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LICENSING FOR STRATA MANAGERS

Gerry Fanaken, President
VANCOUVER CONDOMINIUM SERVICES LTD.

After a decade or more of discussion, it is finally happening. Effective January 1, 2006, strata management companies and strata property managers (agents) must be licensed pursuant to the *Real Estate Services Act* (RESA).

There have been many delays over the years but all the wrinkles and concerns have now been addressed and like it or not, perfect or not, it is the law and it must be followed or else. During the past year or so the final details were hammered out by representatives of various government departments, industry stakeholders, professional consultants and other knowledgeable persons. The result is the new Regulations.

Many companies providing strata management services in British Columbia were already licensed under the *Real Estate Act* since they were providing real estate services, rental property management or other services pursuant to the Act. These firms ought to fare well with the new Regulations effective January, 2006. Companies which were not previously licensed must now make application to be licensed for strata management.

Individuals who provide strata property agent services must also be licensed. Anyone who already has a license will, of course, be able to meet the legal requirements of RESA. Others will have to become licensed. For the year 2006, individuals will be given an interim (temporary) license, provided they were employed in the strata management industry by at least October 1, 2005. By December 31, 2006, these individuals will have to become licensed on a permanent basis. This can be achieved by taking courses and writing an exam. The Real Estate Council has indicated that they may waive the course requirements in respect of individuals with an educational background deemed equivalent but it seems unlikely that will happen in many cases. Either way, come January 1, 2007, any person who is delivering strata management services must be licensed. (There are some exceptions such as self-managed strata councils).

A course is being developed and will be offered by UBC (at a cost of \$875). One of the concerns was that such a course would focus heavily on real estate issues rather than strata corporation administration, which is quite different. Apparently, these concerns are being addressed and, hopefully, the final course requirements will be geared specifically to strata issues.

Licensing will also be costly. Strata management companies and its employee agents will have to pay for the courses and the license fees. Licensing fees will be \$450, including a

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Gerry Fanaken, Author, Educator and President of Vancouver Condominium Services Inc., Vancouver. Mr. Fanaken has been actively involved in the administration of strata corporations for over 25 years. His company currently manages about 200 residential strata corporations which represents approximately 13,000 individual condominium units.



Voice from the Strata-sphere

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\$50 application fee. There will also be required contributions to a Real Estate Special Compensation Fund Assessment (of \$100) and an Errors & Omissions Insurance Assessment (of \$500). These fees will be payable every two years. So, for a strata property management company with ten property managers who each has to take the course, the cost in year one of this new regime will be \$19,250! Strata corporations should expect to have this cost passed on to them in the form of higher fees.



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Another important element to note is that the Real Estate Council will be in a position to discipline management companies or agents if they breach the Regulations. This could generate either a mild reprimand, or suspension, or loss of the license, depending of course on the severity and frequency of

breaches. Disciplinary committees will have a "busy time of it", at least for the first few years, as undoubtedly there will be a flood of complaints against management companies and agents from disgruntled condo owners, who may not realize that their complaints are really against their own strata councils and strata corporations rather than the property agent or property management company. It will be interesting to see how this all unfolds.



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Strata Licensing – A Reality

Cora D. Wilson, Editor

STRATA-SPHERE CONDOMINIUM SERVICES INC.



The strata community welcomes licensing of strata managers under the *Real Estate Services Act* effective January 1, 2006. It is anticipated that licensing will raise the quality and standards of strata management services throughout British Columbia.

Strata managers can obtain additional information regarding licensing requirements from the Real Estate Council of British Columbia website at www.recbc.ca. The article entitled, "Frequently Asked Questions for Strata Management Licensing" is reproduced in this edition of Strata-sphere with the permission of the Real Estate Council. All those affected by the changes are encouraged to read this informative material.

