



Vancouver Island Strata Owners Association

- Box 601, 185-911 Yates Street, Victoria, B.C. V8V 4Y9
- Helpline: (250) 920-0222
- Toll Free 1-877-33-VISOA (877-338-4762)
- Web site: www.visoa.bc.ca
- Email: info@visoa.bc.ca or membership@visoa.bc.ca

VISOA Bulletin - APRIL 2010

# President's Report

The start of a new year is always a good time to take a look at the past and look forward to the coming year. First though, let me thank all of you who came out to our AGM on February 21. It was a sunny afternoon with Winter Olympics on the television and we still had 220 people in attendance. There is a summary of R.C.(Tino) Di Bella's presentation on changes to SPA in this edition of the Bulletin. We had more seating as a result of our continued growing attendance but we still had shortage of seats. We will be looking at changing our venue for future Victoria seminars to accommodate all who wish to attend.

VISOA is an association dedicated to helping strata owners. Looking back over the last year I believe there is plenty of evidence to show that we ful-

filling this mission. As your president it is very satisfying to know that our board and other volunteers are helping our members. Seminar attendance has grown dramatically in both Victoria and Nanaimo.

Membership has grown to 7000, made up mainly of strata corporate memberships and includes 250 individual members. Business memberships have also increased, to 14.

Our Helpline, which is where we have the some of the most direct contact with you, is currently responding to an average of 5 calls per working day. As you can imagine this is very demanding on volunteer's time and we have put together a team of 4 people to better operate the Helpline.

Strata owners are impacted by a wide range of government legislation - from

the SPA to PIPA to the regulation of strata management companies. Your board has represented your interests to MLA's and Government committees both in person and by writing letters. We have posted on the web an annotated version of the SPA and regulations to help you understand and deal with these amendments. We will continue to keep you up to date as further changes occur to the Act.

Over the past year our website has been revamped to make it more useable and we try to make sure that the content is up to date and relevant. The website currently gets about 40 hits per day, mostly from BC but also from other provinces and even the USA. Hits have risen about 50% in the last year.

So I think you can see from these figures that we are continuing to fulfill our goal of helping members.

Looking forward to the coming year, we will continue to hold seminars in Victoria and Nanaimo - but we are an Island association and we have received requests to have seminars north of Nanaimo. This year we plan to hold seminars up island where we know there are many new strata owners. We are going to be part of a workshop in Campbell River and we are holding a seminar in the Comox/Courtney area. Both will have occurred by the time you read this Bulletin. Our next Nanaimo seminar will be on April 18th with lawyer Virginia Wigmore commenting and educating on the recent changes to the SPA, then we return to Victoria in June.

All this activity creates time pressure on both the board and volunteers trying to make your association responsive to

*Continued on page 2*

## In this issue...

• President's Report <b>Tony Davis</b> .....	1
• Editor's Message <b>Sandy Wagner</b> .....	2
• You Asked <b>Harvey Williams</b> .....	2
• Strata Property Amendment Act <b>Tino Di Bella</b> .....	3
• Bylaw Enforcement <b>David Grubb</b> .....	6
• Residential Strata Insurance Changes in 2010 <b>Shawn M. Smith</b> .....	8
• Welcome To My Strata Home <b>Tony Davis</b> .....	10
• Burglar Courtesy Will Cost You <b>Frank Fourchalk</b> .....	11

### BOARD OF DIRECTORS 2010

**President** Tony Davis  
**Vice President** Sandy Wagner  
**Secretary** David Grubb  
**Treasurer** Daryl Jackson

### MEMBERS AT LARGE

Elsie Lockert, Deryk Norton,  
 Claudio Procopio, Laurie McKay,  
 Harvey Williams, John Webb,  
 Marlene Smaill

# Editor's message

by Sandy Wagner, Bulletin Editor

Welcome to the April 2010 Issue of the VISOA Bulletin. This is a fact-packed edition.

Our 2010 Annual General Meeting was held recently, and our guest speaker was lawyer R.C. (Tino) Di Bella of Victoria. I have summarized his presentation for those of you who couldn't attend, or who wished you had taken notes. It is a lengthy article but full of very pertinent information. We try to summarize all our guest speakers' information as a service to our members, space permitting in the Bulletin.

In this issue you will see that I have reprinted an article entitled "Burglar Courtesy Will Cost You" from Frank Fourchalk, a security professional from White Rock. Frank has a great deal of information on his website and readily shares his articles with Strata Associations. I first noticed his article while researching topics for this bulletin.

VISOA enjoys great communication with many other Strata/Condo Associations and we freely share articles which may benefit each other's members. If you see an article which might be of interest to our members, please contact me and I will arrange permission to reprint it or quote from it.

VISOA's David Grubb has presented the topic "Bylaws – the Good, the Bad, and How to Enforce Them" at our seminars in Nanaimo and Courtenay, and has written an excellent article on bylaws for this Bulletin.

Starting in this issue, we also feature what we hope will become a regular series entitled "My Strata". VISOA's President, Tony Davis, has written our first article for this series and tells us all about his strata, Casa Valdes in Victoria. If you would like to contribute to an upcoming Bulletin with an article about your strata – or any other topic - please email me at editor@visoa.bc.ca

# You asked:

## Is the strata manager correct?

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:

Our strata manager told our strata council that the Personal Information and Privacy Act (PIPA) prohibits him from releasing the names and addresses of owners to owners who request them. Sections 35 and 36 of Strata Property Act require that this information be provided to owners who request it. Is he correct?

### Answer:

Section 18 (1) of the PIPA contains a list of conditions under which an individual's personal information may be disclosed without that person's consent. One of those conditions is if the disclosure is required or authorized by law. Accordingly, any of the information listed in Section 35 of the

Strata Property Act (SPA) must be made available on request to the persons listed in Section 36 of the Act. The strata manager is incorrect.

But a more troubling question is implied here: should we not expect a licensed strata manager to answer that question correctly? We should expect a licensed strata manager to be able to provide accurate information about the routine legal requirements for strata governance. This should be a requirement for obtaining and holding a strata management license but it is not.

