



# BULLETIN

News and resources for BC strata owners, councils, and industry professionals



FEBRUARY 2023

Vancouver Island Strata Owners Association

# VISOA Bulletin

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The Bulletin is a digital magazine published by the Vancouver Island Strata Owners Association (VISOA) four times per year.

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VISOA is an independent, non-profit, member-funded society. Formed in 1973, it is the longest-running organization of its kind in Canada. VISOA provides education, support, and advocacy for British Columbia strata owners and strata corporations. As part of its mandate, VISOA meets with government and industry associations, and sits on advisory panels to advocate for BC strata owners and strata corporations.

Membership is open to any resident of BC, strata corporations (such as condominiums, townhouses, bare land, and commercial stratas) and businesses that provide goods and services to stratas. Visit our website or contact us for more information about membership.

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# In This Issue



## 13 Business Directory



### Featured

**On the cover:** A crisp morning with new snow greets Bruce and I for our morning walk from the Mariner Ridge townhouses, overlooking spectacular Cowichan Bay in December 2021.- Charles Ayers

**Disclaimer:** The material in this publication is intended for informational purposes and cannot replace consultation with qualified professionals. Legal advice or other expert assistance should be sought as appropriate.

# ■ Age Bylaws: 5 Things to Consider

by Shawn M. Smith

Following the passage of Bill 44 on November 24, 2022, many strata corporations have rushed to replace or introduce age restriction bylaws. Enacting an age restriction bylaw can be an important decision for a strata corporation. It can also have significant ramifications. There are several things for the owners to consider when proposing and passing one.

## What age?

S.123.1(2) of the *Strata Property Act* (SPA) allows for a bylaw which requires residents to “have reached a specified age that is not less than 55 years”. While 55 is a common choice, the minimum age can be something greater. It could be 55, 60, 65, or even 75.

In choosing an age owners should consider the impact on the community demographic. Will there be enough council members, volunteers, etc.? Will upgrades for mobility be required? What impact might that age have on resale?

## All, one, or some?

A bylaw under s.123.1(2) of the SPA can also apply to

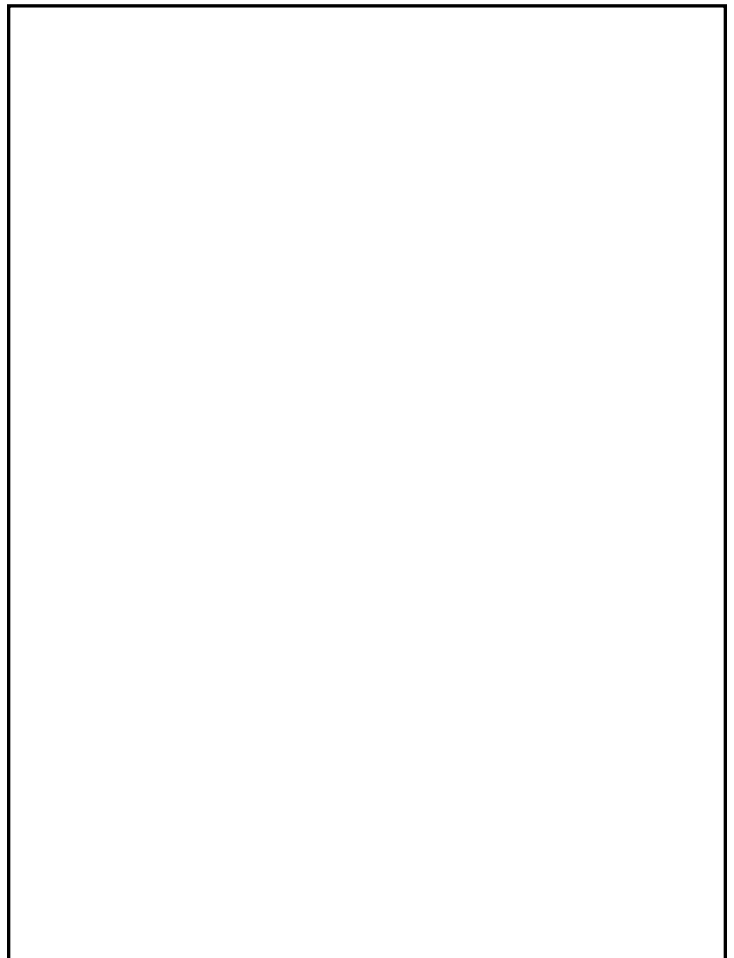
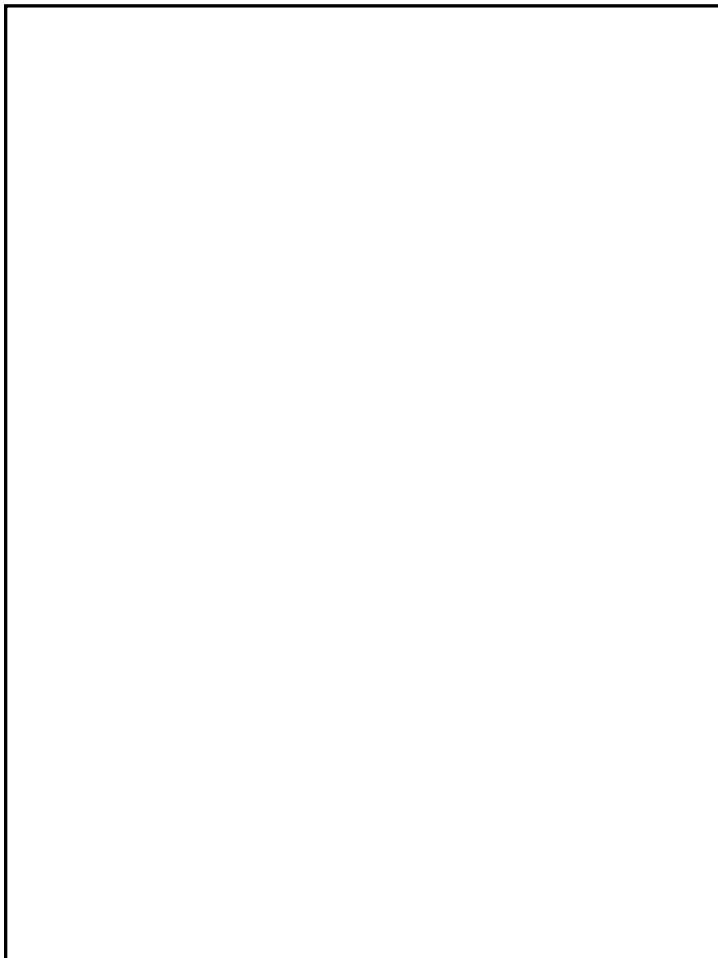
“one or more persons” and require them to have reached that age. A bylaw can require everyone to be over 55. Or it can require just one resident to be over 55. Both can have unintended consequences. If every person must be over 55 the bylaw’s application might prove to be somewhat inflexible. Under such a bylaw an owner could not have a younger spouse or roommate. Conversely, requiring only one resident to be 55 would permit younger residents such as children.

A bylaw could also exclude certain classes of people from its application. For example, it could provide that an owner’s spouse would not have to be 55. However, since the bylaw requires at least one person to be 55 or older, consider what happens if the older spouse dies. The younger spouse would then be in violation of the bylaw.

## What does residing mean?

Residency at common law is a question of fact. As such it can be difficult to know when someone ceases to be a visitor and becomes a resident. That can create

*continued on page 4*



## Age Bylaws: 5 Things to Consider

uncertainty for owners and councils alike in knowing when the bylaw applies. The bylaw could address how long someone can stay in or occupy the strata lot before they are considered to be residing in it. Is that 30 days? 60 days? Are those consecutive days or cumulative days within a certain time period?

Consider also whether council has the ability to extend that period and under what circumstances. How often and for how long? Could that power lead to unintended consequences such as effectively amounting to a permanent exemption?

### **What information will a resident be asked to provide?**

Will an owner be required to present proof of the age of a resident to the strata upon request? Will that be dependent on the strata having received a complaint? Or can it be on mere suspicion?

Will the bylaw outline what an owner needs to submit in order to claim the caregiver “exemption” under [s.123.2 of the Strata Property Act](#)? The exemption is described as a need “for continuing assistance or direction because of disability, illness or frailty”. Or do owners want to deal with it on a case by case basis?

If information is to be provided, thought must be given to how that information gets handled and whether it can be fully protected if requested under s.36 of the SPA.

