



BULLETIN

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



AUGUST 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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On the cover: Heatherdale Estates VIS 6371 is a strata in the Royal Oak area of Victoria with 2 condo buildings and 42 townhouses. This picture was taken from our second floor townhouse window which overlooks the pond and pergola area, a focal point of our strata property. - Louise Langley, strata council president

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.

■ What Strata Corporations Should Know About Telecommunications Agreements

by Jennifer Lebbert, Refresh Law

There has been an expansion of fibre optic services in British Columbia in recent years, which propose to improve the quality and speed of internet services for users throughout the province. Telecommunications companies have been circulating and entering agreements with strata corporations to enable them to install the utilities necessary to provide fibre optic services to residents of the strata corporation.

These agreements are complex and it is important that strata owners understand the risks and their rights before they vote in favour of entering the agreement. Strata corporations should obtain the advice and assistance of a strata lawyer to review and negotiate the terms of the agreement.

Rights of Entry onto Common Property

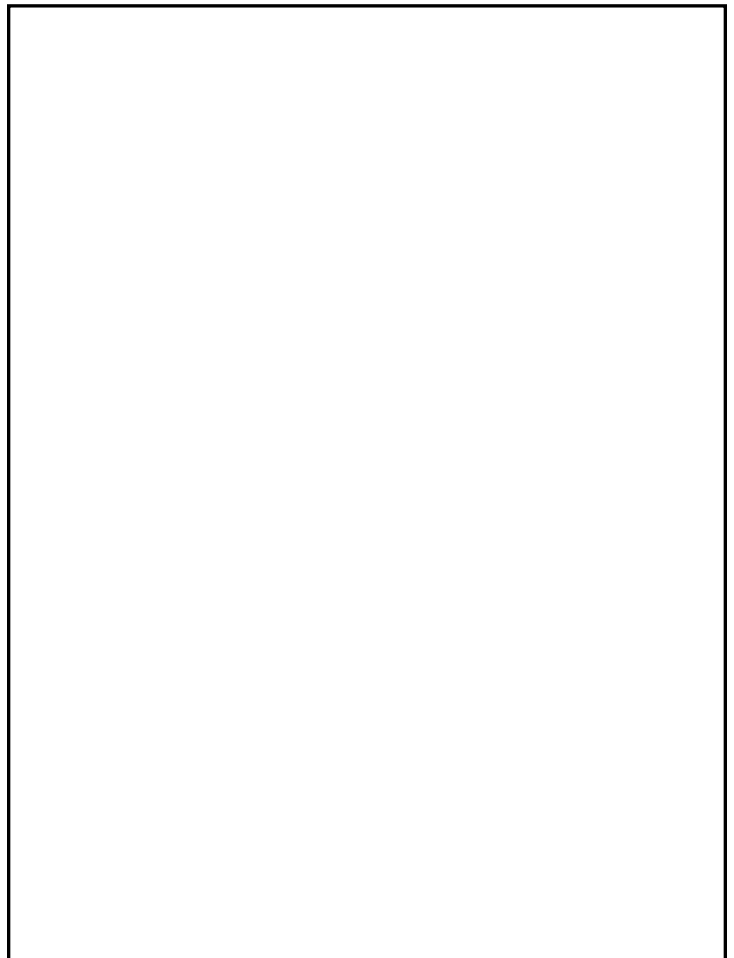
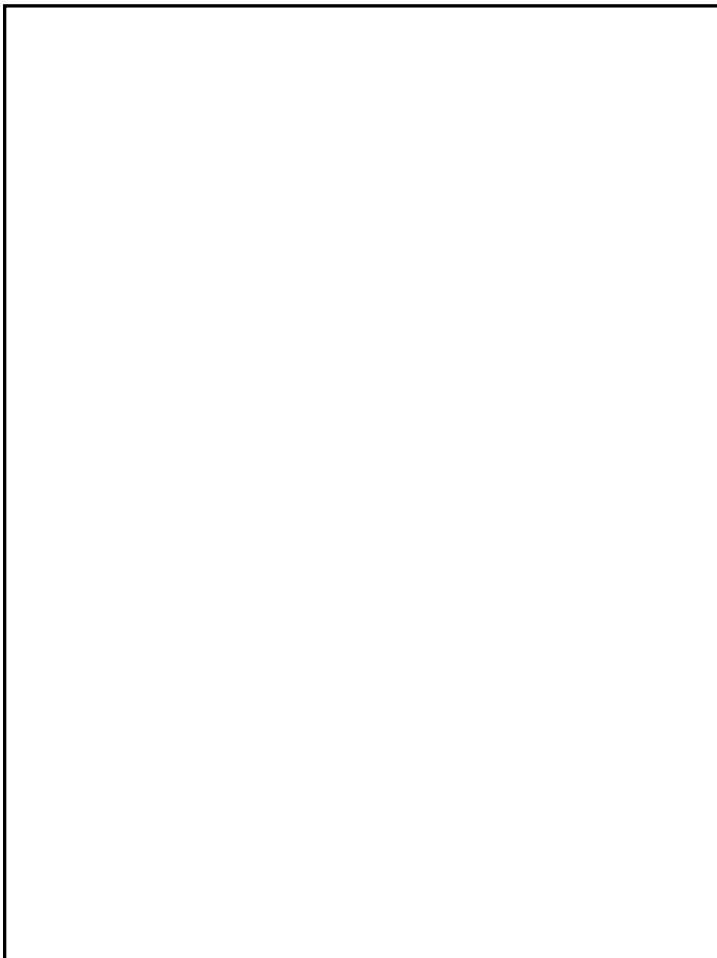
Under a telecommunications agreement, the service provider is generally granted access to the common property of the strata corporation between certain

hours on certain days. Owners should be aware of the specific access rights granted to the service provider under a telecommunications agreement. Any objections to the scope of the service provider's rights to access the common property should be voiced before the agreement is agreed upon by the owners.

Rights to Alter Common Property

Owners should also pay attention to the service provider's right to alter common property under the agreement. Given that the intention of the agreement is to enable the service provider to install wiring and other equipment on the common property, the agreement will need to give the service provider the right to make alterations to the common property. The strata corporation's lawyer can negotiate the terms which permit the service provider to alter common property.

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3/4 Vote Requirement

The access rights granted to a service provider under an agreement are of such a nature that they amount to an “easement”, which is a “disposition” of common property. Pursuant to section 80 of the *Strata Property Act*, a strata corporation may not “dispose” of common property unless the owners pass a $\frac{3}{4}$ vote resolution approving the disposition of common property. As such, a strata corporation cannot legally enter into a telecommunications agreement with a service provider until a $\frac{3}{4}$ vote of approval has been passed.

Owners should also note that, based on the terms of the agreement, the service provider may be granted the right to install telecommunications equipment on the rooftop of the strata property. Depending on the visibility and significance of such an installation, the alteration may be deemed to be a “significant change in the use or appearance” of common property which requires a $\frac{3}{4}$ vote of approval under section 71 of the *Strata Property Act*.

Damage to Common Property or Strata Lots

Owners should familiarize themselves with the portions of the telecommunications agreement which refer to liability for damage caused by the service provider. Your lawyer can explain the risks of signing any agreement which makes the owners liable for damage caused by the service provider’s employees, contractors, or work done on common property.

Exclusivity Clauses


To be compliant with the regulations of the Canadian Radio-television and Telecommunications Commission (CRTC), an agreement for the provision of communications services must not restrict another service provider from delivering their services. Owners must have the freedom to select a service provider of their choice. This means that a telecommunications contract must not include a provision which requires a strata corporation to exclusively contract with the provider under the agreement.

Termination of Telecommunications Agreements

Generally, telecommunications agreements grant the service provider a right to terminate the agreement with notice to the strata corporation, but they do not provide strata corporations a reciprocal right to terminate. Your lawyer can help you review the length of the initial and renewal terms under the agreement, as well as the termination provisions.

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Telecommunications Agreements

There are many benefits to entering a telecommunications agreement which would enhance the quality and speed of internet services available to residents in a strata corporation. Many owners would vote in support of such an agreement. The key is to ensure that owners understand the risks and negotiate terms before the strata corporation enters into the agreement. 

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


Editor's Message

You may have noticed that recent issues of VISOA's Bulletin have included articles by new contributors. We welcome submissions from our readers and subject matter experts. Suggest a topic or send your story to: editor@visoa.bc.ca

We've also welcomed quite a few new business members this year. Their support provides funding towards our operating expenses. Despite rising inflation, VISOA membership fees haven't increased since 2019. We hope you'll check the [business directory](#) from time to time and support the businesses who support you!

2023 has also been a year marked by a growing awareness of VISOA and its services. The [Business Examiner](#) featured VISOA in their July issue and members of [LandlordBC](#) will see our guest article in the summer issue of "The Key". The theme of the [Real Estate Institute of BC's](#) upcoming summer issue of "Input" is stratas and will include an article about VISOA.

