



VANCOUVER ISLAND STRATA OWNERS ASSOCIATION

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VISOA BULLETIN - FEBRUARY 2007

PRESIDENT'S REPORT

Harvey Williams

Some years ago, when TV commercials for cigarettes were still OK, an attractive woman was shown smoking a cigarette especially designed to appeal to women. The ad's caption read, "You've come along way, Baby" - about as politically incorrect as an ad could be

today.

But the ad's caption resonates with VISOA's Board of Directors. It seemed we had hit bottom when, in April of this year, our cash flow projections were dismal and three members of the Board of Directors resigned. The six remaining board members were the minimum required by VISOA's bylaws for a quorum. If only one member were absent, the Board could not conduct business. VISOA's future looked grim.

But the Board has "come along way," and to paraphrase a certain retired female politician, "is nobody's baby." The six board members worked hard, and more importantly worked smart. We end the year with a full board of nine active members, a balanced budget, a cash balance sufficient to assure our continued operation, and a growing membership.

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BOARD OF DIRECTORS

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Vice President	Felicia Oliver
Secretary	Claudio Procopio
Treasurer	Tony Davis
Membership Chair	Elsie Lockert
Web Coordinator	Laura Neilson

Members at Large

Daryl Jackson
Cathy Turner
Sharon Willis

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VISOA's Annual General Meeting on February 25th will be in combination with our February seminar. This AGM is of special importance because members will be asked to approve a new set of bylaws for VISOA. Amendments to our present bylaws over the years have resulted in several conflicting and ambiguous provisions. Rather than try to resolve these issues by further amendments, the Board opted to draft a new set of bylaws based on the Standard Bylaws contained in the Society Act under which VISOA is incorporated. By basing the proposed bylaws on the Standard Bylaws, we were able to draw on the legal expertise of the government lawyers who drafted them.

The most substantial change in the proposed bylaws is in the allotment of votes. **Under the present bylaws, each strata corporation has one vote, no matter how many units it comprises**, and individual members have no votes. **The proposed bylaws allot each strata corporation one vote for every 10 units or fraction thereof up to a maximum of 10 votes per corporate member and each individual member one vote.** There are some obvious inequities in this voting formula, but it is a vast improvement over the status quo.

ARE YOU PREPARED FOR THE BIG ONE?

Harvey Williams

At approximately 9:00 P.M. on the evening of January 26, 1700 (a Tuesday evening on today's calendar), the Vancouver Island and Washington State coasts were shaken by a magnitude 9 earthquake lasting for several minutes. The Vancouver Island coast dropped a metre or more and a 10-metre-high tsunami swept inland, wiping out at least one native village. Ten hours later, a 5-metre-high tsunami swept up the beaches of Japan's Honshu Island.

One can only imagine the damage and loss of life that would result if a BIG ONE occurred today. Coastal communities would be washed away by the resulting tsunami, older brick and masonry buildings that had not been seismically upgraded would col-

lapse, and many roads and bridges would become impassable. Telephone, electrical, and water service would be disrupted and fires kindled by downed power lines and ruptured natural gas pipelines.

But this earthquake happened over 300 years ago - why should we worry now? We should worry because seismic experts tell us that such an earthquake will almost certainly happen again. The problem is that they can't tell us when - it could be 30 seconds from now, next year, or 700 years from now. But they are certain that it will happen again because such earthquakes have happened on an average of every 500 years as far back as geologists can collect data. And they know what causes them.

The crustal plate under the Pacific Ocean is sliding under the crustal plate of the North American continent at about the rate our fingernails grow. But there is resistance to the sliding. When the tension between the plates builds up to the breaking point, the plates move, and an earthquake results. Smaller, less dangerous earthquakes also occur in the northwest where faults in crustal plates grind against each other.

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A building's earthquake hazard depends on its construction and the kind of ground on which it is standing. Because of their flexibility, wood-frame buildings tend to be more resistant to earthquakes than masonry buildings. Soft and sandy soils tend to liquefy during an earthquake, causing structures standing on them to collapse.

