

VISOA Bulletin - AUGUST 2015

Civil Resolution Tribunal Update - Summer 2015

By Shannon Salter, CRT Chair



We have reached some important Civil Resolution Tribunal (CRT) milestones in the last few months. Here are a few

highlights:

- In May, after a rigorous competition, the first 18 CRT tribunal members were appointed. The CRT members are lawyers with expertise in strata property and small claims, as well as administrative law and adjudication experience.
- Since the CRT website (www.civilresolutionbc.ca) went online in November 2014, it has had almost 17,000 visits. Every day, people contact me through the website's contact form. Most

people want to know when the CRT will open. Others want specific advice and help. I can't provide legal advice or case-specific help, but I do read each email and respond directly. Sometimes, I refer people to the Canadian Bar Association's Lawyer Referral program, to Access ProBono, or to other helpers.

- I have been sharing information about the CRT and listening to feedback from a wide variety of strata stakeholder groups from around the province, and most recently in the Lower Mainland, the Okanagan, and Vancouver Island in presentations for CHOA, CCI, PAMA, SPABC, and public forums. This has given me a much better understanding

of the kinds of problems facing the strata community, and what the CRT can do to help. Thank you to everyone who has attended these events and shared their thoughts with me.

- The technology for the dispute resolution phases of the CRT (negotiation, facilitation, and adjudication) is being actively developed and we are working hard with the development team to build the hundreds of business processes that need to be integrated into the technology platform.
- The Solution Explorer is the front end of the CRT, and will provide free legal information and self-help tools to the public. The Solution Explorer will be launched in beta this fall for

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strata property claims, and we anticipate that the CRT will begin to resolve claims in the spring of 2016.

Thank you for your patience and ongoing support as we tackle the challenge of creating Canada's first online tribunal. I will keep you updated in the coming months as we reach new milestones on the path to CRT implementation.

Privacy Matters



On June 22, 2015, the Office of the Information and Privacy Commissioner released an updated version of Privacy Guidelines for Strata Corporations and Strata Agents. You can read the revised guidance document at:

<https://www.oipc.bc.ca/guidance-documents/1455>

The OIPC also issued Frequently Asked Questions (with Answers, of course!) for stratas, and they are found at:

<https://www.oipc.bc.ca/guidance-documents/1805>

These FAQ's and updated Guidelines are just what BC strata owners need, as they make clear some formerly misunderstood parts of the Personal Information Protection Act. (PIPA)

This is one of the FAQ's which many stratas have asked:

QUESTION: I believe my personal information was shared in an unauthorized way by my strata. How should I follow up?

ANSWER: PIPA allows individuals to make privacy complaints to the Office of the Information and Privacy Commissioner for British Columbia (OIPC).

Before complaining to the OIPC, you should attempt to resolve your complaint directly with the strata. Submit your complaint in writing directly to the strata's privacy officer. Provide as much detail as you can in order to assist them to understand the nature of your complaint.

Give the strata at least 30 business days to respond. If after 30 business days you have not received a response from the strata or if you are unsatisfied with how the strata addressed your complaint, you can make a complaint to the OIPC.

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This is a regular column, where we will answer your questions on privacy-related matters on your strata. If you have any questions email us at editor@visoa.bc.ca

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Event Details

You're thinking of spending thousands of dollars on a condo or townhouse, but how much do you really know about condo life and the new responsibilities it brings? This three-hour workshop/question period will help you understand the strata documents every buyer should review and give you useful facts about the Strata Property Act and more. Presented by experienced representatives from the Vancouver Island Strata Owners Association, a non-profit group which has been helping strata owners for over 40 years.

FOR MORE INFORMATION AND TICKETS (\$30):

<http://www.eventbrite.ca/e/before-you-buy-a-condo-tickets-17729744142?aff=es2>

VISOA (Vancouver Island Strata Owners Association)
Tuesday, 15 Sept. 2015 from 6:30 PM to 9:30 PM, Victoria, BC

Understanding Your Strata Manager's Scope of Authority

Editor's Note: The relationship between a strata management licensee and a strata council (the client) is a complicated one. Many frustrations and complaints can be avoided if the client understands the manager's scope of authority.

This article was originally published and written by the Real Estate Council of BC in April 2015 for strata managers; and was re-written for strata councils with the permission of the Real Estate Council of BC.

Strata Managers are licensed by the Real Estate Council of BC, and are subject to the *Real Estate Services Act* and the Council Rules. In this article, when we refer to the "Council Rules" we are referring to the Real Estate Council's Rules. When we say "he" referring to a strata manager, please read "he or she".

