



BULLETIN

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



NOVEMBER 2023

Vancouver Island Strata Owners Association

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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: Our 14-unit townhouse complex, Seahaven on Seventh, provided myself with a magical laneway light display on a snowy very early morning dog walk. - Sandy L.

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.

■ Strata Finances: Dealing with a Deficit

by Shawn M. Smith

Despite the best efforts of strata councils and strata managers when it comes to developing an operating budget, strata corporations sometimes end their fiscal year in the red. As inflation rises and strata corporations try to keep strata fees to a manageable level, we may begin to see more deficits and properly addressing them will be all the more important. What to do about the shortfall is sometimes a source of confusion and controversy.

How does a deficit arise?

The *Strata Property Act* (SPA) contemplates deficits occurring. A deficit can only relate to things that fall within the scope of the [operating fund](#), namely expenses that “usually occur either once a year or more often than once a year”. As such, a deficit should only relate to things that weren’t budgeted for but should have been. Perhaps snow removal costs were higher due to more frequent snow events. Perhaps water bills were higher than expected due to increased irrigation over a hot summer. Whatever the reason, spending more money on operating expenses than was set out in the approved

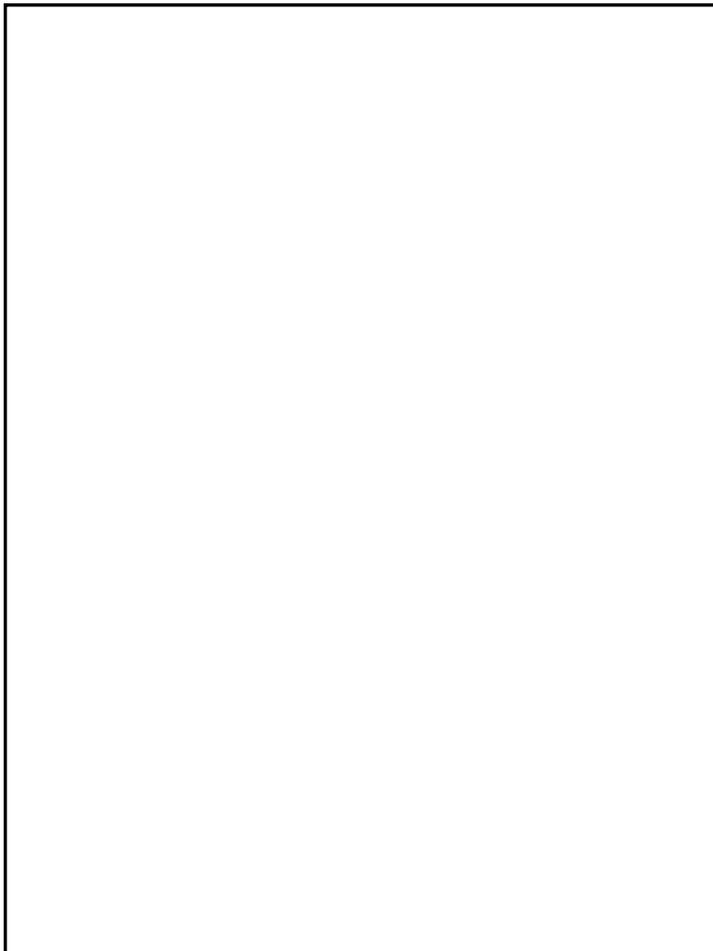
budget are “unapproved expenditures”.

Is there a maximum deficit permitted?

[SPA section 98\(2\)](#) sets the maximum amount of a deficit at “\$2,000 or 5% of the total contribution to the Operating Fund for the current year, whichever is less” unless the bylaws set a different figure. Since that limit is cumulative for the fiscal year, many strata corporations set a higher amount in their bylaws. To be in compliance with the SPA, a strata corporation should never end the fiscal year with a deficit due to expenditures which is greater than that figure. However, it must be kept in mind that a deficit can also arise from the non-payment of strata fees. In that case, the limit wouldn’t apply.

While not a “best practice”, passing a budget with a deficit was given approval by the Civil Resolution Tribunal (CRT) in [Townsend et al v. The Owners, Strata Plan NW 2545, 2018 BCCRT 209](#). Doing so, however, is just pushing those expenses into the future given the requirement to eliminate the deficit in the following fiscal year.

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Strata Finances: Dealing with a Deficit

What are the options to deal with a deficit?

While [section 105\(2\)](#) of the SPA requires the deficit to be “eliminated during the next fiscal year”, it doesn’t say how to do that. It is implied that it would be through an increase in strata fees for the next fiscal year. However, that is not the only method. A special levy is one possibility since there are no restrictions on what a levy can be raised for. Another option would be to use a surplus from a prior year that has been carried forward, not deposited to the Contingency Reserve Fund (CRF). Section 105(1) contemplates carrying a surplus forward and applying it to reduce strata fees. That decision can be made as part of the approval of the budget at the Annual General Meeting.

Can a deficit be paid from the CRF?

What is arguably not permitted is to withdraw money from the CRF to reduce the deficit. This is because the [nature of expenditures permitted](#) from the CRF is different than the nature of expenditures from the Operating Fund. The CRF, being for “expenses that usually occur less often than once a year or that do not usually occur” and the Operating Fund being for those which occur annually or more often. To apply the CRF to a deficit would be to effectively allow for annual operating expenses to be paid out of the CRF; something which could not otherwise be done. You cannot use the CRF to make up for poor budgeting.

What about emergency expenses?

[SPA section 98\(3\)](#) sets out the criteria for what is an emergency expenditure and when you can make it. “The expenditure may be made out of the Operating Fund or Contingency Reserve Fund if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise.” The expenditure “must not exceed the minimum amount needed to ensure safety or prevent significant loss or damage.”

VISOA: We encourage readers to watch the recording of Shawn’s webinar [Spending Money](#) on YouTube. It covers which expenses can be paid from the Operating Fund, the Contingency Reserve Fund, and by special levies, as well as operating surpluses and deficits, and emergency expenses. **V**

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. He can be followed on Twitter [@stratashawn](https://twitter.com/stratashawn).

New Minimum Contribution to the CRF

Starting November 1, 2023 strata corporations and strata sections must contribute a minimum amount to their contingency reserve fund (CRF) annually. The amount of the annual contribution must be at least 10% of the total amount budgeted for operating expenses (the operating fund). The intent of the regulation is to support well-maintained buildings by addressing the issue of strata corporations underfunding their CRF and putting owners at risk of special levies when repairs are needed.

What does Strata Property Regulation 6.1 say?

(1) For the purposes of section 93 of the Act, the amount of the annual contribution to the contingency reserve fund for a fiscal year, other than the fiscal year following the first annual general meeting, must be determined after consideration of the most recent depreciation report, if any, obtained under section 94 of the Act.

(2) The amount of the annual contribution must be at least 10% of the total amount budgeted for the contribution to the operating fund for the current fiscal year.

How is the 10% calculated?

When council prepares the proposed budget for the coming year, it estimates operating expenses, and makes a recommendation for the amount to contribute to the CRF.

Examples of operating expenses are: insurance premiums, water, electricity, gas, property management services, elevator maintenance, janitorial service, security contract, window cleaning, waste removal, landscaping, cleaning gutters, fire safety system inspections, repairs, and maintenance.

Example:

A strata's fiscal year is November 1 to October 31. Council is planning their AGM for mid-December. Council members prepare a draft budget for the coming year with operating expenses totalling \$137,200. Under regulation 6.1, the minimum amount of the contribution to the CRF is \$13,720.

However, the council considers the depreciation report. There are 6 or 7 small projects required over the next 2-5 years and contributing only 10% per year would be inadequate. Several council members suggest that the contribution to the CRF be at least \$25,000 each year.

Council presents a budget at the annual general meeting for \$162,200 (a \$137,200 contribution to the operating fund and a \$25,000 contribution to the CRF). At the AGM, an owner makes a motion to reduce the contribution to the CRF to \$20,000. The amendment is approved by a majority vote. After all amendments have been voted on, owners approve the budget, as amended, by majority vote.

After the AGM, council recalculates strata fees and advises each owner of the amount of their strata fee within two weeks.

