

THE ROLES AND RESPONSIBILITIES OF THE STRATA CORPORATION

STRATA COUNCILS

There are many different kinds of strata corporations including residential strata corporations, commercial strata corporations and mixed use strata. Strata corporations can also have sections which are like mini strata corporations.

OVERVIEW

A strata corporation is a legal entity with all of the powers of a natural person who has full capacity. This means that it can sue or be sued, enter into contracts and hire employees.

The owners of the strata lots are the members of the strata corporation.

Therefore, when a strata corporation is responsible for paying a judgment, the owners are personally liable to pay a portion of the judgment in proportion to their unit entitlement. A strata corporation does not have limited liability like a company.

A strata corporation is created to divide a building(s) and/or a parcel of land into separate components that are individually owned and common components owned by all of the owners.

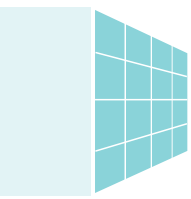
The strata plan will show the separately and commonly owned components of the building(s) and/or land:

- Separately owned components are referred to as strata lots and
- Commonly owned components are referred to as common property

A strata corporation is a legal entity created by the deposit of a strata plan in the Land Title Office.

The Land Title Office will assign a number to the strata corporation. This will become the legal identity of the strata corporation. Examples of strata corporation numbers are LMS 1234 or KAS 9876.

The name of the strata corporation is The Owners, Strata Plan, (the registration number of the strata plan). Strata corporations are created under the *Strata Property Act* and not the *Business Corporations Act*. This means that there is no incorporation certificate for a strata corporation, and the Registrar of Companies does not regulate strata corporations.



ROLES AND RESPONSIBILITIES

The strata corporation is responsible for managing and maintaining the common property and assets of the strata development for the benefit of all of its owners.

The specific obligations of the strata corporation are usually performed by the strata council, or by agents or employees which that it hires such as a strata property manager.

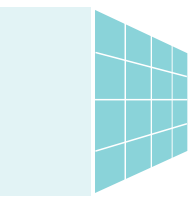
The specific obligations of the strata corporation which that are set out in the *Strata Property Act* and regulations are:

- Preparing, retaining and making accessible various records including depreciation reports.
- Holding general meetings, or obtaining the appropriate waiver of general meetings.
- Giving notices of general meetings.
- Preparing "Form B: Information Certificates" and "Form F: Certificates of Payment".
- Ensuring that the strata corporation address is correct at the Land Title Office.
- Maintaining and repairing common property, except any limited common property that the owners may have to maintain under the bylaws.
- Complying with work orders which that deal with common property.
- Maintaining a contingency reserve fund, which is accounted for separately from the operating fund.
- Paying common expenses.
- For strata corporations with more than 4 units, obtaining a current depreciation report or holding an annual 3/4 vote to waive this requirement.
- Determining the amount of contributions owners must make to the operating fund and the contingency reserve fund (strata fees).
- Preparing annual budgets.
- Informing owners of any changes to strata fees.
- Obtaining adequate insurance coverage and
- Informing owners if the strata corporation is sued.

DECISION MAKING

Decisions of the strata corporation are made by either the eligible voters in the strata corporation or the strata council in the following manner:

- **Unanimous Vote:** the *Strata Property Act* or regulations may require that a matter be resolved by a unanimous vote. These decisions must be made by all the voters in the strata corporation. For example, changing unit entitlement requires an unanimous vote.
- **80% Vote:** the *Strata Property Act* requires that a resolution to terminate a strata corporation pass by an 80% vote of all eligible voters in the strata corporation.

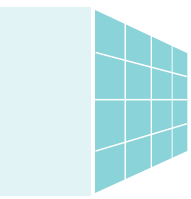


- **3/4 Vote:** the *Strata Property Act* or regulations may require that a matter be resolved by a 3/4 vote. These decisions must be made by 3/4 of all the eligible voters who are present in person or by proxy at a general meeting, and who have not abstained from voting. For example, changing or creating a new bylaw requires a 3/4 vote.
- **Majority Vote:** the *Strata Property Act* or regulations may require that a matter be resolved by a majority vote of the strata corporation. A majority vote is required to approve the budget, direct or restrict council, ratify rules, or continue the first strata management contract. These decisions must be made by more than half of all the eligible voters who are present in person or by proxy at a general meeting, and who have not abstained from voting. For example approving the annual budget.
- **Majority Vote Override:** if a matter is not required by the *Strata Property Act* or regulations to be decided by a specific vote of the strata corporation, it can be resolved by a majority vote of the strata corporation even if the matter is usually decided by the strata council. These decisions must be made by more than half of all the eligible voters who are present in person or by proxy at a general meeting, and who have not abstained from voting. An example of a majority vote override is directing a strata council.
- **Strata Council:** any matter that is not required by the *Strata Property Act* or regulations to be resolved by a specific vote of the strata corporation, or has not already been resolved by the strata corporation, can be made by the strata council. These decisions usually relate to the daily management of the strata corporation. For example, considering bids and awarding a contracted service.

THE OPERATING FRAMEWORK

Strata corporations are democratic and run on democratic principles, such as the following:

- **Equal voting:** usually, each residential strata lot will have one vote; and usually, commercial strata lots will have a vote that may be less or greater than one, but it will be in proportion to its size compared to the average size of other residential (in mixed developments) or commercial lots. If there is a tie vote at an annual or special general meeting, the president or vice president (if the president is absent or unable or unwilling to vote) may break the tie by casting a second, deciding vote, if the bylaws provide for this.
- **Election of representatives:** at each annual general meeting, the owners will elect a strata council to manage the strata corporation.
- **Voting:** if an issue is before the strata corporation at a general meeting, the owners can direct and control the strata council with a simple majority vote, unless the *Strata Property Act* requires that a matter be approved by a vote by persons holding 3/4 or all of the votes.



- **Right to raise issues:** owners can add matters to a general meeting agenda, if they can get persons holding 20% of the votes to agree to it.
- **Special general meetings:** owners can requisition a special general meeting for a particular purpose if they can get persons holding 20% of the votes to agree to it.

COMMUNITY INTEREST

A strata corporation creates a community. The right of an owner to use and enjoy their property will be limited by bylaws and rules and by decisions of the strata corporation which are made in the interest of this larger community.

The obligations and limitations placed on a strata lot owner or tenant may be significantly greater than an owner who lives in a non-strata titled house. For instance:

- Strata lots may be separated by interior walls, floors and ceilings that are just several inches thick, and the strata corporation may have bylaws which that are intended to control noise, such as a bylaw prohibiting the installation of hardwood flooring and
- A roof may be in need of repair and an owner may wish to put off the repair, as he or she cannot afford to pay his or her share of the repair. The strata lot owner may have no choice but to pay the special levy for the repair, as getting the roof fixed is in the community interest and an obligation of the strata corporation.

REFERENCES:

Strata Property Act: Sections 2-4, 25-27, 35, 36, 38, 40-46, 50, 53, 59, 62, 72, 83, 91-93, 95, 103, 106, 115, 149, 152, 154, 166, 167, 170, 171, 247, 248, 272, 277

Important Notice: This information has been provided by AWM-Alliance Real Estate Group Ltd, compiled from the Government of British Columbia strata housing website (<http://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/operating-a-strata/roles-and-responsibilities/strata-corporations>).

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