

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-292

Condo Smarts

Headline: Environmental Restoration

Topic: Order for repair by authority

Publication date: August 24, 2008

Publication: The Province

Written by: Tony Gioventu

Dear Condo Smarts: Your recent column on small strata corporations has hit home for our tri-plex in Saanich. Our building was constructed in the early 70's and our business has been operated fairly informally. Everyone has voluntarily paid their share of the roofing repairs and insurance, and everyone has tended to the maintenance on their own strata lots and garden areas. A few months ago an owner noticed a depression in her yard area and we investigated further to discover an old oil tank that was never removed. Based on the quotes we have received it may cost \$10,000 or more to remove the tank and restoration, but one owner refuses to pay their share. Their excuse is, "the tank is in her back yard, so why should we pay?" Our options are to ignore the repairs, pay for them ourselves and collect later or force the matter into court. Are there any other options possible for a small strata? Doug & Karen W.

Dear Doug & Karen: Every homeowner or buyer in BC needs to be aware of the risks and costs of unused and decommissioned fuel tanks. The costs of removal can start at \$5,000 and easily rise to over \$50,000 if there is any environmental damages. In strata corporations like Karen & Doug's, fuel tanks are frequently on common property because they were a solitary supply for several units. This means the strata corporation as a whole will be responsible for the costs of removal and restoration once they have made that decision. It is not a requirement of the current BC Fire Code to remove any oil tank that has been out of service for more than two years; however,

many local government bylaws either require the removal and restoration or refer back to older codes that did require the removal of such tanks. Check with your local government first. They will tell you what is required and what your options are. In some regions you may be permitted to simply fill the tank with sand without removal, provided there is no evidence of leaking or environmental damages. In other cities the tanks must be removed under the bylaws. There are hazards and risks especially if the tank is leaking or has failed a pressure test and shows signs of contamination. Not only are you left with the cost of removal, but also the environmental restoration. In addition, if the contamination affects other neighbouring property, you can be held responsible for the restoration of those properties as well. If your strata refuses to remove the tanks, contact the local bylaw enforcement officer to determine if there is a bylaw violation, and the local government may order you to undertake the work. An order by an authority must be complied with under the Strata Property Act. There are also health risks associated with contamination, hazards associated with collapses, and your insurance company may cancel your insurance or nullify a related claim if you have failed to report the tank or complied with the requirements of restoration. If you are selling your home and there is an unused or decommissioned tank you must also disclose that information. Don't assume that because you don't see a tank there isn't one there.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.