

# voice from the... **strata-SPHERE**®

[www.stratasphere.com](http://www.stratasphere.com)

Winter 2007

## Inside This Edition

### Everything You Need to Know About Your Warranty...

*Shakir Rashid, P. Eng., Manager*  
CHATWIN ENGINEERING LTD.



## EVERYTHING YOU NEED TO KNOW ABOUT YOUR WARRANTY...

*Shakir Rashid, P. Eng., Manager*  
CHATWIN ENGINEERING LTD.

### The OD Wardrobe includes Many Hats!

*Cora D. Wilson, Editor*  
STRATA-SPHERE CONDOMINIUM SERVICES INC.

### How Green is My Condo? Buying a Green Condo

*Brian Palmquist,*  
MAIBC MRAIC BEP CP LEED AP  
MORRISON HERSHFIELD LTD.

### Super Priority Power Against OD

*Cora D. Wilson, Lawyer and President*  
C.D. WILSON LAW CORPORATION

### Buying into a New Condominium Development

*Jamie Bleay, Lawyer*  
ACCESS LAW GROUP

### Purchasing a Strata Lot in a New Development

*Tony Gioventu, Executive Director*  
CONDOMINIUM HOME OWNERS' ASSOCIATION OF BC

In 1998 the BC Provincial government passed the *Homeowner Protection Act* (the "Act"). This Act requires that most new construction projects and building envelope remediation projects be covered by water penetration insurance from a third party warranty provider. While some residential buildings such as rental buildings are exempt from this requirement, strata titled condominium buildings constructed since July 1999 and building envelope remediated buildings repaired since September 2000 are covered by this warranty.

The warranty providers offer two types of policies that are currently available to consumers – the legislated minimum mandatory warranty referred to as "2-5-10" and the extended warranty referred to as "2-10-10." The difference is that the extended warranty provides an additional 5 years of coverage on the building envelope. The Act stipulates the minimum warranty to be comprised of the following coverage:

- defects in materials and labour for a period of at least 2 years after the date on which the warranty begins;
- defects in the building envelope, including defects resulting in water penetration, for a period of at least 5 years after the date on which the warranty begins; and
- structural defects for a period of at least 10 years after the date on which the warranty begins.

There are two areas that a condominium owner and strata council must be aware of in order to maintain the warranty and ensure long term performance of their condominium following construction or renovation. These are as follows:

#### Ongoing Maintenance During The Warranty Period

Following construction of the condominiums or completion of the renovation, the Strata council should be provided with an operation and maintenance manual which outlines the required duties of the strata corporation to maintain the building envelope of the building. The strata council has a responsibility to maintain and repair the building in accordance with this document.

**Shakir Rashid, P. Eng.,** Manager of the Vancouver Branch of Chatwin Engineering Ltd. Mr. Rashid has worked with numerous strata corporations and property managers in providing professional engineering and consulting services in the field of Building Science. Mr. Rashid's extensive experience ranges from condition assessments, building envelope remediation projects, building reviews, and litigation support.

*continued on page 2...*



## Voice from the Strata-sphere

Voice from the Strata-sphere is published annually by

Strata-sphere  
Condominium Services Inc.

630 Terminal Avenue North,  
Nanaimo, B.C. V9S 4K2

Tel: 1-888-298-7999

(250) 753-0353

Fax: (250) 741-1441

Email: info@stratasphere.com

Web Site: www.stratasphere.com

Editor: Cora D. Wilson

Assistant Editor: Katherine Grilo

© Copyright 2007

The editorial content of this publication is protected by copyright and may not be reproduced, reprinted or published without the prior written consent of Strata-sphere Condominium Services Inc.

The opinion and views expressed in this Newsletter are not represented or warranted as representing the views of Strata-sphere. The content in the Articles is provided for information purposes and is not to be construed or relied upon as legal or other professional advice.

Publishing the names of an individual or a company in 'Voice from the Strata-sphere' is not to be construed either directly or indirectly as an endorsement of such person or company or its products. Advertisements reflect the products and services provided by the advertiser.

### ADVERTISING RATES

1/8 page ..... \$148.50 per issue

1/4 page ..... \$247.50 per issue

1/3 page..... \$324.50 per issue

1/2 page..... \$434.50 per issue

2/3 page..... \$506.00 per issue

3/4 page..... \$638.00 per issue

Full page..... \$764.50 per issue

Business Card ... \$99.00 per issue  
Plus GST

Note: Artwork & Setup extra per quote  
Prices subject to change if distribution  
increases. 2,500 copies currently printed.