The legislation contains some mandatory requirements that will affect every licensed brokerage providing strata management services. For example, strata managers will be required to:

- open separate trust accounts for every strata corporation;
- establish another separate trust account for contingency reserve funds or special levies;
- obtain two signatories for the contingency reserve fund/special levy trust account;
- provide monthly statements for each trust account to each strata corporation within 30 days after receiving the statement from the savings institution;
- ensure management agreements meet the content requirements including for example, the type of funds managed, withdrawal

authority from trust accounts, signing authorities, authority to enter into contracts and certain disclosure provisions;

- disclose direct or indirect benefits received from strata management services; and,
- address expanded trust record keeping requirements.

Undoubtedly, some strata managers will find the additional administrative requirements burdensome at least initially. However, it is anticipated that the long term benefits to the strata community will far outweigh any short term pain.



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Before - clearly observable signs of systemic building envelope failure.



After - building envelope components repaired and/or replaced and properly installed in rain screen configuration. Note: balcony parapet walls removed and fascia mounted railings installed.



Strata Management Contracts Under the Real Estate Services Act

Sharla Haney, Lawyer
C.D. WILSON & ASSOCIATES

Along with the licensing of strata managers under the new *Real Estate Services Act*, the rules created under that Act also contain provisions governing strata management service agreements. Under the *Real Estate Services Act Rules*, strata managers will be required to enter into written service agreements for strata management services unless waived by the prospective client. In addition, the rules provide specific requirements for service agreements relating to the execution, timing of execution, content and delivery of the service agreement.

Prior to entering into a strata management service agreement, it is important for the strata corporation to do some research. Starting January 1, 2006, the Strata Corporation should confirm that the strata manager holds a valid licence issued under the *Real Estate Services Act*. You may contact the Real Estate Council by phone or search their online directory at www.recbc.ca to determine whether the strata manager is licenced. In addition, you may enquire as to whether or not any disciplinary orders have been issued against the strata manager by contacting the Real Estate Council and the Superintendent of Real Estate by phone or making a formal written request. In addition to these enquiries, the strata corporation should also consider matters such as the experience of the strata manager generally and in connection with issues specific to your strata corporation, any available references, professionalism and compatibility.

Once you are satisfied with your choice of property manager, the *Real Estate Services Act Rules* provide that a service agreement must be entered into before the strata manager performs any strata management services unless waived by the strata corporation. The service agreement must be signed by the strata corporation as well as an authorized signatory for the strata manager. A copy of the agreement must be delivered to the strata corporation immediately upon its execution.

With respect to the content of the agreement, it must clearly state all terms and conditions of the agreement between the strata manager and the strata corporation. In particular, the agreement must include the following:

- (a) Name of the strata corporation and the licensee name of the strata manager
- (b) Address of the strata corporation
- (c) Date on which the agreement is effective
- (d) Duration of the agreement

The most common term clauses include a fixed term or a fixed term with a renewal clause.

An example of a fixed term would be a term of one year with no provision for renewal. In this example, the obligations of the strata corporation and the strata manager under the contract terminate at the end of the year. If the strata corporation still requires management,

Ms. Haney, LL.B., Lawyer with C.D. Wilson & Associates, graduated from UBC Law School in 1999 and was called to the Bar in 2000. She is not only a lawyer, but an award winning former franchise owner and scholastic achiever.

then a new contract must be re-negotiated and a new contract entered into for the next term.

The contract may also have a fixed term with a provision that the contract may be renewed. The contract may be renewable upon either party giving notice of their desire to renew by a specified date and the other party's acceptance of same by return notice or acquiescence. Another form of renewal clause may be that the contract is automatically renewed until the happening of an event such as notice of termination by either party.

Although, pursuant to section 39(1) of the *Strata Property Act*, a strata management contract may be terminated without any liability or penalty:

- “(a) by the strata corporation on 2 months' notice if the cancellation is first approved by a resolution passed by a 3/4 vote an annual or special general meeting, or
- (b) by the other party to the contract on 2 months' notice,”

A strata management contract should also contain a termination clause that outlines how the strata corporation may terminate the contract. For example, there should be a provision permitting either party to terminate the contract, for any reason, upon giving a certain amount of notice. You may also be able to terminate the contract if you have cause, however, consult with legal advice prior to doing so in order to ensure that you are proceeding appropriately. Otherwise, you may become liable for damages to the property manager.

