



Vancouver Island Strata Owners Association

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

VISOA Bulletin - JUNE 2009

President's Report

The election may be over but VISOA will continue its efforts on your behalf to ensure that we have a new *Strata Property Act* developed with your input and reflecting your needs. Our thanks to all of you who made the effort to bring up SPA concerns at all-party meetings and with prospective MLA's and to distribute the brochure "BC Election and the Strata Owner" to 10,000 strata owners.

It was good to meet up with old friends and new ones at the very successful seminar in Nanaimo on April 19. We had an enthusiastic audience of 82 for Gerry Fanaken's talk "A Strata Administrator – Is That the Solution?" Gerry was able

to draw on his experience as a strata administrator to provide advice on how to keep your strata functioning smoothly.

Before the seminar, your Board was able to meet with the volunteers from Nanaimo and discuss new ideas for VISOA. Our seminars would not be possible without the volunteer help we get from VISOA members from all over Vancouver Island, and I encourage you to step up and help in the running of your association

A reminder to you if you are planning renovations this year: Remember to take advantage of the **Federal Home Renovation Tax Credit**. You can find more

information on the VISOA web site.

Don't forget to mark your calendars for our upcoming seminar in Victoria on Sunday June 14 when our topic will be "**Strata Fire Safety and Upgrades**" to be presented by Don and Kathleen Nicholas of Sterling Fire and Safety Services Ltd. Their presentation should enlighten you on the fire safety upgrades you will be required to make in the coming years.

Municipal fire codes are changing and your strata should be prepared to upgrade your fire safety system soon. Kathleen has also written an excellent article for this bulletin.

- Tony Davis, President

In this issue...

• President's Report Tony Davis	1
• Editor's Message Sandy Wagner	2
• You asked Harvey Williams	2
• Budgets, expenditures and finances under the <i>Strata Property Act</i> Shawn M. Smith	3
• How well does VISOA take care of its members? Tony Davis	4
• The curious case of the bare land strata Deryk Norton	6
• The Dummies Guide to the <i>Strata Property Act</i> Tony Davis	6
• Strata fire safety and savings Kathleen Nicholas	8
• A trespass case Joyce Johnston	10
• Talk To Us ~ Members Comments	10
• The Green Corner Sandy Wagner	11
• Introducing new business members Daryl Jackson	12

BOARD OF DIRECTORS 2009

President Tony Davis
Vice President Sandy Wagner
Secretary Claudio Procopio
Treasurer Daryl Jackson

MEMBERS AT LARGE

Elsie Lockert, Deryk Norton,
 David Grubb, Laurie McKay,
 Harvey Williams

Next Seminar

**Strata Fire Safety
 and Savings:
 The Code, Upgrading, and
 Cost Reduction Programs**

Don and Kathleen Nicholas,
 Sterling Fire & Safety Services Ltd.

**SUNDAY, June 14, 2009
 1:00 – 4:00 p.m.**

Registration begins at 12:30 p.m.

Trafalgar/Pro-Patria Legion
 411 Gorge Road East, Victoria

There is no charge for VISOA members
*(If your strata plan is a member,
 all owners in your strata may attend)*

Non – Members \$20

Memberships will be available at the door

Editor's message

by Sandy Wagner, Bulletin co-editor

This edition of the Bulletin went to press just before our Provincial Election. We hope that your party of choice represents you and your strata issues well in the provincial legislature. Next issue we will resume our series of articles on strata legislation.

Another strata home owners association has recently opened a Victoria office and your Board of Directors trust you will stay with VISOA, your local education and information source. We have highlighted our services to members and some of our achievements in an article entitled "How Well Does VISOA Take Care of its Members?"

If you want a personal reference guide to strata living, you'll be happy to know that such a guide exists. Read about it in "The Dummies Guide to the *Strata Property Act*".

With this issue, we are introducing two new features which we hope you will enjoy: a monthly "Green" corner to highlight environmental issues as they affect strata living; and "Talk To Us" for your letters and comments. Please do write to us, for that is how we know we are meeting your needs. Whether you have an idea for future bulletin topics or comments on our services, just jot us a note or email.

You asked:

Does the strata corporation reimburse owners who repair common property without approval of the strata corporation?

by Harvey Williams

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

Question:

This question came from an owner of a unit in a four-plex that is one of six four-plexes comprising a strata corporation.

Six years ago, stucco fell off our building and water penetration caused mold to grow in the walls making owners ill. At the next AGM, a resolution to spend \$10,000 to remove the mold and repair the stucco on Building #1 failed. Since the mold was making our suites uninhabitable, we (the owners of the four affected units) went ahead and had the repairs completed at our own expense.

Last year stucco fell off two other four-plexes and the AGM voted a special assessment of \$25,000 to have them repaired. We refused to pay the special assessment on the grounds that we had repaired our building at our own expense. Threatened with liens on our units for non-payment of the special assessment we paid it to be held in trust by the strata corporation until the dispute is resolved by mediation, arbitration, or in court, as provided in S114 of the *Strata Property Act*.

