

VISOA Webinar: Best Practices for Strata Record Keeping

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Question	Answer
Records, Correspondence and Storage	
Where can I find a list of the documents that the strata is required to keep?	These are listed in section 35 of the Strata Property Act (SPA s35) https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/98043_04#section35
Where can I find the official Regulations that say how long the documents need to be kept?	In Regulation 4.1: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/12_43_2000#section4.1
You mentioned an easy guide that shows how long different types of records must be kept. Where can I get that?	You can view and download VISOA's strata document retention guide here: http://www.visoa.bc.ca/wp-content/uploads/2021/01/Strata-Document-Retention-Guide.pdf

Question	Answer
How long do you have to keep council meeting minutes and minutes of AGMs and SGMs?	6 years
Our Strata just received a building condition assessment from an engineering firm. Does this replace our 6-year old depreciation report? Or do we need to keep both?	You must keep both of these. These are listed as separate items in SPA s35. See 35(2)n.1 [depreciation reports] and 35(2)n.2 [other reports such as engineers' reports]. Also https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/98043_04#section35 Also note that commissioning a BECA does not relieve the strata of its obligation to obtain a depreciation report.
Can copies of records be stored in digital format only?	You are not required to store records in more than one format. However, it may be good idea to keep both digital and paper copies just in case certain types of digital storage become obsolete. Hopefully you don't have anything stored on a floppy disk!
Are paper copies of any particular records required, or can all records be digital only?	Answered above.
Are there companies that can be retained to store strata documents online?	Yes. Two such companies are "Strata Commons" and "StrataPress". You can find them in VISOA's business directory: https://www.visoa.bc.ca/?business_categories=visoa-business-members-directory OR go directly to their sites: www.stratacommons.ca www.stratapress.com You can also do an online search for "strata document storage" which brings up many results.
What constitutes correspondence?	Any letters or emails between council and owners, council and the property manager, council and contractors, also between the property manager and owners. Emails between council members are not.
If emails are considered correspondence, what are the requirements for retention? Do they have to be saved as pdfs or printed off?	When the Strata Property Act was created in 1998, the Regulations did not contemplate emails. You can store them in the email account which normally has a good search function, save them as a pdf document or print them and file them. Council can decide how and where you want to store them.

Question	Answer
<p>We have not been printing/ keeping all emails of correspondence unless it involves a decision. For correspondence that requires a decision, we always put it on the next agenda and record the decision in the minutes? Is this sufficient or do we need to keep a copy of the correspondence as well?</p>	<p>It's great that you are recording all council decisions in the minutes but SPA s35(2)k still requires that the strata corporation keep copies of all "correspondence sent or received by the strata corporation and council" and Reg 4.1(5) says that "The strata corporation must retain the correspondence referred to in section 35 (2) (k) of the Act for at least 2 years."</p>
<p>As secretary I get a lot of correspondence from owners but I think much of it is unimportant. Do I have to keep all of it?</p>	<p>Yes. See above. You must keep all correspondence for at least 2 years. Council could purge it after 2 years but there may be some correspondence that is important enough that council wants to keep it longer than that.</p>
<p>Is a Council member allowed to keep records of communications (emails) between council and owners in their own email account or on their own online storage site? The strata paid the fee for the storage site. If the council member left the council, should they provide copies to council and/or the management company?</p>	<p>Based on what you are describing, it sounds like this is "correspondence sent or received by the strata corporation and council". Regardless of who is storing it or where it is stored, these are records of the strata corporation and, on receiving a request, the strata corporation must make them available for inspection or provide copies of them. Perhaps the council could ask for the password to the online storage site since it was paid for with strata funds. To avoid this in the future, you may want to consider having a strata council email address instead of using personal email addresses and ensure that more than one council member has the password to the strata's email account. You should also consider this when drafting your strata's privacy policy.</p>
<p>If the strata has no records for an alteration made by a previous owner, and the current owner says it is original /strata's responsibility, but council is confident that it was an alteration done by a past owner, is it on council to prove it is an alteration?</p>	<p>This a legal question that depends on your strata plan, bylaws and the history of your strata. It would be best to get legal advice.</p>
<p>Can a strata require owners to provide maintenance records for their alterations, for example an enclosed balcony? And then can the strata provide them to prospective buyers?</p>	<p>The strata must keep copies of indemnity or alteration agreements as they are written contracts. The Form B must disclose "any agreements under which the owner takes responsibility for expenses relating to alterations to a strata lot, the common property or the common assets". However, an owner's maintenance records for their strata lot are not listed in SPA s35 as records that the strata is required to keep. Your bylaws may or may not require an owner to disclose certain information or records to a buyer.</p>