- (e) General description of services to be provided by the strata manager;

With respect to the services that will be performed by the strata manager, you may decide to delegate limited powers such as annual financial statements as well as handling notices, record keeping and



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minutes for your annual general meetings. Alternatively, you may require more extensive day-to-day strata management services such as collecting strata fees and other amounts owing to the strata corporation, paying monthly bills, managing building service contracts, managing major repairs, attending and preparing minutes of both strata council and general meetings, accounting, record keeping, preparing statutory forms, etc. Regardless of the scope of duties and obligations that the strata manager will perform, those duties and obligations must be clearly set out in the service agreement.

There are certain duties and obligations that shouldn't be included in the service agreement. For example, the strata council must determine whether a person has breached a bylaw or rule, whether the person should be fined and how much or whether the person should be denied access to a recreational facility. However, the strata manager may send notices to the offending owners on behalf of the strata council outlining the strata council's decisions.

- (f) Remuneration to be paid under the agreement and circumstances in which it will be payable

With respect to compensation, strata managers will often charge a flat rate per strata lot which will vary depending on the scope of services provided. Therefore, the more strata lots within the strata corporation or the more services that are included in the contract, the higher the fee. The services that are included in the flat fee must be clearly outlined in the service agreement. In addition, any services that will be charged on a user basis must also be clearly defined including the nature of the service, the amount to be charged and the circumstances under which the fee will be charged.

AND,

- (g) provision respecting the use and disclosure of personal information including information respecting the strata corporation as well as personal information respecting the owners who are the members of the strata corporation.

In addition to these general requirements, strata management service agreements must also include the following:

- (e) Indicate if the manager will hold one or more of contingency reserve fund, operating fund, special levy money and any other money on behalf of the strata corporation;
- (f) Any authority for the manager to transfer amounts between brokerage trust accounts maintained under the rules or from brokerage trust accounts to a pooled trust account for one or more strata corporations;

- (g) Scope of manager's authority to act on behalf of the strata corporation including authority to sign cheques, enter into contracts and invest money held by the strata manager on behalf of the strata corporation;
- (h) Timing, frequency and nature of accounting statements and other records provided by the manager to the strata corporation in addition to those specifically referred to in the rules; and,
- (i) Description of records kept by the manager on behalf of the strata corporation including any of the records under section 35 of the *Strata Property Act*.

Any amendments to the service agreement must be in writing and signed by the strata corporation and authorized signatory of the strata manager. An authorized signatory must be a related licensee of the strata manager, the sole proprietor of the strata manager, a director officer or partner of the strata manager in the case of a corporation.

The considerations raised in this article are only intended to be a general outline of some of the most important issues to consider when entering into a strata management service agreement under the *Real Estate Services Act Rules* and aren't exhaustive. Prior to entering into a strata management contract, strata corporations should have the proposed contract reviewed by their legal adviser to ensure compliance with the relevant legislation and to ensure that the strata corporation's interests are protected.

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- *Options for Resolving Residential Construction Disputes – guide*
- *Application packages for no-interest repair loans and the PST Relief Grant for owners of leaky homes*
- *Buying a New Home: A Consumer Protection Guide*
- *Understanding Home Warranties – bulletin*
- *A registry of licensed residential builders and building envelope renovators.*

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Warranties, Maintenance and Strata Management Licensing

Antonio Gioventu, Executive Director

CONDOMINIUM HOME OWNERS' ASSOCIATION OF B.C. (CHOA)