Have we handled this correctly? What should we have done?

Answer:

The owners were correct in arguing that the strata corporation is responsible for the outside of their building. But the act must be read carefully to establish that.

Section 1 of the Act defines common property as that part of the land and buildings shown on a strata plan that is not part of a strata lot. S 68 sets the boundary of a strata lot midway between the surface of the structural portion of the wall...that faces the strata lot...and the structural portion of the wall that faces ... the common property. Accordingly, the exterior stucco is common property.

Section 72(1) requires the strata corporation to repair and maintain common property and assets. Without a doubt, repairing and maintaining the stucco is the strata's responsibility, and the mold resulted from the strata corporation's failure to maintain the common property; therefore, the mold is the responsibility of the strata corporation.

Their case is still pending, and there is no way to be certain of the outcome. The owners of the building that first leaked went out on a limb by footing the bill for repair of their building - but with mold spores endangering their health, what else could they do?

On the other hand, if they had sought mediation before spending the money, they would have had a clearer case. Their next step would have been to consult legal counsel. It's never a good idea to incur expenses then attempt to recoup the expenditures from the strata corporation.

YOUR AD IN THE BULLETIN FOR JUST PENNIES A DAY!

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

• Business Card Size: \$75/yr (\$22.50/single issue) • ¼ Page Size: \$150/yr (\$45/single issue) • ½ Page Size: \$300/yr (\$90/single issue)



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

Budgets, expenditures and finances under the *Strata Property Act*

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

Next to the bylaws and rules which govern the way strata residents live, finances form the core of strata living. As such, it is important for both council members and owners to have a solid understanding of what the *Strata Property Act* (the “Act”) says about that topic; council members because they are accountable for how money is spent and owners so that they can properly hold them accountable. This article, while not exhaustive, will help to provide a foundation of knowledge on which to build.

Section 91 of the Act states that the strata corporation is responsible for “common expenses”. Common expenses are defined in Section 1 to include “expenses relating to the common property and common assets of the strata corporation, or required to meet any other purpose or obligation of the strata corporation”. These typically include routine maintenance of the common property, management fees, utilities, etc., as well as extraordinary expenses such as major repairs to the roof or the building envelope. In short, they are expenses related to operating the strata corporation and

maintaining its buildings.

Common expenses are typically paid for from one of the two funds that the Act requires that the strata corporation to establish: an operating fund (s.92(a)) and a contingency reserve fund (s.92(b)). The Operating Fund is for common expenses that occur “either once a year or more often than once a year”. The Contingency Reserve Fund is for common expenses occurring “less than once per year or that do not usually occur”. It is critical to understand the differences between them. The nature of the expense determines where it can be paid from. Conversely, the nature of the fund determines what expenses can be paid from it.

Generally speaking, the Operating Fund and the Contingency Reserve Fund are the only funds permitted under the Act. There cannot be separate painting or roofing funds (see *McGowan v. Strata Plan NW1018 2002 BCSC 673*). Separate funds for distinct purposes however, can be raised by way of a special levy pursuant to s.108 of the Act provided that there is an identifiable purpose for the levy (i.e. roof repair).

The funds raised by way of a levy cannot be used for any purpose other than that specified in the resolution approving the levy.

Owners typically contribute to the payment of common expenses on the basis of relative unit entitlement. A strata lot’s unit entitlement is taken from the Schedule of Unit Entitlement registered in the Land Title Office. (Strata corporations should ensure they are using that schedule and not the one found in the owner-developer’s Disclosure Statement as the two may well vary).

Regulation 6.4 (which will not be discussed here) provides some exceptions where only certain strata lots contribute to a particular common expense, as opposed to all strata lots contributing.

Operating Fund

Expenditures from the Operating Fund must be consistent with the purpose of the fund (i.e. for common expenses that occur either once a year or more often than once a year) and must be approved in the budget (see Section 97 of the Act).

Continued on page 5

SLEGG CONSTRUCTION MATERIALS LTD.

SUPPLIERS TO THE ROOFING INDUSTRY

AL JONES ~ Registered Roof Observer since 2001

2901 Sooke Road, Victoria

FREE ROOF CONSULTATIONS

Phone 250-478-5509 • Cell 250-883-6443

alj@slegglumber.com

IKO Roofing, Malarkey Shingles, Dow Roofing Systems

Small Business & Strata Bookkeeping Services & Administration

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

Barbara Zimmer
Attention to Detail • Dedicated • Analytical
250-727-9743

E-mail bzes3056@telus.net



How well does VISOA take care of its members?

Report by Tony Davis and VISOA members

VISOA is a non-profit organization that provides support to more than 500 members representing more than 7,000 units on Vancouver Island from Sooke to Port Alice. We have no funding from government or the real estate industry and can be relied upon to advocate for our members even when we may be in conflict with government or the real estate industry.

