

The new *Strata Property Act* is overwhelming. Each month we attempt to inform and educate you on different provisions and we hope this process is helpful. If you need a copy of previous bulletins please feel free to ask your property manager. If you have joined your strata council in recent months you should obtain a copy of previous bulletins as they are most useful. The content of these bulletins does not purport to offer legal opinions or advice. You should retain and consult with legal professionals.

FEATURES THIS MONTH

- Do you have the correct version of the new *Act*?
- Insurance premiums – oh oh!
- Insurance deductibles and special levies.
- The bylaw chart – a quick summary.



A TOUGH ACT TO FOLLOW . . .

Understanding the law (as it applies to the administration of strata corporations) is tough enough but it can be even more problematic if you do not have the right Act. After the initial *Strata Property Act* received royal assent, an amendment Act was proclaimed; thus, a number of sections changed. Be sure you have the most recent consolidated version as there were dozens of changes. To be sure, here are just two sections in the legislation as examples for you to use as checkpoints:

- Section 40 Annual General Meeting, subclause (2) should say *“two months”* not *“one month”*
- Section 98 (3) Unapproved Expenditures, was amended by adding *“whether physical or otherwise”* after *“loss or damage”*

If your copy of the *Strata Property Act* does not have these two items you are not in possession of the final version. Please advise your property manager and a new Act can be ordered for you. VCS recommends that the council President have a copy of the Act; however, each council member may wish to have one also. Please remember that you cannot operate with the new statute without having the Regulations. If you do not have the Regulations, advise your property manager and a copy can be ordered for you.

Incidentally, it may interest you to know the background of the two examples that have been cited in this bulletin. They arose from representations made by VCS to the government when the legislation was first enacted. The original version of the Annual General Meeting requirement, i.e. to be held one month after fiscal year end, would not leave enough time for a strata council who prefers to wait until the fiscal year of the strata corporation ends before it prepares the budget for the new year. In fact, some strata councils prefer to have their audits done first before preparing a budget and this takes some period of time. It would have been impossible for such strata councils to meet the requirement of Section 40 if it had provided for the AGM to be held within one month of the fiscal year-end. The two month provision was the result of our recommendation. (Some strata councils find that even the two months is insufficient and we have seen some technical violations of this statutory provision).

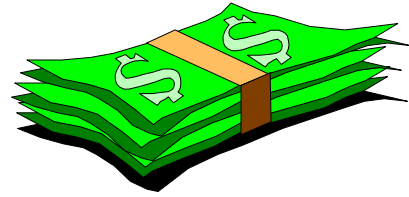
With respect to Section 98, Unapproved Expenditures, VCS pointed out to the government that strata corporations very frequently have emergency situations which are not "mechanical" in nature. Most emergencies include such physical things as broken garage gates, failed boiler systems, roof leaks and other property-related deficiencies. A strata corporation can, however, run into expenditures which are not mechanical in nature such as lawsuits. For this reason, the government amended Section 98 to add the words "whether physical or otherwise".

Whether emergencies are mechanical or "otherwise", councils are advised, however, that they should not expend money on projects which council believes to be urgent or necessary but are not truly emergencies. Always ask the question: what evil or calamity would occur, what damage or loss would result, if we (the strata council) wait for three weeks to hold a special general meeting? If it can wait, then it is not an emergency.

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Anyway, back to where we started. Be sure you have the right Act.

LET'S HOPE WE'RE WRONG



Insurance premiums to double

Just as we were getting used to the significant increases in gas prices, here comes another blow to your budgets. Although it's still early and "nothing is in writing", we understand that insurance premiums will double in the current renewal cycle.

For those of you who have been on council for more than three or four years, you will remember that the premiums were "way up there" and then they plummeted. At the time we told you to enjoy it while it lasts because they would surely be going back up. Well, that time has arrived.

All this has to do with international markets: it is not a local issue. In other words, it's not a matter of shopping around to find another Vancouver broker who can get you a good deal. All the brokers buy insurance from the same underwriters. All the underwriters are controlled by the huge, multinational insurance companies who compete for market share. This is done by controlling (manipulating?) premiums. In 1995 the rates were approximately 11 cents per \$100 of coverage. By January of this year they had dropped to about 3 cents per \$100. Now, the vacation is over.

Let's hope we're wrong. Maybe when the renewals come up in December we will see our prediction to be inaccurate. But, to be on the safe side, we advise you to double your budget for this category. If you are over budget, well, at least you'll have some cushion benefit.

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P.S. For Richmond accounts (and some others in areas of concern) note that your earthquake deductible is changing from 5% to 10%. Apparently the underwriters are expecting an earthquake...

A SPECIAL LEVY WITH NO OWNER VOTE?

Yes, it is possible.

Until the new *Strata Property Act* came into effect, there was no such thing, officially anyway, as a special levy. The *Condominium Act* made no mention of such a process; nevertheless, over the past three decades strata corporations routinely raised huge amounts of money through this process. It made sense and the courts, fortunately, embraced and sanctioned the practice also. The new *Act* has filled the void and there are many words about special levies.

With one exception, special levies always require the consent of the owners by way of a 3/4 vote resolution. The exception is found at Section 158 of the *Act*, in subclause three.

Insurance deductible -- s. 158

(3) Despite any other section of this Act or the regulations, strata corporation approval is not required for a special levy or for an expenditure from the contingency reserve fund to cover an insurance deductible required to be paid by the strata corporation to repair or replace damaged property, unless the strata corporation has decided not to repair or replace under section 159.

What this means is that the strata council can determine a special levy without calling an SGM and passing a 3/4 vote. For example, a strata corporation could have a water deductible of \$25,000 and insufficient money in the operating fund to satisfy a claim. The council would not have to call an SGM, etc. It could either use money from the CRF or simply assess the owners a special levy. It has not happened yet in our portfolio but it should be interesting to see what happens the first time. We wonder how the owners will "take it", i.e., just getting a bill in the mail for a big special levy without a vote. Hmmmm....

THE BYLAW CHART

December 31, 2001

January 1, 2002

(1)

Part V
Condo Act Bylaws



Schedule of Standard
Bylaws
Strata Property Act

- "Automatic" - you do not have to do anything, unless; if your strata corporation actually registered the Part V Condo Act bylaws, they are not replaced "automatically". Many stratas did, so check...

(2)

EXISTING BYLAWS
(of your strata)



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(of your strata)

- "Automatic" - you do not have to do anything: they remain in effect.
- Exceptions
 - (a) If your bylaw conflicts with the Act itself, your bylaw automatically expires. (Example: insurance deductible bylaw)
 - (b) If your bylaw conflicts with a bylaw in the new SPA bylaws, your bylaw remains. (Example: pet bylaw)

(3)

NEW BYLAWS
(under review)

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- These have to be voted on at an SGM and pass by a 3/4 vote and be registered in the Land Title Office within 60 days of the SGM.
- You can do this anytime, either before or after December 31, 2001.
- Typically, these new bylaws will be the ones you are obtaining from Clark, Wilson or any other source.