One of the most daunting tasks that any brokerage (strata management company) can undertake with their strata clients, is the proper implementation and enforcement of warranty requirements on new homes. They include new building components like new roofing and windows, and buildings that have been remediated as a leaky condos. Invariably, the council and owners have the false impression that it's either new or fixed so we shouldn't have to do anything. Once you read the terms and conditions of warranty documents you will discover quite the contrary. The tasks are in identifying what those obligations are that protect your warranty. Task 1: Does the warranty require inspections and if so how frequently? Are there only specific professions such as a qualified engineer that are authorized to perform the inspections? Are written reports required from these inspections and must copies of the reports be maintained? Task 2: What maintenance does the warranty require? Is frequent maintenance such as cleaning, lubricating and caulking part of the requirements? The strata must create a list of the warranty maintenance requirements to both ensure they are performed and that they can budget for the associated costs. Task 3: Who is qualified to perform this maintenance and servicing? On a new elevator for example, only a qualified technician may perform the servicing or the elevator warranty may be void. Task 4: The last part, and by far the most critical, who is going to organize all of this work and create the record keeping necessary and ensure that the maintenance, servicing and reporting are performed as required by the warranties? If your strata is a new building, this is a significant capacity of work. It would not be inaccurate to estimate at least 10 hours per month to maintain this material in a new 100 unit strata, and it may vary drastically depending on the number and type of units and complexity of the common facilities and assets.

Now the main challenge facing the strata corporation and the licensing of strata managers (brokerage) : Who is going to perform all of this work? If the brokerage is contracted to perform this work, and agrees to perform this work there are a number of variables that must be considered. First, who is assuming the liability and authority for ensuring the work is performed? Once normal operations, record keeping and financials are performed by the strata manager and the brokerage, there is little if any room left in the contracted services to pay for the warranty obligations. Has the strata corporation specifically contracted

Antonio (Tony) Gioventu, the Executive Director and Strata Property Advisor for the Condominium Home Owners' Association of B.C. (CHOA), brings 18 years of experience in property management, development and strata property legislation to his position. CHOA currently enjoys over 1,000 members.

with the brokerage to perform the warranty services? Has the brokerage agreed to perform the scope of services? What will be the result if the obligations of maintenance and reporting are not met and there is a refusal of warranty coverage?

Once you have identified the obligations of the warranties and the associated costs you need to budget for these additional costs for legal fees for the strata to have the contract reviewed before you sign the agreement. The Real Estate Services Act, Rules and Regulations will not regulate performance of the agents with respects to the services of the contract, warranties and obligations of the Strata Property Act ; however, failing to perform a contractual obligation, that raises questions of competence, may be an arguable complaint. The performance of the conditions will have to be clearly defined in the contract for both the protection of the brokerage and the strata corporation. Before you end up in a costly dispute with your agent, review the contracts and services. A healthy long term relationship with your agent is a great benefit to every strata corporation.



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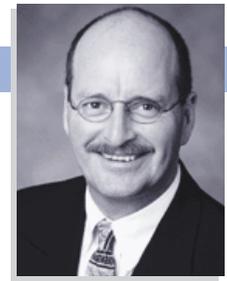
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Buying a Condominium – Some Do's and Don'ts

Jamie Bleay, Lawyer
ACCESS LAW GROUP

All condominiums are not created equal; some leak, many do not, some have financial problems, many do not, some have pet restrictions, and age restrictions. For those looking to purchase their first home, or for the empty nesters who want to down-size, the condominium is the most attractive option. But what can you do to try and avoid buying into a leaky condo, or into a condominium which, at the end of the day, prevents you from enjoying your new home?

