



Vancouver Island Strata Owners Association

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VISOA Bulletin - FEBRUARY 2011

President's Report

I hope you all had a relaxing and enjoyable Christmas. However, it's also a new year and again time for me to remind you of the services VISOA provides for you and to cajole you into taking an active role in the running of your association. VISOA is a non-profit volunteer operation and we have all benefited from its services from time to time. Now is the time for you to step forward and help provide some of these services.

We are always looking for volunteers but at this time of the year we are particularly looking for Board members, as a new Board will be elected at our AGM.

Your Board meets once a month in the Victoria area, but our most recent board member, Reg Crone, lives in

Comox. We have been using Skype to connect with Reg via webcam for our monthly board meetings. So even if you live outside of the Victoria area you could still be on the VISOA board.

- One of the most utilized services is the Helpline – if you live in a strata and like helping people then this is the place for you.

- Our Seminars are getting larger attendances and we are planning more Seminars for the North Island – if you have good organizational skills then this is your place to contribute.

- Education and information make our Publications a big seller – we are always looking for writers and people with ideas for topics.

- Our Website is getting many

hits and it is a challenge to keep it fresh and up-to-date – anybody with technical skills and writing ability would be welcome to work on it.

- We use print, TV, and letters to get our messages out - this is the place for you if you have experience in advertising or media.

On a personal note I joined the board having no particular interest but the board was helpful and supportive and I quickly found my niche. If you would like to find out more about volunteering or joining the board, please contact me at strata61@gmail.com.

The Housing Policy Branch in the Ministry of Public Safety and the Solicitor General will be carrying out a web survey in early 2011 on the regulations being developed for depreciation reports and audited financial statements. I encourage you all to sign up for this survey. You can read more about it in this bulletin.

Finally, we will be holding our Seminar and AGM on Sunday February 20. This is your opportunity to provide direction and input to your board, so please pencil in this date. We also have Lawyer, Claire Pagé from Jones, Emery, Hargreaves, & Swan who will be speaking on “WHO PAYS”. How is it determined what the strata corporation will pay for and what the unit owner must pay? Ms. Pagé will enlighten us all on this often-confusing topic. Please join us on February 20th.

- Tony Davis, President

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Insurance appraisals – show me the value

By Ray Walker

Over the past several years, Strata Corporations have had to struggle with precipitous increases in premiums due, in part, to the effects of 9/11 claims, low returns on insurance company investments and competitive market conditions in previous years when insurance premiums were kept unrealistically low. There are a limited number of insurance companies active in the Strata market, although new players are emerging, but rates are typically high.

Next to utilities, insurance is one of the more expensive direct and unavoidable costs that a Strata Corporation must deal with. Fortunately, Strata Corporations are finding ways to lighten this burden. For instance, setting up Insurance Reserve Funds to offset smaller sized losses in order to avoid increasing deductibles, implementing an aggressive risk management protocol program, increasing the corporation's deductible levels and lastly changing bylaws to reflect

unit owner responsibility. Where the Strata Corporation's insurance policy has the option of a buy down deductible, it is important that the owners have offsetting coverage. A Corporation's deductible can be a significant amount for a unit owner to have to pay.

Water and fire do not respect legal boundaries and when major losses have occurred there has been great confusion in the insurance industry on how to break down the loss between the various stakeholders. Suffice to say, the Corporation's policy is typically much more comprehensive in coverage than the individual unit owner's insurance policy and the Corporation's policy pays out first on any loss.

Are you under-insured?

Larry's barn burned down and his wife Susan called the Insurance Company. Susan told the Insurance

Company, "We had that barn insured for \$50,000 and I want my money". The agent replied, "Whoa there, just a minute, Susan. Insurance doesn't work quite like that. We will ascertain the value of what was insured and provide you with a new one of comparable worth".

There was a long pause before Susan replied, "Then I'd like to cancel the policy on my husband".

Perception and reality of replacement cost in today's market is no different than Susan's situation. Over the past decade we have seen rises in residential prices. The question then arises; if market prices have risen then surely the replacement cost must have risen to equal these increases?

The components that go into marketing a Strata are the cost of the land and the replacement cost of the improvements, as well as the common components. Land prices, by nature,

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Editor's message *by Sandy Wagner, Bulletin Editor*

Happy New Year, and welcome to the first VISOA Bulletin of 2011. This year, we will be changing our publishing schedule – issuing four editions instead of five as has been done in the past few years. In the past, each issue of the Bulletin was timed to coincide with one of our Member Seminars – five per year. Beginning with this edition, the Bulletin will be published quarterly (February, May, August, and November).