What if a budget was approved before November 1st?

This requirement applies to budgets approved for fiscal years starting on or after November 1st, 2023.

For example, a strata held their AGM in July and approved a budget for their fiscal year June 1, 2023 to May 31, 2024. Their contribution to the CRF was 7%. That budget doesn't change. The amount of the contribution to the CRF remains the same. However at the AGM in 2024, the budget will have to include a contribution to the CRF of at least 10%.

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New Minimum Contribution to the CRF

Is 10% enough?

Unless a strata corporation already has a significant amount of funds in their CRF, contributing only 10% per year will not stave off special levies. To understand how much the annual contribution should be, a strata council should look at the funding models in their depreciation report and obtain updated reports every few years. These funding models illustrate when a strata can reasonably expect special levies. VISOA corporate members can also use VISOA's Depreciation Report Analyzer to adjust amounts and see the effects. The DR Analyzer is also available by purchasing VISOA's publication [Management of the Contingency Reserve Fund](#). 

Editor's Message

As we all know in life, even the best laid plans sometimes require adaptation due to unforeseen events. We thought we had this issue in the bag at the end of October, and then bang! A wave of new legislation was introduced. To best serve you, our readers, we changed gears and chose to take a bit more time so we could include some timely topics. You'll see articles about new legislation passed on October 26 regarding short-term rentals, changes to EV Ready rebates on October 31, and our president's comments about housing legislation introduced in the legislature in early November.

This is the final issue in VISOA's 50th anniversary year. We hope you enjoy the article thanking our incredible Strata Support Team volunteers for their commitment to helping others over the last 5 decades. We also thank all of our members, business members, and readers for helping us mark this milestone in VISOA's history.

As always, we welcome submissions from readers and subject matter experts. To suggest a topic or submit an article for consideration, contact us by email to: editor@visoa.bc.ca

Don't forget about our photo contest. The photos featured on the February, May, August, and November 2023 issues will be entered into a draw on December 1, 2023. The winner will receive a free one-year corporate membership for their strata corporation. Second prize is \$50. To enter the contest for 2024, submit a photo of your strata to to: editor@visoa.bc.ca

Have a safe and happy holiday season. 

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

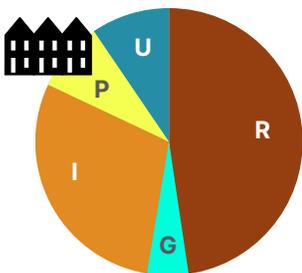
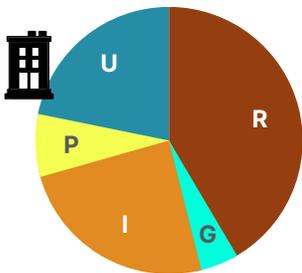
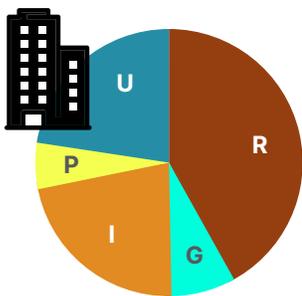
Strata Budgets and Fees

Wondering how your strata's budget compares to others? This infographic shows average operating expenses, contributions to the CRF, and strata fees based on data collected from October 1, 2022 to September 30, 2023. Data for individual stratas will vary depending on building size, age, amenities, and other factors.

Budget

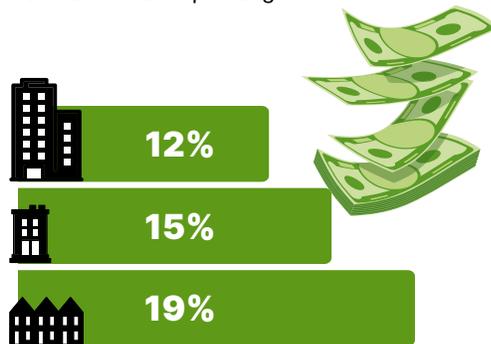
Operating Expenses

Expenses as % of total amount budgeted for the contribution to the operating fund.



Contribution to CRF

Minimum contribution is at least 10% of the total amount budgeted for the contribution to the operating fund.



Utilities



22.6% High-rise
21.8% Low-rise
9.5% Townhouse

Insurance



% of total amount budgeted for the contribution to the operating fund.

Monthly Strata Fees

The average is based on all unit sizes such as studios, and 1, 2, and 3 bedroom strata lots.



High-rise
4 stories
or higher



Data from ~600 stratas
Average size 190 units

Low-rise
3 stories
or less



Data from ~800 stratas
Average size 90 units

Townhouse



Data from ~600 stratas
Average size 75 units

Repair and Maintenance

includes caretaker, janitorial, landscaping, irrigation, elevator, fire safety system and waste removal services. Also mechanical and HVAC, plumbing, electrical, carpet cleaning, dryer vent cleaning, locks, concierge, security gates, gutter cleaning, window cleaning, pest control, snow removal etc. May include cost to obtain a depreciation report.

General and Administration

includes accounting, bank charges, printing, postage, telephone, licences, legal costs, consulting, WorkSafeBC premiums, security guard, alarm monitoring etc.

Insurance includes insurance premiums and appraisals.

Property Management includes strata management services.

Utilities includes electricity, gas, water, sewer etc.

Source: Eli Report. Based on data from current budgets at the time of document reviews completed during the period of October 1, 2022 to September 30, 2023. To compare your strata corporation to similar properties, get a free Eli Report at elireport.com.

Gas Fireplace Tips for Strata Owners

As the weather grows colder, many strata owners will be using their gas fireplaces for the first time this season. It's a good time to review maintenance and tips to ensure your family and neighbours are safe.

Why should gas fireplaces be serviced annually?

Technical Safety BC, Fortis, and most manufacturers recommend that gas fireplaces be serviced every year. Regularly maintained appliances operate more efficiently, and last longer. Servicing will identify any wear and tear issues, and ensure there is no carbon monoxide escaping into your suite and building. Failure to service the appliance might invalidate its warranty.

Some strata corporations have bylaws that require annual inspection and service of gas fireplaces in suites. These bylaws often set an annual deadline and require the owner to provide a copy of the invoice as proof of completion. These records are helpful as it's common for strata insurance companies to ask whether heating systems are being maintained before they renew the strata's policy.

Who is qualified to service gas fireplaces?

Servicing and maintenance of gas appliances should only be carried out by a certified gas fitter, employed by a licensed gas contractor. You can check to see if a contractor is licenced using the [contractor lookup tool](#) on the Technical Safety BC website. You can also ask your gas fitter to show you their qualification wallet card for proof of certification.

What does servicing include?

Your gas fitter will check the condition of your gas appliance and verify that the vent system, fans, rheostat, thermostats, remote control etc. are in good working order. They will also:

- Check for gas leaks, blockage, and soot
- Check the burner, gas valve, gaskets, and pilot system
- Check the air shutter and restrictor settings, and pressure relief doors
- Clean the blower, firebox chamber, logs, glass, and refresh ember materials

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Gas Fireplace Tips for Strata Owners

- Keep the area clear of combustible materials or items that could be damaged from high heat
- And more

Technical Safety BC notes several signs that indicate service is required immediately:

