



Vancouver Island Strata Owners Association

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- Web site: www.visoa.bc.ca
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VISOA Bulletin - APRIL 2009

President's Report



Photo by Stan Coe

Tony Davis chairing the AGM.

I served as Vice President of VISOA last year, replacing Felicia Oliver, when she passed away in November. VISOA's Board of Directors expressed confidence in me by electing me president for the coming year. I hope I can meet the high standard set by Felicia during

her too brief service as president.

VISOA's February AGM set a record for attendance and member participation, thanks in large part to our speaker, Tino di Bella, a Victoria lawyer recognized as an authority on strata law. In addition to reviewing the prior year's financial reports and approving a balanced budget for 2009, the general meeting elected members to the Board of Directors and approved a bylaw amendment making the bylaws consistent with the Society Act.

The original bylaws assigned votes at general meetings to corporate members on the basis of number of

units but the Society Act requires that all members in good standing have a vote. The bylaw amendment corrected this by giving a vote to every VISOA member in good standing. This meant that all VISOA members present at a general meeting and in good standing would have a vote.

In addition to me, those elected to the Board of Directors for 2-year terms were Daryl Jackson, Deryk Norton, Claudio Procopio, Laurie McKay and David Grubb. Board members whose terms continued from last year were Elsie Lockert, Harvey Williams and Sandy Wagner.

At its first meeting, the Board elected me as President and Sandy Wagner as Vice President. Re-elected for another term of office were Secretary Claudio Procopio and Treasurer Daryl Jackson.

2009 is shaping up as an exciting year for VISOA. We have a Provincial election coming up, with opportunities to bring your concerns with the Strata Property Act to the attention of the government. The Board also has an interesting and informative slate of seminars lined up for you and we will continue to look for ways to improve our service to you our members.

- Tony Davis, President

In this issue...

- President's Report **Tony Davis** 1
- Editor's Message **Sandy Wagner** 2
- You asked **Harvey Williams** 2
- Appointing an administrator under the SPA **Shawn M. Smith** 3
- VISOA's newest publication 4
- ...Since 1973 **Sandy Wagner** 6
- BC Election 2009 and the strata owner **Deryk Norton** 7
- Home renovations tax credit for common property **Daryl Jackson** 7
- Bed bugs are back **Harvey Williams** 8
- The Hydro two-step **Harvey Williams** 8
- Enforcing parking bylaws **Joyce Johnston** 10
- Strata strategies - On my soapbox **John Grubb** 11

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Elsie Lockert, Deryk Norton,
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 Harvey Williams

Editor's message

by Sandy Wagner, Associate Editor

In this issue of the VISOA Bulletin, we have several "ripped from the headlines" articles.

When stories on the nightly news affect strata owners, they often turn into Helpline inquiries, and when we receive multiple calls on the same topic we know that others will want the answers too! Questions on your mind this spring are: the federal tax credits for home renovations; BC Hydro's two-step billing; bedbug infestations; and the upcoming provincial election. VISOA's Board members have written timely articles on all those topics.

We also feature articles on towing of vehicles, maintenance planning, and the frustrating experience of applying for a strata administrator. In addition, you will learn about VISOA's newest publication on Strata Insurance and bit about our history. A packed bulletin indeed! Please let us know how you like this edition, or if you have suggestions for future articles. Email us at editor@visoa.bc.ca - as always, we'd love to hear from you.

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You asked:

How does one apply for an administrator?

by Harvey Williams

Have a question about managing your strata corporation? Ask us, we've had a lot of experience helping strata corporations solve problems, perhaps we can help you. Questions may be rephrased to conceal the identity of the questioner and to improve clarity when necessary. We do not provide legal advice, and our answers should not be construed as such. However, we may and often will advise you to seek legal advice.

Question:

I own a strata unit in an 8-unit townhouse complex that has been allowed to run down because no one other than me is willing to serve on the strata council. I would like to apply to the courts to have an administrator appointed, but cannot afford a lawyer. How do I go about applying for an administrator?

Answer:

I have been asked many times about court-appointed strata administrators but had never given much thought to the process until I received the question above and decided to find out for myself. My first phone call was to the courts. After being passed from office to office with no one being able to provide any information, I gave up and sent an email full of frustration to Premier Campbell.