We are also grateful to the journalists who conducted interviews with us. While our Bulletin reaches thousands of readers, their media outlets reach a much wider audience. VISOA thanks CBC, CFAX, CKNW, CKLR, Storeys, the Vancouver Sun, the Times Colonist, Global News, CHEK TV and others for the articles and broadcasts that provided information to strata owners, managers, the real estate industry, and legislators.

Most of all, thank you to our readers. We value your ideas and feedback. Contact us at editor@visoa.bc.ca 

VISOA Bulletin and Suite of Services committees are Wendy Wall, John Grubb, David Stinson, and Geraldine Svisdahl, with special thanks to volunteer Janice Foley, and Advertising Coordinator Cindy Young.

■ Strata Rentals Webinar Series for Landlords & Councils

When the *Strata Property Act* (SPA) changed on November 24, 2022, strata bylaws restricting rentals became unenforceable and owners in those stratas suddenly found they were allowed to rent their strata lot. 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.” This means a strata corporation can’t ban rentals, limit the number or duration of rentals, impose conditions on landlords, charge extra fees to landlords or tenants, etc.

The changes to the SPA raised many questions and concerns from strata owners and council members who had no experience with rentals in their residential strata buildings. VISOA’s Strata Support Team continues to answer many questions about how the SPA applies to the rental of a residential strata lot.

About LandlordBC

Questions about a landlord’s rights and responsibilities under the *Residential Tenancy Act* (RTA) however are

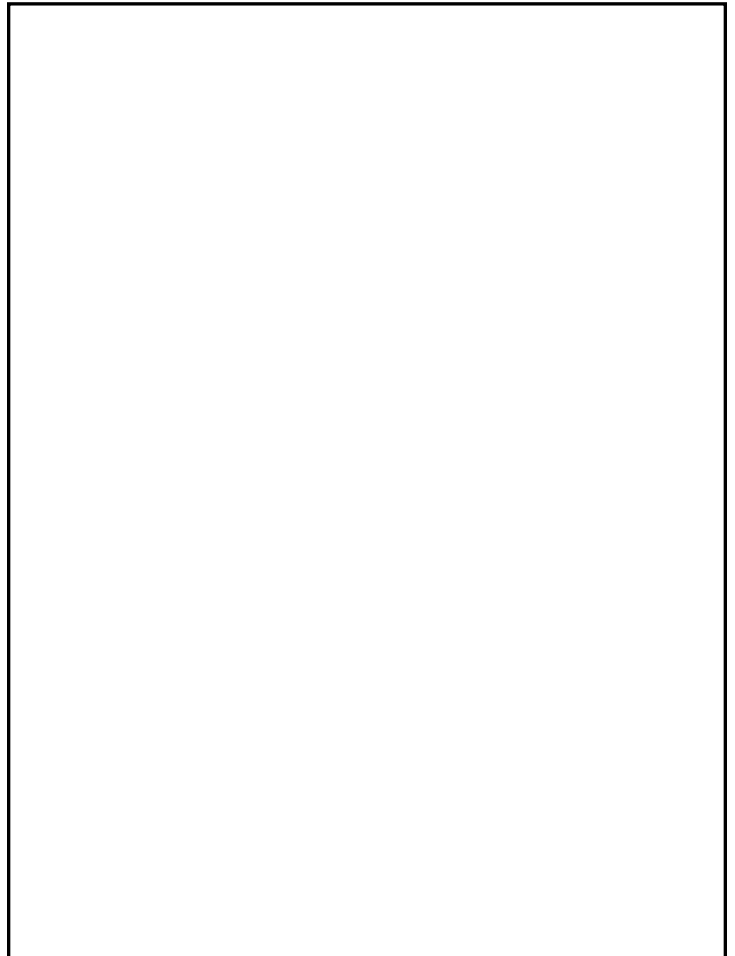
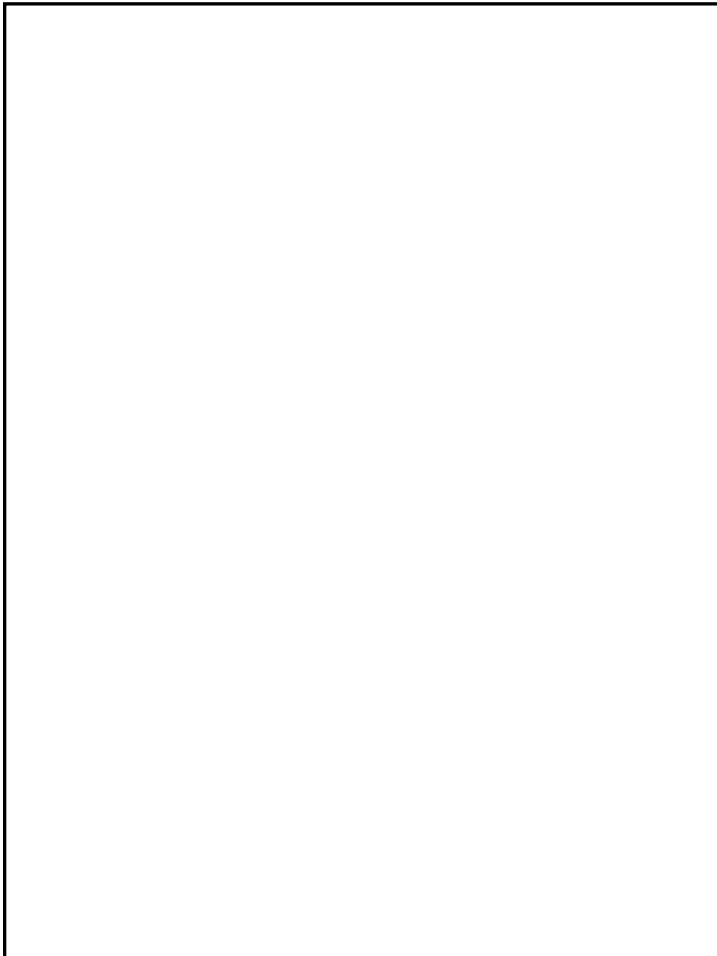
best answered by experts in that area. [LandlordBC](#) is a non-profit association that provides education, resources and support to landlords and property managers whether they have one rental unit or hundreds of rental properties.

The webinar series

LandlordBC and VISOA have teamed up to co-host a series of free webinars to help both strata owners and councils learn about the RTA, the rights and responsibilities of landlords and tenants, and best practices. The goal is to make owning and managing a strata rental property easier for landlords and promote good relationships between landlords, tenants, neighbours, strata councils, and property managers.

Register now for the first webinar [Getting started as a strata landlord](#) at 9:00 am on September 16, 2023 hosted by Hunter Boucher LandlordBC’s Vice President of Operations, and Wendy Wall, VISOA’s President. [V](#)

Also check out LandlordBC’s free online course [I Rent It Right™](#). It provides landlords with the fundamental knowledge of operating a rental housing business in BC.





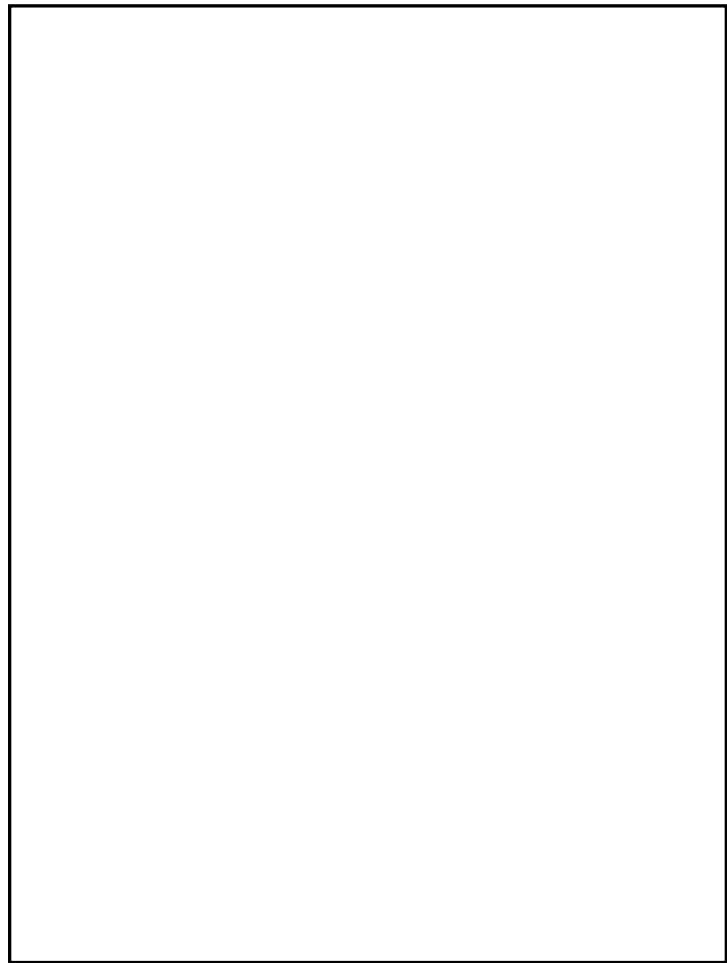
Strata Legislation Then and Now

An Interview with Kevin Zakreski

For 50 years, VISOA's strata support team has answered questions to help strata owners understand and navigate strata legislation. We interviewed Kevin Zakreski, a staff lawyer at the British Columbia Law Institute (BCLI), for a look at the three generations of strata legislation in British Columbia, where it all started, how the legislation has changed along the way, and BCLI's Strata Property Law Projects Phase One and Two (2012-2019).