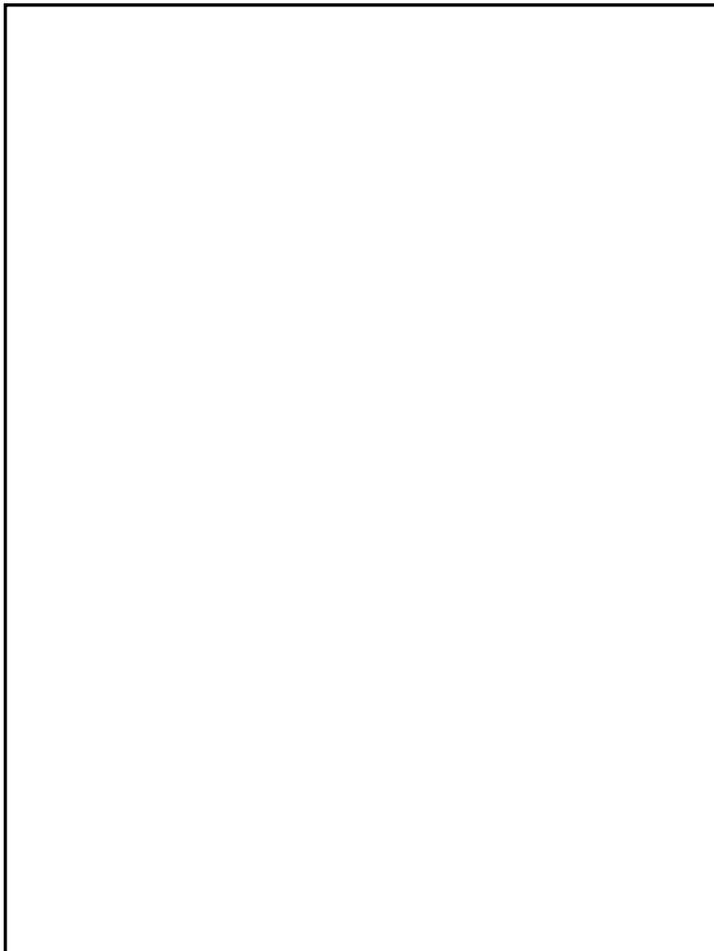
- Pilot light outages and/or yellow or wavering burner flame
- Continuous or intermittent odor
- Booming noises upon start-up
- Dying house plants
- Condensation on the inside of the windows

Are there rebates?

Fortis often offers rebates to encourage homeowners to maintain their gas appliances. Check www.fortisbc.com for rebates and deadlines.

Tip #1: Leave the pilot light on

Leave the pilot light on through the cooler months. This allows a smoother start up as the firebox and flu will remain warm. Relighting a pilot in a cold fireplace can take several tries (12-15 times if it is really cold). This isn't a defect: modern gas fireplaces are designed to account



for these cold starts. The air will slowly be warmed through multiple attempts to light the pilot, creating the necessary conditions for the pilot to remain lit and the burner to engage.

Tip #2: Install a carbon monoxide alarm

Carbon monoxide (CO) is a colourless, odourless, and toxic gas. Symptoms of carbon monoxide poisoning include: headache, nausea, dizziness, shortness of breath and confusion.

If you have any fuel or wood burning appliances or fireplaces, it's recommended that you install a carbon monoxide alarm in your home. When purchasing an alarm, look for a recognized Canadian certification mark from an organization that is accredited by the Standards Council of Canada. These marks, such as CSA, cUL, ULC or cETL, should appear directly on the product, not just on the packaging.

The risk of carbon monoxide poisoning is low if appliances are maintained on a regular basis and are properly ventilated. However, improperly installed or poorly maintained appliances that use these fuels may create unsafe levels of CO.

Tip #3: Know what to do if you smell gas

Natural gas or propane will emit a strong rotten egg odor as it escapes. If you smell gas, stop what you're doing.

- Don't use your cellphone or landline, don't smoke, light matches, operate electrical switches, or create any other source of ignition.
- Open exterior doors and windows and exit the building immediately.
- **Once outside**, call 9-1-1 and your local gas utility. The FortisBC emergency line is 1-800-663-9911 (24 hours).
- If you have a gas meter, shut off the gas supply.
- If you don't have access to the shut off, contact the appropriate person such as a caretaker, council member, or strata manager.
- To quickly evacuate residents in a condo building you could use a pull station in a common area hallway to set off the fire alarm. 

Thank you Carmen and Steve at Heat Savers Home Comfort for providing information for this article to help strata owners stay safe this winter.

Contact them at 250-383-3512 or info@feelthewarmth.ca or visit their website at www.feelthewarmth.ca



VISOA Volunteers: 50 Years of Strata Support

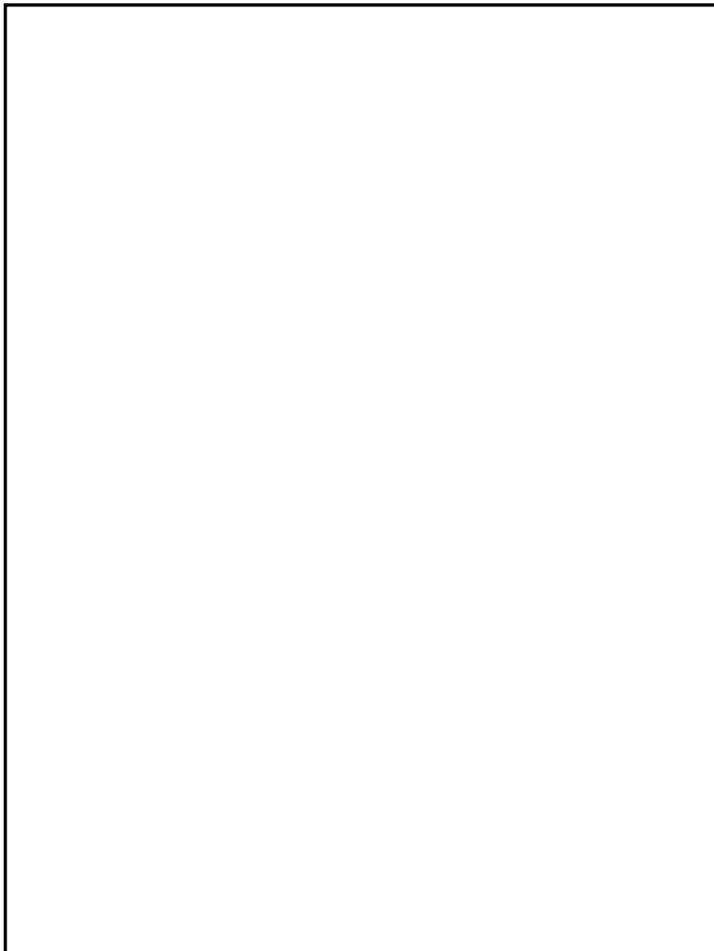
We wrap up VISOA's 50th anniversary year by highlighting our [Strata Support Team](#) (SST). It will come as no surprise to our members when we say that the SST is the heart and soul of our organization. Strata living presents many challenges and raises an endless number of questions. The SST answers well over 1,000 inquiries per year, offering information and support to strata owners and councils in both usual, and unusual, circumstances.

While it wouldn't be possible to acknowledge every helpline volunteer over the last 50 years, there are a few names you might recognize from the past and present including Harvey, David, Sheilagh, Graeme, Joanne, Lachlan, and some new volunteers we're excited to welcome to the team: George and Geraldine.

The usual: Some things never change

We asked our volunteers what themes keep coming up year-in and year-out.

Is it the matter or the "marriage"? Joanne remarked, "The constant is how interpersonal relationships in a strata



community, like in a marriage, family or workplace, are often challenging. How differences and conflicts are handled, or not handled, rather than the substance of the matter itself, is the number one cause of advice and help being needed."

Owner apathy is another theme. In 2013, a council member lamented that "Some owners are quick to criticize but disappear when it's time to help. Many owners take for granted the commitment and time involved on the part of those owners who do volunteer to be on council. When the council election came up everyone else was silent and studiously examining their shoes." An article by the helpline team in 2011 remarked, "While [council members] seldom receive a pat on the back for doing something right, the slightest mistake can bring out pitchforks and torches."

Who pays for repairs, particularly when there is damage from water leaks, has been a top-of-the-list topic for decades. Graeme summed it up saying, "Strata owners, and councils, time and time again, make the mistake of thinking they're expected to be pseudo insurance companies. With some exceptions, most times any damage within a unit is the responsibility of the owner, regardless of the cause. This is quite the surprise to strata owners when it's a common property item that fails! While it's always important to check with a lawyer, it was a common theme having to tell owners that unfortunately they were responsible for unit damage."

Conflict, communication, and compromise. Sheilagh made the observation that "A lot of energy is spent on conflict rather than communication, compromise, negotiation, and perseverance with humour. We know what we want as owners and tenants of our strata homes. Accept that sometimes the process is slow and remember with kind words those who help you facilitate the change you are seeking for both you and your strata community."