When your strata corporation contracts with a brokerage to provide strata management services, section 3-3 of the Council Rules sets out the duties a brokerage and related licensee has to its client and specifically includes the duties to:

- A. Act only within the scope of the authority given by the client
- B. Act in accordance with the lawful instructions of the client, and
- C. Advise the client to seek independent professional advice on matters outside of the expertise of the licensee

Understanding what these duties mean ensures that the manager acts within his professional limits as a strata manager. When a client's (i.e. the strata council's) instructions appear to put these duties in conflict, the manager has three key resources to guide him in these efforts:

- The written service agreement between the strata corporation and the brokerage,
- *The Real Estate Services Act* (RESA), and
- The Council Rules.

1. Know the Manager's Scope of Authority

The written service agreement should set out the responsibilities and decision-making capabilities that have been delegated to the brokerage. For example:

- The manager needs to arrange for a minor plumbing repair at a strata property he manages. Does he need to check with the strata council before going ahead?
- The strata needs to file a lien against a strata lot. Does

the manager have the authority?

The answers to these questions can likely be found in the service agreement. When a strata corporation enters into a service agreement with a brokerage, it typically delegates certain responsibilities and decision-making capabilities to the brokerage. The service agreement may give the brokerage ongoing authority in particular areas, allowing the brokerage to make decisions on behalf of the strata corporation. In other areas, a service agreement may give the brokerage the authority to act only upon the specific instructions of the strata council.

Example: A service agreement gives the licensee the express authority to arrange for repairs under \$500 without further instruction (subject to the aggregate limitation of spending identified within section 98 of the *Strata Property Act* (SPA), or any provision established in the strata corporation's bylaws). However, the same service agreement requires the licensee to have specific instructions from the strata council in order to file a lien against a strata lot.

Understanding the difference between these two types of authority is crucial. They define the scope of decision-making the client strata corporation has given the brokerage. And as the scope of authority delegated to the brokerage may be different for different clients, it is

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your manager's responsibility to ensure that he is familiar with the terms of the service agreement for each of his clients, and let you know when additional authorization is required.

Using the example above, if the manager were to file a lien against a strata lot or spend \$650 on repairs without specific instructions from the strata council, he will have acted outside of the scope of authority given to him by your strata corporation (the client).

2. Act in Accordance With Lawful Instructions

The manager is required to carry out the lawful instructions of his clients, and know what to do if he receives instructions that he believes may not be lawful.

First, he must ensure that you have given the instructions in a form that he is authorized to act on. While he can be given instructions a number of ways—by email, verbally, or at a strata council meeting—he may not be authorized to act in each case.

Many service agreements stipulate that licensees must receive instructions in a specific method, or a range of methods (for example: in writing after a majority decision of the strata council; or in writing by at least two strata council members). As service agreements may be different depending upon the client, the manager should review the service agreement to ensure he is acting appropriately.

If the written service agreement does not give the brokerage authority to undertake the duties the strata corporation has requested, it is important for the manager to ensure that he gets specific instructions from the client before acting.

Finally, if the manager has received verbal instructions, it is prudent to confirm the instructions with the strata council in writing.

What may constitute unlawful instructions?

Instructions that could result in the strata corporation acting contrary to the provisions of applicable legislation may be unlawful. If the manager is concerned that instructions received from a strata council may result in such a contravention, he should take steps to deal with the situation. While the Real Estate Council does not have the jurisdiction to enforce legislation other than RESA, licensees are expected to be familiar with and provide competent advice to their clients with respect to applicable legislation such as the SPA, the strata corporation's bylaws, as well as RESA and the

Council Rules. In addition, licensees will be expected to be aware of other legislation that may affect their client and advise them to seek independent professional advice on those areas of legislation that they are not familiar with.

SPA/Strata Bylaws

As a licensee, the manager is expected to be familiar with both SPA and the client's bylaws. If the strata council's instructions appear to him to be in conflict with either SPA or the strata bylaws (or any applicable legislation such as the *Residential Tenancy Act*, the Human Rights Code, or the *Interpretation Act*), it is appropriate for the manager to discuss his concerns with the strata council as well as his managing broker.

The manager may draw his client's attention to the provisions that he believes are applicable and recommend to the client what he views as the appropriate course of action. It is best for him to ensure that the instructions from the client and his advice to the client are in writing.

Despite his advice, the client (strata council) may insist that he carries out the instructions. In this case, he may recommend that the strata council obtain professional advice prior to taking any further steps.

If the client's instructions pose a serious conflict, the manager may decide to advise the strata council that he is not prepared to follow the instructions. This may result in the termination of the service agreement, either by the brokerage or the strata corporation.

RESA/Council Rules

As a licensee the manager is expected to not only be familiar with, but to act in accordance with, the provisions of RESA and the Council Rules. If he receives instructions from a strata client that he believes contravene either RESA or the Council Rules, he should advise his client of this, preferably in writing.

If the client does not modify the instructions, or responds with a specific direction to carry out these instructions, the manager is faced with three choices:

- A. Follow the instructions,
- B. Refuse to follow the instructions, or
- C. Cease to act for the strata corporation.