The Real Estate Council of BC (RECBC) licenses strata managers and is only responsible for enforcing its own rules. It takes no action when a strata manager advises a strata council to disregard the SPA, as in the example above.

When we engage the services of a licensed tradesperson such as an electrician or a professional person such as a lawyer we can usually assume that they will meet certain performance standards. If they don't, we can file a complaint with their licensing body. If after investigating the complaint, the licensing body agrees with our complaint, corrective action is taken. Should not the RECBC enforce standards for strata managers that include complying with the legal requirements of the Strata Property Act? Strata owners should insist on this policy change.

## President's Report

Continued from page 1



Photo by Claudio Procopio

A capacity crowd at VISOA's February 2010 seminar.

your needs. Board members and volunteers are unpaid and many have full time jobs. Frankly, we have more ideas

around the Board table for projects we would like to accomplish than we have bodies to carry them out.

We need to remember that VISOA is an association of strata owners helping strata owners and our ability to help other strata owners comes from our own experiences as strata owners. I know we have immense experience and talents among our members, so I would like to encourage you to step up and help other strata owners by volunteering your services.

- Tony Davis, President

# Strata Property Amendment Act

*Presented by Tino Di Bella - summarized by Sandy Wagner*

At VISOA's Annual General Meeting on February 21st, lawyer R. C. (Tino) Di Bella of Victoria spoke to our members on the many recently proclaimed amendments to the Strata Property Act. After the presentation, our members had many questions and Mr. Di Bella answered as many as time permitted. For those members who were unable to attend, the following is a summary of his talk.



*Photo by Claudio Procopio*

Lawyer R.C. (Tino) Di Bella addresses VISOA's Annual General Meeting.

On October 6, 2009, after only 2 hours and 19 minutes of debate in the Provincial Legislature, the Strata Property Amendment Act 2009 passed Third Reading. On Dec. 11, 2009, most of the Strata Property Act Amendment Act, 2009 was brought into force. The biggest disappointment to strata owners and their advocates was the lack of government consultation. The government did not consult with interested parties such as VISOA, CHOA, or apparently any group of strata property managers. No consultation took place with strata property owners. The Honourable Rich Coleman, Minister of Housing and Social Development is the minister responsible for the Strata Property Act Amendment Act, 2009.

Before we begin talking about the amended Strata Property Act (SPA), we should talk about something that can not be legislated: common sense. In your strata corporations, you pass bylaws and attempt to regulate the behavior of the other owners, without in some cases thinking through the consequences of the proposed bylaw amendments. Many strata corporations are determined to enforce their bylaws, even when "common sense" would dictate an exception. An example of this: A strata had a bylaw restricting residents to those

over 55. A terminally ill owner had a live-in caregiver who was under the age of 55. The strata corporation did not make an exception to the enforcement of this bylaw and purported to fine the owner every seven days for a continuing infraction. Eventually the family of the owner contacted a lawyer, and you can guess the result will be that the strata corporation will have to pay for their mistake of strict enforcement of its bylaws. We can all see the injustice here, but if it happened in your own strata corporation would you point to the bylaw and say "We're going to fine you for this" or would you use common sense? There is no principle in the SPA which says "apply common sense" – but you have to ask yourself "Why is this person breaching this bylaw, how long will it go on, and who is affected by this breach?"

Another "common sense" provision that is missing in the SPA is that the SPA applies to all strata corporations, from a duplex to the most complex multi use residential and commercial strata corporation. The one-size-fits-all SPA does not always address the challenges faced by strata duplex owners. Arguably, strata duplex owners do not need the same level of legislation as a 400-unit development, yet duplex owners are supposed to comply with the SPA.

Some of the many changes to the SPA are commented upon below. Please note that not all parts of the Strata Property Act Amendment Act, 2009 (SPAA) were brought into force on December 11, 2009.

**1)** Provincial Court can now hear many disputes which formerly had to go to Supreme Court. In theory, this should speed up the hearing of court applications and possibly lessen the expense to the parties. But it could also mean that owners could "run the Council ragged" with frivolous court applications. This portion of the SPAA has not been proclaimed yet.

**2)** There has been some clarification of the manner in which resolutions requiring a 3/4 vote may be passed before the strata corporation's first annual general meeting.

**3)** There are new limits upon the strata corporation's ability to direct or restrict the council if the direction or restriction interferes with the council's discretion to determine whether a person should be required to pay remedial costs or whether

an owner should be exempted from a bylaw that prohibits or limits rentals.

**4)** There are new disclosure requirements by a council member who has a direct or indirect interest in a matter if the interest could conflict with his or her duty as a council member or the matter is to be discussed by council.

**5)** The SPAA will permit an owner or the strata corporation to go to either the Supreme Court or the Provincial Court to set aside a contract entered into between the strata corporation and a council member - unless the strata corporation by a 3/4 vote (without the council member being an eligible voter) ratifies the impugned contract. Additionally, the 3/4 voting threshold for certain matters may be reduced by application to either the Supreme Court or the Provincial Court if more than 50% have voted in favour of a 3/4 resolution but the matter did not get the required 3/4 vote. This may be too low a threshold, only time will tell.

**6)** The SPAA adds a new section 34.1 to the SPA. This new section permits an owner or a tenant the ability to request in writing, stating the reason, a hearing at a council meeting. The hearing must take place within 4 weeks after the request. If the purpose of the hearing is to request a decision from the council, then the council must give the applicant a written decision within one week of the hearing. I note that there is no automatic consequence of what is to happen if no decision is provided to the applicant within the one week period. Contrast this provision with section 144 (4) of the SPA. It remains to be seen what effective remedy there may be for the disappointed owner or tenant under section 34.1.

**7)** This new section 34.1 of the SPA may be the subject of some abuse by a tenant, who is facing eviction from the strata corporation for failing to comply with the strata corporation's bylaws. A matter for the strata to consider is whether an application to the Council by a tenant will be seen as a condition precedent before the strata corporation can complete an eviction under the Residential Tenancy Act.