We have a great number of volunteer contributors and the quantity of the articles has increased, as has the variety of subject matter. You have no doubt noticed that we have been printing a 16-page Bulletin more often than a 12-page edition. This is because there are often so many excellent articles submitted that they simply won't fit into 12 pages, but with an all-volunteer editorial staff (Harvey and I!) the turnaround time needed to produce the Bulletins was

just too short – we'd just be finishing one Bulletin and had to begin work on the next, while simultaneously organizing a Seminar.

By giving ourselves a breather between Bulletins, we hope to keep it fresh and up-to-date for you, while maintaining the standard you expect of us.

In this issue, we have articles focused on two topics: insurance and fines, two often-misunderstood topics. Experts in their fields explain why strata insurance costs have risen, how to avoid premium increases, and what a proper insurance appraisal can do for you. These experts are Shawn Fehr of Coastal Community Insurance Services, John Grubb of Unity Services Corporation, and Ray Walker of Reliance Asset Consulting.

Regarding fines, Gerry Fanaken of Vancouver Condominium Services has al-

lowed us to reprint his article on the complex issue of fines for late payment of strata fees, and VISOA's David Grubb answers a member's question on collecting fines. Both these articles remind us of the many problems – with no easy solutions – strata councils face when issuing and collecting fines.

Harvey Williams tells us how to save up to \$1400 in strata expenses, and finally, Carla Cacovic of Adedia Design answers the question "Why a Strata Website?" Has your strata embraced the electronic age? Perhaps it is time to consider a strata website.

I hope you will comment on this edition of the Bulletin. Please email me at editor@visoa.bc.ca with your comments on our new publishing schedule, or any of the articles, or with your suggestions for future articles.

Insurance appraisals - show me the value

Continued from page 2

are fluid and volatile. Improvement costs, which are typically divided between hard costs (labour and materials) and soft costs (professional fees, financing, taxes and insurance during construction), have been fluctuating, albeit on a more constant basis. Aside from the volatile land value changes, there is the added factor that builders and developers call “market opportunity” or “profit”. This factor is much more volatile than the movement of the actual hard and soft costs. This is what can change dramatically.

Each Strata project is unique in terms of its physical and functional make up. The profit factors change accordingly. It is therefore incumbent on the appraiser to practice due diligence

by monitoring and analyzing costing trends on an ongoing basis. Should a catastrophic disaster occur, would the Corporation be adequately covered? Inflation protection endorsements in the Corporation’s policy, which are generally increased by Construction Indices, also provide the Corporation with additional protection. But as appraisers we do not stop there. To properly protect the Corporation we also apply reconstruction costing.

In my next article I will discuss the over/under-insurance cost estimate game.

Reliance Asset Consulting Inc. is a quality provider of insurance appraisals throughout BC and Alberta. Reliance is known for providing a high level of service, communication and reporting that takes into consideration the individual characteristics of each property appraised as well as keeping stratas

current on all insurance issues. We encourage you to visit our website www.relianceconsulting.ca. Vancouver Island representative is Ray Walker email Ray@relianceconsulting.ca. Phone 1-250-228-8683.

In subsequent issues Reliance will be covering the following topics: “The Good, The Bad and The Ugly or the Three R’s” which will discuss how significant variances can occur when estimating the insurable cost of strata improvements; “Benchmarks and Fixture Improvements” which will deal with assisting the corporation and the unit owners in dealing with these sometimes duplicate gray areas; “Site Improvements and Demolition – Who needs them?” which will discuss these critical factors for insuring full insurance protection of the strata; and a final article on “Anyone Can Do An Insurance Appraisal – Right?” with the important questions that the Strata Council should be asking the appraiser.

Why have a strata website?

By Carla Cacovic

As strata council members, we all face similar challenges. How do we keep our costs down? How do we ensure we’re protecting our members’ rights to privacy? How do we improve communication? How do we organize ourselves when council members retire? How do we streamline our tasks?

Have you considered moving your strata online? A strata website can alleviate many of the problems we face. When it comes to sharing and accessing information, the Internet is one of the most convenient, efficient and widely used resources. Each year, more and more people find their way online, and each year, the Internet evolves to offer more features and conveniences that could easily be adopted by strata councils and residents.

How do we protect our members’ rights to privacy?

Secure document storage can be an integral part of your strata website. Electronically stored documents reduce the need for paper copies, and by offering content on member login pages, you can control access levels given to each community member.

How do we improve communication?

Knowing people turn to the Internet for information, a strata website is a great communication tool. It provides 24-hour access to information about community news and events, it is a great place to post announcements (such as parking lot maintenance or building painting), and it allows council members to share information

about new initiatives and resolutions. Your site may include forums in which members can ask questions of the council. Perhaps you’ll choose to receive email notifications when news is published or when issues are reported via your site. In essence, strata websites bridge the communication gap that can often occur in larger communities.