### SUBSCRIPTIONS AVAILABLE

1-888-298-7999

(250) 753-0353

Fax: (250) 741-1441

Email: info@stratasphere.com

Web Site: www.stratasphere.com

*continued from page 1*

The terms of the warranty coverage which are critical for the strata to keep in mind, are the requirement for periodic and proper maintenance, and the provision of prompt notice to the warranty provider when a defect is discovered.

The reason the strata council should consider routine maintenance during the warranty period a priority obligation, is that if a defect is discovered during the warranty period and the warranty company can determine that the resulting damage is a result of the strata council or owner not conducting the necessary operations and the maintenance on the building, there may be a case for voiding the coverage.

The following photos show some areas of warranty concern on a typical building.



*Lint blocking an exhaust vent poses a fire risk. Review of exhaust vents is one of the items of routine maintenance.*

*Interface of window to concrete wall showing a failed sealant joint. Sealants require regular maintenance to ensure its performance.*



### Before The Warranty Runs Out

Although the building envelope on new and remediated buildings has been professionally designed and reviewed during construction, there remains a possibility that localized defects may be present or failure may occur.

The strata may be able to carry out the periodic maintenance reviews by using the maintenance manual as a guide, however, it is advisable that a Building Envelope Professional be retained who can review your building during the warranty period and determine whether or not defects are present in the various components and assemblies that form the building envelope. Some of the defects or failures may not be apparent to the strata owner, but recognized by a building envelope consultant.

We would recommend that a building envelope consultant be retained (**one that was not involved in the original construction of your building**) by the strata corporation six months prior to the expiration of the water penetration warranty. If the water penetration warranty on your building is the extended 10 year option, then we would recommend that a mid-term 5 year review also be carried out.

*continued on page 4*



## The OD Wardrobe includes Many Hats!

*Cora D. Wilson, Editor*

STRATA-SPHERE CONDOMINIUM SERVICES INC.

The objective of most owner/developers (the “OD”) is to buy it by the acre and sell it by the foot. The motto is “develop it, build it and sell it as quickly as possible while maximizing profits”. Profit motivation often collides head on with the strata corporation’s objectives which focus on the best interests of the owners.

The OD guards the bottom line since it is profit motivated. The OD must protect itself from the horrors of market shifts and down turns in the market which could challenge its financial stability and threaten economic collapse. Development is a risky business.

The OD battles the ever present conflicts which haunt it. Build durable high quality condo’s while at the same time leave a profit worthy of the risk lying on the table. Make promises to entice buyers such as maintenance free living or throw out catch phrases such as “lifestyle” to conjure up images of harmonious community relationships.

However, buyers are skeptical. The “Leaky Condo” crisis has left many buyers bruised and beaten. Warranties backed by billion dollar insurance companies serve to soften the impact and are viewed by the OD as a necessary marketing tool. The explosion of law suits in the condo industry makes the experienced reel at the mere mention of “Pets, People and Parking”.

Nevertheless, people must live somewhere and condos offer affordable housing when compared to single family home purchases. The good news is that the OD will continue to build condos and the public will continue to buy.

The OD knows that deficiency correction is a necessary evil. However, it usually avoids the first year comprehensive warranty investigation. After all, deficiencies discovered must be rectified by the OD or its trades. Therefore, it is not in the OD’s best interests to make work for itself. Further, the critical maintenance manual is frequently overlooked. More paperwork comes with

that new car you just bought than with a multi-million dollar condominium complex. Educated buyers make sure that these matters are addressed.

The OD serves as the interim council pending the turnover to a newly elected council. While serving as a council member, the OD owes a fiduciary duty to current as well as future owners to repair and maintain to an as new condition and to exercise a standard of diligence while carrying out the other mandatory duties of the Strata Corporation. These duties include addressing financial, administrative and governance matters.

The loyalties of the OD have always been divided and will continue to be divided into the future. The question will be how well the OD juggles the competing demands. The governing legislation has more built in protections now than ever before. Strata corporations are advised to make sure that they take advantages of these legislative gifts. Know the law and live within it!!



Vancouver: 604-669-7710

Nanaimo: 250-753-3552



BARSBY STREET



AUGUSTA SPRINGS



CSIDE

### RENTAL OWNERS AND MANAGERS SOCIETY OF BRITISH COLUMBIA



**Al Kemp**  
Chief Executive Officer

830B PEMBROKE ST., VICTORIA, B.C. V8T 1H9  
TELEPHONE: (250) 382-6324 FAX: (250) 382-6006  
TOLL FREE: 1-888-330-6707  
www.suites-bc.com EMAIL: alkemp@suites-bc.com





continued from page 2

This consultant should undertake an assessment of the building to ensure that there are no early signs of failure of the building envelope prior to expiration of the warranty. This professional will provide you with a report containing the following:

- An opinion on whether or not there are any deficiencies that are related to the warranty coverage; and

- A recommendation for any maintenance practices that need to be carried out by the strata corporation in accordance with their operation and maintenance manuals, which are not being carried out.