**8)** The SPAA authorizes the use of email as a communication method of the strata corporation. Strata Corporations are cautioned about using email as the method

*Continued on page 4*

# Strata Property Amendment Act

Continued from page 3

of incoming communication because of the timelines mandated by the SPA—who checks the council or strata corporation email? How often? What about vacations? In the case of request for a rental exemption hearing on the basis of hardship, the council must hold the hearing within 4 weeks or the exemption is allowed. Email is a great communication tool for the strata corporation or the council to owners as it will save postage and copying expenses. However, it may not be a prudent way for the strata corporation to receive correspondence from an owner to the strata corporation or to the council. If a strata corporation decides to permit owners to write to the strata corporation or the council by email, then the email address for the strata corporation and the council should belong to the strata. It should not be a personal email address of the president, secretary or some other council member. To do otherwise could open a Pandora's Box of challenges to the strata corporation

and the council.

**9)** Changes to section 35 of the SPA broaden the requirements for recordkeeping, and allow access to those records to former owners in addition to current owners.

**10)** A Special General Meeting can now be called by a petition signed by 20% of owners. The prior 25% threshold is reduced to 20%.

**11)** The SPAA gives the council president or in certain circumstances the council vice-president a casting vote in the case of a tie vote, if the bylaws provide for this. Please note that section 18 of the Schedule of Standard Bylaws only allows the president a casting vote in the case of a tie vote.

**12)** The information required on the "Form B" has been broadened to include information on parking stall assignments, locker assignments, and depreciation reports.

**13)** Section 15 of the SPAA (not yet in force) repeals section 94 of the SPA (depreciation reports). Instead, unless a strata corporation waives the requirement for a depreciation report by 3/4 vote, the strata corporation must obtain from a qualified person a depreciation report estimating the repair and replacement cost for major items in

the strata corporation and the expected life of these items within certain time frames (initially 2 years or such other times as the regulations may require). It remains to be seen whether owners will vote to avoid the cost of a depreciation report and if they do so whether that strata corporation will be less desirable for a buyer or a mortgagee for financing.

**14)** Section 16 of the SPAA (not yet in force) requires that the financial statements of the strata corporation be audited unless a strata corporation by 3/4 vote waives the requirement for an audit. It remains to be seen whether owners will vote to avoid the cost of an audit.

**15)** Section 17 of the SPAA requires

that special levy funds be accounted for separately and be invested in permitted investments, provides for interest to be paid by an owner who is late in paying a special levy and provides for proportionate repayment of excess special levy funds to current owners. (This section removes any doubt about entitlement to interest on late payment of special levy amounts. This section codifies what had been a good practice of separately tracking special levy amounts.)

**16)** Section 18 of the SPAA amends section 123 of the SPA to make it clear that a strata corporation may pass a bylaw that restricts the age of persons who may reside in a strata lot. Please note that a strata corporation may not restrict who may own a strata lot.

**17)** Section 20 of the SPAA provides that without a unanimous resolution, no amendments may be made to the bylaws in relation to a bare land strata plan or a strata plan in which some or all of the strata lots are residential until after the second annual general meeting and allows bylaws to be amended in relation to a strata plan composed only of nonresidential strata lots or for a nonresidential section at any time before the second annual general meeting of the strata corporation or section.

**18)** Section 21 of the SPAA amends section 128 of the SPAA to clarify that the filing of an amendment to bylaws to be filed in the appropriate land title office with a prescribed form and that until that filing the amendment has no effect.

**19)** Section 22 of the SPAA amends 142 of the SPA so that a residential strata lot rented to an owner's family member or under an exemption is not, for the purposes of a bylaw restricting strata lot rentals, to be considered as being rented.

**20)** Section 23 of the SPAA amends 143 of the SPA. This new section:

**a.** clarifies that a rental restriction bylaw enacted by an owner developer when there are no other owners is effective immediately;

**b.** provides that if a Rental Disclosure Statement applicable to a strata lot is filed before January 1, 2010, a rental restriction bylaw does not apply to that strata lot until the strata lot is conveyed by the first owner other than the owner developer or until the date the rental period disclosed in the rental disclosure statement expires, whichever is earlier; and

**c.** provides that if a rental disclosure statement applicable

Continued on page 5

**EMPRESS PAINTING**  
**Empress**  
www.empresspainting.com

*Painting Services*

**INTERIOR • EXTERIOR**  
**COMMERCIAL • RESIDENTIAL**  
**NEW CONSTRUCTION**

*Plus...*

**WALLCOVERINGS • CAULKING**  
**FINISH CARPENTRY & REPAIRS**  
**DRYWALL REPAIR & TEXTURING**

*Call for a Free Estimate*

**250-383-5224**

★★★ *Member Discounts* ★★★

# Strata Property Amendment Act

Continued from page 4

to a strata lot is filed after December 31, 2009, a rental restriction bylaw does not apply to that strata lot until the date the rental period disclosed in the Rental Disclosure Statement expires.

**21)** Section 24 of the SPAA amends section 144 of the SPA (hardship application) so that an owner is exempted from a rental restriction bylaw if the owner applies for an exemption hearing and the strata corporation does not conduct the hearing within 4 weeks after that application. (Note this in conjunction with notice requirements by email!)

**22)** Section 25 of the SPAA permits the strata corporation to make an application under section 173 of the SPA (power to the Court to order some one to perform a duty under the SPA or the Bylaws or rules; or not to do something under the SPA, the Bylaws or rules or any ancillary order) to a Judge of the Provincial Court and allows a strata corporation to seek court approval for a special levy if the levy has been approved by a majority of the votes cast but not by a 3/4 vote on the resolution proposing the levy for certain matters "for the maintenance or repair of common property or common assets that is necessary to ensure safety or to prevent significant loss or damage, whether physical or otherwise." The Judge would set how notice of such an application must be given and presumably to whom such notice must be given and that the application must be heard within 90 days of the original vote failing.

