



FEATURES THIS MONTH

1. Annual Fire Safety Tests
2. Insurance Premium Payment
3. Borrowing CRF Money
4. Your Money is Safe with R.E.S.A.
5. Investments of Strata Corporation Money Under RESA

NEED GOOD SITES FOR STRATA CORPORATION INFORMATION?

Here are some sites you can access:

Strata U. - Continuing Education Department web site links of interest:

- Canadian Condominium Institute: <http://www.cci.ca>
- Condominium Home Owners Association: <http://www.choa.bc.ca/index.html>
- Clark, Wilson, Barristers & Solicitors: <http://www.cwilson.com/stratafaq>
- *Strata Property Act* information web site: http://www.qp.gov.bc.ca/statreg/stat/S/98043_01.htm
- Vancouver Condominium Services: <http://www.vancondo.com>



1. Annual Fire Safety Tests and Maintenance of Fire Safety Equipment

Every building goes through a fire safety inspection once a year to ensure that the fire safety equipment devices are in proper working order. The BC Fire Code requires that every building that has a fire alarm system have a Fire Safety Plan. The Fire Safety Plan must be kept in a locked fire department box located in the lobby of the building close to the fire alarm control panel or near the front door. A key for this box must also be provided to the fire department in an approved fire department lock box.

The Fire Safety Plan includes a diagram of the building noting the entrances/exits, the mechanical rooms in the building (i.e. boiler rooms, generator), fire pumps, standpipe and hose connections and locations of fire hydrants, if applicable. Within the fire department lock box the strata council may also place a “note” to the fire department advising the fire department of any occupant that may need assistance in exiting the building in the event of a fire/emergency.

In general the fire protection equipment within the building is to inspected, tested and maintained as outlined below and records of the testing must be maintained by the management company.

1. Fire Extinguisher - inspected every 30 days
- tested yearly with new date tags attached each year

2. Fire Alarm System - daily visual inspection
- monthly rotating bell testing
- tested yearly with new date tags attached each year

3. Smoke Alarms - inspected, tested and maintained as per manufactures instructions. In general if a smoke alarm is hard wired in to the building electrical system it will require a yearly inspection the same time as the fire alarm system inspection is completed.



4. Stand Pipe and Hose Systems - quarterly visual inspection
 - annual inspection
 - 5 year flow test inspection

5. Automatic Sprinkler Systems - annual inspection

6. Fire Pumps - annual inspection

7. Private Fire Hydrants - serviced every 6 months

8. Emergency Power Systems
 - Battery - monthly tests
annual inspection

 - Generator - monthly test - run for 1 hour
annual test - run for 2 hours

In a high-rise building the fire service elevators, fire alarm voice communication system and smoke control measures are also tested every 3 months and a complete annual inspection also takes place, in which new date tags are posted on the equipment.

The monthly and quarterly visual inspections of the equipment can be done by a building manager, janitor, or council member. However the complete annual inspection of the fire protection equipment must be conducted by a certified fire inspection company which follows the guidelines of ULC (Underwriters Laboratories Certification).

When the annual fire safety test takes place the inspection company must enter each suite for a few minutes to test the smoke alarm and sprinkler system. Organizing this and ensuring complete compliance is easier said than done. The Strata Property Act does permit a strata corporation's

employees/contractor access to individual strata lots in order to conduct regular inspections under Standard Bylaw 7, which reads as follows:

- 7 (1) An owner, tenant, occupant or visitor must allow a person authorized by the strata corporation to enter the strata lot*
- (a) in an emergency, without notice, to ensure safety or prevent significant loss or damage, and*
 - (b) at a reasonable time, on 48 hours' written notice, to inspect, repair or maintain common property, common assets and any portions of a strata lot that are the responsibility of the strata corporation to repair and maintain under these bylaws or insure under section 149 of the Act.*
- (2) The notice referred to in subsection (1) (b) must include the date and approximate time of entry, and the reason for entry.*

Some strata corporations have gone further by passing a supplemental bylaw such as the following:

“Where the strata corporation or its representatives require access to a strata lot to carry out regularly scheduled inspections/servicing, such as in respect of in-suite smoke detectors, fire alarms, dryer ducts and vents, plumbing, electrical wiring or otherwise, access must be provided at the time(s) specified in the notice circulated to owners, unless other arrangements are made in advance between the owner/occupant of a strata lot and the strata council. If any such inspection/service visit has to be re-scheduled due to the failure of an owner or occupant to comply with the foregoing, it shall be done at the cost of the owner, to whose account all charges incurred as a result (including those of any forced entry that may be required) will be charged, and will thereupon become due and payable immediately.”

