



Vancouver Island Strata Owners Association

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- Web site: www.visoa.bc.ca
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**VISOA Bulletin - NOVEMBER 2011**

*President's Report*

As I write this report, it is the start of my Thanksgiving weekend – and while considering the many blessings in my life and all the things I am thankful for, I also remember how thankful I was when I first found out about VISOA. The *Strata Property Act* was just coming into effect and I was a strata councilor on a committee to review and update our existing bylaws. We not only had to ensure they were enforceable and did not contravene this new “SPA”, we wondered if perhaps we could eliminate some of them and let the new “Standard Bylaws” stand in their place. Just when we were well-immersed in the 150-odd pages of the SPA, our strata heard of an organization called “VISOA” who were holding a seminar on that very topic: How to bring your bylaws into compliance with the *Strata Property Act*. Our strata signed up as members, our committee members attended the seminar, and I’ve been a beneficiary of VISOA services ever since.

In 2007, after a particularly lengthy string of correspondence between myself and the

VISOA Helpline I was complimenting (the late) Felicia Oliver who was at that time the Vice President of VISOA and the Helpline person. I was very grateful for all the assistance and while expressing my thanks I offered to volunteer, to help “pay it forward”. Never one to let a volunteer slip through her grasp, Felicia soon enlisted me to join VISOA’s Board of Directors.

And so now, at this time of year when we share our thoughts on things we are thankful for, I want to let you, our members, know how thankful I am to be part of such a vital, energetic and committed organization. I am thankful to our members for continuing to show up at our seminars and challenge us to improve our services. I am thankful to our many volunteers including the speakers who educate us all at the seminars and the authors who educate us in this bulletin.

Thank you!

At VISOA’s last Annual General Meeting we asked you, our members, for your authorization to conduct a year-long review of VISOA – where we are now and what are our long-range plans. We’ve had a committee of six board members working with a consultant;

we created a survey and invited you to respond (and you did – thanks!); then the entire board and several of our long-service volunteers brainstormed during a weekend workshop where we analyzed the survey results and began prioritizing your wishes and our ideas and balancing all of that with the budget.

We shall have a complete report for you at the next AGM (tentatively scheduled for February 19th). In the meantime, we are excited for the future and want to share some of the ideas with you. We plan to streamline some of our administrative processes, which in turn should reduce some expenses. We want to augment our seminar program by beginning a new series of workshops aimed specifically at strata councilors – small groups where everyone will have time to have all their questions answered in detail and we can all learn from each other. We intend to encourage and support local networks of strata owners, especially in our member communities “north of the Malahat”. We will maintain a strong Board and develop and retain a broad base of volunteers. We hope to increase our online capability, perhaps with the use of an online forum for members to interact or with webinars. Another priority is to enhance our helpline, as this is our most-utilized service.

We will continue to develop and provide new services in response to member demand, so long as they can be provided in a cost-effective manner. I am told that this organization was close to folding several years ago, but a strong board turned it around and worked to grow VISOA to the thriving and vibrant organization we are today. I am grateful to my predecessors for their hard work and dedication, and pledge to you, our members, that we will uphold those high standards.

Thank you for your support.  
Sandy Wagner, *President*

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Elsie Lockert, Deryk Norton,  
 Harvey Williams, Laurie McKay,  
 John Webb, Glenna Ireland

# You Asked: How to handle hardship rental requests?

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.

## Hardship Rentals

**Q.** I have the strata act and the Feb 2009 Bulletin with Shawn Smith's article - but I would like some examples of what hardship cases were accepted by Strata Councils and what hardship cases were not accepted. Could you possibly direct me to this information?

**A.** Unfortunately there is not much I can point you to because "Hardship Rental" hearings are held *in camera* so details are not published since the council must demand a great deal of personal information from the owner which is protected under *Personal Information Protection Act*.

Smith's reference to the Supreme Court case of *Als v. The Owners, Strata Plan 1067* expanded upon in Mike Mangan's *The Condominium Manual* [3rd edition, pp. 335-6] is the classic justification for turning down a hardship case - on the surface. Simply, the plaintiff had appealed because the council twice denied his application because he refused to present all the financial documentation required by the council to prove that when he moved to France because of his job, he could not sell his unit without considerable hardship because its value had depreciated and would cause him a substantial loss. Therefore he would have duplicate expenses for maintaining a home in France and Richmond.

The court upheld the council's ruling that the plaintiff should have provided the information required to let them to come to a considered decision.

Nevertheless, the court stated clearly that each case must be judged on its own merits based on similar information. "The duplicated expense for a very rich owner would not create hardship whereas the duplication of expense without corresponding rental income might create hardship for an owner of modest means."

But as you see, the council needs to delve into the (comprehensive) financial status of the applicant to determine that there really is a personal hardship which could make the person

destitute.