Choosing A, to follow instructions that the manager

Continued on page 5

believes are in contravention of RESA or the Council Rules, may have potentially serious consequences. He should discuss the matter with his managing broker to determine how best to proceed. If the manager has acted upon instructions from a strata council and his conduct becomes the subject of a Council investigation, the fact that he followed the instructions of the client does not relieve him—or the brokerage—of the obligation to comply with the requirements of RESA. The manager and/or the brokerage may be found to have committed professional misconduct.

The managing broker may determine that it would be prudent for the brokerage to obtain its own legal advice. It is also usually appropriate to advise the client strata corporation to obtain independent legal advice on their intended course of action. The brokerage may decide that it is not prepared to continue to provide services to the strata corporation. In this case, the brokerage should review the termination provisions of its service agreement.

Generally speaking, the managing broker should be involved in any attempts to resolve the issue, as refusing to follow the instruction given by the strata council may result in a termination of the relationship between the brokerage and the strata corporation.

3. Matters Outside the Manager's Expertise: When to Advise the Client to Seek Independent Professional Advice

It's not uncommon for strata management clients to regard the strata manager as an expert in all strata property matters. Clients may turn to the manager for advice or information on a wide variety of topics, from

legal issues to insurance, finances, roofing, plumbing, landscaping and more. And although he may have some knowledge about these issues, it is usually more appropriate to recommend to the strata council that they seek independent advice from a professional in the subject field.

The manager should be cautious about providing advice that is outside of his expertise and which the strata council may rely on in making a decision about the maintenance or governance of the strata corporation. Although clients may sometimes be reluctant to pay for specific expert advice, it is important to realize that wrong advice can have devastating results for both the strata corporation and the manager.

In situations where a manager is asked for an opinion or advice that is technical in nature, or where there may be the potential for significant costs or losses to the client, the manager should strongly recommend to the strata council that they seek independent professional advice. If the manager provides poor or incorrect advice, he may be found to have demonstrated incompetence (a contravention of section 35(1)(d) of RESA) and/or to have failed to act with reasonable care and skill (section 3-4 of the Council Rules).

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Amendments to Ontario's Condo Act

By Rodrigue Escayola



Proposed amendments to the Ontario Condominium Act were introduced on May 27, 2015.

The complete text of the bill, which is formally entitled "An Act to amend the Condominium Act, 1998, to enact the Condominium Management Services Act, 2015 and to amend other Acts with respect to condominiums" can be reviewed at http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session1/b106.pdf

It is interesting to note that the bill was introduced as the "Act to Protect Condominium Owners". This may signal an important change in what many perceived as a power struggle between the owners and the corporations.

This bill, aimed at amending the Condominium Act and at better regulating the industry, is 159 pages long but some of the more important changes include the following:

Changes to the governance of condominiums

■ The creation of a not-for-profit Condominium Authority and of a Condominium Authority Tribunal dealing with disputes primarily between condominium corporations and owners;

■ The requirement for corporations to file returns with a Condominium Registrar and to report on who the directors are. Directors will be required to receive training;

■ The act would implement changes to how owners' meetings are called, including the requirement to provide advanced notice of the election of directors (which will allow owners to put their name forward to be added to the ballot) and changes to what is required to be included in the meeting notices and changes on

quorum rules;

■ The act would implement changes to the corporation's obligations with respect to the maintenance and repair of units, common elements and assets of the corporation, and changes to how these obligations can be altered; and,

■ When dealing with compliance matters before the courts, owners may have greater costs recovery powers similar to the costs entitlement of a corporation.

Changes to the property management profession

■ The Act would provide for the creation of a not-for-profit administrative authority overseeing the profession and for a complaints mechanism;

■ Mandatory licensing requirements for Property Managers would be enacted;

■ Property Managers would be required to have a written contract when providing management services;

■ The Act would allow for the appointment of inspectors and would grant them inspection powers; and,

■ The Act would permit the adoption of a code of ethics.

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Steps for this bill to become law

Before this bill becomes law, it must go through several more stages, including three readings and royal assent. As part of “first reading”, the bill was basically introduced in the House and the MPPs accept the bill for future debate. This is when it was assigned its bill number (Bill 106). The real debate over the substance of the bill will take place during the “second reading”. Sometimes bills pass directly to third reading, sometimes they are further examined by Standing or Select Committees. It is during the “third reading”, after a final debate in the house, that the MPPs will vote on it. Once the majority of the MPPs have voted in favour of a bill, it is presented to the Prov-

ince's Lieutenant Governor for royal assent. This is when a bill becomes law.

As you can see, there are still many steps ahead but Ontario condo owners can finally review the product of so many years of consultation. You can read more about all of the consultation work that went into the development of this new Act on the Ontario Government website at http://www.sse.gov.on.ca/mcs/en/pages/oncondo_about.aspx

Article reprinted with permission. Rod Escayola heads Gowlings' Condominium Law Group. He regularly publishes on Gowlings' condo law blog CondoAdviser.ca. He is on the board of directors of the Ottawa chapter of CCI and is the co-editor of its quarterly magazine. Rod also sits on the board of directors of his own condominium corporation.