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.

2. Insurance Premium Payment

Most, not all, VCS clients have December 31st as the insurance policy renewal date. However, this bulletin applies to all clients.

The annual premium is payable in advance at the beginning of the insurance policy year. Contrary to the old myth that the policy is void if the premium is not paid (the brokers and underwriters love to propagate the myth), the insurance program is in place from the first day. If the premium is not paid, it is simply subject to interest charges. Nevertheless, VCS pays the premium as soon as practical. Therefore, for the December 31st renewals, the premiums were paid by mid-January.

On the monthly financial statement that you receive you will see the annual premium expensed in the amount of 1/12 (one-twelfth) each month, on page 1, the Budget Comparative. The remaining balance shows up on the Balance Sheet as a prepaid expense. This diminishes each month until the twelfth month.

Some strata corporations are “cash-short” at this time of year so, in those cases, money is borrowed from the CRF (which the *Strata Property Act* permits as per Section 95(4) and Regulation 6.3, provided that the owners must be notified “as soon as feasible” of the amount and the purpose of the loan). As the cash position improves through the year, the loan is repaid. If even the CRF does not have enough money to make a loan, arrangements have to be made with the broker for financing. This last situation is quite rare.

If you have any questions feel free to ask.

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.

3. Borrowing CRF Money

The *Strata Property Act* recognizes that, from time to time, a strata corporation may be cash short in the Operating Fund and a loan can be made from the Contingency Reserve Fund to the Operating Fund. Such loans are common; however, there appears to be a lack of understanding by some strata councils exactly what is intended or permitted; consequently, there are many violations to the statute.

The *Strata Property Act* provides at Section 95(4) “...the strata corporation may lend money in the Contingency Reserve Fund to the Operating Fund as permitted by the regulations.”

Regulation 6.3 (Management of Contingency Reserve Fund) states:

Management of contingency reserve fund

- 6.3 (1) *For the purposes of section 95 (4) of the Act, the strata corporation may only lend money in the contingency reserve fund to the operating fund if both of the following conditions are met:*
- (a) the loan is to be repaid by the end of that fiscal year of the strata corporation;*
 - (b) the loan is for the purpose of covering temporary shortages in the operating fund resulting from expenses becoming payable before the budgeted monthly contributions to the operating fund to cover these expenses have been collected.*
- (2) *The strata corporation must inform owners as soon as feasible of the amount and purpose of any loan made under this section.*

The problem that we (VCS) have observed is at clause (a). The loan is to be repaid by the end of that fiscal year. All too frequently, strata councils are borrowing CRF money but not repaying it in that fiscal year. This is a clear violation of the Act.

Are there many owners out there who will be upset with such violations? Probably not. Is there one owner out there who will not only be upset but will also file a complaint with the Real Estate Council? Good chance even though such a violation does not come under the authority of the Real

Estate Council. Keep in mind that complaints to the Real Estate Council are against the management company, not the strata council, but the management company's defence will be that it acted on the instructions (direct or implied) of the strata council. All in all, a bit messy no matter how you slice it. Our advice, therefore, is to comply with the Act.

Now let us examine a more complicated situation, which again, occurs frequently. The above discussion is about a CRF loan to the Operating Fund. What about a loan from the CRF to some other fund? It is quite common to see a strata corporation embark on a special project such as a roof replacement, exterior painting, repiping or leaky condo repair. Typically these projects are funded by special levies which take time to collect. Meanwhile, invoices arrive for the said project which must be paid. Money is borrowed from the CRF and repaid over time when the levy payments are made. Is this a violation of the Act? Maybe. Maybe not.