As Smith wrote in his article...the owner must meet certain criteria:

- (a) the owner seeking the exemption must apply for it in writing;
- (b) they must provide sufficient detail (i.e. detailed financial data) to permit the council to properly consider their request;
- (c) they must prove the existence of a hardship (generally financial ruin if unable to rent);
- (d) they must prove that the hardship results from the rental restriction bylaw; and
- (e) they must prove that the hardship cannot be afforded or avoided.

Council needs to demand a lot of information from the applicant, and if he doesn't want to supply all of it (like real estate, current investment portfolio, sources of income, expenses, etc.) then Council should have the right to deny the rental.

If Council does, however, feel there is a case, they can limit the number of months or years the owner is permitted to rent.

Finally, it is essential to follow the time limits demanded by the SPA s.144. If council does not respond to the owner within the specified times, the Hardship Rental becomes automatically granted without any restrictions. Moreover, Hardship Rentals cannot be reflected in any current Rental Restriction Bylaw as to the total number of units which may be rented.



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# Liens under the *Strata Property Act*

by Shawn M. Smith of

Cleveland Doan LLP Barristers & Solicitors  
(604) 536-5002 shawn@clevelanddoan.com

For some strata corporations, arrears can be a significant problem. When owners do not pay their strata fees this creates a dilemma for the strata corporation since its primary source of funds is the contributions of the owners themselves. This problem can be even more acute when it comes to special levies. Should the strata corporation not have all the funds it requires for a project it may not be able to complete that project. The *Strata Property Act* (“SPA”) contains a mechanism for strata corporations to deal with the problem of unpaid strata fees and levies; namely the filing of a lien against the delinquent owner’s strata lot and the enforcement of that lien through the eventual court ordered sale of the strata lot.

## The Lien

Under s.116 of the SPA a strata corporation can file a lien in relation to monies owed to it by an owner. However, a lien can only be registered against a strata lot for certain things. Those are:

- unpaid fees;
- special levies;
- reimbursement for work to a strata lot

- ordered by a government authority;
- the owner’s share of a judgment against the strata corporation;
- interest on strata fees and levies
- reasonable legal costs and disbursements for registering the lien

The following things cannot be included in a lien:

- fines;
- the cost of remedying a contravention of a bylaw;
- NSF charges;
- late fees;
- insurance deductibles;
- charges for rental of a parking space;
- legal fees (except in relation to the lien itself).

It is important to ensure that the lien includes only those amounts permitted by s.116 of the SPA. In the Luttrell decision, the British Columbia Supreme Court held that where a lien included amounts that were not permitted by the SPA, the lien was invalid. In that case the strata corporation had to begin the process all over again (which could prove detrimental in a bankruptcy, as discussed below).

The lien acts as a “floating charge”, thus there is no need to register further or multiple liens as the arrears increase. The amount owing under the lien will be calculated when it comes time to pay it out.

The lien itself ranks in priority to any mortgages or other charges against title except a lien in favour of the Crown or a builders lien. This means that upon a sale of the strata lot (whether through a forced sale by the strata corporation or in a foreclosure by the lender) the strata corporation will be paid first, even if the lender suffers a shortfall in relation to its mortgage.

When a lien is paid out, it must be discharged within 1 week of payment. The costs to discharge should be added to the lien when calculating the lien payout amount.

## Registering a Lien

Liens under the SPA are registered in the Land Title Office using a Form “G”. (As a result of mandatory e-filing which comes into effect at the end of 2011 this will need to be done through a lawyer). However, before filing a lien, s.112 of SPA requires that the

*Continued on page 4*



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## Liens under the Strata Property Act

Continued from page 3

strata corporation send the owner(s) written notice which:

- (a) demands payment;
- (b) indicates what action may be taken if the money is not paid (i.e. registration of a lien); and
- (c) gives the owner at least 2 weeks to respond.

In the letter make sure to list all the possible options available to collect the type of debt owed. This will help ensure that the strata corporation is not limited to only one option (for example, when collecting unpaid strata fees, state that the strata corporation can sue to obtain a judgment, register a lien, or apply to sell the strata lot)

When sending notice keep in mind that s.61 of the SPA sets out the methods of delivery. If the letter is mailed or slipped under a door, a letter or notice is deemed to be received 4 days later. (This really means 20 days when the reference to “at least 2 weeks” is taken into account). There is no need to send the letter via registered mail. When writing, make sure that the letter is addressed to the correct owner(s). A Land Title search might be warranted. If the owner is non-resident and has provided an address outside of the

strata corporation, the letter must be sent to that address.

Once the lien is registered a copy can be sent to the owner(s) notifying them of the registration and once again demanding payment.

### When should a lien be registered?

The SPA does not set a minimum amount for a lien nor a minimum amount of time (other than to comply with s.112 of the SPA) that must have passed before a lien can be filed. While it is typical practice to wait for three months of arrears to accumulate, if an owner is suspected to be headed toward bankruptcy a lien should be registered as soon as possible. As soon as the owner makes an assignment into bankruptcy the strata corporation is prevented by the terms of the Bankruptcy and Insolvency Act from registering a lien and would rank as an unsecured creditor and might end up with only cents on the dollar. However, if the lien is registered then the strata corporation can proceed to enforce the lien as a secured creditor. In this regard, bylaws which prohibit a strata corporation from filing a lien until the owner has been in arrears for a certain number of months are not a good idea.

