

Headline: Rooftop Cellphone Antennas: Significant Revenue but Strata Beware

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The President of a strata project on Vancouver Island contacted me recently about a lucrative offer the council had just received from Telus. The President told me Telus was offering a long-term arrangement that would give the strata corporation a significant annual income stream for the right to install and operate what is known in the telecommunications industry as a "cell site" or "base station" on the building's rooftop.

A "cell site" is an essential component of all cellular telephone networks. Most cell sites consist of a tower on which one or more antennas and other small electronic communications equipment are mounted. The tower is usually located on the rooftop of a building. The attractiveness to any strata corporation of this kind of offer from a telecommunications operator is the opportunity, for very little effort on the strata's part, to generate significant annual revenue for a lengthy period of time.

My recommendation to the President was that the council should convene a special general meeting of the owners and seek authorization, by a $\frac{3}{4}$ vote, for the council to negotiate and conclude an acceptable legal agreement with Telus. I also recommended that the council hold an informal, information-only meeting of the owners as the first step before proceeding with the special general meeting. I explained that the main purpose of the information-only meeting would be to give Telus the opportunity to address owners' questions and concerns about perceived health risks of cell sites.

There are two reasons why I recommended the council obtain a $\frac{3}{4}$ vote authorization from the owners as a prerequisite to beginning negotiations with Telus:

- a cell site produces an electromagnetic field. Some people believe that exposure to an electromagnetic field is a health risk. A $\frac{3}{4}$ vote authorization in favour of a cell site will help to mitigate potential future conflicts or problems originating from owners who are opposed to cell sites for health reasons.
- the installation of a cell site on the rooftop of a strata building may constitute "a significant change in the use or appearance of common property" within the meaning of section 71 of the *Strata Property Act*, in which case section 71 requires the owners' approval by a $\frac{3}{4}$ vote.

If a $\frac{3}{4}$ vote authorization is obtained, what key potential traps does the council need to investigate and, if necessary, address?

- the rooftop of a building in a conventional (i.e. non bare land) strata project is in all likelihood part of the common property. However, under the *Strata Property Act*, it is legally possible that the rooftop (or the area where the cell site would be located) is instead part of one or more strata lots. The council needs to ensure that the rooftop (or that area) is common property.
- access to and from the area where the cell site would be located must be unrestricted. One or more areas on the rooftop could be limited common property. If that is the case, the council needs to ensure that the limited common property areas could not affect access to and from the cell site in any way.
- the rooftop will in all likelihood need to be replaced before the building reaches the end of its useful economic life. The council needs to ensure that the legal agreement with the telecommunications operator gives the strata corporation the right to temporarily relocate the cell site while the rooftop is being replaced.
- the operation of a cell site may require the installation of a significant amount of additional electronic communications equipment. The council needs to ensure that the combined weight of the cell site and additional equipment would be within the load bearing capacity of the rooftop.