

The Depreciation Report

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Learning Objectives

- >What is a Depreciation Report
- >Who Can Prepare A Depreciation Report
- >When must one be Obtained
- >What does one cover
- >How do you determine what the Strata Corporation must repair and maintain.

What is a Depreciation Report

A Depreciation Report is a document put together by a qualified individual that:

1. Contains an inventory of major building components, including the envelope, structure, and mechanical and electrical systems, improvements and equipment which are not usually repaired or replaced on an annual basis,
1. Sets out an estimate of when future major repairs and/or replacement of those components will be required by the strata corporation over a 30 year period, which estimate is based upon a cursory visual inspection of such components.
2. Contains an estimate of the future cost of such major repairs or replacements, and
1. Sets out 3 or more funding plan options for the owners to pay for that work over the 30 year period.

What is a Depreciation Report

The financial forecast / funding plan must contain the following information:

1. The costs projected over a 30 year period for anticipated repair or replacement of the components set out above, beginning with the current or previous fiscal year.
2. The financial facts and assumptions utilized in calculating the estimated costs and funding models must be set out, including interest rates and rates of inflation.
3. A description of how the CRF is currently funded.
4. The current balance of the CRF minus any approved expenditures that have not yet been taken from the fund.

An analysis of the cash-flow funding to meet the estimated expenditures using one or more of the CRF, special levies and financing.

Who is a Qualified Person

A “qualified person” is defined as:

1. “a person who has the knowledge and expertise to understand the individual components, scope and complexity of the strata corporation’s common property, common assets and those parts of a strata lot or limited common property, or both, that the strata corporation is responsible to maintain or repair under the Act, the strata corporation’s bylaws or an agreement with an owner and to prepare a depreciation report that complies with subsections (1) to (4)”
2. The intent of the legislation was to permit a number of different classes of professionals to prepare the reports. There was an underlying concern that had the legislation restricted the preparation of depreciation reports to only engineering firms that there would not have been the capacity to handle the amount of reports which would be needed.
3. Given the number of skills a “qualified person” must possess it is likely that the depreciation reports will be usually prepared by a team of people.
4. It is essential that strata corporations only hire qualified persons to prepare this important document. Strata corporation’s could restrict who they considered to be a qualified person by amending their bylaws.
5. It is our opinion that Strata Corporations should only obtain depreciation reports from people who are “qualified persons” and who carry sufficient liability insurance.

When is a Depreciation Report Required?

Section 94 of the *Strata Property Act* requires every Strata Corporation of 5 or more strata lots to obtain a depreciation report by:

1. For those strata corporations that do not have an existing depreciation report - December 14, 2013;
2. For those Strata Corporations that do have an existing Depreciation Report - 3 years after the existing report was obtained or December 14, 2013 (which ever is later)
3. For those Strata Corporations formed after December 14, 2011 – 6 months after the date of the 2nd Annual General Meeting.
4. For those Strata Corporations which have waived the obtaining of a report – 18 months from the date of the waiver.

Waiving a Depreciation Report

1. A Strata Corporation can waive the requirement to obtain a depreciation report by passing a $\frac{3}{4}$ vote of the owners to waive the report.
2. Note that section 94 requires a positive resolution of $\frac{3}{4}$ of the owners waiving the depreciation report.
3. It is not sufficient for owners to simply vote down or fail to approve the obtaining of a report.
4. Special care must be taken when drafting the resolutions to approve a depreciation report or to waive it.
5. It is anticipated that approximately 20 - 25% of Strata Corporations will find themselves in a situation where they have failed to approve a Depreciation Report and have failed to properly waive one.

Financing the Depreciation Report

1. The drafters of the *Strata Property Act* utterly failed to take into consideration the high cost of obtaining a depreciation report.
2. The Cost of most depreciation reports far exceeds most Strata Council's discretionary spending (section 98) limits.
3. The *Strata Property Act* does not contain any provisions which would allow a Strata Council to pay for a Depreciation Report from the Contingency Reserve Fund or through a special levy, without first obtaining a $\frac{3}{4}$ vote.
4. Therefore the drafters have created a catch 22. You must have a depreciation report unless you waive it by a $\frac{3}{4}$ vote, but at the same time you need a $\frac{3}{4}$ vote to fund one.