Then there are the small stratas. Harvey (1927-2021) responded to helpline phone calls from about 2008 to 2018. In 2006, he wrote "Our experience in assisting small stratas leads us to the counter-intuitive conclusion that the fewer the units, the more difficult it is to self-manage...owners aren't logical robots." Nearly 20 years later this theme persists. The SST often communicates with strata owners who don't realize their duplex is a strata corporation or that their 4-unit strata must comply with the [Strata Property Act](#) just like a 100-unit condo tower.

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VISOA Volunteers: 50 Years of Strata Support

Depreciation reports. David, a member of the team since 2010, wrote, “To keep the depreciation report current is certainly not an “unnecessary expense” when you consider its significance to owners and potential buyers who want to ensure that their investment in a multi-million-dollar corporation is maintained and even enhanced. For owners (and their councils) there can be no hiding behind the attitude of Don’t ask - Don’t tell.” In 2011, he wrote, “Their fear of what a depreciation report might reveal is like someone refusing to go to a doctor because he might find out that he is sick and require immediate treatment!”

Privacy. One SST volunteer commented, “Many well-meaning strata councils seem to think they need to keep strata records private. But the *Strata Property Act* unequivocally says that an owner has the right to request copies of records, and there’s a long list of documents they are allowed to get copies of. It seems we repeat that a lot.”

Bare land vs building strata. “You can’t assume that a strata is bare land simply because the buildings are detached homes”, notes another volunteer. “It’s quite shocking to some owners when they find out their strata has been operating for years under the impression that they’re a bare land strata and they aren’t! It’s really difficult for owners to accept that the strata has to pay to insure the buildings and repair them.”

The unusual: Eyebrow-raising moments

While we hesitate to label certain situations as humorous, there are some stories that are puzzling or simply unforgettable.

A volunteer chuckled over this question and immediately said “Bad bylaws! Like the bylaw that said owners were prohibited from storing propane tanks within the walls”.

The 5 “P’s”! Our past-president Sandy Wagner used to say the most common problems in stratas were people, parking, and pets. In 2018, when cannabis was legalized and several stories of suites being used as brothels hit the news, she added “pot and prostitutes” to the list!

What were they thinking? In bare land stratas, the boundaries of the strata lot include the land. One bare land strata corporation and owner had to deal with the problem of utilities installed in a location that obstructed the construction of the driveway needed for the owner to park their car in their garage. As Joanne remarked, “Who would ever have thought that such a strata lot plan would have existed? You can imagine the challenge of sorting out - among the utility companies, the strata corporation and the strata lot owner - how to resolve the problem so the driveway, as required by bylaw, could be put in.”

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The unusual: Eyebrow-raising moments

Another volunteer similarly mused over the things that owners get stuck with from day one. “It’s maddening when there’s something in the original building or landscaping design that owners have to keep and maintain to be in compliance with the building development permit. There’s a building in Vancouver that has an oak tree on the 17th floor. and after 30 years it died in a drought. It cost nearly \$600,000 to replace the tree and 130,000 pounds of soil. Really? Water features, swimming pools on the roof. It would be nice if architects and developers considered the future financial burden on owners when designing strata properties. It’s hard to tell owners they have to spend money to repair and maintain things that they might not want anymore but the city says they have to keep.”

Then there are the stories with a stroke of luck. Sheilagh recalls a scenario where common property drain pipes needed to be cleaned out after many years of complaints about toilets gurgling, water pressure, and smells. “The water backed up and flowed into the grocery store downstairs. And who could believe it? The damage was minimal. The water through the ceiling didn’t hit any groceries! After that, the strata performed the necessary work to clear the drains.”

Passion and purpose

We asked our dedicated volunteers what drives them to spend a significant amount of their time helping others.

Joanne says, “I volunteer as I truly hope that the knowledge and experience I have with strata rules, responsibilities and rights, can help others sort out their issues and concerns. I appreciate how my support is appreciated by those I do help, so it’s a true win-win.”

“It’s paying it forward” a volunteer explained. “VISOA volunteers supported me through some bumpy roads, some sticky situations. I don’t know how long VISOA has had the motto ‘strata owners helping strata owners’ but it’s really true. We’ve lived it. We’ve learned. And there came a time when I wanted to give back. My time as a volunteer was very rewarding.”

Future forward

The need for information, education, and support is more important now than ever. The legal framework of strata corporations has become more complex with changes to legislation, and more complicated legal frameworks such as mixed use, sectioned, and air-parcel stratas. With nearly 34,000 stratas in BC and the number growing daily, VISOA’s [Strata Support Team](#) will surely be busy for another 50 years! Thank you to our amazing volunteers. 



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■ 6 Steps to Fire System Replacement Projects

by Kathleen Nicholas

Upgrading a fire alarm system is a crucial step to ensure the safety of residents in a condo building. Whether the upgrade is a planned project or the system requires immediate replacement due to a failure, the process involves several key steps.

1. Building Evaluation

First the strata corporation (client) needs to understand the current fire alarm system, building needs, and what its owners want.

An assessment of the existing fire alarm system by a qualified fire protection consultant or engineer includes a review of its age, condition, and compliance with local fire codes and regulations. The assessment identifies any weaknesses or limitations in the existing system, such as outdated technology or insufficient coverage.

The planning process should begin with the end in mind by including discussions about options to cover and protect the wiring in common hallways and in suites, areas that residents see every day.

2. Determine the Type of System

While fire alarm companies and engineers often steer clients towards addressable systems, understanding what the building needs allows the client to control the direction of the project. The choice between a conventional or addressable fire alarm system depends on the complexity of the building, the level of control required, and future expansion plans.

A conventional system is ideal for small and medium-sized condo buildings with basic requirements. Zones are used to identify alarm locations. These systems tend to be non-proprietary, meaning that there is flexibility in who can service them in the future. The pricing for parts tends to be lower than for addressable devices.

Addressable systems are suitable for larger, more complex buildings. Each device (e.g., smoke detector or pull station) has a unique “address”. When in alarm mode, fire crews can identify the precise location of the device that was activated, indicating with greater accuracy where a potential fire is located in the building. However correct zoning is still required – an oft overlooked step during installations. Addressable systems can be proprietary which limits which fire safety service companies can service the system in the future. These systems often cost more and can be overkill for a simple condo building.

3. Engineering and Future-Proofing

The client can provide input when their fire protection consultant or engineer designs the new system. The engineer should include the type of system, device placement, wiring plans, control panels, and backup power considerations.

Ensure that discussions include future-proofing so the system can accommodate future expansion or upgrades. For example, elevator upgrades require elevator homing tie-in. Another consideration is installation of wiring for strobe lights in suites for residents who are deaf or suffer hearing loss. It's easier to pre-wire during the project than add on later.

4. Budgeting and Cost Estimation

The consultant or engineer can prepare a detailed budget that includes equipment costs, labour, engineering fees, permits, wire protection, and dealing with hazardous materials such as asbestos.

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6 Steps to Fire System Replacement Projects

If the fire alarm system is a component covered in the strata corporation's depreciation report, as it should be, owners can approve an expenditure from the contingency reserve fund by majority vote. A special levy requires a $\frac{3}{4}$ vote.

5. Request for Proposal Process

Now the strata corporation is ready to begin the tendering process. The consultant or engineer creates a comprehensive request for proposal (RFP) document that includes the entire project: specifications, technical requirements, timelines, finishing, and evaluation criteria such as who inspects, tests, and verifies the installation. It should also require the contractor to take on all responsibilities as the primary contractor under the *Workers Compensation Act*, comply with all [Worksafe BC](#) requirements and regulations, require them to obtain all permits, and have adequate liability insurance.

The RFP is distributed to licenced electrical contractors with experience in fire alarm system upgrades in multi-unit and commercial buildings. The RFP includes a deadline for bid submissions. The client, often with the help of their consultant or engineer, reviews and evaluates the bids received based on criteria such as cost, experience, references, and compliance with project specifications.

The client should do their due diligence and ask questions before selecting its preferred contractor. After negotiating terms and finalizing details, the client awards the project and signs the contract.

6. Installation and Testing

The contract should specify who will oversee the installation of the new fire alarm system, ensuring it adheres to design plans as well as building and electrical codes. This could be the consultant or engineer who designed the system.