Your Board's first responsibility is to you - our members. Our reason for being is to serve you. For this reason we are always trying to gauge how effective we are in providing a useful service to you. We know they are a chore for you but that's why we have questionnaires after each seminar.

A lot of the services we provide are measurable and the Board thought it would be helpful to share some of these statistics with you.

So how well are we doing?

During fiscal year 2008-09:

✓ Held 5 seminars on such topics as strata management, strata law, property maintenance, 3 in Victoria and 2 in Nanaimo. These seminars attracted a total attendance of 549, an average of 110 people per seminar – all at no cost to you, our members.

✓ Answered 638 Helpline calls and replied to 680 Helpline Emails from members all over Vancouver Island. This means an average of more than 5 strata owners being helped by our volunteer board members each business day of the year.

✓ The VISOA website was upgraded to improve strata owner

access to information. In 2008 the website responded to 211,000 “requests”, an increase of 55% over the previous year.

✓ Sold 370 copies VISOA publications on topics relevant to strata living.

✓ Presented updated versions of all our publications, as well as one all-new publication for strata owners and 2 brochures for potential strata owners.

✓ Board members personally attended 3 Strata Council meetings by invitation to help resolve local strata issues.

✓ Held 4 public meetings to gather strata legislation concerns of strata owners on Vancouver Island, obtained input from mainland associations serving strata owners as well as from numerous mainland strata owners and obtained information from government agencies in Alberta and Ontario.

✓ Published the legislation issues report “Beyond the Sales Pitch: Ensuring Transparency & Accountability in BC Strata Developments” identifying 30 serious legislation issues and calling for a public review of BC strata legislation and distributed the report widely to VISOA members, media, politicians and other interested parties.

✓ Gave 6 radio interviews on CFAX and CKNW about strata legislation concerns of owners.

✓ Met with 11 Vancouver Island MLAs plus 3 Lower mainland MLAs about strata legislation con-

cerns and the need for a public review.

✓ Presented the content of the legislation issues report to the government caucus of 25 MLAs.

✓ Sent 3 letters to the Premier and the Minister of Finance stressing the need for a review of the strata property legislation. Provided resources on the VISOA website for concerned strata owners to use in sending their own letters to Ministers and MLAs

✓ Developed and circulated 5 News Releases to media regarding VISOA's activities and findings regarding BC's strata legislation.

✓ Presented the need for a public review of strata legislation to the legislature's all party Select Standing Committee on Finance and Government Services

✓ Printed and distributed 5 issues of the Bulletin containing 45 articles on topics relevant to strata living. Total distribution 1500 copies per issue.

✓ Welcomed new memberships from 42 strata corporations, 134 individuals and 5 business members to increase our total membership to 7000 individual strata unit owners.

Testimonials:

“It's good value for money. I have certainly learned a lot from your publication as a newcomer to BC and strata living. The strata owners, some of whom have been here 20 years, have expressed their appreciation for this publication and that is good value for me.”

Your feedback and comments are both welcome and necessary.

Budgets, expenditures and finances

Continued from page 3

In other words, replacing the roof is something that cannot be done through the Operating Fund as one does not replace a roof once a year.

If a particular expenditure is not one identified in the budget then it must either be approved by a $\frac{3}{4}$ vote at an Annual General Meeting or Special General Meeting or it must meet the requirements of Section 98 of the Act which puts certain restrictions on those expenditures. For example, Section 98(2) sets a limits on the total amount of unapproved expenditures (whether of the same type or not) for the total fiscal year. The limit is as follows:

a) an amount set out in the by-laws, or

b) if the bylaws are silent as to the amount, less than \$2,000 or 5% of the total contributions to the Operating Fund for the current year, whichever is less.

There is much debate as to what constitutes an “unapproved expenditure”. The Act does not define it and there is no reported case law to guide us. Certainly if the expenditure is one that is not contemplated in the Operating Budget (i.e. there is no category for it) then it is unapproved. Arguably because the owners never contemplated that type of expenditure and thus it is “unapproved”.

However, what if the expenditure is one that exceeds the amount budgeted? Is that then “unapproved”? The answer depends on what view you take. It is approved in the sense that there is a category for it. It is unapproved in that it exceeds the amount the owners set for such an expenditure. If the latter is the view taken then the amount which exceeds the budgeted amount is the amount taken into account when calculating whether the maximum cumulative expenditure limit has

been met.

The more common approach to excess expenditures is to watch the overall budget total. It is only when expenses exceed the overall total that they become “unapproved”. In other words, one can “rob” from categories where the strata corporation is under budget and apply that amount to the categories where there is an overage.