Once you have narrowed down your choice to one or two condominiums, you should do the following in order to get an idea of what type of condominium complex you are buying into:

1. Obtain a complete set of the strata council minutes, and general meeting minutes, for at least the last 12 month period. If you have a real estate agent, you can ask them to obtain these for you. However, it is vitally important that you review them in order to ascertain, from the strata council minutes, and general meeting minutes, to what extent there are concerns over water leaks. If, when reviewing the minutes, reference is made to engineering reports, or to a law suit, make inquiries of the strata corporation, through its property manager or strata council, about the substance of the engineering reports and/or the law suit. Attempt to obtain a copy of any engineering report referred to in the minutes. If the strata corporation has commenced legal proceedings, ask for a copy of the Writ and Statement of Claim, or the Court file number so that you can search the Court Registry yourself. If there is a claim for water damage, or for deficiencies that are not noted in the strata council or general meeting minutes, owners in the building may be faced with expensive repair levies or levies to pay for the law suit. If there have been repair levies, or levies to pay for legal costs, chances are there will be more to come. By knowing of these ahead of time you can decide, if you really want to buy the condominium, what price you would be prepared to pay.
2. Undertake a physical inspection of the building. Even if you are not an expert in construction, you can detect potential water leakage problems, such as staining of stucco, efflorescence around the foundation, cracks in the walls, or evidence of extensive repairs.
3. Ask the owner questions to ascertain his/her level of knowledge about the state of building repair. Vendors are required to complete a Property Condition Disclosure Statement. Their statements to you about the state of building repair should match their answers on the Disclosure Statement.
4. Obtain a copy of the financial statements for the strata corporation for the previous fiscal year. The financial statement will indicate how much money is in the contingency reserve fund, which is available to fund extraordinary repairs, how much money is being expended on repairs and maintenance, relative to the estimated budget, and whether the strata corporation's expenses are more or less in line with the estimated budget for the previous fiscal year. Lack of fiscal restraint can lead to significant maintenance fee increases in the future.

Jamie A. Bleay Since being called to the bar in 1987, Jamie has practiced extensively in the area of condominium/strata law. He has worked with and acted for several hundred strata corporations in that time. He has worked closely with strata councils in dealing with a range of services from corporate governance matters, financial matters, property management matters and litigation matters. He has also worked for countless strata lot owners who have required his expertise in dealing with their duties and obligations, as owners, and their ongoing relationship with their strata councils.

5. Obtain a copy of the registered bylaws of the strata corporation, and carefully review them. If you have a pet, or are interested in getting a pet to keep you company once you purchase your condominium, be aware of any existing pet restriction bylaws. Many owners have found themselves in Court because they bought a pet in violation of a bylaw expressly prohibiting pets. If you have children, check to see if the bylaws restrict occupancy on the basis of age. Certain age restrictions, if they do not violate the *Human Rights Code* or the *Strata Property Act*, can be imposed in a strata corporation bylaw.
6. Ensure that your purchase and sale agreement is subject to a full inspection, review of the bylaws, the strata council minutes, general meeting minutes, and the financial statements. By writing these terms into the purchase and sale agreement, you are in a position of walking away from the purchase if you are not satisfied with the building condition, the financial picture, with the restrictions contained in the strata corporation bylaws.

While there is no foolproof method of avoiding all of the various and sundry problems that can confront a condominium owner, you can avoid many of the more serious ones by doing your homework before the purchase and sale agreement becomes legally binding on you.

Jamie Bleay is a Vancouver lawyer who practices extensively in the area of strata law. He can be reached at Access Law Group, 1700 – 1185 W. Georgia St., Vancouver, B.C. V6E 4E6, tel. 604-801-6029, e-mail – jbleay@accesslaw.ca.



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Strata Manager Licensing Requirement Questions

REAL ESTATE COUNCIL OF BRITISH COLUMBIA

What does strata management services encompass?

- “Strata Management Services” means any of the following services provided to or on behalf of a strata corporation:
 - collecting or holding strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the Strata Property Act;
 - exercising delegated powers and duties of a strata corporation or strata council, including
 - making payments to third parties on behalf of the strata corporation,
 - negotiating or entering into contracts on behalf of the strata corporation, or
 - supervising employees or contractors hired or engaged by the strata corporation.

I’ve read the definition of “Strata Management Services” and currently perform some of those duties for several strata corporations. Do I have to become licensed?

- Yes, unless you are exempted under the Real Estate Services Regulations, all strata managers must be licensed effective January 1, 2006.