How do we stay organized when the council turns over?

Storing strata documents and correspondence online provides a readily accessible archive for new council members. If you have ever had to track down a past president or a former property manager to retrieve an important document, you likely recognize the benefits to be gained by

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Why have a strata website?

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online document storage and retrieval.

So why launch a strata website?

How do we save time and money?

By posting information to a website, council members can eliminate postage and the costly printing of letters, notices and promotional materials. Door-to-door delivery also becomes a thing of the past. By listing homes for rent or sale on the site, residents can save advertising costs. FAQ (Frequently Asked Question) pages can help cut down the number of calls, emails and letters to council members or property managers, providing great cost-saving measures. And if you sell advertising space to local businesses, your community site may even earn money.

- To save your council time and money
- To facilitate document storage and to protect private documents
- To ease the transition and improve communication when council members retire
- To improve communication amongst council members, residents and owners
- To provide your community with features they may have asked for, such as:
 - o a public page to convey the community's public image
 - o an event calendar so residents can get out and meet their neighbours
 - o online booking of a party room, guest suite or other amenity
 - o online forums or classifieds to keep paper clutter out of the common areas
 - o contact information for the strata council

Most importantly, a website can help build a sense of community by giving residents a communication tool of which everyone can be a part.

Carla Cacovic is Director of Sales at Adedia, a Victoria-based web development company specializing in communication portals for stratas and condo boards. Please visit their newly launched strata website: www.estrata.ca.





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You Asked

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. VISOA's Helpline Team will share Helpline questions that they think will be of general interest to readers. 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.

Can fines be deducted from strata fee payments?

Answer by David Grubb

Q. I have heard that some Stratas which are having difficulties collecting fines from owners are going to a system of deducting the fines from Strata fees and then charging another fine due to late payment - a two-tiered penalty.

You addressed this topic in your November 2007 Bulletin, a clear and well written article which indicated this was not legal. Have the rules changed, or have these stratas tried to circle around the rules in order to receive payment?

A. The action you mention of some stratas taking the fine for contravention of a bylaw out of the assessment is illegal. The

two are treated separately by the SPA.

If an owner is in arrears whether for strata fees or a special levy, the strata may impose a penalty of up to 10% per annum if it has passed a bylaw permitting it. [See SPA ss. 107 and 108 (4.1) & (4.2)]. It is a sort of like interest on a loan. That interest becomes part of the arrears owing to the strata corporation.

If the problem persists, the strata corporation may file a "Certificate of Lien" against the strata lot, which takes precedence over almost all other registered charges. [See SPA s. 116 (5)]. You will note that s. 116 (3) (c) expressly states that the Certificate of Lien cannot be applied to a fine.

If the situation goes any further, the strata corporation can even apply to the Supreme Court to sell the strata lot (s.117).

In addition to the added interest, some stratas include in their bylaw an extra clause that permits the strata to fine the owner for contravention of a bylaw (not paying the fee or assessment on time). Again that fine cannot be added to the Certificate of Lien: it is a separate issue.

Fines, on the other hand, are imposed under s. 135. They are penalties for violation of the bylaws. As the B.C. Strata Property Practice Manual indicates, to recover those fines, the strata corporation may commence an action in debt in the Provincial Court, provided the amount claimed does not exceed the court's monetary jurisdiction of

\$25,000, or otherwise in Supreme Court. The strata corporation could also initiate arbitration proceedings. The commencement of proceedings by way of arbitration or Supreme Court requires a 3/4 vote resolution of the owners in accordance with s.171. A 3/4 vote is also required for proceedings in Provincial Court unless the strata has a bylaw that specifically dispenses with that requirement.

Be aware, however, that the court will, before granting judgment, require the strata to show that it has complied strictly with s.135, including evidence that it has not allowed the fines to accumulate indefinitely without taking other steps to enforce the bylaws.

The strata should also be aware of the limitation period of 6 years. If the strata has failed to commence an action to collect the fines within that period, it will be barred from collecting the debt.

In summary, therefore, and to reiterate, the strata which tries to take the money from strata fees to pay any fine is acting illegally.

If the strata has a bylaw imposing a fine for late payment or non-payment of fees, that too, like any other fine, cannot be added to any claim on the Certificate of Lien.

You are advised to consult a lawyer to ensure that any action you may contemplate to recover the moneys owed are within the law and won't be thrown out of court.

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Survey of proposed *Strata Property Act* Regulations

The Housing Policy Branch in the Ministry of Public Safety and Solicitor General will be carrying out a web survey in early 2011 on the regulations being developed for depreciation reports and audited financial statements.