You can find out the earthquake hazard where you live by downloading a map showing levels of earthquake hazard in various parts of Greater Victoria at the following Web site:

http://www.em.gov.bc.ca/DL/Hazards/composite_map.pdf

Earthquakes can't be prevented or predicted, but you can be prepared when one does occur. You can:

1. Be prepared to survive without help for at least 72 hours after an earthquake without help. That means keeping a supply of potable water and food

on hand, along with vital prescriptions such as insulin.

2. Keep an emergency first aid kit, a flashlight, and copies of prescriptions and glasses in a safe place in your home.

3. Make your home seismically safe by securing heavy furniture and fixtures that might tip over and cause injury.

4. Arrange an out-of-the-area emergency contact with a relative or friend.

5. Discuss your personal and strata earthquake insurance coverage with your insurance broker.

To learn more about earthquake and other emergency preparation, call the Provincial Emergency Program (PEP) office (250) 952-4913 or visit its Web site: <http://www.pep.bc.ca/index.html>

SHOPPING FOR INSURANCE

Harvey Williams

Section 149 of the Strata Property Act requires strata corporations to insure their property at full replacement value. In today's soaring real-estate market, the replacement value of a property may increase 15 percent or more in one year. At that rate of increase, a property that is fully insured for a replacement value of \$10,000,000 today could be \$3,000,000 under-insured in two years if it were not reappraised.

Cost of Insurance Increasing

Not only do frequent appraisals cost money, each new appraisal inevitably raises the property value and, along with it, the insurance premium. Strata councils rightly concerned about the rising cost of their property insurance have begun to search aggressively for cheaper insurance, often asking several insurance brokers to provide quotes.

Insurance policies are complicated and lengthy documents (our strata's policy is 55 pages of fine print, including several pages of conditions and exclusions), and no two policies are worded the same.

Policy Comparisons

The reality is that most strata councils are ill-equipped to compare insurance policies offered by different brokers. New Orleans residents who had purchased hurricane insurance were dismayed (an understatement of their reaction) when their claims were rejected on the grounds that their loss was due to flooding, not hurricane wind - even though a hurricane caused the levees to fail.

Brokers

Insurance brokers have expertise in the field of insurance, and it is their job to find the most cost-effective insurance policy for

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SHOPPING FOR INSURANCE

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their clients. When a strata council obtains quotes from more than one insurance broker, it assumes that responsibility. But lacking the skills and knowledge of an insurance professional, a council is apt to decide on the basis of the premium cost after making an "apples and oranges" comparison.

Coinsurance

In a recent case, an insurance policy was proffered that seemed to have the lowest premium. The policy included "coinsur-

ance," with no explanation of what coinsurance meant. The strata council wisely went to the Web to research coinsurance. What it discovered was a complicated formula for paying claims that may or may not meet the Strata Property Act requirement for full replacement value. It appears that coinsurance could be especially costly if a strata property were undervalued due to an outdated appraisal.

VISOA BARE LAND STRATA INTEREST GROUP FORMED

Deryk Norton, Coordinator, VISOA Bare Land Strata Interest Group

A bare land strata is a strata plan on which the boundaries of the strata lots are defined by reference to survey markers and not by

reference to the floors, walls, or ceilings of a building. In a typical bare land strata, the strata lot owner is responsible for maintaining the strata lot and the buildings on it. A bare land strata corporation may own common property outside of the individually owned strata lots. Where this occurs, all owners of the individual strata lots share the cost of maintaining the common property.

Bare land strata corporations are similar to other strata corporations but do have some significant differences:

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- ◆ They are not responsible for maintaining the dwellings of strata owners;
- ◆ Some have no buildings of any kind to maintain;
- ◆ Some don't even have common property;
- ◆ Some bare land stratas are phased developments, which leaves them "under the thumb" of the developer and the subdivision approving officer until the final phase is completed, and completion can take many years - in one case, it is close to 20 years. This means there is an ongoing need for the strata corporation to ensure its

interests are not compromised as each phase is developed.

VISOA has very recently formed a bare land strata interest group for the purposes of:

- ♦ Identifying issues of concern to bare land strata owners,
- ♦ Identifying and explaining the need for changes to provincial legislation affecting bare land stratas (e.g., Strata Property Act, Real Estate Development Marketing Act, Real Estate Act, Land Title Act, Local Government Act), and
- ♦ Identifying topics for future VISOA seminars or articles in the VISOA Bulletin.

