



Vancouver Island Strata Owners Association

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VISOA Bulletin - FEBRUARY 2012

President's Report

Happy New Year 2012.

The end of 2011 brought the much-anticipated Regulations for Depreciation Reports for BC stratas. Depreciation Reports are now required, unless your strata votes to “opt out” by way of a three quarter vote. But we at VISOA urge you to “opt IN” for this most valuable tool. Find out more about the requirements and the benefits to a Depreciation Report, and also the potential risks and problems for your strata if you do not have one, before your strata makes the decision.

The legislation is so new that we are all trying to get up to speed, so this topic will be foremost in our minds for the early part of 2012. This issue of the VISOA Bulletin has two articles on the subject, - one from our frequent

columnist Lawyer Shawn W. Smith, and the second from our own David Grubb of VISOA’s Helpline. We also offer you an opinion from a strata owner who has lived in Ontario, where Depreciation Reports have been mandatory since 2000. We hope these articles will help you make your decisions.

We also intend to help you, our members, by providing even more information on the Regulations – following our Annual General Meeting on February 26, we will hold a seminar on Depreciation Reports with three guest speakers. This seminar will run a little later than usual, to fit in all three speakers: Veronica Barlee of the BC Housing Policy Branch will elaborate on the process by which the Regulations came into law; Engineer Mike Wilson

of RDH Engineering will walk us through the steps involved in creating a Depreciation Report; and finally Lawyer Tino Di Bella will explain the potential pitfalls for those stratas who might not want the bother or expense of a Depreciation Report.

At our March Seminar, to be held in Courtenay, our North Island members will receive even more information on Depreciation Reports with Guest Speaker Shawn Smith. We have pledged to increase services to the North Island, and this will be our third Courtenay seminar.

At our Annual General Meeting, we plan to introduce a larger budget than in recent years. Our Association is growing so rapidly - nearly doubling in members in the last five years alone - and your all-volunteer Board of Directors are running short of time for all the projects and services we’d like to share with you. The budget increase will allow us to hire a part-time staffer to help with administrative details. We also plan to increase the size of your Board to twelve, with two new nominees and four directors standing for re-election. Both the larger budget and larger Board will help us with our ultimate goal – which is to increase our services to you.

One service we’d like to augment is our Helpline. We currently offer unlimited phone or email assistance to Corporate Members, and slightly limited help to Individual Members – but as this is our most-utilized service we know you’d like even more support.

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President's Report

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Directors are willing to do "field visits" to your strata, whether for educational purposes, assistance with contentious issues at your AGM's, or even to chair your AGM. However, our personal time is limited. So once again, this comes back to our being able to hire an administrative staff member to free up the Helpline Volunteers for this very important and enjoyable part of our purpose.

Next, we are currently planning a workshop series aimed specifically at council members, to assist them in

their duties. These limited-registration hands-on workshops will be offered on a user-pay basis and we hope you will find them very valuable. We would like your input – should the first of these be for Strata Secretaries? Treasurers? Bylaw Committees? Please email me at president@visoa.bc.ca to let me know what topic you suggest for our first workshop.

All of these enhancements cost money, though. The Bulletin you are reading, if you are reading a mailed copy, costs us \$15 per year to provide to you. As more of our members than ever before have access to the internet, we hope that many more will sign up

for "Bulletins by email" but of course we realize that not everyone wants to download and print their own copy. We propose to offer mailed Bulletins to each and every member who wants a printed copy, but at cost in order that we may use those funds to further enhance our services.

These and many more topics will be discussed at our Annual General Meeting and I do hope you can attend. It will be held at the Victoria Edelweiss Club, from 1:00 to 4:30 pm on Sunday February 26. All members are invited to attend at no charge.

Sandy Wagner
VISOA President 2011

My experience with reserve fund studies

By Allan Singleton-Wood

I retired to BC in June 2004 and have been living in a Victoria strata home since then. I am a former President of a number of condominiums in other provinces.

Three years ago I had long discussions with Carole Taylor, then BC Minister of Finance, and the lawyer who headed up the *Strata Property Act*. I pointed to weak areas in the Act and the lack of BC legislation to really protect the interests of condominium owners.

I was assured that changes were in the offing. Indeed, new legislation has gone a long way to help correct the difficult problems of Contingency Fund planning.

It appears that the BC Government is listening at long last and is now to adopt the highly successful solutions employed

by a number of other provinces.

Engineering companies are starting to be employed to conduct Reserve Fund studies for Strata Corporations and to provide long-term estimates on Capital replacement and maintenance of properties. The cost of an initial audit for my 200-unit condominium in Ontario was less than \$10,000. This was amortized over the first three-year period. Follow-up studies were carried out every three years and cost about \$4,000 each time.

The monthly budget to cover the estimated costs determined in the Study is calculated by the engineering company that conducts it. In my experience, this process is remarkably accurate and almost invariably eliminates the need for levies

to be set to cover unexpected costs.

In the due diligence carried out at the time of a sale of a Condominium property, the use of this concept means that a potential buyer is reassured that the management of the property is excellent. This inevitably leads to a willingness by buyers to pay higher prices for well-managed condominiums.

Based on my experiences, I see nothing but positive news in the recently-announced Regulations for Depreciation Studies.

Allan Singleton-Wood is a VISOA member living in Victoria.

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- Abraham Lincoln



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Preparing for the future: Depreciation Reports under the *Strata Property Act*

By Shawn M. Smith, Esq.