A week or so later, I received a call from the Ministry of Finance informing me that my inquiry had been directed to that office and I would hear from someone soon. In a few days, I received a call from a nice person there to whom I directed my question. I explained what I wanted and she said she had no idea but would direct my inquiry to the Attorney General's Office.

A few days later, a gentleman from the Court Services Branch of the Attorney General's Office called. Once again I explained what I wished to know. He

prefaced his response by telling me he couldn't give me legal advice, but he could give me procedural information but couldn't assure me that what he was telling me was what I wanted to know.

He began to explain that either Rule 10(2) or Rule 10(3) applied depending on whether it was a petition or a requisition ... at which point I interrupted him and asked him if he would mind putting it in an email. I would get back to him if I had questions after I had read the email.

A few days later, I received an email from him informing me that the application fee was probably \$308 although he didn't know for sure, along with the following instructions:

The applicants may want to consider whether the definition of "originating application" as set out in Rule 1(8) applies. If this rule does apply, the matter would typically be commenced by way of either a petition or requisition under Rule 10. If this rule does apply, the applicants will need to consider whether they are required to give notice of the application to anyone else, according to Rule 10 (2) or Rule 10 (3). Many applications are initiated by way of a petition, which is made in Form 3. The process to set the matter down for hearing, if required, is set out in Rule 51 A.

After reading the instructions, I concluded that there is no possible way to apply for a strata administrator without a lawyer. If any reader is still interested in giving it a shot, they could begin by visiting the following websites.

http://www.bclaws.ca/Recon/document/freeside/--S--/supreme court act rsbc 1996 c. 443/05_regulations/11_221_90 supreme court rules/221_90_00.htm

http://www.bclaws.ca/Recon/document/freeside/--C--/Court Rules Act RSBC 1996 c. 80/05_Regulations/18_221_90 Supreme Court Rules/221_90_06.xml#pdfdocforms

Lawyer Shawn Smith tells us more about appointing an administrator on page 3 of this bulletin.

Appointing an administrator under the *Strata Property Act*

by Shawn M. Smith, B.A., LL.B.

One of the most frustrating experiences a strata lot owner can have is trying to get a strata corporation (and here one can read “strata council”) to fulfill its obligations under the Strata Property Act or even to simply comply with it. The owner’s protestations (both written and oral) fall on deaf ears. The frustration level rises and finally the owner says; “Enough! Something must be done!”. The question becomes, what?

Unfortunately, there are limited options available to an owner who finds themselves in such a situation. If the owner cannot convince his or her fellow owners to remove the strata council, then the only option remains to seek the assistance of the court (though for some things arbitration remains an option). There is no regulatory body (ie. strata police) that can intervene and set things right.

The Strata Property Act provides three basic legal remedies that owners can seek:

1. An order under s.164 that a decision or action of the strata corporation is “significantly unfair” to them. (This is often referred to as an

“oppression remedy”);

2. An order under s.165 that the strata corporation comply with the Act or stop contravening it (a typical example is an order that the strata corporation repair the common property); and

3. The appointment of an administrator (ie. someone to take the place of the strata council). s. 174

The scope of s.164 and its potential applications is an article in and of itself. Suffice it to say that it will not apply to every decision that finds an owner in the minority. Nor do the courts appear willing to readily to grant relief under this section, preferring to recognize the democratic nature of strata corporations and defer to the will of the majority.

S.165 is best applied where there is one particular item with which an owner requires the court’s assistance.

It is usually where there are a multitude of examples of mismanagement or where there is an obvious dysfunction in the general operation of the strata corporation that s.174 will be applied.

Section 174(2) permits the court to appoint an administrator where it “is in the best interests of the strata corporation” to do so. In *Lum v. Strata Plan VR519 2001 BCSC 493* the court set out a list of factors to be considered when attempting to determine whether and administrator should be appointed. Those factors are as follows:

(a) whether there has been established a demonstrated inability to manage the strata corporation;

(b) whether there has been demonstrated substantial misconduct or mismanagement or both in relation to the affairs of the strata corporation;

(c) whether the appointment of an administrator is necessary to bring order to the affairs of the strata corporation;

(d) where there is a struggle within the strata corporation among competing groups such as to impede or prevent proper governance of the strata corporation;

(e) where only the appointment of an administrator has any reasonable prospect of bringing order to the affairs of the strata corporation.