The final step is thorough testing and commissioning of the system to ensure it functions as intended and meets safety standards. This should be done by a ULC-listed company that is separate from the installation company. 

Kathleen Nicholas is Lead Project Administrator for Sterling Fire & Associates Inc., which specializes in helping strata corporations through the fire alarm upgrade process. She can be reached at (250) 661-9931 or sterlingfire@ymail.com. www.sterlingfireassoc.com

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You Asked

Q: The word reasonable shows up in the *Strata Property Act* dozens of times. Who decides what is reasonable?

A: The Act often uses language that is open to interpretation such as “reasonable”, “significant”, and “as soon as feasible”. Quite often lawyers, councils, and owners have to rely on case law to guide them. For example, what is reasonable when it comes to a strata corporation’s repair and maintenance obligations?

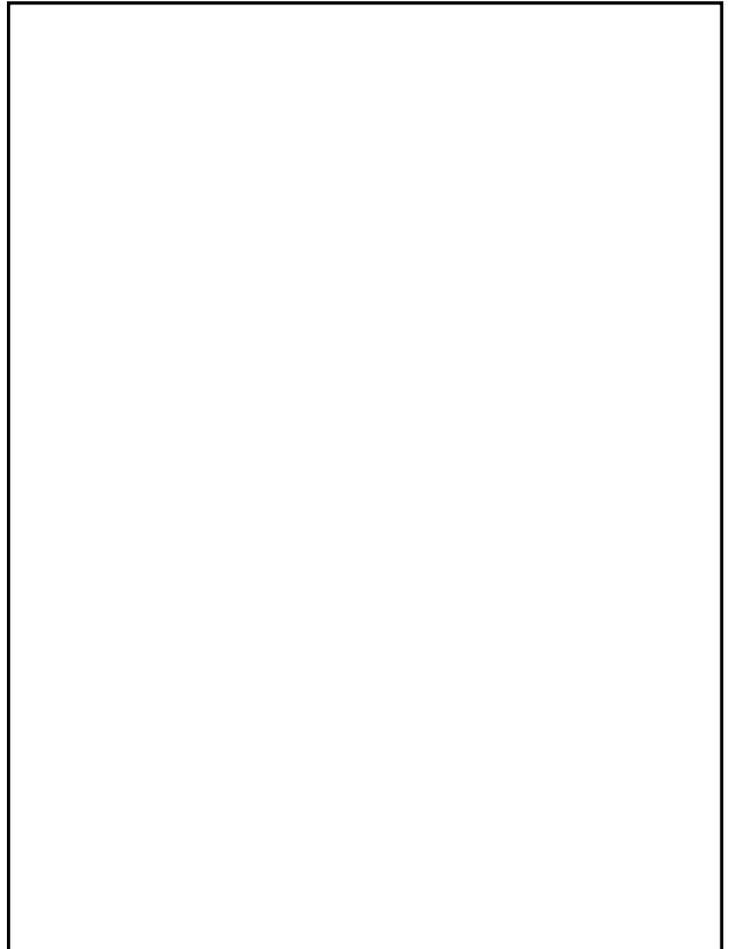
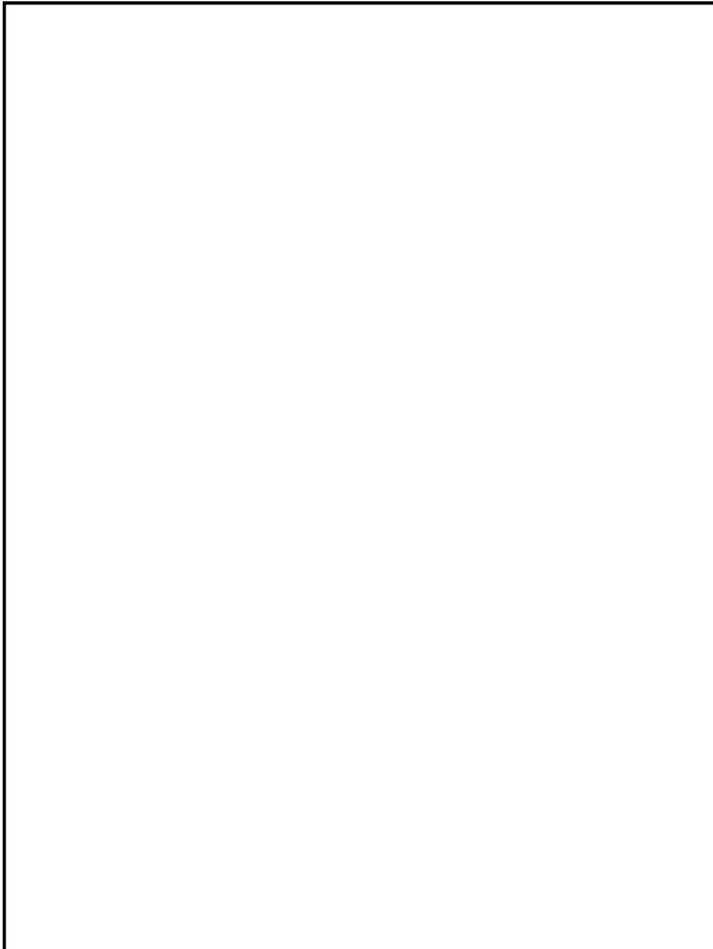
There is a helpful list of considerations in a recent BC Supreme Court Decision. In *Dolnik v. The Owners, Strata Plan LMS 1350, 2023 BCSC 113*, the court summarized legal principles about repairs from several previous court decisions:

- a) while a strata has a fundamental duty to repair and maintain common property pursuant to ss. 3 and 72 of the SPA, deference must be given to strata decisions on how to fulfill this duty;
- b) in carrying out the duty, the strata must act in the best interests of all owners and endeavour to achieve the greatest good for the greatest number by implementing necessary repairs within a budget that the owners as a

whole can afford;

- c) the standard against which the strata’s actions are to be measured is objective reasonableness, not perfection, and is to be assessed by considering the circumstances at the time without the benefit of hindsight;
- d) as strata councils are made up of lay volunteers and are not expected to have expertise in the subject matter of their decisions, latitude is justified when a strata council’s conduct is being scrutinized;
- e) a strata is entitled to rely upon professional advice, and if those who are hired to carry out work fail to do so effectively, the strata will not be held responsible so long as it acted reasonably in the circumstances;
- f) as there can be “good, better or best” solutions available to deal with repair and maintenance problems, choosing a “good” solution rather than a “best” solution is not unreasonable; and
- g) a strata is not an insurer, and the presence of a problem within a strata unit does not establish strata liability.

What’s reasonable depends on many factors!



■ You Asked

Q: Our council members can't agree on how to interpret our bylaw about what kinds of vehicles aren't allowed to be parked on site. What happens if we enforce the bylaw and we're wrong?

A: It's not always easy for council members and owners to interpret the bylaws. The BC Supreme Court has found that it must apply the "plain meaning rule" of statutory interpretation. This requires reasonably interpreting the plain and ordinary meaning of the words in an individual bylaw within the context of the entire bylaws. See [Semmler v. The Owners, Strata Plan NES3039, 2018 BCSC 2064](#). Interpretation is particularly difficult for council members when the bylaw has been poorly written. The bylaw may not actually mean what the owners intended it to mean when they passed it.