On December 13, 2011 the provincial government brought into force those sections of the *Strata Property Amendment Act* (which was passed in 2009) dealing with depreciation reports. Strata corporations will now be required (unless they decide otherwise by way of a $\frac{3}{4}$ vote) to have a detailed report prepared at specified intervals setting out the condition of the common property, the expected life span of each component of it, the anticipated cost to repair those components and suggestions as to how to fund those anticipated costs. The depreciation report is meant to provide an overview of both the short term and long-term expenses faced by each strata corporation and assist them in planning for these costs. For most strata corporations this will have a significant impact on how strata corporations operate, how they arrange their finances and how major repairs are approached. Some may even see increased strata fees as a result.

The Report

As a result of these amendments, section 94 of the *Strata Property Act* (“SPA”) will now require strata corporations to “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 those items.” Regulation 6.2 (which sets out the criteria for the previously optional reports) has also been replaced with a new regulation detailing what must be in the report and what the criteria for the “qualified person” who prepares them are.

The report must contain:

- (a) a physical component inventory and evaluation of those components;
- (b) a summary of the repair and maintenance work to be done (other than on an annual basis) over the next 30 years;
- (c) a projection of the costs of the anticipated repairs for the next 30 years and how they might be funded;
- (d) the qualifications of the author of the report and their relationship, if any, to the strata corporation.

The person who is preparing the depreciation report is required to conduct an on-site visual inspection of the strata corporation’s building(s). They are to review both the common and limited common property as well as any part of the strata lots for which the strata corporation is responsible to repair and maintain (which in turn will require the person preparing the report to review the strata corporation’s bylaws). Regulation 6.2(2)(b) gives examples of the components that are to be reviewed (the list is not exhaustive):

- (a) building structure
- (b) building exterior including roofs, decks, doors and windows;
- (c) building systems such as electrical, plumbing, heating, fire protection and security;
- (d) common amenities (ie. pool, exercise room, clubhouse)
- (e) parking facilities and roadways;
- (f) utilities (ie. water and sewer)
- (g) landscaping;
- (h) interior finishes (but only if a bylaw makes the strata corporation responsible for the same);
- (i) green building components; and
- (j) balconies and patios.

The report must also identify those parts of the common property and

limited common property for which individual owners are responsible to repair (usually through an assumption of responsibility agreement arising out of alterations to the common property). Not only will this part of the work require a careful review of the bylaws by the person preparing the report, but strata corporations will have to keep a master list of assumption agreements that clearly identify the areas in question. The report is, however, not required to estimate the life expectancy or future repair costs of these items.

Given the requirements for the report to set out what non-routine repair and maintenance work will be required over the next 30 years and the estimated service life (what I have referred to as “life expectancy”) of the various components, to be of practical assistance it will have to include a chart or timeline of the work to be done. It should show what needs to be done each year and whether it can be done over time as well.

It is the required financial projections that will likely be of the most interest (and most importance) to the owners. Accompanying the repair timeline, there will need to be a cash flow time line or projection; in other words something showing the amount of money that will need to be spent over each of the next 30 years to keep pace with the anticipated repair schedule. While the regulation also requires inflation to be taken into account, strata corporations must be mindful of the fact that the costs are just estimates and actual costs may be more or less than those estimated figures when the time comes. In that regard, it would perhaps be best for the person preparing the

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report to be slightly more liberal in their estimates, particularly the long term figures. However, as the reports are updated the expenses in the distant future will become more defined and accurate.

Along with the required cost projection, at least three funding models are to be suggested in the report. Regulation 3(4) suggests that these models include use of the Contingency Reserve Fund, special levies and borrowing.

The Contingency Reserve Fund model will need to show how much money must be saved up and over what time period, in order to meet the anticipated costs. Using the Contingency Reserve Fund model will surely impact the amount of money that owners intend to contribute to the Contingency Reserve Fund (about which I will say more below). This will likely mean an increase in current strata fees, which may or may not be attractive to the owners in the strata corporation. One's view depends on one's own finances and one's own philosophical point of view in saving for the future.

Borrowing is an attractive option for strata corporations whose owners cannot afford a special levy. However, it will mean an increase in future strata fees as the payments on the loan must be made.

Who can prepare the Depreciation Report?

Section 94 of the SPA requires the report to be prepared by a "qualified person" but gives no indication as to what that phrase means. It is Regulation 6.2(6) that assists us in that regard. It requires that the person who prepares the report have:

(a) knowledge and expertise to understand:

(i) the individual components the report is required to address;

(ii) the scope and complexity of the common property, limited common property, etc;

(iii) the strata corporation's bylaws; and

(iv) assumption of responsibility agreements entered into with owners

(b) the ability to make the projections (both life expectancy and financial costs) required by the report.

Given the broad scope of the report it may well require a team of individuals to prepare it.

Before commissioning someone to prepare a depreciation report the strata council must ensure, on an objective basis, that the person or firm meets these qualifications. Otherwise the report will not meet the requirements of the legislation, putting the strata corporation in breach of s.94 of the SPA. Council members also have an ethical and legal responsibility not to place a report before the owners that they know does not meet the criteria of Regulation 6.2 or was prepared by someone without the requisite skill or knowledge to prepare it. Diligent investigation will be required before someone is hired.

How often must the depreciation reports be prepared?

The first report (unless there is a $\frac{3}{4}$ vote dispensing with its preparation) must be prepared no later than December 11, 2013. After that a new one must be done every three years. The costs of these reports (which will likely not come cheap) will have to be raised by way of a special levy or paid for from the Contingency Reserve Fund, as they are not expenses that

meet the criteria for including an expense in the Operating Budget. This raises the prospect of a small group preventing the report from being done by defeating the resolution to raise the monies necessary for its preparation, and putting the strata corporation in breach of its obligations under s.94 of the SPA.