Emergency expenditures are a different matter. Pursuant to s.98(3) of the Act they may be made out of the Operating Fund or Contingency Reserve Fund if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage. This test is the key. Just because something is urgent, that does not make it an “emergency”. This exception cannot be abused to compensate for poor planning and budgeting. It should also be kept in mind that any expenditure under subsection (3) must not exceed the minimum amount needed to ensure safety or prevent significant loss or damage. In other words, the bare minimum for a “Band-Aid” solution is all that may be spent.

Council members and strata managers need to keep in mind Bylaw 20 of the Standard Bylaws whereby council can, by resolution, delegate the ability to spend a specified amount for a specified purpose. It can also delegate, by resolution, a maximum amount which can be spent without council approval. It must also specify the purpose for which, or the conditions, under which the money can be spent. These powers will be especially useful where a strata manager has been retained by the strata corporation. Such delegation will relieve the strata council of the need to approve each and every expenditure made. Keep in mind

that without proper authority, no single person can spend the strata corporation’s money.

If a temporary shortage in the Operating Fund develops it is permissible under Section 95(4) and Regulation 6.3 of the Act to make a loan from the Contingency Reserve Fund to the Operating Fund provided that certain conditions are met. First, the loan must be repaid by the end of the fiscal year and it must be for the purposes of covering a temporary shortage. The temporary shortage must be a result of expenditures becoming due before contributions have been received. The loan therefore operates like a line of credit. If the strata council lends money from the Contingency Reserve Fund to the Operating Fund it must inform the owners as soon as feasible of its doing so.

The possibility of an Operating Fund surplus/deficit is addressed in Section 105 of the Act. If the Operating Fund ends the fiscal year with a surplus then it must be dealt within one of the ways:

a) transfer to the Contingency Reserve Fund;

b) carried forward as a surplus; or

c) used to reduce the required contributions the following year.

The choice is presumably to be made by majority vote at an annual general meeting or special general meeting. (The Act is silent on this point). If an option other than those set out in the section is to be followed, it must be passed by a $\frac{3}{4}$ vote at an annual general meeting or special general meeting.

A deficit in the Operating Fund must be eliminated during the following year. This will mean increased contributions on the part of the owners and conversely provides

Continued on page 7

The curious case of the bare land strata

by Deryk Norton, VISOA Board Member

Some members have asked, “what is a bare land strata?” or “how is a bare land strata different from any other strata?”

The *Strata Property Act* defines a “bare land strata plan” as being a “strata plan on which the boundaries of the strata lots are defined on a horizontal plane by reference to survey markers and not by reference to the floors, walls or ceilings of a building”. In practice this means a bare land strata consists of strata lots where each lot owner is entirely responsible for his or her free-standing house and there is very little (if any) common property to be maintained by the strata corporation. There are no corridors, elevators, foyers or common exterior walls to be maintained by a bare land strata corporation as in a strata apartment building. Where common property occurs in a bare land strata it is usually a road, sidewalk, street light, park or sewage treatment plant. Sometimes a bare land strata will have common property that includes a recreation building or swimming pool. On Vancouver Island there are 14,000 strata lots in 2,000 bare land strata plans. Across BC there are 49,000 strata lots in 5,300 bare land strata plans.

The governance of a bare land strata is subject to the same *Strata Property Act* requirements that apply to strata apartments or townhouses. Although most bare land stratas do not face the challenges of buildings with common walls as in other types of stratas, they do face a set of challenges of their own.

All too often a local government approves a housing subdivision as a

bare land strata plan to relieve itself of certain responsibilities while still collecting taxes from the owners of the bare land strata lots. Approval of a bare land strata plan shifts the responsibility for roads, street lights and sewage treatment to the strata corporation (i.e. fees paid by strata lot owners) from the general tax base of the local government.

One specific challenge to bare land strata owners is the failure of some developers to complete the bare land strata infrastructure according to specifications leaving the strata lot owners with some very large bills (i.e. special levies) to fix deficiencies after the developer has left the scene. Often those approving the bare land strata subdivision do not inspect the subdivision infrastructure to ensure that it meets the conditions of subdivision approval. Furthermore, there is nothing similar to a “new home warranty” to protect strata owners from later failures in the infrastructure of bare land strata developments. A second specific challenge is the practice of some developers to encumber the strata corporation with easements on common property while the developer was in control of the strata corporation. Sometimes these easements can leave the strata corporation with long-term maintenance costs or liability exposure (such as in the case of an easement granting public access to a walkway on common property).

The experiences of many bare land strata owners highlight the need for legislation to better protect strata owners.

The Dummies Guide to the Strata Property Act

By Tony Davis

I have a small collection of those useful publications that cheerfully label themselves as being for “Dummies” Such useful books that can help you get started on almost any topic you can think of. So wouldn’t it be great if there was such a publication for strata owners? Well of course there is. The title “What Every Strata Owner Should Know about the *Strata Property Act*, Regulations and Bylaws” is not as catchy as the “Dummy” series but believe me it is every bit as useful.

