



Instruction Guide 3

The Role and Responsibilities of the Strata Corporation

Important Notice: This Instruction Guide has been prepared by the Superintendent of Real Estate to provide information about the *Strata Property Act* (the "Act"). This is only a guide to certain parts of the Act and Regulations. Please consult the Act and Regulations to determine the complete and precise requirements of the Act and Regulations. In addition, please remember when reviewing statements about the Standard Bylaws, that they may not apply until January 1, 2002, and even when they do apply, they may have been amended or removed if the strata corporation has filed bylaw amendments in the Land Title Office. Please check all filed bylaw amendments to determine whether and how the Standard Bylaws may have been amended.

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1. The Creation of the Strata Corporation

A strata corporation is created to divide a building(s) and/or a parcel of land into separate components 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 (the “Act”), and not the Company Act. This means that there is no incorporation certificate for a strata corporation, and the Registrar of Companies does not regulate strata corporations.

2. **What is a Strata Corporation?**

The 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 others, be sued by others, enter into contracts with others and hire employees.

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

If 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.

3. **What Does a Strata Corporation Do?**

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 agents or employees which it hires.

Additionally, the strata council will also perform its own obligations which are imposed by the Act and Regulations on the strata council, and will benefit the strata corporation.

The specific obligations of the strata corporation which are set out in the Act and Regulations are:

- preparing, retaining and making accessible various records;
- holding general meetings, or obtaining the appropriate waiver of general meetings;
- giving notices of general meetings;
- preparing “Information Certificates” (Form B) and “Certificates of Payment” (Form F);

- 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 deal with common property;
- maintaining a contingency reserve fund which is accounted for separately from the operating fund;
- paying common expenses;
- determining the amount of contributions which owners must make to the operating fund and the contingency reserve fund;
- preparing annual budgets;
- informing owners of any changes to strata fees;
- obtaining adequate insurance coverage; and
- informing owners if the strata corporation is sued.

4. **Strata Corporation 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:

- the 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;
- the Act or Regulations may require that a matter be resolved by a $\frac{3}{4}$ vote. These decisions must be made by $\frac{3}{4}$ of all the eligible voters who are present in person or by proxy at a general meeting, and who have not abstained from voting;
- the Act or Regulations may require that a matter be resolved by a majority vote of the strata corporation (e.g. approving budget, directing or restricting council, ratifying rules, continuing 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;
- if a matter is not required by the 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;

- any matter that is not required by the 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.

5. **Democratic Principles**

Strata corporations are democratic, and run on democratic principals, 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.
- election of representatives:
 - at every annual general meeting, the owners will elect a strata council to manage the strata corporation.
- majority rule:
 - 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 Act requires that a matter be approved by a vote by persons holding $\frac{3}{4}$ or all of the votes.
- right to raise issues:
 - owners can add matters to a general meeting agenda, if they can get persons holding 25% of the votes to agree to it; and
 - owners can requisition a special general meeting for a particular purpose if they can get persons holding 25% of the votes to agree to it.

6. **Community Interest of Strata Corporation**

A strata corporation creates a community of strata owners. The right of an owner to use and enjoy his or her property will be limited by rules, bylaws and decisions of the strata corporation which are in the community interest.

The obligations and limitations placed on a strata lot owner 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 are intended to control noise, such as a bylaw prohibiting the installation of hardwood flooring; and
- a roof may be in need of repair, but an owner wishes 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 assessment for the repair, as getting the roof fixed is in the community interest and an obligation of the strata corporation.

References:

Sections of the Act: 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