Financing the Depreciation Report

1. We have recommended to Strata Councils that they put the depreciation report into the budget as a line item, therefore reducing the voting threshold to a majority vote.
2. There is BC Case Law that suggests that placing a depreciation report into an operating budget would be acceptable to the courts even if it does not properly fit into the definition of an operating fund in section 92 of the *Strata Property Act*.

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Determining what a Strata must repair and maintain.

A strata corporation's repair and maintenance obligations are determined by three different things:

1. Section 72 of the *Strata Property Act*
2. The Strata Plan
3. The Strata Corporation's bylaws.

Determining what a Strata must repair and maintain.

Section 72 of the *Strata Property Act* provides that:

Repair of property

72 (1) Subject to subsection (2), the strata corporation must repair and maintain common property and common assets.

(2) The strata corporation may, by bylaw, make an owner responsible for the repair and maintenance of

(a) limited common property that the owner has a right to use, or

(b) common property other than limited common property only if identified in the regulations and subject to prescribed restrictions.

(3) The strata corporation may, by bylaw, take responsibility for the repair and maintenance of specified portions of a strata lot.

Determining what a Strata must repair and maintain.

1. Given the wording of section 72 the first step one must take when preparing a depreciation report is to determine what components are common property and what components are a common asset as the Strata Corporation is required by law to repair and maintain those items.
2. There seems to be a general lack of understanding as to what elements of the Strata Plan are common property and what elements are part of a strata lot.

Common Property

- a) that part of the land and buildings shown on a strata plan that is not part of a strata lot, and
- b) pipes, wires, cables, chutes, ducts and other facilities for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating and cooling systems, or other similar services, if they are located:

Common Property

- i) within a floor, wall or ceiling that forms a boundary
 - A) between a strata lot and another strata lot,
 - B) between a strata lot and the common property, or
 - C) between a strata lot or common property and another parcel of land, or
- ii) wholly or partially within a strata lot, if they are capable of being and intended to be used in connection with the enjoyment of another strata lot or the common property;

Strata Lot Boundaries

68 (1) Unless otherwise shown on the strata plan, if a strata lot is separated from another strata lot, the common property or another parcel of land by a wall, floor or ceiling, the boundary of the strata lot is midway between the surface of the structural portion of the wall, floor or ceiling that faces the strata lot and the surface of the structural portion of the wall, floor or ceiling that faces the other strata lot, the common property or the other parcel of land.

Strata Lot Boundaries

- (2) If a strata lot is not separated from another strata lot, the common property or another parcel of land by a wall, floor or ceiling, the boundary of the strata lot is as shown on the strata plan.
- (3) A boundary shown on the strata plan must be shown in a manner approved by the registrar.
- (4) Despite subsections (1) to (3), but subject to the regulations, in the case of a bare land strata plan, the boundaries must be shown on the strata plan
 - (a) by reference to survey markers, and
 - (b) in compliance with rules, if any, made under section 75 of the *Land Surveyors Act* for the purposes of this section.