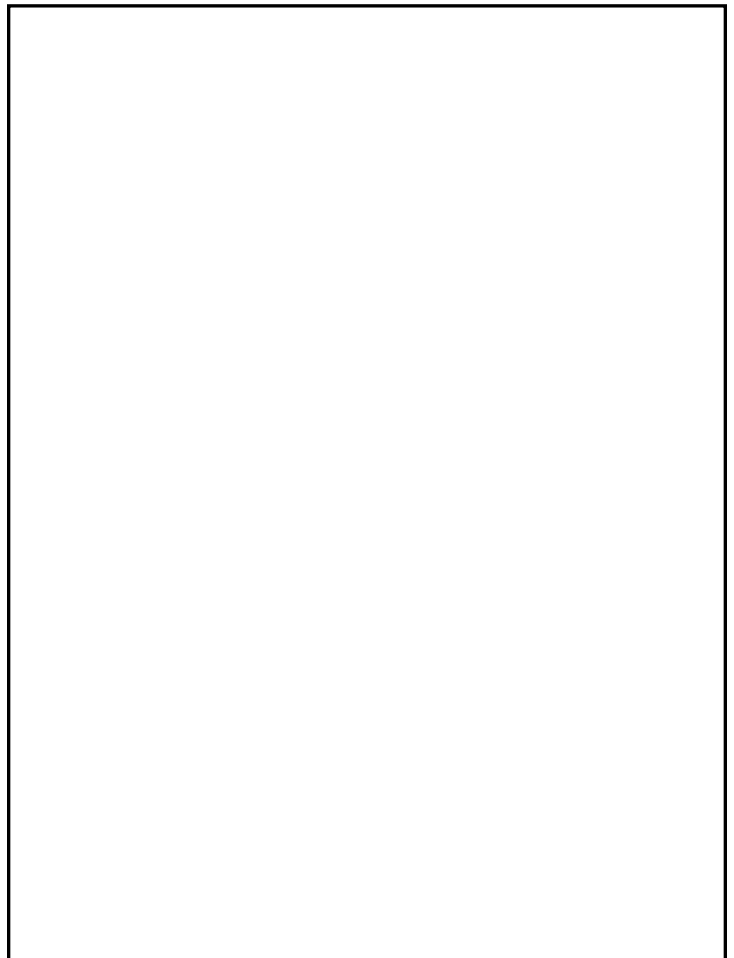
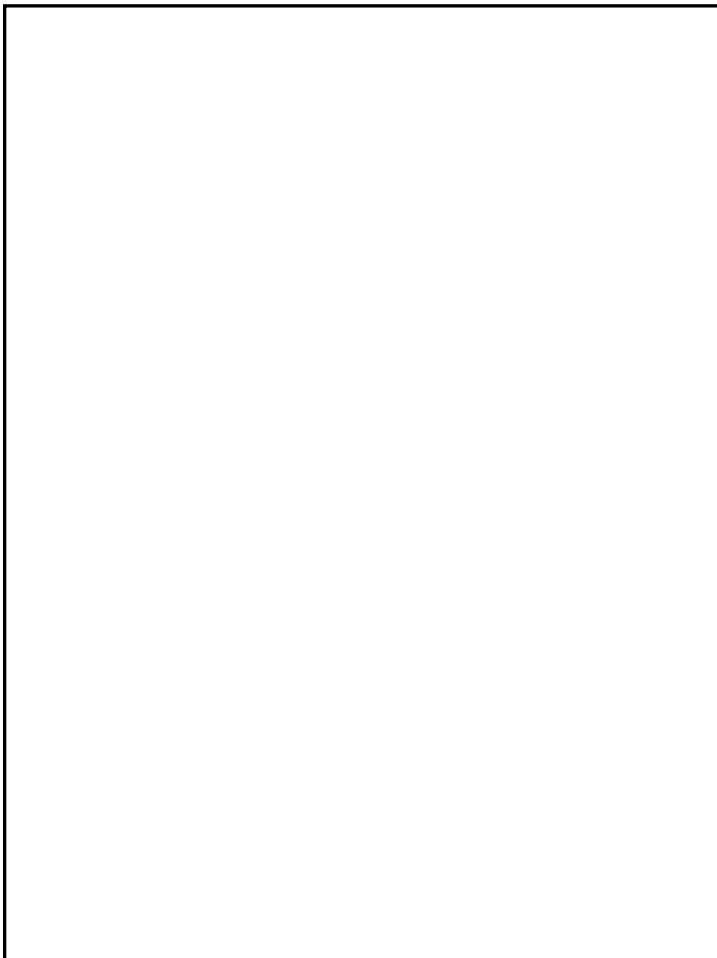
### **Are there alternatives to address owner concerns?**

An age bylaw might not necessarily be the best the way to address the concerns of the owners; whether those be what impact tenants will have, or worries about the behaviour of children. As an alternative, strata corporations could consider bylaws which set a maximum number of occupants in a strata lot, establish quiet hours, or place restrictions on outdoor activities.

Once they have considered these issues, strata councils should seek legal advice when drafting a bylaw to ensure it complies with the SPA and is enforceable. **V**

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*This article is intended for information purposes only and should not be taken as the provision of legal advice. Shawn M. Smith is a lawyer whose practice focuses on strata property law. He frequently writes and lectures for strata associations. He is a partner with the law firm of [Cleveland Doan LLP](#) and can be reached at (604) 536-5002 or [shawn@clevelanddoan.com](mailto:shawn@clevelanddoan.com). T: [@stratashawn](#)*



# ■ Editor's Message

As strata owners, we've all been busy adjusting to the recent changes in legislation: Bill 44 in November and new regulations in January.

Meanwhile the calendar quietly turned a page and suddenly it was 2023, VISOA's 50th anniversary year. It's hard to believe that what began in 1973 as a group of Victoria strata owners wanting to help each other, has grown into the organization it is today. It's a big achievement for a volunteer-run organization and it's worth celebrating all year long.


Volunteers are the heart of our society. We want to honour and celebrate the people who served and led the organization over the years. Every issue of the Bulletin in 2023 will highlight a person who contributed greatly to our society, beginning with our past-president Sandy Wagner.

We also want to hear from you, our members, and our readers. Your stories are our stories. We are all strata owners and collectively we've survived the last 50 years including the leaky condo crisis, the passing of the *Strata Property Act*, the introduction of depreciation reports, the COVID pandemic, and so much more.

Was there a time when a VISOA volunteer helped you or your council through a difficult time? Do you have a story to share about a time you volunteered with VISOA? What are your thoughts about VISOA's advocacy role over the last 50 years?

Send your story to: [editor@visoa.bc.ca](mailto:editor@visoa.bc.ca)

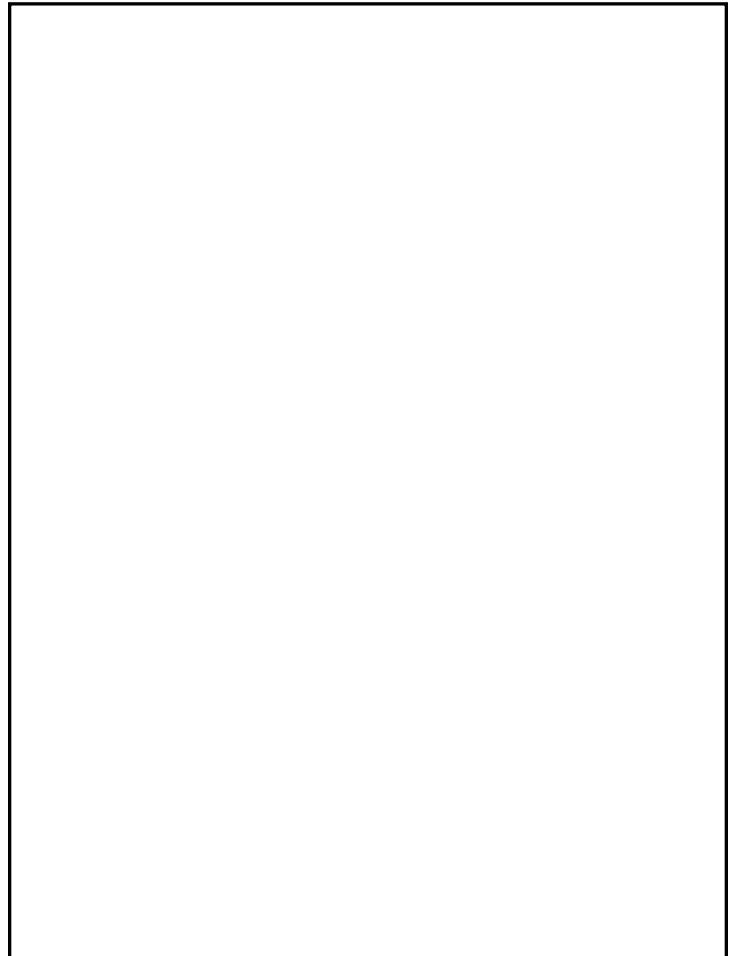
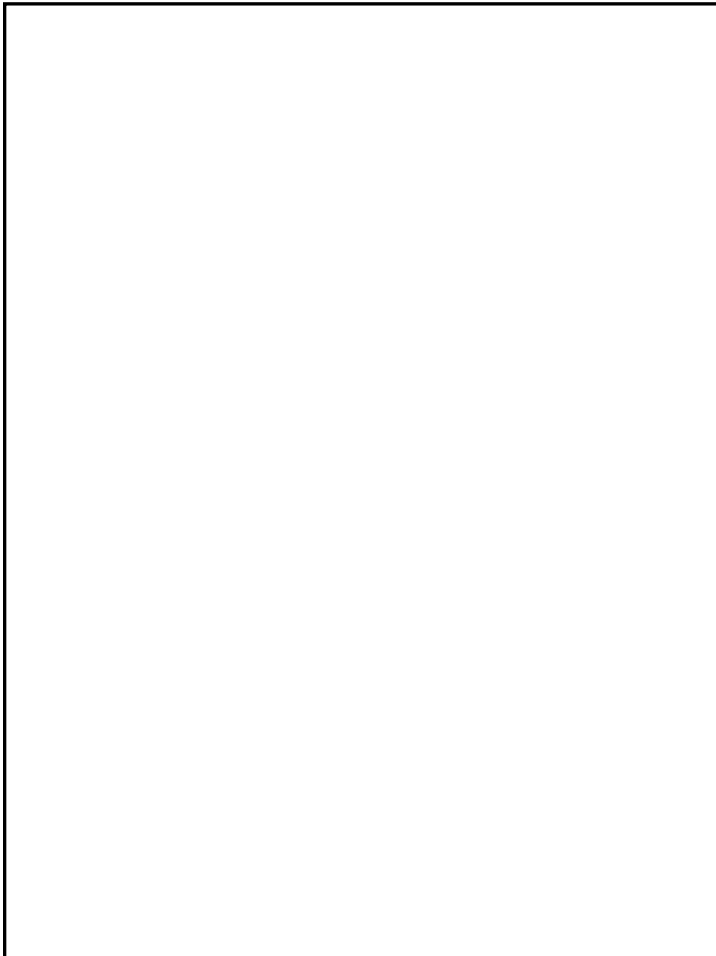
On December 1, we drew the winners of VISOA's 2022 photo contest. Suzan C. won first prize of a one-year VISOA membership for her strata corporation. See her photo on the cover of the November 2022 Bulletin. The second prize of \$50 went to C. Gebbie. See her photo on the cover of the August 2022 issue.

The contest was so popular we're doing it again! See page 17 for details of our 2023 photo contest. 

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*Wendy Wall, John Grubb, and David Stinson, Bulletin and Suite of Services committees, with special thanks to volunteer, Janice Foley.*

*Send letters to the editor, articles for consideration, or suggestions for articles to: [editor@visoa.bc.ca](mailto:editor@visoa.bc.ca)*



# What's New?

Print this poster for your common area so everyone in your strata knows about changes to the Strata Property Act, Regulations, and other legislation.