It is expected that the identified needs for changes in legislation will be included in forthcoming VISOA representations to the provincial government. It is also expected that some of the issues identified will be the same as those affecting other stratas. However, many will be specific to bare land stratas. So far, several issues affecting bare land stratas have been identified and will be discussed and developed further by the group. These issues are:

- ♦ Misrepresentations made by developers in their disclosure statements to strata property buyers;
- ♦ Lack of consultation with strata owners when new development phases are planned;
- ♦ Failure of developers and strata councils to recognize the rights of individual strata owners as new phases are developed;

- ♦ "Sweetheart deals" made between the developer and the strata corporation while the developer controls the strata corporation (i.e., before the first AGM of the strata corporation);
- ♦ Developer controlling a large number of unsold lots and therefore a large block of votes at the AGM - this can lead to the developer's electing a "tame" strata council which will not effectively represent strata owners' interests when they conflict with the interests of the developer;
- ♦ Finding qualified companies or persons to manage a bare land strata (many strata management companies will not handle bare land stratas, while some who claim knowledge of bare land stratas know very little);
- ♦ Managing the relationship between the strata corporation and the developer during phasing of a bare land strata;
- ♦ Managing the relationship with the municipal government (e.g., getting all the municipal services strata owners should receive);
- ♦ Educating bare land strata owners and strata councils as to their rights and obligations.

There are presently 18 VISOA members who have joined the group. If you are a VISOA member, you can join the bare land strata interest group by contacting Elsie Lockert by e-mail at membership@visoa.bc.ca or by calling VISOA at (250) 920-0222.

YOUR AD HERE FOR PENNIES A DAY!

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

Business Card Size:	\$ 50.00 / yr	(\$15 / single issue)
¼ Page Size:	\$100.00 / yr	(\$30 / single issue)
½ Page Size:	\$200.00 / yr	(\$60 / single issue)

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

SERVICE AGREEMENT DEADLINE EXTENDED

The deadline for compliance with Section 5-1 of the new Real Estate Council rules has been extended from January 1 to July 1, 2007. Among the requirements of Section 5-1 is that all strata service agreements (management contracts) be for a specified duration. When a strata services contract expires, a strata corporation can decide whether to renew the contract, to engage the services of another agent, or to become self-managed.

Previously, although a strata council could contract with a strata agent, a 3/4 vote at a general meeting was required to terminate the agreement, which placed strata corporations at a disadvantage in dealing with strata agents. In order to terminate a service contract, a strata council had to place a resolution before a general meeting and obtain a 3/4 vote at that meeting. The simplest course of action was to accept the services being received, which often

amounted to no more than keeping the strata corporation's books. Some contracts even allowed a management company to transfer the contract to a different company without permission of the strata corporation.

Recently, VISOA has received reports from owners of strata agents (managers) insisting that service (management) agreements do not require a termination date and refusing to include them. Strata councils should be aware that there are other important provisions relating to the scope of services to be provided and the handling of strata funds. Strata councils should examine their service agreements to be sure they are in compliance with the Real Estate Council rules.

To obtain a copy of the council rules, go to the Real Estate Council of B.C.'s Web site at www.recbc.ca. To have questions answered, e-mail info@recbc.ca.

YOU ASKED:

Is it legal to solicit proxies from owners?

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.

This "you asked" question has been asked before, and I'm sorry I haven't written about it sooner. The short answer to it is, "Yes." Nowhere in the Strata Property Act, Regulation, or Standard Bylaws is there any restriction on the solicitation of proxies. Section 56 of the Strata Property Act allows "any person who may vote under sections 54 or 55 to assign their voting right to a

proxy.

A proxy must be in writing, may be either general, for a specific meeting, or a specific resolution (e.g., a new bylaw), may be revoked at any time, and must be signed by the eligible voter. Form A in the Regulation is for assigning a proxy, but is not required (SPA Subsections 56(1)(2)). Like Abraham Lincoln's famous Gettysburg Address, **a proxy could be written on the back of an envelope.**

Any person other than an employee of the Strata Corporation or the Strata Agent (Manager) can be assigned a proxy. (SPA Subsection 56(3)(a)(b)(c).