It can be argued that the Act permits a loan to the operating fund so why not a loan to another fund? There is nothing in the Act that says it cannot be done.

On the other hand, a strict reading of Section 95(4), in combination with the regulation, may suggest that the intention and spirit of the statute is very narrow and limited. If that is the case, then such loans to special project funds ought to be considered out of bounds.

Our advice to strata councils. Comply with the Act in respect of operating fund loans from the CRF, the rules for which are abundantly clear. For special projects, err if you must, on the side of caution.

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.

4. Your Money is Safe with R.E.S.A.

...mostly. The *Real Estate Services Act* of B.C. (RESA) is the legislation that now governs, among other aspects of the real estate industry, the operation of strata management companies including VCS.

In recent months, VCS has requested clients to pay a fee (\$2.50 per strata lot for 2006/2007). Most of this fee is to cover the cost of licensing our property agents, but part of it goes to a special compensation fund for the express and specific benefit of you and other strata corporations.

The entire compensation scheme details are not yet available; however, here is the essence of the program as we understand it.

Real Estate Special Compensation Fund

The purpose of the Fund is to provide protection to members of the public who have entrusted a real estate licensee (or an unlicensed individual related to the brokerage, e.g., receptionist, director or officer etc.) with money that was:

- misappropriated or wrongfully converted;
- intentionally not paid over or accounted for; or
- obtained by the fraud of that licensee or individual.

The Fund does not provide protection for remuneration being held by a brokerage on behalf of a licensee, or for money that does not relate to the provision of real estate services.

Participation in the Fund is mandatory for all licensees and is a condition of licensing. Part of the licensing related fees paid by each licensee goes directly into this Fund.

Particulars of its financial components are as follows:

- The minimum Fund level has been set at \$1,500,000.

- The goal is to build the Fund to \$4,000,000.
- The maximum amount that may be paid to a single claimant is \$100,000.
- The maximum amount (at this time) that may be paid in respect of claims related to a single brokerage is \$350,000.

Real Estate Compensation Fund Corporation

This Fund is established and administered by the Real Estate Compensation Fund Corporation, which is established pursuant to Part 7, Division 3 of RESA. Its Board of Directors consists of 3 directors appointed by the Real Estate Council, and 2 directors appointed by the British Columbia Real Estate Association.

Claims Process

Claims must be submitted to the Real Estate Council of BC, which has the authority to determine if a claimant has suffered a “compensable loss” (as defined by section 60 of RESA) and the amount of that loss. If the Council determines that a matter would be more effectively dealt with by a court proceeding, the claimant can be required to first obtain a court decision as to whether a compensable loss has occurred and/or the amount of the loss within the meaning of RESA.

The time limit for making a claim is two years after the earlier of (a) the date on which the person making the claim became aware that the compensable loss occurred; and (b) if the licence of the responsible broker was cancelled at any time after the conduct that caused the compensable loss, the date of cancellation.

Any member of the public who believes that they have suffered a compensable loss should contact the Council's Senior Compliance Officer, Maureen Coleman, at 604-683-9664, toll-free 1-877-683-9664 or email mcoleman@recbc.ca

For further particulars, see the Real Estate Council's web site: <http://www.recbc.ca>.

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.

5. Investments of Strata Corporation Money Under RESA

The *Real Estate Services Act* (RESA) has a provision that investments belonging to strata corporations must be held in trust for you in the name of the licensed brokerage...in your case, VCS.

What this means is that, if your strata corporation purchases an investment vehicle, it will be done in the name of VCS, not your strata corporation. As you know from previous VCS bulletins, we closely monitor your “bank” balances to make sure that money is transferred to various (safe) investment vehicles if you have more than \$100,000 deposited at the Coast Capital Savings Credit Union. (This is the maximum level of protection under the Credit Union Insurance Deposit Corporation.)

In the past we have purchased term certificates, GICs, etc. for excess funds and always in the name of your strata plan. It is, after all, your money. Under RESA, we are not permitted to do this in your name, as all accounts are designated as trust accounts. It has to be done in the name of VCS, in trust for Strata Plan-XXXX. The law is designed to protect your money when it is being held and administered by a third party, i.e. signing authority other than strata councils.

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.