Determine Type of Strata Plan

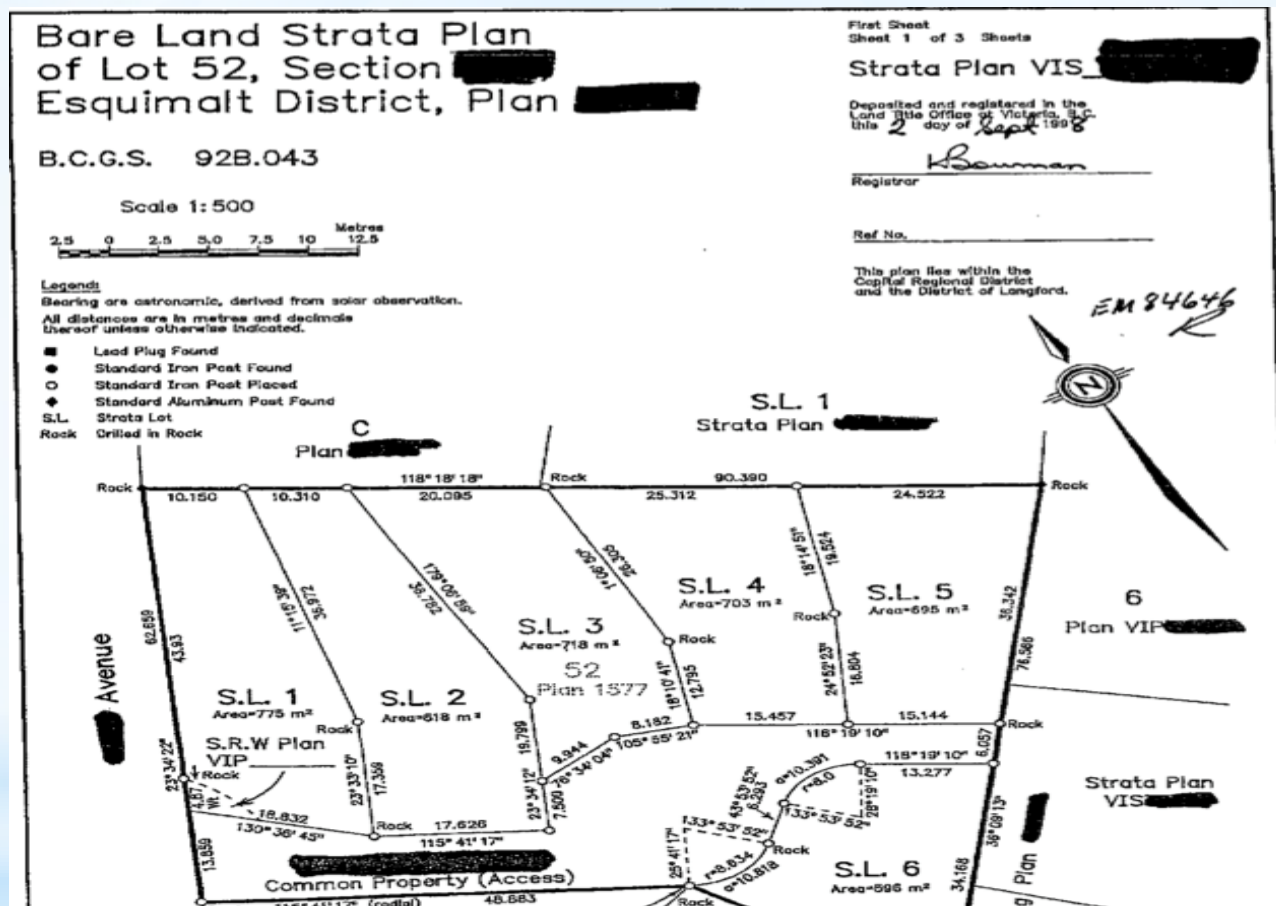
The first thing you must determine is what type of Strata Plan you are dealing with as the type of strata plan may determine what the Strata Corporation repairs and maintains.

1. There are many different types of strata plans but they are broken into two main varieties:
 1. Bareland Strata Plans, and
 2. Building Strata Plans.
2. Building strata plans containing two or more types of uses (ie commercial / residential or apartments style / town house style) may also be sectioned.
3. Sometimes, depending on the bylaws, the Sections and not the Strata Corporation may be responsible for certain repairs and maintenance.

Detached House Strata Plans

1. You must exercise diligence when dealing with strata plans involving detached houses.
2. There are two types of strata plans featuring detached houses, which are very different at law and which would be visually indistinguishable to a person looking at them on the street:
 1. The Bareland strata plan, and
 2. The detached house building strata plan.
3. A detached house building strata plan:
 1. would not say “Bareland Strata Plan,” and
 2. would show the outlines of the houses and buildings on the strata plan.

Detached House Bare Land Strata



1. In a bare land strata corporation the Strata Corporation is likely only responsible for the road, under ground servicing, and common property buildings and common assets.
2. However, you must check the bylaws to make sure.

Detached House Building Strata



In some detached house building stratas, like this one, the exterior of the houses including the roofs are common property.