There is a risk if council misinterprets a bylaw and enforces it. A court or tribunal might find that the strata corporation treated the owner or tenant significantly unfairly. The basis of a significant unfairness claim is that a strata corporation acted in a way that was "burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust or inequitable." Even if the council members didn't know they were making a

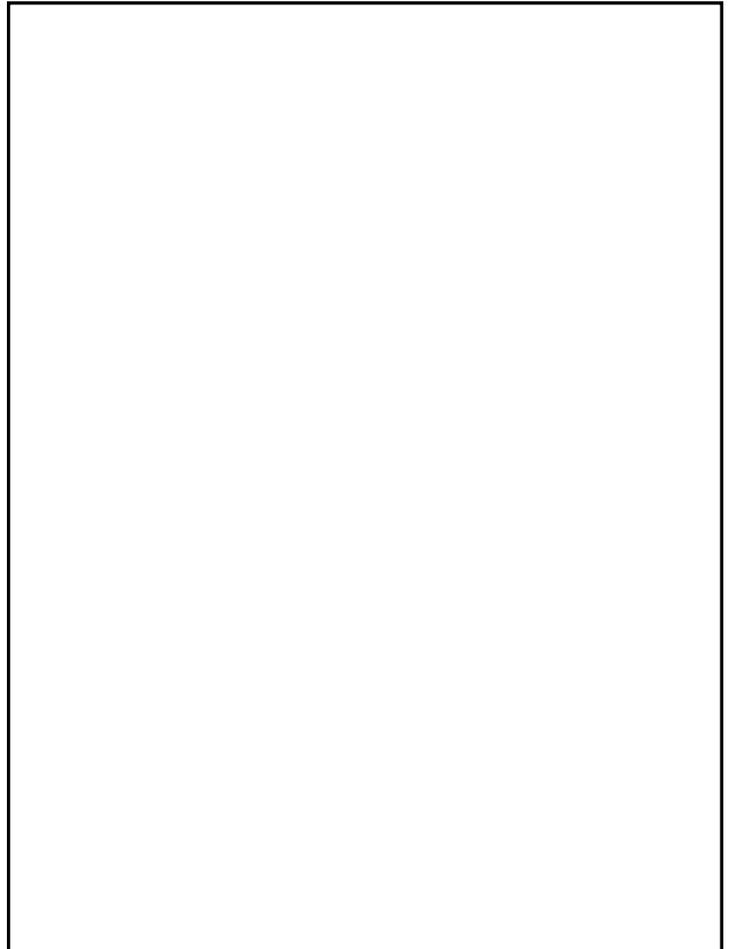
mistake, imposing fines could be seen as being unjust. It would certainly feel burdensome or harsh to the owner who has been fined.

Since a court or tribunal can order a strata corporation to pay damages in cases of significant unfairness, it can be money well spent to get legal advice to clarify a bylaw before enforcing it.

Q: The Act often mentions common property and common assets. What are common assets?

A: A common asset is something the strata corporation owns. The strata might own a strata lot and rent it to a caretaker or it might own land that isn't on the strata plan. Personal property of the strata corporation such as lobby furniture, gardening tools, a vacuum cleaner, gym equipment, laundry machines, a billiards table, or EV charging stations are common assets. The Act explains acquisition and disposal of land in [SPA s. 78-79](#), and acquisition and disposal of personal property in s. 82. 

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



EV Ready Rebates for Townhouse Stratas

Strata owners across British Columbia were pleased to see the [CleanBC - Go Electric EV Charger Rebate Program](#) reopen on October 31, 2023. The program has been recharged with \$7 million in provincial funding.

What is EV Ready?

Being EV Ready means there is a plan to provide each residential strata lot with at least one EV Ready parking space (for units that have access to a parking space). Charging stations can be connected at each parking space in the future when residents need them. Strategic planning results in cost-effective installations and smart use of the building's electrical capacity. Stratas that take this approach will be ready to meet the demand for charging stations as their residents adopt electric vehicles.

Eligibility for EV Ready rebates

Since they were introduced in December 2020, the EV Ready rebates have been a good fit for strata properties with underground parking or parking structures in a parking lot. In practice this meant that participants were primarily stratas with apartment-style buildings. As of

October 31, eligibility for EV Ready Plan and EV Ready infrastructure rebates has been expanded to include strata corporations which are entirely or partly comprised of strata lots that are in townhouse-style buildings or blocks of buildings.

Why should townhouses obtain an EV Ready plan?

The Electrical Code requires that the overall electrical load and spare capacity be calculated for a multi-unit property when EV charging stations are added. This is required even if a charging station will be drawing electricity from an individual owner's electrical panel such as in a townhouse garage or carport.

How much is the EV Ready Plan rebate?

Eligible stratas with EV Ready Plans that meet the requirements are eligible for 75% of the cost to obtain the plan from a licensed electrical contractor or electrical engineer, up to a maximum of \$3,000.

See the [CleanBC program guide](#) for complete details. Note that funding is first-come, first-serve. In the past, funding has been exhausted due to high demand. 



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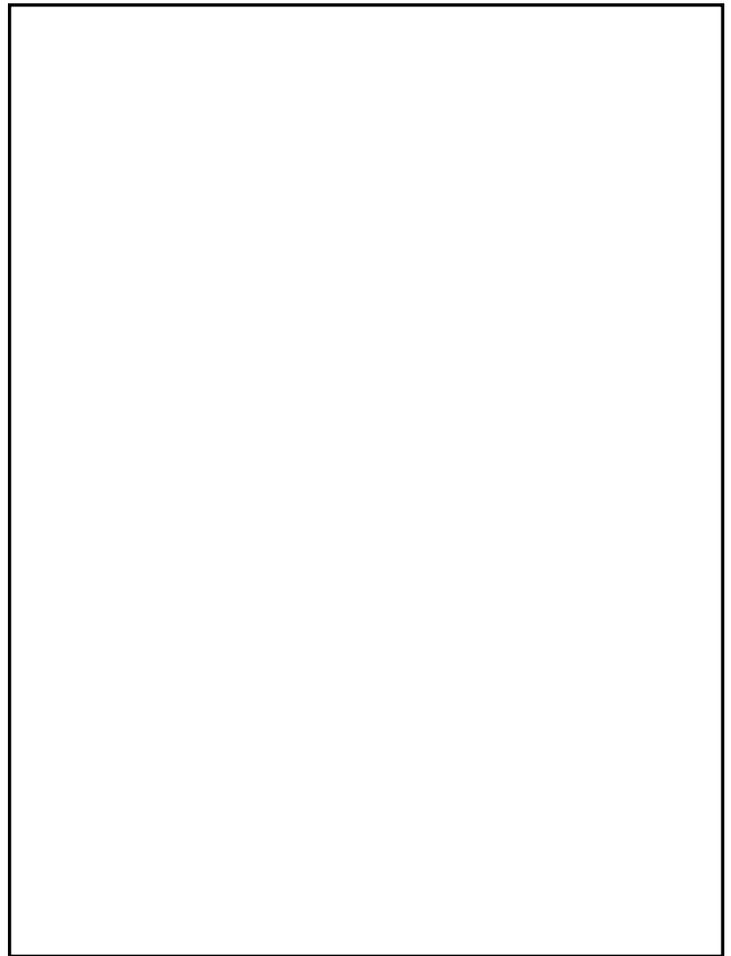


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■ The Future of Short-Term Rentals in Stratas

by Wendy Wall

On October 26, 2023, [Bill 35-2023](#) passed in the BC legislature. The bill includes new legislation, the *Short-Term Rental Accommodations Act* (STRAA), and consequential amendments to the *Local Government Act*, *Community Charter*, and *Vancouver Charter*.

When the Bill was debated in the legislature, the Honourable Ravi Kahlon Minister of Housing voiced concerns that entire homes in BC are being used for short-term accommodations: homes that are desperately needed for people who are struggling to find housing.

He also discussed the impact on businesses when the vacancy rate is so low that they can't find housing for the workforce they need. Since the majority of communities in BC currently have rental vacancy rates of less than 1%, he said "We're focused on returning units that can be long-term housing to the market".

While the Act itself has passed, many details - including the amount of fines - won't be solidified until regulations are written. The Minister indicated that "The first round of regulations will be this fall."

What is short-term rental accommodation?

Typically, short-term rental accommodations are advertised and booked on online platforms such as Airbnb, VRBO, Expedia, Booking.com, and FlipKey. It's also common to see them advertised on Facebook Marketplace and Craigslist, or found in classified ads in newspapers. These are usually short stays by tourists, visitors, or temporary workers.

The new Act says a "Short-term rental accommodation service" means the service of accommodation in the property of a property host, in exchange for a fee, that is provided to members of the public for a period of time of less than 90 consecutive days. The agreement is a "licence to occupy". It's not a landlord-tenant relationship. This means it's not a tenancy under the *Residential Tenancy Act*.

