



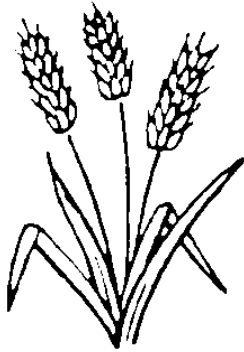
Vancouver Island Strata Owners Association
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STRATA BULLETIN – AUGUST 2005

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Real Estate Council of B.C.



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MESSAGE FROM YOUR PRESIDENT AUGUST 2005

As I write this, the summer of 2005 is nearly over – and what a wonderful summer it has been! Gas prices may have gone through the roof but it was a great time to stay on our Island and enjoy all of its joys.

As we begin the season of annual general meetings, your Board is preparing for our September session at Qualicum Beach on the 18th.

Again we will be using the workshop format and our presenters will continue their topics raised at the June workshop. In addition, we will have Elaine McAndrew who returns to lead our members in a discussion about when and how to use the processes of Mediation and Arbitration. She has a wealth of knowledge in this area and has led groups such as this in other areas.

One additional topic, which I will lead, will be how the actual completion of the Regulations for the Real Estate Services Act as it deals with strata property managers will affect our strata corporation members who have strata property manager contracts. The Regulations, which take effect on January 1, 2006, have been expected for several years but seem to present many more issues for strata corporations than were anticipated by this Association. Inclusion in the consultation and drafting process was not given to any strata Association outside the Lower Mainland, as has been their usual practice.

The resulting complications specific to Island members were not addressed.

Again we will have six tables for participants to choose from and the session will begin at 1:00pm. Registration will be at 12:30pm with tea, coffee and goodies available from 12 noon when the doors will be open. Pre-registration is encouraged and can be done by calling 250-920-0222 or by email to info@visoa.bc.ca. You will have time for four (4) individual choices so please read the coloured sheet with your Bulletin and make your choices. A note to the council member who receives this Bulletin for the strata corporation: Please be sure that the coloured sheet is posted as well as the Bulletin so that your owners can register choices.

I have just read the summaries of the evaluations of the April 3, 2005 and June 5, 2005 seminars and I see that I have come out at the bottom of the heap in each case. I realize that my voice is very soft and this must be remedied. In order to do that I am going to get a pocket amplifier for me (and one for Elaine McAndrew who also has a soft voice) and that will hopefully remedy that before it becomes a problem again. Our goal is to provide the best service we can.

As far as the inadequacies of my transparencies on April 3, I promise that I will not allow Harvey to stir them all up again. The information that you wanted detailing the sections of the Strata Property Act was on the transparencies that I could not find!

This Bulletin has two articles that should be required reading for strata lot owners. The Homeowner Protection Office has reassured our members that they are available for continued problems and, if the repayment plan would require a payment that is beyond the reach of some fixed incomes, this too can be negotiated. The second article that I have referred to was submitted by the Real Estate Council of British Columbia. This is also a

MUST READ for all stratas that have strata property managers. This is the topic that I will continue at my discussion table.

Our morning discussion group with the Board of Directors and up-Island members will again meet at 10:00am in the small meeting room at the Centre. We would welcome a few more participants if you feel that you can take part for the whole day.

This will be our final session at Qualicum Beach for 2005 so we look forward to a good turn-out from our up-Island members and it would be a nice drive, in early fall, for the lower Island members as well. See you all on September 18, 2005.

Florence Walker, President.



Reconstruction Loan Program And Appropriate Repair Strategy Proves To Be A Recipe For Success

Homeowner Protection Office

Like many homeowners involved in the leaky condo crisis, Nanaimo senior Thomas De Haas and his wife Alice were financially unprepared for the news that their condo, built in 1996, needed extensive repairs.

When water problems began to surface in De Haas' building two years ago, however, the owners thought the costs of repairing the wood-framed stucco structure would be covered by a voluntary warranty provided by the developer - offered before mandatory home warranty insurance was a requirement for condominium construction in British Columbia. And, like so many other homeowners, the 28 owners - mostly seniors - discovered that the strata council was on the hook for the entire estimated repair costs of \$1.2 million. "We thought we had a five-year warranty, but the builder had gone broke and disappeared," said De Haas.

He admits that he had no way of paying for his share of the repairs, which eventually cost him \$52,000. “I’m on a limited income. I figured I was in trouble,” he said.