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— William J. Clinton

Where there is a will there is a way. And this must be the way not of compulsion but of cooperation... No government and no plan can succeed without it.

— Lionel Murphy, Australian politician

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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.

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VISOA comments on Ontario's Condo Act

By Sandy Wagner



Why publish an article about Ontario condominiums? We wanted to point out and contrast the differences between BC's Strata Property Act and the proposed changes to Ontario's Condominium Act to show you how far ahead BC is in some matters, as well as what we can learn from Ontario's proposed changes.

So – where are we ahead?

Dispute resolution, and licensing of strata property managers.

BC's *Civil Resolution Tribunal Act* was brought into force in 2012 and although it has not yet opened, we should see it operational in spring 2016. This innovative tribunal aims to resolve almost all strata disputes (for an update on the CRT, see page 1). Ontario is behind BC in opening their tribunal, and perhaps they will use our CRT as a model for their Condominium Authority Tribunal. The CAT will have the power to refer disputes to an alternative dispute resolution process, such as mediation, so it remains to be seen whether it will be as complete as our CRT.

BC has required Strata Property Managers to be licensed since 2006. Ontario is just beginning

this process and it's surprising there has been little regulation to date, considering the huge numbers of condos in that province. Remember when anyone could call themselves a strata property manager, and all the problems that caused? It is now in our distant past and BC's strata licensees as a group are far more knowledgeable and better regulated in comparison to the pre-2006 version.

Other amendments allow board meetings (comparable to our strata council meetings) to be held by electronic means, a provision we have had for several years; and for the corporation to report on insurance coverage to the owners on a periodic basis, which all BC strata are required to do annually.

Where will Ontario be ahead?

Condominium Registrar, and requirements for documents to new purchasers.

All Ontario Condominiums will be required to register and report annually, creating an index of all condominiums and their directors, which I assume will become public record with some privacy considerations. This is lacking in BC. There is currently no provision for the collection of this information in BC, and it would be very useful to have these details available and updated annually.

The Government will create a Condominium Guide with a requirement that a copy be given to first purchasers along with the other condo documents – good news for new purchasers! Wouldn't we all have wanted a bit more info about a "strata" before we bought one?

We were also very impressed with the consultation process used by the Ontario government – it was very thorough and had a great deal of public input.

Where are we reserving judgement?

Board qualifications and training.

The proposed amendments outline specific qualifications (and disqualifications) to be elected to the condo board, as well as requirements for condo directors' training. On one hand, it sounds like a great idea to have strata councils made up of owners well-versed in the *Strata Property Act* and possessing general business sense. On the other hand, though, if we were to

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This month's questions are answered by Gloria Martins.

Q:

We have a grounds budget of \$5000 for the garden committee. If that committee wants to spend \$1000 for topsoil, does that require a motion to spend the \$1000 or can they go ahead spend the money without Council's approval?

A:

The answer to your question is "absolutely not." Many strata corporations have a one-line category for gardening and landscaping in the budget for the operating fund, but budget approval is not the same as spending approval. Section 4 of the *Strata Property Act*, as copied below, makes council responsible for the "powers and duties" of the strata corporation.

4 The powers and duties of the strata corporation must be exercised and performed by a council, unless this Act, the regulations or the bylaws provide otherwise.

And section 26 of the Act, as copied below, emphasizes the same concept.

26 Subject to this Act, the regulations and the bylaws, the council must exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules.

The Standard Bylaws as attached to the *Strata Property Act* are the bylaws of all strata corporations in BC unless changed. Standard Bylaw 20, as copied below, provides a procedural answer to your question.

Delegation of council's powers and duties
20 (1) Subject to subsections (2) to (4), the council may delegate some or all of its powers and duties to one or more council members or persons who are not members of the council, and may revoke the delegation.

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VISOA comments on Ontario's Condo Act *Continued from page 8*

have similar legislation here in BC, would it decrease the potential pool of nominees to council? All our members know that VISOA's mandate promotes the education of strata owners, so you have no argument from us on having training available - but we frequently hear from you that you don't have enough volunteers to be on your councils now, so we wonder how much harder it would be to fill those seats if there were stricter eligibility requirements.

Ontario's Bill 106 has only passed first reading as of the date of this publication, and so these provisions may not come into force for some time; and some may be modified or deleted before the bill becomes law.

In conclusion, we in BC could possibly take some suggestions from Ontario's proposed amendments to improve our SPA - but overall I think we have a far superior Act.

