 of the Act.

According to Mangan, Section 42 applies to both strata corporations and strata agents. Some might argue that cost-recovery is not a fee. Mangan also states that the only way a strata agent can recover owner access-related costs is from the strata corporation through a provision in the agency contract. (The Condominium Manual: A Comprehensive Guide to the Strata Property Act p98-99). In that case, the strata corporation must pay the fees of owners who examine strata records held by a strata agent.

The Regulations also limit the amount that can be charged for copies of documents. Section 4.2(1) of the Regulations currently reads as follows: (1) The maximum fee that the strata corporation may charge for a copy of a record or document provided under section 36 of the Act is 25 cents per page.



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# Strata Legislation Initiative - an update

by Deryk Norton, VISOA Board Member, Government Relations

Since the May 2008 release of our report *Beyond the Sales Pitch: Ensuring Transparency and Accountability in BC Strata Developments*, VISOA has publicized the report and explained the need for legislation that adequately serves the interests of strata owners. VISOA reps have written to the Minister of Finance, met with MLA's in both parties, met with strata associations in the lower mainland, provided information to the media and appeared on call-in radio shows.

Since the last issue of the Bulletin:

- The September 21 edition of The Province published an editorial titled Condo Buyers Kept in Dark that basically censured provincial politicians for having done nothing about the strata legislation since a 2003 government commitment to do so;
- VISOA has made additional attempts to communicate with the editors-in-chief of both the Vancouver Sun and the Victoria Times-Colonist to determine why neither paper has published strata legislation

news stories based on information provided by VISOA and others;

- VISOA received a letter from the new Minister of Finance, the Honourable Colin Hansen, in response to its July 1 letter to him, stating that "Ministry staff are currently reviewing the issue of dispute resolution" but did not say if any further review is contemplated; and
- VISOA reps made a presentation to the legislature's Select Standing Committee on Finance and Government Services during the recent Budget 2009 public consultations. The presentation urged that Budget 2009 provide the resources needed for a major and public review of strata legislation. This presentation is summarized in a letter posted on the VISOA website [www.visoa.bc.ca](http://www.visoa.bc.ca) under Legislation Issues.

VISOA has told the Minister and the Committee that a review restricted to dispute resolution would be inadequate, as it would be treating the symptom rather than the disease. Strata owners know that many other deficiencies in the strata legis-

lation are direct causes of disputes.

To hold the provincial government accountable for its unfulfilled 2003 commitment and to publicize the need for strata legislation reform, VISOA is continuing to ask strata owners to:

- Write to the Times-Colonist or the Vancouver Sun including the question about why that paper has not covered this news story,
  - Write to the Honourable Colin Hansen, Minister of Finance, P.O. Box 9048 Stn Prov Govt, Victoria, BC V8W 9E2 and ask for a major public review of strata legislation not restricted to dispute resolution,
  - Send letters to their local MLA's and also ask them where they stand on the matter; and
  - Refer other BC strata owners to the report under Legislation Issues at [www.visoa.bc.ca](http://www.visoa.bc.ca)
- Strata legislation will not be improved until many more strata owners take the time to make their concerns known to provincial politicians and the media.

## BULLETIN SUBSCRIPTION

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# Editor's comment

by Harvey Williams, Bulletin Editor

I neglected to announce in the September Bulletin that we now have an Associate Editor, Sandy Wagner. Sandy has an eagle eye for editorial defects and is responsible for the improved editorial quality that you have seen in the last few Bulletins.

## VISOA's Other Contributors:

VISOA's success depends on more than its board of directors and volunteers. We also rely on:

- Jack the Sound Man of Pro-Shop Sound and Lighting/Music Centre who provides sound at our seminars and AGM. We tried doing without him for a few seminars but soon realized that his service was essential and a bargain besides. Counting travel time - which may include to Nanaimo - and setting up and taking down his equipment, a seminar can require up to ten hours;
- Linda Thompson, our administrative assistant. Linda keeps our records, collects our mail, and because of her former long service on VISOA's board of directors serves as our institutional memory; and
- Georgia Ireland of Georgia Ireland Design who uses her graphic design and computer skills to prepare the Bulletin for publication and is currently helping to revamp our website.