Fortunately for De Haas, the strata council in his building found out about a reconstruction loan program available through the Homeowner Protection office (HPO). The HPO is a provincial Crown corporation created by the *Homeowner Protection Act*, brought into force in 1998 to increase consumer protection for new home buyers and to bring about improvements to the quality of residential construction in B.C.

The HPO was created to provide financial assistance for owners of leaky homes, to license builders and building envelope renovators, and to monitor the performance of a third-party warranty insurance system provided by the private sector. In addition, the HPO is responsible for research and education programs that benefit consumers and the residential construction industry.

As of 1999, home warranty insurance, which protects consumers against construction defects, became mandatory for all new homes built by licensed residential builders. This kind of coverage can only be provided by an insurance company approved by the provincial Financial Institutions Commission. Similar requirements for repair contractor licensing and warranty insurance on repairs to leaky homes were introduced in 2000.

The HPO administers the Reconstruction Loan Program for qualifying homeowners whose homes suffer from building envelope failure. The loan program was introduced to prevent owners of leaky homes from having to lose their homes due to the cost of building envelope repairs. A building envelope includes building components that separate the indoors from the outdoors and can include foundations, windows, doors, roofs and exterior walls.

So far, the HPO has provided financial assistance to the owners of more than 13,000 units in B.C. and has loaned over \$477 million since its inception. At the request of the strata council in the case of the Nanaimo condo, an HPO loans officer attended a meeting of owners to explain loan program eligibility. According to the loans officer, both the building and the homeowner have to be qualified by the HPO. First, the building has to be certified by an engineer or architect as a case of building envelope failure.

Payments on the no-interest loan are set at affordable levels by the HPO through consultation with individual homeowners like De Haas. In cases of extreme need when the minimum payment of \$50 per month is not affordable, as is the case for some seniors on fixed incomes, the Homeowner Protection Office can approve a deferred payment loan. Deferred payment loans allow the homeowner to receive the full amount required to repair their home, but they do not have to make payments for as long as they live in the home.

Each applicant is qualified on an individual basis, taking into account both income and assets. Once the required paperwork is submitted, the details are usually settled in a phone call. “I qualified for deferred payments. When we sell it, we have to pay it back. All in all, it was an efficient process. It’s a big help,” said De Haas.

De Haas’ building qualified after an engineer certified that repairs were needed to correct defects in the building envelope which allowed water penetration. Because the repairs were subject to the *Homeowner Protection Act* regulations, the repairs had to be performed by a licensed building envelope renovator. The licensed building envelope renovator was in turn required to arrange for third-party home warranty insurance on the repairs.

The building envelope renovator licensing and repair warranty insurance requirements are designed to make sure that repairs are done right the first time, and to reduce the possibility of multiple repair attempts. If a construction defect occurs in the repair or even in the unlikely event that the repair must be done a second time, the warranty provider is on the hook for the repairs, not the owners.

De Haas is confident the repairs to his building were done right. Although the moisture problems were caught early and the damage was relatively minor, the strata council took drastic steps to ensure the building envelope would not fail again. The entire exterior of the structure was removed and a rainscreen installed between the new siding and the framing. A rainscreen is designed to channel any moisture that might accumulate between the exterior cladding and the framing away from the structure.

In the Nanaimo building, the owners have repair warranty insurance for two years on labour and materials, and 10 years on the building envelope, including water penetration. This coverage is above and beyond the minimum coverage required of two years on labour and materials and five years on the building envelope for repairs applicable to the building envelope renovation regulations.

Although only some buildings are opting for coverage beyond the 2-5 year warranty insurance requirement on applicable repairs, the HPO cautions homeowners to select their repair strategy wisely. Selecting a repair option that is less than what is recommended in an engineering report can affect an owner's eligibility under the Reconstruction Loan Program if a second repair attempt were required. Stratas selecting repair strategies that require licensed building envelope renovators and repair warranty

insurance have the benefit of strong consumer protection.

"Although it was an expensive way to go, the council decided to re-do the whole building with a rainscreen because sooner or later it would have had to be done anyway. They took a long-term view and did it right," said De Haas.

More information about the Reconstruction Loan Program is available by contacting the Homeowner Protection Office at 1-800-407-7757 or by visiting the website at www.hpo.bc.ca.



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YOU ASKED: Adopting a Budget

Harvey Williams, VISOA Board Member

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.

Fall is a time when many strata corporations hold their annual general meetings and adopt budgets for the ensuing year. VISOA often receives questions from members about adopting an annual budget.