In addition, the court is of the view

Continued on page 5



Viso Board of Directors

Photo by Stan Coe

Back row L-R: Daryl Jackson, Deryk Norton, Sandy Wagner, David Grubb, Claudio Procopio
Front Row: L-R: Elsie Lockert, Harvey Williams, Tony Davis, Laurie McKay

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Introducing VISOA'S newest publication: STRATA INSURANCE

In response to many Helpline calls over the years, VISOA has published a guide to Strata Insurance. Interest in the new publication was confirmed by sales at VISOA's

well-attended AGM and seminar in February. This 23-page booklet covers everything that a strata corporation needs to know when purchasing insurance for the Strata:

- **What is required by the *Strata Property Act*?**
- **Purchasing Insurance • Dealing With a Claim**
- **Insurance Terminology • Insurance Checklist**

Some of the many topics that the new publication demystifies include Co-Insurance, Liability Insurance, Insurance Appraisals, and Earthquake Coverage. Strata councils will find the Insurance Checklist useful in making the annual report to owners on their strata insurance coverage as required by the SPA.

A section on Homeowners Insurance for Strata Owners highlights the importance of dove-tailing your home insurance with that of the strata.

This new publication is available at cost at our seminars for \$8.00 and mail-order through our website or info-line for the same cost, plus postage. Check it out soon!

STRATA INSURANCE

Distributed by:



Vancouver Island Strata Owners Association

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Appointing an administrator

Continued from page 3

that “the democratic government of the strata community should not be overridden ... except where absolutely necessary”.

There are also limits to what an administrator can do. While the court can permit the administrator to perform some or all of the powers and duties of the strata corporation, it cannot give the administrator the power to make decisions which are otherwise reserved to the owners, such as passing a $\frac{3}{4}$ vote. (*Aviawest Resort Club v. Strata Plan LMS1863 2005 BCCA 267*).

Finally, the cost of an administrator (which can be upwards of \$200 per hour and is borne by all the owners in proportion to their unit entitlement) will also be something the court will consider.

What can be taken from this is that administrators will not be readily appointed by the court. There must be an extremely compelling reason to do. A mere dislike for the way that the strata council goes about things will not be enough. Nor will the fact that not all owners agree on something.

Assuming an owner feels their situation is compelling enough to seek the appointment of an administrator, how do then go about it? An owner seeking the appointment of an administrator must do so by filing a petition and supporting affidavit(s) in any registry of the British Columbia Supreme Court. The petition will outline the basic facts and tell the court what the owner is seeking (ie. the appointment of an administrator pursuant to s.174 of the Strata Property Act). The affidavit(s) (a sworn statement) will set out the factual basis for the appointment of the administrator. In other words, what the strata corporation has done or has failed to do such as to warrant an administrator being appointed.

Those documents are then served on the strata corporation (usually by serving a strata council member personally). Once the strata corporation has had a chance to provide material in reply, the matter is set for hearing before a judge and a decision made. (Remember the general rule that the unsuccessful party has to pay a portion of the costs of the successful party, thus actions should not be started rashly). The same process is used for applications under sections 164 and 165.

Although an owner in such a situation would usually retain a lawyer to act on their behalf, there is no requirement that one do so. An individual can represent themselves in court. However, doing so is not always best. Whereas Small Claims Court is designed for the layperson, Supreme Court is not. It is more involved and the issues before the court are often much more complex. It is these two aspects that often require an owner to retain a lawyer to ensure that their case is properly presented to the court.

For owners who wish to represent themselves, they should consider the following:

1. Speak to a lawyer about your case and get some help in putting it together. If you do not have a viable case it is best to know sooner than later;
2. Find out as much as you can about how the court works. A good deal of helpful information in this regard is available at www.courts.gov.bc.ca. (Consider attending the court in advance to observe a hearing in progress. Most are open to the public).
3. Go to a law library (most court houses have them) and do some reading on your topic. You will need

to show the court case law (ie. previous decisions) that support it giving you what you are asking for. If the law doesn't support you then there is no point in asking for what you want.

4. Assess whether you are organized enough and confident enough to put forward your case and explain it clearly to the court. If not, you might have a problem persuading the judge to your point of view.

Keep in mind that while the appointment of an administrator may resolve a particular issue, it may not resolve the underlying problems which cause your strata corporation to not function well; namely the mix of owners. Sometimes calling the movers is the better option.

This article is intended for information purposes only and should not be taken as the provision of legal advice. Shawn M. Smith is lawyer whose practice focuses on strata property law. He frequently writes and lectures for a variety of 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.