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These are all FALSE !

1) *The Strata Property Act* applies to all Strata Properties in BC. There are no exemptions. If your strata is a small one, you may be used to handling things in a less formal manner than some other, larger stratas. But for legal reasons you must follow the SPA.

2) The Standard Bylaws of the SPA became the bylaws of your Strata on January 1, 2001. Any bylaw already registered in the Land Title Office prior to that date remains in effect, even if it conflicts with a bylaw contained in the Standard Bylaws. Your strata can add, change or rescind any bylaw so long as it does not conflict with the SPA. To do this, you need a  $\frac{3}{4}$  vote at an Annual or Special General Meeting, and then the change must be registered at the Land Titles Office within 60 days. There is a small charge for the registration.

3) All owners are required to pay their monthly assessments (otherwise known as strata fees). The owners may, by a majority vote at an AGM, decide to pay council members for their services, but that is a completely separate issue. Strata fees must be paid.

4) Your property manager might fulfill an important and useful role at council meetings, but there is no requirement for him or her to attend. Meetings should be held at regular intervals, with or without your property manager's attendance. The council decides how frequently to meet, agrees on what action to take for all matters that arise, and directs the property manager accordingly. Remember the property manager works for you, not the other way around.

5) Special assessments are levied on the basis of "unit entitlement" which is a formula registered with the strata plan. Bare-land stratas have equal unit entitlement, but for apartment-style or townhouse stratas, it is unlikely that each strata lot has the exact same unit entitlement. Your strata can vote to change the unit entitlement, but it requires a unanimous vote of all owners.

6) This can be tricky. If you simply raise everyone's monthly assessments by 5%, then over time the amount for each unit will be out of proportion to their unit

entitlement. It might only be out by a few cents this year, but if you compound the error in subsequent years, some owners may be paying several dollars more or less than their correct share. The correct way is to calculate the total amount needed to fund the Operating Budget for the year, and then work backwards using the Schedule of Unit Entitlement to find each unit's contribution.

7) Trees are common property, and must be maintained by the Strata Corporation. Owners may not make alterations to common property without written permission of the council.

8) Trees are common property, and must be maintained by the Strata Corporation. The council may not make a decision to remove Common Property without a vote of all owners.

9) Usually, windows are common property, and must be maintained by the Strata Corporation. If your windows are leaking, the strata must repair or replace them. If your strata has a bylaw stating that owners are responsible for window repairs, they are in error. This violates the SPA section 72. According to *Mangan's Condominium Manual* "If a window or door is common property, the strata corporation must carry out the repair work on it".

10) All owners are permitted to attend council meetings, although they may not attend during hearings for bylaw violations or hardship cases, in order to protect the privacy of the individuals involved. The rest of all council meetings are open to all owners to attend. For this reason, many strata councils hold meetings in common property rooms instead of in a council member's suite. Meeting date, time, and location should be shared with all owners. Non-Council members might not be permitted to participate or speak at council meetings, but there is nothing in the SPA to say they must not, if the council agrees. A fully-functional council has nothing to hide, and shares information freely with all owners.

11) Whenever the SPA talks about a 75% vote, it is in the context of 75% of those attending an Annual or Special General Meeting. A 75% petition is not permitted to replace a physical vote at an AGM or SGM.

12) You do not have to give a key to your strata lot to anyone. There are times,

however, when someone authorized by your strata council will need access to your unit for maintenance or repairs to common property – examples would be annual inspection of hard-wired smoke detectors, or a project to replace all hot-water tanks. In this case, the council is required to give you 48 hours notice and you must permit entry. If you won't be home to grant access, perhaps a trusted neighbor could hold your spare key for the day, or you could give a key to the council and it will be promptly returned. In a true emergency, 48 hours notice is not needed – but even if the council had your door key, it is unlikely they would have time to find it in an emergency. If your unit has to be forcibly entered for emergency reasons, then replacement of your broken door lock is a matter for your insurance company.