What to do with the report once you have it?

What is most interesting about the entire process pertaining to the depreciation report is that there is no mandatory requirement to implement its recommendations or budget in accordance with it. Regulation 6.1(b) simply requires the owners to consider the report when deciding if additional contributions should be made to the Contingency Reserve Fund where it is equal to or greater than 25% of the Operating Budget for the previous fiscal year. Based on the language of that section, it appears that the most recent depreciation report must at least be discussed at the annual general meeting, but that it is open to the owners to decide to do nothing about saving for future expenses. This, however, is consistent with the requirement of the report to provide three funding models including raising funds by way of special levy. If the Contingency Reserve Fund is less than 25% of the Operating Budget for the previous fiscal year, there is no requirement to even discuss the depreciation report (although prudence would dictate that the owners should).

By not requiring owners to save for future expenses by increased contributions to the Contingency Reserve Fund, little may change from the current state of affairs in which many strata corporations find themselves. In a quest to keep strata fees low, future expenses are either left

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for future owners to deal with by way of a special levy, or simply not done because a special levy is not palatable to the current owners. The lack of mandatory contributions based on the depreciation report will not help these strata corporations.

Concurrent with the changes regarding the depreciation reports, the rules regarding the mandatory contributions to the Contingency Reserve Fund have changed slightly. If the amount in the Contingency Reserve Fund is less than 25% of the budgeted contributions to the Operating Budget (which excludes Contingency Reserve Fund contributions) for the previous fiscal year, the owners must contribute the lesser of:

(a) 10% of the budgeted contributions to the Operating Budget for the current fiscal year; or

(b) The amount required to bring the Contingency Reserve Fund up to an amount equal to 25% of the budgeted contributions to the Operating Budget for the current fiscal year (which would be less than the 10% figure)

This formula will require some calculations to be done when preparing the annual budget.

If the Contingency Reserve Fund is equal to or greater than 25% of the budgeted contributions to the Operating Budget (which excludes Contingency Reserve Fund contributions) for the previous fiscal year, then contributions of any amount may be made. Those additional contributions no longer need to be approved by $\frac{3}{4}$ vote as was the case under the previous regulation where the Contingency Reserve Fund was equal to the Operating Budget.

It should also be noted that such reports (along with any other similar reports from engineers, etc) are now to be kept as part of the strata corporation's

records under s.35 of the SPA and will be available upon request under s.36.

Dispensing with the need for a depreciation report.

Strata corporations with four or less strata lots (ie. duplexes and triplexes) are exempt from the requirements to prepare a depreciation report (see Regulation 6.2(8)). Nevertheless, they should still consider it, even if it is in some modified form.

Strata corporations with five or more strata lots may opt out of the requirements of s.94 of the SPA by way of a $\frac{3}{4}$ vote at an annual or special general meeting. Such a vote must occur within 1 year before the date on which a report is required to be prepared. A new vote must be passed as each new deadline arrives. (It should be noted that, should the owners vote not to prepare a report, Regulation 6.2(7)(c) requires the next report to be prepared 18 months after the date of the $\frac{3}{4}$ vote resolution dispensing with a depreciation report unless they continue each year to vote to dispense with the report).

Broader implications to consider

Strata council members are required by s.31 of the SPA to:

(a) act honestly and in good faith with a view to the best interests of the strata corporation, and

(b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

When approaching the subject of depreciation reports strata council members will need to keep these duties in mind. For example, is it acting with a view to the best interests of a strata corporation to introduce a resolution to not have a depreciation report prepared? In answering that question much will depend on the circumstances of each

situation. If the intent is to never have one done then doing so is likely not acting with a view to the best interests of the strata corporation. (Of course if the owners force such a resolution on to the agenda and it passes then the council cannot be responsible for that outcome). However, suggesting having a report prepared every five years instead of every three might be fine.

Another issue to consider is whether strata council members are required to propose increased contributions to the Contingency Reserve Fund in accordance with the report and its anticipated costs. Arguably that is the prudent course of action to plan for future costs (particularly in buildings where owners cannot readily raise funds for a special levy). Ultimately the unique situation of each strata corporation and the owners that comprise it will dictate what is prudent.

Section 72 of the SPA requires each strata corporation to repair and maintain the common property. Will a failure to follow the recommendations and/or schedule set out in a depreciation report amount to a breach of that duty? Quite possibly, yes. Again, much will turn on the circumstances of each case. However, such reports will form part of a determination as to whether a strata corporation is acting reasonably in carrying out its repair duties. To the extent that recommendations and findings are clear that something needs to be repaired and it is not, there will be a good case to be made that the duty under s.72 is not being met.

Lastly, thought must be given to the impact of such a report on the resale of strata lots. The most recent report must now be included with each Form B request. Potential purchasers will have a very clear idea of what expenses they face in the future. If sufficient funds have not been accumulating in the Contingency Reserve Fund then a buyer may well want a price reduction to account for those anticipated costs (particularly those

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expected in the near future). While low strata fees may seem attractive to a buyer, they may have the opposite effect in the long run.

Conclusion

Whether these changes are to be viewed as an improvement will depend on one's perspective. For those who seek to keep expenses low they will likely be viewed with some dislike. No longer will it be possible to avoid repair issues without it being obvious. The changes will, however be heralded as an improvement by those who seek to plan for the future. Time will inevitably tell who is right in their view.

This article is intended for information purposes only and should not be taken as the provision of legal advice. Shawn M. Smith is lawyer whose practice focuses on strata property law. He frequently writes and lectures for a variety of strata associations. He is a partner with the law firm of Cleveland Doan LLP and can be reached at (604)536-5002 or shawn@clevelanddoan.com.