Generation One: *The Strata Titles Act*

Kevin: There's always an argument whether British Columbia or Alberta was the first province in Canada to adopt condominium legislation. I think it depends on whether you go by the Act passing in the legislature or the Act being brought into force, but in BC we always say we're the first. We were distinctive in that we used the term strata property. BC largely copied that Act from an Australian Act that was enacted in New South Wales. In 1966, BC's *Strata Titles Act* set up the bare bones framework for creating this new type of interest in land. The 1966 Act was quite short, just 25 sections. It really just said to lawyers, here's how you can set up this type



of development and it didn't get much into operating the development.

Generation Two: *The Strata Titles Act (Condominium Act)*

The 1974 Act started to fill in more detail, now having 67 sections. So, you've created this strata corporation but how do you operate it in practice? The Act started to give more direction to strata corporations and councils, to flesh out that framework. It was starting to recognize that we could have mixed-use stratas, phased and leasehold stratas, and the rules for sections and types were starting to be fleshed out at that time. As well, it was the start of the thinking of you're going to have to use this legislation to balance the interests of various groups of people. That's a theme that comes into play later with *Strata Property Act* and that was a big theme in our project as well.

In 1979, the *Strata Titles Act* was renamed the *Condominium Act*. It was in force for close to 20 years. I guess it was in the mid 90s people were starting to say we need to replace it, you know we sort of patched it, we really need a whole new Act, and that was the advent of the *Strata Property Act* in the 90s. So, there is that distinctive history of the first generation of the legislation in the mid 60s, the mid to late 70s getting the second generation, and then the *Strata Property Act* is the third generation.

Generation Three: *The Strata Property Act*

Often, when the government's done a lot of work creating a new Act and they introduce it to the legislature, they say well this is what we intend to do with this Act. The government had three bullet points in 1998 when they introduced the *Strata Property Act*. Boiling it down to what they wanted to accomplish were these three things:

1. reorganizing and redrafting the statute in a plain language, simple to use style,
2. fairly balancing the interests of developers, strata corporations, and owners of strata lots, among others, and
3. providing enhanced legislative flexibility for strata corporations to respond to diverse changing circumstances.

Minister Joy MacPhail went on to explain there were consumer protection concerns flowing out of the leaky condo years and there was a lot of work done on that front that flowed into the *Strata Property Act*. But the three bullet points I think are probably a good leaping

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Strata Legislation Then and Now

off point to what the government was trying to accomplish. [Read the [July 23, 1998 Debates of the Legislative Assembly \(Hansard\)](#).]

I think it's really important for people to understand that they were trying to make it better. It can be hard to evaluate, but when you measure the *Strata Property Act* against the *Condominium Act*, and then look at those three things, I think it's fair to say the government succeeded on those points when it brought in the *Strata Property Act*. [It received royal assent on July 30, 1998 and became effective on July 1, 2000.] Particularly if you're viewing it, not against some conception of what a perfect Act might be, but against what we had in the *Condominium Act* at that time. It's certainly much better organized. I'm conscious that I'm seeing this as a lawyer and a person without legal training might wonder whether it's fair to say that.

What often makes legal statutes challenging to read is they don't fill in the context around the various pronouncements of the law and they kind of rely on lawyers to know what the case law says and understanding various things, but it often leaves people without that training lost. It's often a bit of a paradox: to make something plain language often ends up lengthening it. I think the *Strata Property Act* was much longer than the *Condominium Act* [nearly 300 sections vs. 132] because there was that kind of a sense of trying to structure it in a logical way that went from start to finish in a strata property and filled in some of that context as well. Apart from a handful of other statutes, it's one of the longest pieces of legislation in BC.

The Strata Property Law Project: Phase One

Our project started in the early 2010s when the *Strata Property Act* was still relatively new. We were asked to look at the legislation a bit more long-term. If we could boil it down to one question it would be, "What should go into creating the fourth generation of the Act?"

So, I guess it was a way of asking people whether they were satisfied with the *Strata Property Act* as it stood circa 2010 and whether a law reform body like British Columbia Law Institute (BCLI) would be well placed to do that kind of work. We couldn't really go through all 17 parts of it. To make it a more manageable project we asked what are your top 6 or 7 areas. We had a series of groups come in and act as focus groups for us on those questions and that really gave us the design for phase two.

The Strata Property Law Project: Phase Two

We built phase two around looking at terminating a strata, looking at insurance, governance, and a few other areas.

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Strata Legislation Then and Now

Phase two went on longer than we thought (2013-2019). I think some of the issues we only found once we got into them. The one that really strikes me is the part of the project that ultimately produced a report on sections and types and phases. We did that with the help of an expert committee which immediately made the point that this really hadn't been looked at in developing the *Strata Property Act*. This was almost the first look going back to the 70s and so much had changed since then. It had become a more significant part of the strata sector: it was encouraged by cities to build mixed-use developments. That ended up taking much longer than we had appreciated when we started the project. So the [Report on Complex Stratas](#) is probably highly technical but we think we generated a lot of recommendations that we hope we've given people something to think about.

Recommendations for reform

We published five reports and made 206 recommendations over the course of the project and some of those have been implemented. The [Report on Terminating a Strata](#) (winding up) was the first report we published. BC was one of the few provinces that required essentially unanimity of strata lot owners to wind up a strata. When we were looking at this, we were thinking about the fact that the first stratas were built in the late 60s, early 70s. It was getting to the point where we were seeing those buildings get to the end of their useful lives and we knew there was going to be more demand to use this procedure. But we had in BC enacted a very high bar and I think it was important to move on that and the government did move quickly on that one. The bulk of the recommendations that have been implemented came from that report and I think there were maybe one or two implemented on insurance.

Some of the more far-reaching things we had recommended in the [Report on Insurance Issues for Stratas](#) didn't get implemented but I guess the government made the point that it was responding to an emergency in 2020 [the strata insurance crisis] and wanted to respond in as focused a way as possible. I like to think they're going to have to revisit some of these things.

It's hard to pick our favorites; you know we did a lot of work on governance and VISOA was quite helpful I think in spreading the word around that. I think the [Report on Governance Issues for Stratas](#) got to a lot of things that when you get to the level of the individual owner that they care about.

I have a lot of good things to say about the committee we worked with and Sandy Wagner [VISOA's president at the time] was a part of it. We had so many diverse interests

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Strata Legislation Then and Now

represented and they could make their points clearly and forcefully but they could also work together very well as a team. It was very interesting to hear from some of the experts that worked on the [Report on Common Property, Land Titles, and Fundamental Changes for Stratas](#). We had a planner from the City of Vancouver and a representative from the Land Title Office and they were very strong and forceful on these issues and very good. It was enlightening to hear their perspective and you know it touched on a lot of things that the individual owner probably doesn't think about. However, these issues do affect the broader strata sector and the whole planning environment around it and people who are in touch with that world are quite passionate about those issues.

We ran out of time and didn't get to one thing that was on our agenda. It was the whole issue of leasehold stratas which is rather old in terms of the legislative provisions. I think there's been a renewed interest around using them. As affordability and housing becomes more and more of a concern, the idea of building on some of this public land that is done with long-term leases. It would also be interesting to look at that from the perspective of aligning BC's laws with First Nations indigenous laws, another concept that's come along after our project.

Thoughts on the future

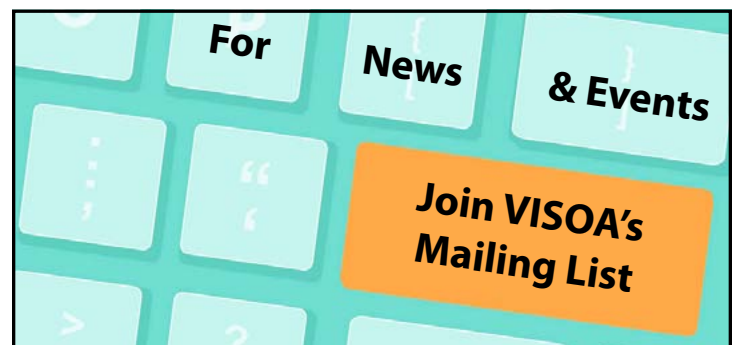
Basically, a shifting landscape is changing the priorities.