13) The owners of your strata elected the council members and then the council elected their officers. If an officer steps down from their position, they are still a council member unless they choose to resign completely.

14) You do need to have an Annual General Meeting unless all owners agree, in writing, not to do so. The owners must also pass resolutions in writing to elect a council by acclamation and approve the next year's budget.

15) You can spend all of the money in your CRF, provided that 75% of owners at an Annual or Special General Meeting agree to do so – but it isn't a good idea to spend it all. For this reason, the SPA mandates the amount that must be added to the CRF yearly, if ever it falls below 25% of the Operating Fund. In other words, if you spend all your CRF this year, then next year you must begin building it back up, by contributing at least 10% of the value of your Operating Fund into the CRF.

The best way to become informed is to have your own copy of the *Strata Property Act* or the "Guides" to the *Strata Property Act* - a plain-English version of the SPA's key points. VISOA's Helpline is available to our members for your questions.

Don't rely on word-of-mouth for your information about your Strata, for you might be hearing an Urban Legend.

# Strata corporations and the human rights code

by Shawn M. Smith, Esq.

I am quite certain that the average strata council member (or owner for that matter) gives little or no thought to the impact of the Human Rights Code on the operations of the strata corporation and the multitude of decisions that a council makes in the course of carrying out its mandate. However, given some recent decisions of the British Columbia Human Rights Tribunal (the “Tribunal”), that may change. An increasing number of complaints to the Tribunal now involve strata corporations. Many of the decisions being have a significant impact on strata corporations.

The Human Rights Code (the “Code”) is a provincial statute. Broadly speaking the purpose of the Code is to prevent discrimination and discriminatory practices. The specific purposes of the Code (which are set out in Section 3) are as follows:

(a) To foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;

(b) to promote a climate of understanding and mutual respect where all are equal in dignity and rights;

(c) to prevent discrimination prohibited by this Code;

(d) to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code;

(e) to provide a means of redress for those persons who are discriminated against contrary to this Code.

Section 4 of the Code states that it prevails over all other legislation (which includes the *Strata Property Act*).

As an aside, I have often heard

claims that certain decisions of a strata corporation are against the Charter of Rights and Freedoms. Such claims, however, have no basis or foundation in law. The Charter does not apply to private relationships such as that between an owner and a strata corporation (see *Condominium Plan No. 931 0520 v. Smith* (1999), 24 RPR (3d) 76 (ABQB)).

A person who feels that they have been discriminated against can file a complaint with the Tribunal provided that it is discrimination based on one of the grounds set out in the Code. Section 2 of the Code states that there need not be any intention to discriminate in order for there to be in violation of the Code. In regard to strata corporations, very rarely will it ever be the case that there was an overt intention to discriminate. Rather the discrimination results from the implementation of a policy designed to address some other problem or issue. This is often referred to as “adverse affect” discrimination. It is only if the strata corporation can establish a bona fide and reasonable justification for its actions will it not be found to be in violation of the Code. To determine this, a number of other questions must be asked:

- Was the policy/action reasonably necessary to accomplish a legitimate purpose or goal of the strata corporation?

- Was the policy/action implemented in good faith, in the belief that it was necessary for the fulfilment of a legitimate purpose?

- Can the strata corporation show that it could not meet its goal and still accommodate the complainant without incurring undue hardship?

If the answer to any of these questions is in the negative, then the impugned action/decision will likely not be saved and will be considered to be discriminatory.

If discrimination is found to have occurred, the Tribunal can order a person or organization to stop contravening the Code, to do or not do something and to pay monetary damages (which have reached as high as \$10,000.00 in some cases).

The direct application of the Code to the actions and decisions of strata corporations was upheld in *Konieczna v. The Owners Strata Plan NW2489 2003 BCHRT 38*. (Section 121 of the *Strata Property Act* already makes by-laws which contravene the Code unenforceable). In *Konieczna* the Tribunal held that the strata corporation is capable of providing “services” which are “customarily available to the public”. The strata corporation was held to be providing what the Tribunal referred to as “management services” and thus came within the ambit of Section 8 of the Code. This occurred as a result of its carrying out its statutory duties under the *Strata Property Act*.