**23)** Section 26 of the SPAA amends section 175 of the SPA so that if a strata corporation

is required to obtain owner approval before taking a step, that approval must have been obtained or must be obtained before an administrator appointed for the strata corporation may take that step.

**24)** The SPAA provides for a new voluntary dispute resolution and arbitration process. These matters are not in force yet. Regulations setting out the voluntary dispute resolution and arbitration will be issued at a later date.

The new amendments which provide for depreciation reports and audited financial statements create more questions than answers. For example, how often must the depreciation report be updated? Who is qualified to produce the report? If a strata corporation elects not to have a depreciation report by 3/4 vote, is there a limit to the number of years they can opt out? What will be the effect of a strata corporation not having a depreciation report? Mr. Di Bella speculated that it may be more difficult for owners in strata corporations that do not have a depreciation report to readily mortgage or remortgage a strata lot. For audited financial statements, who is qualified to audit the strata corporation's financial statements? Will there be an exemption for a small strata corporation? In the case of duplex strata corporations, given that they are made up of 2 strata lots only, the vote must be a unanimous vote? The regulations for depreciation reports and audited financial statements are expected in the coming year.

Following Mr. Di Bella's presentation, there was a Question and Answer period and these are some interesting points which arose:

**1)** Re balcony enclosures – These are problematic. If the balcony area was not included in the original calculation of unit entitlement and the enclosed balcony

is considered to be habitable area and increases the size of the strata lot by 10% or more, then the unit entitlement for the strata lot and the strata corporation must be recalculated. This will result in increased monthly assessment for the owner of the enclosure and a corresponding decrease for others. However, if the increased habitable area is made up of common property, or limited common property, as many balconies are, the rule does not apply.

**2)** Smoking and barbeques can present problems. A strata corporation can pass a no-smoking bylaw for the common property and the limited common property, but such a bylaw may not be valid for a strata lot. The issue of smoking can go forward as a nuisance bylaw complaint, and beyond that it may form the basis of a Human Rights complaint. The Council must show that they have been mindful of everyone's rights. The process is very important. Turning a "blind eye" to the complaint may expose the strata corporation to risk.

**3)** Do the strata's bylaws supersede the Standard Bylaws under the SPA (providing they do not conflict with the SPA)? If your bylaws were never ratified under the SPA then the standard bylaws prevail. If you did ratify under the SPA, then the bylaws should prevail.

**4)** The new section requiring a strata corporation's special levy monies to be kept separate from monthly assessment funds appears to contradict the rules for Strata Property Agents under the Real Estate Services Act. Do these funds have to be separated or not? The SPA says yes. Related issue: If a refund is due for any special levy, the refund is paid to the current owner at the time the refund is paid out. That was unclear under the old SPA. If a seller wants to get their share of an expected refund, they must make their own arrangements with the purchaser.

**5)** Can you regulate an owner's home-based business? Probably not unless it is causing a nuisance.

**6)** Do you always need unanimous approval to change unit entitlement? Almost always yes. However – there is a provision in the SPA to have a court

Continued on page 9

**Seminar sound system  
provided by PROSHOP  
SOUND & LIGHTING**



**Jack Paulo 250-361-1711  
3 - 464 Bay St. Victoria BC**

## Small Business & Strata Bookkeeping Services & Administration

- Over 20 years experience • Computerized Accounting
- Spreadsheets & Word Processing • Produce Financial Statements
- Year End Budgeting • Assessment Formulation
- Contingency Forecast Report Assistance
- Consulting & Applicable Functions when required

**Barbara Zimmer**  
Attention to Detail • Dedicated • Analytical  
**250-727-9743**  
E-mail [bzes3056@telus.net](mailto:bzes3056@telus.net)



# Bylaw Enforcement

by David Grubb

Disheartening, disruptive, distasteful, disagreeable: these have to be the feelings of council members who are faced with an obligation to enforce a bylaw because an owner chooses to disobey or ignore it. Such situations pit neighbour against neighbour and can create a poisonous attitude within the community.

But if council does nothing, a worse situation arises – chaos, and an even more poisonous atmosphere, not to speak of the potential for outrageous court costs which everyone has to pay.

So let's start with some basics. Although it seems like a chore, every owner should be familiar with the Strata Property Act (SPA), and especially anyone on council. That is the Law which governs all the owners.

With regard to bylaws, s.26 states "Subject to this Act, the regulations and the bylaws, the council must exercise the powers and perform the duties of the strata corporation, *including the enforcement of bylaws and rules.*" (Italics are mine.)

Although there are some limitations (i.e. council cannot make up bylaws on their own), the council has a huge amount of power. But with it – and some councils seem to forget – comes an equally huge amount of responsibility to manage the affairs of the strata corporation properly "subject to the Act, the regulations and the bylaws."

Councils are well advised to pay attention to SPA s.129.

"To enforce a bylaw or rule the strata corporation (i.e. council) may...impose a fine, remedy a contravention or deny access to recreational facilities." More importantly, council, "may give a person a warning or may give the person time to comply with the bylaw or rule before enforcing a bylaw or rule" (s.129 (2)). Perhaps subparagraph (2) should have been placed as subparagraph (1), since it is the more preferred approach, if possible, than to hammer an owner for a bylaw contravention with a fine.

Why do owners contravene bylaws?

There could be as many answers as there are owners, but we can narrow them here to four main ones.

## 1. Ignorance of/unfamiliarity with/lack of concern for bylaws

This is probably the most common reason. Most rational people don't set out deliberately to break the law. Although they may have looked at the bylaws once at the time they bought the unit, they generally put their copy away in a drawer and pay no further attention, and thus remain ignorant or at least unfamiliar with them. Thus, when council points out in black and white the error of their ways, they become very upset, and perhaps defensive. Nevertheless, most often they say 'Sorry' and correct the problem.

## 2. Council has never enforced this bylaw before

Even if they are aware of

the bylaws, they may have noticed that no council has ever enforced a particular bylaw for years. Then suddenly a new council decides to do so.