## November 2022

**24**

**Age Restrictions**  
No age restriction bylaws under 55 years of age permitted.

**No Rental Restrictions**  
Rental restriction bylaws are no longer enforceable.

**Electronic Meetings**  
Electronic AGMs and SGMs are permitted. Certain requirements come into effect in 4 months.

**Bill 44 Passed**

## March 2023

**24**

**Electronic Meetings**  
Requirements related to holding electronic meetings come into effect.

## January 2023

**01**

**Foreign Buyer Ban**  
"Prohibition on the Purchase of Residential Property by Non-Canadians Act" in effect.

**03**

**Cooling-off Period**  
"BC Home Buyer Rescission Period" comes into effect.

**24**

**Orders in Council Deposited**  
New Strata Property Regulations come into effect in April & November.

## April 2023

**01**

**New Form B (Information Certificate)**  
Requirement to include a summary of insurance coverage comes into effect.

## November 2023

**01**

**Minimum Contribution to CRF**  
Requirement to contribute a minimum of 10% to CRF annually comes into effect.

Stay up-to-date with strata news.  
Join VISOA's mailing list at:

[www.visoa.bc.ca](http://www.visoa.bc.ca)



# An Interview with Sandy Wagner

by Wendy Wall

Sandy Wagner served on VISOA's board of directors from 2007 to 2020. Her journey began in 2000 when she attended a VISOA seminar. The Strata Property Act and Standard Bylaws had just come into force. Like many strata owners, she wanted to learn about the changeover from the Condominium Act, and help her strata review and file new bylaws. She continued to attend VISOA seminars and sought help from VISOA's helpline when she had questions, particularly when there was a sticky situation at her strata.

In about 2006, Vice-President Felicia Oliver jumped at the chance to recruit Sandy to assist on VISOA's helpline. Having received support from Felicia and other knowledgeable helpline volunteers over the years, Sandy saw this as a chance to repay the favour. In 2007, Sandy was elected to the board of directors, an experience she describes as "an incredible education for me."

## Depreciation Reports

In 2012, the year that Sandy was elected president, VISOA membership surged by more than 10%. The

provincial government had just brought regulations into effect requiring strata corporations of 5 or more units to obtain depreciation reports by December 12, 2013. There was a big learning curve and a time crunch. Sandy recalled the seminars that year. "We put on seminars with huge attendance with lawyers, engineers, and service providers telling us about depreciation reports."

## Educational Workshops

In 2013, the board launched a new education program of full-day, intensive workshops for VISOA members. The first was a workshop for strata treasurers led by Cleve Patterson, an emeritus professor of finance. Sandy enjoyed "getting into teaching mode" and led training workshops for new council members, strata secretaries, and more. She found that getting to know people and answering questions throughout the day was not only useful for the participants, but also provided insight into topics and issues that VISOA could incorporate into its education and advocacy efforts.

## Advocacy

In my view, the biggest impact that Sandy made on behalf of strata owners in the province was her advocacy work. With her personable manner and professional approach, she built lasting relationships with the Housing Policy Branch and industry associations. She was respected and, due to her knowledge, she was invited to participate on a number of stakeholder committees. While her achievements in this area are numerous, there are 2 significant projects which exemplify her efforts.

## Civil Resolution Tribunal

The *Civil Resolution Tribunal Act* was passed in 2012 allowing for the creation of a new administrative tribunal called the Civil Resolution Tribunal (CRT) to resolve strata property disputes. It wasn't until 2014 that the concept for the online tribunal began to take shape. Sandy volunteered on an early steering committee when the CRT was just a "gleam in the eye" of the Ministry of the Attorney General, Justice Services Branch.

Committee members including Sandy from VISOA, and Tony Gioventu from CHOA, helped "work on the CRT's front end technology". This would eventually be known as the CRT's online [Solution Explorer](#). Sandy describes the experience. "It was a boardroom where we stayed for 2 solid days and we put hundreds of sticky notes all over the wall to get the ideas. The ideas of different questions owners would ask and where it would branch them off into all the different paths of information they needed to

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## An Interview with Sandy Wagner

know.” Sandy says she and Tony were the “boots on the ground” describing the typical strata issues that real-life people face.

With the input from Sandy, Tony, and others, the CRT had a better understanding of what they needed to build and what types of claims they needed to be prepared for. On July 13, 2016, the CRT began accepting applications to resolve strata disputes.

### **BCLI Strata Property Law Project**

In February 2014, the British Columbia Law Institute (BCLI) began work on [phase 2 of the Strata Property Law Project](#). Its aim was to address pressing issues in 7 areas of strata property law. The project committee included a diverse range of experts from across the strata property field including Sandy from VISOA and Tony from CHOA. The committee’s task was to consider options for reform of the *Strata Property Act*. The process also included public consultations. By the time the [BCLI project ended](#) in July 2019, the committee had published 5 consultation papers, [5 reports](#), 39 supporting documents, and 206 recommendations to the provincial government for changes to the *Strata Property Act*.

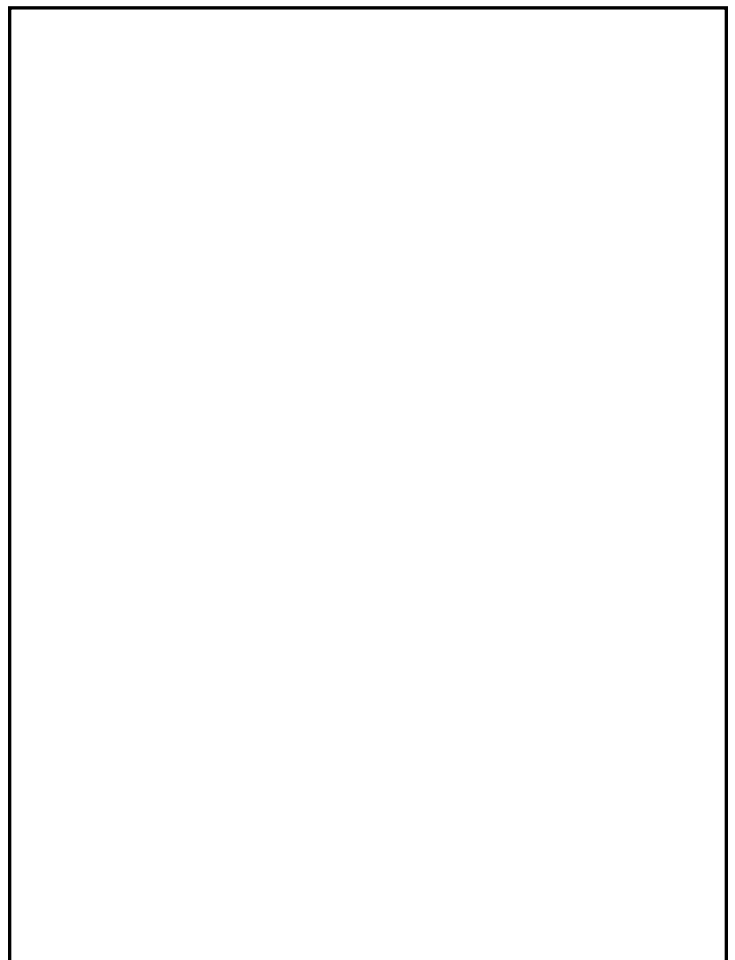
Sandy attended all 60 BCLI meetings. She recalls long

discussions. “The lawyers and managers would have one opinion, but Tony and I would speak up for the strata owners. We’d say, yes but if you do that, this is the effect it will have... or, if you don’t do this, this is the effect it’s currently having...” Proxy farming is one topic that stands out for Sandy, where it was important to be a voice for strata owners. “The committee really wrestled with it. It was a huge discussion that went on for days. Tony and I brought the owners’ perspective. It’s a real problem.”

While not all of Sandy’s suggestions and concerns were reflected in the committee’s final recommendations, there was a greater understanding at the table of the common and frequent real-life issues that strata owners face, and the need to reform the Act to help them.

### **A Legacy**

Sandy’s unassuming manner meant that her work went largely unnoticed by the public. However, her contributions to the strata community over her 13 years serving on VISOA’s board of directors are significant. She was a steadfast leader and a compassionate volunteer. Sandy retired from the board at the end of February 2020. She was, and still is, my mentor. I still have her on speed-dial! From all of us, thank you Sandy. [V](#)





# ■ Short-term Rentals, Long-term Risks

by Shawn Fehr

With easy-to-use platforms such as Airbnb, VRBO, and HomeAway, strata owners may be tempted to use their strata unit for vacation rentals. Actually, these aren't rentals: they are short-term accommodations like renting a hotel room. Municipalities often define short-term accommodation as a period of less than 30 days. Owners should check to make sure zoning and municipal bylaws allow a strata lot to be used for short-term accommodations.

It might appear to be an easy way to make money but there are risks. Home insurance policies have terms, conditions, and exclusions, and most insurance companies aren't interested in insuring units used for short-term accommodations.

## Owner's insurance

Before using a strata lot for short-term accommodations, owners should contact their insurance broker and discuss coverage for:

- Loss or damage to personal property (such as theft, or a guest causes a fire)

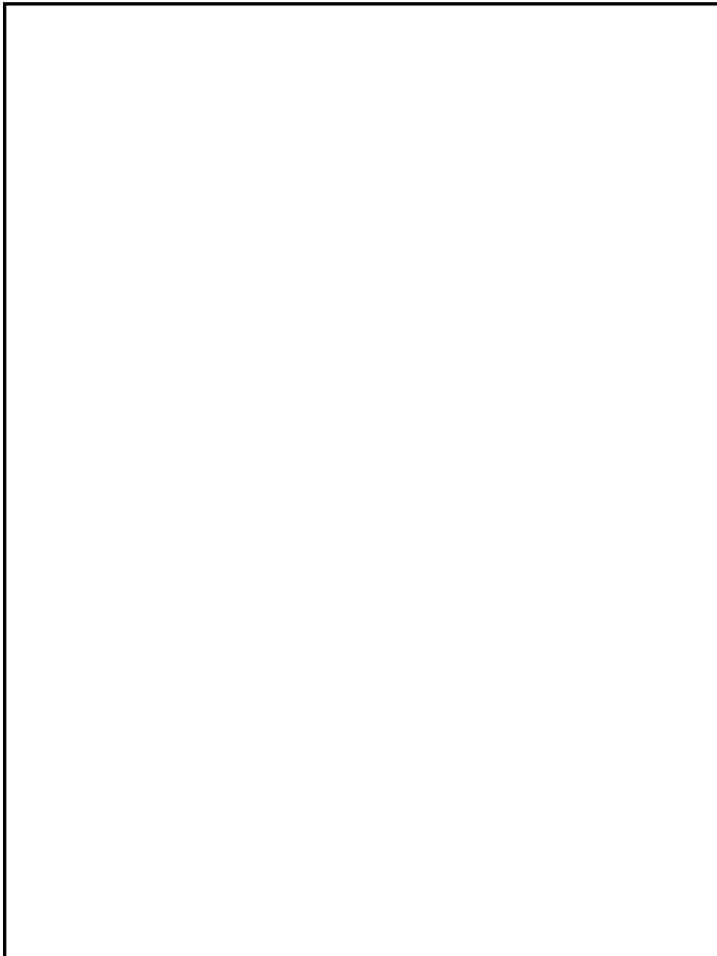
- Intentional or criminal acts (such as vandalism)
- Failure to act (for example, the guest doesn't report a water leak)
- Loss or damage to your building (for example, the guest damages common property)
- Loss or damage to a guest's property (such as a water leak or fire damages their possessions)

While attempts can be made to recover costs directly from the guest, the reality is that the owner will likely be out-of-pocket for any losses.