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- (2) The council may delegate its spending powers or duties, but only by a resolution that
 - (a) delegates the authority to make an expenditure of a specific amount for a specific purpose, or
 - (b) delegates the general authority to make expenditures in accordance with subsection (3).
- (3) A delegation of a general authority to make expenditures must
 - (a) set a maximum amount that may be spent, and
 - (b) indicate the purposes for which, or the conditions under which, the money may be spent.

This means that council may delegate spending powers to a committee, concerning the budget provisions for a particular category such as gardening. (You should check your bylaws to see if you have included Standard Bylaw 20 or some variation in your bylaws.)

This is slightly different than your question, which asks if the gardening committee can spend money on gardening as approved in the budget, without council's approval.

Many strata corporations have a gardening committee, but committees are not free to spend money from the operating fund, even as budgeted

for a specific category.

This suggests a distinction between budget approval (by the owners at the AGM) and spending approval (as authorized by council). The only exception is Standard Bylaw 20 above that permits council to "delegate" the authority to make expenditures, a provision which council should use rarely, if ever.

The Act has standards of conduct and accountability that specifically apply to council, and most strata corporations have errors and omissions insurance for council members (but not for committees) as provided by section 151 of the Act, as copied below.

151 The strata corporation may obtain and maintain errors and omissions insurance for council members against their liability and expenses for errors and omissions made in the exercise of their powers and performance of their duties as council members.

Two final points (that no doubt have already occurred to you):

1. All expenditures (routine expenses may be an exception) should be reviewed and pre-approved by council in compliance with Standard Bylaw 18, which is copied below.

Continued on page 13

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18 (1) At council meetings, decisions must be made by a majority of council members present in person at the meeting.

(2) Unless there are only 2 strata lots in the strata plan, if there is a tie vote at a council meeting, the president may break the tie by casting a second, deciding vote.

(3) The results of all votes at a council meeting must be recorded in the council meeting minutes.

2. At the AGM, the vote to approve the budget is not necessarily a vote to approve “spending,” meaning that there is a difference between the approval (of the budget) and the separate financial decisions as adjudicated by council. Although the Standard Bylaws allow council to delegate their spending authority, should they? Probably not.

Q:

One of our units is about to go up for sale, and as Secretary I want to be ready to prepare the Form B Information Certificate.

When we bought our unit, we were provided with a set of Bylaws and two years’ worth of Minutes. I notice that Section 59 of the SPA and the current Form B don’t mention having to attach these items.

Did that change or is the requirement elsewhere? The Form B has a reference to “rules” – does that include Bylaws?

A:

Concerning the re-sale of a strata lot, the *Strata Property Act* differentiates between the information disclosed by the owner of a strata lot and the information disclosed by the strata corporation represented by the strata council. In a sense, all the records referred to in section 35 of the Act, “belong” to the owners of the strata corporation, including the bylaws of the strata corporation and the minutes of annual and special general meetings and council meetings.

Sections 35 and 36 of the Act refer to the records and documents that must be prepared, retained, and maintained, and provided by the strata corporation. Specifically, the records and documents referred to in Section 35 must be provided to the owners of the strata corporation, and some others – including a realtor if authorized in writing by an owner.

For the re-sale of a strata lot, individual owners are responsible for disclosing the records and documents referred to in section 35, including the bylaws of the strata corporation and the minutes of annual

Continued on page 14



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and special general meetings and council meetings. Consequently, the Form B does not include the bylaws or the minutes.

The Regulations also differentiate between the records and documents provided to owners under section 36 of the Act and the record and documents referred to in the Form B.

The fee for providing documents is given in the Regulations:

4.2 (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.

4.2 (2) No fee may be charged to an owner, a tenant or a person authorized by an owner or tenant for the inspection of a record or document under section 36 of the Act.

The fee for a Form B Information Certificate is referred to separately under Regulation 4.4 as follows:

4.4 The maximum fee that the strata corporation may charge for an Information Certificate, including required attachments, referred to in

section 59 of the Act is \$35 plus the cost of photocopying, or other means of reproduction, up to 25 cents per page.

Note that the 25 cents per page can apply to electronic documents, not just paper documents.

The Form B must be supplied within one week of the request, but sometimes a realtor will request the Form B “next day” or “rush”. In a small, self-managed strata you could probably have the Form B done relatively quickly, and the seller’s realtor will appreciate it – but large management companies who may prepare several Form B’s a day do charge a “rush fee”. There is no provision in the SPA or Regulations for any rush fee, nor is there a prohibition. If you do charge a “rush fee”, make it reasonable to account for your time, but not so unreasonable that it becomes a cash grab.

The sale of a strata lot includes other responsibilities under the *Real Estate Services Act* as regulated by the Real Estate Commission of BC, so that the disclosure responsibilities of the owner of a strata lot are not limited by the *Strata Property Act*, but the disclosure responsibility of the strata corporation as a whole is limited by the Form B.