The following are a few photographs of examples where one might look for premature deterioration of the building envelope.



*Weathered cedar trim – this state of weathering could have been prevented if maintenance was being carried out regularly after construction.*

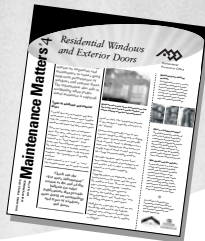
*The deck membrane at the base of post is vulnerable to moisture ingress since it does not extend up onto the post. Also notice the splitting of the post.*



## Maintenance Matters

As a strata owner, there is a legal duty to maintain your building – but what should be maintained and how?

An easy-to-read series of bulletins called *Maintenance Matters* provides free practical information to strata owners, councils and managers on the maintenance of multi-unit building envelopes.



For a free copy of Maintenance Matters bulletins, visit the Research and Education page of the Homeowner Protection Office (HPO) website



www.hpo.bc.ca

Toll free: 1-800-407-7757  
Email: hpo@hpo.bc.ca



B U I L D I N G B C



## Sterling Fire & Safety Services Ltd.

*Your one-stop safety specialist:*

- ✓ General Contractor for all aspects of Fire Alarm Installation & Upgrades
- ✓ Fire Safety Plans
- ✓ Evacuation Graphics
- ✓ Annunciator Graphics
- ✓ Consultation on BC Fire Code & Requirements

*"Your Safety is Our Business"*

(250) 478-9931

www.sterlingfire.vicbc.com

Underwriters' Laboratories of Canada  
certified in Fire Alarm Verification,  
Inspection, Testing, & Maintenance



# How Green is My Condo? Buying a Green Condo

Brian Palmquist, MAIBC MRAIC BEP CP LEED AP  
MORRISON HERSHFIELD LTD.

As if buying a condominium wasn't already one of the more complex of real estate transactions, now you have to worry about whether your purchase is 'green'...whatever that means. And it does matter. Whether or not you personally care about restoring the environment, most savvy real estate experts will agree that 'going green' is becoming increasingly important for resale. The purpose of this article is to help you determine whether your potential purchase is a true green home or just "greenwashed".

## Measuring Green

In the world of green homes there is 'green' and 'greenwashed.' To-day, in B.C., a truly green new condo can and should be certified under a recognized green building programme. At the moment there are two legitimate programmes that work for condos:

1. **LEED Canada-NC** (New Construction) is the original green building programme administered by the Canada Green Building Council ([www.CaGBC.org](http://www.CaGBC.org)). It was originally designed more for institutional and commercial buildings, but now has a multiple residential option (MURB) that makes it applicable for apartment or townhouse style condos.
2. **BuiltGreen BC** is administered by the Canadian Home Builders Association of B.C. ([www.chbabc.org](http://www.chbabc.org)), and is designed to accredit single family homes as well as townhouses and apartments.

Each of these two programmes has levels of certification, representing increased 'green-ness.' Platinum is better than gold is better than silver, etc. The LEED programme is perhaps more focused on site planning, while BuiltGreen focuses more on the specific design and construction of the individual home or building. Purists can argue which is the better, but for consumers, either programme is a green seal of approval, because each is rigorous and requires independent testing, verification and certification of key attributes by independent professionals.

What are the key attributes of a truly green home? Following is a partial list of key elements from the more than 100 attributes that may characterize a LEED or BuiltGreen home:

- **Site and situation**
  - Close to transit – accommodate bicycles and car sharing
  - Built on reclaimed land rather than virgin forest or farmland
  - Reuses existing buildings or parts
  - Uses landscape to protect from the elements
  - Oriented to take advantage of the sun (passive design)

**Brian Palmquist** is an architect and a LEED Accredited Professional who co-manages the green professional practice at Morrison Hershfield Ltd., an engineering and management company that, among other green services, assesses LEED applications from its seven Canadian offices, including Vancouver, Victoria and Nanaimo. He plans a future 'How Green is my Condo?' article about how to green your existing condo. Meantime he can be reached at [sustainable@morrisonhershfield.com](mailto:sustainable@morrisonhershfield.com)