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- Business Card Size: \$75/yr (\$22.50/single issue)
- $\frac{1}{4}$ Page Size: \$150/yr (\$45/single issue)
- $\frac{1}{2}$ Page Size: \$300/yr (\$90/single issue)

Ads must be paid for in advance, and are subject to VISOA Board approval. Ads must be “camera ready”, in BMP, PDF or TIFF format - additional fees for scanning or layout may otherwise apply.

...Since 1973

by Sandy Wagner, VISOA VP

The bottom of each page of this Bulletin shows the motto “Assisting Strata Councils and Owners Since 1973”. The year 2008 marked 35 years of VISOA’s services to members. There have been many changes over the years, but the primary mission has remained the same. Here is a brief synopsis of our history.

Initially named “The Greater Victoria Association of Strata Corporations”, it was also known as “The Strata Corporations Association of Greater Victoria” and “The Greater Victoria Strata Corporations Association”. Quite a handle, no matter which way you say it. Early newsletters were simply mimeographed copies on foolscap paper and contained such tidbits as word search puzzles!

In January 1976, the Association applied to the Registrar of Companies to register under the Societies Act. At that time, there were 15 Directors led by President L.W. Jones. On February 27, 1976 “The Greater Victoria Strata Corporations Association” was incorporated. The Annual General Meeting was held each October through the 1970’s.

In October 1980, the organization’s name changed officially to “The Greater Victoria Condominium Association” and the mandate included reference to government relations for the first time. Jack Roberts was the President of the Board of Directors from 1982 through 1984. Membership dues accounted for \$2500 income in those days. In 1983 a nifty new logo was designed, which remained with us for the next twenty-four years.

In 1989 the name changed again – this time to “The Greater Victoria Strata Owners Association”. The

AGM was now held in January. President in 1991 was Mary Richmond, and in 1992, Robbie Robertson.

Membership continued to grow – 1992’s financial statements showed Membership income of \$7072. In 1994 the President of the Board was R.F. (Bob) McAdams.

In January 1995 the current telephone number first appeared on our letterhead: 920-0222.

President Betty Muller served in 1995 and 1996. In January 1996 we first introduced Fred and Peggy Francis’ book “Democratic Rules of Order” and sales of this helpful little publication have been brisk ever since. The next President was Jill Kelly, 1997 and 1998.

In April 1998 the organization underwent another name change and became the “Vancouver Island Strata Owners Association”. The years 1998 and 1999 were busy times with many stratas experiencing “premature building envelope failure” otherwise known as “leaky condo” and VISOA made a presentation to the Barrett Commission on behalf of its members.

Florence Walker was elected President in 2000 and led the membership through the implementation of the new Strata Property Act which came into force on July 1, 2000. The helpline was extremely busy during that time, as all strata corporations had to register or re-register their bylaws with the Land Title Office before December 31, 2001. As well, VISOA held more frequent seminars to assist the membership in re-writing their bylaws and understanding the new SPA.

In 2006, Harvey Williams was elected President of VISOA and led a very active Board of Directors through a reorganization. The unofficial motto of the Board became “We can do it” and do it they did – membership grew to unprecedented levels, the website was redesigned, new publications were introduced, the Bulletin printed digitally for the first time and a new logo unveiled.

Through all the changes, the purpose of our organization has remained the same – the words have been updated, but our purpose has not changed:

- To promote and encourage strata ownership as a desirable way of life.
- To assist strata corporations and strata lot owners by providing education and training, and when requested, assistance to them in the discharge of their legal duties and obligations.
- To represent the interests and concerns of strata corporations and strata owners to the government and its agencies and to the public at large.

As VISOA continues to grow and change, you can be assured that one thing will not change: the dedication of its Board of Directors. We are always mindful of our purpose and seek new ways to educate and assist strata councils and owners. With the help of our large corps of volunteers, we hope you are satisfied we are meeting the challenge.

The aim of argument, or of discussion, should not be victory, but progress.

Joseph Joubert (*French Moralist and Essayist, 1754-1824*)

BC Election 2009 and the strata owner

by Deryk Norton,
VISOA Board Member

The May 12 provincial election is rapidly approaching and one might well ask if strata owners should do anything to make their voices heard during the pre-election period.

There are some who think that strata legislation issues have no place in the provincial election campaign and that to raise these issues is to intimidate or “bully” politicians. (Seriously, I have heard this several times!) Perhaps they think strata owners should remain silent while the real estate industry advances its interests with politicians.