When faced with increased costs (costs never seem to go down) strata corporations often vote for a percentage increase in fees and tailor the budget accordingly. Then at the end of the fiscal year, whatever surplus remains in the Operating Fund is transferred to the Contingency Reserve Fund (CRF). The Strata Property Act (SPA) does not allow this. Sections 91-105 of the SPA and Section 6 of the Regulation make a strong distinction between the Operating and Contingency Reserve Funds. Each month, each strata unit makes a contribution to the Operating Fund and to the CRF. Funds are not transferred into the CRF at the end of the fiscal year as often appears on year-end financial reports prepared by strata managers.

The correct procedure at the annual meeting is for the Operating Budget to be presented by the treasurer for approval. It may be amended by motions from the floor in accordance with parliamentary procedure. When the final vote is called, a simple majority of owners present in person or by proxy is required for approval.

If the total contributions made to the operating fund are not need for the expenses of the fiscal year, this surplus can be dealt with in one of three ways: (1) transferred to the contingency reserve fund; (2) carried forward as part of the operating budget; or (3) used to reduce the total contributions to the next fiscal year. Each of these choices requires a 3/4 vote of those present in person or by proxy. If the contributions to the operating fund were not sufficient for the total expenses for the fiscal year, that deficit must be eliminated in the next fiscal year. (SPA s.105)

Approval of the annual contribution to the CRF fund is less straightforward. If the CRF is less than 25% of the Operating Budget for the year just ended, a CRF contribution equal to at least 10% of that Operating Budget must be made without a vote. For example, if the Operating Budget for the year just ended, were \$40,000, and the CRF balance were \$5,000, a minimum contribution to the CRF of \$4,000 (10% of \$40,000) would be required without a vote by the owners.

But if the CRF is between 25% and 100% of the Operating Budget for the year just ended, any amount could be approved by a majority vote. In the case described in the previous paragraph, if the CRF balance were \$10,000, an amount, even \$50,000 could be contributed to the CRF by a simple majority vote. But if the CRF were \$40,000 any additional contribution, even \$5,000 would require a 3/4 vote of owners present in person or by proxy is required for approval. This all seems contradictory, but that is what it provides. (Regulation, Section 6.1).

Once the Operating Budget & CRF contribution have been approved, strata fees are set accordingly & owners notified of the new fees within two weeks of the vote (SPC, Section 106). How to calculate monthly strata fees was discussed in a previous article.


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LICENSING OF STRATA MANAGERS

Submitted by:

REAL ESTATE COUNCIL OF BRITISH COLUMBIA

The Real Estate Council of British Columbia ("Council") has a mandate to protect the public by enforcing the licensing and licensee conduct requirements of the *Real Estate Services Act*. The Council's areas of responsibility include:

- licensing real estate representatives, associate brokers, managing brokers and brokerages engaged in real estate sales, rental management and strata management services
- monitoring and enforcing entry qualifications
- investigating complaints against licensees
- ensuring compliance with the legislation
- conducting disciplinary hearings and imposing administrative penalties or disciplinary sanctions

Effective January 1, 2006 strata management companies and their strata property managers must be licensed under the *Real Estate Services Act*. As part of the process, all strata managers (with a few noted exceptions), including their related companies, will need to apply to the Council for a licence before January 1, 2006. If the strata management company meets the

"grandparenting" provisions, they will be issued a temporary licence subject to meeting applicant screening criteria and completing any required education courses and/or examinations. Grandparenting means a person who was providing strata management services for a period of at least three months before January 1, 2006.

There is provision for a self-managed strata corporation to be exempt from the licensing requirements when an owner is providing the strata management services. The owner is limited to managing no more than two strata corporations, provided the owner owns a strata lot in each of the strata corporations. This applies, for example, where the treasurer of the strata council deposits the strata fees and may have signing authority on behalf of the strata corporation. A strata caretaker employed by a strata corporation or a caretaker employed by a brokerage providing strata management services is also exempt from the licensing requirements so long as certain conditions are met.

The obligations for strata management service providers under the *Real Estate Services Act*, Regulations, Rules and Bylaws are considerable. For example, all strata management companies must set up separate trust accounts for each strata corporation they manage. Where they hold contingency reserve funds ("CRF") or special levies, another separate trust account must be established by the brokerage for the strata corporation. Two signatories are required for the CRF/special levy trust account and the Council Rules specify who may be a signing authority. Proof of these accounts is required with all applications for brokerage licensing. Every month, the brokerage will have to provide the strata corporation with a copy of the statement for each trust account within 30 days after receiving it from the savings institution.