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Videos and Bulletins offer maintenance for Multi-Unit Buildings

By Homeowner Protections Office, Branch of BC Housing

Townhouse and condo owners may not have to deal with their building's day-to-day management, but it's still important that they understand its maintenance needs.

B.C. homeowners can turn to the free Maintenance Matters videos and bulletins for information and practical advice that can help prevent costly emergency repairs, maintain curb appeal and protect property values in multi-unit buildings. The series is provided by B.C. government's Homeowner Protection Office (HPO), a branch of BC Housing, and may be viewed at www.hpo.bc.ca.

The videos and bulletins target homeowners, strata councils, maintenance managers, housing co-operatives and owners of townhouses, low-rise and high-rise buildings. Much of the advice offered may also be helpful to owners of single-family homes.

The series focuses on exterior building maintenance, including cladding, roofs, decks, windows and doors. A companion video series is also available and proving popular with homeowners. These short, informative videos cover a range of helpful maintenance topics and are a good place to start learning about different exterior maintenance issues.

Even new buildings require maintenance. The videos and bulletins explain why maintenance needs to be performed on a regular basis and what components of the building need to be maintained. They also include tips and checklists to help you stay on track with important maintenance requirements, along with practical guidelines for hiring professional contractors.

"During the life of every building, owners are asked to make decisions about maintaining or replacing the various exterior components of their building. In some cases these decisions may affect their monthly strata fees or require a special assessment," explained Wendy Acheson, HPO Vice President and Registrar.

"If owners choose not to invest in maintenance, they may later find themselves paying for expensive repairs or see their home lose value. Owners of newer properties may also not be aware that failure to perform regular maintenance, or not performing maintenance correctly, may limit the building's home warranty insurance coverage."

The HPO developed the Maintenance Matters series in conjunction with Canada Mortgage and Housing Corporation, Polygon Homes and building envelope consulting firms. Bulletin titles include:

- #14: Avoiding Exhaust Duct Problems
- #13: Window and Door Replacement
- #12: Reducing Energy Use in Multi-unit Residential Buildings
- #11: Creating and Implementing a Building Envelope Maintenance and Renewals Program
- #10: At-Grade and Below-Grade Assemblies
- #9: Exposed Wood Structures
- #8: Cladding
- #7: Building Envelope Maintenance and Renewals Planning
- #6: Decks and Balconies
- #5: Sealants
- #4: Residential Windows and Exterior Doors
- #3: Avoiding Condensation Problems
- #2: Maintaining Your Roof
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Companion videos are available for many of these topics and additional videos will be added over time.

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To be notified by email when a new Maintenance Matters bulletin is available, go to Email Subscriptions at www.hpo.bc.ca. Videos about various maintenance topics can be viewed on the HPO website or on YouTube at <http://www.youtube.com/user/bchousing1>. You can also follow the HPO on Twitter @HPO_BC.

About the HPO

The Homeowner Protection Office (HPO) is a branch of BC Housing. The HPO's mandate is to help bring about improvements in the quality of residential construction and increase consumer protection for buyers of new homes. The HPO administers the Homeowner Protection Act and licenses residential builders, makes third-party home warranty insurance mandatory on all new homes constructed in British Columbia, and carries out research and education to benefit BC's residential construction industry and consumers.

BULLETIN SUBSCRIPTIONS - VISOA provides 4 information-packed bulletins each year.

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What is CMHC?

By Mike Janes, The Condo Group

You have no doubt heard about Canada Mortgage and Housing Corporation (CMHC), whether in the news or when you bought your first house or condo. CMHC is a Crown Corporation that insures private lenders (like banks and private capital firms) on mortgages that have less than a 20% down payment. The idea behind CMHC is that people putting less than 20% down on a mortgage are generally perceived as a higher risk to default on their mortgage payments. CMHC insures these mortgages, thus ensuring that private lenders keep giving mortgages to the people that need it most. Put another way: our local Victoria housing market would crash if everybody needed at least 20% down for a mortgage. Not many people I know have \$110,000

stuffed away for a down payment on their first home.

Although not the only mortgage insurer in Canada, CMHC is a massive corporation. As of 2009, CMHC is the largest Crown Corporation, with over \$26 billion in assets. In 2010, it had an annual financial surplus of \$2 billion. Needless to say, its decisions on whether or not it will insure a mortgage has large repercussions for the market in general. By far, the most affected real estate sector is the strata property.

For example, not many people know that it can be difficult to get CMHC to insure a mortgage in an age-restricted building. CMHC's reasoning (which I generally agree with) is that age restrictions decrease the pool of buyers that can purchase the unit

if the mortgagee defaults, thereby increasing the risk for CMHC. That being said, to paint every condo building with the same brush is dangerous and can lead to condo owners having a very hard time selling their units.