I’ve heard that there is a grandparented provision for existing strata managers? Who qualifies as a grandparented strata management service provider?

- “Grandparented strata management services provider” means a person who was providing strata management services for a period of at least 3 months immediately before January 1, 2006.

I’m already licensed, but also manage strata corporations. What steps must I take to meet the new licensing requirements before January 1, 2006?

- If you are already licensed and grandparented, your licence will need to be amended. Applications can be made to the Council as of August 1, 2005. The designated managing broker must provide a letter certifying they have provided strata management services for the required 3 months; and for each representative and associate broker provide a letter certifying that those applicants meet the same grandparenting criteria. Refer to the brokerage section on page 12 of this Report for additional information.

The only strata corporations I manage are commercial, including medical/dental buildings. Do the new licensing requirements for strata managers apply to me?

- Yes. Your brokerage will need to amend their licence and at least one managing broker will need to be identified as the designated person responsible for all strata licensees. The managing broker licence, subject to meeting grandparenting and educational requirements, will also require amendment along with any representatives who are performing strata management activities.

We have several employees engaged in strata management who have never been licensed. Do they have to complete all the courses before becoming licensed?

- The Real Estate Council can issue a temporary licence when an applicant has been “grandparented” under the policy guidelines. Depending upon individual circumstances, a temporary licence may be issued subject to completing the applicable licensing courses and examinations or challenging the examination. Refer to the Licensing Policy Statement #4 on page 3 and the brokerage section on page 12 for more details.

Does “grandparented” mean that I am exempt from taking the Strata Management Licensing Course and Exam?

- Not necessarily. The Real Estate Council can issue a temporary licence when an applicant has been “grandparented” under the policy guidelines. Depending upon individual circumstances, a temporary licence may be issued subject to completing the applicable licensing courses and examinations or challenging the examination. Refer to the Licensing Policy Statement #4 on page 3 for more details.

What qualifications must an applicant meet to obtain a licence to provide Strata Management Services?

- All individual applicants must be at least 19 years of age, of “good reputation” and meet the educational and experience requirements established by the Council Rules. A criminal record check is performed on all new applicants.

What course must an applicant take to be licensed as a strata manager?

- If you are grandparented and licensed you must complete the Strata Management Supplemental Examination on or before January 1, 2007. If you are licensed but not grandparented, you must complete the Strata Management Supplemental Course and Examination prior to amending your licence. If you are not licensed, but grandparented, you must complete the Strata Management Licensing Course and examination by January 1, 2007. Please review the Strata Management Licensing Policy Statement #4 on page 3 in this Report.

How do I register for the Strata Management Licensing Course?

- Through the Sauder School of Business, University of British Columbia. The website is www.realestate.ubc.ca.

Do caretakers of strata corporations need to be licensed?

- Subject to the stipulation noted below*, an individual who is employed as a caretaker or manager by a strata corporation, or by a brokerage that provides strata management services to or on behalf of a strata corporation, is exempt from the requirement to be licensed in respect of collecting strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the Strata Property Act.
- *On receipt of money referred to above, the exempt caretaker or manager must promptly deliver the money to the strata corporation or brokerage, as applicable.



Does the owner-developer of a strata corporation require licensing?

- An owner-developer, as defined under the Strata Property Act is exempt when providing strata management services only until control of the strata corporation monies are transferred.

BROKERAGE INFORMATION

What are the qualifications for a partnership or corporation obtaining a licence to provide Strata Management Services?

- The partners or directors of the applicant brokerage must be of "good reputation" and the brokerage must be in sound financial circumstances. Other considerations include a past refusal to licence, suspension or cancellation of a previous licence, being disciplined by a professional body and having been convicted of an offense.

As a licensed brokerage that currently manages strata corporations, will we need to amend our licence?

- Yes, if your brokerage is licensed and grandparented, your office must submit its licence for amendment and include a letter from your managing broker certifying your brokerage has provided strata management services for the required 3 months. An

application from your designated managing broker who is grandparented must be included at the same time.