- Site development to minimize energy and resources for maintenance – drought resistant plants, reduced or no irrigation, etc.
- Reduced demands on infrastructure by controlling storm water runoff
- **Materials and resource use**
  - Built to a higher density, using less land and resources
  - More efficient floor planning allows more efficient use of materials and energy.
  - Uses materials obtained and processed locally using healthier processes
  - Low VOC sealants, paints, adhesives
  - Recycled materials such as carpets, wood floors
  - Designed to allow residents to easily recycle
  - Reduced water consumption – low flush toilets, reduced water taps and shower heads
  - More durable materials and construction
  - Improving the carbon balance with restorative design like green roofs and living walls
- **Energy use**
  - Performs better than the country's energy codes
  - Energy efficient windows (EnergyStar or better)
  - Energy Star appliances
  - High efficiency space and water heating
  - Higher insulation values
  - Energy efficient lighting
  - Maximize use of daylighting
  - Renewable energy sources such as geothermal, solar and wind

Most projects do not meet all of these criteria, but do satisfy a majority of them. If you examine this list, you will notice that these green building attributes are also common sense. They represent commitments to using healthy, locally available products assembled to create an energy efficient home situated so as to reduce transportation energy, time and costs. Improvements can be measured, points awarded, achievements certified by professionals.



### Masquerading as Green

By contrast, Greenwash occurs when someone says a home is 'LEED-like', 'green built', etc., without demonstrating LEED or BuiltGreen certification. Even two years ago, measuring how green a home was represented a significant challenge. To-day, manufacturers fall over themselves to trumpet their green credentials in a way that will impress consumers while giving professionals the information they need to certify a material, product, assembly or building. There is no excuse not to be truly green.

### A Positive Future is available now

I and my green colleagues are working hard to green our own homes, our work places and the projects we are privileged to work on. The knowledge, the tools, the materials, the measures – all the ingredients are now present to create a greener future. Traditionally, the public expected our work to shelter and keep them safe. Consumers are now demanding proof that our work will also keep them and the planet healthy. Use the lists above to guide your search for a new home. Then demand that homes be LEED or BuiltGreen accredited. You will be helping the planet while preserving and enhancing the value of your truly green home.

## A C M FITTERER LTD.

Chartered Accountant

**Tony Fitterer, B.Sc.Econ., C.A.**

410 - 256 Wallace Street  
Nanaimo, BC  
V9R 5B3

Office: (250) 753-9193  
Fax: (250) 753-9337  
Email: tonyfitterer@telus.net

Colette Semple



## After Hours Graphic Design

3300 Fairway Crescent, Nanaimo, B.C. V9T 3B1  
Phone/Fax: 758-1035 • email: csemple@island.net

# MORRISON HERSHFIELD



Morrison Hershfield is a North American consulting engineering and management firm. For over 60 years our multi-disciplined teams have provided professional, efficient, cost effective, and friendly service as Partners in Our Clients' Success.

### WE OFFER THE FOLLOWING SERVICES:

- Building Envelope Expertise
- Building Materials & Design Review
- Building Condition Assessment
- Construction Management
- Expert Witness Testimony
- Sustainable Design & Green Buildings
- Building Component Failure Investigation
- Building Portfolio Review
- Capital Expense Planning & Reserve Funds
- Due Diligence, Pre-purchase Review
- Heritage Consulting

### OFFICES:

**Vancouver**  
3585 Graveley Street  
Vancouver, BC, V5K 5J5  
Tel: (604) 454 0402

**Victoria**  
1290 Broad Street  
Victoria, BC, V8W 2A5  
Tel: (250) 414 7451

**Nanaimo**  
630 Terminal Avenue North  
Nanaimo, BC, V9S 4K2  
Tel: (250) 755 4025

Ottawa, Toronto, Edmonton, Calgary, Vancouver, Seattle, Portland, Ft Lauderdale, Atlanta







# Super Priority Power Against OD

Cora D. Wilson, Lawyer and President  
C.D. WILSON LAW CORPORATION

Many council members elected for the first time at a turnover meeting from the owner developer (the “OD”) of a newly formed strata corporation or a new phase in a strata plan find the financial issues they are about to face both daunting and confusing.

The OD forms the interim council during the period from the date that the first phase of the strata plan is registered until the first annual general meeting (“AGM”) where a council is formally elected.

The following are typical questions asked by newly elected council members:

## 1. When must the turnover meeting take place?

Section 16 of the *Strata Property Act* (the “SPA”) provides a formula to determine the turnover date. The OD must hold the 1st AGM during the 6 week period that begins on the earlier of the date when 50% plus one of the strata lots have been conveyed and nine months after the date of the first conveyance.

