



FEATURES THIS MONTH

1. Important and Informative Seminar
2. Insurance Issues
3. Impact of the 2010 Olympics
4. Pizza for the Council Meeting



1. IMPORTANT AND INFORMATIVE SEMINAR

Thursday, September 23rd

7:00 p.m. to 9:00 p.m.

Current Legal Issues

The Vancouver Chapter of CCI (The Canadian Condominium Institute) has assembled a panel of leading lawyers to inform you about some important legal issues, fascinating lawsuits, arbitrations, etc., that arise from recent strata corporation disputes.

The Cost: If your strata corporation is a member of CCI Vancouver, there is no charge to send a representative to the seminar. If you are not a member, the cost is \$15 per person - not really very much to attend such a great seminar.

Where? The seminar is being held at the Century Plaza Hotel, 1015 Burrard Street (next to St. Paul's Hospital). Sorry parking is not included in the fee.

How to Register:

- Advise your strata agent
- E-mail to J. Bleay at accesslaw.ca
- E-mail to gfanaken@vancondo.com

Be sure to advise how many members of your council will attend.

This style of seminar is based on similar seminars conducted by CCI - National at its annual meetings. It is the best-attended session of all the events. The lawyers will have great, sometimes unbelievable cases to tell us and there are some very important legal decisions which affect you.

September, 2004

2. INSURANCE ISSUES

1. Renewal for 2005: Not all, but most, strata corporation insurance policies come up for renewal on December 31st this year for 2005. We are frequently asked what the premiums will be, which is a fair question, especially for those clients who have December 31st year-ends and are attempting to budget properly. The answer right now is that we do not know. It is too early. In recent years we have seen a reluctance by underwriters to disclose their new rates in advance. More often than not we only get the numbers in December and, in a few heart-stopping situations, only between Christmas and New Years!

In any event, we have spoken to the brokers (who, to a large extent are also in the dark) to obtain even a hint of what is to come. The bottom line is advice to budget an increase of 20%. Do not take this as "gospel". The rates may come in higher or lower and they could easily vary between strata corporations rather than be "across the board".

Watch out also for deductibles. If your strata corporation has had a large number of water leaks (or similar category claims) this past year, you may not see an increase in premium but you will see an increase in deductible. This means that you will need to budget more money in the Repairs & Maintenance category to compensate. (It is what we call "shifting").

2. Another thing to watch out for in the coming year is exclusion for drug related claims. Grow-ops typically give rise to huge claims and the insurance underwriters are simply no longer accepting such risks. It is not a matter of premium or deductible: it is plain and simple a risk which will just not be covered. Again "shifting" takes place and what was once an expense item in the Insurance category line of your operating budget will now shift to the R & M category.
3. Competitive Quotes: We are frequently asked if we obtain competitive quotes for the annual insurance renewal. The answer is yes and no. Every three years we undertake a comprehensive review and tender process using Copper Roof Riskmanagement as an independent consultant. This is an excellent process and provides us with the assurance that we are on the right track. We believe that it is not cost beneficial to do this annually. Last year some 18 underwriters were invited to bid.



Following the tri-annual independent review, each year, when it comes time for renewal, we generally renew with the incumbent broker unless we are aware of a significant change in the market. Generally there is not and this fall we plan to await the rate proposals from Stewarts which, as noted above, will likely not arrive until December. Having said that, if your strata council would like us to shop for rates from other brokers, we would be pleased to do so. Keep in mind that merely obtaining a lower premium does not necessarily mean a good deal. The depth of the policy, the quality of the service in respect of claims and other factors must all be taken into consideration when selecting a broker and underwriters. As an example, VCS recently took over a strata client who had insurance with an unknown broker. The policy showed a value of \$32,000,000 but the broker states that the actual coverage is \$28,000,000. The broker cannot explain the difference and avoids enquiries. Cheaper is not better - especially when it comes to your insurance policy.

4. Got an Insurance Question? Go ahead and ask. If we can provide an answer we will. If not, we will go to the experts and find out.

3. IMPACT OF THE 2010 OLYMPICS

You may well say that it is a little too early to worry about the negative effects of the 2010 Olympics on the administration of your strata corporation; however, we genuinely believe that you need to start addressing some issues now. In reality, many of you who are council members today will not be council members in 2010. You may not even be an owner at that time. Nevertheless, we respectfully suggest that all council members now and over the next five years continue to plan and prepare for the impact. We vividly recall the problems encountered by strata councils in the years leading up to the 1986 Expo in Vancouver, and based on that experience, we alert you to some of the problems encountered then and some new ones we fully expect.

The following is a general summary of these issues: you might have other concerns also and we welcome you to pass these along to us in order that we can share them with other VCS strata councils in future newsletters.

1. Rentals: By far the biggest issue, short-term rentals will be the nightmare. Most strata councils have a dislike for rentals anyway, but when owners start renting their strata lots on a short-term basis, you are going to fume. By short-term we mean weekly or daily. Your strata corporation starts to take on the appearance of a hotel. Such short-term tenancies also, typically, bring on related problems (other than the hotel scenario) such as late hour arrivals/departures and festivities which are disturbing to residents.

This aspect of 2010 is not limited just to the few weeks of the event. In the years leading up to the event there will be many people involved in the construction and development process who will be seeking short-term accommodation in Vancouver.

The solution will principally be the imposition of a bylaw to prohibit such short-term rentals. Always remember that passing rental bylaws is difficult at the best of times and often a strata council needs to try several times before they achieve success. In other words, do not leave this task to 2009. Also remember that many of your owners will want to take advantage of the event to generate lucrative income. We recall that, in 1986, condo owners were asking for and getting huge, almost inconceivable, amounts for these short-term rentals. These owners will resist (meaning that they will vote against) any

proposed bylaw that prohibits short term rentals. Act now before the idea germinates in their plans.