Interested strata owners can pre-register for the strata web survey on the regulations being developed for depreciation reports and audited financial statements and will receive a direct, private email invitation from BC Stats when the survey is ready in early 2011. You can pre-register by going to: <https://secureresponses.gov.bc.ca/welcomeALL.pl?SURVEYNAME=stratasurvey1>

If you prefer not to pre-register, you can also check the Housing Policy Strata Properties webpage at <http://housing.gov.bc.ca/housing/strata.htm> for when the strata survey is posted in early 2011.

The links to the survey can also be found at our website: www.visoa.bc.ca/whatsnew



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VISOA'S Helpline

VISOA's Helpline provides assistance and education to members in understanding and complying with the *Strata Property Act*. The Helpline responded to over 1000 information requests in 2010. Councils and individual owners in corporations with Corporate memberships, as well as those who subscribe as Individual members, may call or email the Helpline for information and assistance. Information may be provided to non-members on a one-time only basis.

The Helpline is staffed by Volunteers who are familiar with the *Strata Property Act* and experienced in dealing with many strata issues. The information they provide is their best judgment and should not be considered legal or technical advice. Helpline Volunteers have reference manuals to

assist them in understanding strata law and limited access to legal counsel if required.

Helpline Volunteers reply to each request on a first come, first served basis. Sometimes complex questions take longer to answer, but as a general rule Helpline Volunteers will advise the caller that there will be a reply even if it takes a day or two. All requests are kept confidential although Helpline Volunteers may share information with other Helpline Volunteers for consultation and so that subsequent requests for information from the same owner can be responded to by another volunteer if required. Responses are based on the information provided by the individual who requests information. If another owner from the same strata requests information, the response will be based on the information provided by that owner only. Requesters are

never told that someone else from their strata has been in communication with the Helpline without express written permission of the other person.

The aim of the Helpline is to provide VISOA members with the support and tools that will enable them to "act honestly and in good faith in the best interests of the strata corporation and to exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances". (SPA s.31)

No person is authorized to claim or suggest that the VISOA is vested with any kind of legal or official authority regarding strata matters.

VISOA's services are supported solely by membership dues.

Current Helpline Volunteers are David Grubb, Harvey Williams, and Laurie McKay.

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ANNUAL GENERAL MEETING WHO PAYS?

Keynote Speaker Lawyer, Claire Pagé
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1:00 - 4:00 PM
Register 12:30 PM

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Insurance trends for condominium and apartment buildings in 2011

By Shawn Fehr

As 2011 begins, insuring strata condominiums and apartment buildings continues to get more difficult. Strata Corporations should be aware that there are changes occurring in the market that directly impact this class of business. Without getting too technical, I will attempt to provide an overview on what is happening and what impact the changes could have on the owners of strata property.

Over the last several years Insurance Companies have all experienced poor loss results with the condominium and apartment class of business. Water losses alone have accounted for over 60% of total losses. It is possible for a sink that is left running in a multiple story building to cause damage several floors below and generate a claim in the tens of thousands of dollars. Another common example of a water claim results from hot water tanks bursting. It's not uncommon to have multiple claims in a year from a 10 year old building with original hot water tanks. Some stratas are becoming very proactive and instituting bylaws to deal with this problem but the majority do not and the insurance company ends up paying the bill from the resultant damage. In either example above, the claims far surpass the \$1000 to \$2500 water damage deductibles that are usual to these insurance policies.

In spite of an unprofitable loss experience, rates have not increased substantially over the same period of time. On Vancouver Island especially, this class of business has traditionally been "protected". There are many program brokers that compete heavily for this type of business. The theory is this: the more premium

volume that they can write into their program, the more loss payments they can afford to make and still achieve an overall profitable book of business. What ends up happening, however, is that in order to obtain the business they must undercut the competition and they end up writing the account for far less premium than it deserves. This pushes rates down everywhere because other program underwriters don't want to lose the business they already have written. It becomes a bidding war for the business with no thought going into the claims exposure. Obviously, this is a great advantage for the consumer but it is not a sustainable long term situation.

Because of depressed rates and the poor loss results, there are fewer and fewer Insurance Companies that are interested in competing for this business. There have been examples in the last couple of years of Insurers that have entered the market, written a lot of business by undercutting existing rates, suffered severe losses, and left the market all within a 12 month period. The Companies that are still competing have been writing condo and apartment business for a long time and have built up solid books. Since there are only a handful of them remaining, however, they are being asked to take on more and more of the business. The whole premise of insurance is that risk is spread among many Insurers so they all get some of the profit and experience some of the loss. If there is no profit and a greater burden of the loss, then what advantage is there for them to continue insuring the class of business?

