



Condominium Home Owners' Association of British Columbia

A non-profit association serving strata owners since 1976

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July 5, 2010

The Honourable Rich Coleman,
Minister of Social Housing and Development
PO Box 9058
Stn Prov Govt
Victoria BC
V8W 9E2

Subject: Strata Property Act Consultation on Depreciation Reports and Reserve Fund Studies

Dear Minister Coleman:

In the Spring of 2010, CHOA hosted three Public Forums on Depreciation Reports and Reserve Fund Studies. To ensure province-wide representation, a forum was held in the Interior (Penticton), Lower Mainland (New Westminster) and on Vancouver Island (Victoria). The purpose of these forums was to gauge public opinion and determine the needs of strata corporations throughout British Columbia. The demand for information was evident as each of the CHOA Public Forums was sold out. The total number of participants was 427, including 38 strata managers and brokers. Over 350 strata corporations were represented by owners, and the managers and brokers collectively represented 1026 strata corporations.

At the Public Forums three main areas of interest were discussed. The first topic included "What is a Reserve Fund Study?" and addressed specific questions such as "What is the purpose of a Reserve Fund Study?", "What is included in a Reserve Fund Study?", and "Who is qualified to conduct a Reserve Fund Study?". Also discussed were the legal issues surrounding Reserve Fund Studies. This part of the forum tackled questions such as "What are the legal implications of commissioning a study and not funding it" and "What information must be disclosed to buyers". Finally, we discussed how Reserve Fund Studies will impact the administration of your strata corporation. Concerns such as the impact on strata fees, and "How will the study be funded?" were debated.

Forum attendees were asked to complete a survey. In addition, from the presentation are a number of recommendations that may be contemplated in the regulation drafting. CHOA has also consulted directly with several Strata Management brokerages and individual strata corporations over 500 units. In addition, presentations have also been made to the BC Real Estate Association and several of the Real estate boards across the province. We are also consulting with the staff and members of UDI with respects to the application of reserve fund studies for new developments.

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101-3115 Skaha Lake Rd.
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The following are some of the highlights of what the strata owners and managers of B.C., told us:

Demographics

- 91% of attendees represented residential strata, while 9% represented mixed-use strata
- 90% of attendees represented buildings strata, while 10% represented bare-land strata
- There was representation from strata corporations built in every decade since the 1960's, right up to present day.
- There was representation from all sizes of strata corporation, from a two unit duplex up to a 300+ unit development.
- 18% of attendees represented a phased strata corporation

Current Financial Planning

- 58% of respondents indicated they only contribute 10% of their annual operating budget to their Contingency Reserve Fund.
- Only 8% of respondents have conducted a Reserve Fund Study and have a formal long-term financial plan.
- Only 2% of respondents have a Contingency Reserve Fund that is greater than their annual budget.

Preferred Reserve Fund Study format

- 84% of attendees were of the opinion that some form of Reserve Fund Study should be mandatory.
- 52% of respondents thought a Reserve Fund Study should be mandatory with minimum funding.
- 28% of respondents thought a Reserve Fund Study should be mandatory with full funding
- 4% of respondents thought a Reserve Fund Study should be mandatory with no funding.

A focus of the Public Forum was to encourage open communication and further submissions from consumers. The following significant questions were raised and will require further debate or be contemplated in the creation of the regulations:

- When will the reserve fund studies be applied to new developments? Will they be mandatory by the owner developer from the beginning of a new building or will there be a period of exemption before a strata corporation is required to commission the study?
- Will there be any additional financial security or regulations on reporting and disclosure for strata corporations who assign their reserve funds in trust to be held by a management company? The additional funds will add substantial amounts to the trust funds already held by strata managers. The current insurance for trust funds only covers up to a maximum of \$100,000 per strata, with an aggregate total of up to \$500,000 per brokerage. There are currently 3 brokerages working with CHOA who have reported they each hold over \$100,000,000 (100 million dollars) annually in trust funds for strata corporations. Consider the disastrous implications of a financial failure, loss or fraud, where a management company is holding funds of this capacity. Only \$500,000 of all those funds is potentially insured. Failures and losses covered by the compensation fund have already occurred since licensing and it is inevitable that such a loss will occur in the future.
- Will the $\frac{3}{4}$ vote to exceed the annual operating budget values in the reserve fund be repealed? Currently a strata corporation need only approve their annual contribution to the CRF by majority



