

## Strata Living

Headline: Sections & Operations

Topic: Sections

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**Dear Tony:** Our Vancouver strata is 44 units including 4 commercial units. When our strata was created in 2004, the developer added bylaws that created separate sections, and the sections bylaws created separate formulas for our common expenses. Our property manager has advised that they can no longer manage our property because we do not operate separate bank accounts and require separate contracts for the strata and the commercial section. If we do this, we will be increasing the cost of our operations with no benefit in return. Why are we required to divide our operations?

*Victor D. Vancouver*

**Dear Victor:** Your strata manager is correct. If your strata corporation is managed by a strata management company, they have an obligation under the *Real Estate Services Act*, Regulations and Rules of the Real Estate Council to segregate the trust funds and financial reporting of separate legal entities. In your case, the bylaws create a separate residential section and a separate commercial section in addition to your strata corporation. You are actually required to maintain separate bank accounts, convene separate annual general meetings, elect a council and executive councils and approve separate annual budgets which determine the strata fees for each of the 3 entities. In summary, the *Strata Property Act* imposes the same basic authority and obligation on each of the sections that it also imposes on the strata corporation. When sections are created through the bylaws, they also create additional legal entities, the bank accounts and financial operations cannot be

pooled and are administered at the direction of either the strata council of the strata corporation, or the executive council of residential section or commercial section. Likewise, there is a requirement for a separate strata management agency contract with each of the 3 entities, to ensure the manager has the appropriate authority to act as the agent for any of the parties, and to ensure the parties understand the relationship of dual or multiple agency relationships. There is a problem with your bylaws however, which we frequently uncover. The bylaws cannot reallocate formulas or percentage of cost or use. Bylaws are not a redefinition of cost allocations or unit entitlement. Sections bylaws create the ability to only allocate exclusive costs for operating and contingency/special levy expenses, so before your strata goes any further you should get a legal opinion on the enforceability of the bylaws.

There is an excellent video that explains Sections on the Real Estate Council Web site. Go to: [www.recbc.ca](http://www.recbc.ca) and on the home page scroll down to "strata management seminar videos" or go to consumer info.

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