While overall the Code deals with discrimination related to a variety of different activities, there are essentially only two sections with which strata corporations need to be most concerned. They are Section 8 - Discrimination in Accommodation, Service or Facility and Section 10 Discrimination in Tenancy Premises. (Each of which will be examined in more detail below).

*Continued on page 7*

Section 8 of the Code reads as follows:

(1) A person must not, without a bona fide and reasonable justification,

(a) deny to a person or class of persons any accommodation, service or facility customarily available to the public, or

(b) discriminate against a person or class of persons regarding any accommodation, service or facility customarily available to the public because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex or sexual orientation of that person or class of persons.

This is the ground upon which the vast majority of complaints against strata corporations will be based, especially given the very broad definition of the word “service” (being something of benefit provided to one person by another), the fact that the strata corporation is deemed to be providing “management services” and the numerous grounds upon which discrimination can alleged.

Where a complaint arises as a result of a disability the duty to accommodate the person arises on the strata corporation’s becoming aware that a person suffers from a disability (Brown v. The Owners, Strata Plan LMS952, 2005 BCHRT 137). Until then, the strata corporation has no obligations to accommodate that person and their disability.

The following are examples of some of the types of complaints which arise under section 8 of the Code and how they were handled by the Tribunal:

Williams v. Strata Council No. 768, 2003 BCHRT 17

The strata corporation installed a door timer system which did not permit residents to “buzz” visitors in during certain nighttime hours. Residents had to physically go downstairs and admit visitors.

- Mrs. Williams had a myriad of health problems such that at the best of times let alone an emergency she would not be able to get down to the door to let people in.

- The timer was installed to address recurring break-ins.

- The Tribunal held: “In summary, I find that the Complainant suffers from a physical disability and that by installing and activating a timer on entry intercom system, the Respondent discriminated against the Complainant in regard to that physical disability in a service customarily available to the public. I find that the Respondent has not established a bona fide and reasonable justification for its conduct in installing the timer”.

Konieczna v. The Owners Strata Plan NW2489 2003 BCHRT 38

- Ms. Konieczna bought into a building that prohibited hardwood floors by way of a bylaw.

- Ms. Konieczna suffered from severe allergies such that she could not have carpet.

- The strata council refused to allow her to install hardwood flooring. Ms. Konieczna complained to the Tribunal on grounds of discrimination based on physical disability.

- The Tribunal held that: “Although the by law is neutral on its face, and applies equally to all residents, the Complainant is adversely affected by the by law because of her physical disability. The by law affects her health and quality of life in a way it does not for other residents who do not suffer from the Complainant’s disability. Thus, the by law adversely affects the Complainant by imposing on her a burden which is not imposed on other members of the public served by the Respondent”.

- Ms. Konieczna was permitted to

install hardwood flooring and was awarded \$3,500 in damages.

Chauhan v. Norkham Seniors Housing Cooperative Association, 2004 BCHRT 262

- Mrs. Chauhan cooked ethnic East Indian cuisine. This produced odours which bothered the people living directly above her. They complained to the Association who in turn took steps to enforce the rules of the Association which prohibited causing a nuisance to others.

- The Tribunal held that the actions of the Association were at times “insensitive, rule-bound and heavy-handed”.

- The Tribunal held that the cooking of food was “an expression of [Mrs. Chauhan’s] ethnicity and ancestry” and that the attempts of the Association to prevent her from cooking and threats to evict her were discriminatory.

- The Tribunal also hinted that much of the problem could have been solved by fixing the ventilation system which allowed odours to go from Mrs. Chauhan’s unit to the neighbours’ above.

- The Tribunal also indicated that the neighbours above might have a complaint against the Association if Mrs. Chauhan were to return to cooking her food and it failed to fix the ventilation given that Mrs. Mayer had health problems that made her sensitive to the smells.