INTRODUCING NEW BUSINESS MEMBERS

Our newest business member, **PACIFIC RIM APPRAISALS LTD.**, has been providing insurance services to all of Vancouver Island for over 38 years. With offices in Victoria and Nanaimo, they offer insurance appraisal and depreciation report (reserve fund study) services.

Ten reasons to get a strata website

By Carla Cacovic

1. It's Affordable: When you sign up for a site with a company that specializes in strata websites, the company is able to spread the development costs across multiple clients, which means the cost to any one strata should be much lower than you'd anticipate.

2. It Increases the Perceived Value of your Property: An active, dynamic community website offers added value to your strata. An Interactive site in which users can communicate ideas and log concerns can provide your strata with something unique and coveted.

3. It's Convenient and Simple – With a strata website, you no longer have to search for files and documents or worry about council members retiring or moving and taking key documents with them. All homeowner documents – including bylaws, insurance documents, agendas and minutes – can be posted to private, secured areas of your site.

4. Save Time and Money – When your community can turn to a website to log issues, read news, pose questions or make suggestions to the council, issues become centrally stored and can be dealt with quickly and by the right person. Making information available online can drastically cut down the number of phone calls to council members or Property Managers.

5. Knowledge is Power – If your website has news feeds, you'll receive current

information about your strata association as well as local news and events online. If newsletters don't regularly reach you or if you're apt to lose them, a website solves these issues.

6. Easy Access to the Community Calendar – Include an Event Calendar on your website, and you'll be able to see all events including Annual General Meetings, monthly council meetings and community events (like annual barbeques, community garage sales or walking club meetings).

7. Participation is Easy – We are all busy and it's hard to get involved, but with an interactive website, you can submit news and articles, respond to surveys and polls, and organize community events. Your website does not have to be static; the more interactive it is, the more opportunity there is for you to get involved.

8. It's Easy to Communicate – With a strata website, you will receive active and immediate information from the strata council. Online issue reporting and private messaging give you direct access to communicate your concerns with your council and Property Manager. With your site acting as a communication portal, there'll be no need to search for email addresses or phone numbers and you won't have to figure out who your

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“You Asked” - Is the Helpline Confidential?

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.

This issue's question is answered by David Grubb.

Q. I am an owner in a strata which is a corporate member of VISOA and I understand that any owner can send questions to the Helpline. However I am concerned that if I contact the Helpline about a matter that has become controversial in the strata our correspondence or conversations will be revealed to others in the strata.

A. Confidentiality is a prime concern of the Helpline Team “Responders”. While they may share information about a particular situation with each other, they have signed a confidentiality agreement and will not discuss any correspondence (mail or email) or discussions (Helpline telephone) with anyone else without the permission of the originator of that correspondence.

That said, if that originator makes the correspondence public amongst the owners of their strata, the Responder may, under carefully considered circumstances, discuss the issue further with those others on the grounds that the originator, in sharing the information, has tacitly given permission to the Responder to do so as well.

This is true of any person whether they are individual VISOA members or owners as part of a corporate

membership.

Sometimes the Responders receive inquiries from two people in the same strata about the same issue. It may be that both write or phone one Responder or else one may phone and the other may write. Either way, the Responders tend to share information in these cases so that the responses are not duplicate efforts.

Even so, this imposes on the Responders a requirement to be careful to answer the questions based only on the information supplied by the inquirer, and to respond only in accordance with their understanding of the laws which may relate to the situation. They may also share some of their experience in resolving similar problems if it is pertinent. At times, the Responders may have information from another party which provides a deeper understanding of the problem, and they may – without revealing any source – try to provide answers which could modify the perceptions of the inquirer in what they hope will be a positive fashion.

Under all circumstances, inquirers must understand that the VISOA Helpline Volunteers are in no position, legal or otherwise, to act as an adjudicator, arbitrator or court, nor to pass judgment on an issue. If it is beyond their scope they will advise

any party to consult a lawyer.

So often people fail to read the “fine print” but they really should take note of the Disclaimer at the end of all Helpline email responses:

DISCLAIMER

This Helpline is staffed by volunteers who are familiar with the Strata Property Act and experienced in dealing with strata issues. The information provided is their best judgment and should not be construed as either legal or technical advice. For legal or technical advice, you should contact a lawyer or persons legally qualified to give advice within their field of expertise.

VISOA Helpline volunteers are not qualified to mediate or arbitrate any disputes but may provide suggestions regarding dispute resolutions if they feel such suggestions may be of assistance.

No person is permitted to use a reference to VISOA, and its members who are acting on behalf of the Association, in a manner which claims, implies or suggests that the Association, or such members, is vested with any kind of legal or official authority with regard to strata matters.

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SPA Section 94 is now in force

By David Grubb

On 13 December, 2011, the amendment to Section 94 of the *Strata Property Act* (SPA) was brought into force along with amendments to *Strata Property Act* Regulations 3.4, 6.1 and 6.2 as well as Form B (Information Certificate).

There are plenty of sources on the Internet where readers can obtain the details of the amendments specified in the Strata Property Amendment Act, and if they follow the “What’s New?” link on the VISOA website they can get to a “cut & paste” version of the pertinent texts which they can print off and paste into the appropriate places in their SPA printed copies. (The new “convenience copy” SPA may be available shortly.)

What needs discussing is the effect these amendments will have on stratas.

The new Section 94 is pretty plain: but the devil is in the details, which show up primarily in Regulations 6.1 and 6.2.