One spokesman for developers and property managers on the mainland has even said that the legislation concerns identified in the VISOA report are unimportant and that BC homeowner protection laws are “some of the best in the world”. This may be the case for those who profit from strata properties. However, it is clearly not the case for the people who live in strata developments. Strata owners throughout BC are contacting VISOA for information and acting on their own to hold accountable those politicians who have failed to represent the interests of strata owners.

VISOA is not endorsing any specific political party or candidate but will provide bi-partisan support for strata owners in their efforts to identify and elect candidates committed to work for a transparent review of strata legislation. Such a review requires a process for public input from individual strata owners instead of the government’s current emphasis on “behind closed doors” input from those who speak for the real estate industry.

In the coming weeks please watch the VISOA website for updates on BC Election 2009. If you prefer to receive e-mail updates please contact info@visoa.bc.ca

Home renovation tax credit for common property

by Daryl Jackson, VISOA Treasurer

This article is for general information only. For advice on claiming your Home Renovation Tax Credit, you should ask a qualified tax consultant. If your strata unit is your principal place of residence, you are eligible for the new Home Renovation Tax Credit for renovations of the common property. Your strata unit is defined as your principal residence if you, your spouse or your common-law partner reside there at any time between the dates of 27 January 2009 and 1 February 2010.

If you meet those criteria, you can claim a non-refundable tax credit for renovations up to a maximum of \$1,350. The credit is for 15% of expenditures between \$1000 and \$10,000. The cost of common property renovations is apportioned to owners on the basis of unit entitlement because the funds are collected on that basis.

The strata corporation’s contract for the work must be dated no earlier than January 28, 2009. This means that a contract for repaving a driveway signed before that date could not be used as a basis for a tax credit claim.

Here’s how it works:

In April of 2009, a strata corporation lets a contract for \$20,000 to paint the exterior of the building. A unit with an entitlement of 0.1500 would contribute \$3,000 to the project. Accordingly,

the unit owner would be credited with having spent \$3,000 on the renovation resulting in a tax credit of \$300. $[(\$3,000 - \$1,000) \times 0.15]$

To be eligible, expenditures must be in relation to a renovation or alteration of an enduring nature and integral to the dwelling, and may include the cost of labour and professional services, building materials, fixtures, rentals, and permits. Most expenditures from the Contingency Reserve Fund should meet these criteria.

No advance approval is required. Documentation of expenses does not have to be supplied with a claim but should be kept on file to respond to future inquiries. A list of acceptable documentation and other information relating to the Home Renovation Tax Credit may be obtained on VISOA’s website.

Contractors must be registered for GST/HST. To verify registration, consult the GST/HST registry on the WEB.

A line on the 2009 tax form will be provided to claim the credit.

The CRA Information Bulletin on the Home Renovation Tax Credit may be accessed at:

www.cra-arc.gc.ca/gncy/bdgt/2009/fqhmrnvt-eng.html

VISOA’s upcoming seminar

Sunday, April 19, 2009 • 1:00 - 4:00 PM • Register 12:30 pm
A STRATA ADMINISTRATOR: IS THAT THE SOLUTION?

Speaker: Gerry Fanaken, CEO of Vancouver Condominium Services

Beban Park Social Centre, 2300 Bowen Road, Nanaimo

No charge for VISOA members \$20 for non-members

Bed bugs are back

by Harvey Williams

Lately VISOA's Helpline has received calls about a nuisance that DDT had once all but eliminated in North America - bed bugs. Even if DDT had not been banned, bed bugs would have made a comeback because in a few generations, they become immune to it. It seems likely that the Helpline reports are only the tip of a bed bug ice berg of strata infestations.

In olden times, bed bugs were a plague of the poor; now they are an affliction of the affluent, the reason being that the affluent can afford to travel more. An aid worker on her way home from third world Bevkakistan stays overnight at the Toronto Hilton. When she gets up in the morning to catch her flight home to Winnipeg she unknowingly leaves a hotel bed infested with bed bugs.

The next night, a Victoria couple returning from a cruise in the Caribbean spends the night in the same bed - never mind that the sheets and pillow cases have been changed.

Then they stop over between plane connections in a Vancouver hotel and another bed is infested with bed bugs. Finally on the third night, they are home in their strata unit. And so it goes - like a nuclear chain reaction.

