



Vancouver Island Strata Owners Association
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BOARD OF DIRECTORS

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Membership Chair	Elsie Lockert
Web Coordinator	Laura Neilson

PRESIDENT'S REPORT
Harvey Williams

We apologize for the interruption in VISOA's website and email help-line service. The computer web server that hosted our website was down for several days - too many days. We have moved to a different web server that should provide more reliable service. At the same time, in order to better serve our members, we are upgrading our website.

Board Renewal

Board resignations: Florence Walker, her son, Allen, and treasurer Bill Frache announced their resignations at our April Board of Directors meeting. Allen also submitted his resignation as webmaster. All three made valuable contributions to VISOA's success during their years of service; they will be missed.

Board Vacancies: The resignations leave three board positions open. But a positive attitude can turn adversity into opportunity, and that is what the board has done. The resignations have opened the door to board renewal.

To that end, the board would like to hear from VISOA members with a special interest in strata affairs and a bit of extra time they would like to use constructively.

STRATA COUNCILS ARE NOT LANDLORDS

Harvey Williams

Mary Smith, president of the Leaning Towers strata council, is entertaining her Thursday afternoon bridge club. The phone rings for the third time that day. It is Jane in suite 23, a retired high school teacher from Winnipeg.

Jane's kitchen tap is dripping, could Mary come over and have a look? Excusing herself from the bridge game, Mary trots dutifully off to Jane's suite to check on the leaking tap. After inspecting Jane's tap and concluding it requires servicing, Mary helps Jane find a plumber in the yellow pages and heads back to her bridge game resolving on the way not to stand for strata council again at the forthcoming AGM.

It wasn't that Mary didn't enjoy the challenge of presiding over the strata council meetings and being part of the decision-making process in her strata. The constant calls from owners with leaky toilets, malfunctioning water heaters, faulty phone connections, and the like had taken their toll.

The other owners in Mary's strata had come to regard themselves as renters and the council as their landlord and the council, or at least Mary, the council president, had come to accept that role. Now she had burned herself out in attempting to fulfill the owners' expectations.

Owners are not renters, and strata councils are not landlords. Strata council members are owners who have volunteered to take on the extra responsibility of serving on the strata council. The council's responsibility is the maintenance and protection of the common property, administration of the corporation's finances, and enforcement of the strata bylaws and rules, as required by the Strata Property Act and Regulation. Individual owners are responsible for their own units and should look after their own leaking water taps and defective phones.

Unlike a detached single family dwelling, life in an apartment block strata is cheek by jowl and most residents are sensitive to that fact. But when noise from a neighbouring suite is disturbing, the first attempt to solve the problem should be neighbour to neighbour, not a telephone call to the strata council president. If the problem can't be solved neighbour to neighbour, a written complaint to the strata council is in order.

But strata councils' ability to act is limited by the Strata Property Act and bylaws. The council's only power of enforcement of bylaw violations is with fines -- the Act does provide for eviction of renters, but that is a complicated process - and fines can be difficult to collect.

In a rental building, the landlord alone makes and carries out decisions. Volunteer council members are understandably reluctant to get involved in issues that may be fraught with emotion and can spiral into complex court cases.

The Strata Property Act requires that each strata corporation have a strata council. Strata council members are owners who volunteer their time and energy to serve on their strata council. If owners want to encourage service on council, they should not make it so onerous that no one wants to serve.

Editor's note: From here on, we'll use the term "agent" instead of "manager". Read the column Strata Managers as Agents to find out why.

INFORMATION ON THE WEB

Information that would otherwise require years of library research is only a few mouse clicks away on the Web. Three useful websites for strata owners are:

The Vancouver Island Strata Owners Association (That's us)
VISOA: www.visoa.bc.ca

In addition to information about your Association and its activities, the VISOA website contains links to many other resources such as the Strata Property Act and Regulation, the Strata Property Instructional Guides, court rulings relating to strata property and to other organizations that are of interest to strata owners.

The Real Estate Council of British Columbia:
www.recbc.ca

This site contains links to the Real Estate Services act, its Regulation and Rules. The rules are of special interest to stratas that employ agents. The site also contains links to many other sources of useful information.

Of special interest to stratas is the link to "Licensee Search". This is where you can find out if your agent is licensed. I looked up the name of an agent for a strata yesterday and he was not listed as being licensed.

The "Discipline" link lists agents or sales agents who have been disciplined by the Real Estate Council.

Strata Property Agents of British Columbia:
www.spabc.org/links.htmstruction

This is the strata property agents' web site. It contains much information that can be useful to strata owners as well as links to other strata-related websites.