Some strata management companies currently “pool” the funds of several strata corporations in one account. The company then generates a financial statement that shows the monies held in the bank, although the reconciliation of the pooled account is done internally by the company. Effective January 1, 2006, this type of account will no longer be allowed. Besides the separate trust accounts as indicated above, there is provision for a very limited flow-through trust account, where the brokerage can transfer a specific amount of money from each trust account to the flow-through account, in order to write a cheque for a specific invoice, such as utility services. These changes will provide for better tracking by the strata corporation of its finances.

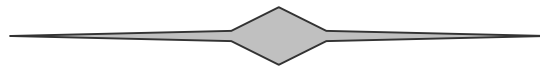
In addition, strata management companies will be required to ensure that all management agreements meet the requirements of the Council Rules. In particular, all strata management agreements must: describe what types of funds are held by the company; stipulate the authority to make withdrawals from trust accounts; clarify signing authority; specify authority to enter into contracts; outline the specifics of accounting statements provided; describe what records will be kept; and outline provisions for disclosure of information. Strata management companies will need to ensure that these provisions are in place before January 1, 2007.

What will the role of the Council be once strata managers become licensed? To clarify, the Council cannot enforce the *Strata Property Act* or take action to enforce the *Strata Property Act* against strata owners and strata corporations. For example, if an owner has a complaint that the strata corporation is over-spending in relation to their budget, that matter is not within the scope of the Council’s mandate. Areas where the Council can

investigate, based upon a complaint, include allegations that a licensee may have:

- Contravened the *Real Estate Services Act*, Regulations, Rules or Bylaws
- Breached a restriction or condition of their licence
- Conducted activities that constitute wrongful taking or deceptive dealing
- Demonstrated incompetence in performing any activity for which a licence is required
- Engaged in conduct that is contrary to the best interests of the public
- Undermined public confidence in the real estate industry
- Brought the real estate industry into disrepute.

For more information about the *Real Estate Services Act*, Regulations, Bylaws and Rules please refer to the Council’s website at www.recbc.ca. Additional information about the new licensing requirements for strata managers, including a list of frequently asked questions and a *Report from Council* will be placed on the Council’s website shortly. In the meantime, if you have any question, please do not hesitate to email the Council at info@recbc.ca.



Simple Secrets of Happiness


Have you ever, when you have been working especially hard for several weeks, wished that you could stop and “smell the roses”? In a condo with good balconies where you have not had time to plant flowers, this can be difficult!

In a bargain bin – I always look don't you? – I found this marvelous little book titled "12 Simple Secrets of Happiness in a Topsy-Turvy World" by Glenn Van Ekeren.

The "happiness" that it suggests we will achieve WILL come from today's changing world when we learn to anticipate, accept, adapt and yes, embrace the challenge of change.

One phrase that particularly caught my eye was "Unstress your Stress". Charles Swindoll has said "Life is reduced to work, tasks, effort and an endless list of shoulds and musts – minus the necessary fun and laughter that keeps everything in perspective."

I think I will find a happy program on TV (is there such a thing?) and curl up with my cat.



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For more information regarding Business Membership, please contact Florence Walker at (250) 920-0222.

DISCLAIMER

The material in this publication is intended for informational purposes only, and cannot replace consultations with qualified Strata professionals.

Legal advice or other expert assistance should be sought as appropriate.

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SEMINAR

SUNDAY, SEPTEMBER 18, 2005 – 1:00 P.M.

TOPICS		
Dispute Resolution & Dealing with Complaints With Claudio Procopio VISOA Secretary	Budgeting & Annual Financial Statements With Bill Frache, CGA VISOA Treasurer	Working with the RES Regs for Strata Managers With Florence Walker VISOA President
Mediation & Arbitration With Elaine McAndrew Honourary Board Member	Depreciation & 5 Year Plans With Harvey Williams VISOA Vice President	Developing Contracts With Elsie Lockert Board Member

Registration begins at 12:30

PRE-REGISTRATION BY PHONE OR EMAIL IS ENCOURAGED

You will need to provide your Strata Plan Number
 If your Strata Plan belongs to our Association
All Owners of your Strata Plan are invited to attend

LOCATION

Qualicum Beach Civic Centre
 747 Jones Street, Qualicum Beach

PLEASE POST FOR ALL OWNERS TO SEE