Another advantage of filing a lien is that it ensures that notice of any foreclosure proceedings by the owner’s lender is given

to the strata corporation. Occasionally there is the need in such proceedings to ensure that the strata corporation’s priority is preserved.

### Enforcing the lien

Filing a lien only acts to give notice to others of the strata corporation’s claim. It does not necessarily get the arrears paid. Further action is often required to achieve that goal.

Once a lien has been registered the strata corporation can commence a court action to apply to have the strata lot sold and the amount secured by the lien paid from the sale proceeds (the process is very similar to the process when a lender forecloses under a mortgage). Commencing such an action does not require a  $\frac{3}{4}$  vote, only the approval of council.

An action to enforce a lien is brought in the British Columbia Supreme Court (Small Claims has no jurisdiction to deal with issues regarding land) and names the owner(s), any chargeholders on title (i.e. mortgagees) and the tenant(s) of the strata lot (if any) as respondents.

Owners are typically given 30 days to pay the arrears (including legal fees, about which more will be said below). If the owners don’t pay the arrears within that time, then the strata corporation gets the right to sell the strata lot which means listing it with a realtor, showing it to prospective buyers and

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ultimately accepting an offer. The offer is subject to court approval and as such must be close to the fair market value (which is determined by having an appraisal done).

The amount owing under the lien gets paid first out of the sale proceeds after real estate commissions and property taxes (assuming there no builders lien or charges in favour of the Crown). The mortgage holder will be second and this often causes banks to pay the arrears. Fines, the costs of remedying a contravention of a bylaw and other monies do not get included in the amount paid out under the lien. However, if there are excess sale proceeds after the other chargeholders have been paid, the strata corporation can request to be paid out of those monies.

### Recovery of Costs

S.118 of the SPA permits reasonable legal costs and disbursements to be added to the lien and to become part of it. Thus the lien does not have to be discharged until the permitted legal fees and disbursements are paid. "Reasonable legal costs" has been held by the court to mean "taxable costs" pursuant to the Tariff Scale found under the Rules of Court. As such it is important to inquire with the lawyer what they will charge to register and enforce the lien. If the lawyer charges in excess of the Tariff Scale, the strata corporation will end up with a net recovery that is less than the amount of the lien itself.

Fees charged by strata managers to register a lien cannot be included and are not collectible since strata managers cannot charge for performing legal services (In fact, their doing so is contrary to the Legal Profession Act). If the strata corporation requires assistance in registering a lien it is best that they retain a lawyer (preferably one with experience in collecting strata arrears) to do so.

### Notifying banks

Some strata managers follow the practice of advising the owner's lender when the owner is in arrears. If the lender has filed a Form C Mortgagee's Request for Notification then doing so is not only acceptable but required. Where the lender has not done so, notifying them without the owner's consent might well be considered a breach of the Personal Information Protection Act. As such, strata corporations are best to avoid doing so.

### Bank Foreclosures

Occasionally the strata corporation will be served with court documents (usually a Petition and supporting affidavit) which name it as a Respondent. This is due to the fact that either a lien has been registered or the bank's lawyer is simply being cautious and assuming that the strata fees are in arrears. Typically, in a foreclosure proceeding there is nothing for the strata corporation to do. It will be paid once the property is sold (assuming the owner doesn't redeem the property by paying out the mortgage). However, care should be taken to review the Petition and ensure that there is no attempt (usually inadvertent) to place the mortgage in priority ahead of the strata corporation's lien.

A Form F is not required on a court ordered sale and thus fines are usually not collected in such a scenario.

*This article is intended for information purposes only and should not be taken as the provision of legal advice. Shawn M. Smith is a 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

*VISOA welcomes two new business members this month: Flynn Canada Ltd., and Strataserve Web Hosting.*

**FLYNN CANADA LIMITED** is a national roofing company incorporated in 1991. This well established company monitors, maintains, repairs and provides all building envelope requirements on Vancouver Island from their base in Central Saanich (*formerly Armour Sheet Metal*).

**STRATASERVE WEB HOSTING** utilizes Lorros, a computer program that allows online meetings to help Strata councils and others attend council meetings at a time convenient to each council member, from their own or another secure and enabled computer over a period of several days. The program checks for a quorum and allows council members to work through the meetings from agenda to minutes without a physical meeting. For more information see [www.lorros.com](http://www.lorros.com)

### SPA Copies for Sale to Members

A current unofficial consolidated version of the **Strata Property Act** is available from the Queen's Printer for **\$35.33** – includes taxes and shipping. To order directly from the Queen's Printer phone **1-866-236-5544**. VISOA made a bulk purchase for our members. Available for **\$25 at our seminars**, or mail order through our website for **\$25 + \$8 postage and handling** while quantities last.