The turnover meeting date is triggered, in part, by the date of the first conveyance. Conveyance is defined as the actual registration of a transfer document in the applicable land title office. It is not based on the date that a contract of purchase and sale is executed. The same statutory time frames apply to each newly created phase (SPA Regulation 13.4 (3)(a)).

It should be noted that a turnover meeting for a project totally comprised of rental units may never take place.

## 2. Is the OD penalized for failing to hold the 1st AGM on time?

Yes. The OD will likely be motivated to call the 1st AGM since the failure to do so could expose the OD to thousands of dollars in penalties. The OD must pay \$1,000 if the 1st AGM is delayed for up to 30 days after the turnover date and \$1,000 for each additional delay of 7 days (Regulation 3.1(2)).

The OD was not penalized under the provisions of the former *Condominium Act*. Consequently, historically the OD was not motivated to hold the turnover meeting and risk losing control of the management and governance of the development.

One of the first objectives

**Cora D. Wilson**, Lawyer and President of C.D. WILSON LAW CORPORATION. Ms. Wilson is a condominium lawyer, educator and author. She currently represents numerous strata corporations wherever they are located in British Columbia. She is one of the authors of the “Do-it-Yourself Bylaw Package.” She is the editor of Strata-sphere Condominium Services Inc.

of a turnover council should be to determine whether or not the OD owes any money to the strata corporation. The council should:

- check the turnover dates and determine whether or not any penalties are owing to the strata corporation;
- ensure that all turnover documents have been provided or obtain copies of same and charge any expenses to the OD; and,
- determine the amount owing, if any, in the event of a Short Fall Budget.

This step is important since the lien remedy is only available to the strata corporation while the OD holds legal title to a strata lot in the development. Once all of the strata lots are sold, the strata corporation could find itself without a remedy if the OD is a limited company and without further assets.

The lien process grants the strata corporation a super priority power to collect monies owing by the OD to the strata corporation (sections 112- 118, SPA). In other words, once a lien is registered by the strata corporation, the amount owing by the OD is paid to the strata corporation in priority to the payment of any mortgages and other encumbrances (some exclusions apply, such as builders liens). This super priority status greatly increases the probability that the strata corporation will collect any monies owing to it by the OD.

The strata corporation may only register a lien against one strata lot owned by the OD (s. 116(2), SPA). This is usually sufficient to cover all monies owing.

The strata council should not hesitate to use its statutory powers to collect any money owing to it by the OD including withholding the Form F, Certificate of Payment, until satisfactory arrangements are made for payment.

## 3. What should the strata council obtain during the turnover meeting?

The newly elected council should ensure that the OD transfers money, control and documents to the strata corporation at the time stipulated in the governing legislation.

All documents relating to the development, management, governance and administration of the strata corporation must be provided to the strata corporation at the 1st AGM. The documents that must be provided are itemized in section 20 (2) of the SPA and section 3.2 of the Regulations.

A bookkeeping service  
your accountant will admire.

**Brilliant**  
business  
solutions

Building Balance & Structure

**Cindy Bartlett**  
Ph: 250.756.0777  
Cell: 250.816.0777  
brilliant@shaw.ca

4170 Verte Place,  
Nanaimo, BC V9T 5P7



The transfer of money and control (such as keys and garage door openers) from the OD to the strata corporation must take place within one week after the 1st AGM (section 22, SPA).

If the OD fails to provide the turnover documents to the strata corporation at the 1st AGM, then the strata corporation can use the lien route to collect any money it spends to obtain those documents from another source.

For example, the OD must provide copies of all disclosure statements. If the strata corporation is required to obtain copies of the disclosure statements from the Superintendent of Real Estate, then all charges from the Superintendent's office may be collected from the OD by using the super priority lien procedure. Again, a lien may only be registered against one strata lot owned by the OD.

**4. Is the OD required to establish a contingency reserve fund ("CRF") for capital or greater than annual expenses and an operating fund ("OF") for recurring annual expenses?**

Yes. However, there is only one fund required for each strata corporation. As a result, a new CRF and OF is not required for each additional phase of a development.

**5. Is the OD required to establish an interim budget for each phase of the development? Yes.**

**6. Can the strata corporation collect any shortfall between the amount of the interim budget and the actual strata corporation expenses from the OD?**

Yes, section 14 of the SPA and section 3.1 of the Regulations specifically address the issue of the OD's Shortfall Budget. It is not unusual to find that the OD has prepared an inadequate budget. Unwary purchasers view low monthly strata fees as palatable. If a purchaser views two similar developments, he or she will likely choose to purchase in the complex that offers the lower monthly strata fees. The culinary rush fades once the true state of affairs becomes known and the strata fees in realty prove to be higher than those represented at the date of purchase.