STRATA PROPERTY: HOME OR INVESTMENT?

Part 2 of 2-part series
John Grubb of Unity Services

Continuing with the premise from our last column that purchasing a Strata property should be viewed more like investing in a company's stock, than buying a home, it is also for this reason that the Strata Corporation has so much influence over each "shareholder's" living circumstances.

The "business" of the Strata Corporation is to manage the property on behalf of - and to the benefit of - all the "partners" or "shareholders", just the same as any other publicly traded company. Once again, the rules and regulations under which the Corporation must operate are laid out in the BC Strata Property Act.

In order to operate successfully, a Strata Corporation, no less than any other business, needs a Business Plan, so that all the "investors" can clearly understand what the Corporation will do to properly manage the company's assets, often worth several millions of dollars.

There are two separate but related parts to a good plan. First, the plan covers the management of the day-to-day business - maintaining the grounds, removing the garbage, paying the taxes, etc. - generally given the heading of "Annual Operations".

The second part of the Business Plan is to look to the future of the property and building structures, and develop the long term plans that anticipate the needs for their major maintenance and upkeep.

This includes projects such as roof renewal and exterior painting and, depending on the type of property, can include many other major systems that will eventually wear out and need to be replaced.

The toughest part of the Corporation's business is generating income. It provides a "service" (property management) but its "customer base" is limited to the owners, none of whom wish to pay any more in Strata fees than necessary, which brings us back to the Business Plan. Without one it's difficult for any owner to understand what he's paying for, or for the Corporation to decide what is reasonable.

The fees assessed by most Stratas adequately handle the funding of the day-to-day Operations requirements but, all too often, Corporations make little if any provision for the long term financial requirements of their properties. A good Business Plan will encompass both the short and long term, by anticipating the needs of the property at least five years and better still, ten, fifteen or more years into the future.

The strata Corporation has two alternatives when assessing owners for funding to meet the property's major maintenance project costs, a Special Assessment, often for many thousands of dollars, to be paid by each owner in a very short timeframe, or annual (monthly) Strata Fees that include reasonable amounts to cover the costs of the inevitable replacement projects that a good Business Plan has identified many years in the future.

As a "partner/shareholder" in the Corporation, it's in the best interest of each owner to pay attention to the "business" to which, they have delegated the management of their significant, and likely, most important personal investment. You wouldn't invest \$200,000 in a company's stock without ensuring it has a sound business plan. Why would you do anything different when buying a "share" in a Strata Corporation? If you already have and there's no plan in place it's never too late to start.

John Grubb is a Property Maintenance Consultant serving Strata Corporations and building owners on Vancouver Island. 616-9298 or www.unityservices.ca



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YOU ASKED: Is Your Strata Agent the Final Authority

Harvey Williams, VISOA President

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.

Can you rely on what your strata property agent tells you? Too many times you cannot. Admittedly we only hear from owners who suspect they have received false information from their strata agents. While most information given by most strata agents, most of the time is correct, if it doesn't seem to make sense, it's wise to check. The following are some egregious examples of misinformation given to strata councils by their agents. These reports are from owners I know well and I have no reason not to believe them.

Example 1. A strata agent presented a new management services contract to a strata council without a termination date. An owner noted the omission and suggested that the Real Estate Services Act required a termination date. The agent denied that a termination date was required by the act. Section 5.1 of the RESA rules contains the following: 5.1, Written service agreements . . . , subsection 4, Specific content requirements, part c. the date on which the agreement is effective and part d, the duration of the agreement .

Example 2. For some reason, an entire strata council resigned prior to an AGM. In spite of a lawyer's advice that a chairperson could be elected by those present at the AGM, the strata agent insisted that only the president or vice president could chair the AGM. Section 25 (3) of the Standard

Bylaws says, If neither the president nor the vice president . . . chairs the meeting a chair must be elected by the eligible voters . . . from among those present.

Example 3. A strata agent told owners that they must move their AGM ahead and change their fiscal year to end in December instead of February. He is alleged to have said that he had telephoned Ottawa and was told that federal law required the change! The SPA requires a 3/4 vote at a general meeting to change the fiscal year. Section 102 (1) states that. The strata corporation may, by a resolution passed by 3/4 vote at . . . [general meeting] change the date of its fiscal year . . .

These examples are not intended to drive a wedge between strata owners and their agents, but as a precautionary note for strata owners. If something a strata agent or another owner says doesn't make sense, it pays to check it out.

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STRATA MANAGERS AS AGENTS

It will come as a surprise to many strata councils who think they have hired managers have only hired an agent. The following is taken directly from the website of the Strata Property Agents of British Columbia, the professional society to which your strata "agent" belongs or should belong.