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# Financial Reporting for Stratas

by C. A. PRENTICE, Ph.D.

Associate Professor, Emeritus, University of Calgary

I recently ran across an unsettling item in a local BC Strata “watchdog” website. It is unfortunate that this type of information is presented to stratas as the truth. It is completely wrong and misleads stratas with respect to what they should expect in the accounting and financial reports for their strata. This is what the article had to say:

## CASH VS ACCRUAL ACCOUNTING

*If you are a strata corporation and your money is being looked after using the Cash Accounting Method you should be very suspicious, and I highly recommend you rethink this decision. Cash Accounting is very unpopular in Canada, it is actually illegal per national and international laws to use it in any formal organization. Cash Accounting is not popular due to the inaccuracies and errors it presents. Using Cash based accounting “makes it easier to hide illegal activity”. The difference between Accrual Accounting and Cash Basis Accounting is pretty simple. Accrual Accounting records transactions as of the date they occur where as Cash Basis Accounting only records transactions when there is a change of liquid cash. This type of accounting practice is primarily used by sole proprietorships and personal finances, though it isn’t always wise due to the fact that it is harder to keep track of what is owed (to you or to others) or if it has been paid. If you want a clear picture of your corporations finances, freedom from financial worry*

*then ensure that your corporation is using the Accrual Method of Accounting. Cash Basis Accounting is very unpopular within Canada because cash based accounting misrepresents the health of a company and makes it easier to hide illegal activity as expenses do not have to be recorded with the revenue they incurred and can therefore be manipulated. Don’t let this happen to you!*

The article suggests “Cash Accounting is not popular due to the inaccuracies and errors it presents” and goes on the state that it “makes it easier to hide illegal activity”. But, so does Accrual Accounting. Note all the cases of financial misfeasance within major organizations using Accrual Accounting. One of the things I used to tell my students was “Tell me what income you want to show for your organization and I can give it to you using Generally Accepted Accounting Procedures (GAAP), all completely legal”.

## Accrual VS Cash Based Accounting

To quote from an accounting text:

*“The policy of recognizing revenue in the accounting records when it is **earned** and recognizing expenses when the related goods or services are **used** is called the **accrual basis** of accounting...”*

An alternative to the accrual basis is something called **cash basis** accounting. Under cash basis accounting, revenue is recognized when cash is collected from the customer, rather than when the company sells goods or renders services. Expenses are recognized when payment is made. . . .” [Robert F. Meigs, Walter B. Meigs, Wai P. Lam. ACCOUNTING: The Basis for Business Decision, Volume 1 Financial Accounting, Page 127]

The basic difference between the two forms of accounting relates to the adjusting entries made at the end of each accounting period to produce Accrual based financial statements versus Cash based financial statements. These include

- 1 Entries to apportion recorded costs
- 2 Entries to apportion unearned revenue
3. Entries to record unrecorded expenses
4. Entries to record unrecorded revenue

[Ibid, Page 155]

A fifth category consists of adjustments to the balance sheet valuation of certain assets such as marketable securities and accounts receivable.

These adjustments are not necessary on monthly statements provided to (or by) the strata and, typically, are insignificant at year end when statements are provided to Strata Owners.

## What a Strata and a Strata Owner should look for in their financial reports

I have been a treasurer for a forty-nine owner complex for the

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past four years and we have always used Cash based accounting. We have complete control over our assets, including cash and receivables, and complete control over our expenditures.

There is no need for a strata to utilize Accrual Based Financial Reporting. If a strata council does not understand the information they are being provided, is not provided full information, or does not review the information provided to them to assure themselves that the information is accurate, they will always be subject to corrupt, careless, or unqualified bookkeepers, accountants, or management companies whether they use a Cash Based or an Accrual Based accounting and reporting system.

I would suggest that the major problem stratas have is the lack of knowledge of what they should be getting and how they should interpret it, in light of their own strata. To start with each strata should maintain its own bank accounts for both Operating and Contingency Funds. They should have properly prepared Operating and Capital Budgets designed for their particular strata. They need to receive detailed monthly financial statements and review those statements when they receive them from their provider whether it is a bookkeeper, a registered accountant or a management company, and ensure that the statements are correct. These statements should contain financial data for the period that they can compare with the approved budgets and with monthly bank statements. All payments from their bank accounts should be made by cheque signed by two members of the strata council.

With proper budgets, both operating and capital (for expenditures from their Contingency Fund), a copy of the monthly bank statement, monthly financial statements and the use of cheques for all expenditures, where the cheques must be signed by two members of council, there is no way they should have problems.

Later articles will discuss Operating and Capital Budgets, Monthly Financial Statements, and Monthly Financial Reports to Strata Owners.