Regulation 6.1 is obvious. It removes the requirement for a ¾ vote approval to increase contributions to the Continuity Reserve Fund (CRF) once the amount of that fund is equal to 100% of the operating budget. The contributions may now simply be included as a part of the annual budget, which requires a majority vote.

That amendment is a relief since so

many strata owners have been resistant to any increase in the CRF and used the ¾ vote to defeat any practical contribution to meet the long range needs of the common property maintenance.

When does this Depreciation Report have to be done?

Here are some basic explanations of SPA s.94 (2) and Reg. 6.2 (7)

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EXAMPLE	CURRENT STATE	ACTION REQUIRED
<u>Strata xx1</u> SPA s.94 (2) (a)	This strata does not currently have a Depreciation Report.	It must have one done by a Qualified Person by 13 December 2013.
<u>Strata xx2</u> SPA s.94 (2) (b) & Reg. 6.2. (7) (a)	This strata had a proper Depreciation Report made by anyone on 22 June 2011.	It must have a new report made by a Qualified Person by 22 June 2014.
<u>Strata xx3</u> SPA s.94 (2) (b) & Reg. 6.2. (7) (a)	This strata has a proper Depreciation Report made by anyone on 20 May 2012.	It must have a new report made by a Qualified Person by 20 May 2015.
<u>Strata xx4</u> SPA Sections 94 (2) (c) & (3) (a) and Reg. 6.2 (7) (b)	This strata has waived the preparation of a Depreciation Report by a ¾ Vote	If Strata corporations are opting to exempt themselves by ¾ vote, they have 18 months from their last successful exemption vote to either hold another vote or obtain a depreciation report. In practice this means that, if votes to exempt are being held annually at AGMs, each vote can be more than 12 months old. So there would still be about 6 months left to get depreciation report done if the ¾ vote did not pass in a given year.
<u>Strata xx5</u> SPA 94 (3) (b) & Reg. 6 (8)	This strata has fewer than 5 strata lots.	It is not required to have a Depreciation Report. Even so, owners would be well advised to develop a simple one anyway so that they are prepared for that inevitable roof replacement or building envelope refurbishment.



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Some restrictions apply. Limit one per water bill account number or multi-residential complex.



Who is a qualified person?

On the surface, Reg. 6.2 (6) seems simple enough: anyone who has the knowledge and expertise to perform all the tasks required in Reg. 6.2 (1) – (4). Although that is a complex task, since there is no specification of any special qualifications, theoretically, if a strata puts together a committee which has owners who have many of the skills and knowledge, they could do the work themselves. Chances are they would have to consult with a few specialists to provide them with some information on the condition, current cost of replacement and expected life of some systems to include in their report.

Then they could find a spreadsheet program to enter all the data to create a final report. Although complex, the BC Government Housing and Construction Standards website <http://www.housing.gov.bc.ca/strata/regs/index.htm> has such a program which stratas could adapt to their own purposes. VISOA will be working on a simpler spreadsheet which might be useful for some stratas – at least initially within the first two or three year requirement. Thereafter, they can develop the required three cash-flow funding models for consideration of the owners.

A word of caution must be raised here, however. Although all of the work can be done in accordance with Reg. 6.2 (1) (a), (b) and (c) and 6.2 (2) by the strata if they have the appropriate expertise and resources, Reg. 6.1 (d) may pose a slight difficulty: the Depreciation Report must include

(d) the name of the person from whom the Depreciation Report was obtained and a description of

- (i) that person's qualifications,
- (ii) the error and omission insurance, if any, carried by that person, and
- (iii) the relationship between that person and the strata corporation;

The Ontario Condominium Act Regulation requires that these people

are specific practicing professionals: Accredited Appraisers Canadian Institute (AACI), Architects, Registered Certified Engineer Technicians or Technologists, Certified Reserve Planners (Real Estate Institute of Canada), Professional engineers, Professional Quantity Surveyors (Canadian Institute), and Architectural Technologists or Registered Building Technologists. Moreover, for the most part, those people cannot be a member of the condominium they are producing the report for and in general must be at arm's length from any of the Directors (Council members).

Although the SPA Regulations avoid any such stringent qualification requirements, stratas are well advised to keep them in mind.

Moreover, there are likely to be others who could also be considered appropriate including those who have qualifications such as Certified Property Appraiser (other than AACI), or System Maintenance Administrator (SMA) and Real Property Administrator (RPA) accreditation from the internationally recognized Building Owners and Managers Institute (BOMI).

The fact that Reg. 6.1 (d) requires a statement of the person's name, qualifications, liability insurance for errors and omissions (E&O), and the relationship between the person and the strata all seem to point to a preference by the government to employ a person (or company) who has

some formal credentials, can absorb lawsuits if he makes an error or an omission in his report, and probably works at arm's length from the strata.

Although there may be a period of adjustment for the next few years, the strata which has not had its Depreciation Report prepared by a professional person with these three requirements runs the risk that the Report might, for prospective buyers, raise the question of both thoroughness and accuracy which could cause them to hesitate in making a purchase. (Who would sign the Report on behalf of the strata? Would the strata corporation have to carry E&O insurance on their behalf? Since the signer of the Report is not at arm's length, could he have missed or hidden some aspect which might affect the amount of funds required for future projects and therefore the con-

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Budgeting for Stratas

By C.A. Prentice, PhD. Associate Professor, Emeritus University of Calgary

All Stratas are required, under the *Strata Property Act* (SPA) to prepare budgets, annually, to cover their annual operating costs. In addition, it is expected that the Strata will incur expenses that occur less often than once a year or expenses that do not usually occur, so these expenses will be covered by a separate budget. This budget will be funded by the Contingency Reserve Fund, a Special Levy, or a combination of the two.