In order to attempt to achieve some positive underwriting results,

there are a couple of changes that are beginning to be implemented. One common amendment that is being introduced is a higher deductible for water damage. It seems that the new "normal" will be \$5,000. Lower deductibles are still available but the trend is definitely to increase them to help offset some of the significant water damage losses that have occurred. The hope is also that it will force insureds to be more proactive in preventing water damage in the first place.

Condominium and apartment buildings that are older or have a history of water claims are being underwritten more vigorously. Questions on building updates are being asked and restrictions may be implemented if the building is not up to standard. It is important that plumbing systems are maintained and hot water tanks are replaced on a regular basis. Buildings that don't measure up may be forced to obtain insurance from a specialty carrier and will definitely notice an increase in rates and deductibles.

Of course the most significant trend is an overall increase in rates. Vancouver Island continues to be insulated compared to Vancouver and the Lower Mainland where they are experiencing large increases in rates. In many cases, condo rates on the Island are half of what is being charged in Vancouver. It is usually the same Insurance Companies that are writing the business in both of these locations so at some point it makes sense that an adjustment will be made to the rating on the Island. It will only take one or two of the remaining Insurance Companies that are competing for this business to

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Insurance Trends

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draw a line in the sand and force a higher rate, then the other Insurers will follow them. There are already signs of this occurring and once the results for 2010 are confirmed, there could be more upward pressure on the rates.

So when you are working on your insurance budgets for 2011 don't just assume your policy will continue the same as last year. Contact your Broker and confirm whether things will be changing for your building. Be prepared!

Shawn Fehr is a VISOA Business Member and can be reached at Coastal Community Insurance Services

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Fax: 250-382-2817
Email: shawn.fehr@cccu.ca

VISOA'S UPCOMING 2011 SEMINAR SERIES

~Mark your calendar~

Date: Sunday, February 20

Location: Edelweiss Club, Victoria

Topic: Who Pays?

Speaker: Lawyer, Claire Pagé,
of Jones Emery Hargreaves Swan

Date: Sunday, March 27

Location: Nanaimo Yacht Club,
Nanaimo

Topic: Privacy and Your Strata

Speaker: Lawyer, Shawn W. Smith
of Cleveland Doan

Date: Sunday May 1st

Location: Courtenay – venue TBA

Date: Sunday June 12

Location: Edelweiss Club, Victoria

**Date: Sunday September 18 OR:
Sunday October 2**

Location: Nanaimo

Date: Sunday November 20

Location: Edelweiss Club, Victoria



Lawyer Shawn W. Smith of Cleveland Doan LLP addresses VISOA's members at our seminar in November on the topic of "Privacy and Your Strata".

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Late strata fee fines “illegal”?

by Gerry Fanaken

It is universally accepted in strata corporation administration that owners who do not pay their monthly strata fees on time (or at all) must be fined for such indiscretion. Typically, the fines are \$25 but in some strata corporations these fines are set at \$50 or higher. VCS manages some accounts which have \$200 fines for late or non-payment.

What would you say if we told you that virtually all of these fines would be set aside if ever challenged in a court of law? It is likely true.

Let's start with the easy one. A fine of \$200 is likely never to be accepted by a court, simply because it is usurious. A good lawyer will knock this one off the docket very quickly and it will not matter that the strata corporation has a bylaw authorizing such an amount. No bylaw can violate other laws of the country – including the Criminal Code which addresses interest rates which are ex-

cessive. Do the math. A \$200 fine in one month on a strata fee of \$300 for that month amounts to a staggering interest rate (about 800%).

The next problem is that many strata councils levy late payment fines without having a bylaw to authorize the amount. In these cases, they generally rely on either an omnibus type of bylaw that covers all their bylaws such as “the corporation may levy a fine of up to \$200 for the violation of any bylaw of the strata corporation” or the general provisions of Section 130 of the Act which says the “strata corporation may fine an owner...”. Since the payment of strata fees is a requirement of the Standard Bylaws, councils feel comfortable with the model bylaw of the Act. (Bylaw 1 – An owner must pay strata fees on or before the first day of the month to which the strata fees relate.)

Section 132 of the *Strata Property Act* says in part:

(1) The strata corporation must set out in its bylaws the maximum amount it may fine an owner or tenant for each contravention of a bylaw or rule.

It is clearly evident then, if your strata corporation is levying a \$25 fine (or other amount) for late or non-payment of strata fees, if you do not have a bylaw, you are likely in breach of the *Strata Property Act*.

It gets worse.

Leave aside for a moment the issue of having or not having a bylaw. Here is the biggest problem: Strata councils instruct their management companies to automatically levy fines every month for late or non-payment of strata fees. This is sometimes referred to as a “standing order” or an “automated process”. Based on this instruction, the property management firm then, every

Continued on page 11



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CRD

Late strata fee fines “illegal”?