*Al Prentice is the Treasurer of the VISOA Board of Directors*

## Meet the Board of Directors

Sandy Wagner is a native Victorian who has lived in a strata apartment for nearly 20 years, and has served on her strata council 8 terms in those years. She has been on the VISOA board for just over 4 years, and is currently Seminar Coordinator, Bulletin Editor, and President. Sandy's background is in retail sales, and she is District Manager for Hallmark Cards shops here on Vancouver Island.

Tony Davis is happily retired in Victoria close to his kids and grandchildren. Tony has lived in 3 stratas, Ottawa, Vancouver and Victoria and has just retired as President of his Victoria strata. Tony is the editor of the VISOA website and Vice President.

Harvey Williams, a past president of VISOA, has served on VISOA's board of directors for 10 years and is currently one of the volunteers who answers member questions on the Helpline telephone.

Deryk Norton has served on condo/strata councils in BC and Alberta. He has been on the VISOA board since 2007. He is a retired management consultant and is editor of [www.strataadvocate.ca](http://www.strataadvocate.ca), an independent website dedicated to improving BC's strata legislation. He presently serves as the government and media relations lead on the VISOA board.

David Grubb has lived in Victoria since 1956 and received his B.A., M.A. and Diploma of Education from UVic. He has studied First Nations languages and been a teacher in the public school system as well as serving as an officer in the Army Reserve 27 years. He was an owner in the first condo in Victoria in 1969 (SP #4) and served as its president. He has lived in his current strata for the past 30 years, and served on council almost continuously for 20 years in various capacities including president. He is currently Secretary to the Board and is the main responder on the Helpline Team for answering the email Helpline.

Elsie Lockert moved to Victoria in 2000 and lives in a self-managed townhouse strata. She is currently on council as assistant treasurer, supervisor of gardening; and

ensures their Resident's manual is always up to date. She has worked with other owners to design information publications for the strata which they have passed on to VISOA to further develop and sell to other strata owners. She joined the VISOA board in 2005 and has served in many roles. Currently she is the Membership Chairperson. This is her last year on the board due to family responsibilities but Elsie plans to continue serving as a volunteer in some other capacity.

John Webb grew up in Vancouver, graduated from the University of Alberta, School of Business with a focus on international marketing and economics. He has worked for over 35 years as an international marketer, commodity trader and business development executive. He has lived and worked in Europe, Australia, North Asia and the United States undertaking executive assignments with government and the private sector with a focus on trade and trade relations management.

Today, John continues as CEO and President of his own company in the U.S. and Canada, which provides business and trading development expertise, session planning and consultancy advice around acquisitions and mergers for its clients. John has lived in and owned strata units in both the U.S. and Canada for the past seven years and has remained as president of two individual strata complexes in Victoria for the past 3 years. As a continuing board member for VISOA for the past two years, John chairs the Publications Committee and assists with various functions at the seminars.

Born by accident in Nanaimo, Laurie McKay is a native Victorian who has lived

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# Don't forget about your roof

By Rick Fisher

Most residential flat roofs are not visible from the ground, therefore the statement "Out of sight - out of mind" is very true. Condition of roof membranes is rarely observed until there is a problem. One simple leak could cause countless dollars in repairs to ceilings, insulation, building contents and roof assemblies, and create high levels of stress dealing with water ingress into a residence.

Your roofing assembly may comprise 30% of your total building envelope, but it's protecting 100% of your assets. Roofs are exposed to the elements; sunlight, rain, hail, winds and temperature changes over the years that gradually break down the roofing materials. Regular roof inspections and maintenance provide you with the security that the service life of your roof can be maximized.

It is often said that a roof is one of the biggest investments you'll make in your building, and the roof deserves your attention. Being proactive includes finding a customized preventative maintenance program that saves clients thousands of dollars, stabilizing maintenance cost by discovering problems early and extending the expected service life of your roof assembly.

## Roofing conditions reports, maintenance and service

A Roof Asset Management Program will provide you with roof condition reports and forecast data to help you manage your roof assets efficiently and cost effectively. A detailed evaluation of current conditions will determine the program that will best suit your building.

Reputable roofing companies work with customers to proactively identify and implement solutions to roof problems before

they become widespread, while meeting or exceeding the quality and safety standards of both our customers and the Canadian Roofing Industry.

### Prevent and Avoid:

- Costly emergency or crisis repairs
- Costly downtime and clean ups
- Building content damage
- Unsafe and unhealthy living conditions
- Building structural damage
- Interior finish damage
- Compromising your roof's warranty

A budget and/or quotation for any additional work, should be received and voted on which may range from supplementary maintenance through full roof replacement.

Your Strata Council should expect to be provided with the following information in the form of a Roof Condition Report:

- Property location and building number
- List of roof sections;
- Existing roof membrane system by section;
- Photographs by section with descriptions;
- Approximate age and estimated life expectancy by section;
- Summary of recommendations for work required in excess of the agreed limit;
- Detailed quotes for additional work required in excess of the agreed limit;
- A spreadsheet with five year budget forecasts for maintenance and/or capital expenditures;
- A detailed Roof CAD drawing of the building.

