



FEATURES THIS MONTH

1. The VCS Gift Policy
2. It's Not Easy Being A Council Member
3. Guest Anonymity at Council Meetings
4. Insurance Questions and Answers
5. Some Important Notes About Your Accounting Package

1. THE VCS GIFT POLICY

We have a strict policy at VCS that gifts from contractors are neither encouraged nor accepted. Accordingly, at Christmastime, which is generally when this policy is most applicable, we advise all our contractors NOT to “gift us” but rather to donate to the Christmas Wish Drive. This is great and you should see the “tons of toys” we get, all of which go to the appropriate truly needy folks in our community. So, many thanks to our various contractors for their generosity and participation. Here is a list of this year’s contributors:

- Stewarts Insurance
- Concord Building Maintenance Ltd.
- Nishi Gardenscape Inc.
- Access Law Group
- Superior Disposal
- Allstar
- The Restoration Shop
- Cleantech
- Westcoast Horticulture
- Greenline Landscaping
- McCuaig & Associates
- Hoe!Hoe!Hoe!
- Alumni Painters
- Restoratech
- Artisan Plumbing & Heating
- Firetronic
- Easy Care Restoration
- Sterling Pacific
- Ideal Door Ltd.
- Ocean Province Appraisal
- International Paper Ind. Ltd.
- Clean Sweep Maintenance
- Martins Ground Service
- Active Fire
- FPH Systems
- National Air Technologies
- Remdal Coating Ltd.
- All Window Cleaners Ltd.
- Metric Roofing
- Reid Hurst Nagy
- Xpert Mechanical
- Michael A. Smith Duct Cleaning
- Red Lion Building Maintenance

2. IT’S NOT EASY BEING A COUNCIL MEMBER

The following is an excellent letter written by a council member. We would like to share it with you.

Dear _____:

Please accept my resignation as a member and President of the strata council effective as of the next regular council meeting.

My decision to resign is based on significant differences in perspective about the role of a strata council and its members. It is also based on not wanting to contribute to personality issues or power dynamics that will interfere with the council’s priorities of administering the corporation.

At the last meeting I was very concerned about how much time and energy was spent discussing the needs of individual council members and not focussing on the business of the corporation. It concerned me that there was more discussion about who could and could not deal with distractions rather than focussing on the purpose of serving on council. This, and conducting a business meeting by needing to raise voices is not an optimal way to give full attention to the critical issues facing our owners and residents.



I am concerned that some council members do not read or show up with circulated documents, that they do not respond to email messages (having provided email addresses as a means of communication), or participate in using the telephone tree (set up by council as a means of communicating between meetings). The practice of due diligence means that council members need to equip themselves fully to contribute to the administration of the strata corporation and to make the best decisions possible. Declaring that they are "only volunteers" will not stand up in scenarios that involve the courts.

Having served for a number of years on council I can say that the requirement to be fully informed and the complexities of exercising due diligence are increasing. Changes to the Strata Property Act, issues related to leaky condos, and the increasing number of individual owners bringing legal challenges against strata councils requires Council members to do more than show up at meetings and express personal opinions.

I am very concerned that there seems to be little appreciation of the responsibilities involved in being on council among some of the current members. I have tried to encourage this understanding and it is the first year that I have had the sense of not being very effective in this regard.

It seems that few of the current council members appreciate that work is required between meetings. The responsibilities of the president have been carried out in the context of a very demanding full time job and at home outside of the workday. While there is no comparison between the workload of the remediation project, now it still requires considerable flexibility and commitment.

In addition to the role of the President it is important that council members see themselves as actively involved in facilitating access to suites and the presence of maintenance/service people; facilitating understanding about living in a strata building, and discussing issues raised at meetings with other owners.

I was uncomfortable with comments made at the last council meeting about the "aggressive approach of the last AGM", having been the chair of that meeting. While I have been commended by many for bringing a professional approach to the role of council President over the past few years, it seems that this is not the perception of all of the current council members.

I regret that I am unable to serve the remainder of the term on the strata council. While I am not in a position to continue on council I am willing to assist in a transitional way by sharing experience or information wherever it might benefit you or council. I will continue to be active as an owner and take interest in all of the issues related to the strata corporation.

It has been a pleasure to work with you and Vancouver Condominium Services. The owners are fortunate to have such a high quality professional services to assist with daily operations and the administration of our strata corporation.