Question	Answer
<p>Are there any bylaws or rules that you suggest adding in regards to record keeping?</p>	<p>That is a legal question that depends on the makeup of your strata. For example, some stratas have added a bylaw requiring that they keep the sign-in records for general meetings. You could potentially have bylaws about who has passwords to email accounts, how and where information is backed up, and what types of paper records they want to be kept.</p>
<p>Requests for Records</p>	
<p>When calculating the deadline to provide documents, do you count business days or calendar days?</p>	<p>Calendar days. Note the word "within". SPA s36 says "The strata corporation must comply with a request under subsection (1), (1.1) or (2) within 2 weeks unless the request is in respect of bylaws or rules, in which case the strata corporation must comply with the request within one week."</p>
<p>What would be some examples of records that a strata keeps, that an owner is not entitled to?</p>	<p>Your strata could be keeping invoices, maintenance records, AGM sign-in records, ballots, list of owner's phone numbers or email addresses and emergency contracts, vehicle license plate details, perhaps even owner's banking information for pre-authorized strata fee payments. These are records that an owner is not entitled to. Basically anything not listed in s.35 is not required to be provided to an owner.</p>
<p>You said that the strata or manager can charge up to \$0.25 per page for copies of records. Is that just for paper copies or digital files as well?</p>	<p>The case law is conflicting on this. I have seen some CRT cases that specify the strata cannot charge an owner for digital copies, and others where it was permitted. A best practice would be to charge only a nominal fee, and perhaps not the full 25 cents per page for digital files if you can obtain and send quickly. Remember the Regulation is "up to" 25 cents per page.</p>
<p>How much can be charged for a Forms B and Form F. Where is that information in the Act?</p>	<p>For the Form B, see Regulation 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." For the Form F, see Regulation 6.10 "The maximum fee that the strata corporation may charge for a Certificate of Payment referred to in section 115 of the Act is \$15."</p>

Question	Answer
<p>Do you need a bylaw or rule to charge rush fees?</p>	<p>The drafters of the Regulation did not contemplate rush fees. First, know that a Form B is a legal document and you should be very accurate and careful with its details; you are under no obligation to provide it sooner than the 7 days specified. Your owners could make a bylaw if you wish setting out the amounts of rush fees. However, a rule is not the place to add such a fee. A rule can only govern the use, safety and condition of the common property and common assets.</p>
<p>Our small strata has never charged fees for the completion of Forms B and F. We normally email the documents. Is there a reason why we should charge?</p>	<p>It's up to your strata. If it's a small strata your council might find that these are rarely requested. In a larger strata these requests could be numerous and completing these form can be time consuming. They are legal documents so it's important that they are done correctly.</p>
<p>We're in the process of getting our first depreciation report done. Do all owners get a copy when it's completed?</p>	<p>Under SPA s36 you are required to provide a copy of the depreciation report upon written request. However after receiving a new or updated depreciation report, as a best practice, you should provide a digital copy to all those owners with email, and access to a printed copy for any without email.</p>
<p>If the Depreciation report is a digital file, can you charge a fee for it?</p>	<p>Yes you can charge a fee, but it would be reasonable to charge a moderate flat fee rather than an amount per page.</p>
<p>When a realtor requests documents, can you send them via email?</p>	<p>Yes, you can send documents by email, and most realtors prefer digital files. Just ask which format they prefer. And please note that realtors expect to pay the fee and it should not be a surprise to them.</p>
<p>When a realtor requests records, do they just get agendas and minutes? We don't have a depreciation report because there are fewer than 5 strata lots in the strata plan (4 units). We do have a capital improvements forecast.</p>	<p>The persons who can request copies of records are listed in SPA s36. One of those is "a person authorized in writing by an owner" which could be a realtor. Once authorized, the realtor can then request any of the documents listed in SPA s35. https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/98043_04#section35</p>
<p>Realtors seem to be asking for more and more documents all the time. An everything under the "kitchen sink" approach. Does the strata have to give them everything they ask for?</p>	<p>See above. Regardless of what the realtor requests, the strata only has to provide copies of the documents listed in SPA s35.</p>