There are also risks when a unit sits vacant and water leaks or other issues go undetected. These situations can lead to larger insurance claims. It should also be noted that some insurance policies will not cover a loss for units that are vacant for a certain number of days and/or aren't checked on a regular basis.

There are some insurance companies that specialize in insuring short-term accommodations. The policies are

*continued on page 10*



## Short-term Rentals, Long-term Risks

expensive, have exclusions, and may have high deductibles since there are very few insurers wanting to take on the risk.

### **Strata corporation's insurance**

When a unit owner allows a third-party on to the strata property, they are opening the door for several insurance exposures.

**Property Damage:** There have been many cases of vacation rentals that have gone bad. The strata corporation's insurance policy doesn't normally cover vandalism so the strata corporation could be left with significant damage to common property.

**Security:** Building keys and fobs are provided to guests and are often lost. This increases the risk of theft or other security issues leading to insurance claims. Besides, many strata owners aren't comfortable when building keys and fobs are provided to strangers.


**Liability:** While the guest is on the strata's property, the strata corporation has a legal obligation to keep them safe from harm. If that individual suffers bodily injury or damage to their own property, then the strata is

responsible and there could be a general liability claim.

**Harm to others:** What if a guest causes bodily injury to somebody else or damages their property? If they are on the common property when this occurs, and there's a claim, then the strata's liability coverage would be required. If the strata's insurer makes some kind of payment, they could subrogate back against the guest to recover the loss. However, trying to recover money from a guest may be difficult unless the individual or the unit owner carries a liability policy.

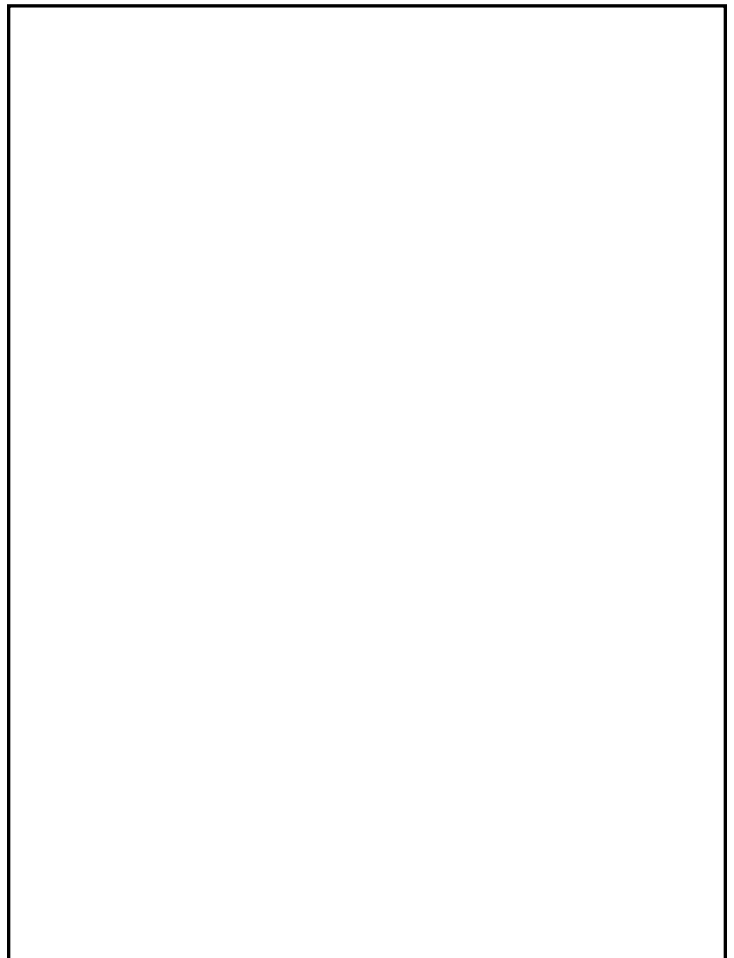
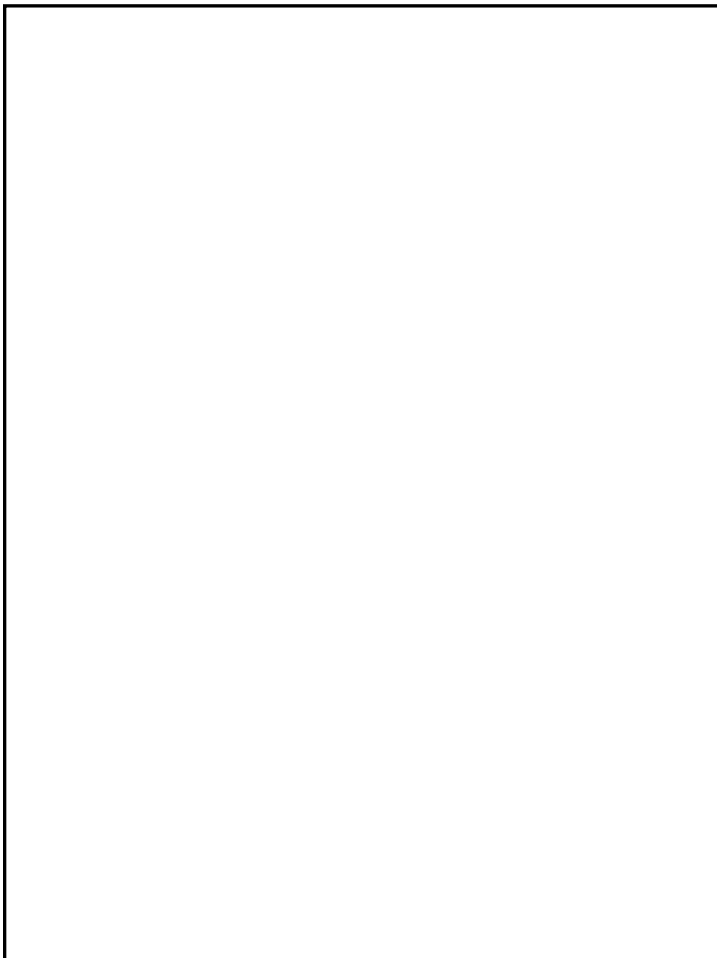
### **Is it worth the risk?**

I encourage strata owners collectively to discuss whether or not to allow residential strata lots to be used as short-term accommodations and pass bylaws as desired.

At the end of the day, in my opinion, the increased risk and insurance complications for both an individual owner and the strata corporation far outweigh the potential benefits. 

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*Shawn Fehr is Vice President of Commercial Insurance at [SeaFirst Insurance](#) and a frequent guest speaker.*



# ■ Introducing New Business Members

## Empress Painting Ltd.

Empress Painting has been providing professional painting services to commercial, residential, and strata customers throughout Greater Victoria and southern Vancouver Island since 1989.

Empress understands the unique challenges faced by strata corporations and councils. They'll help you find the right coverage to protect and freshen up your buildings and interiors ensuring your complex looks fantastic all year long. Their experienced estimators understand how long a project will take, and their professional painters complete the job quickly and cleanly. The Empress team of experts will work with your strata council or manager to coordinate your painting project. No muss, no fuss, just outstanding results.

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## Refresh Law

Oscar Miklos founded Refresh Law in 2020 with the goal of delivering a better client experience for strata corporations and strata owners throughout BC including: relationships built on trust; competent, honest advice; transparent billing; and leveraging new, evolving technologies to deliver a better client experience.

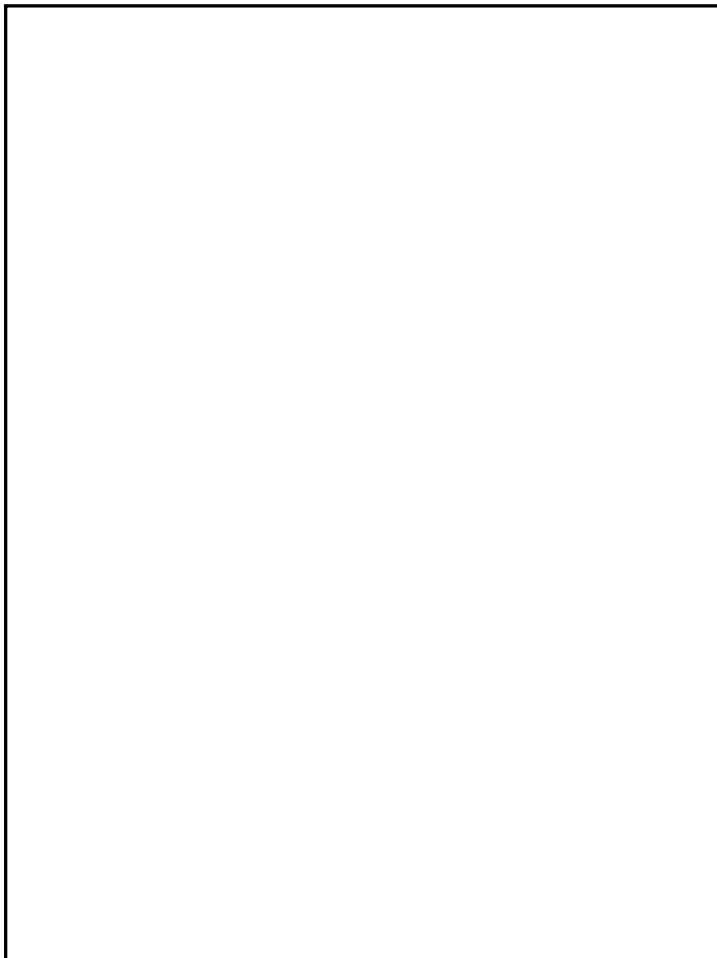
Refresh offers a wide variety of legal solutions to strata corporations from debt collection, bylaw enforcement, reviewing and drafting bylaws, windups, and much more.