This is a real problem for the council. The courts tend to take a dim view of strata corporations that don't enforce their own bylaws, and may be more inclined to side with the offending (or offended?) owner. Thus the bylaw is declared void, so the strata corporation has either to permit what used to be an infraction, or to re-institute that same bylaw by a ¾ vote.

That means that, unpleasant and distasteful as it may be to council, they have no choice, and must consistently apply the law when an infraction occurs, even if they 'feel sorry' for the person, or it seems to be a trivial matter 'just this once'.

If the bylaw is no longer useful or wanted, it must still be applied until the owners amend it or withdraw it from the bylaws by a ¾ vote.

## 3. This bylaw doesn't apply to me – just to everyone else

This is a slight variation of Reason 2 but more dangerous, since it is a conscious decision of an owner.

For example, an owner might decide to install a satellite dish in contravention of a bylaw, because his unit is screened by bushes so no one will notice it from a distance.

If council ignores the infraction, they face the problem of Reason 2. Thus they have to take action either through education or enforcement.

## 4. I just don't agree with the bylaw, so I will ignore it

Some people are just ornery and refuse to cooperate or conform to the bylaws!

Council needs to first educate these people by stating the obvious – regardless of their disagreement, it is the law, so they must obey it.

They have every right to try to convince fellow owners through a ¾ vote at a General Meeting to either delete the bylaw or amend it.

If educating them about bylaws doesn't yield a positive

*Continued on page 7*

 Maintenance Planning Project Management Consulting	<b>UNITY SERVICES CORPORATION</b>
	<b>John Grubb, SMA, RPA, RR0</b> President  <b>Ph:(250) 893-3445</b> email:john@unityservices.ca www.unityservices.ca  106-1050 Park Blvd., Victoria, BC V8V 2T4

## YOUR AD IN THE BULLETIN FOR JUST PENNIES A DAY!

Members in good standing may place an ad in the Bulletin. Rates are based on 5 Bulletins a year, and are as follows:

- Business Card Size: \$75/yr (\$22.50/single issue) • ¼ Page Size: \$150/yr (\$45/single issue)
- ½ 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.

## Bylaw Enforcement

Continued from page 6

result then the council must face the fact and take more drastic action.

### When It's Inevitable...It is vital to Follow The Law.

Council should never try to be creative by making up new rules to suit their purpose or ignore some aspects of law that might be inconvenient. They must know and understand the SPA and the strata's bylaws and rules, and must use the procedures established by both to ensure that there is never a question as to the fairness of the process.

Council must meet in camera to decide on the appropriateness of a fine and/or denial of use of recreational facilities, and send a letter to the owner regarding the circumstances and their decision. Under these circumstances, they must also permit the owner a hearing (s.135).

(Note: even if there is no "penalty" but an owner objects to being told he is violating a bylaw with a requirement that he conform, SPAA s.6 is now in force, so he may now, under a new SPA section 34.1 request in writing a hearing by council, which council must hold within 4 weeks.)

However, if the owner

disputes the council's decision to fine and/or deny him use of recreational facilities, and if there is provision in the bylaws for arbitration or mediation, and the parties agree, it may be the most expedient and inexpensive route to follow.

If not, then the council must pursue the matter in the courts. If it comes to this, there are going to be considerable legal expenses which all owners must pay. Nevertheless, if a strata corporation is to have proper control of its assets and the expected conduct of individuals to which the majority of the owners have assented, it must be done.

(Although not in force as of this writing, the SPAA has made provision for some matters to be settled in Provincial Court which formerly had to go to Supreme Court. This might result in less of an expense on the parties, but the legal commentators are also predicting it will jam up an already overburdened Provincial Court system, so there could be immense delays.)

### Keep a Professional Attitude

Everyone would prefer that all the owners would take the attitude of respecting everyone else's right to enjoy their neighbours and their neighbourhood, and conforming

to the accepted laws they have mutually consented to, either when the laws were created, or – since they had to read the bylaws before moving in – when they occupied their unit.

When forced to do so, however, as we said at the outset, it can be a disheartening, disruptive, distasteful, and disagreeable experience for council members.

To minimize the negative effects within the community, council members must retain a sense of professionalism — they are acting for the Owners of the Strata Corporation and must conduct themselves in an impersonal, business-like fashion. Despite their personal feelings, council members must not divulge their opinions to other owners (especially sympathetic friends among the residents), and should refrain from reacting to rumours which others might circulate.

If the strata has a property manager, council should consider having all correspondence (written or verbal) made through the agent. Or if the situation warrants, a lawyer could be retained for the same reason, with or without a property manager. That way, council members can tell any person to direct their comments or questions to the appropriate third party.

To avoid all this, however, we wish all stratas the blessing that their council only has to use s. 129 (2), "to give a person a warning or give the person time to comply with the bylaw or rule before enforcing a bylaw or rule" to preserve harmony amongst the residents, which should be the purpose of any law.

*David Grubb is a VISOA Director and a member of our Helpline Team.*

## SLEGG CONSTRUCTION MATERIALS LTD.

### SUPPLIERS TO THE ROOFING INDUSTRY



AL JONES ~ Registered Roof Observer since 2001

2901 Sooke Road, Victoria  
FREE ROOF CONSULTATIONS

Phone 250-478-5509 • Cell 250-883-6443  
alj@slegglumber.com

IKO Roofing, Malarkey Shingles, Dow Roofing Systems

## Fineline ROAD MARKING

PARKING LOT, HIGHWAY & AIRPORT LINE PAINTING

- 16 YEARS SERVING VANCOUVER ISLAND!
- Design and Layout of New Parking Areas
- Repainting of Existing Parking Areas
- Painted and Thermoplastic Road Markings
- Line Removal
- Game Courts
- FREE ESTIMATES

[www.FinelineMarking.com](http://www.FinelineMarking.com)

Phone: 250 741 4668

# Residential Strata Insurance Changes in 2010

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

There are some significant changes coming in 2010 that will affect the insurance coverage on residential strata buildings. This article will hopefully provide you with information regarding what the changes are so that they do not take you by surprise.

