



FEATURES THIS MONTH

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2. The Cold And Fugue Season Is Coming
3. Copper Roof Update
4. Releasing Engineering Reports
5. Passing The Budget

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. We Urge You To Reader

Normally our monthly bulletins relate in one way or another to the *Strata Property Act* but this month we detour slightly because there are two important bulletins to digest that, in any event, still deal with your strata administration. One has to do with the dreaded flu bug and the second has to do with insurance policy renewals. We urge you to take ten minutes to read these important bulletins. Your feedback is welcomed.

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2. The Cold And Fugue Season Is Coming

Ah, Christmas is fast approaching with all that nice classical music and, of course, fewer working days. Then comes the Olympic chaos of street closures, limited access and time etc. Now add to all that, the cold (sniffle) season and the worrisome element of “that” bug, the H1N1. Is all this flu hype needless worry? Of course, the answer is “who knows” - time will tell but we (VCS) cannot just sit idly by, hoping for the best. All of the above could come to fruition and VCS could be severely impacted and thus not able to serve our clients properly. Accordingly, we have initiated, and are continuing to develop, plans to hopefully survive the possible onslaught of bad things.

The Fugue Season

Christmas falls on a Friday and this means shortened work weeks between December 21st and 31st. Many of our staff like taking vacation days at this time of year so it is fair to say that for these weeks we are operating with a skeleton crew. Luckily, there are no council meetings at that time of year so that cuts down on our workload quite a bit. We do very much appreciate our clients (strata council) wrapping up regular administrative business by mid December so that we can catch our breath and also enjoy the relaxation of that time of year which prevails. We are always (“7/24”) available to assist with building emergencies and other necessary administrative functions.



Many strata councils like to give Christmas bonuses to their employees or selected contractors such as janitorial personnel. We will be asking you to make decisions in respect of this matter early in the fall to avoid last minute rushes or, worse, overlooking such a gift where warranted.

Speaking of Christmas gifts, we take this opportunity to advise you that VCS has a long-standing very strict policy that our staff (especially the agents) are not permitted to accept gifts from contractors. The only gift we want from contractors is “do a good job all year round”. VCS, therefore, hosts a drop off location for modest toys that are forwarded to the Children’s Wish Campaign. That way the contractors can exercise their seasonal feelings without “crossing the line”.

The Olympic Impact

As you know from our series of bulletins and memos over the past many months, we are attempting, as much as possible, to avoid annual and/or special general meetings between January and March 31st. In reality, some meetings will be conducted through this time frame for absolute necessity, but if we (VCS & clients) can avoid meetings at this time, that will likely be very beneficial. The vast majority of our strata councils have already adjusted their normal schedules and routines and we thank you very much for your co-operation.

Due to the possibility of traffic issues, i.e. road closures and temporary delays for big whigs to use Georgia Street unimpeded by us ordinary folks, we anticipate that there may be problems obtaining such routine items as office supplies. To meet this challenge we are pre-ordering and loading up on all the usual stuff from office supplies to sugar cubes for the lunch room. As noted at the outset of this article, there may be no problems at all, but we cannot take a chance.

The Flu Bug

What can we tell you that you have not seen or read already a dozen times or more in the media? It may be a nasty event. So, at VCS we are concerned about the possibility of the impact on our operation. VCS employs 55 staff at our head office on West Georgia Street. Every year we are impacted by the flu season but that is normal in all businesses and our work gets done one way or the other. But what about this year? Will it be just normal or are we vulnerable to decimation?



We cannot wait for the answer so we have developed a management plan which we wish to share with you. We do so because our function in life is to serve you, our clients. We accomplish this to the best of our ability with a reasonable and appropriate number of personnel, but if we are decimated by the flu, we obviously will not be able to attain our goal.

As you know, strata management companies are governed by the *Real Estate Services Act* of B.C. (RESA) One of many obligations we have pursuant to that legislation is that we must provide you with a monthly bank reconciliation not later than six weeks following a given month end. We have been sending these to you religiously this past year and our guess is that it is a waste of paper as likely no one pays any attention to them, but the fact is that it is the law. In order to produce those bank recs we must first produce a financial statement. It is therefore not possible to take the position with the Real Estate Council (our legal boss) that our accounting department staff level was decimated; therefore, we did not produce financial statements and that is why we could not issue bank reconciliations on time. Does the REC care that we had a good reason to violate the law? We don't imagine so.