They also help strata owners resolve common issues such as fines, chargebacks, and noisy neighbours.

Contact Jennifer Lebbert, based in Comox and serving Vancouver Island, at (604) 800-8096 ext 6 or [jennifer@refreshlaw.ca](mailto:jennifer@refreshlaw.ca)

Contact Oscar Miklos, based in Burnaby and serving British Columbia, at (604) 800-8098 or [oscar@refreshlaw.ca](mailto:oscar@refreshlaw.ca)

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# ■ Introducing New Business Members

## Electric Advantage

Electric Advantage provides professional advisory services to guide and manage electric vehicle charging infrastructure projects for strata corporations and commercial buildings. Their services include project review, coordination with your electrical contractor, configuration analysis, budgeting, cashflow, and outreach to owners and support for project approval at your annual or special general meeting.

They also offer services such as federal grant-writing, project management, administration of the Request for Proposal (RFP) process, annual operations reviews, and carbon credit administration.

Electric Advantage helps owners navigate a wide variety of issues and make informed decisions to achieve the best outcome. They also ensure the strata obtains the best value from contractors and suppliers

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Visit [electricadvantage.ca](http://electricadvantage.ca) to learn more.

## CWB Maxium Financial

CWB Maxium Financial (Canadian Western Bank) is a lender that provides financing options to strata corporations. If your strata is planning a major project and there's a shortfall in your contingency reserve fund, your strata could consider borrowing funds, as permitted by section 111 of the *Strata Property Act*.

Industry-leading financing professionals provide prompt, reliable, creative solutions and make sure each strata's unique circumstances are considered before creating a financing solution. They can present information at council meetings, town halls, or general meetings to answer owners' questions.

As part of the CWB Financial Group of Companies, they have robust funding capabilities and access to capital, allowing them to help more customers in more ways.

Contact Kelly McFadyen at (604) 562-5403 or [kelly.mcfadyen@cwymaxium.com](mailto:kelly.mcfadyen@cwymaxium.com)

Visit [cwymaxium.com](http://cwymaxium.com) to learn more.



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[clevelanddoan.com](http://clevelanddoan.com)

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*(Please note that VISOA does not guarantee or warranty the goods, services or products of our Business Members)*

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[celadonconstruction.com/](http://celadonconstruction.com/)

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[doubleapainting.com](http://doubleapainting.com)

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[electricadvantage.ca](http://electricadvantage.ca)



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(Please note that VISOA does not guarantee or warranty the goods, services or products of our Business Members)

# ■ Snow Removal and Liability for Stratas

by Leah McKenzie-Brown

No one enjoys having to clear snow from their homes. For strata councils, that obligation is heightened as councils take steps to ensure common property walkways and roads are safe. Frustratingly, snow removal contractors may not arrive in a timely manner after a snow event, or at all. While some things are beyond the strata council's control, having a snow removal policy and preparing for contingencies are steps a strata corporation can take to ensure safety and avoid lawsuits.

## Responsibilities of the strata corporation

The strata corporation is an “occupier” with responsibility for, and control over, the common property. Snow removal and salting are the strata corporation's responsibility under the [Occupiers Liability Act, RSBC 1996, c. 337 \(OLA\)](#). The strata corporation should take steps to understand and use best efforts to meet the standard required of it under the OLA. The duty is to reasonably take care to see that its walkways and roads are safe for persons using them. This may include the use of a contractor or volunteers, or a combination of both, to salt common areas and clear snow.



## Slip and fall claims

If a person slips on an icy patch or otherwise injures themselves while on a common property area, a lawsuit may be filed. The strata corporation, and not the individual owners, is named in the lawsuit in addition to any contractors, municipalities, and other parties involved. If the cost to defend such an action is not covered by insurance, or if the judgment amount is in excess of the limits of the policy, then those costs are shared among the strata owners.

## Negligence

Whether the strata corporation's conduct was sufficient will depend on each individual set of facts. Factors such as the contract with a snow removal company, snow removal policies, frequency and follow-through are important to a finding of whether the strata corporation was negligent.

The terms of the contract may govern whether the contractor may be found responsible under part 5 of the OLA. See [Pavlovic v The Owners, Strata Plan LMS 2211, 2022 BCSC 1368](#) paras 41-47. The terms of the contract will be relevant to findings of liability which may ultimately rest with the strata corporation.

If a claim is made, other factors may be considered by the court (and insurers considering settlement or trial) including whether the injured party contributed in some way to the incident. Such factors may be beyond the control of the strata corporation. It can, however, do its best to ensure that walkways and roads are cleared, occupants and visitors are safe.

The obligation to see that a person is reasonably safe on the premises is not one of perfection. The strata is not an insurer against all risks. See [Foley v. Imperial Oil Limited, 2011 BCCA 262](#) at para. 28, and [Binichakis v. Porter, 2015 BCSC 750](#) at para. 42. To avoid a finding of negligence, councils should consider the sufficiency of the snow removal policies they have in place, whether adequate care is being taken to follow through with them, and what unforeseen events will be mitigated by the plan.

## Insurance

Obtaining insurance coverage for liability for bodily injury is mandatory under section 150(1) of the [Strata Property Act \(SPA\)](#). Slip and fall claims are generally covered by the strata corporation's insurance, including the legal costs to defend of the claim and the judgment or settlement amount. Payment of the deductible is a

continued on page 16

## Snow Removal and Liability for Stratas

common expense paid from the contingency reserve fund or by special levy based on unit entitlement.

Coverage is not absolute, however. While less common in bodily injury claims, if the strata corporation is found to be in breach of its obligations under its insurance policy and coverage is denied, then the cost to defend the law suit and the judgment amount will be shared among the owners. Under section 166(1) of the *Strata Property Act* “a judgment against the strata corporation is a judgment against all owners” and money payable under that judgment will be proportionate to ownership (unit entitlement).

It is a good practice for councils to have a discussion with their insurance agent to become familiar with the strata’s obligations under the insurance policy, and learn what constitutes a breach. A breach is a serious matter and should be properly understood.


### **Snow removal policies**

A strata corporation should have a policy on snow removal. This may include hiring a contractor and having a backup plan, such as the use of volunteers, in case the contractor does not attend as expected. Simply having a

snow removal contract in place may not be sufficient.

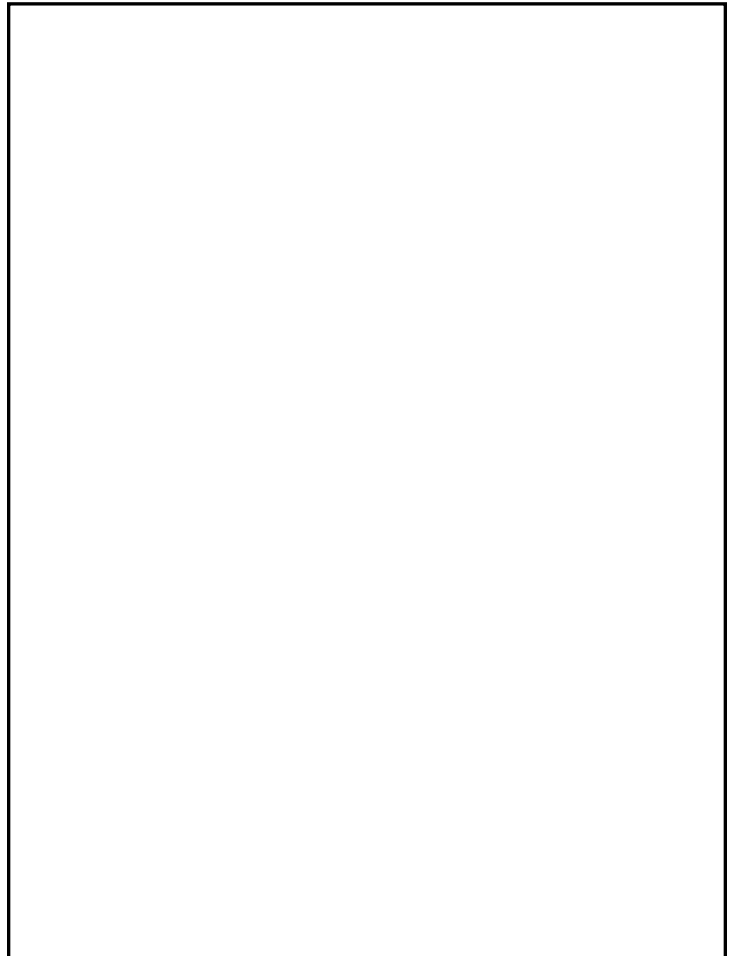
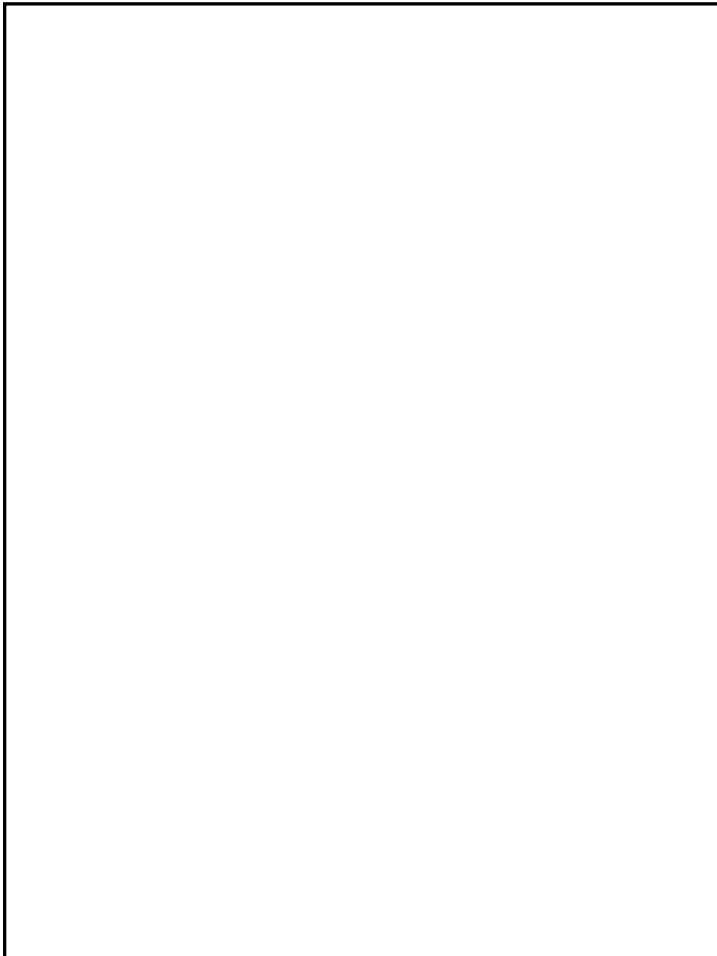
### **Volunteer accident coverage**

Volunteers may sustain an injury in the course of assisting the strata with certain activities like snow removal. However, because these injuries arise in that capacity, rather than under the *Occupiers Liability Act*, insurance is required to cover any injury claims.