For the last few years Insurance Companies have been monitoring loss experiences related to residential strata business. There has been a disturbing trend and it was recently confirmed that 63% of all losses in 2009 were directly attributable to water damage. In addition, and possibly a bigger problem, is that they have analyzed their underwriting ratios and have come to the realization that for every dollar of premium that they generate from strata business, they pay out more than a dollar in strata claims. This imbalance is not new, however in the past they were still able to remain profitable in this model because they would take the premium income and invest it. Sadly, we are all aware of what has happened to investments in the last few years. Insurers have realized that they cannot rely on investment income and must take steps to correct the real problem otherwise they will no longer be viable. To make the system work they need to generate more premium income and decrease their

claims expenses. So how does that affect you?

All Insurance Companies seem to realize that a general increase in rates is required but are reluctant to be the first Company to do it for fear of losing a lot of business. They are tentatively requiring a small 5% to 10% rate increase as the norm for the time being but as the year progresses it could be much higher.

Many Insurance Companies are also trying to reduce the amount of residential strata business they have on their books. This means that the shortage in capacity must be replaced by other Insurers. Many of those that have the capacity will only take more under stricter terms and conditions and this will also lead to higher rates. It goes back to the laws of supply and demand. If capacity is in short supply then those that are willing to provide it will be able to dictate terms.

One other significant change is a general increase in water damage deductibles to help reduce claims expenses. Insurers have to implement some way to offset the significant losses they have had related to water so they all seem to be unanimous in increasing the basic water damage deductibles to \$5,000. You will need to be aware of this increased deductible and be sure that your reserves are adequate

to cover losses that fall below the deductible.

Just so you know it is not just residential stratas that are being affected by market conditions. The entire industry is bracing for the next "hard market" to arrive and that will affect most real estate and business operations. We have been enjoying a period with little or no rate increases for many years and since insurance is a cyclical business we knew that it could not last forever.

*Shawn Fehr is a VISOA Business Member and can be reached at shawn.fehr@cccu.ca*

## PST RELIEF GRANT PROGRAM TO BE TERMINATED

The Provincial Government is suspending its PST Relief Grant program as of 4:00 P.M. June 30. Applications submitted to the Homeowners Protection Office after that deadline will not be accepted. The PST Relief Grants are refunds of PST on the cost of materials used in envelope remediation. Eligible strata owners welcome the advance notice of termination of this program, an advance notice that applicants for leaky condo loans did not receive.



[www.TopCoatPainting.ca](http://www.TopCoatPainting.ca)

Check out our dedicated 'STRATA' link

---

With professional craftsmanship and top notch service, our design team will help you cut through the frustration and give you solutions you can trust.

---

**Get the Best! Book your Strata today!**

**250.385.0478**



# Strata Property Amendment Act

Continued from page 5

relieve from a unanimous resolution if the resolution fails by 5% or less. Please note that the SPA now allows a Judge to appoint someone to vote for an owner who did not attend an AGM or SGM in person or by proxy where a unanimous vote is to be considered.

7) Are there more changes coming to the Standard Bylaws? There is no doubt that, as strata corporations evolve, the standard bylaws may change.

8) If an owner requests a hearing before council, the council's job is to hold the hearing within the time limits set out in the SPA, listen to the applicant (owner or tenant) and to deliver a decision within the times limits set out in the SPA, based on the evidence presented by the applicant during the hearing.

9) Must a hired handyman who works for the strata corporation have WCB coverage? Yes. Worker's compensation insurance (now known as Work Safe BC) is mandatory for anyone working on your strata corporation. The tradesperson should be able to supply proof of WCB coverage and insurance

coverage. Otherwise, the strata corporation is at risk if the tradesperson is hurt while in the employment of the strata corporation, or causes damage to one or more strata lots in the strata corporation or the common property of the strata corporation.

10) How could the strata corporation be liable for incidences around the strata corporation? If an alarmed door was malfunctioning and the Council knew or should have known about the malfunction, the Council should have informed the owners and had it fixed in a timely manner. When was your building last re-keyed? Think about how many owners, tenants and others have come and gone in the last 10 years – are you positive that no one has a key to the building?

11) Is online banking a good idea for a strata corporation? Many strata corporations provide "view only" access to all the owners, that way everyone can see the bank statement. As for online bill payments, one problem can be how to ensure that outgoing council members are taken off the authorized users list.

12) Is it legal to raise Contingency Reserve Funds by way of a special levy? If the funds are for a specific project, the special levy is the correct process. If the strata corporation is attempting to build up a

reserve for future projects, it is lawful for the strata corporation to pass a special levy, but the purpose for the special levy should be specified.

13) Should a buyer receive any "guarantee" from the seller re future problems? It is doubtful that a seller could know all that may occur in the future for the strata corporation. How long would the "guarantee" be in force? The short answer is no.

*R.C. (Tino) Di Bella practices law in Victoria at Jawl & Bundon. He may be contacted by telephone at (250) 385-5787, by fax at (250) 385-4364, or by email at [rcdibella@jawlbandundon.com](mailto:rcdibella@jawlbandundon.com).*

If you were not at the February Seminar/AGM you missed receiving a copy of The Strata Property Act Amendments in Force. This package was prepared by VISOA to give you the exact wording of all the enacted amendments – those Mr. Di Bella spoke about and more. You can download and print a copy at [www.visoa.bc.ca](http://www.visoa.bc.ca)

A current unofficial consolidated version of the Strata Property Act (includes the Regulations) is available from the Queen's Printer for \$35.53, includes GST and shipping. To order directly from the Queen's Printer, phone 1-866-236-5544.

VISOA made a bulk purchase of these and will have them for sale for \$25 at our seminars while quantities last.



## Have you heard about the Renovation Tax Credit & BC Hydro Power Smart Rebate Programs?!

Take advantage of the 15% tax credit & rebate program to help finance your fire safety and cost reduction goals!

Call Sterling Fire & Safety Services Ltd. for a **FREE** consultation.