Sincerely,

XXXXXXXX

3. GUEST ANONYMITY AT COUNCIL MEETINGS

It is not uncommon for owners (sometimes tenants) to attend council meetings to voice concerns about the administration of the strata corporation. Should their appearances be recorded in the minutes, i.e., in detail with their names, etc.? Give some thought to this issue and consider the following actual events:

- An owner attends the council meeting to plead with council not to levy further fines and place a lien against the title of his strata lot. He is in arrears by \$6,000. Irrespective of how the council deals with his request, should the minutes show his name? If it does, would there be a violation of the new privacy legislation? The owner's financial business is indeed very private.
- An owner attends the council meeting to voice her frustration with the noise and ongoing disturbances from her neighbours who are constantly partying. In fact, there is some evidence that heavy drugs are part of the scene and the constant flow of strangers to her neighbour's strata lot suggests drug dealing activities. Disclosing her name in the minutes might jeopardize her safety.
- An owner attends the council meeting to request consent to undertake substantial modifications to the strata lot. Council approves the requests on the face of the presentation, which is supported, somewhat vaguely, with a letter and drawings. In six months it will become evident that the owner completed renovations far in excess and radically different from the original "presentation". It is likely that a court action may be required to remedy the problem. Should the minutes of that first meeting name the person and outline all the details discussed?

These are only a few examples and no doubt you can recall other events from your own strata corporation which are relevant to this discussion. It is VCS' view that council and the strata agent should proceed cautiously. There is no legal requirement to identify names and suite/unit numbers in the minutes but there are times when that is very desirable. In the last of the above scenarios we believe that there is merit in identifying suite/unit numbers for such presentations as renovations. All the detail need not be in the minutes (perhaps just the highlights) as long as the follow up correspondence by the strata agent to the owner contains the myriad of details. In the event of a court battle, the minutes can be tied to the subsequent correspondence to make the case.

In the other two circumstances, VCS feels that it would be proper for the minutes to not reflect names and suite/unit numbers. In the first scenario, there is concern about the privacy legislation and in the second scenario there is obvious concern about the safety of the complainant from any retribution by the thugs living next to her.

We take the opportunity of this bulletin topic to digress slightly into a related area of interest. As most of you know (unless you are brand new to council) the Strata Property Act requires disclosure of correspondence to essentially anyone who asks for it. Section 35(1) of the Strata Property Act says:



"The strata corporation must prepare all of the following records...(k) correspondence sent or received by the strata corporation and council."

Section 36(1) of the Strata Property Act states:

36 Access to records

- (1) On receiving a request, the strata corporation must make the records and documents referred to in section 35 available for inspection by, and provide copies of them to,
 - (a) an owner,
 - (b) a tenant who, under section 147 or 148, has been assigned a landlord's right to inspect and obtain copies of records and documents, or
 - (c) a person authorized in writing by an owner or tenant referred to in paragraph (a) or (b).

Since the inception of the Strata Property Act in July 2000, many strata corporations have been forced to yield copies of such correspondence to owners who are aware of this provision in the legislation. (Leading strata corporation lawyers and property management firms are unanimously in agreement that this is one of the worst sections of the Act. It has caused considerable heartache and chaos. Note that the minutes of council meetings issued by VCS carry an important disclosure warning at the Correspondence section for this reason.)

It is VCS' view that the new privacy legislation (January 1, 2004) takes precedence over the Strata Property Act, but no doubt in the coming year there will be some test cases. In the meanwhile, on a case by case basis, VCS will resist carte blanche release of correspondence.

4. INSURANCE QUESTIONS AND ANSWERS

The following is a list of recent enquiries made by our clients as a result of the insurance renewals. If you have any other questions, feel free to ask.

1. Why is VCS listed to have E & O coverage? Why doesn't VCS pay its own E & O insurance?

Answer: In actual fact, this is no change from the Pro Technical program. VCS was a named insured but it was shown differently on the certificate and in the policy. The management contract between VCS and your strata corporation requires the strata corporation to cover VCS for claims. Of interest, in the nearly 25 years we have been in business, we have had only one lawsuit against VCS as a private company. Every year, however, we are named in dozens of lawsuits against strata corporations. That is just normal practice these days, i.e., "shotgun litigation". These lawsuits have nothing to do with VCS per se, but rather against the stratas. For this reason your management contract requires that the strata corporation provide relief to VCS.

2. Why is there \$5,000,000 General Liability coverage and then \$5,000,000 excess coverage?

Answer: This is actually the same benefit as in the Pro Technical policy. It is just broken down into two components. Do you need \$10,000,000? Probably not, but it is so cheap that it likely would not save you more than a few hundred dollars on the annual premium. The bulk of your premium is the Property section.

3. We already passed our budget and now the premium is way over. Are we in violation of spending limits as prescribed in the Strata Property Act?

Answer: No. It is an unavoidable expense and VCS believes that you are covered by Section 98(3) of the Act (Unapproved Expenditures) which states:

The expenditure may be made out of the operating fund or contingency reserve fund if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise.

We have underlined the key phrase in this section. Under the old Condominium Act this concept was not included. When the new Strata Property Act was being drafted, VCS made submissions to the government to include a provision that would “untie the hands” of council when faced with such situations which are not “physical” in nature. Lawsuits are a good example also. If a strata corporation is sued, there is no time to call a meeting to get owner approval to spend money to defend the strata corporation: it just has to be done. We believe that Section 98(3) is written to provide this type of latitude to a strata council.