Living in a Strata means being governed by the *Strata Property Act*. If you have dipped into the Act lately you will know that it’s pretty heavy reading. What the average owner and Council needs is to be pointed toward the most important parts. This volume extracts those important parts of the Act and Regulations and provides a quick reference to sections that the owner might use on a daily basis.

In this publication you will quickly find authoritative answers to questions of governance, bylaws and rules, property, finance, rentals, and insurance, each of which quotes the sections from the *Strata Property Act*. As a bonus the Schedule of standard bylaws is also included. These are the bylaws that every strata automatically assumes when it is first registered.

You can purchase this publication from VISOA at one of our seminars for \$8, or you can have it mailed to you for an extra \$2. It is listed on our website www.visoa.bc.ca under “Publications”.

So don’t be a dummy about the *Strata Property Act*. Get yourself a copy of this publication.

Budgets, expenditures and finances

Continued from page 5

an incentive for the strata council and the owners to budget carefully.

Contingency Reserve Fund

A healthy (and by this I mean sufficiently large) Contingency Reserve Fund (“CRF”) is important for every strata corporation to have. Not only does it provide a source of funds for emergencies but it can also be used as a savings account to build up funds over the long term for major projects such as roof replacement, painting, etc. The annual contribution to the CRF is determined in accordance with Regulation 6.1 and sets the following general principles:

(i) If the CRF is less than 25% of the total annual budgeted contribution to the Operating Fund for the fiscal year that has just ended, the annual contribution to the CRF must be at least 10% of the total contribution to the operating fund

(ii) If the amount of money in the CRF is equal to or greater than 100% of the total annual budgeted contribution to the operating fund for the fiscal year that has just ended, any additional contribution to the CRF must be approved by a 3/4 vote

(iii) If the amount of money in the CRF is at least 25% but less than 100% of the total annual budgeted contribution to the operating fund for the fiscal year that has just ended, the annual contribution to the CRF may be of any amount.

The key thing to note here is that the amount from which contributions are based is contributions to the Operating Fund, not the total budget itself (although the two may seldom differ).

Expenditures (other than emergency expenditures) made from the Contingency Reserve Fund must be consistent with the purpose of the fund (common expenses occurring

less often than once per year or usually not at all) and be approved by a 3/4 vote at an annual general meeting or special general meeting.

The strata corporation must account for the Contingency Reserve Fund monies separately from the other money of the strata corporation. That means that it cannot be invested with or intermingled with monies from the Operating Fund or other monies held by the strata corporation. The monies must be invested in one or more of the investments set out in Regulation 6.11. Any interest earned on the Contingency Reserve Fund becomes part of the fund. Thus a good return will help the fund grow.

Budgets and Financial Statements

Section 103 of the Act sets the requirement of the strata corporation to prepare and pass a budget each year at the annual general meeting. (A majority vote is required to pass the budget as well as to pass any amendments to it). In addition to the budget for the coming fiscal year, the strata corporation must also prepare a financial statement for the past year. Both must be included with the Notice of Meeting sent to the owners.

The Regulations to the Act set out very detailed criteria for both the budget and the financial statements. It is mandatory that these criteria be met. Otherwise the strata corporation is acting contrary to the Act. Unfortunately, many strata corporations do not comply with these very important criteria. A consistent failure to do so may, when combined with the right criteria, become grounds for the appointment of an administrator.

If the budget is defeated, the strata

corporation must prepare a new budget and present it for approval at a special general meeting within 30 days (section 104 of the Act). (The 30 day period can be extended by a 3/4 vote at the annual general meeting). Until the new budget is passed the strata corporation must follow the previous budget. This means that the strata corporation can only spend money on the type of expenditures set out in that budget and only to a maximum of the amounts set out therein.

Borrowing

The strata corporation may, on occasion, need to borrow money. Most likely this will arise when there is a major repair or renovation which is required to be done. Section 111 allows the strata corporation to borrow money if the owners authorize it by way of a 3/4 vote. The money may be secured by either an assignment of strata fees or by way of a negotiable instrument. The strata corporation cannot mortgage the common property (Section 81).

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.

**Mark your calendar
VISOA's Fall Seminar**

Sunday, September 20, 2009

Beban Centre, Nanaimo

1:00 - 4:00 PM

Register 12:30 pm

Strata Fire Safety and Savings: The Code, Upgrading, and Cost Reduction Programs

Kathleen Nicholas, Sterling Fire & Safety Services Ltd.

Where does fire safety planning and spending stand on the list of your strata's capital expenditure planning? Top of the list? Third? Far down the list behind painting the hallways and installing an outdoor irrigation system?

The reality is that investing time and money in fire safety can actually save you time and protect you from liability issues, not to mention save lives. Being proactive in fire safety planning, investing in the proper equipment, and taking advantage of energy saving rebate programs can be both easy and cost-effective ways to improve the fire safety in your building.