Question	Answer
<p>Our strata complex (townhouse) keeps a file for each unit that contains maintenance records for that unit. Is there any reason why these cannot be made freely available to the current owner? Or to all owners?</p>	<p>While there is no requirement to keep maintenance records at all, the strata may wish to keep maintenance records for maintenance that the strata is responsible for. There is no requirement to disclose these, but council may if they wish. It would be unusual for the strata to have access to records for maintenance that the owner is responsible for.</p>
<p>Is it acceptable for an individual council member to provide information to owners when council says no? Specifically, council is drafting proposed bylaws to include in an AGM notice package, and will not provide these until they send the AGM package.</p>	<p>An individual council member should not be acting on their own, or corresponding with owners on behalf of council or (for example) a bylaw committee, unless the council has expressly granted that authority.</p>
<p>Are other owners entitled to copies of emails between the strata council and an owner if a matter is currently being resolved at the CRT?</p>	<p>That is a question best posed to a lawyer.</p>
<p>Are other owners entitled to view communications between the strata council and a lawyer if a matter is currently being resolved at the CRT?</p>	<p>That is a question best posed to a lawyer.</p>
<p>Financial Records</p>	
<p>Should financial records be kept separate from other strata records, and who should have access to them?</p>	<p>Financial records are records of the strata corporation. There is no requirement to store them separately. Regarding access: remember that the strata corporation is responsible for managing the strata corporation for the benefit of the owners and the powers and duties of the strata corporation are exercised and performed by a council. So all council members are responsible for all decisions, records and financials. Typically financial reports are shared with all council members so they can review them.</p>

Question	Answer
<p>Where should you keep all your invoices? Should invoices be filed by vendor?</p>	<p>Just like correspondence and other records, council can decide how and where to store invoices. Typically they would be filed with the financial reports (which may be monthly, bi-monthly, or once or twice a year) but you could also keep copies of invoices in with your maintenance records, vendor files or whatever filing system is approved by council.</p>
<p>Are all council members entitled to see invoices and receipts?</p>	<p>It is reasonable that all council members have the opportunity to review financial reports and invoices.</p>
<p>Can owners request copies of invoices?</p>	<p>See the Supreme Court "Kayne" decision summarized in the slides. Or read the full decision at: https://www.canlii.org/en/bc/bcsc/doc/2007/2007bcsc1610/2007bcsc1610.html?autocompleteStr=2007%20BCSC%201610&autocompletePos=1</p>
<p>When it says we have to keep "books of account showing money received and spent and the reason for the receipt or expenditure" for 6 years does that mean the whole journal ledger from our bookkeeper with every entry?</p>	<p>Yes. The general ledger shows each transaction of funds received (such as each owner's strata fees) and each expenditure. The entries for the expenditures would typically have a very short description of each reason (what the payment was for).</p>
<p>We have an accountant that keep our records, how often should our accountant purge these documents?</p>	<p>The minimum retention timelines in Regulation 4.1 apply whether the records are stored by a bookkeeper, manager or council: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/12_43_2000#section4.1 It's up to council to decide if you want the bookkeeper to store them longer than 6 years.</p>
<p>Can an owner request copies of quotes that council or the manager have received? Such as quotes for services or capital projects.</p>	<p>Quotes could be considered correspondence with the tradesperson or contractor. So under SPA s36, an owner could make a written request for copies.</p>

Question	Answer
Legal and CRT	
What is the website to look up Civil Resolution Tribunal decisions?	The home page is civilresolutionbc.ca , but this will take you direction to the decisions page: https://decisions.civilresolutionbc.ca/crt/en/nav.do
If an owner has requested documents they are entitled to, what are the possible consequences if council does not provide them? Or is not able to provide them?	The Act does not include any penalties to the strata for failure to provide documents to an owner or foe providing them late. The owner's recourse is to take their dispute to the Civil Resolution Tribunal (CRT).
The present council has been doing a good job in keeping records but the past 15 years have been a nightmare - not organized at all. Would we get in trouble for not keeping good records in the past?	That depends on the time retention requirements for the type of records. Some only need to be kept for 2 years. Others have to be kept for a longer time, some permanently. The Act does not include any penalties to the strata for not keeping records for the timelines outlined in the Regulation. Those missing records could be important, so you may want to try to find what you can, by speaking to former council members or long time owners who may have kept copies.
Other	
Creating a council Gmail account requires personal information from whoever is setting it up. I can't see any neutral way to set it up.	The amount of personal information should be minimal. In the past you could enter the name of the strata instead of a person's name and select "rather not say" for gender. It's a good idea to put a phone number and another email address to use for account recovery. But those can be changed at any time if council members change.