Here the Strata Corporation must repair and maintain the road, the underground services, the exterior of the houses, and the roofs.

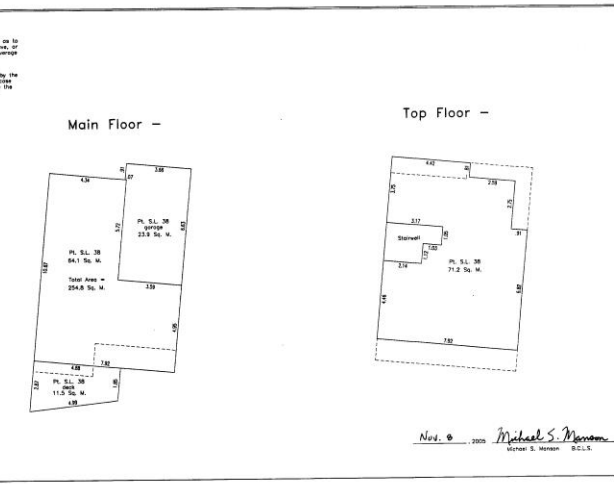
Types of Detached House Building Strata Plans.

There are two types of Detached House Building Strata Plans:

- 1.) Where the exteriors of the houses are part of the strata lots;
- 2.) Where the exteriors of the houses are part of the common property.

When the exterior of the houses are part of the strata lots, the strata plan will contain a notation stating as much.

The repair and maintenance obligations of an individual owner in the two types of strata corporations can be very different.



Detached House Strata Plan

Exterior of House is Part of the Strata Lot

Legend _____

Sq. M. denotes square metres

All distances shown are in metres

denotes Part Strata Lot

denotes limit of floor below

All dimensions and areas are measured to the exterior face of exterior walls, and to the centerline of common walls. Decks are measured to the exterior face of their walls.

Balconies, decks, and patios are defined as to height by the centerline of the floor above, or where there is no floor above, by the average height of the strata lot within.

The height of the strata unit is defined by the centerline of the floor above, or in the case of the top floor the height is defined by the exterior surface of the roof.

Scale 1:100



Where the Strata Plan designates the exterior of the houses to be part of the strata lot, the bylaws can make the individual owners responsible for their repair and maintenance.

However if operating under the standard bylaws the Strata would be responsible.

Detached House Strata Plan

Exterior of House is Common Property



Detached Houses

1. A depreciation report dealing with detached houses must take into consideration who is responsible for the repair and maintenance of the exteriors of the houses including the roofs.
2. One can imagine that a depreciation report for the first type of detached houses would be quite different from that of the second.

Building Strata Plans

The Legend will usually tell you what the parts of the Strata Corporation are designated as.