Fire safety planning is governed by the B.C. Fire Code, which ultimately holds the owners of a building responsible for implementing and upholding the Code requirements. That may sound like a lot of responsibility, but it is actually addressed very simply. All strata apartment buildings are required to have a fire safety plan. The plan spells out such things as who to call in case of an emergency, who is the fire safety director, information about the fire safety equipment located in the building, persons who may require assistance in the event of an emergency, and floor plans of the building for fire department use. This binder is kept in a locked box, usually just inside the front door of the building. In the event of an alarm, this book can be referred to by the fire safety director and the fire department personnel, saving time and hopefully lives.

The plan also includes a comprehensive list of the type and frequency of service required on the various kinds of fire safety equipment found in the building. This simplifies the process of bringing someone new

on board to take over the fire safety director's position, as all of the information they will need is contained in one easy binder. The plan must be updated annually by council and/or the fire safety director, with a copy of the new information being forwarded to the appropriate fire department for your area. During the update is also a great time to review fire safety precautions, what to do in case of emergencies, and hold a fire drill with the other residents.

Over the last few years, many of the Greater Victoria's municipalities have been asking apartment-style strata corporations to upgrade the fire alarm system in their buildings. Townhouses and bare-land stratas do not fall under the same section of the Code, and so we have not seen the same push to have them upgraded. Some municipalities, such as Saanich and Victoria, have pushed harder for upgrades than others. Taking a proactive stand alongside the fire departments, many property management companies are also encouraging their clients to seek upgrades as well.

Generally, the initial requests from fire departments have been worded more as gentle suggestions, but be aware that the "authorities having jurisdiction", i.e. the fire departments and their prevention officers, have the authority and ability under the B.C. Fire Code to enforce the requirements in the Code and order buildings to upgrade. This is rare, but it does underline the fact that owners are better off to take the suggestion as a time limited recommendation, and not an open invitation to be ignored.

Unfortunately, the recent spate of fire related deaths in apartment buildings has underlined the importance

of these upgrades. Fire alarm systems installed twenty and more years ago often don't provide the level of notification and protection to keep people safe. It is often mentioned that many people just don't hear the bells in the hallways when the alarm goes off. A new fire alarm system addresses this problem by requiring a mini-horn in every bedroom and living room of each suite. Another way that notification time is increased is by installing smoke detectors in all hallways. Many stratas lack this basic detection, especially if they have an older system. Meanwhile, inside of suites, a hard-wired smoke alarm is installed which will only ring in that suite. A heat detector is also installed in the suite, which will set off the building-wide alarm system. This ensures that residents have the maximum amount of lead-time to evacuate the building. And, as we all know, in a fire situation minutes can save lives.

Given the current economic times, many stratas have concerns about the cost of upgrading their systems and questions about where they even start. You would start with engaging an electrical draftsman and engineer who will create drawings that show the necessary Code compliant upgrade requirements. The strata then sends these drawings out for quotation to fire safety companies and/or electricians. Often, strata councils are surprised to find that a completely new system can cost far less than replacing a failed roof. Be sure though, when you are looking over the various quotes, that you are comparing apples to apples. There are a number of different system manufacturers that produce everything from very simple, reliable

Continued on page 9

systems, which is all most buildings needs, to very complex systems that will limit your ability to choose who services it annually in the future. The rule should be to keep the system as simple as possible so that any of the qualified fire safety companies in town can service the system. Buying a proprietary system, such as an addressable system, will limit you to only being able to use manufacturer reps and their certified companies. Additionally, the parts for addressable systems, such as smoke and heat detectors, can be much more expensive than non-addressable systems. Take these things into consideration during the upgrade, and it will save you money in the long term.

Another way to benefit financially is to look at upgrading specific pieces of fire safety equipment that are not tied into the fire alarm system. For example, those exit signs and emergency lights that you rely on in an

emergency are using a lot of power if they are the older style systems. In a larger building, that electrical cost can be in the high hundreds of dollars per year. Currently, B.C. Hydro has Power Smart Rebate Program in place that will help lower the cost of replacing (or re-lamping) the emergency light units and exit signs. By re-lamping the building, the energy saved each year will translate into less money spent on power. More information on this program can be found on B.C. Hydro's web site at http://www.bchydro.com/rebates_savings/product_incentive_program/how_it_works.html. We encourage all stratas to do the math and check out this site.

As well, make sure you talk to either your property manager or an accountant about the Renovation Tax Credit being offered by the federal government. Upgrading of fire alarm systems and exit lights is eligible for

the Home Renovation Tax Credit. Many stratas are taking advantage of the tax credit by using it on common area upgrades, including fire alarm upgrades and re-lamping. The savings might not seem like a lot, but in today's economy, every little bit counts.

We hope you will join us for VI-SOA's seminar on these topics, which will be covered in more detail, on June 14. Until then, remember that safety is everyone's responsibility and investing in safety can save precious lives.

