

Condo Smarts

Headline: 500 Columns
Topic: General Information
Publication date: Sept 23, 2012
Publication: The Province
Written by: Tony Gioventu

At the height of leaky condo repairs in BC, the first Condo Smarts column was published in November of 2002. It started when the Editor of the Homes Section, Jeani Read approached me with a problem in their Kitsilano triplex. Like many small strata corporations, everything was fairly informal, and everyone agreed that it ran smoothly, until of course there was a misunderstanding over money, a result of not complying with the legislation. Sadly Jeani passed away a few years ago, but her vision of a weekly column that would respond to questions from readers, has sparked an important movement in BC for expanded public education and a focus on strata living .

Status of the industry: Over half of BC residents live in or own some form of strata titled property, in over 600,000 units represented by over 26,000 strata corporations. That means, at least 26,000 annual general meetings, operating and reserve bank accounts, records and documents, and probably over 200,000 regular strata council meetings, and billions in strata cash assets. The Strata Property Act permits the creation of sections for different types of residential buildings and different uses of commercial buildings. For example, one strata corporation also has an additional 7 sections created to accommodate the different uses and allocations of property. When we consider that each strata corporation on average has 3-5 amendments to the bylaws filed, and their own published rules for use of common property, it is not surprising that there are conflicts. Yet, at the same time, when we look at the total number of owners, residents, strata corporations and buildings, there are relatively few conflicts by

comparison. British Columbians have embraced strata living and discovered the many advantages, including: housing affordability, shared access to greater facilities, better personal security, community growth, and a significant reduction in the personal obligations of detached home ownership. However, all of this comes at a price. Like many family models, strata corporations often fall into disputes over money, or rather the lack of money. Many of the disputes in strata corporations are often symptoms of neglected administration, and non compliance of the legislation and the strata bylaws.

So how far have we come over the past 10 years? The success of the Homeowner Protection Act, mandatory warranty requirements, and changing building codes in BC, have all contributed to higher construction standards and consumer protection. There have been and additional 2 major changes in the industry that impact the protection of strata assets and consumers interests. The Strata Property Amendment Act in 2009 was a significant change in the culture of how strata corporations are going to view their property administration, and how buyers and mortgage providers are going to look at the value and risks of strata property. The legislation introduced mandatory Depreciation Reports for all strata corporations in BC, unless they are fewer than 5 strata lots, or they vote annually by three quarters vote to be exempt, with a compliance date of December 13, 2013. The depreciation plan requires a 30 year assessment and projection of all of the property that the strata corporation is required to maintain and repair

**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.

under the Act and their bylaws. For the first time strata corporations who complete the reports have a viable planning tool for annual budgets and long term financial needs. The greatest hardship that any strata owner can experience is a sudden, unanticipated special levy for major projects. Creating a risk of bankruptcy or an order for sale proceeding where they lose their home. All of this can be avoided if the strata corporation implements a financial, maintenance and renewal plan. Everyone has read the stories about deferred repairs. We all understand that if we wait until the 10 year hot water tank is 22 years old, and fails while you are at work or on vacation, the losses and emergency repairs that result, are simply time, property and money wasted. Depreciation reports are not the single solution that will solve all of our community disputes, but a plan that includes maintenance schedules, renewals schedules, and financial planning and investment, can certainly help strata corporations avoid major special levies that create so much hardship. I attend over 100 strata meetings every year, most of which relate to major projects that go off the rails. In almost every case, the root of the problem is the absence of sufficient reserve funds, resulting in major special levies that are frequently defeated. Because a sufficient number of owners do not have the funds for the levies, defeating the resolution, and politicizing the project is often their only option. Rather than prudent decision based on the business interests of the strata, owners resort to tactics that delay projects, resulting in even greater costs once the resolutions eventually pass.

The second significant change was the introduction of the Real Estate Services Act, which included the mandatory licensing of strata managers. While there has been a significant change in the level of accountability, reporting, investigation, and professionalization of strata managers and their brokerages, we need effective consequences for offenders who abuse consumer's trust, resources and assets. The Real Estate Council is a self regulating body, that licenses strata managers and brokers,

giving strata councils a governing body for compliance. Beyond the scope of the legislation, strata corporations must still be vigilant in contract negotiations, management of financial resources, and supervision of the strata manager. Too many strata corporations assume that the strata manager will simply handle things, tell them what they should do, or take the load off the council. Strata councils always retain their authority and liability for all of the duties of the strata corporation. Hiring a strata manager does not change those obligations, and strata councils need to ensure the contracts meet each strata corporation's needs, and the contracts are enforced.

What's important for the next 10 years of strata living? Loading consumers and the industry with gratuitous regulations that leave us with the appearance of increased consumer protection is of little value unless there are very real consequences to the parties who breach legislation. We need legislative reform with substance. In a nutshell, what happens when your strata council refuse to comply with the legislation? Where do you go? The government is currently developing a framework to enable an expedited and economic solution to resolve strata disputes, under the Civil Resolution Tribunal Act. The next stage to be fulfilled is the funding and appointment of a chair of the Tribunal. Once the chair is appointed, the rules and operation of the tribunal will be created. If all goes well, condo owners and corporations will be in a position to access an effective dispute resolution process for the day to day disputes that arise in strata corporations without bankrupting the corporations or the owners. Current disputes in Provincial Court can easily take up to 3 years, and arbitration or the Supreme Court of BC is too costly for the average consumer. As I review the last 500 columns, it is obvious that a tribunal system which serves the public interest would be a lasting legacy for consumer protection. It has been my pleasure providing this public service over the past 10 years and I look forward to another decade of condo stories.

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.