There are always issues around the governance. You know the government should respond to that. Sections and types don't have that kind of engagement but they've kind of been ignored for years and years and we think we've come up with a framework that will stand the test of time.

From a public policy perspective, I think when you go back to where we started with what the government's goals are, some of them are around balancing interests and responding to changing circumstances. These are the kinds of things that are going to call for renewal. It's sort of built into a legal framework, more so in real estate law. Real estate lawyers really prize stability and certainty: they like the law not to change. But the strata property area is such a unique corner of real estate law. It's more than just managing legal interests in land because it's also got to manage how people live together and, as the government acknowledges, it's got to balance interests among groups of people. Just the passage of time is going to change the perception of how to best strike that balance. So, I think it's an area of real estate law that's kind of got built into it the need for periodic renewal. [V](#)

VISOA thanks Kevin Zakreski for taking the time for this interview. Visit the [BCLI Strata Property Law Project Phase Two](#) web page to see their 5 reports with 206 strata property law recommendations as well as supporting documents including public consultation papers, and backgrounders.

We encourage our readers to review the recommendations. If you'd like to support certain changes to the *Strata Property Act*, you can write to the Honourable Ravi Kahlon, Minister of Housing HOUS.minister@gov.bc.ca; Teri Collins, Deputy Minister of Housing HOUS.DMO@gov.bc.ca; Premier David Eby premier@gov.bc.ca; and the Housing Policy Branch Housing.Policy@gov.bc.ca.



Strata Insurance Statistics

High-rise
4 stories
or higher



Low-rise
3 stories
or less

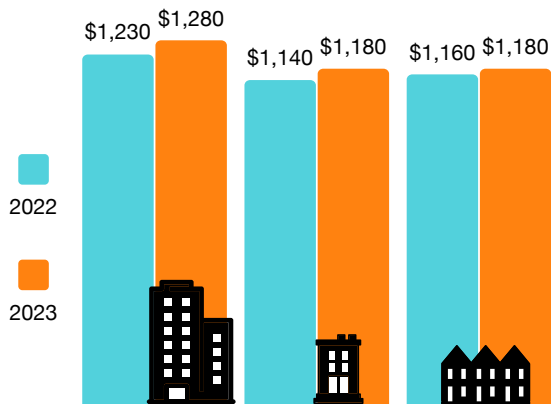


Townhouse

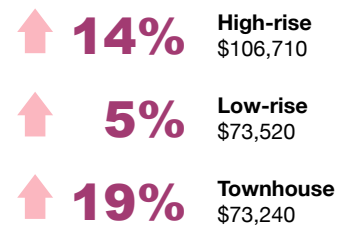


How do premiums and deductibles for your **strata corporation's insurance policy** compare to other stratas in BC?

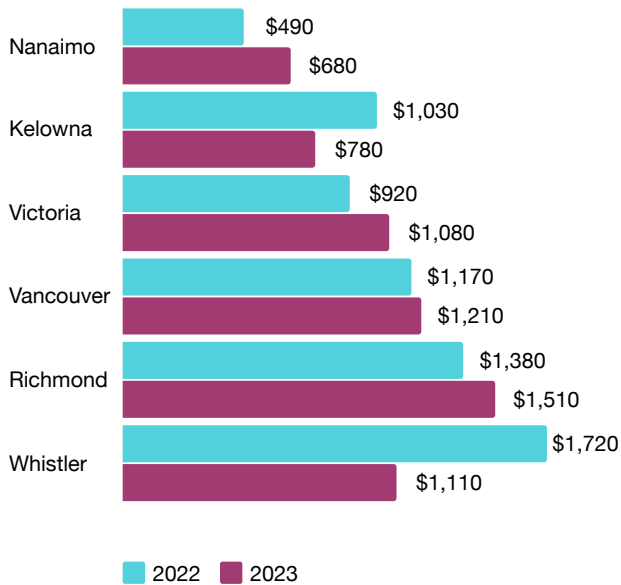
Average premium per unit by building type



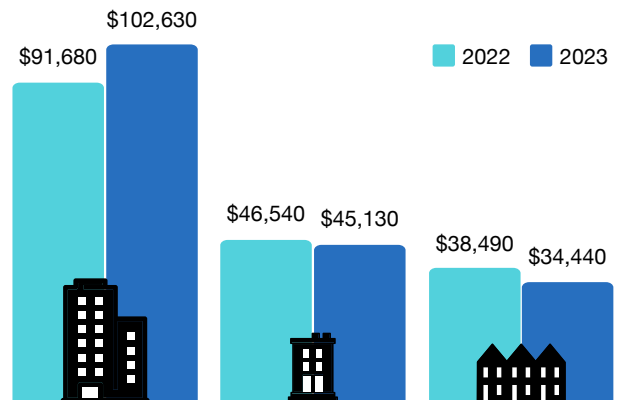
Average 2023 flood deductible



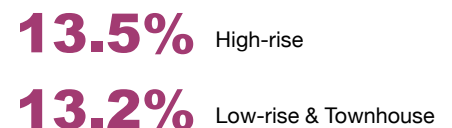
Average premium per unit by city



Average water deductible by building type



2023 Average earthquake deductible (% of insured value)



Source: Eli Report. Based on data from over 2,000 strata corporations from January 1, 2022 to July 15, 2023. The pool of stratas is not identical from one year to the next. The first month of the strata's fiscal year establishes the year for the cost of premiums. To learn how your strata corporation's premiums and deductibles compare to similar properties, get a free Eli Report at elireport.com.

■ Low Carbon Fuel Credits for EV Charging

by Wendy Wall

With the uptake of electric vehicle (EV) ownership and recent changes to the Strata Property Act, there are many reasons your strata corporation should consider installing EV charging stations. Additionally, owners might support a project to install EV charging infrastructure if the strata is eligible to receive Low Carbon Fuel Credits (LCFCs). This revenue could help pay the strata corporation's regular operating expenses every year.

What is a fuel supplier?

When you hear the term fuel supplier you likely think of oil and gas companies such as Shell, Husky and Imperial Oil. However, organizations that supply electricity such as BC Hydro and Fortis are also considered fuel suppliers.

Under BC's *Low Carbon Fuels Act (2022)* and *Renewable and Low Carbon Fuel Requirements Regulation*, known collectively as British Columbia's low carbon fuel standard (LCFS), certain strata corporations can be [Part 3 Fuel Suppliers](#). To qualify the strata corporation must supply common electricity to EV charging stations (electricity billed to the strata corporation). Under the

Regulation the charging stations are known as final supply equipment (FSE). Individual strata owners and strata corporations with residential buildings of less than 5 dwelling units cannot be fuel suppliers and aren't eligible to receive credits.

The legislation requires fuel suppliers to register every FSE and report the total electrical consumption annually. The strata corporation must have a measurement system to ensure an accurate and reliable measurement of the quantity of electricity provided to all FSE, such as a reading from a BC Hydro or revenue grade meter that provides electricity to all stations. The first reporting period was January 1 to December 31, 2022 with a deadline of March 31, 2023.

What is the value of a LCFC?

According to Natural Resources of Canada, drivers in BC typically travel about 13,100 km per year. A newer Chevy Bolt EV would require about 2,300 kWh of electricity per year to travel that distance. As an example, a Saanich

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Low Carbon Fuel Credits for EV Charging

strata with about 10 EV drivers received 20 credits for supplying 23,132 kWh of electricity to their charging stations in 2022. Based on the [credit market data report](#) (published on the Ministry's website monthly), the average trading price of credits from March to June 2023 was \$465.39 each.

Registration and reports

Getting the strata corporation's credits can be a complicated process. The preliminary steps to get set up include: obtaining a BCeID number for the strata corporation, registering each FSE with the Ministry, and getting an account in the [Transportation Fuels Reporting System](#) (TFRS). Once set up, the strata submits a report in TFRS by March 31st every year to report the total quantity of electricity that was supplied to the strata corporation's FSE. The TFRS system calculates the number of credits earned which are then validated by the Ministry.

Trading credits

Fossil fuel suppliers need to buy credits to meet their targets and achieve compliance. Once the parties have completed the sale, the seller logs in to TFRS to record the sale and transfer the credits to the purchaser's TFRS account.

The strata could try to sell its credits directly to fuel suppliers, however it would be challenging for a strata corporation to sell a small number of credits to buyers who traditionally purchase very large volumes. Another option is to work with a third-party who can negotiate a collective sale of pooled credits on behalf of their clients.

Agent: If working with a third-party "agent" the strata still needs to go through all the steps to get a BCeID number and TFRS account to submit reports and receive credits.

Aggregator: Working with a third-party "aggregator" is a more streamlined process. The strata doesn't need a BCeID number or TFRS account. The aggregator submits the reports, receives the credits in their TFRS account, sells and transfers the credits to the purchaser, and pays the proceeds to their clients.