Kathleen & Don Nicholas are the Owners/Operators of Sterling Fire & Safety Services Ltd. Their motto is "Your safety is our business" and are proud VISOA Business Members who welcome member inquiries at sterlingfire@vicbc.com or (250) 478-9931.



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

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

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

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

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

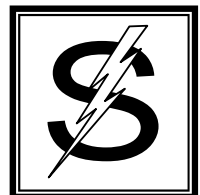
Sterling Fire & Safety Services Ltd.

"Your Safety is Our Business"

Phone: (250) 478-9931

Email: sterlingfire@vicbc.com

Web: sterlingfire.vicbc.com



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

TALK TO US



This page belongs to you.

Have you read something in our Bulletin or our Website that left a lasting impression on you?

Or perhaps you've followed some advice that you got from the Bulletin or the helpline and would like to share the results with other members?

Or would you like to comment on an article that really "hit the spot"?

We welcome letters and email from Bulletin readers.

This is your Bulletin and your Letters page. Speaking to Vancouver Island strata owners like you is our mandate - hearing from you is our pleasure.

This month's letter is from Tammy Chamberlain of Strata # 6212:

I found your organization on-line and all I can say is: What a weight off of my shoulders! For the past year I've tried to teach myself everything, always behind the 8 ball. Ours is a new strata - so none of us have a clue! Now that my strata has joined VISOA I can count on others to help me instead of spending hours on dial-up trying to research what I need to know. Your association has been a great help to us and I want to thank you for the time that you volunteer to help us newbies.

Email us at editor @visoa.bc.ca

Write us at Box 601, 185-911 Yates Street, Victoria BC V8V 4Y9
Please include your name, strata number and telephone number.

Letters and emails may be published on-line.

A trespass case - Can an owner sue individually for injury to common property?

by Joyce Johnston, Attorney

In a recent small claims court action, Vantage Equipment Co Ltd. v. Arnold Barrett dba as A.B. Repairs, a strata owner was awarded damages against the tenant of an immediately adjacent strata lot for trespass.

Trespass is concerned with voluntary and unauthorized interference with an owner or occupier's land. The Trespass Act, RSBC 1966 chapter 462 sets out a statutory duty in section 49 (1)(c).

The strata corporation consisted of four commercial strata lots. The claimant operated an equipment business out of three of the lots; the fourth was used for an auto repair business. The customers and employees of the auto repair business used the parking areas dedicated for the exclusive use of the claimant. The improper usage had been brought to the attention of the defendant. The Court finds that the defendant did not take steps to ensure that his customers and employees respected the property rights of the claimant, and that the business's employees and customers continued to use the claimant's parking spots.

One of the defenses raised to the claim was that the small claims court did not have jurisdiction to hear a dispute arising about property covered by the *Strata Property Act*. The Court finds that the defendant's cases on this defense applied only to litigation involving the strata corporation per se, and that was not the situation in the case before the court as the strata corporation is not a party to the litigation.

This led to a further argument that the strata corporation needed to be a party to the litigation. However, the court holds that the decision in the B.C. Court of Appeal in *Hamilton v. Ball* 2006 BCCA 243 stands for the proposition that strata owners may sue directly for damages arising from injury to their proprietary interests.

The fact situation in *Hamilton v. Ball* was different than the Vantage Equipment case. In *Hamilton* some members of the strata corporation sued other members who authorized work carried out on the building envelope without the approval of the strata corporation. The court holds that the strata can sue for all owners under SPA section 171, or on behalf of some owners under SPA section 172, but that does not take away an individual owner's right to sue for an injury to their interest in the common property. The statutory rights in SPA sections 171 and 172 are in addition to the individual right to sue.

Joyce Johnston practices law in Victoria. She may be reached at 250 382 0300. This article is intended for information purposes only. Nothing in it should be viewed as the provision of legal advice.



Painting Services

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

Plus...

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

Call for a Free Estimate

250-383-5224

★★★ *Member Discounts* ★★★

The Green Corner

This Month: Spend less on water

by Sandy Wagner

Can your Strata use less water? We're sure you can.

VISOA representatives recently heard of one Strata who actually budgeted far less for utilities than the previous year – and when questioned at their AGM the President proudly told the owners how this feat could be accomplished. A very large common expense was water, primarily for their garden irrigation system. The council and gardening committee had noticed several areas where the sprinklers directed water inappropriately – so the first step was to call in an expert. The sprinkler expert turned on the entire system and walked the property with the council members, showing them all the places where it appeared there were leaks, and where sprinkler heads were turned incorrectly giving either


too much or too little water to various gardens. The most important repairs were done, and the next month's water bill showed a small but noticeable difference.