Another example of a CMHC policy is remediation. If there are no documents stating that a remediation is required on a

90's-built building, CMHC is generally okay with insuring mortgages at that address. That is a scary thought, as many buildings are all too happy to stick their heads in the sand instead of dealing with their major issues. If, however, a building has all the funds required to remediate a building whenever they want, but their engineer reports say there is no requirement yet (but there will be a requirement at some point in the future), CMHC may flag the building as too risky to lend on. This is clearly sending the wrong signal to strata corporations to hide major maintenance requirements until the last possible minute.

What shocks me the most is that, while CMHC has these rules in-house, they do not have guidelines for strata corporations to know what CMHC likes and doesn't like in terms of buildings. If the nation's largest insurer can decide what buildings effectively won't get financed, shouldn't they let us know their criteria? Wouldn't it be nice for a strata corporation to know that the bylaw they are about to adopt is going to cost them tens of thousands of dollars when they go to sell, because the only people that can buy their units need to buy with at least 20% down or cash?

Mike Janes is a Realtor with The Condo Group and can be reached at 250-382-6636. For more information on CMHC: <http://www.cmhc-schl.gc.ca/en/index.cfm>

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Do Frugal Stratas Waste Money?

By Hillerie Denning

“Many strata corporations in Greater Victoria, particularly those that are self-managed tend to be frugal in their expenditure decisions on maintenance and renewal projects.” That observation was made by the staff of RDH Building Engineering.

Unknowingly, those stratas considering taking the frugal approach may not be saving money but wasting money.

That is the feature topic of RDH’s next free information session.

Related questions that will be explored include:

- When is it okay to defer maintenance and when is it not okay?
- If owners won’t be there more than a few years, will they save money by not voting to increase the annual contingency reserve fund contributions?
- Will it be cheaper to tender repair work themselves?
- Will they save money by not having their repair work inspected?
- Will they save money by not having a depreciation report?
- Is it cheaper for a strata to postpone repainting?
- Will a condition assessment devalue their property?
- Is it cheaper to have a handyman perform all reviews rather than having an engineering company perform some reviews?
- Will they save money by not paying for a pre-warranty expiry review?

RDH is offering **Free Evening Sessions** to help point strata corporations in the right direction regarding their capital planning and expenditure projects.

If you would like to check out whether your strata might be “penny wise and pound foolish”, contact RDH to find out when the next information session is scheduled. To reserve your spot, or to request more information, contact Hillerie at (250) 479-1110 Ext. 256 or hdenning@rdh.com

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In our May Bulletin, we introduced you to Maurice Management but in error, some contact information was omitted. Here is the complete introduction, including all relevant contact information for Maurice Management:

MAURICE MANAGEMENT: In the last 10 years through education, experience, and community compassion, strata managers have improved the services they provide to the strata community. We can do better. We can do much better. In the next 10 years and beyond, Maurice Management will lead the strata industry in embracing the strata community's demands for accountability, diligent financial planning and refined management advice. Priscilla J. Maurice, BBA, CEO Managing Broker, Maurice Management Ltd. **250-634-8144** pjmaurice@mauricemanagement.ca - www.mauricemanagement.ca

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How to budget for components that may never need replacing

By Jeremy Bramwell

One of the most often asked questions when we are completing a Depreciation Report is: how to treat building components that will last longer than the complex? The answer starts with an understanding of the difference between these two component classifications: age-defined components and those that will outlast the building. Age-defined components are just that, components that need to be replaced or repaired in a timeline less than the expected life of the building. Painting at every 10 years is an example of an age-defined item. Items like concrete foundations or the suspended slab of an underground parking garage are subject to a different treatment as they will likely last or even outlast the life of the structure. Depreciation report providers have typically been handling them in one of four ways.

1) Some providers ignore them stating that no money is required, so they do not need to be saved for. But there is a possibility of the component requiring some repair work, such as a crack in the foundation, so this method does not make logical sense. On a financial basis, this will keep the strata fees low, but if there is an unpredicted failure of a long-term component, some residents may not have enough money for the special levy.

2) Some providers put in the full cost, but in the case of foundations, this assumes that you can lift up the building, replace the foundations and put back the building, which is unrealistic.

On a financial basis, two things will occur. First, owners will over-contribute to the CRF (Contingency Reserve Fund) with a resulting financial burden that may force some owners to move. The second and more important impact is that of your market value. The market will perceive, correctly, that the strata fees are too high and the result will be downward pressure on the market value of the strata lots.

Experienced depreciation report providers understand an “allowance” is required. This term refers to the possibility of long-term components being damaged and needing replacement, but not total replacement. The amount is a percentage of the total cost, based on the risk of failure. Two methods are accepted globally and here in Canada.

3) The first method is that the actual component is listed in the report as an allowance. A small portion of the full replacement cost is allocated as the allowance in the current year. Within the mathematical modeling depreciation report writers use, the expected replacement period is listed at the end of the life of the building. No replacement cost appears on the cash flow, but is saved within the mathematical model when the required contributions to the CRF are calculated. Many prefer this method as there is full disclosure but it has the flexibility to change depending on the complex’s life.