The strata is legally responsible to ensure it is in compliance. However, beginning in January 1, 2024 the regulations will allow the legal responsibility for compliance to be transferred to another party. [V](#)

Upcoming webinar

VISOA will be hosting a webinar in October to go through the process in more detail. [Join VISOA's mailing list](#) to stay informed.

■ Introducing New Business Members

Islanders' Choice Painting Corp.

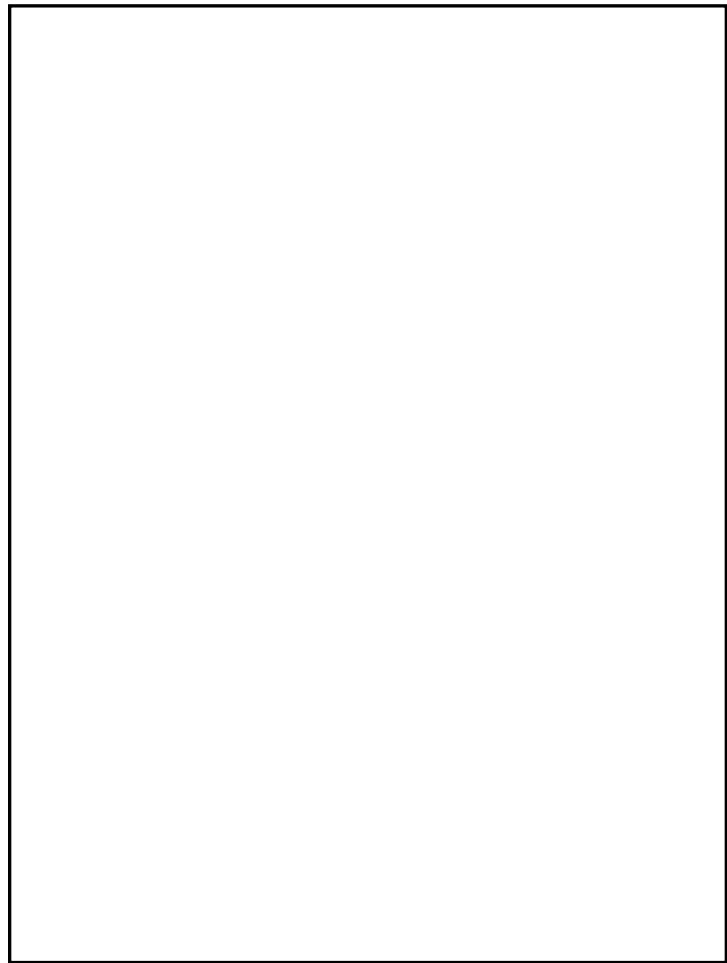
Islanders' Choice Painting is experienced working with strata owners and property managers on interior and exterior painting projects, common areas, fences, and minor projects, as well as services for individual strata owners. They understand the unique challenges of managing strata properties.

They offer consultation with you to create a plan that fits both your maintenance and financial needs, detailed quotes, colour consulting, and dedicated project managers. Their large and skilled workforce ensures your project will be completed on or ahead of schedule, with a thorough clean up and final walk through. If any work fails within the comprehensive 3-year warranty period, they'll fix it for you free of charge.

No matter your project, they promise that the process will be hassle free with minimal disruption to residents.

Visit www.islanderschoicepainting.com to learn more.

For inquiries, the owner, Evan Seale, can be contacted directly at evan@islanderschoicepainting.com.



Paragon Roofing Ltd.

Paragon Roofing understands that your strata is more than just a building. It's a place where memories are made and investments are protected. They treat every roofing project as if it were their own.

Paragon provides expert advice, detailed quotes with no hidden fees, guides you in making informed decisions, and keeps you informed and involved throughout the entire process. Their experienced roofers adhere to strict quality standards, utilizing advanced techniques, and industry best practices to deliver outstanding results.

From asphalt shingles and metal roofing to flat roofs and cedar shakes, Paragon ensures your roof looks beautiful, performs optimally, and backs their work with solid warranties.

Serving Vancouver Island, Surrey, Vancouver, Burnaby, Coquitlam, Langley, and throughout the Lower Mainland.

Contact Harman Singh at 604-358-3436 or contact@paragonroofingbc.ca.

Visit paragonroofingbc.ca to learn more.

Agile Security Consulting Inc.

Agile Security Consulting Inc. is an independent consulting firm providing services across Canada. Founder Clayton Evoy has over 28 years in the BC security industry and was the top subject matter expert for physical security for the Province of BC for 10 years.

Their comprehensive range of services include security studies and reports, compliance support, system design, and project management to help you protect your assets, mitigate risks, and ensure a safe and secure environment.

Their team of highly skilled professionals collaborate with you to understand your unique requirements, regulations, and objectives, and deliver tailored solutions for building entry systems, video surveillance systems, gates, fences, door hardware, emergency response plans, awareness training, and more.

Agile provides unbiased advice and expertise. They aren't affiliated with any manufacturer and don't sell or install systems, so you'll never get a sales pitch.

Reach out for a free consultation.

Contact Clayton Evoy at 250-216-8942 or admin@agilesc.ca.

Visit www.agilesc.ca to learn more.

■ Introducing New Business Members

Foreseeson Technology Inc.

Foreseeson EVSE Technology is experienced in understanding all aspects of electric vehicle charging in stratas. They recently launched a custom-built online system for strata corporations to sell their EV charging low carbon credits. Easy online registration and reporting, no minimums, and low commission.

Foreseeson also provides stratas with tailored EV charging solutions at an affordable price. With the combined expertise of their staff, and licensed and electrical contractors, they'll find a solution just for you.

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Contact Julien Gagnon, General Manager at 604-233-0246 ext 2103 or greencredits@foreseeson.com.

Visit stratas.foreseeson.com to learn more.

Waters Edge Painting Ltd.

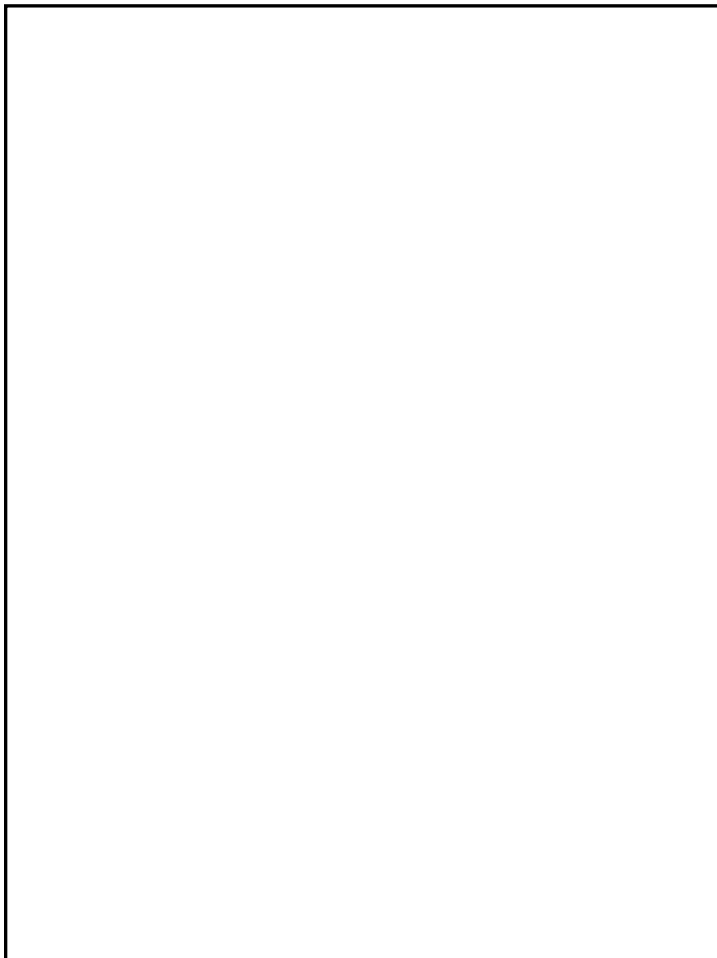
Waters Edge Painting has been providing quality painting services on Vancouver Island for 30 years. It offers interior, exterior, residential and commercial services, specializing in common areas such as lobbies, hallways, and parkades. They have extensive experience in floor finishes and epoxy coatings including safety lines and non-skid stair tread painting for code compliance.

