

## Condominium Home Owners' Association

*Serving BC's Strata Property Owners since 1976*

Bulletin: 300-298

### Condo Smarts

Headline: Selling Common assets of the Strata Corporation

Topic: Common Property

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**Dear Condo Smarts:** Our strata corporation is a 147-unit apartment complex on south Vancouver Island. We have been planning reroofing and a major repiping for some time. The most recent bids have come in about \$300,000 over our projections. To avoid any special levies, the council has decided to propose selling our caretaker's suite. This means we will lose our long-term asset and our resident caretaker. Our owners are insisting that the sale of the suite and the termination of the caretaker require a unanimous vote, but we cannot find anything in the legislation. Are there some limitations set out in the Act to direct us in selling our property? Sophie W.

**Dear Sophie:** There are two possible answers to your question. If your caretaker suite is a strata lot shown on the registered strata plan, then yes the strata corporation, by a duly passed 3/4 vote at an annual or special general meeting, can proceed with the sale of the lot. There are many technical requirements in the resolution that are necessary to protect the interests of the corporation. The listing price, any negotiating flexibility for the council, the identified real estate sales agent, the terms and conditions of the sale, and the eventual use of the proceeds should all be established in the resolution before you vote. The last thing anyone needs is

a secret deal, with a council member's brother acting as the agent and a secret transaction process. Strata corporations proceeding with the sale of strata assets that require a 3/4 vote, need to contact their legal counsel and ensure they have properly created resolutions and contractual listing agreements.

If your caretaker suite is common property and not a strata lot with title, then it is likely going to require a unanimous resolution to create a strata lot and amend the registered strata plan, before you can decide whether or not you will sell the lot. This change may also require a local government permit, because this suite may not have been created for the purposes of occupancy and sale. As common property it would not be generating property taxes. There is another issue concerning resident caretaker suites that strata corporations also face. Who is authorized to exercise the vote for the suite when it is a strata lot? The strata council is the authorized representative of the strata corporation; however, the representation of the strata lot on issues such as bylaw amendments, special levies and the sale or purchase of common assets have the potential to be quite contentious in most strata corporations. Talk to your lawyer before you proceed.

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