The President attended a free CRD (Capital Regional District) workshop on irrigation controllers, and realized that a manual was required in order to change the settings on the system. The two irrigation controller manuals were located on-line and turned out to be clear and easy to follow. Experiments were conducted and they concluded that a "one size fits all" setting would not do – the timing of the sprinklers needs to be adjusted throughout the summer. Adjustments were made weekly - hedges and gardens were watered according to their true needs, taking into account the type of plants and their condition, as well as the weather conditions, and

CRD watering restrictions. A log book was kept and soon patterns became noticeable. At the end of the year the strata had noted a savings of 14% in water expenses and this was with the system operating at peak efficiency for less than the full year – so the following year's budget planned for an 18% reduction in water usage and costs. Well done!


Sprinklers are a very noticeable common expense, and often the first that comes to mind when thinking of water conservation. But don't forget about the taps, toilets and showers inside your unit. Whether household water is a common expense or you have your own water meter, it just makes good sense to conserve water in the bathroom. We have probably all heard of the \$75 CRD rebate

Continued on page 12



**ALL-POINTS
HOME INSPECTIONS**

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



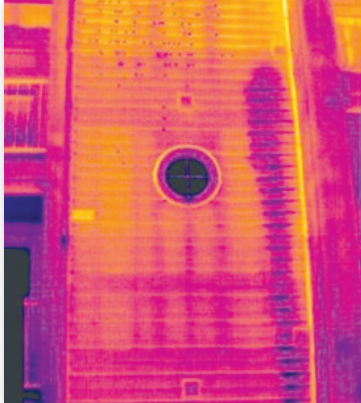
Certified • Bonded • Insured

**ALL-POINTS HOME INSPECTIONS LTD.
TONY BRAID 250-213-6700**

Infrared Moisture Detection

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

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



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

BUSINESS MEMBERS

All Points Home Inspections

Specializing in Home and Property Inspections

250-213-6700

tony@building-insection.ca • www.building-inspection.ca

Coastal Community Insurance Services

Business Insurance Expert including

Commercial Property and Liability

250-386-7737

shawn.fehr@cccu.ca

Empress Painting

250-383-5224 • 1-888-788-5624

office@empresspainting.com

www.empresspainting.com

Frascape Landscaping & Irrigation

Landscaping maintenance and irrigation

250-882-1410

info@frscape.com • www.frscape.com

Govan Painting

Residential Painting Contractor

Qualicum Beach

250-228-2468

govan@shaw.ca

Island Basement Systems

Foundation Waterproofing Specialists

(250) 882-1061 • 1-877-DRY-BSMT (379-2768)

sales@islandbasementsystems.ca

www.islandbasementsystems.ca

Seafirst Insurance Brokers

Sidney (250) 656-9886 • Saltspring 250-537-5527

dguesdes@seafirstinsurance.com

www.seafirstinsurance.com

Slegg Construction Materials

Roofing and Building Envelope Material Supplies

Contact Al Jones 250-478-5509

alj@slegglumber.com

Sterling Fire & Safety Services

Fire Safety Services & Fire Alarm Upgrades

250-478-9931

sterlingfire@vicbc.com • www.sterlingfire.vicbc.com

Top Coat Painting

Commercial & Residential Painting

250-385-0478

saldat@islandnet.com • www.topcoatpainting.ca

Unity Services Corporation

Strata Maintenance Planning & Consulting

250-616-9298

john@unityservices.ca • www.unityservices.ca

Green corner

Continued from page 11

for installing a low-flow shower and low-flush toilet. (Other cities may have your own version of a rebate plan). We have heard of two stratas who offered to “top up” the rebate to \$100 to encourage owners to install water-saving bathroom fixtures. The owners simply showed their cheque from the CRD for \$75, and the council wrote them a cheque for \$25. Expensive proposition for the strata, you think? Think of it this way: Each flush with a low-flow toilet saves 12 litres of water – surely over the lifespan of the toilet that is worth \$25!

Summer watering restrictions could be a distant memory from the past if we all consciously conserve where we are able. The bonus is a bit more “green” in our strata bank account too!

Introducing New Business Member

By Daryl Jackson

VISOA welcomes a new Business Member

Slegg Constuction Materials

Slegg Construction Materials is a major supplier of roofing, drywall and masonry supplies on Vancouver Island and the Lower Mainland. Sales Representative Al Jones' role is supplying roofing and insulation materials to contractors. He has taken training and received accreditation as a Registered Roof Observer with the Roof Consultants Institute. He is happy to consult and assist strata owners and managers with their roofing needs. In addition to their many lines of roofing and shake replacement products they supply a wide range of insulation and air barrier products. Al and the team at Slegg look forward to meeting VISOA members. Give them a call for your roofing needs.



For more information regarding Business Memberships please contact **Daryl Jackson at 1-877-338-4762** or **membership@visoa.bc.ca**. (Please note that VISOA does not guarantee or warranty the goods, services, or products of their business members).

~ DISCLAIMER ~

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