Levesque v. Moodie and Kicking Horse Village Mobile Home Park (No. 2) 2005 BCHRT 120

- A young boy residing in the park was not permitted by it to keep his dog because park rules prohibited it.

- The boy’s mother complained that he needed the dog for medical reasons but produced no evidence of that fact.

- The Tribunal dismissed the complaint but left open the door to a complaint of discrimination on the basis of

*Continued on page 8*

a disability where the proper evidence is brought.

(In *Sproule v. Strata Plan 159* 2006 BCHRT 230 the Tribunal refused to summarily dismiss a complaint over the strata corporation's refusal to allow Ms. Sproule to keep her dog because there was evidence that having the dog had medical benefits).

*Ross v. Strata Plan NW608* 2007 BCHRT 80

- The complainant had difficulties walking and wished to install a gate in his yard to avoid having to exit through the building.
- The strata corporation denied his request.
- The Tribunal held that the strata corporation's actions were not discriminatory. Mr. Ross had no right to alternate access simply because it was more convenient.

Section 10 of the Code addresses tenancy related issues and provides that:

(1) A person must not

(a) deny to a person or class of persons the right to occupy, as a tenant, space that is represented as being available for occupancy by a tenant, or

(b) discriminate against a person or class of persons regarding a term or condition of the tenancy of the space, because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or lawful source of income of that person or class of persons, or of any other person or class of persons.

(2) Subsection (1) does not apply in the following circumstances:

- (b) as it relates to family status or age,
  - (i) if the space is a rental unit in a

residential premises in which every rental unit is reserved for rental to a person who has reached 55 years of age or to 2 or more persons, at least one of whom has reached 55 years of age, or

ii) a rental unit in a prescribed class of residential premises;

It is the provisions of Section 10(2)

(b) (i) which are of importance if the strata corporation permits rentals, either through a bylaw or hardships under section 144 of the *Strata Property Act*. If an age restriction bylaw has been passed and it uses an age other than 19 or 55 years, the bylaw (although enforceable against an owner) would not apply against a tenant. (Generally speaking, any age may be used for an age restriction bylaw; i.e. 19, 30, 45, 55, 65 or anything in between).

In *Ryan and Ryan v. Strata Plan VIS 3537*, 2005 BCHRT 559 the Tribunal considered whether or a bylaws restricting occupancy to persons 19 years and older was discrimination on the basis of family status. The Tribunal held that it was not. It held that the reason the strata corporation did not want the Ryan's daughter living in the complex had nothing to do with her being part of a family or not. The strata corporation's actions were based solely on her age.

However, the Code and the Tribunal should not be viewed as means for owners who are merely frustrated with how the strata corporation is carrying out its duties to find redress. For example, in *Meyer and Meyer v. Strata Corporation LMS 3080* and *Boies*, 2005 BCHRT 89, where the complaints revolved around how a general meeting was conducted, the Tribunal held that: "neither the Code nor the Tribunal is responsible for policing every aspect of an individual's social or council-related activities simply because that individual lives in a strata complex". In *Sabados and Sabados v. KAS 2567*

and others, 2006 BCHRT 24 the Tribunal held that it "is not empowered to enforce neighbourliness, politeness or courtesy". Complaints of this nature are simply an abuse of process.

Strata council members should be aware that they may be named personally in a complaint even when clearly acting in their capacity as a council member. In *Kayne v. The Owners Strata Plan LMS 2374*, 2004 BCHRT 62 the Tribunal held:

Arguably, if the Tribunal finds that the Owners contravened the Code, it can impose remedies on the Owners and order damages. The Owners assert that they have assets, so Mr. Kayne will not have a "hollow" judgment. However, if Mr. Kayne's allegations regarding the proposed respondents are proved, the purposes of the Code would be better achieved if they were parties to the complaint. The situation of Strata Council members is not different from that of officers or directors of corporations. Many complaints are filed with the Tribunal that name a corporate respondent and also officers or directors of the corporation. This is because, under the Code, "persons" must not contravene the requirements of the Code. If individuals were able to hide behind a corporate veil, the purpose of the Code would be thwarted. In my view, the potential of personal liability is an important factor that serves to ensure compliance with the Code.