The purpose of this article is to discuss how a Strata Council should go about preparing the annual operating budget.

The SPA requires that a budget must contain an itemized list of estimated common expenses that occur either once a year or throughout the year but does not identify exactly what these common expenses are. Such a list may vary from strata to strata. Furthermore, a list that is too detailed has the effect of not being able to see the forest for the trees. A list with insufficient detail limits the ability to properly assess the proposed expenditures and, later, the actual expenditures. A list which aggregates similar costs, such that the total planned expenditure for each item on the list amounts to approximately five to ten percent of

the total budget will enable users to see both the forest and the trees. In a few cases, where there is a fixed contract price, the cost for the item might exceed ten percent.

Two basic categories of expenses can be identified.

1. Those costs associated with administration. In this category I would include Insurance, Strata Management Charges, Strata Council Expenses and taxes (GST, HST, PST). Note, I have suggested a line item for taxes as this can be a significant cost in the operations of a Strata and one that the Strata Owners should be aware of. This, of course, requires separating any expense into two components, one for the tax and one for the actual expenditure (excluding the tax).

2. In the second category I would include Gardening and Grounds Maintenance, General Repairs and Maintenance, Building Expenses, Water, and Hydro.

In some cases the expense item is fixed, on an annual or monthly basis, in the form of fixed contract. For example, Insurance, most Strata Management Fees, Gardening

Contract, or Caretaker costs. These should be listed as separate items in the budget as they can be determined exactly.

Once the detailed list of expenses has been established the items fixed by contract can be budgeted at the contract price. It is the second group of expenses that require some work. A simple approach is to determine the actual cost of each expense item for the previous three years. If there is very little fluctuation, from year to year, in the cost, the average of the cost might be a suitable value for the new budget year. If the costs are trending upward then taking an average of the annual increase and applying that percentage increase to the current year figure should give a reasonable estimate for the new budget year. Similarly, if costs are trending downward, then taking an average of the annual percent decrease and applying that to the current year will give a reasonable estimate for the new budget year. In each case it might be desirable to round the estimate upward or downward as considered appropriate. An example of the suggested calculations is shown in the following table.

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Estimation of Expenses for Budget Purposes

Year 1 Expense	Year 2 Expense	Year 3 Expense	Average or Projected Expense	Budget for Expense
11,250	10,375	11,685	11,103	11,000 or 11,500
11,250	11,587 (3% increase)	11,819 (2% increase)	12,114 (2.5% increase) i.e. (3.0+2.0)/2	12,000 or 12,500
11,250	10,800 (4% decrease)	10,584 (2% decrease)	10,266 (3% decrease) i.e. (4.0+2.0)/2	10,200 or 10,500

Finally, as the total expenses budgeted are only estimates and are used to determine the annual assessment, it might be useful, particularly in the early years of developing a budget, to either

1. Add an item for "Unknown Changes in Costs". The amount of this item might be up to no more than five percent of the planned expenditures and would depend upon how confident you are in your estimated expenditures for the new budget year, or

2. Increase each item budgeted by \$100 to \$500.

This would help to ensure that the assessments determined from the estimated expenses are sufficient to cover the actual costs that will be incurred. With experience this practice may be eliminated.

Finally, the budget should include a single line item indicating the contribution to the Contingency Reserve Fund (CRF), calculated as follows:

CRF and Budgeted Operating Fund for fiscal year just ended (BOF)	MINIMUM CRF Contribution
CRF less than 25% of BOF	The lesser of: Ten Percent of Proposed Budget OR The amount required to bring the CRF to at least 25% of the BOF.
CRF less than or greater than BOF	Any amount, as part of the annual budget approval process, after consideration of the depreciation report, if any.

Normally a Strata Corporation would not have significant revenues, other than the assessments. Therefore I would recommend these be excluded from the budget calculation, even though they would be included in the monthly and annual statements of receipts and disbursements. For example, interest on savings accounts and typical Strata investments is, generally, not significant or, on longer-term investments, only received when the investment matures. Excluding such items would also help to ensure that our actual expenses did not exceed our actual revenues. Where the revenues may be significant, say greater than five percent of the total receipts expected, and where the amount of the revenue is readily estimable these might also be budgeted for. The budget for such items could be calculated in the same manner as the expenses.

With the determination of the total expected expenses in the next fiscal year, the annual assessment can then be determined, usually based on the Unit Entitlement.

A later article will discuss budgeting for Contingency Fund or Special Levy expenses.

sideration of annual contributions to the CRF or special levies?)

Certainly, when the new requirements to be added to Form B come into effect on 1 March, 2012, whereby stratas must include a Depreciation Report (if any), purchasers and sellers will both be concerned that it is in place to enhance the sale value of the strata lot and has the credibility that a professional, who is subject to the standards and ethics of their particular regulatory body, has written it.

More significantly, perhaps, is that mortgage and insurance companies may examine the presence or absence of credentials of the Depreciation Report provider carefully and perhaps refuse a mortgage or policy, or else charge higher rates because of some perceived potential risk.

These factors also need serious consideration by stratas which are considering waiving the requirement to make a Depreciation Report by a ¾ vote.

Although it is early yet, prices that have been mentioned by some engineering firms range from \$6,000 to \$10,000 for the initial report. This is a serious consideration for smaller stratas and may tempt them to waive the report. However, they should consider the two to three year leeway that has been allowed in order to raise the funds over that period. Moreover, there may be other qualified people or companies who will come to the fore and who could charge less while still producing a competent report.