The OD is penalized for misrepresenting common expenses and the greater the misrepresentation, the greater the penalty.

The legislative scheme governing the OD's obligations regarding the Short Fall Budget may be summarized as follows:

- a. The OD must prepare an interim budget for the 12 month period beginning on the 1st day of the month following the month in which the 1st conveyance occurs for that phase;
- b. The budget must include the estimated operating expenses plus a 5% contribution to the CRF for the 12 month period (a minimum 10% contribution to the CRF is otherwise required);
- c. The OD must pay a further 5% to the CRF at the time of the 1st conveyance;

d. The OD may provide in the Disclosure Statement that the contribution to the CRF will increase to 10% after the 1st AGM (section 93 of the SPA and section 6.1 of the Regulations to the SPA);

e. If the actual expenses are greater than the budgeted operating expenses, the OD must pay the difference to the strata corporation within 8 weeks after the 1st AGM (ie. \$1,100 actual - \$1,000 interim budget = \$100 difference or 10%).

f. If the difference is between 10% - 20% greater than the budget, then the OD must pay twice the difference to the strata corporation. In the above example, the OD would owe double the difference or \$200;

g. If the difference is at least 20% greater than the budget, then the OD must pay three times the difference to the strata corporation. (ie. \$1,300 actual and \$1,000 interim budget = \$300 difference or 30%). In this case, the OD must pay 3 times the amount or \$900 to the strata corporation. The penalty is substantial.

h. If the developer fails to pay the shortfall and the penalty for the shortfall, then the strata corporation may lien one of the OD's strata lots for the amount owing.

The strata corporation has the power to lien one of the OD's strata lots for the failure to meet its obligations under the legislative scheme as set out above. It should not hesitate to use this power.

## Bayview Strata Services



Brian D. Moran  
Managing Broker

2nd Floor - 141 Memorial Ave.  
Box 939, Parksville, B.C. V9P 2G9  
Tel: (250) 248-1140 • Fax: (250) 248-1145  
Email: moran@bayviewstrataservices.ca  
Website: www.bayviewstrataservices.ca



Read Jones Christoffersen  
Consulting Engineers

Innovative thinking. Practical results.

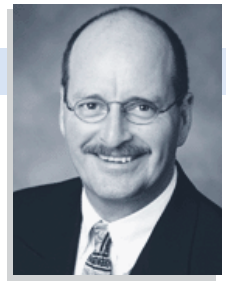
### Structural, Building Science and Restoration Consultants

a commitment to excellence in:

- > Structural Engineering
- > Building Sciences
- > Structural Restoration
- > Parking Planning

www.rjc.ca • Vancouver • Victoria • Nanaimo • Calgary • Edmonton • Toronto





## Buying into a New Condominium Development

Jamie Bleay, Lawyer  
ACCESS LAW GROUP

All condominiums are not created equal; some leak, many do not, some have financial problems, many do not, some have pet restriction bylaws, some have age restriction bylaws. For those who are hoping to avoid buying into a used condominium building and the potential problems that may come with it, there is the option of buying into a new condominium development. Why not, it's new and anything new shouldn't be a source of worry, should it?

Buying into a new condominium development is a big decision yet it has been my experience that many people spend more time researching their next new car purchase than they do researching their new condominium purchase. Fortunately for most, the lack of research does not come back to haunt them but in some cases, the failure to read the "fine print" or ask for professional advice from a realtor or heaven forbid, a lawyer, has resulted in unnecessary grief and aggravation for the buyer.

What can you do to try and avoid "new buyer" headaches? While the following checklist is by no means exhaustive, it should help a new buyer to be informed before rather than after buying a new condominium and should help a new buyer avoid the headaches that I am sure we have all heard about:

### 1. Read the Disclosure Statement:

While this may seem like an easy thing to do, I have had many clients come to me and tell me that they were handed a copy by a sales representative but never took the time to read it! Read it or risk not knowing about such things as:

- (i) The details of the estimated operating budget for the development;
- (ii) The details about any common property leases, such as leases over parking stalls and storage lockers;
- (iii) The details about the estimated time for construction of any subsequent phases, if the development is a phased development;
- (iv) The details about any "non-standard" bylaws that the developer may have incorporated into the bylaws of the strata corporation;
- (v) The details of any warranties for the strata lot and for the common property.