4. What is Volunteer Accident?

Answer: Sometimes council members or owners do jobs around the strata corporation - usually to save money. Although the benefit is limited to \$100,000, it is included for this type of activity.

5. Why do we have Pollution Liability?

Answer: To some extent, you had some coverage in the Pro Technical policy. The Stewarts program is more detailed, more extensive. Remember that insurance programs are not all the same. Just like any product or service in the marketplace, every manufacturer/supplier has its own features or characteristics. Stewarts has developed, over the years, very specific coverages for pollution liability and they show it on the certificate. An example of a claim would be an emergency generator fuel tank cracking and leaking thousands of liters of fuel into the sewer system. How about an owner pouring paint or gasoline into the sewer system? These things can and do happen. It is good to have the coverage.

6. Does the earthquake deductible apply to the whole strata corporation or to individual buildings within the strata corporation?

Answer: This question and answer pertains principally to townhouse developments. The deductible is per building - which is a very good thing. For example if a strata corporation is insured for \$10,000,000, a 10% deductible would mean \$1,000,000 before the policy contributes. If the strata corporation has five separate buildings, typically of differing valuations, the deductible is applied to each valuation on a per building basis. If only one of the five buildings received damages in an earthquake, the deductible percentage is only applied to the value of that building. If that building is worth (valued) at \$2,000,000, 10% would be \$200,000. That is much better than 10% of the entire strata corporation. Make sense?



Important Note:

These are general advice comments only. They do not purport to interpret the actual policy wording and benefits. During the coming year we will issue bulletins to you with the actual policy wordings as we feel it is very important for you to know what is covered, what is not. It is always a bad surprise to find out after some incident occurs that the item is an exclusion to the policy. Yes, there are many exclusions and also some "fine print" wording. If you would like a copy of the full policy it is available at no charge...just ask your strata agent.

5. SOME IMPORTANT NOTES ABOUT YOUR ACCOUNTING PACKAGE

We thought it might be useful for council, especially your Treasurer, to know what is included in the standard accounting package that you get from VCS. Or to put it another way, what is not included. Annually, we receive dozens of requests to modify the package and we do our best to accommodate our clients; however, we are limited in our ability to provide all requests. It is not so much a matter of computer technology - anything can be done. It is more a matter of the time it takes to customize and monitor the special requests.

For this reason we draw your attention to our company's policy in this matter. When a strata corporation approaches VCS for a management program quotation, we provide a submission, and fee, for an "off the shelf" package. It is extremely rare for a strata corporation to approach VCS with a detailed list of exceptions and special items to be included in the package. In fact, the standard off-the-shelf accounting package produced by VCS is pretty good and the actual computer program (Gemini V 2.1 -Yardi) is one of the best property management programs available and is used widely across Canada. We are not aware of a better program at any price.

So, all this said, here is what is included in the standard package:

- (1) A budget comparative statement (The "P & L")
A balance sheet
A detailed summary of disbursements (i.e., cheques issued)
An accounts receivable listing
A full general ledger. (The GL is not sent to each council member - only to the Treasurer.)
- (2) The statement can be produced on either a cash flow basis (i.e., showing only payments issued) or on a full accrual basis (i.e., showing not only payments issued, but also the amounts and description of goods and services received but not paid at the date of the financial statement).
- (3) Bank Reconciliation (for the Treasurer if requested)

Some strata councils also request that the Treasurer receive copies of all paid invoices in support of the details of disbursements (item (1) above). Apart from photocopy costs associated in producing this material, VCS has not historically charged for this service. Effective February 1, 2004, VCS will be implementing a charge of \$5 per month to provide this documentation.



Here is a list of the main requests we receive from clients to provide additional material or variations to the accounting package:

- (1) Photocopies of all deposits.
- (2) Additional detailed fund reporting.
- (3) Consolidation reporting.
- (4) Expense charge back reporting.
- (5) Project expense tracking.
- (6) Percentage comparison reporting.
- (7) Photocopies of accrued invoices for the month.
- (8) Photocopies of investment statements.
- (9) Specialized spread sheets.

There may be other variations not included in this list; however, it illustrates the point.

It is virtually impossible to charge you a fixed fee for these extras; accordingly, VCS will review requests for changes and advise you of the estimated time required to fulfill your order. Our fee for such additional accounting services will be \$75 per hour plus GST.

We appreciate that no one likes extra fees; however, the economics of providing strata corporation administration force us to adopt this method which we believe is fair not only to VCS but also to all clients. We do not want to raise our management fees to incorporate all the special requests of some councils. We believe that there is much merit in the "user-pay" concept. In this fashion, we can accommodate the special requests but at the same time hold the line on general management costs. We thank you for your understanding.