



FEATURES THIS MONTH

1. A Very Important Reminder
2. Notice Requirements: Any Risk?
3. Insurance is Insurance

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. A Very Important Reminder

As a strata council member, you regularly receive documents from Vancouver Condominium which contain confidential information. One of these documents is the monthly financial statement which includes the names of owners and their account balances. You must be very careful to ensure that such documents which contain “private” information are not thrown into your community dumpster or recycle container where some stranger could find them and “go public”. Instead, please shred these documents or return them to your agent at the next council meeting and we will take care of it for you. Bottom line, you do not need the embarrassment of being featured in the 6 o’clock news. Vancouver Condominium Services shreds all documents. Only banana peels go in the garbage.

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2. Notice Requirements: Any Risk?

Section 61 of the *Strata Property Act* provides the direction to a strata corporation in respect of issuing “a notice or other record or document”. This article focuses on AGM and SGM notices and the risk associated with failing to meet the requirements of the *Act*, notably Section 61 and

You know that a notice must have 20 days to be valid (VCS uses a 21-day standard). Section 45 (1) states that the strata corporation “must give at least 2 weeks written notice of an annual or special general meeting...”. Section 61 (3) provides that a notice is deemed to be given after four days. The *Interpretation Act* says do not count the first day or the last day. Therefore:

Section 45 = 14 days

Section 61 (3) = 4 days

Interpretation Act = 2 days

20 days

As you know, VCS prefers to be on the safe side and uses a 21-day time frame. It also lines up nicely on the calendar.

So what happens if a notice is issued with less than the requisite 20 days? The Act does not address this possibility: it is essentially left up to the Courts to make a determination.

Let's take an example. Your AGM has no $\frac{3}{4}$ vote resolutions and the only item on the agenda (other than election of council) is a majority vote on the budget. There is no proposed increase in fees. The notice goes out with only 15 days on the calendar. Clearly this is a violation of the statute but, given the circumstance (no increase in strata fees) who will make a fuss over an improper notice. On the other hand, what if there was a 25% increase in strata fees? Watch those dates and if you run out of time for one reason or another, bump the date of the AGM or SGM.

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3. Insurance is Insurance

Or is it?

Since most of our client insurance policies renew on the calendar year we thought this would be a good time to talk a bit about insurance. For those clients that have policies that renew during the year, do not go away: what follows should be of interest to you also.

Our headline above suggests that insurance policies are all essentially the same and that it does not really matter who carries the policy. As long as the strata corporation has an insurance policy, there should be no concerns. In actual fact, that is not the case but before we explain this matter, let's have a quick look at some basics.



The *Strata Property Act* requires (at Section 149) that the strata corporation “*obtain and maintain property insurance*” and that such insurance “be on the basis of full replacement value” and that the coverage be for at least those “*major perils as set out in the regulations*” to the *Act*. (Interestingly, earthquake is not included as a major peril although all insurance policies do include earthquake.)

Strata corporation insurance is somewhat a specialty item in the underwriting world. Not all underwriters offer such property coverage and, once in a while, we see a “non-player” jump into the market only to pull out a few years later with burned fingers.

As a strata council member you are likely very familiar with the names of the leading brokers: BFL Canada, CMW, Coastal and The Co-operators. It is highly likely that you do not know the names of the underwriters - the global firms such as Royal Sun Alliance, Aviva, Great American, etc. Not knowing the names of these underwriters is no big deal but it does illustrate that your insurance program is far more complex than the details that appear on the face-page.

Virtually all strata corporation insurance policies are what are termed as “subscription policies”. This means that no single underwriter is carrying the full load. In fact the load is split by percentage so it is common to see the breakdown as illustrated below:

Property	25%	American Home
	25%	AXA Pacific
	25%	Royal Sun Alliance
	25%	Aviva
Liability	100%	Aviva
Pollution	100%	XL Insurance
Boiler	100%	Boiler Inspection & Insurance

When a claim is made, the percentages reflect the amount of money that each underwriter will contribute to the claim. (It also explains why some claims take forever to wrap up: each underwriter moves at its own speed so it is possible that two out of three will issue payments in short order while the third takes longer.)

When strata corporations shop for quotes it is important to remember that the shopping only pertains to the broker: it does not pertain to the underwriter. There are complex legal contracts and agreements between brokers and the selection of available underwriters. These arrangements can sometimes lead to what is referred to as “blocking”. So, for example, a strata council instructs VCS to not renew the policy with BFL and get a quote from Coastal, thinking that this process may generate a better premium. But if BFL has already made contractual agreements with some of the available underwriters, Coastal may not be able to provide a quote. This is called “blocking” and Coastal will have to shop the market for more distant underwriters in order to fill the order.

VCS sometimes receives requests from council members to get a quote from someone they have had a good experience with - such as the local agent for their car or homeowner policy. VCS will do this but councils need to be aware that what we call “distant underwriters” may not be able to provide an insurance program that has the same depth as those offered by the leading brokers and underwriters. In our view, strata councils are exposing themselves to some risk in using “distant underwriters”.

It is easy to fall into the trap. As lay people, strata councils and property managers think of insurance in terms of the extent of coverage, the deductibles and the premiums. Rarely, if ever, in the shopping process do we see a strata council read the 100 or more pages of the policy itself to determine whether or not it is adequate for the needs of the strata corporation, whether or not it compares favourably with the current policy and whether or not it contains exclusions (that small print stuff) that may come as a surprise if a particular claim is made. Yet, these aspects are far more important than deductibles and premiums. It is a big heads up.

The firms that VCS uses routinely are, as noted above, BFL Canada (formerly Stewarts), Coastal Insurance, CMW Insurance and The Co-operators. With the exception of the latter, these firms are brokers pure and simple. The Co-operators play a dual role: it acts as a broker but it is also the underwriter.

Brokers act for you in reality. They make their living by keeping a chunk of the premium that flows through to the underwriters. What is very important to understand is that the broker is



there, during the course of the insurance year to ensure that your claims are handled properly and that you get the best possible return on your premium.

We saw a very good example of this last year when that twin-engine plane hit one of our condos in Richmond. It was a huge claim (around \$2.5 million) and the adjuster who works for the underwriter, not the strata corporation, made certain decisions as to what would be included in the claim and what would be excluded. There is no implied criticism of this protocol but it is a matter that strata councils need to understand. BFL Canada was the broker and acting in the best interests of the strata corporation, “went to bat” on behalf of the strata corporation where tough decisions were being considered by the adjuster.

Such large brokers have the muscle and clout to do this. That would be highly unlikely using “XYZ Broker” down the street who is a really good guy when you renew your automobile ICBC policy.

Some of our clients use The Co-operators, who is broker and underwriter, and in fairness, we must say that we have received good service from the organization and have not had any claims rejected. It is important to note, though, that by playing a dual role (i.e. broker and underwriter) the element of “going to bat” for you is not as strong.

VCS is not advocating that you use only the brokers we recommend. We will place your insurance policy with any broker/underwriter you decide as long as you are aware of the inherent differences that may exist in the extent of coverage. It is far more than just deductibles and premium. Insurance is insurance is insurance. Not.

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