The Disclosure Statement if filled with information about the newly constructed development or the soon to be completed development. You will do yourself a favour by obtaining a copy of the Disclosure Statement and reading it over well in advance of making your decision to purchase a new condominium. Don't feel pressured by the developer's sales representatives to sign on the bottom line before someone else snaps up the condominium you are looking at! Consider hiring a lawyer to review the Disclosure Statement and, if necessary, compile a list of questions and/or concerns to be answered by the developer before the contract of purchase and sale is entered into.

**Jamie A. Bleay** Since being called to the bar in 1987, Jamie has practiced extensively in the area of condominium/strata law. He has worked with and acted for several hundred strata corporations in that time. He has worked closely with strata councils in dealing with a range of services from corporate governance matters, financial matters, property management matters and litigation matters.

### 2. Hire a qualified home inspector:

Why hire a qualified home inspector when you are about to buy a new condominium? After all, the developer is on the hook for in-suite and common property deficiencies, right and you have heard that new purchasers will have lots of time to identify any in-suite deficiencies and notify the developer in order to have the deficiencies addressed. While that may be true, you should, if at all possible, consider hiring a qualified home inspector who can point out and identify any deficiencies before you sign on the dotted line. It has been my experience that by identifying deficiencies at this stage, you can include, as a term of the purchase and sale agreement, that the developer to remedy the deficiencies within a reasonable period of time. It has also been my experience that a developer will be much more proactive about repairing deficiencies if they are incorporated into the terms of the purchase and sale agreement rather than being notified about them many months after the fact.

### 3. Hire a lawyer before you sign on the dotted line:

Presumably the developer hired a lawyer to protect its interests in connection with the condominium development, including preparation of the Disclosure Statement, the common property leases and the form of purchase and sale agreement the developer's real estate agent is asking you to sign. Shouldn't you also hire a lawyer to protect your interests before you make what will, in most cases, be the biggest commitment of your life? Your lawyer can sit down with you and review the Disclosure Statement, the common property leases, the bylaws, the proposed operating budget, the purchase and sale agreement and the strata plan. Your lawyer can point out any issues or concerns before rather than after you have signed the purchase and sale agreement and removed the conditions. Your lawyer is there for you and can help you to understand what you are buying and assess and eliminate any risks associated with the purchase before rather than after you sign the purchase and sale agreement.

Buying a new condominium can be a dream come true. If you take the time to do your research and rely on the expertise of the professionals who are there to help you BEFORE you buy, your dream is more likely to come true! Don't be "penny-wise and pound foolish" with the biggest investment of your life!

*This article is written by Jamie A. Bleay and is copyrighted. It expresses the opinion of the author and is not intended as legal advice.*

*Jamie is a partner with Access Law Group which is located at 1700 – 1185 W. Georgia Street, Vancouver, B.C. V6E 4E6 and can be reached at 604-801-6029 or at [jbleay@accesslaw.ca](mailto:jbleay@accesslaw.ca).*



*Celebrating  
25 years!*

Chatwin Engineering, is a multi-disciplined employee-owned company specializing in Civil, Building Science, Planning and Environmental Engineering. The basis of our success has been in providing high quality client service. We continue to lead the engineering industry in BC with innovative, cost-effective approaches to solving complex problems.

**Chatwin Engineering offers the following Building Science services:**

- Building Envelope Condition Assessment
- New Construction Envelope Services
- Building Envelope Remediation Services
- Detailed Design and Specification Services
- Cost Estimates
- Tender and Construction Services
- Contract Administration
- Certification / Government Liaison
- Expert Witness Services
- Building Envelope Maintenance Programs and Inspection
- Building Envelope Warranty Reviews
- Building Envelope Renewal Plans
- Reserve Fund Studies
- Due Diligence Surveys
- Strata Member Education Programs



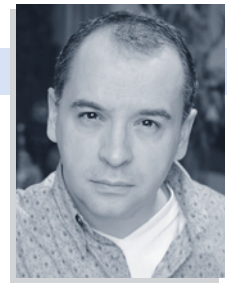
**www.chatwinengineering.com**

405-495 Dunsmuir Street  
Nanaimo, BC V9R 6B9  
**250-753-9173**

1614 Morey Road  
Nanaimo, BC V9S 1J7  
**250-753-9171**

130-1555 McKenzie Ave.  
Victoria, BC V8N 1A4  
**250-370-9171**

130-6400 Roberts Street  
Burnaby, BC V5G 4C9  
**604-291-0958**



## Purchasing a Strata Lot in a New Development

Tony Gioventu, Executive Director

CONDOMINIUM HOME OWNERS' ASSOCIATION OF BC

Each year 25-30 thousand new multi family strata titled units are sold in BC. Whether you are the buyer, the seller, a sales agent, or conveyance representative in the transaction, everyone needs to exercise a prudent standard of care. It's very rare that everything goes right in a new development. Often many of the delays or changes are beyond the control of the developer and the impact on the owners and the strata corporation can be quite significant.