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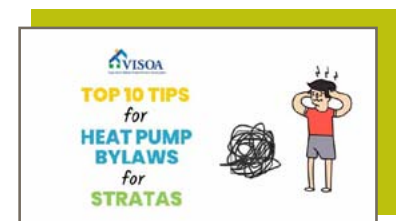
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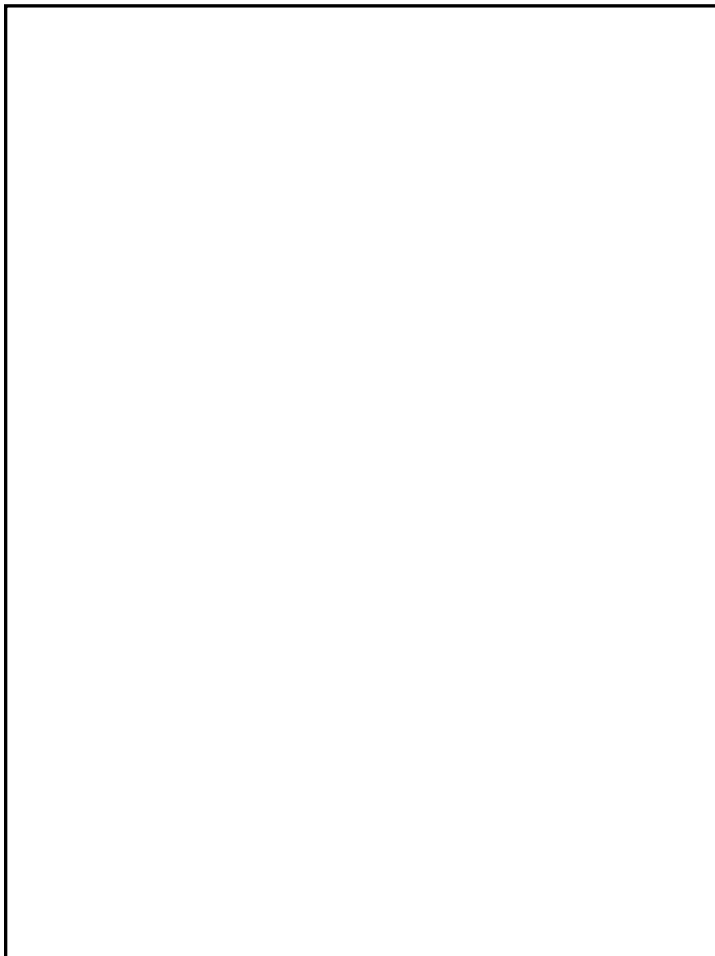
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■ You Asked

Q: Our strata has bylaws that were filed in the 90s. We also have a copy of the Standard Bylaws. Which bylaws apply to us?

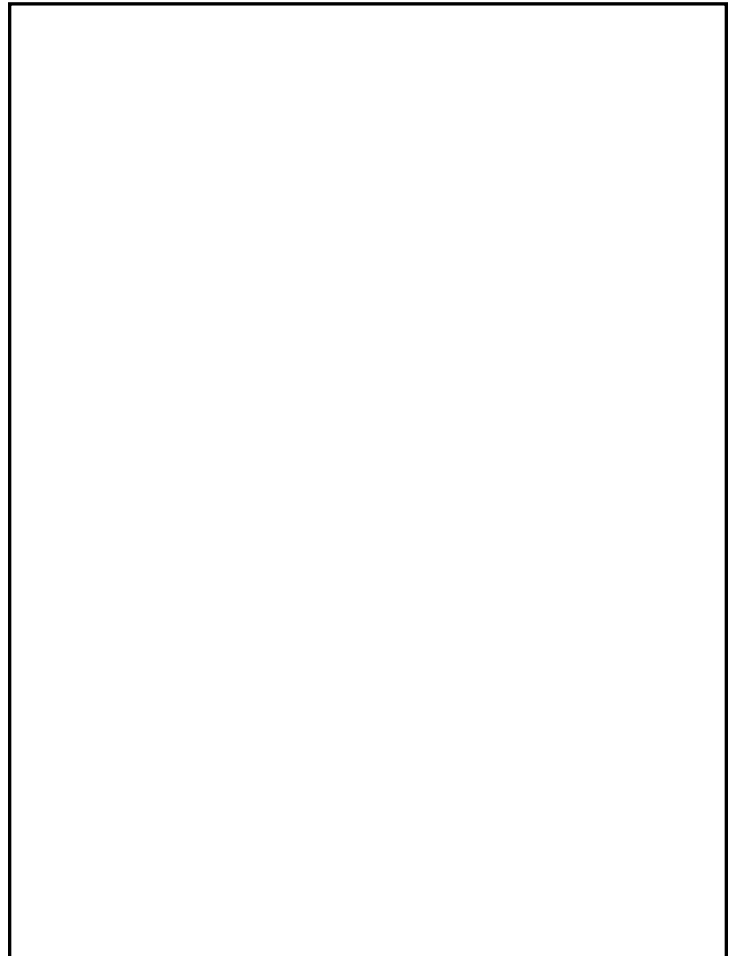
A: How bylaws that existed under the *Strata Titles Act* and *Condominium Act* were affected when the *Strata Property Act* (SPA) came into force is somewhat confusing. A recent CRT decision provides an explanation. In [Honeybourne v. The Owners, Strata Plan VR 270, 2023 BCCRT 514](#) the tribunal member says:

“In 1996, the strata filed consolidated bylaws with the Land Title Office (LTO)... The strata filed some additional bylaw amendments in 1999, and none since then. Since January 1, 2022, the Standard Bylaws in the SPA have applied to all strata corporations, unless the strata has filed different bylaws at the LTO. Where a strata corporation had previously filed bylaws, as is the case here, the Standard Bylaws in the SPA will apply only if the previous bylaws are silent on an issue dealt with in the Standard Bylaws, or the previous bylaw conflicts with the SPA (see Strata Property [Regulation section 17.11](#)). So, in this case, I find the strata’s bylaws are those filed with the LTO in 1996 and 1999, plus portions of the Standard Bylaws in the SPA.”

If your council is unsure whether a bylaw is in effect, it may want to consult a lawyer. It’s also a good idea to do a full review of the bylaws. Your lawyer can draft a clean version of all bylaws and Standard Bylaws that apply. At a general meeting, owners can vote to repeal all previous bylaws and replace them with the new set. It’s much easier for owners, council members, and prospective purchasers to understand your bylaws.

Q: Can the strata council force me to send all communications to them by email?

A: No. While the strata council might prefer that owners correspond by email, it cannot require you to do so. [Section 63](#) of the SPA deals with notices and other records required or permitted to be given to the strata and lists the permitted methods of delivery. If you mail a letter, it must be sent to the most recent mailing address on file at the LTO. You can “leave it with a council member” which means handing it to them, not sliding it under a suite door. See SPA section 63 for details about faxing your letter or depositing it in the strata’s mail slot or mailbox if one exists.



■ You Asked

Q: I replaced my bedroom window because it was old. Does the strata have to reimburse me?


A: Sections 3 and 72 of the *Strata Property Act* (SPA) set out the obligations of the strata corporation to repair and maintain common property (CP). Since your strata hasn't amended the Standard Bylaws, bylaw 8 also applies. It requires the strata to repair and maintain the exterior of the building including exterior windows and doors.

However, an owner is not entitled to direct the strata on how to conduct its repairs and maintenance. In general, an owner cannot unilaterally spend money to repair or maintain common property and then expect the strata to reimburse them. See [Civil Resolution Tribunal decisions](#) such as *Behnsen v. The Owners, Strata Plan VIS6832*, 2023 BCCRT 548; *Garry v. The Owners, Strata Plan EPS2501*, 2021 BCCRT 409; and *Swan v. The Owners, Strata Plan LMS 410*, 2018 BCCRT 241.

According to the information you've provided, there is no indication that you requested permission to replace the window as required by the bylaws. The strata council didn't give you authorization to replace the window or agree to pay for it. Therefore, you can't expect the strata

to reimburse you. In future, ask for permission first. Council can consult a strata lawyer if they need advice to interpret who is responsible to repair the item.

It's a good idea to report CP maintenance issues to the council in a timely manner. Depending on the type of repair they might be able to conduct repairs under the operating budget. Other repairs may require a vote of the owners at a general meeting to approve funding from the contingency reserve fund or a special levy.

Also refer to your depreciation report. In your case, it recommends that all windows and patio doors be replaced in a few years. Your strata corporation will likely choose windows for their appearance but also to meet goals for energy efficiency and improving comfort by reducing solar heat gain during the summer months. These are decisions to be made by the owners as a whole, not by an individual acting on their own. As BC Supreme Court Justice Bauman said in the *Alvarez* case, in a strata "you are all in it together." 

VISOA members may submit questions to the [Strata Support Team](#).

BC Clean Buildings Tax Credit

Strata owners may be able to claim a personal income tax credit of 5% of eligible costs of strata corporation retrofit projects that increase energy efficiency and meet specified targets.

Eligibility

Building Size

Residential stratas. Each building of 4 or more dwelling units is eligible.

Project Window

Enter into project agreement after February 22, 2022 and pay costs before April 1, 2025.

Qualifying Retrofits*

Common property including: lighting, hot water / space heating, cooling, air handling, pumps, elevators, insulation & building envelope.