A Depreciation Report, no matter who produces it, is a valuable tool for all owners whether residing in, selling or potentially buying a strata by giving a clear understanding of the condition of the strata's common property and assets and what is expected from the owners over the long term in maintaining the value of their investment and the costs involved.

BC Strata Properties - What the numbers tell us

By Deryk Norton - VISOA Board Member

In 2007, when preparing its advocacy paper for strata owners, the VISOA made enquiries with various publishers of real estate information to determine how many strata properties there were in British Columbia. The numbers that came up ranged from 900,000 to 1.3 million but no one could tell us the source of any of them. We concluded that such numbers were unreliable and began a conversation with the BC Land Title Authority where all BC properties are registered. This led us to the BC Assessment Authority whose staff visit, classify and assess every property in the province. With the assistance of Landcor Data Corporation (who manage the data acquired by the BC Assessment Authority) the VISOA obtained numbers we can rely on. After all, who is better positioned to produce reliable

property numbers than the BC Assessment Authority and its data managers?

For 2007 we found there to be close to 24,200 strata plans (or strata corporations) and 458,800 strata units in BC. This number of strata units represented 25% of all 1.8 million taxable properties in BC.

We recently obtained updated and more detailed data for 2010. They show that the number of strata plans grew to 27,900 and the number of strata units grew to 527,200. The overall number of taxable properties had grown to 1.9 million. This means a 15% growth in strata units over 3 years compared to growth of only 5% in other properties. It also means that strata units are now closer to 28% of all properties. The data also show that strata properties are growing beyond 50% in the City of Victoria

and much of the lower mainland. (A table of strata numbers for over 40 municipalities is posted on the VISOA website under "Resources" and "BC Strata Statistics".)

The 2010 data also tell us the numbers of strata plans in various categories. We found that 13,000 (over half of all strata plans) are 2-unit strata plans or duplexes. There are 1000 strata plans with over 100 units, 1200 with 61-100 units, 1550 with 41-60 units, 2950 with 21-40 units and 8200 with 3-20 units. We also found that there are 4300 bare land strata plans with 3200 of these being residential.

These numbers tell us that strata properties represent a large and rapidly growing part of real estate in this province. Although the average size of a strata plan is 34 units (excluding duplexes), strata plans continue to vary widely in size, type and location.

As the number and complexity of strata properties continue to grow, owners will be more challenged to work with strata legislation that was last seriously reviewed in 1998. If strata owners do not make their concerns known to their MLAs, flaws will remain in the legislation and continue to undermine their property rights. The huge number of strata properties reveals that strata owners could have a loud voice if they choose to speak up. The question is, will they?

Ten reasons to get a strata website

Continued from page 6

question should go to; all that can be built into your website.

9. You can Include Classified Sections – If your website has a classified section, you'll be able to list that exercise equipment that's taking up space, offer pet sitting or house cleaning services, post a help wanted notice or let neighbours know you'd like to borrow a set of tools.

10. You can Connect with Neighbours – By using your website, you can welcome new neighbours to the community or announce weddings, anniversaries, graduations and more. Private messaging gives neighbours the chance to communicate directly with one another and can be incorporated into a community website.

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

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Responsible investment of the Contingency Reserve Fund

by Cleveland Patterson, MBA, PhD Emeritus Professor of Finance, Concordia University

Strata Council members have a responsibility to “direct” the investment of the strata’s Contingency Reserve Fund (CRF). Even if the fund is invested by a Manager or an Advisor, rather than being self-managed, it is still incumbent on Council to monitor its composition and performance to ensure that it meets planned levels of return, risk, and liquidity.

These planned levels are generated by the strata’s reserve fund study which, in addition to providing information regarding the likely timing and amount of future expenditures, expressed in today’s dollars, should also include assumptions regarding future inflation rates and future earned returns. For a given set of inflation-adjust-

ed replacement costs, the earned return can have a substantial effect on the amount that must be contributed to the CRF each year.

To take a simple example, if a repair planned to occur in 20 years would cost \$100,000 to do today, and if the annual inflation rate was 2%, it would cost \$148,600 to do the same repair 20 years later. If an equal amount was put into the CRF at the end of each of the next 20 years, and the fund earned no interest, you would need to contribute $\$148,600/20 = \$7,430.00$. However, if the annual contributions earn 2% every year, they only have to be \$6,116 because, with interest, these smaller amounts will generate the needed sum of \$148,600 by the end of the

20th year. This annual contribution of \$6116 is 18% less than the \$7430 required with no return. If the rate of return was 3%, the annual contribution would drop by 26% to \$5,530.

Does this mean that Councils should strive to achieve the highest returns they can? **Emphatically not.** One of the iron rules of investment is that in order to increase your hoped-for returns it is usually necessary to assume greater risk that the expected returns won’t materialize or that your investment will be eroded. The aim of maximizing expected returns is inconsistent with the objective of the CRF which is to ensure that funds will be reliably available when needed.

Investment objectives

If return maximization isn’t the aim, what is? The first step in any investment program is to state a specific set of objectives which encapsulates what you are trying to achieve. This is useful for planning, monitoring, and communications. An example of a useful set of objectives might be the following:

1. Preserve the real value of the capital invested in the CRF, i.e. attempt to realize an average return equal to the average anticipated rate of inflation.

Currently, if inflation is measured by changes in the Consumer Price Index (CPI), a reasonable target return,

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Responsible investment of the Contingency Reserve Fund

Continued from page 13

net of expenses, is about 2%. However, the reserve fund study may assume a different rate if anticipated construction cost increases differ materially from general inflation. Rates of return greater than 2% are desirable if they can be realized without incurring material risks, but their achievement should be secondary to preservation of capital.