A complete team of professionals dedicated to repairing and maintaining roofing systems across the Island can provide customers with a single source for all their maintenance and repair requirements with service available.

By developing and implementing customized preventive maintenance programs, problems can be found before they become major expenditures.

Well-trained service technicians will inspect the roof, prioritizing and repairing the

distresses based on severity. Documentation of the service work must be provided, along with digital photographs.

Properly maintaining a roof can extend its service life for years and help you avoid costly damage or leaks along the way.

Items covered under any maintenance program should include (but are not limited to):

- Consultation with designated building personnel to determine the extent of known roof problems;
- Core analysis (only if the roof membrane must be disturbed for any reason or if replacement is deemed necessary);
- Examination of membrane flashings at perimeters, transitions and projections;
- Examination of the roof membrane for irregularities, flaws and deficiencies;
- Removal of normal debris from the roof surface;
- Removal of debris from roof drains, scuppers, gutters and down pipes, and inspection for further blockage that may need the attention of a plumber;
- Re-sealing of rain collars;
- Examination for signs of ponding;
- Inspection of masonry walls and/or wall caps that affect the roof surface;
- Re-sealing of mastic pans;
- Examination of the metal flashing condition, and re-securement where required;
- Documentation of roof penetrations, supports and mechanical installations;
- Visual inspection of the general condition of mechanical installations;
- Examination of all areas of caulking and sealing to ensure weatherability;
- Repair of minor blisters and ridges in built up roof membranes;
- Repair of minor defects in shingled roofs;

*Continued on page 11*

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*Proverb*



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# Strata Property Agents of BC (SPABC) – Recent Developments

by Deryk Norton, Board Member

Strata owners concerned about weaknesses in BC's strata management licensing standards were initially encouraged to hear about an organization with the stated goal of reaching "above and beyond the basic licensing requirements written by the province". This organization is the Strata Property Agents of BC (SPABC).

In the VISOA Bulletin of November 2007 it was reported that many strata management companies were replacing their management contracts with a "standard contract" produced by SPABC. However, we suggested then as we do now that a strata corporation consult its own lawyer, not the management company's lawyer, before signing it, as it appears to be heavily slanted toward the interests of the strata management company.

Recently, in response to VISOA member concerns about SPABC members (among others) being disciplined by the RECBC (Real Estate Council of BC), a letter was sent to the President of SPABC. The VISOA stated its concern about the current state of strata management services and that it is looking for ways it can be improved. We referred to the SPABC website statement that "SPABC members strive to reach above and beyond the basic licensing requirements written by the province." That website also describes a Code of Ethics and a commitment to be signed by each member that contains a pledge to

adhere to the Code.

The VISOA had observed that in enforcing "basic licensing requirements" the RECBC posted on its website 14 disciplinary actions for 2010 and 4 (so far) for 2011 on matters related to strata management services. In 7 cases the offenders are members of the SPABC. In its postings the RECBC described findings of a licensee "failing to act in the best interests of the strata corporation" or "committed professional misconduct".

The VISOA also noted that enforcement of the SPABC Code would support the SPABC statement of taking strata management "beyond the basic licensing requirements written by the province". In requesting information about the SPABC disciplinary process and actions taken, VISOA asked: "Of the 7 cases involving members of the SPABC in 2010-2011, which ones were investigated in relation to the SPABC Code and what actions were taken as a result of any SPABC investigation?"

Although it did not answer the above questions from the VISOA, an email from the Executive Director of SPABC indicated that:

- membership in SPABC is purely voluntary and does not require any overriding legal obligation to join,
- the SPABC Board has been dealing with the discipline issue recently, and
- a "response" from SPABC on the matter of discipline will be posted on the SPABC website.

The "response" since posted on the SPABC website reads as follows:

Recently, as a result of Real Estate Council of BC (RECBC) disciplinary decisions, SPABC has received enquiries regarding 'standards' and 'code of ethics' and whether or not SPABC reprimanded member companies in addition to discipline and penalties imposed by the RECBC.

In response, it is important to note that SPABC is not a licensing, regulatory or governing body over the Strata Property Management Industry. Those duties and responsibilities lie within the RECBC.

SPABC is an association of industry competitors collectively trying to better our individual companies and thereby bettering our services to our clients resulting in a better strata living environment, and by extension, a better more satisfying work

environment for all who choose this industry as a career path.

Membership in SPABC, not unlike other industry associations, is voluntary. From time to time issues will arise that require implementation of our association complaint procedure and discipline process.

Realizing that we are an association and membership is voluntary, our discipline of a member is limited to the following:

- reprimand of a member;
- impose conditions of the membership of a member;
- suspension of membership;
- revoking of membership;
- imposing a fine.

The complaint procedure and discipline process is available to our association to be exercised with reasonableness and within the context of membership in our association.