As volunteers are not covered by WorkSafeBC, councils should ensure that the strata corporation’s insurance policy includes volunteer accident coverage. It’s important for council members and volunteers to understand the limits of this coverage. These policies generally cover death and dismemberment but exclude persons of certain ages, usually 70 and over. For those who sustain an injury that prevents them from performing their normal occupation, the coverage for lost wages is relatively low. It is usually paid only after exceeding a period of continuous disability, such as 15 days. 

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*Leah McKenzie-Brown is a lawyer with the law firm [Stratum Law Corporation](#), based in Nanaimo. She can be reached at (778) 841-0805 or [leah@stratumlaw.ca](mailto:leah@stratumlaw.ca)*







## 2023 Cover Photo Contest

Submit your photo of a BC strata to [editor@visoa.bc.ca](mailto:editor@visoa.bc.ca). Photos selected for the cover of Bulletin issues in 2023 will be entered into a draw on December 1, 2023.

**First prize:** a one-year VISOA corporate membership for all owners in your strata.

**Second prize:** \$50



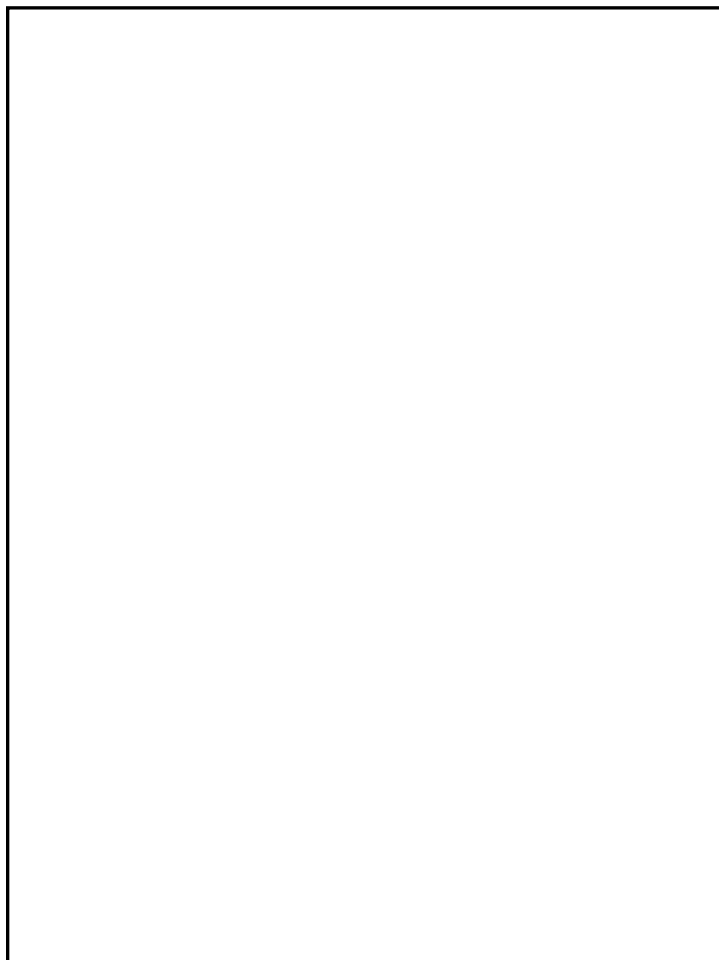
## ■ You Asked

**Q: Now that we can't have rental restriction bylaws, can we charge landlords a fee and require them to have a professional manage their rental unit?**

**A:** Effective November 24, 2022 the changes to the *Strata Property Act* (SPA) mean that your current rental restriction bylaws are unenforceable. An owner does not have to ask council for permission to rent their unit.

**Section 141 of the SPA** says “The strata corporation must not screen tenants, establish screening criteria, require the approval of tenants, require the insertion of terms in tenancy agreements or otherwise restrict the rental of a strata lot.” For example, the strata cannot require the landlord to insert terms in the tenancy agreement such as a minimum period of one year or no smoking. However, the landlord may insert terms as they wish. Regardless, tenants must comply with the strata corporation’s bylaws and rules about noise, smoking, pets, age, use of property etc.

Charging landlords extra fees and requiring them to hire a property manager to manage the rental unit are not permitted as they “restrict the rental of a strata lot”.



Fees that apply to all owners and residents such as a parking stall rental fee, or move-in fee, are permitted as long as they have been set out in a valid bylaw or rule.

Examples of fees that are not permitted would be charging a landlord or tenant an “extra” deposit, administration fees, or increased strata fees.

If you’re not sure whether something “restricts the rental of a strata lot”, ask yourself, “does this bylaw or rule apply to all owners, or is it singling out landlords or tenants?”

**Q: It's expensive for our strata to mail the AGM Notice to 82 units. Can we send it by email?**

**A:** **Section 61 of the *Strata Property Act*** (SPA) lists the permitted methods for providing notice.

Many non-resident owners give the manager or council a different mailing address such as a P.O. Box or the address of their current residence. Section 61(1)(a) lists only two permitted methods to give these owners notice: leaving it with the person, or mailing it to the address provided. Email is not a permitted method for these owners or mortgagees.

Section 61(1)(b) lists seven permitted methods if the person has not provided the strata corporation with an address outside the strata plan for receiving notices and other records or documents. For email, the Act says the notice “must be given to the person...by emailing it to an email address provided by the person for the purpose of receiving the notice, record or document.”

The question then becomes, did the person provide their email address to the manager or council for this purpose? Council shouldn't assume that notice can be sent by email simply because the person has corresponded with the manager or council by email in the past. Many people also use multiple email addresses.

It is a good practice to have an owner sign a form to expressly state that they are providing a certain email address for the purpose of receiving notices and other records or documents that the strata corporation is required or permitted to give to a person under the Act, the bylaws or the rules. The form could make the person responsible for informing the strata of any change of email address, and release the strata corporation of responsibility for emails that go to a spam folder or are undeliverable, such as when a mailbox is full. **V**

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Members can submit questions to the [Strata Support Team](#).

# ■ Strata Bylaws: Single-Family Only?

by Jennifer Lebbert

In November 2022, the B.C. Government amended the *Strata Property Act* (SPA), bringing an end to all rental restrictions in strata properties. This means that all existing rental-restriction bylaws are now unenforceable.

Some owners may be wondering if other bylaws with restrictions are permitted. Can a strata corporation have a bylaw which restricts strata lots to being occupied by a “single-family”? And what is a “single family”, anyway?

## A single-family restriction bylaw

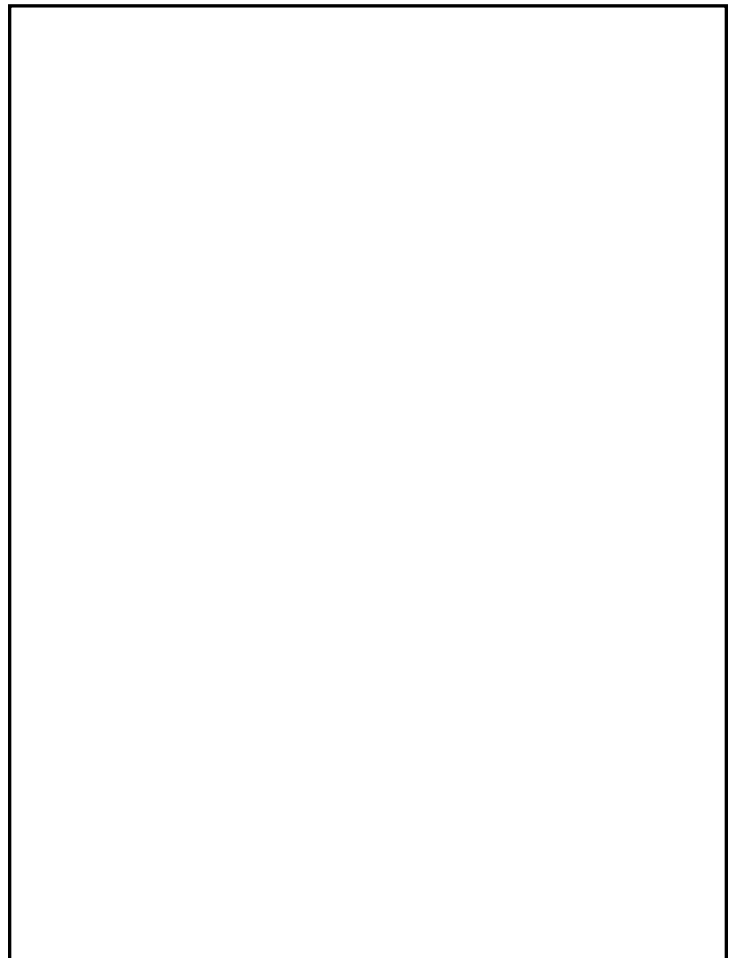
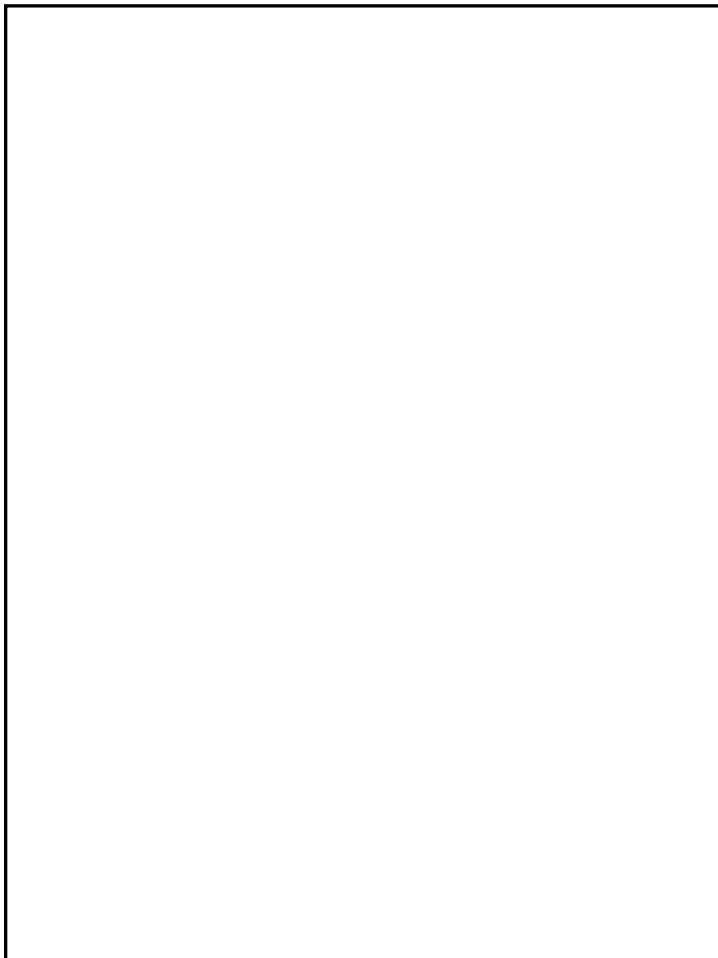
A “single-family” restriction is unlikely to be considered a restriction on rentals. Owners and tenants alike are required to comply with all bylaws and rules of the strata corporation. As for the meaning of “family” in the context of strata bylaws – a recent Civil Resolution Tribunal (CRT) decision, *The Owners, Strata Plan NES 172 v. Pennie, 2023 BCCRT 5* (“*Pennie*”), suggests that “family” can be broad enough to include relationships beyond those with spouses and blood relatives, depending on how the relationship functions.