My company provides strata management services to various strata corporations. Are there any specific clauses I need to incorporate into my service agreements?

- Yes. Strata managers should carefully review their service agreements to ensure they meet the specific requirements of the Council Rules. Some of the requirements include: specifying the duration of the agreement, describing services and clarifying signing authority. The Rules can be found on the Council's website at www.recbc.ca.

I've heard that, as part of licensing for strata management services, I need to set up separate trust accounts. Is that true?

- Yes. The brokerage must establish at least one separate trust account for each strata corporation managed and another separate trust account for each strata corporation for which contingency reserve funds and/or special levy funds are held by the brokerage. An applicant brokerage will need to provide proof these trust accounts have been established.

Who can be a signing authority on the strata corporation trust accounts?

- At least one managing broker must be a signing authority on each trust account. With contingency reserve and/or special levy trust accounts, two signatures are required. Details on strata management trust accounts are outlined in section 7-9 of the Council Rules.

As a brokerage, what are my financial requirements when handling strata corporation trust funds?

- Part 7 of the Council Rules outlines brokerage accounts and financial requirements and Part 8 covers brokerage records. Section 7-9 of the Council Rules requires maintaining at least one separate trust account for each strata corporation; providing the strata corporation with a copy of the monthly bank statements within 30 days; and limitations on a pooled flow through trust account.

How long will my brokerage need to retain financial information for strata corporations? Currently the Strata Property Act requires retention for 6 years.

- Brokerages must retain books and records for 7 years as outlined in the Council Rules.

When transferring strata corporation records from my brokerage to another brokerage, do I still follow the requirements of the Strata Property Act?

- While the Strata Property Act has requirements regarding the transfer of files, a licensee must meet the requirements for transferring files contained in the Council Rules.

What type of financial reporting must my company submit to the Council after we are licensed?

- The details of brokerage reporting are outlined in the Council Bylaws. Brokerage financial statements, accountant's report and activity report must be submitted to Council within 120 days after the brokerage's year-end.

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Licensing of Strata Managers

REAL ESTATE COUNCIL OF BRITISH COLUMBIA

The Real Estate Council of British Columbia ("Council") has a mandate to protect the public by enforcing the licensing and licensee conduct requirements of the *Real Estate Services Act*. The Council's areas of responsibility include:

- licensing real estate representatives, associate brokers, managing brokers and brokerages
- monitoring and enforcing entry qualifications
- investigating complaints against licensees
- ensuring compliance with the legislation
- conducting disciplinary hearings and imposing administrative penalties or disciplinary sanctions

Effective January 1, 2006, strata managers will require licensing under the *Real Estate Services Act*. In anticipation of the new licensing requirement, the Council has collaborated with the Real Estate Division at the Sauder School of Business, University of British Columbia to develop a Strata Management Licensing Course. All strata managers (with a few noted exceptions), including their related companies, will need to apply to the Council for a licence before January 1, 2006. Current strata managers will be issued a temporary licence subject to meeting educational requirements on or before January 1, 2007.

There is provision for a self-managed strata corporation to be exempt from the licensing requirements when an owner is providing the strata management services. The owner is limited to no more than two strata corporations provided the owner owns a strata lot in each of the strata corporations. This applies, for example, where the treasurer of the strata council deposits the strata fees and may have signing authority on behalf of the strata corporation. A strata caretaker employed by a strata corporation or a caretaker employed by a brokerage providing strata management services is also exempt from the licensing requirements so long as certain conditions are met.

The obligations for strata management service providers under the *Real Estate Services Act*, Regulations, Rules and Bylaws are considerable. For example, all brokerages wishing to be licensed under this category must set up separate trust accounts for each strata corporation they manage. Where they hold contingency reserve funds (CRF) or special levies, another separate trust account must be established by the brokerage for the strata corporation. Two signatories are required for the CRF/special levy trust account and the Council Rules specify who may be a signing authority. Proof of these separate trust accounts is required before a licence will be issued. Every month, the brokerage will have to provide the strata corporation with a copy of the statement for each trust account within 30 days after receiving it from the savings institution.