**"One-Stop Shop"**  
for all of your upgrade needs

- Full fire alarm upgrade services
- Code compliant evacuation & annunciator graphics
- Full Fire Safety Plans
- Cost reduction programs
- Emergency lighting & exit sign upgrades

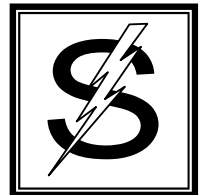
**Sterling Fire & Safety Services Ltd.**

*"Your Safety is Our Business"*

**Phone: (250) 478-9931**

*Email: [sterlingfire@vicbc.com](mailto:sterlingfire@vicbc.com)*

*Web: [sterlingfire.vicbc.com](http://sterlingfire.vicbc.com)*



Locally owned and operated. Listed with Underwriters' Laboratories of Canada in the Testing, Inspection, Maintenance & Verification of Fire Alarm Systems

# Welcome to My Strata Home

By Tony Davis



Photo by Tony Davis

Casa Valdes (Strata VIS 61) Dallas Road, Victoria.

My home is Casa Valdes (VIS 61) and we are located on Dallas Road near the Ross Bay cemetery in Victoria. We are a four storey building of 11 units, a mixture of one and two bedroom suites. It was built in 1972 and like some other buildings of that era it has a vaguely Spanish theme both in its name and decoration. We still have some of the original owners and this has given us a certain continuity and stability.

When the building was first built the strata hired a management company to take care of day to day operations. This became expensive so they switched to self management, and we have been that way ever since. We do have an accountant who takes care of the financial management under the supervision of our treasurer. In the early days much of the

maintenance around the place was carried out by owners. Part of what is now our parking lot was even used as a vegetable garden.

As the building has aged we have had to carry out major renovations including the roof, windows, painting and refurbishing of our foyer. These were all financed by general levy. The majority of owners have supported a “pay as you go” policy for major repairs.

From the beginning, there was a strong sense of community in our strata. You will often hear owners referring to it as their “home” and we occasionally get together for dinners and Christmas celebrations. Why does it continue to work so well? I believe it’s because the strata bylaws and rules were written early and with the consent of all the residents who then had a clear understanding of their responsibilities as community members. Rules and bylaws are enforced and new owners have a clear understanding of our community from our bylaws and rules.

We face directly onto Ross Bay and all suites have a balcony facing the water. Although this would seem like a perfect location for sitting out and looking at the water it really isn’t unless you are willing to dress warmly! Even in the summer it’s usually a couple of degrees cooler and there always seems to be

wind blowing off the water. You won’t find us sitting on our balconies very often!

I moved into the strata about seven years ago, very much a neophyte strata owner, and I took over the role of president. It had been held by the previous owner and I was informed that the presidency went with the suite! I noticed the VISOA logo on our front door and I was told that we were members. Next thing I knew I was going along to a VISOA seminar. This was most fortuitous with my new role as president and the VISOA publications proved invaluable in helping me find my feet.

Council consists of 5 members who meet on an “as needed basis” except for the AGM or when there is a major project underway. However, nothing gets done in the building without it first being tabled and then approved at the AGM. This can seem like a long and tedious process (for those of us who tend to be impatient) but at least each homeowner, even if they disagree, has a chance to fully express their views.

*This is the first in what we hope will be a series of occasional articles on members’ personal experiences with their own strata. If you would like to contribute an article, contact editor@visoa.bc.ca*



## FRASCAPE

Landscaping and Irrigation

Landscape Maintenance • Rejuvenation • Long-Term Grounds Planning

From leaf blowing to irrigation winterization, we provide complete, reliable service to the south island. When your property looks good, we look good.

250-882-1410 • [www.frascape.com](http://www.frascape.com) • [info@frascape.com](mailto:info@frascape.com)

# Burglar Courtesy Will Cost You

By Frank Fourchalk

Do you know whom you are letting into your apartment building? If you do not, I hope your insurance is paid up because it might just cost you and the other owners a deductible! Relying on burglar courtesy is one of the easiest ways for an intruder to enter a building. If you are one of those people who cannot allow a door to close in a stranger's face, you had better be ready to ask a few questions.

Questions like, "Who are you?" or "Who are you here to see?" If you are not prepared to screen the person you are letting into the building, then do not let them in! This not only applies to residents but to legitimate visitors as well.

Being a do-gooder defeats the purpose of locks and puts the building at risk of a possible break-in. Remember that not all burglars wear a mask and black gloves. In most cases, they look like average people and can be well dressed.

Burglars have an uncanny way of slithering through the front door with an unsuspecting owner or visitor. You have a moral obligation to make sure that these sneaky thieves do not enter under any circumstances without first contacting the person they are there to see.

I am sure that "aiding in a burglary" is

not something you want on your resumé. Although unknowingly that is exactly what you may be doing when you allow an unidentified person into the building.

Locks are meant to keep the "Bad Guys" out, so do not reverse the process by letting courteousness overtake you and create another statistic. The most effective security must incorporate everybody's effort. Like the domino effect, if one domino is not cooperating, it spoils it for the rest.

One way to help eliminate this serious problem is to post signs at the building's front door area. These signs should warn apartment owners and their guests not to let anybody into the building under any circumstances. All visitors and guests must ring the person they came to see on the enter phone panel. It is then up to the owner to screen their visitor before buzzing them into the building.

Beware of the "lurking intruder". This burglar often appears out of thin air just when you are about to enter the building, knowing that most people will let him or her in with no questions asked.

Capitalizing on the weak is a common trait of these low life thieves. If you experience this type of intruder, notify as


many people in the building as possible to check out the situation.

"The helping hand". This type of crook capitalizes on being a nice guy. This courteous person usually appears at the door just as you are struggling with an armful of parcels or groceries. He or she is quick to hold the door open for you, gaining your confidence, respect and of course free entry into the building.

"The fake look up". This burglar pretends to look somebody's name up on the enter phone just as you enter through the front door. Once the door is open, the thief quickly grabs it and makes his or her entrance.