That's the bad news - the good news is bed bugs are not known to transmit pathogens from one host to another although they may cause allergic reactions. But there is more bad news; bed bugs are extremely difficult to get rid of.

How do you know you have bed bugs? You may find them in your bed or in carpets around your bed, or you may find their bites on your body. Bed bug bites tend to be raised red smooth welts similar to mosquito bites but itchier and lasting much longer - and of course occurring when you have not been exposed to mosquitoes.

Bed bugs can be difficult to get rid of. They can spread from unit to unit and into common areas along electrical conduits and water pipes

and can even be carried by pets. If they are present in more than one unit in a strata complex, eradication can be expensive. It is not a do-it-yourself job nor is it something for strata councils to conceal from owners. Any owner who thinks they have bed bugs should report it to the strata council and a licensed pest control company should be called immediately. If left unattended, the problem will only worsen. Strata councils should not attempt to assign blame for a bed bug infestation nor charge the cost of extermination back to an owner. This only provides an incentive to conceal their presence allowing them to spread to other units.

There is excellent information about bed bugs on www.wikipedia.com. The Toronto Public Health website has information on bed bugs and their eradication:

http://www.toronto.ca/health/bedbugs/bedbugs_factsheet.htm

The Hydro two-step

by Harvey Williams

In November, an email from a VISOA member suggested that BC Hydro's new two-step rates were unfair to strata owners. I followed up with a telephone call to Hydro to find out more about the two-step rates. After responding to an infinite loop of "If you want to find out about X, press Y where X is any fact relating to BC Hydro and Y is any digit on the telephone dial from 0 through 9", I gave up, turned to my computer and Googled BC Hydro. After a few clicks, a web page opened extolling the virtues of BC Hydro with an email form for submitting written questions. I filled out the form and clicked

"SEND".

The next day, an email bearing the salutation "Dear Harvey" from a Rob with the title Conservation Advisor appeared in my inbox. Such friendly familiarity gave me a warm fuzzy feeling and I immediately felt a bond with Conservation Advisor Rob. I felt the bond strengthening when I, a life-long environmentalist, read that the purpose of the new rates was to encourage energy conservation. With the spectre of global warming looming over us, who wouldn't be in favour of that?

Conservation Advisor Rob's email described the BC Utilities Commis-

sion's six-month public consultation regarding the two-step rate during which the Commission received thousands of comments and questions. He explained how under the old rate, all residential units paid 6.55¢ per kilowatt hour (kWh) no matter how much or how little electricity they used. Now the cost is 5.98¢ per kWh for the first 1350 kWh used during a two month billing period and 7.21¢ per kWh for any additional amount

This was deemed fair because the new bottom step was 10% below the old rate and 70% of Hydro's custom-

Continued on page 9

Hydro two-step

Continued from page 8

ers would receive a rate cut. And the two-tiered system would not discriminate against residents who used electric heat or have large families. No mention was made about electrically heated common spaces in strata building.

But when Conservation Advisor

Bob proudly showed me how our electrical bill would only increase by \$1.20, I began to have doubts. Surely the electrical bill for two seniors living in a gas-heated building would be lower than before. If not us, then who would benefit from the new two-step billing? It appears that the two-step rate is merely a fig leaf to cover an increase in residential hydro rates with little to do with energy conservation.

Reducing the hydro rate for 70% of its customers appears to be a ploy to pit them against those whose rates will increase.

If BC Hydro had been serious about reducing energy consumption, it would have established a system that charged more for electricity used during peak hours.

www.bchydro.com/conservation-rate.



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Volunteers of AGM/Seminar February 2009



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Enforcing parking bylaws

by Joyce Johnston, Attorney

Strata Corporations sometimes face the problem of vehicles parking in contravention of the bylaws. The bylaws may indicate where vehicles cannot be parked, or may indicate that vehicles can only be parked in spots assigned by the strata corporation (council).

Of course, those in violation of these bylaws can be fined, but sometimes fines are accumulated and the parking in contravention creates on-going problems such as congestion and inaccessibility. The question is then whether the vehicles, parked in contravention of the bylaws, can be towed.

Enforcement remedies open to the strata are imposition of a fine under s.130, denying access to a recreational facility under s.134, and remedying a

contravention under s.133.

Section 133 allows the strata corporation to do what is reasonably necessary to remedy a contravention of a bylaw or rule, including doing work on a strata lot, common property or common assets, and removing objects from the common property. This section has not been judicially considered with respect to towing of cars.