Strata corporations may wish to introduce a bylaw which indemnifies council members in such an instance as Officers' and Directors' Liability coverage may not apply.

The strata corporation can also be liable for the discriminatory actions of employees (ie. resident caretakers) – see *Kennedy v. Strata Corp KAS1310* 2005 BCHRT 87 and *Ragetli v. Strata Plan NW69* 2006 BCHRT 344.

In the final analysis, strata corpora-

*Continued on page 9*

tions (and especially strata councils) should take the provisions of the Code into account when designing policies or passing bylaws. The impact of any adverse affect should be minimized whenever possible. Where it can't be minimized, then a bona fide and reasonable justification should be identified to support the decision.

*Shawn M. Smith is a partner with the law firm of Cleveland Doan LLP located in White Rock and may be reached at (604) 536-5002. He practices primarily in the area of strata property law. He writes for several strata related publications and frequently lectures to owners, councils and strata managers. This article is intended for information purposes only and nothing contained in it should be viewed as the provision of legal advice.*



## VISOA Board of Directors

VISOA's Board of Directors is made up of volunteers who meet monthly. Directors should have or be willing to acquire a working knowledge of the *Strata Property Act* and to serve on and/or chair Board committees as required. If you are interested in serving on the Board of Directors, please contact [editor@visoa.bc.ca](mailto:editor@visoa.bc.ca) You might wish to attend upcoming Directors' meetings as an observer, to decide whether serving on the Board is something you would like to do. Elections will be held at the **Annual General Meeting in February 2009.**



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# Copper pipes are not forever

by Harvey Williams, VISOA Board Member

Like most owners, I had always thought that copper pipes, like diamonds, were forever. Then a copper pipe in our building sprang a leak and the plumber whom we called to repair the pipe gave us the bad news. Copper pipes corrode and leak, albeit slowly, when conditions are right. To verify that corrosion had caused the leak, I compared the weight of the section of pipe our plumber had removed with the weight of a new pipe of the same diameter and length. The 16-year-old pipe that leaked had lost 75% of its mass and the walls were nearly as thin as aluminum foil.

Having a bit of a background in chemistry, I read up on the subject and here is what I found. While copper pipe is relatively durable, when in contact with very soft water such as we have on the Island it can corrode and leak in as little as 12 years, especially when conducting hot water. The copper pipe that we replaced had been in our building for 16 years.

Copper pipes tend to corrode faster in

“soft” water than in “hard” water. Hard water containing calcium carbonate absorbed from limestone is slightly alkaline while soft water which does not contain dissolved calcium carbonate is slightly acid. Most municipal water on the Island is soft because it is not exposed to limestone. This along with the Island’s high rainfall, makes it slightly acidic.

For those readers interested in chemistry, the operative concept here is pH, a measure of acidity that ranges between zero and 14. A pH above 7 is considered alkaline (basic) and a pH below 7 is acidic. The pH of Island water ranges between 6 and 7 which is only slightly acidic, but enough to corrode and dissolve copper pipes, especially hot water pipes.

Many apartment buildings are equipped with recirculating hot water systems to maintain a constant supply of hot water in close proximity to taps throughout the building. Flowing hot water corrodes and dissolves copper pipes and the faster and more turbulent the flow, the greater the

corrosion. Turbulence occurs where pipes are joined and at bends and curves. Poorly planned or careless installation of hot water systems can increase turbulence.

So what’s a strata council to do about copper pipes? If the system has not yet shown signs of leaking, it would be prudent to begin building up the Reserve Fund so as to pay for eventual replacement without a special assessment. A plumbing company can provide a rough estimate of the cost. Then estimate the number of years until replacement is necessary and make an annual Reserve Fund contribution sufficient to pay for the replacement project when needed.

Once a system starts to leak, water damage resulting from the leaks needs to be considered in deciding on repairs. In most cases, it is likely to be less expensive to bite the bullet and go ahead with replacement.