2. Ensure that an appropriate portion of the fund can be quickly and reliably converted into cash to meet both planned and unexpected expenses when they occur.

3. Ensure that there is sufficient flexibility to react to changes in economic conditions, and to changes in inflation rates and market interest

rates.

This requires that you have a suitable portion of the fund in short-term securities that can be reinvested at higher interest rates if they occur.

4. Minimize the risk of future capital losses by adequate diversification and choice of investments.

Be careful not to put all your eggs in one basket and only invest in securities whose prices are relatively stable and predictable.

5. Ensure simplicity and transparency so as to facilitate management by current and future councils.

Don't get too fancy and document what you do and why you did it.

Implementing the objectives with baskets

In today's economy, inflation continues its inexorable

trend at 2% or more but interest rates are at their lowest levels in decades. Is a capital-preserving target net return on investment of 2% or more achievable within the context of the other objectives and constraints listed? If the CRF is passively invested in a conventional savings account or in short-term bank deposits, it will be a struggle to achieve even half of this goal. However, it can be realistic if a more proactive approach is followed, using a wider spectrum of low risk securities.

The choice of permitted securities is constrained by Sect. 6.11 of the SPA Regulations. The rules are detailed and almost incomprehensible but they clearly allow investment in securities issued by insured banks and credit unions, and those issued by, or guaranteed by, Canadian government enti-

ties. They also permit investment in debt, preferred shares and common shares issued by corporations, subject to certain arcane rules, but these should be avoided by strata councils as contravening both #4 and #5 of the objectives.

It is useful to divide the CRF into three notional baskets: liquid, non-liquid, and semi-liquid, where liquidity is a measure of how quickly and reliably the basket contents can be converted into cash.

1. The LIQUID BASKET meets objective #2 because it only contains investments which can be converted into a known amount of cash at short notice in order to meet immediate expenditure needs. Possible contents include bank on-line business savings accounts and

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Responsible investment of the Contingency Reserve Fund

Continued from page 13

redeemable investment savings accounts. Both are insured up to \$100,000 per institution and currently (Dec 2011) yield 1.2% or more.

2. The NON-LIQUID BASKET contains bank guaranteed investment certificates (GICs), which are also insured by CDIC. GICs are purchased at 100 and redeemed at a known higher price at maturity, with the return being calculated from the difference. They provide a much higher return than savings accounts but are not liquid because cashing them prior to maturity is either not possible or can only be done with a large penalty. It is advantageous to ladder GICs by selecting a mix of 1, 2, 3, 4, and 5 year maturities. When the 1-year GICs mature the funds are then reinvested in another 5-year GIC offering current interest rates. This laddering meets objective #3 because it allows the basket to adjust slowly to changing interest rates. Currently (Dec 2011), 5-year GICs yield as much as 2.7%, and a new 5-year ladder yields about 2.3%, but will rise to the average 5-year rate over time..

3. More adventurous councils may also wish to invest in a **SEMI-LIQUID BASKET** which provides higher returns than the liquid basket at the expense of a slight liquidity loss. This basket contains debt securities issued by government entities. They are completely liquid in

the sense that they can be converted to cash at any time. However, the price at which they can be converted is not certain because it may vary somewhat over time with changes in maturity and market interest rates. A convenient vehicle to hold these is an Exchange Traded Fund (ETF) which is a diversified package of these bonds traded on the Toronto Stock Exchange. An example of a useful ETF is CLF, issued by Claymore Investments, which holds a 5-year ladder of government bonds and which automatically reinvests maturing bonds and interest receipts. CLF's current distribution return is 4.6 % but this is overstated because some of the bonds it holds will fall in price as they approach maturity and this drop will partially offset the cash yield. In the longer term, the return can be expected to be comparable to a GIC ladder return.

The Basket Mix

The appropriate mix of baskets depends on the prospective liquidity needs of the CRF. If no major expenditures are anticipated for some years, the mix might be, say, 10% liquid, 10% semi-liquid, and 80% non-liquid. The return on this mix should handily exceed the inflation rate target. However, as major expenditures approach, the mix will need to be more liquid resulting in a lower expected return. The proportions should be reviewed and rebalanced yearly.

Investment Administration

Councils may choose to administer their investments themselves, using an on-line broker, or they may prefer to delegate management to a full-service broker, bank, advisor, or to their strata manager. There are pros and cons to each, which are beyond the scope of this brief discussion. However, whatever method is used, a responsible council should have answers to the following questions:

1. Have we agreed on a set of practical CRF investment objectives and have they been communicated to whoever manages our investments?
2. Are we getting the best possible return in each basket? Many managers, advisors, and banks only offer access to a restricted set of investment choices.
3. Do we know all of the direct and indirect investment expenses incurred, including fees, commissions, management expenses, and bank charges?

4. Are we paying for services we aren't getting or don't need?

5. Do we know last year's realized return and next year's expected return, both before and after these expenses?

6. Have all trades, and the reasons for them, been properly approved and documented? "What were they thinking!?" is a good question and a great source of learning for council members.

This article is only intended to stimulate discussion and should not be construed as providing investment advice regarding specific securities. For such advice, councils should confer with a licensed advisor. Cleve Patterson has several decades of financial and investment experience as a senior executive and corporate director, as principal of a financial consulting firm, and as a university administrator and professor. He is currently retired and keeps busy as a strata council president.

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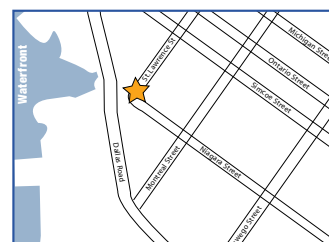
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