The word "agent" is important. Councils, owners, and the public often misunderstand the position described as "strata management companies". The so-called "management companies" are really "agents" acting on behalf of strata corporations. Only strata councils, by law (SPA), are responsible for the management and administration of their strata corporations; "management companies" cannot be responsible. Agents are responsible contractually to carry out councils' responsibilities as strata corporation agents.

The "agent" appellation is more than semantic. A "manager" manages and an agent represents and carries out instructions for a manager. Strata agents are acknowledging their true role with respect to the strata corporations when they describe themselves as "agents".

There are serious implications for strata corporations flowing from the distinction between "agent" and "manager". The major implication is that, in reality, strata corporations manage themselves. They hire strata "agents" to act under their instructions, on their behalf.

I was told of a case in which a "strata manager", cum strata agent, would not allow resident-owners access to the names and addresses of nonresident owners of rental suites on privacy grounds. The strata agent was grossly oversleeping his authority in two respects: 1) the records belong to the strata corporation, and 2) this was a clear violation of Section 36(1) of the Strata

Property Act which grants the right of "an owner" to inspect all strata corporation records listed in Section 35 of the Strata Property Act.

The significance of the distinction between "manager" and "agent" for strata councils is that councils do not absolve themselves from management responsibility when they contract with a "management" company. They have hired an agent to follow their instructions; strata corporations must manage themselves.

CAUTIONARY TALES

Read the fine print: I opened a bill from our garbage company a couple of months ago to find yet another increase in our monthly collection fee. This was the fourth in a series of fee increases so I decided to get new quotes for garbage pickup.

All of the quotes were significantly less than the fee we were being charged. I called the company and told them their fee was much higher than the quotes I had obtained. I told them I knew our contract renewal date was coming up and I expected them to be competitive.

They sent an agent out with a copy of our service contract which I was unable to find in our strata files. He showed me the fine print at the bottom of the contract and to my surprise, it was a 5-year contract automatically renewable for another five years without 30 days notice of nonrenewal.

It was now only a couple of weeks before the contract's expiration date so it had already been renewed for another five years. However, after some discussion, the agent matched the quotes I had obtained and we parted on good terms.

Service providers like 5-year contracts because fees can be raised easily during the term of the contract. Councils change from time to time and are unlikely to examine

contracts made by previous councils.

It is prudent to review all strata contracts annually. A good time to do that is soon after the annual meeting so that all council members are familiar with existing contractual arrangements.

Nickel and diming by strata management companies: A strata owner recently gave me a copy of some monthly billings by their strata agent.

Their 12-unit condo paid \$20 per month per unit or \$240 per month for management. But that was only the beginning. In addition, each month's bill contained unitemized amounts for "administration" and office supplies. The administration charge varied between \$101 and \$26.75. Most months, it was the latter. On top of that was a monthly charge for office supplies ranging from \$4.65 to \$67.00.

So what does this strata get for it's \$240 management fee? I have been treasurer for our strata for eight years and we have never used more that \$200 worth of office supplies including stamps. It's hard to imagine what is meant by "administration".

Councils should demand better cost accounting and reporting even if it's only nickels and dimes.

VISOA NEWS FLASH

Linda Thompson whom you may remember as the cheerful, friendly, efficient person who, up until last year checked you in at seminars, has agreed to a part-time contract position looking after our membership records and keeping our books. Because of her long and varied service Linda is VISOA's institutional memory.

Emailing of Bulletins is delayed. We are grateful to members who responded positively to our suggestion for email delivery of their VISOA Bulletins. Unfortunately, the our website crash has delayed the process and the May Bulletins will all be delivered by Canada Post. Please post your Bulletin where where fellow owners can read it. If you wish extra copies of the Bulletin for your strata, call the VISOA HelpLine, 920-0222.

Volunteers Are Needed. Volunteers are needed for the following:

Board of Directors - Three Board positions need to be filled with keen, capable people who are motivated and can work well with others.

Desk-top publisher for the Bulletin - A volunteer with desk-top publishing skills needed to format the bulletin for digital printing. Does not need to compose articles

Committee Members - Needed to research issues and assist the Board in developing policy.

Elsie Lockert, Membership Chairperson

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VISOA'S 2006 WORKSHOP SERIES

June 11

Victoria: John Grubb of Unity Services Corporation -Strata Property and Systems Maintenance.

September 10

Qualicum Beach: Speaker TBA, Bare Land Strata Topics.

November 19

Victoria: Kathleen McIsaac & Gwen Taylor, Attorneys - Dispute Resolution: Mediation & Arbitration.



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