Another legal requirement upon our shoulders is that bank deposits must be done promptly (which essentially means daily). So if the three people in our Accounts Receivable sub-department are all off sick at the same time with the flu, can we still make those deposits? Sure, we could just use the people who produce the financial statements to do the deposits but then what happens to the production of the financial statements that are required to produce the bank recs that are required by law to be in your hands by a certain date. As a consequence, all our accounting department staff are presently being cross-trained so that any individual can be reassigned as may be necessary to achieve the legal requirements of the RESA. Other steps are also being developed which we do not include here for internal security reasons; however, the point is that we are alive to the concerns of decimation.

For the most part, council members rarely deal with internal VCS staff such as accounting personnel. Your normal contact is with the receptionists and the strata agents. In the event of decimation of the agent staffing level, we will have to focus our attention on urgent matters only, using management staff and other agents that are not presently assigned to your account. This will mean delays in routine matters such as the production and delivery of minutes and correspondence, issuing work orders and contracts. Management will have to determine on a daily basis what tasks are to be completed by the remaining agents which are determined as urgent,



important or routine. You will have to be patient with us in such an event. Your particular agent may still be at work so you might ask why can't he/she do all the regular work? The answer is that he/she may very well be also carrying the load for two or three other agents who are off sick.

As a company policy, VCS has never required or authorized staff to work from home. We know that working from home is commonplace in our society; however, VCS has a corporate philosophy that work is work and home is home: the two should not overlap. We are not changing this policy but, this year, it may be necessary for at least the management team (nine people) to operate from their homes if they are off with the flu (and are reasonably well enough to be productive but not well enough to leave the house).

VCS is implementing a stringent program for all staff in respect of washing hands, coughing and sneezing protocols as advocated by health authorities, constant disinfecting of door knobs, copy machines and so on. As mentioned above in respect of loading up with office supplies for the Olympic season, we are now also loading up even earlier for the flu season. Adding to the list will be gloves, masks, Kleenex, throwaway thermometers and all that stuff. Gads! We have also developed a protocol to determine if any employee should be sent home if he/she arrives and presents symptoms of unwellness. In all likelihood we will tend to overreact: someone will have just a case of the regular sniffles; yet, we will be inclined to jump to H1N1 conclusions and send them home right away. Other staff might be in perfect health but, as parents, they may be called by their kids' school or day care to say that junior is sick - come and get him/her. There is no option - the VCS staff member has to leave immediately.

In Conclusion

VCS is taking this event very seriously. Will it be needless Y2K worry again? We sure hope so but here is the plan summarized. We have:

1. Identified our essential business requirements both in relation to client contractual obligations as well as to legal requirements.
2. Identified and structured key personnel and operating activities.
3. Developed back up strategies in respect of staff level decimation.
4. Ordered sufficient operating supplies in advance and maintaining high inventory levels until the spring of 2010.

5. Minimized the risk of infection of staff by implementing strict health standard protocols within our four walls.
6. Developed other management emergency procedures so that we can still “fly on one engine”.

Your Strata Corporation

As you well know, strata councils are essentially powerless to control the health conditions within strata lots. If residents become ill, the strata council cannot take action to issue quarantine directives or prevent sick residents from coming and going. In townhouse complexes, the risk of spreading infectious conditions is not as great as in apartment buildings which have common area hallways, lobbies and elevators. Nevertheless, it will be prudent to keep an eye on things if this flu bug becomes as bad as we have been warned.

Council meetings are generally held in owners' apartments or other confined places. Clearly if a member of council has flu-like symptoms, a judgement call ought to be made by that member as to whether or not it would be wise to attend meetings.

Depending on the size of a strata corporation, annual or special general meetings are held in either hotels or public auditoriums where there is lots of space and such space is well ventilated. On the other hand, many general meetings are held in small areas such as lobbies or recreation rooms which, at the best of times, become hot and stuffy. These types of environments, we are warned by health authorities, encourage the spread of infectious illnesses. If your strata corporation falls into this category you would do well to reconsider using such small facilities for the sake of saving a few dollars.