Continued on page 11

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## Meet the Board Members

Continued from page 7

with her husband Wally in their 'tucked away', Colwood townhouse since June 2007. One son moved to Calgary just after purchasing a condo in Nanaimo (now rented), and the other lives with his roommate in a Fairfield condo. The McKays went for stratas in a big way in 2007-08! Laurie retired from her garden ornamentation business in late 2008 and has burned up the flight path to Calgary ever since. She has served on the VISOA Board since Feb 2008 handling Marketing and Advertising, Business Memberships and back up for the Helpline. Laurie also acts as backup when needed with Seminars and Publications and can usually be found manning (womanning?) the refreshments table at Seminars. For fun she gardens, walks, bikes, reads, loves movies, the cottage and shopping!

Glenna Ireland retired to Victoria from Ontario. She has been a strata owner since 2008 and is Treasurer of her strata. Glenna joined the Board this year and recommends involvement with VISOA as an excellent way to assist others while learning more about the ins and outs & ups and downs of strata living.

Charles A. Prentice - Associate Professor, Emeritus, of Accounting, University of Calgary. Moved to Victoria in summer of 2007 and became a Strata Council Member and Treasurer at the fall AGM meeting. Al is now the longest serving member of council and still treasurer.



VISOA's Board of Directors is made up of ten volunteers who manage the day-to-day affairs of this non-profit organization. Our policy states nine board members "or a greater number if a motion to that effect is approved at an AGM". Since 2008, we have had the approval of the membership at the AGM to have ten Directors. The work is never dull and we all find it gratifying to help other strata owners.

The board meets monthly and in addition all board members are expected to attend our seminars, and be part of at least two of our "working groups" which include: Advertising and Marketing; Bare Land Stratas; Bulletin; Government Relations; Helpline; Membership; Policy Manual/Bylaws; Publications; Seminars; and Website.

With the upcoming retirement of Elsie Lockert from her seat on the board, the Lead chair for Membership will be vacant. Elsie's shoes will be hard to fill but we are hoping that within our members we can find a suitable person for this important function.

The Membership Chairperson supervises and follows up on clerical volunteers and staff who perform membership intake paperwork and data entry; follows up on renewing memberships; answers all inquiries related to memberships; maintains confidentiality and accuracy of membership information in our database; welcomes new members and invites potential members; and coordinates the mailing and emailing of seminar notices to the membership. This person must have good telephone personality and above-average computer skills.

The workload varies seasonally, but on average 10 hours per week would be your commitment.

If you are a high-energy individual, we'd be glad to meet you. Please email [president@visoa.bc.ca](mailto:president@visoa.bc.ca) and we'll discuss it over coffee.

Other Volunteers are the backbone of this organization. We currently have approximately 40 volunteers of all skill levels who assist with various parts of our operation. The most visible of our volunteers are at our seminars – as many as 15 volunteers help us present each seminar. We are always on the lookout for additional active volunteers, particularly with writing for our publications and bulletin.

If you have skills you'd like to share with us, we'd be happy to meet you to find out how you could contribute to your VISOA. Please email me at [president@visoa.bc.ca](mailto:president@visoa.bc.ca) or phone our main telephone line to leave me a message.

## Lessons we have learned

By VISOA's Helpline Volunteers

**Lesson I.** Some people are just not psychologically or emotionally suited for strata life. The principle that one's home is one's castle is deeply embedded in the North American psyche but difficult to apply to stratas because strata homes are so interdependent. The friendly and cooperative relationships necessary to make a contented strata life may be too difficult or even impossible for some. The smaller the number of units the more challenging this can be.

**Lesson II.** The buck stops with the strata council. The strata council exercises the powers and performs the duties of the strata corporation and enforces the strata bylaws and rules. So says Section 26 of the *Strata*

*Property Act* (SPA). Council may delegate some duties to a "strata manager" but such a delegation does not relieve the council of its responsibilities listed in Section 26.

**Lesson III.** Strata councils by and large are under-appreciated by strata owners. Most council members are intelligent, conscientious and hard working. A large proportion of the Helpline's inquiries are from council members seeking information to help them to better serve their strata corporations and to comply with the SPA. While they seldom receive a pat on the back for doing something right, the slightest mistake can bring out "pitchforks and torches" at the next council meeting. Owners should not ignore poor performance

or incompetence, but they should show their appreciation for the good service provided by the vast majority of strata council members.

**Lesson IV.** Stratas in which a culture of compliance (with the SPA, and the strata bylaws and rules) prevails are happier. A small minority of owners in some stratas seem bent on flouting rules and regulations (in the generic sense of the words) whenever they encounter them. Such owners are often aggressive and intimidating and make life miserable for the majority of compliant and cooperative owners. Once a pattern of ignoring "rules and regulations" becomes established there is resistance to restoring "law and order".