vote in the annual budget. Once they reach 100% equivalent to the annual operating budget they require a $\frac{3}{4}$ vote to contribute more. This is a significant barrier if a strata wishes to meet the requirements of a reserve fund projection. Most strata corporations who fully fund their reserves will easily reach 100% of the annual operating budget within a frame of the first 1-3 years. If one of the intended benefits of reserve fund studies is that strata corporations will have financial reserves to meet major expenses, the $\frac{3}{4}$ vote limitation will not only be a significant barrier to funding, but it may also undermine the purpose of the program.

- Will the $\frac{3}{4}$ vote to spend the reserve funds be repealed? Currently a strata corporation is only required to ratify the annual budget by majority vote, however an expense of the funds requires a $\frac{3}{4}$ vote, which is often a barrier that is difficult to achieve. An amendment that requires a majority vote at a general meeting, with the specific wording of the resolution and the purpose of the use of the fund, would still require that the strata corporation convene to approve the expense, and at the same time remove an unnecessary barrier.
- Significant input was received with respects to who would be a qualified person to complete a reserve fund study. A common practice of banking institutions and insurance underwriters is to review a reserve fund study and maintenance program of a strata corporation before granting financial services or insurance products. In light of the considerable level of credibility that will be required from a Reserve Fund Study, it was the urging of the participants that the qualifications of the practitioner who is performing the Reserve Fund Study be of the highest possible standard. Certified engineers, quantity surveyors, appraisers, and certified reserve planners by the Real Estate Institute of Canada, should all be considered as the only options for "a qualified person".

In the application and drafting of the regulations, for Depreciation Reports (Reserve Fund Studies), it is critical that the impact of the minimum requirements of a reserve fund study contemplate the conditions of a reserve fund study, what the study must contain, a description of the standards and methods that were applied in the creation of the study, the duration of the study as it relates to the performance measures of each building component, the records and documents that were utilized in the creation of the study, and projections of financial requirements to fulfill the needs of the study within its time period.

If we assume that the regulation will require a mandatory reserve fund study, except for a $\frac{3}{4}$ vote exemption, with the funding optional by each strata corporation, the value of the study will only be successful if the regulation sets out the minimum requirements and standards of what each study must contain, and what conditions of the study must be disclosed by the "qualified person". Other jurisdictions in North America and Australia have established many of the regulations that may also easily apply to our industry.

We have grouped the components and topical guidelines into four categories for reference.

*The Basic Concept of a Reserve Fund Study,
Physical Analysis,
Financial Analysis
Base Requirements.*



1. **The Basic Concept of a Reserve Fund Study**
 - What you own
 - How much money you have
 - When things need to be replaced
 - What it is going to cost for future replacement
 - What you can do to pay for future replacement

2. **Physical Analysis (how long do things last?)**
 - Component inventory
 - Condition review of the assets
 - Effective Age of the assets
 - Estimated remaining life of the assets

3. **Financial Analysis (how much do things cost?)**
 - Future replacement cost of the assets
 - Current funding level
 - Inflation rate, interest rate, etc
 - Annual allocation to the reserve fund

4. **Base Requirements**
 - Requirement to conform to published reserve fund study standards (REIC).
 - The planning horizon should be 30 years
 - Include physical and financial analyses
 - Study should be based on actual current conditions of the building's systems and components
 - All systems should be included, for example, the exterior enclosure, electrical, mechanical, fire detection, site works, etc.

The concept and adoption of reserve fund studies will be an overwhelming change in the economic administration and operations for every strata corporation in B.C., whether they adopt the long term planning or exempt themselves from the requirements. CHOA is in full support of this legislation and our staff, resources and membership are available to assist your Ministry with the ongoing development of this critical public policy.

Yours truly,

Tony Gioventu, Executive Director CHOA

Colin Hansen, Minister of Finance

Carol James, Leader of the Opposition

Shayne Ramsay, CEO Homeowner Protection Office

Robert Fawcett, Executive Officer, The Real Estate Council of BC