LEGEND

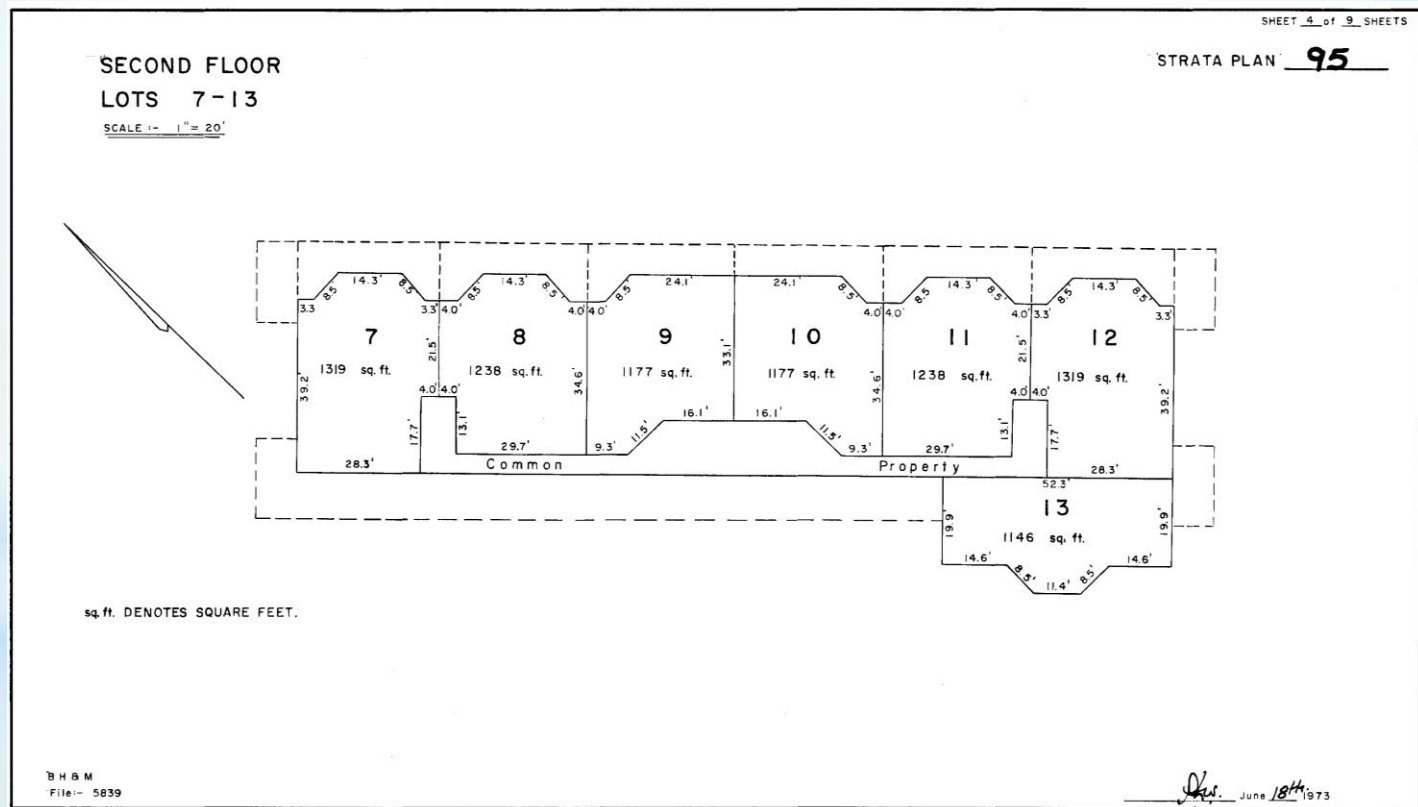
BEARINGS ARE ASTRONOMIC AND ARE
DERIVED FROM PLAN LMP 6970.

ELEV	DENOTES ELEVATOR
SL	DENOTES STRATA LOT
C	DENOTES COMMON PROPERTY
A	DENOTES AREA
LCP	DENOTES LIMITED COMMON PROPERTY
PT	DENOTES PART
BALC.	DENOTES BALCONY
m2	DENOTES SQUARE METRES

Strata Plan Features (cont)