Targets

Reduce energy use **and** meet or exceed target* energy use intensity (EUI).

Qualified person is an architect, engineer, or NRC certified EnerGuide Energy Advisor*. Certification of EUI is an eligible expense.

Consumption data is the net energy of a building (total amount of electricity and fuel used by the strata corporation and individual strata lots in a 12-month period). If aggregate data isn't available from the supplier, council may wish to ask each owner and tenant to provide copies of utility bills. This would require 100% participation of owners and tenants.

Steps

1

Energy Use Intensity (EUI)

Hire a qualified person to calculate current EUI based on consumption data and **calculate the target EUI***.

2

Complete Retrofit

Finish project by March 31, 2026. Portion of expenses **paid by March 31, 2025** are eligible.

3

12 Months After Completion

Use data to calculate EUI for a year ending within the 12 months **before** the retrofit began, and EUI for a 12-month period beginning **after** the retrofit is completed (ending on or before March 31, 2027).

4

Application - Part 1*

The qualified person submits building information, certification that the retrofit has reduced the EUI, etc.

5

Ministry Certification

If all criteria are met, the Ministry of Finance issues a **confirmation number** (needed for part 2).

6

Owner Information

All taxpayers (owners) wishing to claim the tax credit provide their **legal name** & last 4 digits of their **Social Insurance Number** (SIN) to council or manager.

7

Application - Part 2*

By March 31, 2027, council or manager files 1 application on behalf of all taxpayers incl confirmation number, names, SINs, strata CRA business number, costs, and each owner's percentage based on unit entitlement. Ministry may ask for supporting documents.

8

Owner Certificate Number

The Ministry of Finance sends letters for the strata to distribute to each taxpayer listed in the application. Each letter contains a unique certificate number, information and the amount of the credit to claim on their personal income tax return.

9

CRA (Revenue Canada)

The BC Ministry of Finance certifies that the retrofit is eligible. The costs may be audited by CRA.

***Visit the [Clean Buildings Tax Credit website](#) for details.**

■ What is an Annual Fire Safety Inspection?

by Kathleen Nicholas

Fire safety systems in condominium buildings are some of the most important systems in the building. They can make the difference between losing property and losing lives. The [BC Office of the Fire Commissioner's Annual Report for 2022](#) states that 81% of all residential structure fires in BC in 2022 occurred in buildings 4 stories high or lower and led to 87% of injuries and 97% of deaths. Ensuring your life safety systems work when needed is essential.

What is a fire alarm system?

You might not notice the many devices that make up your fire alarm system even though you walk past them every day. Some components are located in suites while others are in common areas such as storage and utility rooms, hallways, and parkades. Components in your condominium building might include a fire alarm control panel, an annunciator panel near the front entrance, emergency lighting, bells, horns, manual pull stations, door magnets in hallways, fire extinguishers, heat and smoke detectors, wired smoke alarms, battery-powered smoke alarms, fire stand (water supply dedicated to

the fire suppression system), sprinkler systems, and more. The components and system are required to be checked, inspected, tested, and maintained on a regular basis as laid out in the BC Fire Code and all applicable reference standards, including the National Fire Protection Association, Canadian Standards Association Underwriters' Laboratories of Canada, and the manufacturer's requirements. Annual testing should always be conducted by a qualified contractor. However, the responsibility to ensure that the work is done ultimately falls on the shoulders of the strata corporation.

What's tested during the annual inspection?

Residents hear bells and horns going off and are generally aware that in-suite smoke alarms are tested and batteries changed annually, but what other work does the fire service technician do?

Fire alarm control panels, depending on their age and complexity, need to be thoroughly tested as it is the logic centre for your whole system. Every device connected to

continued on page 24

What is an Annual Fire Safety Inspection?

the control panel has a precise testing procedure. The Underwriters' Laboratories of Canada (ULC) standards dictate the testing, inspection, and reporting requirements. This is a brief outline of some of the required testing for fire alarm systems. It is by no means exhaustive.

Control Panel: Amongst other things, the technician confirms that when an initiation device activates, such as a heat or smoke detector, it shows the correct zone (location within the building) on the control panel. This ensures that firefighters know where to go in an emergency.

Trouble Signal Test: The technician confirms that all wiring is correctly "supervised". Electrical supervision allows a fire alarm system to monitor for faults in wiring, ground faults, circuits, and the internal functioning of the overall system. If any devices such as heat or smoke detectors, manual pull stations, or horns have been tampered with, the panel will indicate a trouble signal. If any abnormal condition occurs in the system or the fire alarm control panel itself, such as power loss, battery failure, or a ground fault, it will also trigger a trouble signal.

Bells and Horns: Why are the bells ringing or horns sounding all day? The technician ensures that all notification devices work, they can be silenced when needed, and that they will automatically re-initiate if there

is a subsequent alarm.

Emergency Power Supply: Backup batteries are required for the fire alarm panel, emergency lighting, etc. These are not your typical household batteries – they are large industrial batteries. If the power goes out, these backup batteries must have the correct amperage to provide enough power to operate all the connected devices for the length of time designated by the BC Building Code. The technician tests all batteries and makes calculations to ensure that the right batteries are chosen and installed.

Reports: Testing and inspection are required to be recorded on ULC-compliant forms. These reports should be kept in the back of your Fire Safety Plan for fire department inspection each year and are records required to be kept under the *Strata Property Act*. They outline the operational integrity and functionality of your system and may be relied upon by fire departments, inspectors, insurance companies, and more.

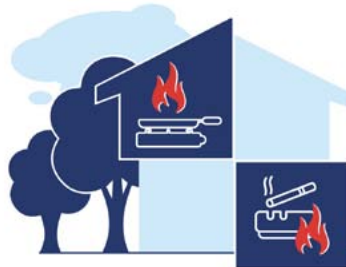
To learn more, see the CAN/ULC-S536 *Standard for the Inspection and Testing of Fire Alarm Systems* for free by creating an account at [ULC Standards](#). 

Kathleen Nicholas is Lead Project Administrator for Sterling Fire & Associates Inc., which specializes in helping stratas through the fire alarm upgrade process. Contact her at (250) 661-9931 or sterlingfire@gmail.com.



Approximately 8 out of 10 (81%) of all residential structure fires occurred in buildings 4 storeys high or lower and lead to 87% of injuries and 95% of deaths.

Source:
BC Office of the Fire Commissioner:
Annual Report 2022



One-quarter (25%) of fires were caused by cooking equipment. An additional 27% resulted from smoker's materials and open flames.



76% of all structure fires in 2022 were residential structures and lead to 89% of injuries and 94% of all structure fire related deaths.

Healthy Strata Gardens: The Benefits of Mulch

by Dr. Amanda Bailey

As climate change brings more temperature and rainfall extremes, strata corporations may want to take measures to protect their gardens. A regular program using the appropriate type of mulch helps gardens flourish, reduces maintenance costs, and preserves your investment.

What is mulch?

A **mulch** is any material, organic or inorganic, that is placed on top of the soil in a garden or landscape. Inorganic mulches such as gravel or river rock are generally used for landscaping purposes. There are a wide variety of **organic mulches** including leaves, grass clippings, hay, compost, newspaper, wood chips or shredded bark.

Although each has its benefits, screened composted leaf mulch is recommended for strata ornamental flower beds, trees, and shrubs. As organic mulches decompose, they add nutrients and beneficial microorganisms to the soil and improve soil structure.

Mulches need to be replaced every one to four years depending on the type of mulch.



Benefits of Screened Composted Leaf Mulch

During its preparation, commercial-grade screened leaf mulch is seasoned, reaching a high temperature which kills weed seeds, and minimizes odor. The organic matter in seasoned composted leaf mulch is readily broken down, encouraging healthy soil microbe development and earthworm activity. This relieves soil compaction and provides much needed aeration for healthier root activity and plant vitality. This form of organic matter retains rain and irrigation water in the soil by acting as a sponge to slow absorption. The dark and uniform appearance of this mulch is also aesthetically pleasing.

Other benefits of screened composted leaf mulch:


- Provides a steady nutritional supply to plants
- Improves drought tolerance
- Improves drainage and aeration
- Prevents erosion during rain
- Improves soil texture
- Insulates the soil from temperature extremes
- Reduces weed growth
- Improves resistance to infestations and disease

Mulching Application Tips

Apply 2 to 3" of screened, composted leaf mulch in the late fall or late winter when foliage has not yet leafed out on deciduous shrubs or perennials and annuals haven't been planted yet. It's easier to access beds and requires less labour to prepare them. Weed thoroughly just prior to applying mulch to maximize the weed suppression benefits of the mulch. Before booking the mulch delivery date, coordinate with other contractors who work on site to avoid road congestion or parking issues. If the irrigation system is in use, avoid irrigation cycle days.

Annual Budgeting

Mulch should be an integral part of the strata corporation's landscaping plan. By dividing the property into 2-4 zones, certain beds can be serviced each year. Repeating this on an annual rotation cycle is an affordable approach.