In *Pennie*, a strata sought an order against an owner

enforcing \$2,400 in bylaw fines for what the strata considered a breach of its bylaw requiring strata lots to be occupied as a “single-family residence” only, and otherwise limiting visitors to stays under 30 days. While the owner first notified the strata that her companion would only be visiting temporarily, she later advised that they were residing in the strata lot together as companions – at which time, the strata began fining her \$200 per month.

The bylaw defined “family” as “including persons who are a spouse of the owner, or a grandparent, parent, child or grandchild of the spouse of the owner”, to a maximum of 4 persons residing in the strata lot. The owner agreed that her companion did not fit within the bylaw’s definition of “family”. However, she claimed that the bylaw was discriminatory based on family status, because it defines “family” so narrowly that it forces owners without a spouse or family to live alone, without the benefits of companionship and emotional support available to those who live with a “family”.

*continued on page 20*



## Strata Bylaws: Single-Family Only?

### A flexible definition of “family”

In determining whether the owner and her companion were a “family”, the CRT in *Pennie* considered another CRT decision – *The Owners, Strata Plan LMS 744 v. Gan, 2021 BCCRT 1338* (“*Gan*”) – which involved a group of renters who occupied a strata lot together. In *Gan*, the CRT referred to Merriam Webster’s definition of “family”, which states: “In many legal contexts *family* denotes “individuals related by blood, marriage or adoption,” but in others the definition may be somewhat broader, encompassing groups of individuals not related by these things.” The CRT concluded: “people do not need to be related by blood, marriage or adoption, as the strata appears to suggest, in order to be considered a family.”

In *Pennie*, the CRT applied this more flexible definition of “family” and found that the owner identified a relationship with her companion in which they were “committed to mutually supporting each other and intended to live together with a degree of permanence, which is essentially a family relationship.” This finding was based on the evidence that the owner and her companion lived together and operated like a “family”, including sharing meals and entertaining friends together. No tenancy agreement was ever signed, nor any rent ever paid.

The CRT considered the bylaw’s goal – to ensure the protection of the single-family community that owners enjoy – and found it would be inconsistent with that purpose if the strata could exclude people who do not fit the bylaws’ definition of “family” but otherwise fall within a “broader category of adults adhering to a single-family lifestyle and the values of such a community.”

### Discrimination under the B.C. Human Rights Code

In addition to finding that the owner and her companion had a “family” relationship, the CRT found that this relationship was adversely impacted by the bylaw because it denied them from living together as other owners with family did – amounting to discrimination under section 8 of the *B.C. Human Rights Code*. The bylaw remained in effect, however the CRT ordered the strata not to enforce the bylaw against the owner to the extent it prevented her from living with her companion (however noting the decision applied to that companion only and not to any other person with which the owner may live).

### Conclusion

When interpreting a strata’s “single-family” bylaw, owners have a right not to face discrimination from their strata – including by means of a bylaw’s narrow or outdated definition of “family”. 

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*Jennifer Lebbert is a lawyer with [Refresh Law](http://Refresh Law). Based in Comox, she serves Vancouver Island and can be reached at (604) 800-8096 ext 6, or [jennifer@refreshlaw.ca](mailto:jennifer@refreshlaw.ca)*

# ■ VISOA's 2023 Annual General Meeting

Are you a member of the Vancouver Island Strata Owners Association (VISOA)? If so, you're invited to our annual general meeting (AGM) on March 5 which will be held electronically by Zoom. The meeting will begin at 1:00 pm and generally wraps up in 45 minutes leaving plenty of time for our guest speaker. There will be a 5-minute break, then the webinar will take place from approximately 1:50 pm to 2:30 pm.

Oscar Miklos of Refresh Law will discuss: **The Airbnb Problem: Strategies for stratas dealing with short-term accommodations.**

Only individual and corporate members in good standing may attend the AGM and the webinar that follows. There is no charge to attend. If you're not sure if your membership is up-to-date, send an email to [membership@visoa.bc.ca](mailto:membership@visoa.bc.ca) or call our office at (250) 920-0688 or toll-free 1 (855) 388-4762.

Attendees must [register online](#) by noon on Friday, March 3, 2023. You will need your Strata Plan number (example VIS1234). After registering, you'll receive a confirmation email providing instructions to join the Zoom meeting. Staff will validate all registrants to ensure that they are

current members and will cancel the registration of any persons not eligible to vote.

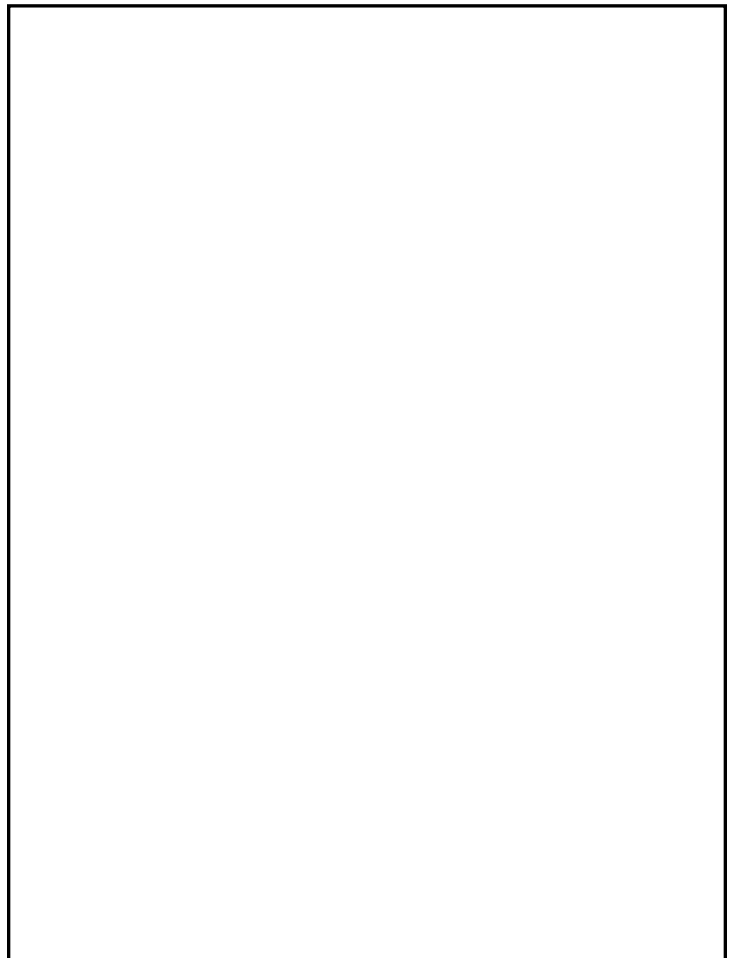
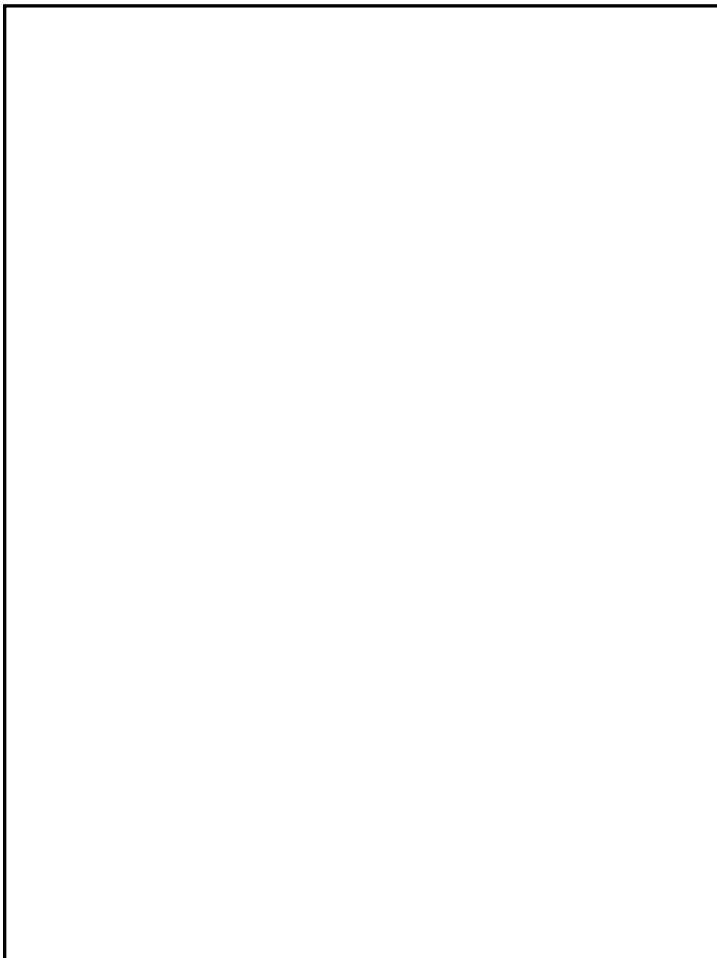
If you don't have access to a computer, please contact our office to register. Call (250) 920-0688 or toll-free 1 (855) 388-4762. We will provide instructions to join the meeting by phone.