Expert advice on the most cost-effective repair and/or replacement of the system would be money well-spent.



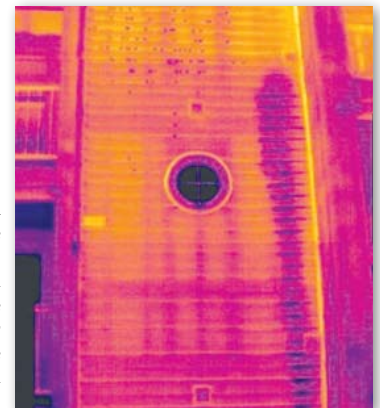
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Right is a photo taken at a condominium. The dark (cool) streak is water in the wall from a leaking washing machine on the third floor. Water was detected in the basement. The camera showed the source.



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## The Vancouver Island Strata Owners Association ~ PRESENTS ~

# LESSONS LEARNED AS A STRATA ADMINISTRATOR

*By Gerry Fanaken, CEO of Vancouver Condominium Services*

- Why do the courts appoint strata administrators?
- What are the powers of a strata administrator?
- Who can request a strata administrator?
- How can strata councils avoid the appointment of an administrator?

Question on issues related to strata management will be addressed after the break.

Gerry Fanaken has lived in a condominium since 1974. He started the Strata Plan Home Owners' Association (now known as C.H.O.A.), has been a consultant to the Provincial Government on many condominium issues and relevant strata corporation legislation over the years, has lectured on condominium issues, and is the author of several books on strata corporation administration. Mr. Fanaken has been appointed many times by the Supreme Court of British Columbia to be an Administrator for troubled strata corporations.

**SUNDAY, November 16, 2008, 1:00 – 4:00 P.M.**

**Registration begins at 12:30 p.m.**

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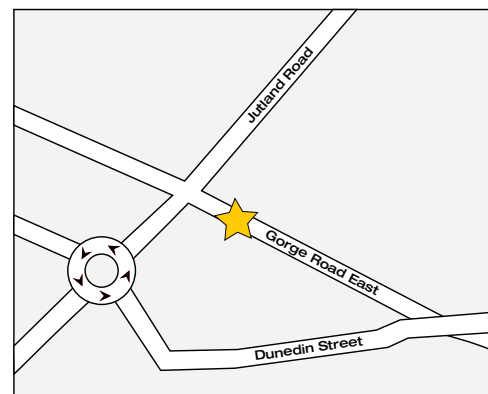
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all owners in your strata may attend)*

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# SPA Instruction Guides - they can help!

by *Elsie Lockert, VISOA Board Member*

I don't know about you, but when I'm looking for something in the *Strata Property Act* or *Strata Property Regulation*, I use the Table of Contents for my guide. However, the other day I happened to be looking at the Regulations and I found, in Part 17, General, that there were a couple items to do with rentals. It had never dawned on me to check there for rental information!

So I got out my trusty copy of the SPA Instruction Guides. Guide # 15 had everything from the Act and Regulation on rentals summarized in an "easy to follow" format.

The SPA Instruction Guides can be extremely helpful. For example, do you ever have a question on the roles and responsibilities of the strata council? I suggest you start by checking out Guide #4. If you can't find the answers there then it is time to contact our Helpline. The same thing can go for preparing for AGMs, resolving complaints, information certificates, contracting with strata management companies --- the list goes on and on.

If you don't have a copy of the Instruction Guides you can purchase them at cost from VISOA. We always have them for sale at our Seminars. You can also order them by mail. They are listed on the website at [www.visoa.bc.ca](http://www.visoa.bc.ca) under "Publications". You can even download an order form there. If you do not have access to a computer just call the helpline and request an order form. The Guides are also available on the VISOA website under "Resources" if you prefer to access them that way.

So, make your life a little easier. The next time you have a question or concern check out the SPA Instruction Guides first. Remember, if the answers are not there you can always contact the VISOA Helpline to see how they may assist you.



## ~ 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.*