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month, reviews the accounts receivable ledger and levies a fine (with or without a bylaw) on any owner’s account that is delinquent. The owner gets an arrears statement and it’s a done deal.

There are three problems with this process:

(1) Section 135 of the *Strata Property Act* requires that an owner who has allegedly contravened a bylaw MUST have an opportunity for a hearing BEFORE the fine is imposed. What this means is that, if an owner is late in paying his/her fee, the strata corporation (through its management agent) must send a letter to that owner to essentially say “you have not made your January strata fee payment and since that is a violation of the bylaws, you may be subject to a fine of \$25 in accordance (gulp) with the bylaw of Strata Corporation XYZ. Before this fine is imposed on your account, you are entitled to a hearing before the strata council. Please respond within two weeks from the date of this letter if you wish such a hearing.”

This letter would have to be sent to every owner in arrears and the fine(s) could not be added to the account(s) until the hearing takes place or the stated time period expires. (The Act does not provide a time period so should it be one week, two weeks, a month? Who knows, but it has to be

reasonable.

(2) The second problem is that this process must be done every month. The failure to pay a monthly strata fee is a specific violation. If the same owner fails to pay for several months in a row, this is not a “continuing contravention”. So, each month is a new violation and the entire bureaucratic process has to be started again.

(3) The third problem is that management agents do not have the authority to levy fines (bylaw or not, hearings or not). Only the strata council has the authority to make the determination that an owner is in violation of the bylaw to pay the strata fee. This authority cannot be conferred upon the property strata agent. In other words, technically speaking, the strata council would have to review the accounts receivable ledger every month, one owner at a time and decide whether or not there is a violation of the bylaw. Each decision would have to be recorded in the minutes. Just imagine!

So, let’s say that all the above is correct, is it likely that strata councils and management companies will do anything different from now on? Probably not. In all likelihood it will be “business as usual” and the fines will be slapped on just as they always have been before today. The reality is that very few owners legally challenge the process: they just gripe about the situation and/or frequently ignore the fines on their account. Most of the fines (happily for the strata corporation) are even-

tually collected since the owners sell or remortgage their units and, to do so, require “certificates of payment” (the Form F) from the strata corporation. Despite their objections, the owners are forced to pay through this process.

The real solution to this dilemma is, of course, to amend the *Strata Property Act* so that the levying of fines for late or non-payment of strata fees is not subject to the hearing process outlined above. (You should read Section 135.)

In respect of the other matter, however, that being the requirement to have a bylaw in place to specifically target late or non-payment of strata fees, we urge our clients to review their bylaws and, if one is not registered, then do it at the next opportunity.

The Act is not about to be amended anytime soon, so the process of having the property managers levy the fine, and the matter of these decisions not being recorded in the minutes for each and every instance, each and every month, will likely mean that late strata fee fines are “illegal”.

Gerry Fanaken is the founder and CEO Of Vancouver Condominium Services Ltd. This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is copyrighted by Vancouver Condominium Services Ltd. and is reprinted with permission.

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

Water Issues

by John Grubb, SMA, RPA, RRO

Water incursion...Water ingress... Water release...or to keep it simple - Water leaks. Other than fire, water release (the term commonly used in the insurance industry) is the single most damaging occurrence for any building owner, and is by far the more common of the two. It is no different for Strata properties, and we include townhouse complexes here, where damage from a leak tends to be a little more isolated but can still cause a great deal of grief for both owner and Strata Corporation.

The source is the reason for all the descriptors above. Ingress suggests a slow leak such as one around a window or door, and may be due to failed sealants or problems with a building's exterior details. Incursion is a rapid event such as a large roof leak – perhaps a puncture of the membrane from a fallen branch during a storm.

The former is typically due to a lack of regular inspections and maintenance, and the Owners Group has a choice about that. If it chooses to ignore the needs of the structure, and its exterior systems i.e. roofing, wall cladding, glazing, etc., this kind of problem is almost inevitable.

The latter is an “Act of God” and one can only hope that it doesn't happen. That said; if the Strata Corporation isn't paying attention to overhanging trees and the hazards they present, there's some thought that this problem, too, might have been prevented.

Water release is more typically from an internal source, and is probably the most difficult and frustrating of all types, simply due to its potential to remain undetected while doing

significant damage.

There can be several systems in a building that contain and circulate water under pressure. The most obvious is our hot and cold water supply piping, which is hidden behind the walls, but many “condominium” buildings (and some newer townhouse complexes) also have fire sprinkler systems and common hot water (hydronic) heating systems.

In practical terms, the least likely of the three to present problems is a fire sprinkler system as it is plumbed in heavy, black iron pipe, and is not subject to daily use. If there is a leak, it will typically show up as a water stain on the surface of a ceiling. As all the piping is subject to a pressure test and inspection prior to the installation of drywall, this is quite unlikely.