So there you have it. VCS has a plan to get through this impending mess. Your council should think about its role also. It may well be that all this worry and fretting will be for naught but it is not possible to do nothing: that is not an option. Let's just hope that everything is normal and we can relax and go about our lives without nasty bugs bugging us.

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3. Copper Roof Report

Over the past several months, VCS has asked its clients (strata councils) whether or not they wish to participate in an insurance policy review at a shared cost estimated to be about \$125 per strata corporation. Approximately three quarters of our (160) clients agreed to participate.

VCS contacted the main players in the strata corporation insurance brokerage industry to initiate a review of their programs. These firms included:

- BFL Canada
- Coastal Insurance
- CMW Insurance
- The Co-Operators Insurance

The first three firms above are brokers only who engage a wide variety of insurance underwriters. The Co-Operators is broker and underwriter “all rolled into one”.

The above four firms provide about 95% of the insurance programs not only for VCS strata corporations, but also by and large for strata corporations throughout the lower mainland.

Each brokerage (with its associated underwriters) has a different program. Strata councils generally think that insurance is insurance and that all policies are the same and therefore the only thing that varies is the cost. In actual fact it is not just a matter of who has the best premium. It is for this reason that VCS periodically (every three to four years) initiates a third party independent review of the programs using Copper Roof Risk Management. It is the only way to determine whether or not the insurance policy/program of each broker/underwriter has merit.

Such reviews generally cost in excess of ten thousand dollars and, by participating as a group, the cost can be reduced to the estimated \$125. Participation is, of course, voluntary.



The common response from those strata councils not participating in the current review was “Isn’t that your job (VCS) to get us three quotes?” The answer is, of course, “yes, it is our job to get three quotes”, but the reason we recommend the independent review is because VCS does not have the expertise to analyze 100 page fine print insurance policies and offer opinions on the merits or shortcomings of the programs or the stability of the brokers and its associated underwriters.

In any event, VCS approached the four above-noted firms and asked them to submit their programs to VCS for the Copper Roof Review. BFL agreed, as did the Co-Operators. Coastal declined, as did CMW.

VCS reviewed this surprising turn of events with Copper Roof and it was agreed to delay the review until the winter or spring in order to search the market for other possible brokerages and underwriters. A comparison of only two insurance programs is simply not the intent of this review. Accordingly, the review which we had hoped to obtain by November or December will not occur.

In the meanwhile VCS will be requesting quotations from each of the above mentioned brokers for the upcoming December 31st renewal. Obviously, the submissions will essentially boil down to the difference in deductibles and premiums. The depth and quality of the individual programs will not be addressed in this process.

We hope to have the quotations in hand by the end of November, at which time you will be informed and you can select the desired broker/underwriter. Renewal instructions to the selected broker should be finalized by mid-December at the latest.

If you have any questions or concerns please feel free to contact any of the following persons at VCS:

- Your assigned strata agent
- Cory Pettersen Senior VP cpettersen@vancondo.com
- Sean Cornish VP scornish@vancondo.com
- Lyn Campbell VP lcampbell@vancondo.com
- Jason Kurtz Supervising Manager jkurtz@vancondo.com

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4. Releasing Engineering Reports

We refer, first, to an article in the August 2009 edition of Report from Council, issued by the Real Estate Council of British Columbia. The role of the Council is stated as:

“The Real Estate Council is a regulatory agency established by the provincial government. Its mandate is to protect the public interest by enforcing the licensing and licensee conduct requirements of the Real Estate Services Act. The Council is responsible for licensing individuals and brokerages engaged in real estate sales, rental and strata property management. The Council also enforces entry qualifications, investigates complaints against licensees and imposes disciplinary sanctions under the Act”.

The article in question is “Obtaining Strata Documents”. It is directed essentially to real estate agents (technically called “licensees providing trading services”) and contains general but sound advice about the need for real estate agents to obtain various strata documents such as minutes, bylaws and financial statements when facilitating sales of strata lots. More to the point, however, the article discusses “engineering reports” which strata corporations obtain from time to time for such massive projects as roof replacement, re-piping of plumbing systems and, of course, infamous leaky-condo rehabilitations.