Injunctions (court orders) are recommended prior to removing objects, although the Strata Property Act does not mandate the obtaining of one. In *SP NW 1260 v Neronovich* the strata corporation applied to the BC Supreme Court for orders with respect to removing objects. The court ordered Neronovich to take all reasonable steps to rid

her strata lot of mice and other rodents, and should she fail to do so, the strata corporation could enter the strata lot to get rid of the rodents, and in a further order gave explicit permission to dispose of clothing, carpeting, mattresses, sofas and the like.

However when the objects are on the common property, and there is a clear violation of a bylaw that is not at all ambiguous or vague, a court order is likely not necessary before towing. All of the prerequisites to enforcement must be observed.

Section 135 requires that, prior to seeking costs for remedying the contravention, the strata must have:

Continued on page 12

A Fresh Approach to Strata



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- extensive shared amenities form the heart of the community. In our case, a glass-covered pedestrian street and an 8,000 sq. ft. Common House.
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Strata strategies - On my soapbox

by John Grubb

Forgive me folks, but I just found my soap box in the closet...and another half-page newspaper advertisement from a strata developer promoting a "Maintenance Free Lifestyle". What planet does he live on anyway..?!?!?!?

Have any of you - strata owners, home owners, building owners - ever come across a building, and its integral systems, that didn't require maintenance? I've been in this business for over 30 years now and I've never seen one. No sooner is a structure built, that it starts to deteriorate - slowly, for sure - but very few of the materials used in common residential construction in Canada today, will last forever...but that's what the developer is suggesting.

Oh..!!...The Strata Corporation is

responsible for maintenance.

Yes, it is...But what is the Strata Corporation, and who's running it to make sure the maintenance - annual and long term - gets done.???

Strata owners...That's you...!!! You - and your fellow owners - are responsible for the operation of your strata corporation. No one else is going to do that for you.


"But...We're not self-managed. We have a Strata Manager, and he'll take care of everything." you say.

Sorry to disillusion you, but your Strata Manager isn't going to do that for you - other than the day-to-day, minor repairs - unless Long Term Maintenance Planning is part of the contract. In our experience, most do not take on any significant planning responsibilities, and most Strata Corporations don't ask them to.

This also makes the point that every strata owner lives in a self-managed strata. There is no other kind, and you must manage the manager, to ensure that he is living up to the terms of the contract he has with you.


A "Maintenance Free Lifestyle" may mean that you aren't going to pick up the tools yourself, but I promise, you and your fellow owners are still responsible for the planning, funding and execution of every single maintenance project in your strata, and ignoring that responsibility virtually guarantees that you will have problems with that idyllic, "maintenance free" home you purchased.

John Grubb is a Property Maintenance Consultant serving Strata Corporations and building owners on Vancouver Island. 616-9298 or www.unityservices.ca



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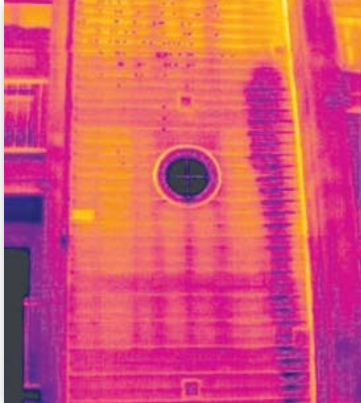
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Right is a photo taken at a condominium. The dark (cool) streak is water in the wall from a leaking washing machine on the third floor. Water was detected in the basement. The camera showed the source.

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Enforcing parking bylaws

Continued from page 10

- (1) received a complaint about the contravention.
- (2) given the owner or tenant the particulars of the complaint, in writing, and a reasonable opportunity to answer the complaint, including a hearing if requested by the owner or tenant.
- (3) if the person fined is a tenant, notice must also be given to the landlord.

Most strata corporations will notify the owner of the offence. If no hearing is requested, and the offence confirmed, many strata corporations will also give the offender a warning on the car that will be towed the next time it is parked in contravention.

The bylaws may also be amended to provide that towing will occur in certain circumstances, but the procedural prerequisites to enforcement, set out in section 135, must still be complied with.

This article is intended for information purposes only and should not be taken as the provision of legal advice. Joyce Johnston is a Victoria attorney who practices strata law. She can be reached at 250 382 0300.



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