Potable water lines (hot & cold), and hydronic heating lines are plumbed in copper piping because, unlike iron pipe, there is virtually no internal oxidation or rusting, and the water flowing through remains useable for bathing and cooking and, in the case of the heating lines, the copper transfers heat to the room(s) very easily. The difference, however is that, unlike iron pipe, copper is quite soft, and consequently, far more vulnerable.

Many older “condo” buildings are going through owner renovations, and those owners with hydronic heating should be very cautious when installing new carpets because the copper heating pipes are most often encased in the layer of lightweight concrete underneath the original floor coverings. These pipes run in the floor between each radiator, around the rooms' outside perimeters and can be (and often are) punctured

when the floor-layers install the new “smooth-edge” that holds the carpet in place.

The leaks that occur are often very small, and can go undetected for many days before turning up as stains on the ceiling of the unit below. Water from this source can also easily find its way into the adjacent exterior walls of the building and actually go undetected for weeks or months in some cases. The damage can be significant, particularly if the unit is on an upper floor, and tracing the leak is often an exercise in frustration.

Plumbing leaks are the most common of all and the author's own 35 year old building has gone through two recent events – back-to-back – that illustrate the separate, but interconnected responsibilities of individual owners and the Strata Corporation.

The first event was due to the failure of an original copper feed, or supply tube, serving the hot water tap of a bathroom sink on the 4th Floor. Soft copper, 1/4” tubing was the standard material used at the time of construction and, while the material was (and is) perfectly acceptable, the installation was poor and, instead of a smooth, curving bend in the tube, the installer “kinked” the wall of the tube to make it fit between the shut-off valve and the faucet. 35 years later, the tube cracked at that kink, and started to spray a fine stream of water inside the bathroom cabinet.

Unfortunately, the unit owner is an absentee, and wasn't around to discover the leak. It wasn't noticed until water

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Water issues

Continued from page 12

started to drip out from around the drain piping in the underground parkade – 4 stories below. In the meantime, it leaked out onto each floor damaging drywall, cabinets and flooring in suites on either side of the “wet wall” – a term used to describe the walls in buildings that contain the water supply and drain plumbing risers serving each column of suites.

Because the source of the leak was from the plumbing inside the suite, the owner was responsible for the payment of the Strata Corporation’s insurance

deductible. Following precedent set by a recent court decision, the Corporation had to apply to its own insurers for the rest of the remediation cost where, prior to the decision, the owner’s insurance would have had to cover all costs.

Within days of the first leak, another, more serious leak started in the same wet wall, but this time, it was the supply piping inside the wall which failed. The leak was noticed far more quickly, but the volume of water was also much greater and, where the first leak was easily isolated by turning the under-sink valve off, this one required

the water supply for the entire building to be shut off for a couple of days.

The only way the plumber could trace the source was to cut open walls in all the suites on either side of the wet wall, eventually working his way back up to the 4th floor before finding a crack in the hard copper supply pipe, and making repairs. The financial consequences of these two separate insurance claims have already hit home, as both the Strata’s insurance deductible and premium costs have increased for the coming year.

WATER ISSUES: POINTS TO REMEMBER

- o Water release - in any form - is the most damaging “event” for any building, and is far more likely than fire. In fact; it’s almost inevitable.
- o There are steps that Strata Corporations can take to minimize the potential.
 - I. Initiate annual inspections of building exteriors, particularly around door & window openings and other penetrations. (Ingress)
 - II. Manage the growth of overhanging trees to minimize roof damage. (Incursion)
 - III. Enact Bylaws requiring owners to shut off sink and appliance (dishwasher, hot water tank) isolation valves when away for extended periods.
 - IV. If your building still has chrome or copper supply tubes in service anywhere, replace them with plastic or braided flex-tube lines. This is a relatively simple and inexpensive DIY project.
- o Townhouse complexes are not exempt from any of these potential water release sources, and also have “wet walls” between adjacent units.
- o It is every Strata Owner’s responsibility to report evidence of problems to the Council. These may include:-

- I. Stains or wet spots on ceilings or walls
 - II. Wet carpets or swelling laminate/hardwood flooring.
 - III. Water puddles not directly attributable to plumbing (leaks) inside the suite.
 - IV. Plumbing leaks of any significance where water may find its way to an adjacent unit.
- o It is every Strata Owner’s responsibility to advise Council of intentions to renovate, even if there are no significant changes planned (i.e. simple carpet replacement).
- o Strata Councils must advise owners of any changes to the Strata Corporation’s insurance deductible to ensure that each owner can adjust his own insurance coverage accordingly.
- o Insurance premiums and deductibles have risen significantly in the past several years and Stratas are well advised to get a clear assessment of repair costs before making a claim. It may better serve the Owners to pay for the repairs directly to avoid the almost inevitable insurance cost increase.