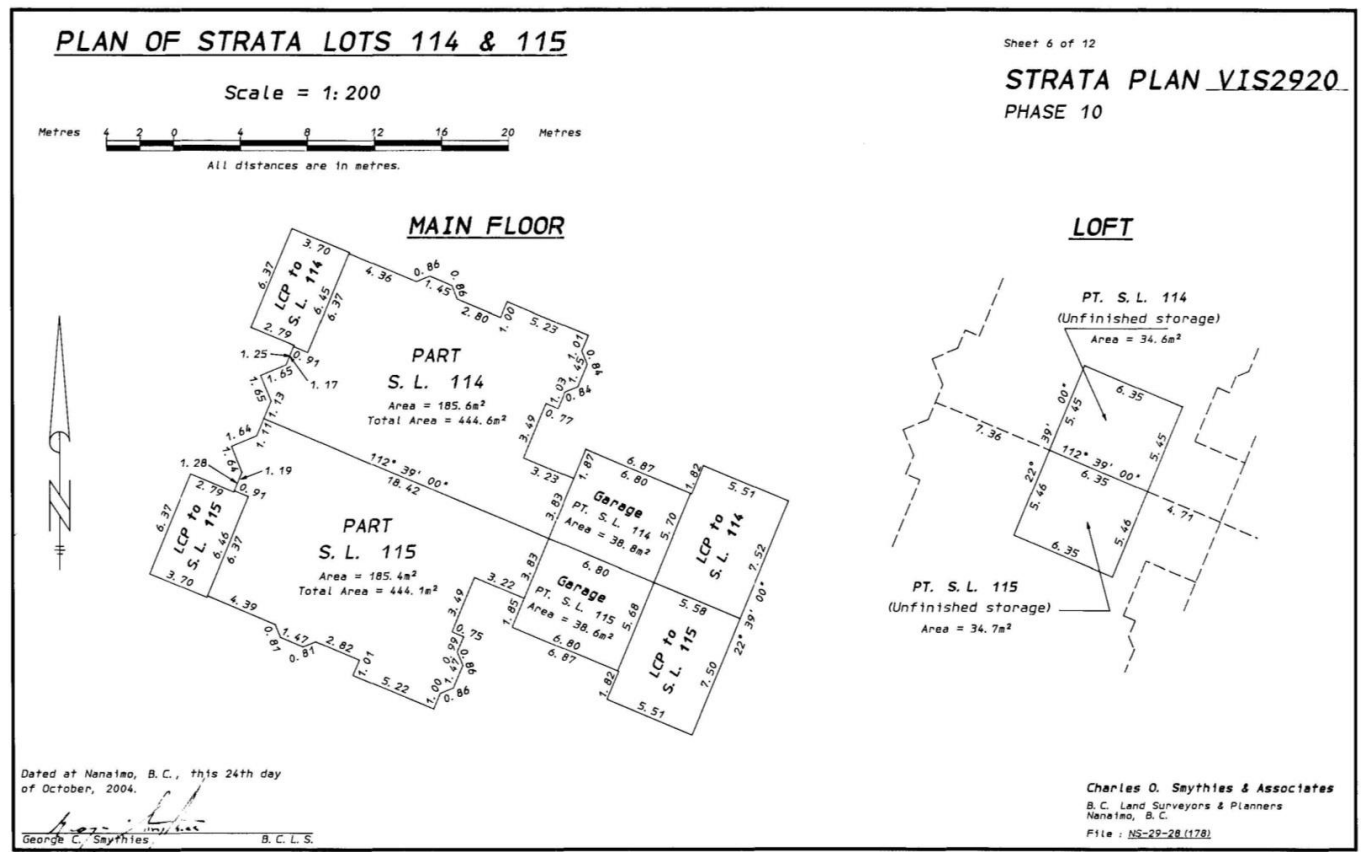
- 💧 The strata plan will usually show the many different parts that make up a strata lot. These parts can include:
 - 💧 Habitable Living Space
 - 💧 Garages
 - 💧 Patios / Balconies
 - 💧 Lofts / Attics
 - 💧 Crawl spaces.
- 💧 Not all strata plans will show the component parts of the strata lot.
- 💧 It is important to understand that only those parts of the building shown on the strata plan are included in the strata lot.

Strata Plan Features (cont)



In this older strata plan, the balconies, the protruding bits at the top, are part of the adjoining strata lot.
Therefore the Strata Corporation could make the individual owners responsible for the repair and maintenance of the balconies and the doors and windows which face them.

Strata Plan Features (cont)