2. Security: During the past five years we have witnessed an enormous growth in security issues. Today strata councils are routinely, not occasionally, addressing security issues. Property crime in strata corporations is escalating. We predict that events such as the 2010 Olympics will have even greater impact on this worrisome issue. You will not be able to stop criminals from doing their thing but you do have an opportunity to initiate and implement steps now to prevent such property crime at your strata corporation. Regrettably, it takes money - and likely quite a bit to be truly effective. Again, we raise this topic five years in advance because you need to start budgeting separately for security improvements, i.e. add a line item to your operating budget called Security and plug in some meaningful numbers. The impact of this line item will likely mean an increase in strata fees which of course no one likes and no one wants to do. But it is vital now, at this early stage, to force your owners to acknowledge why you are doing this and to get them to understand and accept higher strata fees for their own benefit. To put it another way, if you wait to 2010 to plug in a big amount for Security on the budget, the suddenness of that may result in rejection.

3. Drug Dealing: Although this is a "security" issue, this one falls into its very own category. You have seen in recent VCS newsletters over the past year that there is a significant problem already with grow-ops and related activities in your properties. Apart from the nausea of witnessing these activities in your buildings, one of the very practical and tangible negative effects is that of insurance claims. Huge floods and fires are giving rise to huge deductibles - most of which you cannot recover from the bad guys. Further, many new insurance policies are being written to exclude coverage for claims arising out of such illegal activities.

We feel reasonably sure that an event such as 2010 will attract not only the best but also the worst. Condos are perfect for grow-ops and we predict a significant increase in use of strata lots for this purpose. It is not an easily solved problem, but we need to start developing bylaws, policies, procedures, whatever, to curb and control what might be a horrendous problem.



4. Construction Costs: During the past decade we have seen the impact of “leaky condos” on the availability and cost of engineers, consultants, construction firms and trades. This problem will continue. It is obvious. You cannot stop the problem but perhaps think about ways to minimize the impact on your strata corporation’s budgets - both operating and reserve. Do you think that 2009 would be a good year to undertake major projects? Painting, pipe replacement, roof repairs/replacement, envelope repairs and maintenance are examples. Plan to do this type of work sooner rather than later.

5. Other: Well, there are other issues that need to be discussed in the context of the 2010 Olympics. We invite your thoughts and would be pleased to develop ideas and protocols that can be shared with other VCS clients. For now, the concerns we have outlined in this bulletin are intended to stimulate discussion and thereafter some early planning.

4. PIZZA FOR THE COUNCIL MEETING

Strata councils are a hardworking and dedicated bunch of souls - many of whom are taken for granted by their owners who like to complain a lot but rarely help out. So why not order in a pizza at the next council meeting, since you are possibly skipping regular dinner in order to serve your strata corporation. Besides, your strata corporation has a budget of hundreds of thousands of dollars so what could be the big deal about spending \$30 on a yummy pizza? Where's the harm?

As a matter of fact, food can often make things go better and wouldn't it be a good idea to have a social event for all owners once in a while. That could be a Christmas party, a summer barbeque, whatever. Again, the relative cost to the strata corporation is peanuts. Where's the harm?

As a matter of fact *"Our council worked so hard this year we saved the strata corporation a huge bundle of money - let's go out for a dinner on the strata corporation's tab."* Where's the harm?

Indeed, where's the harm? The cost to do these things is minimal and most owners would support and endorse such minor rewards. The usual feeling and response is *"If anyone wants to make a federal case of it, let them sue"*. First it will cost them a lot to do that and, second, a court is not likely to get too upset over such a petty infraction.

Infraction? Who said infraction? OK, let's see what the *Strata Property Act* says about this type of expenditure.

First, strata fees are derived from operating budgets. Section 103(1) says:

The strata corporation must prepare a budget for the coming fiscal year for approval by a resolution to be passed by a majority vote at each annual general meeting.

Second, the purpose of this budget is spelled out in Sections 91 and 92:

91 *The strata corporation is responsible for the common expenses of the strata corporation.*

92 *To meet its expenses the strata corporation must establish, and the owners must contribute, by means of strata fees, to*

- (a) an operating fund for common expenses that usually occur either once a year or more often than once a year, and*
- (b) a contingency reserve fund for common expenses that usually occur less often than once a year or that do not usually occur.*

Third, Section 97 places limits on expenditures; it says:

97 *The strata corporation must not spend money from the operating fund unless the expenditure is*

- (a) consistent with the purposes of the fund as set out in section 92 (a), and*
- (b) first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or authorized*
 - (i) in the budget, or*
 - (ii) under section 98 or 104 (3).*

If pizza or the Christmas Social is not included in the budget (is it even a common property expense?), note what Section 98 (1) says:

98 (1) *If a proposed expenditure has not been put forward for approval in the budget or at an annual or special general meeting, the strata corporation may only make the expenditure in accordance with this section.*

So, on and on it goes. The bottom line is that such expenses as pizza should not be incurred from strata corporation funds unless all the statutory conditions are met. Do many owners really object to such minor violations? Probably not, but that does not relieve the strata council from acting properly and in accordance with the Act.

Christmas is another good example. Although the whole world seems to stop for this event, not everyone celebrates Christmas. Do those owners who do not celebrate Christmas have a right to say that strata corporation funds, to which they contribute, should not be used? Or conversely, if



strata corporation funds are used for such a religious festival as Christmas, is it fair to say that they should also be used to celebrate other religious festivals during the year?

At the end of the day, our advice to strata councils is to stay away from pizzas, Christmas socials and so on if the funding is from the strata corporation budget.

You can still do these things if you wish. There is nothing to stop you from such activities - just don't do it with your strata council hat on and with strata corporation money.