John Grubb is a Facilities Maintenance Consultant serving Strata Corporations and building owners on Vancouver Island. He may be reached at Unity Services Corporation at 250-893-3445 or usc@shaw.ca

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How your strata can save \$1,400 or more per year

by Harvey Williams

Prepare now for your fire alarm panel failure. If you don't, here is what it can cost you.

The aging fire panel (also referred to as an annunciator) in a 12-unit strata block in Victoria suddenly failed. The council president checked with the fire department and was told that they had to bring their fire safety system up to code in order to replace the fire panel. Moreover, they had to have a round-the-clock fire watch in their building until the new system was operational. None of the residents was enthusiastic about standing fire-watch

- period - and down right mutinous at the mere suggestion of standing watch on what shift workers call the graveyard shift; from midnight to 8:00 A.M.

A web search quickly turned up a fire and safety company with the flashy website which, naturally, must be big and reliable. Since this was an emergency and there was no time to get other quotes, few questions were asked and the strata contracted with the firm with the flashy website. In short order, a complete new modern fire alarm system was installed and no one had

to stand fire watch on the graveyard shift. With the installation of fire alarm horns in each unit as required under the new code, the final bill came to \$35,000 plus \$1,900 for the required annual inspection. Any repairs were an additional charge.

I have since heard a similar story from an owner in another strata. Their fire panel malfunctioned and their management company had a new fire panel installed along with a system upgrade and the strata is now saddled with an annual \$1,900 fire safety inspection.

To paraphrase Samuel Johnson who is alleged to have said "Nothing focuses the mind, like the prospect of being hanged", nothing focuses a strata owner's mind like the prospect of a special levy. Accordingly my mind began to focus on the ancient fire panel in our entranceway which prompted me to research fire panels.

I first spoke with our strata's fire safety provider, Sterling Fire and Safety Services Ltd. and here is what they told me: The fire safety systems with the expensive

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annual inspection such as those mentioned above are proprietary systems meaning that they are developed and patented by a single company which is the only source of parts and service. This system is most appropriate for hospitals and schools but is overkill for most stratas. The upside of such a system is that shopping is one-stop and the system is integrated from fire panel to fire alarms and installed as a package. The downside is that subsequent inspections and services must be by the installing company which explains the high cost of annual inspections.

What's the alternative? There are companies that provide one-stop service using a generic, off-the-shelf fire alarm system that can be installed and serviced by any trained and licensed technician. Annual inspection of such systems may be as little as \$250 as opposed to the \$1900 cost of annual inspections of a proprietary system.

Planning for the upgrade of your fire alarm system before it fails can save your strata money. No one will have to stand the graveyard shift as fire guard if you bring your fire safety system up to code before there is a failure.

I called my municipal

fire safety officer to find out what other standards have to be met and here is what he told me. Each building is unique and fire alarm systems must be designed accordingly. A building permit is required to upgrade a fire alarm system, and the building permit application must be accompanied by a plan drawn up by a qualified person, usually an electrical engineer.

A scenario for a failing fire panel might go like this. The fire alarm fails the required monthly test, and the council president calls the strata's fire safety service provider. The fire safety service provider refers the council president to a qualified contractor who installs a new panel which works with present fire alarms so that a watch is no longer required. The strata applies for an electrical permit for the new panel and is notified that there must be a full upgrade of the fire alarm system within one or two years, depending on the municipality and signed off by the Building and Electrical departments.

Doesn't it make sense for your strata to seek guidance from its fire safety service provider before there is an emergency? Then either proceed with an upgrade or have plans in place to do so on short notice.

YOUR PAGE

letters to VISOA



We recently received an on-line order for a copy of our Insurance publication from a non-member in the greater Vancouver area. After he had received it, he wrote the following email:

Dear Editor,

Our strata and I suspect most others have left insurance coverage decisions for their properties with property management companies and did not do their due diligence in finding out the details. That was our case until our council finally asked for new insurance quotes this year. Then it was apparent that we had not been getting the best coverage for our strata. Notice I did not say 'least cost'. Indeed, we wound up paying a bit more but getting better coverage - especially for things like insurance for strata volunteers.

You can use this testimonial (minus the name) if you like to tell other stratas to take control of their insurance coverage. We thought our property manager was an expert in this area. To our chagrin we found out he/she wasn't.

Regards,

(name withheld by request)

Email us at editor@visoa.bc.ca

Write us at Box 601, 185-911 Yates Street, Victoria BC V8V 4Y9

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