**Lesson V.** Strata councils that meet regularly, listen to their owners and act openly and fairly are more successful than councils

Continued on page 11

# Will the new “Dispute Resolution” Tribunals bring peace to Strata Land?

Harvey Williams Helpline Volunteer

Finally, a government agency to provide strata councils and owners with affordable legal support. The BC Office of Housing and Construction Standards, a branch of the Ministry of Lands and Minerals (don't ask), has announced the establishment of a provincial Strata Property Dispute Resolution Tribunal. The Tribunal, soon to be on line, will assist strata owners and strata councils in resolving disputes. The Housing Policy Branch has just concluded a public consultation survey of strata owners to help fine-tune the details of the Tribunal.

My first reaction to the news was: who needs dispute resolution? As a VISOA Helpline volunteer for the past four years, I am acutely aware that most of the telephone calls and emails are not about simple disputes but willful violations of the *Strata Property Act* and Bylaws. What strata owners need most is an official agency to enforce of the *Strata Property Act* and bylaws.

My skepticism was reinforced when I read a Frequently Asked Question on the Housing Policy Branch's survey which described the *Strata Property Act* as “guidelines”. However when I called a senior member of the BC Office of Housing and Construction Standards, he reassured me that the Act is a law and that the use of the term “guidelines” was unfortunate. (It could have been inserted by a government communication officer without realizing the significance of that word.) How the tribunal will work: **Step 1:** Information - Concerned strata owner visits a website that will be established to provide information and links to assist in interpreting and complying with the *Strata Property Act*. Information will also be

provided by telephone to those without internet access. **Step 2:** Application - If more information is wanted such as registering an online complaint against another party, the complaint may be filed for a fee of perhaps \$150. **Step 3:** Notification - If the tribunal determines that it has the right to hear the matter, it directs the applicant to notify the other party (the respondent) to submit a response. The party must respond to the complaint. The tribunal may request additional information from either party. **Step 4:** Conference call - Settlement Conference - A facilitator familiar with the *Strata Property Act* will work on line or by telephone with the two sides to resolve the matter. Both parties will pay “reasonable” fees. What is a “reasonable” fee has yet to be decided. The purpose of the fee is to discourage frivolous complaints and cover part of the cost of the service. **Step 5:** Adjudication - If resolution is not achieved in the settlement conference, a new tribunal member familiar with the *Strata Property Act* will adjudicate the matter and decide the outcome. There could be a fee of as much as \$500 if the case has to be adjudicated. **Step 6:** Information and Resolution Posted - An anonymous summary of the application and outcome will be posted on a web accessible database so that other owners with similar issues can see how the tribunal ruled. In addition, the tribunal's order may be filed with courts if owners fail to comply. Despite the constant reference to the program as “dispute resolution”, it seems to have potential to resolve much uncertainty about the meaning of the *Strata Property Act* and reduce the strife that prevails in so many stratas. And it could even replace the Helpline, at least as we know it.

## Lessons we have learned

Continued from page 10

that act in secret and keep information from owners. Owners who are able to attend council meetings as observers and have access to council minutes and financial records have more positive attitudes toward their councils. “In camera” council meetings, other than those required by the Act, foster resentment. As the saying goes, secrecy breeds suspicion.

**Lesson VI.** Stratas that contract with owners for services or employ owners risk problems. Perceptions count. No matter how

financially favourable to the strata and well-intentioned the arrangement when owners are employed, some owners will see a conflict of interest. Others who feel they could provide similar or better services at the same or less cost but did not receive the contract are apt to be resentful. And to be realistic, some owners will take advantage with their connection to the strata council.

*The Helpline Volunteers are David Grubb, Laurie McKay, and Harvey Williams*

## Don't forget about your roof

Continued from page 8

- Repair of minor defects and temporary sealing as needed in metal roofs;
- Provision of temporary repairs to restore the waterproof integrity of the roof system.

Additional maintenance and repairs required above and beyond the allowance as mentioned above can be quoted and submitted with the Roof Condition Report. Areas requiring replacement will also be identified, and budget prices should be included in this report.

After conducting the maintenance and assessing all the facilities, the information gathered will provide you the ability of establishing the average age of your portfolio, and forecasting what maintenance and/or replacement budgets should be in place for the upcoming years.

## Remember your roof, it protects your building and contents

*Rick Fisher has worked in the roofing industry for 35 years; he is a ticketed roofer and has a certified roof inspection ticket. Rick can be reached at Flynn Canada 250-652-0599.*

## Strata Property Agents of BC

Continued from page 9

*More importantly, any mistakes, small or large, of a member company are, aside from a discipline perspective, looked upon by our association and all members with awareness and as an opportunity to learn. It is important to recognize both individually and collectively, any issue that is (or may be) detrimental to our companies and/or our client Strata Corporations. From awareness, proactive steps can be taken to address an issue. Our association can then take proactive steps to act from a position of 'prevention of awareness' and provide education and support to our members.*

Unfortunately, this “response” does not provide information about any SPABC discipline taken in the 7 specific cases. Release of such information could give credibility to the SPABC disciplinary process. It is also unfortunate that the posted SPABC statement includes the phrase ‘prevention of awareness’. The exact meaning of this phrase is not clear. To some it may mean covering up mistakes rather than addressing them.



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