Mulching regularly keeps your gardens healthy and attractive, preserves your investment in landscaping, and increases your property value. 

Dr. Amanda Bailey completed the Master Gardener Program at the Horticulture Centre of the Pacific, is a certified member of the Victoria Master Gardener Association, and a member of the volunteer garden committee at her strata.

■ President's Message

Extreme weather is now part of our reality. This summer, British Columbians are facing challenges including extreme heat, wildfires, and drought. How can strata owners manage through the effects of climate change?

Conserve water

Many of you live in communities where it's been necessary for your local government to impose water restrictions in response to severe drought - a shortage of water caused by reduced precipitation for an extended period of time. The conditions around the province are unprecedented. As of August 3, most of BC's water basins are at drought level 4 or 5.

Each of us can help conserve water by making small changes. Find water conservation tips and information at [BC's response to drought conditions](#).

Prevent wildfires

There have been 1,595 wildfires in BC since April 1st. 178 of the current 353 wildfires are burning out of control. While most wildfires in BC are started by lightning strikes, 384 of these fires have been identified as being caused by humans. The BC Wildfire Service says most human-caused wildfires are preventable. They cite common

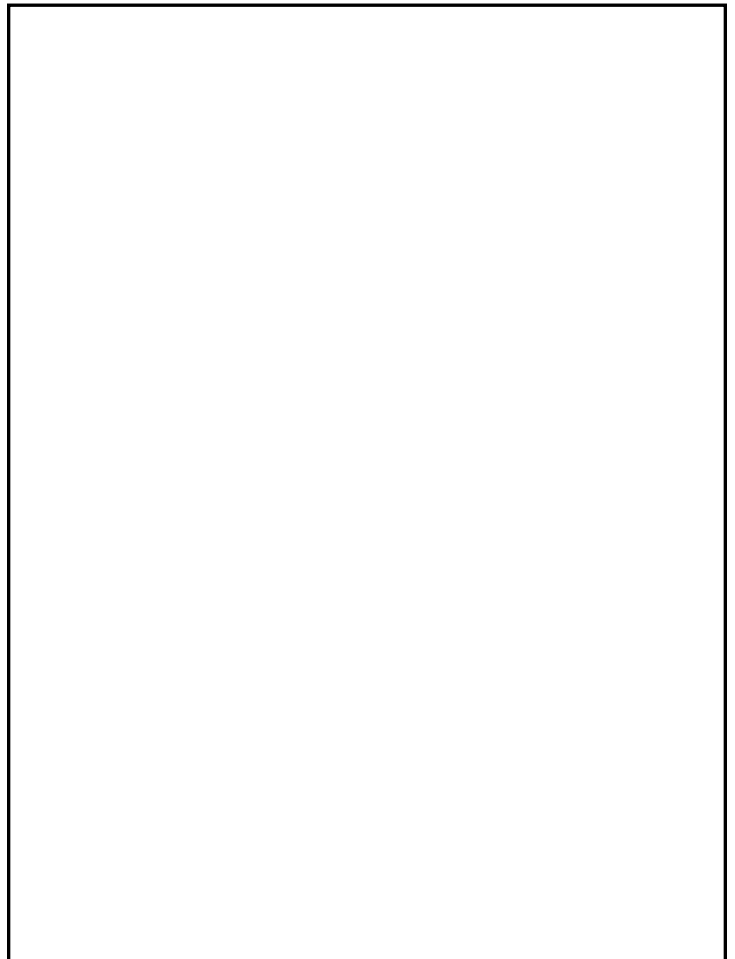
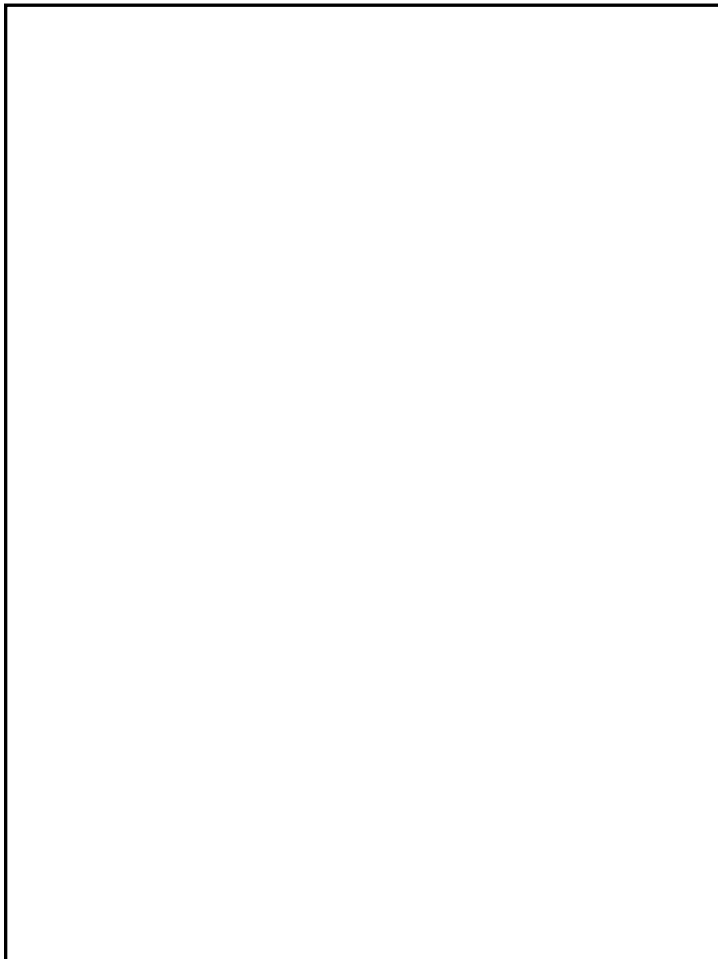
causes such as open-burning, the use of fireworks and sky-lanterns, and discarding burning items such as cigarettes. See the wildfires map, statistics, and resources at [BC Wildfire Service](#).

Breathe easier

Even if your strata isn't located in an active wildfire area, you may be affected by high concentrations of smoke particles in the air. You can check the Air Quality Health Index (AQHI) for your area at [BC Air Quality](#). The information provided says that children, the elderly, and at-risk populations such as people with heart or breathing problems should avoid outdoor physical exertion when the AQHI is in the range of 7-10 or higher.

Smoke can enter buildings through windows, doors, vents, air intakes and other openings. Portable air cleaners can be used to reduce the impacts of wildfire smoke indoors. The BC Centre for Disease Control offers information on the use and purchasing of [Portable Air Cleaners for Wildfire Smoke](#). Portable air cleaners work best when run continuously with doors and windows closed. The filters can trap and reduce the concentration of small particles in smoke by 40-80%.

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President's Message

According to PreparedBC, for most people, exposure to extreme heat is a bigger risk to health than exposure to wildfire smoke. They say that if you cannot get cool inside, go outside even if there is smoke.

Keep cool

PreparedBC's [Extreme Heat Preparedness Guide](#) offers some tips to plan ahead, stay cool, and recognize the symptoms of heat stroke. For people susceptible to heat, temperatures higher than 31°C can be dangerous.

With an influx of \$10 million in funding, BC Hydro has expanded its Energy Conservation Assistance Program (ECAP). Over the next three years, they will provide 8,000 portable air-conditioning units to income-qualified individuals who meet the Ministry of Health's criteria as medically heat vulnerable. Applicants must provide a recommendation letter from their home health clinician or community health nurse.

The program provides one portable air conditioning unit, which is on wheels and is suitable for cooling one room. They are installed by connecting a flexible duct hose through an open window and are plugged into a standard wall electrical outlet. [Learn more and apply online.](#)

I acknowledge that some strata corporations have bylaws that prohibit air conditioners. However, if any residents in

your strata are successful in receiving an air conditioner under the ECAP program, the strata council may want to consider whether an exemption can be made. The owner has already gone through a process to prove that they qualify as medically heat vulnerable. Your strata's lawyer might consider this reasonable proof that the owner has a medical condition that requires accommodation under the *Human Rights Code* and suggest an exemption from the bylaws. Also, a portable air conditioner is not a permanent installation. It doesn't penetrate the envelope.

Your strata might consider portable air conditioners to be a temporary solution to keep residents safe during extreme heat events. When section 94.1 of the *Strata Property Act* becomes effective, stratas will be required to obtain electrical planning reports. These reports will help strata corporations understand their electrical capacity and determine whether their electrical system can safely support all electrification needs. The addition of heat pumps in suites could be a more permanent solution for cooling and saving lives during heat waves.

Extreme weather is now part of our reality but we can take steps to address climate change and care for each other in our strata communities. [V](#)

Wendy Wall, VISOA President, president@visoa.bc.ca

VISOA

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2023 Cover Photo Contest

Submit your photo of a BC strata to 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