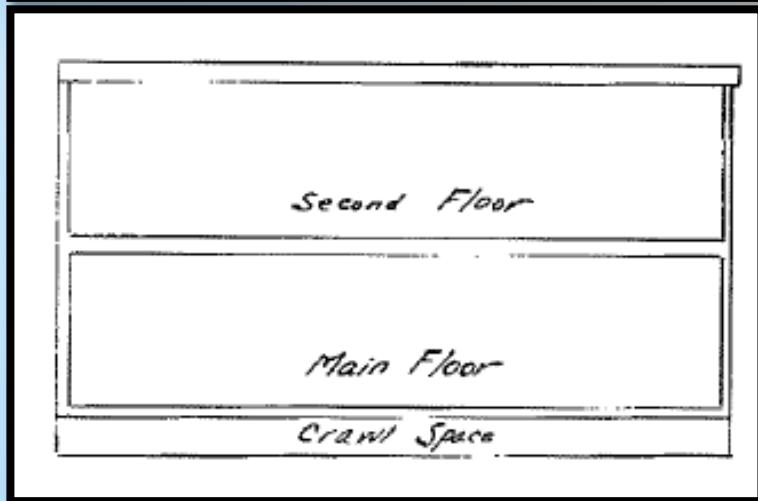
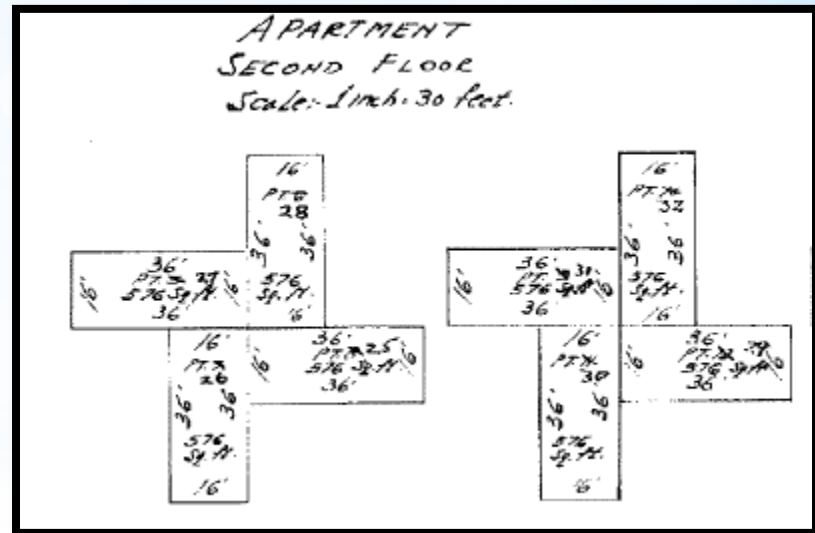
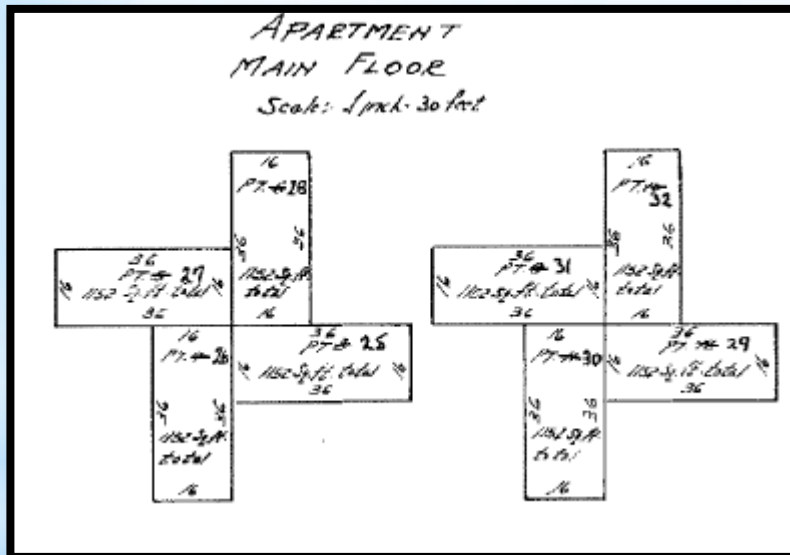


Here the balconies are limited common property and the bylaws will determine who is responsible for their repair and maintenance of the balconies.

The windows and doors which do not front on to the balconies are all common property and must be repaired and maintained by the Strata Corporation.

Strata Lot Boundaries

What is the Status of the Crawl Spaces?