4) The alternate method is not to put the item in the report, but

the allowance is listed at the bottom of the calculations as an added amount of (for example) 10%. The key to this methodology is to disclose in several places which components this allowance refers to. This methodology lacks the full disclosure of the first method, and can create errors in the mathematical model if not correctly handled.

All stratas have a mix of age-defined and long-term components, so if something does happen to one of the long-term components, the money saved in the CRF for the other (age-defined) items can be utilized, thus minimizing the impact on the strata lot owners for emergencies.

Based on our experience, bare land strata corporations have a low percentage of long-term items requiring allowances, while wood frame apartment buildings have the most. The defining feature often used in calculating the percentage of such allowances is the amount of concrete in a development.

Understanding the impact of allowances is one of the key concepts that a depreciation report provider must understand. This will not only allow age-defined components to be replaced, but will also ensure you have some money in the CRF for unpredictable emergencies when dealing with long-term components.

Jeremy Bramwell, AACI, P.App., CRP is President of Bramwell & Associates Realty Advisors, and heads up the Depreciation Report division. Please email jeremy@StrataReserve-Planning.Com if you have questions.

President's Report



Sandy Wagner

What a hot summer it's been so far! I hope wherever your strata home is, it's keeping cool.

A recent question to our Helpline asked about an owner's right to make a hole in the building wall to permanently install an air conditioner – and our Helpline response was this: if, in the opinion of the strata council, the change would be a significant change in the appearance of common property, a $\frac{3}{4}$ vote at a General Meeting would be required...but that it probably wasn't a good idea to be making holes in the building envelope!

In my strata we have two owners who have installed air conditioning units, but they have not installed them through the building's exterior; instead they have installed a board in an open window, and run the air conditioner hose through the board. Not the most attractive solution, and my council wrestled with it when it was first brought up. But in the end, there was no good reason not to permit them. In fact, if an owner had a medical necessity for keeping the room at a low temperature then we would have no reason to decline authorization.

At our downtown Victoria office, we have hired a part-time office assistant to work with our administrator, Evelyn. Donna will work on Mondays and Fridays, while Evelyn continues to work Tuesday through Thursday. Donna will cover Evelyn's vacations, as well as occasional overlapping shifts. We are so proud that our office is now staffed five days a week – and welcome, Donna!

At our AGM, our budget allowed for a workshop for non-members (people thinking of buying a strata) and the membership approved this. We plan to hold this workshop, entitled "Before You Buy A Condo" on September 15th. So many of us had no idea what strata life would be before we bought; in fact the term "strata"

was foreign, hence the name "condo" in the workshop title. If you have any friends who are thinking of a condo purchase, direct them to eventbrite.ca and search "condo" to find registration details (\$30). We will soon have a registration link on our VISOA website as well.

This issue of the Bulletin features several guest authors as usual. My co-editor David and I both wish we had more free time for writing articles, but we do scour the interweb for articles of interest, as well as accept articles from our business members. In this issue, we have an update on the CRT from Chair, Shannon Salter; an introduction to the proposed changes to Ontario's condo legislation by Rodrigue Escayola (with a followup article by VISOA); and an article re-written with the permission of the Real Estate Council of BC, to help strata councils and owners understand the scope of authority of their strata managers.

In addition, the Homeowner Protection Office, RDH Building Engineering, and Bramwell & Associates Strata Reserve Planning have contributed articles; and finally we have included an informative piece about the Canada Mortgage and Housing Corporation's loan guarantee program, written by a local Victoria realtor. Mike Janes explains the reasons why some first-time buyers' loans may not get this protection, depending on some rather confusing and arbitrary rules – rules which could affect the resale value of your strata home.

We recently learned of a Vancouver company planning a Strata Symposium in November, with guest speakers and exhibitors on strata topics. Check out stratasymposium.com for more details.

If you see an article that may interest VISOA members, or if you have any comments on this Bulletin or our member services, please email me at president@visoa.bc.ca

And try to stay cool!

Sandy Wagner
VISOA Board President

STRATA ALPHABET SOUP

BCREA – British Columbia Real Estate Association	LTSA – Land Title Survey Authority
CMHC – Canada Mortgage and Housing Corporation	OF – Operating Fund
CRF – Contingency Reserve Fund	OIPC – Office of the Information and Privacy Commissioner
CRT – Civil Resolution Tribunal	PIPA – Personal Information Protection Act
FAQ – Frequently Asked Question	RECBC – Real Estate Council of British Columbia
FIGOM – Financial Institutions Commission	REDMA – Real Estate Development Marketing Act
HPO – Homeowner Protection Office	RESA – Real Estate Services Act
HRT – Human Rights Tribunal	SPA – Strata Property Act
LCP – Limited Common Property	VISOA – Vancouver Island Strata Owners Association