In late 2024, the province will launch a short-term rental registry. All hosts will be required to register and may be required to show proof that it is their principal residence.

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The principal residence requirement

The Act says that as of May 1, 2024 short-term rental accommodations in BC may be offered only in your “principal residence” (the residence you live in for a longer period of time in a calendar year than any other place). The Minister noted that many communities such as Victoria and Vancouver already have principal residence requirements in their bylaws about short-term rentals.

Does this affect you? First, determine if the strata lot you want to use for short-term rental is in an area where the principal residence requirement applies.

Is your property in a resort municipality? The government has indicated that regulations will be written to make homes in 14 Resort Municipalities exempt: City of Fernie, Town of Golden, Village of Harrison Hot Springs, District of Invermere, City of Kimberley, Town of Osoyoos, Village of Radium Hot Springs, City of Revelstoke, City of Roseland, Sun Peaks Mountain Resort Municipality, District of Tofino, District of Ucluelet, Village of Valemount, and the Resort Municipality of Whistler.

Is the population of your community greater than

10,000 people? The Minister said “communities under a 10,000 population, smaller communities, are not impacted by this [legislation].” While regulations have not been written yet, the government web page lists communities where the requirement will apply.

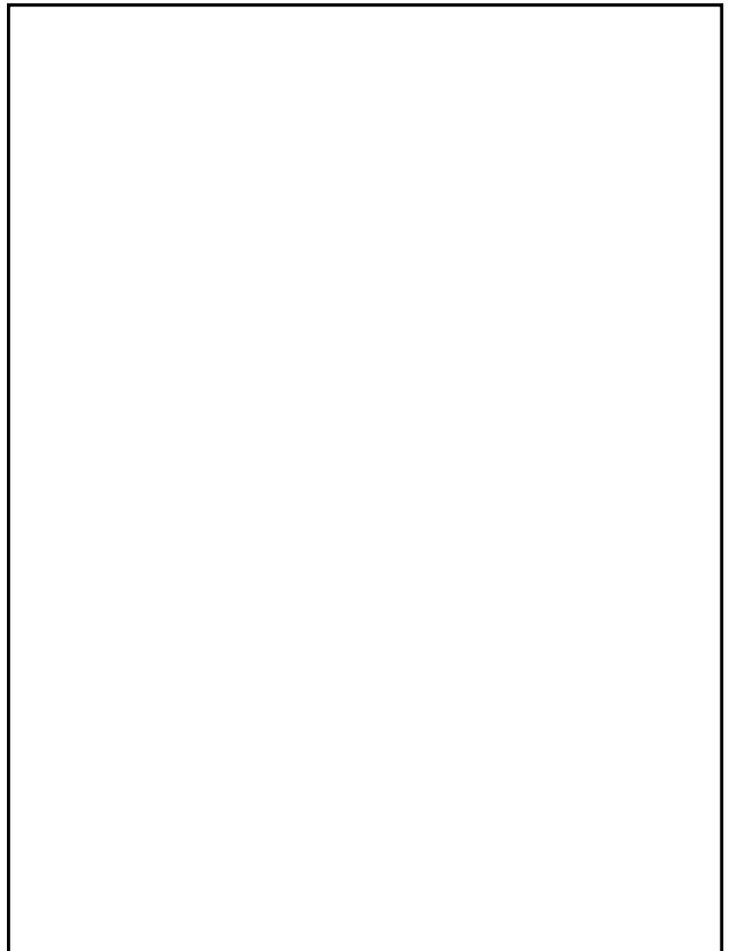
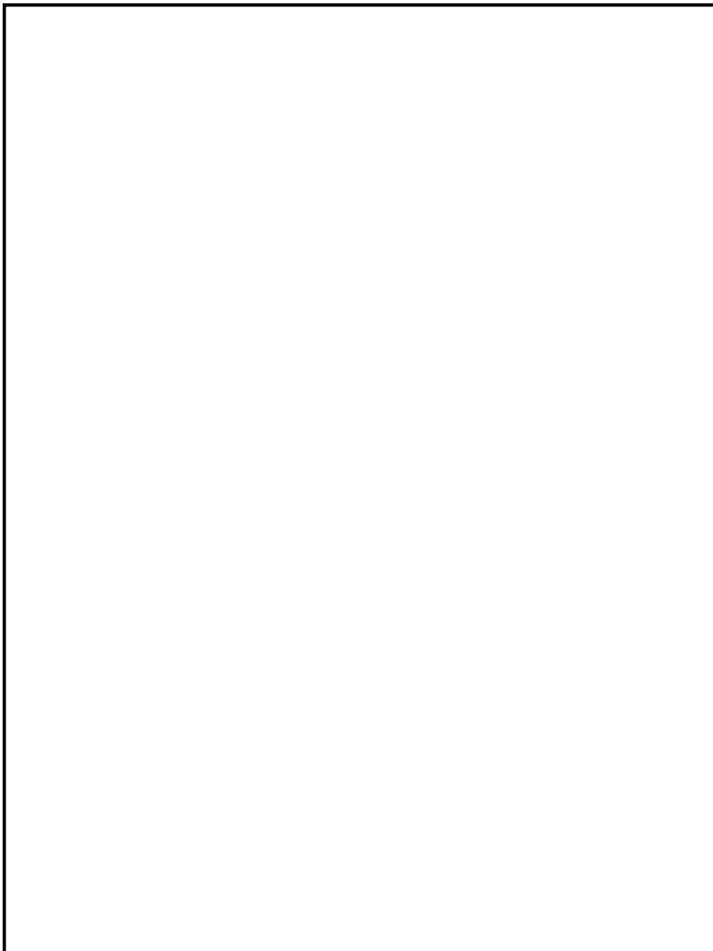
What is the rental vacancy rate in your community?

The Minister said, “When a community gets to the vacancy rate that we’ve set - which is healthy for a community at 3% - then they can be considered to opt out. That will be coming in regulation.” According to the Minister, in 2022, communities with vacancy rates higher than 3% included: Prince George, Mission, Fort St. John, Central Saanich, Williams Lake, Prince Rupert, and Dawson Creek. City councils could pass a motion and make a request to the province to be opted out (exempted for one year).

Example

Lei owns 3 condos, one in Victoria and 2 in the District of Ucluelet. She lives in the condo in Victoria as her primary residence. Since Ucluelet is a Resort Municipality, it is exempt from the Act and she can use the 2 condos in Ucluelet for short-term accommodations if her strata bylaws allow it.

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The Future of Short-Term Rentals in Stratas

A few times a year she goes to Ontario to visit family. If her strata bylaws allow it, she can list her Victoria condo as a short-term rental of less than 90 days because it's her primary residence. Lei should make sure she complies with strata and municipal bylaws, and registers with the province when the registry launches.

What about strata hotels?

Section 3 of the Act says “The Act does not apply to hotels, motels and any other accommodation service providers that may be prescribed for the purposes of this section.”

This raises the question, “What is considered a hotel”? In some hotels, each hotel room is an individually owned strata lot where each owner is required or chooses to participate in a “hotel pool”. To the general public it looks like a typical hotel operation, but each strata lot is registered at the Land Title Office, and pays property taxes just like a condo. It's rare for these strata lots to be used as primary residences and in some cases municipal bylaws don't permit them to be used as primary residences.

The Minister's comments suggest that these strata lots will be able to continue to be used as hotel rooms. He said, “in most cases, we expect that strata hotels will be exempt from the principal residence requirement but will still be required to register. I say “in most cases,” given that there are different models.” He continued by saying, “the strata piece will be in regulations.”

Can strata bylaws ban or restrict short-term rentals?

Yes. While the *Strata Property Act* doesn't permit strata bylaws to restrict rentals (tenancies), it does permit strata corporations to pass bylaws that ban or restrict the use of residential strata lots for short-term accommodation.

Strata fines can be significant. Under *Strata Property Regulation 7.1*, “in the case of a bylaw that prohibits or limits use of all or part of a residential strata lot for remuneration as vacation, travel or temporary accommodation, the maximum amount that a strata corporation may set out in its bylaws as a fine is \$1,000 for each contravention of the bylaw.”