A proxy can do anything that the person granting the proxy can do, **including vote, propose and second motions, and par-**

icipate in the discussion, unless limited in the appointment document [Subsection 56(4)].

On occasion, an owner or a small group of owners seeks to enhance their influence by soliciting proxies. In such cases, owners with an opposing view have the right to do the same. Even though a proxy has been granted to one faction, up until a vote is taken, it can be revoked by the person who granted it and given to the opposing faction.

While signatures on faxed documents are generally accepted, e-mail has raised a new issue with regard to the signature requirement for proxies. Can an e-mailed proxy be

considered as a duly-signed proxy or must a proxy bear the written signature of the person who granted it? Or is this another of those "don't ask, don't tell" issues?

Clark-Wilson Attorneys' Web site, (<http://www.cwilson.com>), states that an e-mailed proxy is only valid if it contains the owner's signature. But many strata corporations seem to accept e-mailed proxies without signatures. To address this issue, a signature may be scanned and included with an e-mail, or the signed proxy itself could be scanned and e-mailed.

<http://www.cwilson.com/cgi/faq/smartfaq.cgi?answer=1083350742>

LETTERS FROM READERS

Letters of interest to strata owners are encouraged. Space may be limited.

Re: Schedule of Unit Entitlements

We live in a strata townhouse in Victoria and, for the most part, find living in a strata complex very rewarding.

We have an issue, however, with Section 246 (3)(i) of the Strata Property Act which states that habitable area, in square metres, determines the Schedule of Unit Entitlement. The entitlement schedule determines, among other things, the amount we pay each month in fees. In our strata, the fees of the strata unit with the largest habitable area is 85 percent greater than that of the unit with the smallest area; yet, the largest strata unit has a municipal-assessed value only 11 percent greater than the smallest unit.

All strata expenses, including insurance, gardening, and repairs, are paid from strata fees. Some of the smaller units have larger garages, parking spaces, and gardening areas than the larger units, yet they pay less in fees for upkeep and repair.

Why are strata fees not based on municipal assessment or even market value? Municipal taxes throughout Canada are not based on just area or, even worse, habitable living area.

It is true that some costs may be determined by area, but certainly not the major ones such as insurance, gardening, and repair. Indeed, many smaller units have larger roof areas than the larger units. Insurance costs are based on strata unit market value.

We believe it is time to reassess the determinants of strata entitlement to find a way for assessing fees more equitably.

Patrick and Elsie Lockert
Victoria, BC

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DISCLAIMER

The material in this publication
is intended for informational
purposes only and cannot replace
consultation with qualified
strata professionals.

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

The Vancouver Island Strata Owners Association

ANNUAL GENERAL MEETING

SUNDAY, FEBRUARY 25, 2007
1:00 - 4:00 P.M.

Guest Speaker: Joyce Johnson,
Condominium Attorney
"WHO PAYS?"

Questions from the floor will be
addressed

Registration begins at 12:30 p.m.

Trafalgar / Pro-Patria Legion
411 Gorge Road East, Victoria

There is no charge for
VISOA members (If your strata
plan is a member, all owners in
your strata may attend)

Non-Members \$20

VISOA IS PLEASED TO PRESENT OUR 2007 SEMINAR SERIES:

Date :	Sunday, February 25, 2007
Location:	Trafalgar/Pro-Patria Legion, Victoria
Topic:	Annual General Meeting, plus "WHO PAYS?"
Speaker:	Joyce Johnson, Condominium Attorney
Date :	Sunday, April 22, 2007
Location:	Memorial Hall, Legion #256, Nanaimo
Topic:	LIVING IN THE STRATA LIFE - DID YOU KNOW ???
Speaker:	To Be Announced
Date :	Sunday, June 3, 2007
Location:	Trafalgar/Pro-Patria Legion, Victoria
Topic:	To Be Announced
Speaker:	To Be Announced
Date :	Sunday, September 16, 2007
Location:	Memorial Hall, Legion #256, Nanaimo
Topic:	To Be Announced
Speaker:	To Be Announced
Date :	Sunday, November 18, 2007
Location:	Trafalgar/Pro-Patria Legion, Victoria
Topic:	To Be Announced
Speaker:	To Be Announced