The article correctly points out that, pursuant to the *Strata Property Act*, such documents as correspondence, minutes, bylaws and financial statements must be provided to an owner upon request but “engineering reports” are not included in the list of documents that must be made available. (VCS identified this oversight many moons ago.) The author of the article in the REC bulletin states that “*it is arguable that the (engineering) report falls within the broad category of correspondence received by the strata corporation*”. The point being made is that, since “correspondence” is an item that must be released by the strata corporation to an owner upon request, an engineering report must also (arguably) be released to an owner upon request.

Now we do not wish to argue with that opinion but we do think it is stretching the definition of correspondence quite a bit. Some day a court will have to decide on the matter. Nevertheless, VCS does support the concept of releasing engineering reports to owners who request them. In the vast majority of situations where engineering reports exist, our client strata councils have no objection to their release. We do, however, have some clients who have advised us that under no circumstances can VCS release such reports (invariably leaky condo reports) as they may affect real estate values. With respect, although the reasoning may be valid, VCS disagrees with such policies as we believe that owners (not just council members) have the right to see such reports and prospective buyers also have the right to know what they are getting into. We are naturally not offering legal advice here but we do think it is dangerous to hide such reports as it is conceivable that a new owner who was denied information might be a tad unhappy (litigious) if he or she is saddled with a huge special levy a few months after purchasing. As council members, you do not need such headaches and our advice, albeit for different reasons than offered in the REC article, is to make engineering reports readily available.

In a sub heading called “Role of the Strata Manager”, the same REC article states that management companies (“the strata manager”) must comply with the *Strata Property Act*; therefore, even if the strata council says no to release of the engineering report, the strata management company must ignore the strata council’s direction and release the report. Interesting.

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5. Passing The Budget...

The main issue to address at any Annual General Meeting (AGM) is passing the Operating Budget for the next fiscal year. For some reason, we find it seems to be happening with more regularity that proposed budgets are not passing. A strata council will go to the trouble of slaving over a draft budget in the months leading up to the year end only to have the budget not pass at the AGM. Believe it or not, we have had the same budget pass a month or so later at the SGM that becomes necessary when the budget does not pass in the first place.

Why does this happen? The issue may be that an increase or related concern was not communicated well to the ownership and there are simply not a majority of owners willing to vote in favour of the budget. Whatever the case, the bottom line here (and the point that your owners should be reminded of before the vote is called) as noted in Section 103 (1) of the *Strata Property Act (SPA)* is:

103 (1) 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.

There is no middle ground: the word is MUST (emphasis added). If an owner has an issue with the budget, they may suggest (move) a change (an amendment) as provided for in Section 103 (4):

(4) The proposed budget may be amended by a majority vote at the annual general meeting before the budget itself is put to a vote.

As noted above, there are definite repercussions for not passing the budget at the AGM, and this is detailed in Section 104 as follows:

Failure to approve budget

104 (1) If a budget is not approved at an annual general meeting, the strata corporation must within 30 days, or such longer period as approved by a resolution passed by a 3/4 vote at the meeting, prepare a new budget and place it before a special general meeting for approval by a resolution passed by a majority vote.

- (2) *If a fiscal year to which a budget relates ends before a new budget is approved, the owners must, until the new budget is approved, continue to pay to the strata corporation the same monthly strata fees that they were required to pay under the previous budget.*
- (3) *Until a new budget is approved, the strata corporation may spend money out of the operating fund only in accordance with section 98 or*
- (a) *on the type of expenses that are set out in the previous budget and that usually occur once a year or more often than once a year, and*
- (b) *up to the maximum amount set out in the previous budget for each category of expense.*

Some strategies for avoiding returning to the scene of the... AGM within the next 30 days to have the same conversation again include:

- Communicating to the owners well in advance of any significant increases or contentious issues (i.e. advise in the minutes under 'Budget Discussion')
- Hold information meetings if there is a known groundswell of opposition so that issues are discussed and hopefully resolved prior to the AGM.
- Advising those present at the AGM of the ramifications of not passing the budget that evening (i.e. they will all be returning next month and may miss another episode of their favorite show).
- Providing owners the opportunity to speak for or against the budget prior to the actual vote being called so that it can be determined if having the budget voted down is a possibility.

In conclusion, the failure to pass a draft budget is a very real possibility that results in spending restrictions, at least one additional general meeting and no shortage of headaches. Strata Councils that do a good job in communicating well in advance any issues that the ownership may have concern about and that provide an opportunity for feedback are very successful in avoiding this pitfall.

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