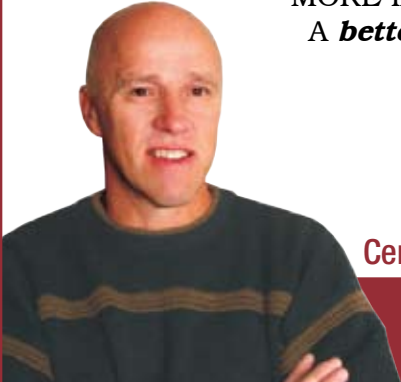
In addition, of course the "enter phone smooth talker". This person rings somebody randomly on the enter phone and persuades them to buzz the door open. This burglar wears many hats; he might be a building repairperson, the mail carrier, the courier, the pizza man, or even the police. A good rule of thumb is when in doubt about who is at the front door, always come down and check.

*Frank Fourchalk is the owner of White Rock Lock and Key and this article was reprinted from his website [www.yourhomesecurity.ca](http://www.yourhomesecurity.ca)*



## ALL-POINTS HOME INSPECTIONS

MORE thorough.  
MORE informative.  
A **better** home inspection.



**Certified • Bonded • Insured**

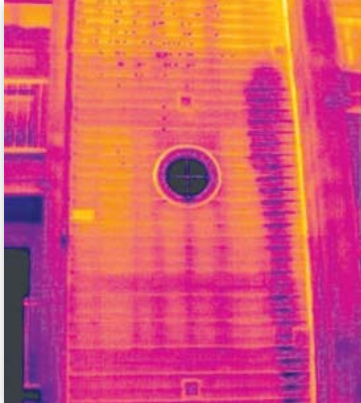
# ALL-POINTS HOME INSPECTIONS LTD.

## TONY BRAID 250-213-6700

### Infrared Moisture Detection

*Non-invasive infrared (IR) scanning can be used to aid in the detection of:*

- Water and moisture intrusion
- Mold hidden behind walls
- Plumbing and roof leaks
- Electrical problems
- Missing insulation
- Structural defects
- Heat loss



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.

# BUSINESS MEMBERS

## **BUILDING SUPPLIES**

### **Industrial Plastics and Paint**

Building / Property Maintenance,  
Products & Supplies  
250-727-3545 ext 105  
brucedixon@ippnet.com  
www.ippnet.com

### **Slegg Construction Materials**

Roofing and Building Envelope  
Material Supplies  
Contact Al Jones 250-478-5509  
alj@slegglumber.com

## **MAINTENANCE & PROJECT CONTRACTORS**

### **Empress Painting**

250-383-5224 • Fax 250-383-0222  
office@empresspainting.ca  
www.empresspainting.ca

### **Fineline Road Marking Ltd.**

Parking Lot Maintenance & Marking  
250-741-4668  
Fax 1-888-256-4130  
finelinemarking@shaw.ca  
www.finelinemarking.com

### **Frascape Landscaping & Irrigation**

Maintenance and Irrigation  
250-882-1410  
info@frayscale.com  
www.frascape.com

### **Govan Painting**

Residential Painting Contractor  
Qualicum Beach  
250-228-2468  
govan@shaw.ca

### **Houle Electric Ltd.**

Full Service Electrical Contracting  
24-hour service  
Data & Networks, Security,  
Preventative Maintenance  
Victoria 250-388-5665  
Nanaimo 250-758-3011  
www.houle.ca

### **Island Basement Systems Inc.**

Foundation Waterproofing  
& Drainage Services  
250-882-1061  
chris@ibsg.ca • www.ibsg.ca

### **Sterling Fire & Safety Services**

Fire Safety Services &  
Fire Alarm Upgrades  
250-478-9931  
sterlingfire@vicbc.com  
www.sterlingfire.vicbc.com

### **Top Coat Painting**

Commercial & Residential Painting  
250-385-0478  
saldat@islandnet.com  
www.topcoatpainting.ca

## **INSURANCE SERVICES**

### **Coastal Community Insurance Services**

Business Insurance Expert including  
Commercial Property and Liability  
250-386-7737  
shawn.fehr@cccu.ca

### **Seafirst Insurance Brokers**

Sidney (250) 656-9886  
Saltspring 250-537-5527  
dguedes@seafirstinsurance.com  
www.seafirstinsurance.com

## **MAINTENANCE PLANNING SERVICES**

### **All Points Home Inspections**

Specializing in Home and  
Property Inspections  
250-213-6700  
tony@building-inspection.ca  
www.building-inspection.ca

## **STRATA COUNCIL RESOURCES**

### **Democratic Rules of Order**

Straight-Forward Rules of Order  
for Meetings  
1-888-637-8228  
books@coolheadspublishing.com  
www.DemocraticRules.com

## **STRATA PROPERTY APPRAISERS**

### **Reliance Asset Consulting**

Specializing in Insurance Appraisals  
for Strata Corporations  
1-888-941-2535  
info@relianceconsulting.ca  
www.relianceconsulting.ca

For more information

regarding Business  
Memberships  
please contact  
Daryl Jackson at  
1-877-338-4762 or  
membership@visoa.bc.ca

*(Please note that VISOA  
does not guarantee or warrant  
the goods, services, or products  
of our business members).*

# STOP WASTING WATER!

## Canadian Study finds 36% Water Saving

with the

# HYDRO CLEAN

## TOILET

## REPLACEMENT VALVE

Visit Our Website to  
read Report and see Video

<http://www.ippnet.com/feature-products/hydroclean.html>

[www.ippnet.com](http://www.ippnet.com)



776 Cloverdale Ave 250.727.3545

# INDUSTRIAL PLASTICS & PAINTS

Formatted for  
Publication by

Georgia Ireland  
www.  
georgiainland.  
com



## BULLETIN SUBSCRIPTION

VISOA provides five information-packed bulletins each year. Non-members may subscribe to these bulletins at the following rates:  
By email: \$15.00 per year and by postal mail \$25.00 per year

~ DISCLAIMER ~

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