

Condominium Home Owners Association

A non-profit association serving strata owners since 1976

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Strata corporations regularly receive numerous requests for a variety of information. Whether a person is entitled to the information and what information that person may receive can be confusing.

The *Strata Property Act* distinguishes between owners or tenants eligible to obtain the information and purchasers and makes different information available to each group.

General Information

The *Strata Property Act* requires the strata corporation to prepare and retain a significant amount of information about the strata corporation. The information is listed in section 35 of the Act, and includes: minutes of all meetings; lists of council members; lists of owners with their strata lot addresses, mailing addresses, parking stall numbers and unit entitlements; names of tenants; resolutions dealing with changes to common property and items such as correspondence, bank statements and cancelled cheques.

The Act states that the records and documents referred to in section 35 must be made available to an owner, and certain tenants. Only tenants who have been assigned the landlord's power to obtain documents and long-term and family member tenants are eligible to obtain all the records and documents set out in section 35. Such tenants are referred to in this article as "eligible" tenants. Additionally, the documents must also be made available to a person who has been authorized in writing by an owner or an eligible tenant.

Requests for legal opinions are often of concern to strata corporations. Legal opinions are included in section 35 of the Act as a document that must be retained and made available to an owner or eligible tenant.

However, the Act contains provisions that permit the strata corporation to refuse the request if the strata corporation and the owner are involved in a lawsuit. Additionally, it is also arguable that because there is a solicitor-client privilege that attaches to the opinion, the strata corporation must specifically agree to waive that privilege before the legal opinion can be released to an owner.

Tenants who are not long term or family member tenants and have not been authorized by the landlord to obtain documents are entitled to obtain only copies of the bylaws and rules. These tenants are also permitted to authorize, in writing, another person to obtain the bylaws and rules.

The Act provides that any request for copies of the bylaws and rules must be satisfied within one week. All other requests related to section 35 must be met by the strata corporation within two weeks.

The strata corporation is permitted to charge a fee of 25 cents per page for providing a copy of a record or document, however, the strata corporation may not charge an owner, or eligible tenant any amount for inspecting the records.

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page 1

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Although purchasers are not included as a person who may request the general information contained in section 35, some of the information will also be of interest to them. In order for purchasers to obtain the information it is necessary that an owner first authorize someone to obtain the documents. Generally, the real estate agent listing the strata lot for sale will request copies of items such as minutes, etc., at the time the strata lot is listed for sale. Some strata corporations rely on the listing agreement as the owner's authorization to the real estate agent to enable the agent to obtain the documents; however, unless there is wording in the listing contract that specifically authorizes the agent to obtain the documents, a strata corporation should request a letter or other form of written authorization from the owner before making the documents available.

In some cases a purchaser or the real estate agent may want to receive copies of the information sooner than the two weeks permitted by the Act. However, there is no obligation on the strata corporation to provide the information in less time. To accommodate such requests, some strata corporations charge an administration fee to allow them to meet the earlier date requested. While the *Strata Property Act* clearly states that the maximum that can be charged for copies of the documents is 25 cents/copy, the Act does not appear to prohibit a strata corporation from charging an administration or expediting fee in order to have the documents prepared in less time than prescribed by the Act.

Information Certificate – Form B

Section 59 of the *Strata Property Act* creates an Information Certificate, which contains information about a specific strata lot and proposed changes to items such as fees and bylaws. This information is relevant to prospective buyers of a strata lot. In addition to containing information, the Information Certificate must also attach copies of certain documents, such as bylaw amendments that are either proposed, or are passed but not yet filed at the Land Title Office.

An owner, purchaser or a person authorized by an owner or purchaser can request the Information Certificate.

The *Strata Property Act* requires the strata corporation to provide the Information Certificate within one week of receiving the request and permits the strata corporation to charge a maximum fee of \$35.00 and 25 cents per page for photocopying.

Similar to the request for general information, purchasers who want to receive an Information Certificate sooner than one week may be required to pay an administration fee to allow the strata corporation to meet the earlier date requested.

By providing that the Information Certificate must contain the required information as of the date of the certificate, the Act recognizes that the information contained in an Information Certificate can change over time. However, on the date that it is issued, the Information Certificate must be correct, as the Act also provides that the Information Certificate is binding on the strata corporation in its dealings with a person who relied on the certificate.

Certificate of Payment – Form F

The *Strata Property Act* in section 115 creates a further certificate, the Certificate of Payment that contains information about money that may be owing to the strata corporation on behalf of a particular strata lot.

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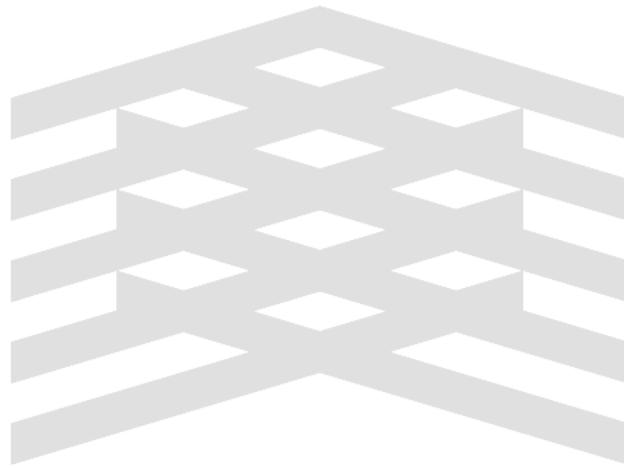
page 2

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An owner, purchaser or a person authorized by an owner or purchaser can request the Certificate of Payment.

The strata corporation has one week to respond to the request, however, the Certificate of Payment is only required to be prepared if there is no money owing to the strata corporation, or arrangements have been made regarding the money owed. The strata corporation may charge \$15 for a Certificate of Payment. Similar to the other requests for information, some strata corporations charge an administration or expediting fee if the Certificate of Payment is required sooner than the one week that the Act provides.



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page 3

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