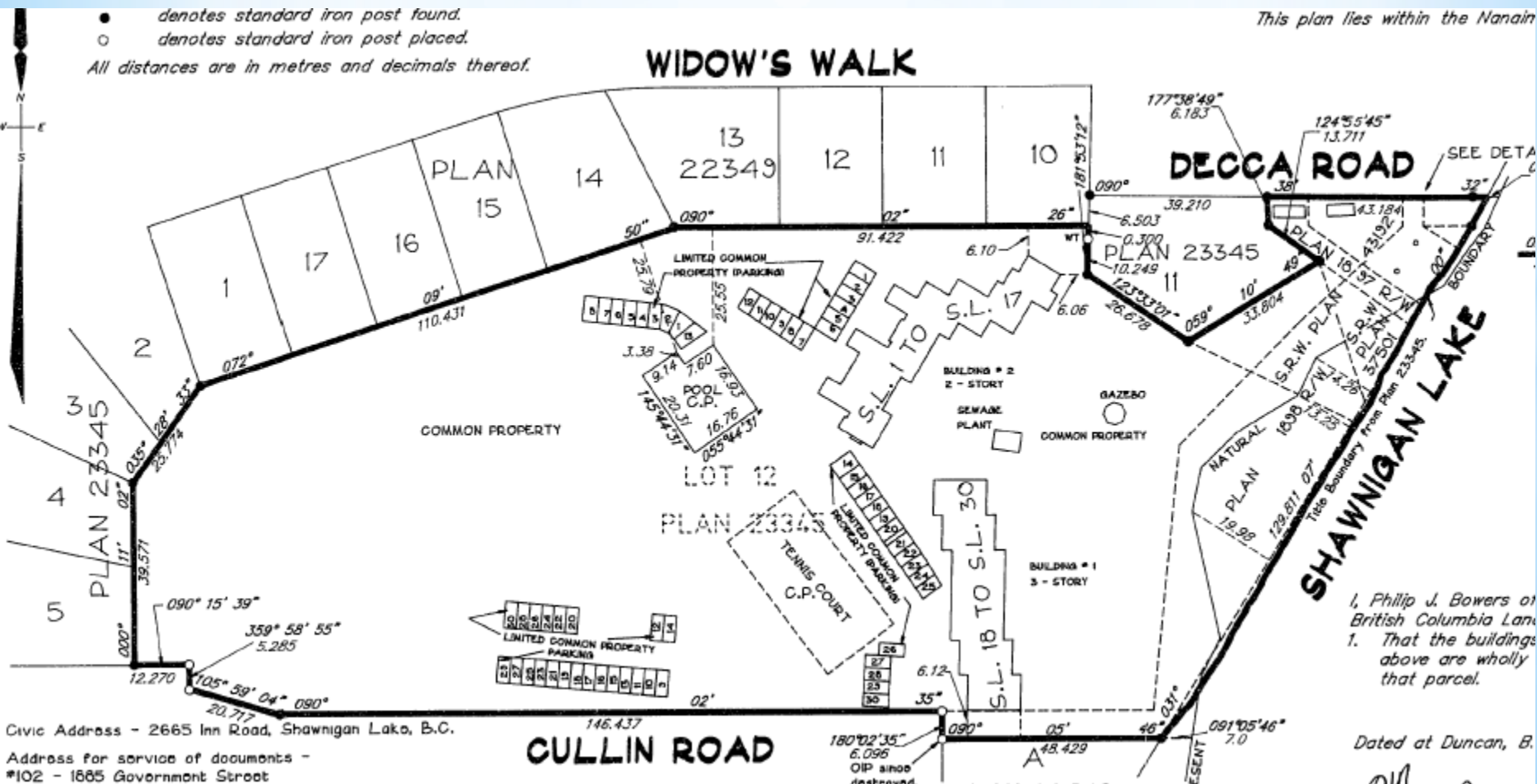


Here the crawl spaces, and anything in them, are part of the common property and must be repaired and maintained by the Strata Corporation.

Common Assets

1. In addition to common property the *Strata Property Act* requires Depreciation Reports to take into account any common assets owned by the Strata Corporation.
2. Some Strata Corporations own significant common assets, such as a piece of land, a strata lot within themselves, automobiles, landscaping equipment, firefighting equipment, furniture ect.
3. On Vancouver Island it is not uncommon for strata corporations to own docks.
4. The common assets may not even be found on the Strata Corporation's land. There is a bare land strata in the Okanagan consisting of 29 or so strata lots, that owns or has an easement to maintain a bridge over major river.

Common Assets





CIAO