Click to download a copy of the [AGM Notice package](#). To have a paper copy of the AGM Notice package mailed to you, contact our office by February 21, 2023.

On Sunday, March 5, please join the AGM a few minutes early using the Zoom web link in your confirmation email. If you don't have a computer, tablet or smart phone you can join the meeting by dialing in from any phone, provided that you have preregistered.

At the beginning of the AGM, the chair will explain the meeting procedures. Voting will be conducted using the Zoom poll feature. Attendees who join the meeting by dialing in from a phone cannot use the Zoom poll feature but may submit their vote to the chair by pressing \*9 (raise hand) on their phone.

See you there! [V Register now.](#)



# ■ President's Message

## Strata Living - How It All Began

As VISOA turns 50, I find myself reflecting on how strata living got started.

I originally thought of 1966 as the birth of strata ownership since that is when British Columbia enacted the *Strata Titles Act*. However, according to an article by [Ted McIntyre](#), the condominium concept dates back to Babylon, where a 4,000-year-old document cites the sale of a first-floor dwelling with the property owner retaining title to the second floor.

The term condominium is derived from two Latin words: cum (meaning attached, supporting, with, together, jointly) and dominium (meaning ownership).

In his 1986 article, the [First Case of Condo Fever](#), Anthony DeBartolo of the Chicago Tribune writes, "Faced with a shortage of land, Roman leaders solved their housing dilemma by passing a law permitting citizens to own individual units in multifamily structures, thus encouraging their construction. Subsequent legislation offered rules for tenant conduct and even established the annual sum each owner needed to contribute to maintain common areas. A deed written on papyrus in

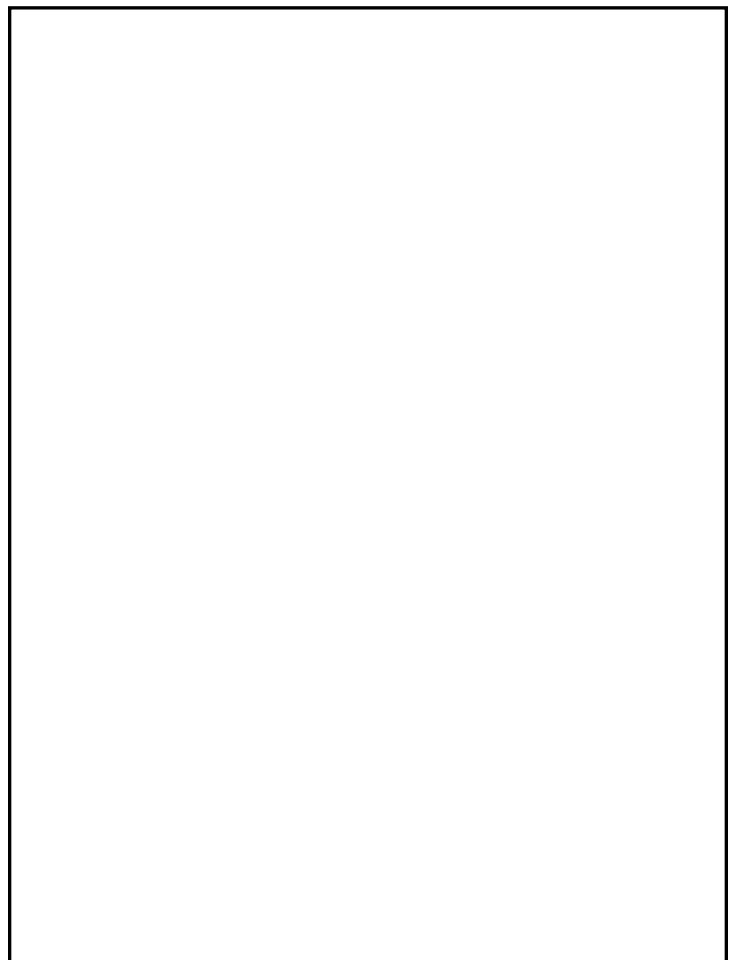
434 B.C. describes an apartment and its boundaries and conditions for sale."

DeBartolo says a second condo wave took shape during the Middle Ages when many Western European cities, such as Paris, developed as walled fortresses out of fear of attack by marauders. As populations grew, land within these enclosed cities became increasingly scarce and valuable, and the idea of dividing a single building into several separately owned homes re-emerged.

It seems that condominium ownership dwindled away and was almost forgotten. However, the concept was revived with the coming of the Industrial Revolution and masses of people returning to cities in search of work. It became an increasingly popular form of home ownership through the early years of the 20th Century in Spain, Italy, Germany, Belgium, France and Britain, and retains its popularity there today.

In 1928, with a booming population and an urban housing shortage, Brazil became the first South American country to pass a law permitting the sale of "horizontal

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## Strata Living - How It All Began


property”, with Chile following suit in 1937.

By the 1960s a series of firsts were taking place across North America. Constructed in 1960, “Greystone Manor” in Salt Lake City, Utah was the first condo in North America. Canada’s first condo building “Brentwood Village” opened in Edmonton 1967.

Toronto’s first condo project was York Condominium 1, built by Bert Winberg in 1968. Winberg had been building multi-family units in Toronto, what they used to call maisonettes. Returning from a trip to California where the state had just brought in a strata plan of title and ownership, he decided that this was a way to increase density of development and to bring the cost of housing down. His son Jack said, “My father was one of the first truly ‘affordable housing’ guys.”

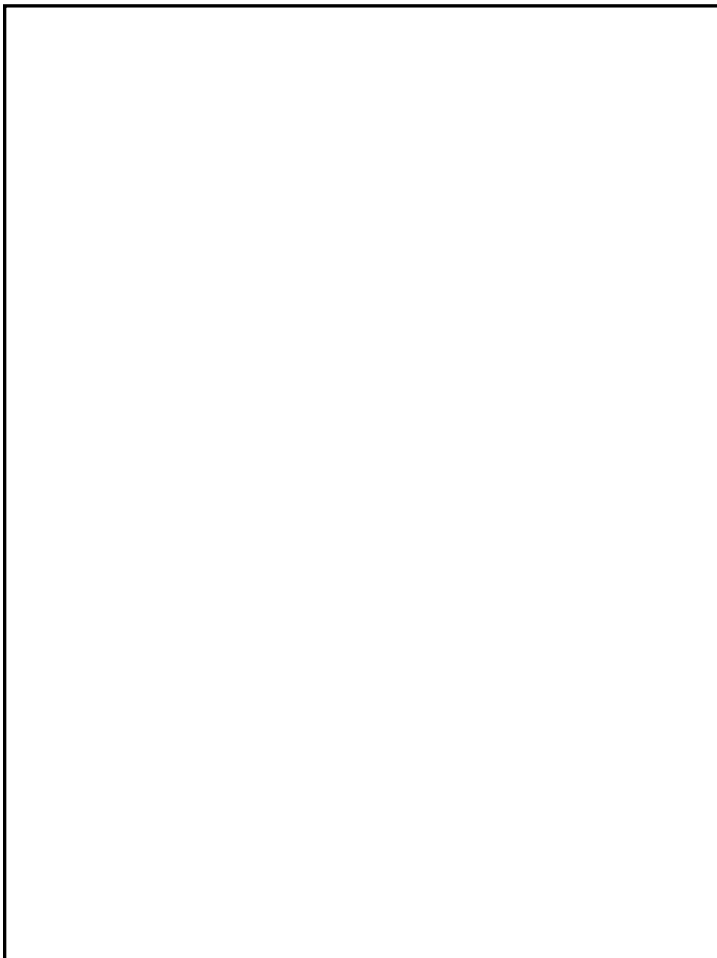
Construction projects in BC started after the *Strata Titles Act* was enacted in 1966. BC’s first strata plan NW 1 was filed at the Land Titles Office on February 29, 1968. Known as “Chateau Place”, these 42 townhouses in Port Moody still exist. The first strata plan filed on Vancouver Island was VIS 1, a 63-unit townhouse complex in Port Alice, also built in 1968.

However, some argue that the [first condo developer in Canada](#) was Lois Milcom. Beginning in 1963, she spent 2.5 years convincing Vancouver city councillors to let her develop 6 townhouses. Built in 1965 at 3267 - 3293 Point Grey Road, they became known as the Point Grey townhouses. While not strata-titled, her experimental project paved the way for strata developments in Vancouver.

In 1973, The Greater Victoria Association of Strata Owners was founded. While our name has changed several times – becoming the Vancouver Island Strata Owners Association in 1998 – our purpose has remained the same. We’re here to share what we’ve learned and support one another through ups and downs. Change is inevitable and over the past 50 years we’ve experienced a lot. Through the *Strata Titles Act*, leaky condos, *Strata Property Act*, depreciation reports, several recent changes to the Act, and so much more, our members have made it possible for us to continue doing what we do. I hope you’ll join us in celebration of 50 years of strata owners helping strata owners! 

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Wendy Wall, VISOA President, [president@visoa.bc.ca](mailto:president@visoa.bc.ca)



## VISOA

### Board of Directors 2022-2023

#### Executive:

- Wendy Wall, President
- John Grubb, Vice President
- André De Leebeeck, Treasurer

#### Members at large:

- George Fisk
- Jim Griffith
- David Stinson

VISOA board members are volunteers. We are strata owners just like you and we are dedicated to helping the strata community.

Learn more about each [board member](#).