In addition, strata management companies will be required to ensure that all management agreements meet the requirements of the Council Rules. In particular, all strata management agreements must: describe what types of funds are held in trust; stipulate the authority to make withdrawals from trust accounts; clarify signing authority; specify authority to enter into contracts; outline the specifics of accounting statements provided; describe what records will be kept; and outline provisions for disclosure of information.

What will the role of the Council be once strata managers become licensed? To clarify, the Council cannot enforce the *Strata Property Act* or take action to enforce the *Strata Property Act* against strata owners and strata corporations. For example, if an owner has a complaint that the strata corporation is over-spending in relation to their budget, that matter is not within the scope of the Council's mandate. Areas where the Council can investigate, based upon a complaint include allegations that a licensee may have:

- Contravened the *Real Estate Services Act*, Regulations, Rules or Bylaws
- Breached a restriction or condition of their licence
- Conducted activities that constitute wrongful taking or deceptive dealing
- Demonstrated incompetence in performing any activity for which a licence is required
- Engaged in conduct that is contrary to the best interests of the public
- Undermined public confidence in the real estate industry
- Brought the real estate industry into disrepute.

For more information about the *Real Estate Services Act*, Regulations, and Rules please refer to the Council's website at www.recbc.ca. Additional information about the new licensing requirements for strata managers, including a list of frequently asked questions, will be placed on the Council's website over the next few months. In the meantime, if you have any question, please do not hesitate to email the Council at info@recbc.ca.

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STRATA PROPERTY ACT

A Practical Guide to Bylaws

As of January 1, 2002 the Statutory Bylaws attached to the Condominium Act no longer Apply! The Standard Bylaws to the Strata Property Act automatically apply to every Strata Corporation in British Columbia.

Every Strata Corporation throughout British Columbia should completely review and overhaul its bylaws. This process may take between 3 - 5 months.

This comprehensive guide provides a Step-by-step, do-it-yourself format for the preparation of bylaws. The guide includes a description of what should be done at every stage of the bylaw process, including:

- how to deal with unit owners
- how to undertake the bylaw review process
- how to amend bylaws
- how to repeal bylaws
- how to draft bylaws
- how to deal with the presentation of bylaws at a general meeting
- how to register bylaws

The Guide provides a review of every provision of the Standard Bylaws to the Strata Property Act, including a recommendation on what to do with the bylaw. Also, the wording of typical proposed amendments is included.

“Every Strata should have a Copy!”

Written by Cora Wilson,
Condominium Lawyer
with over 19 years experience,
Sharla Haney and edited by Tony Gioventu

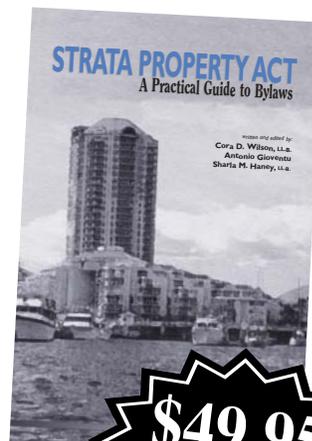
For example, you may wish to provide for a bylaw that permits a non-owning spouse to sit on the strata council. The sample wording is provided for your convenience.

The Guide provides a review of the provisions of the “Strata Property Act” that permits additional bylaws, such as rental bylaws, interest bylaws, remuneration bylaws for strata council members etc.. The proposed wording for these types of bylaws is also provided.

Further, a review of some of the relevant provisions for different types of strata lots, ie. sections, commercial strata lots and residential strata lots, is available.

Finally, Land Title Office registration forms are attached with instructions for completion.

The bylaw review, drafting, approval and registration process is an art. It is a complex, difficult and time consuming process which should not be taken lightly. It is hoped that this Bylaw Guide will minimize the pitfalls.



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