It's recommended to have a lawyer draft strata short-term rental bylaws to ensure they have the intended effect. In some cases, the BC Supreme Court has found certain bylaws unenforceable due to poor wording.

What's next?

Watch for updates after the regulations are written. If you own a strata lot and are unsure how the new *Short-Term Rental Accommodations Act* affects you - whether you can continue to use it for short-term accommodations after May 1, 2024 - you may want to seek legal advice. 

■ President's Message

Preparing for a Tsunami of Small Stratas

If you're one of those people who follows debates at the BC legislature, you've had a lot of reading to do lately! There have been several bills related to housing in the last few weeks. The *Short-Term Rental Accommodations Act* was introduced on October 16, and received Royal Assent on October 26. See page 24 for details about how the Act affects strata owners in BC.

In early November, 3 bills were introduced:

- Bill 44-2023 *Housing Statutes (Residential Development) Amendment Act, 2023*
- Bill 46-2023 *Housing Statutes (Development Financing) Amendment Act, 2023*, and
- Bill 47-2023 *Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023*

It's Bill 44 that grabbed my attention. To be clear this column features my own views, not any official position of VISOA. My comments are based on 12 years of experience as a VISOA board member and reflect the legal cases I've read and the many, many real-life stories I've heard from strata owners.

What does Bill 44 propose?

In the government's [news release on November 1, 2023](#) Premier Eby said, "Constructing mostly high-rise condo towers or single-family homes means BC isn't building enough small-scale multi-unit homes that fit into existing neighbourhoods and give people more housing options that are within reach. That's why we're taking action to fix zoning problems and deliver more homes for people, faster...In most areas within municipalities of more than 5,000 people, these changes will also require bylaws to allow for: 3 to 4 units permitted on lots currently zoned for single-family or duplex use, depending on lot size; 6 units permitted on larger lots currently zoned for single-family or duplex use and close to transit stops with frequent service."

The legislation aims to speed up local housing development approvals by shifting local planning and zoning processes to happen up front. It will require municipalities throughout BC to expedite and streamline permits by updating community plans and zoning bylaws on a regular basis to ensure that they have enough housing to meet the needs of both their residents.

If passed the changes will also phase out one-off public hearings for rezonings for housing projects that are consistent and aligned with the official community plan and require more frequent opportunities for people to be involved in shaping their communities when official community plans are updated.

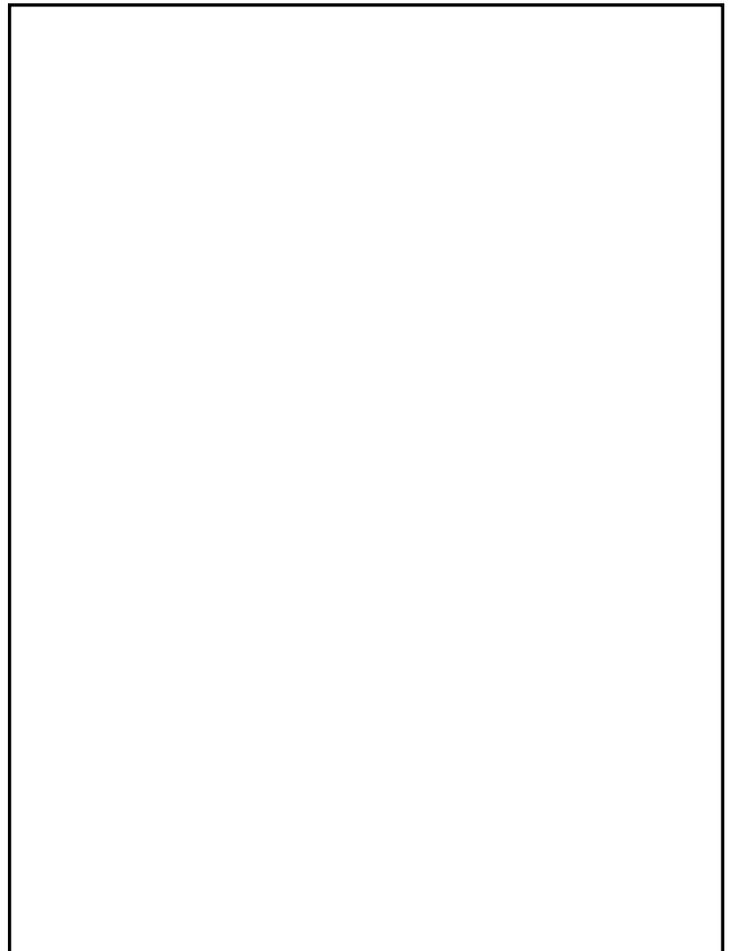
The number of strata corporations will double in 10 years!

Here's where it gets interesting. The news release says, "preliminary analysis indicates the province could see more than 130,000 new small-scale multi-unit homes in BC during the next 10 years." Let's take a moment to let that number sink in. The first strata plan was registered in BC in 1968. The [Land Title Office reports](#) there were 32,344 filed strata plans and 690,980 active strata lots in BC as of March 31, 2023.

It took 55 years to reach the current quantity of 32,344 strata corporations. Remember that duplexes, triplexes etc are strata corporations and they must comply with the *Strata Property Act* exactly as any high-rise or other larger strata.

If 130,000 new multi-unit homes are built over the next 10 years, at an average of 4 units each, that's **32,500 new strata corporations**. There are also numerous larger stratas being constructed every day.

continued on page 28



President's Message

How is the strata community expected to handle education and support for strata owners when the number of strata corporations will more than double in 10 years?

Support for local governments

The Province has committed to supporting local governments with implementation by providing resources to speed up approval processes. This includes \$51 million to support local governments in meeting the new zoning requirements and \$10 million for the Local Government Development Approvals Program.

Where is the support for the strata housing system?

Where is the funding to support the strata system? At the very least we need funding for the Ministry of Housing to dedicate staff to the strata portfolio. Strata legislation and arising issues are too large to be addressed from the side of someone's desk. We need at least a small team to be focused on this work. With 1.5 million British Columbians living in strata lots (27% of BC's 5.5 million residents) there is a sound business case for the ministry to dedicate staff to the strata housing sector.

There is plenty of work to do. The BC Law Institute [Strata Property Law Project Phase Two](#) produced 4 reports between 2017-2019 with 206 recommendations for practical and much-needed reforms to the 1998 *Strata Property Act*. It's time that these drafted amendments to the Act stop gathering dust.

Furthermore, times have changed. Technology has changed. We need a commitment to additional reforms to the Act to address outdated legislation. We need clear language so the risk of contravening the law through innocent misunderstandings is mitigated. We need reforms to related legislation such as laws related to processes at the Land Titles Office.

Legislation reforms for small stratas

Just because they are small, doesn't mean that small stratas are easy to operate. Stratas of 2-6 units can, in fact, be some of the most difficult to manage. They are often contentious, litigious, and deadlocked. They often flout the law or simply give up because the process is so complicated.

Applying the *Strata Property Act* to very small stratas can leave owners feeling helpless. Majority or 3/4 votes simply don't work for strata corporations of 2-3 units. A single owner can overthrow a small strata or bring operations to a halt simply by defeating quorum for meetings.

Yet over 50% of the [stratas currently registered in BC](#) are 2-4 units in size. If Bill 44-2023 passes and preliminary analysis comes to fruition, in 10 years over 75% of strata

corporations will be 2-6 units in size. It is more important than ever to reform the *Strata Property Act* to prepare for the coming tsunami of small strata corporations.

What you can do

If you would like the BC Government to provide funding to the Ministry of Housing to create a dedicated team for strata-related work, you may 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
- The Honourable David Eby, Premier of BC
premier@gov.bc.ca
- The Housing Policy Branch
Housing.Policy@gov.bc.ca

To learn about the BCLI Strata Property Law Project Phase Two recommendations, see the interview with Kevin Zakreski in VISOA's [August 2023 Bulletin](#) or visit bcli.org 

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

VISOA

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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](#).



2024 Cover Photo Contest

Submit your photo of a BC strata to editor@visoa.bc.ca. Photos selected for the cover of Bulletin issues in 2024 will be entered into a draw on December 1, 2024.

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

Second prize: \$50 to the submitter.