Special attention needs to be placed on the first year of the corporation to ensure the strata is meeting its warranty obligations, has a competent understanding of reporting requirements for claims, has created a secure documentation and record keeping procedure, and has a game plan for follow up on claims once they are report. A new checklist should help the newly formed strata corporation and elected strata council in understanding what types of documents they must obtain and secure, and how the warranty requirements are implemented.

Remember that a warranty is a contract between the warranty provider, the developer and your strata corporation. Like any other contract, you must comply with the terms and conditions of that contract to ensure it remains enforceable. A simple error many strata corporations commit is allowing any type of alteration to building exteriors that may alter or penetrate the warranted building envelope.

Allowing owners to install screws, hooks or nails for holiday lighting, satellite dishes, decorative ornaments, awnings or any other type of attachment could easily nullify or void your warranty. Once the damage is done a warranty claim becomes very complicated. The standard bylaws of the *Strata Property Act* prohibit the alteration of common property without written permission of the strata corporation.

Any type of fastener, hook or nail is an attachment or alteration. Informing the owners from the first meeting that any alterations of this type without written permission will result in a bylaw violation and enforcement will go a long way to protecting your strata.

### STRATA PROPERTY ACT A Practical Guide to Bylaws

*"Every Strata should have a Copy!"*

Written by Cora Wilson,  
Condominium Lawyer  
and Tony Gioventu

This comprehensive guide provides a Step-by-step, do-it-yourself format for the preparation of bylaws. The guide includes a description of what should be done at every stage of the bylaw process, including:

- how to deal with unit owners
- how to undertake the bylaw review process
- how to amend bylaws
- how to repeal bylaws
- how to draft bylaws
- how to deal with the presentation of bylaws at a general meeting
- how to register bylaws

The Guide provides a review of every provision of the Standard Bylaws to the Strata Property Act, including a recommendation on what to do with the bylaw. Also, the wording of typical proposed amendments is included.

For example, you may wish to provide for a bylaw that permits a non-owning spouse to sit on the strata council. The sample wording is provided for your convenience.

The Guide provides a review of the provisions of the "Strata Property Act" that permits additional bylaws, such as rental bylaws, interest bylaws, remuneration bylaws for strata council members etc.. The proposed wording for these types of bylaws is also provided.

Further, a review of some of the relevant provisions for different types of strata lots, ie. sections, commercial strata lots and residential strata lots, is available.

Finally, Land Title Office registration forms are attached with instructions for completion.

The bylaw review, drafting, approval and registration process is an art. It is a complex, difficult and time consuming process which should not be taken lightly. It is hoped that this Bylaw Guide will minimize the pitfalls.



### Order Yours Today!

**STRATA PROPERTY ACT**  
A Practical Guide to Bylaws

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

☐ Cheque enclosed ☐ VISA ☐ Mastercard

VISA/Mastercard Number \_\_\_\_\_ Amount **\$62.85**

Signature \_\_\_\_\_ Expiry Date \_\_\_\_\_

*\*Cheques, money orders and VISA accepted.*

**Fax orders to: (250) 741-1441**

Tel: (250) 753-0353 • Toll Free: **1-888-298-7999**



**10th  
Anniversary!**

## Come Celebrate with Us!

For a decade now, Strata-sphere has been an informative strata reference for Councils and Strata Managers across BC. Strata-sphere has kept you up-to-date on many topical issues.

Come celebrate with us!!

**Watch for our Spring 2008 edition!**



*“Wishing Everyone a Happy Holiday  
& A Prosperous New Year”*

*from  
all  
of us  
at...*



left to right:

Front:  
Katherine Grilo  
Cora D. Wilson  
Carol Spears

Back:  
Cindy Bartlett  
Mary Milner  
& Rhona Allan

**C.D. WILSON LAW CORPORATION**

630 Terminal Avenue N., Nanaimo, BC V9S 4K2  
(250) 741-1400

**strata-  
SPHERE** condominium services inc.  
630 Terminal Ave. North, Nanaimo, BC V9S 4K2  
[www.stratasphere.com](http://www.stratasphere.com)

CANADA		POSTES
POST		CANADA
Postage paid		Port payé
Bulk		Nombre
03154750-99		