



Instruction Guide 5

The Role and Responsibilities of the Owners

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 if 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. Who are Strata Lot Owners?

The Act makes numerous references to owners. Under the Act, an owner includes an Owner Developer, and can be any of the following persons:

- the registered owner of a strata lot, and includes trustees who hold title for the benefit of someone else;
- the registered owner of a leasehold strata lot in a leasehold strata plan (who is referred to in the Act as a "leasehold tenant"), and includes trustees who hold title for the benefit of someone else;
- the person registered on title as a holder of an agreement for sale of a strata lot, and in this case, the registered owner will not be an owner under the Act; and
- the registered holder a life estate (which is referred to in the Act as a "tenant for life") and in this case, the registered remainder owner will not be an owner under the Act.

The following persons are not defined as owners under the Act:

- spouses of registered owners or tenants;
- beneficiaries, who may live in or collect rent from a strata lot, but are not registered on title as owner or tenant;
- tenants or sub-tenants, who may hold a long term lease or rent on a month to month basis; and
- tenants with a lease that expires upon the tenant's death.

2. **What do Owners Own?**

An owner of a strata lot owns the following:

- his or her strata lot
 - usually a strata lot's boundaries are at the center of walls, ceilings and floors, but these boundaries will be different if the strata plan shows a different boundary;
 - in a bare land strata plan, the strata lot will consist of the land and not the building situated on the strata lot; and
- a share, as a tenant in common with other strata lot owners, of the common property and assets of the strata corporation that is based on their unit entitlement.

3. **The Rights of Strata Lot Owners**

Owners have the right to:

- vote at a general meeting, unless:
 - pursuant to a bylaw they are ineligible to vote on resolutions needing to be passed by a majority or $\frac{3}{4}$ vote, due to unpaid strata fees or other monies owing;
 - they have assigned their right to vote on certain matters to tenants or mortgagees;
 - they no longer have a vote due to an automatic assignment to:
 - ◆ a tenant who is a family member, as defined in the Regulations;
 - ◆ a residential tenant with a lease of three years or greater; or
 - ◆ they lack capacity to vote or are under sixteen years of age.

- under the Standard Bylaws, vote by secret ballot if requested at a general meeting;
- demand certain records from the strata council;
- under the Standard Bylaws, attend strata council meetings as observers for matters other than bylaw contravention, rental hardship, or matters affecting an individual's privacy;
- direct the actions of the strata council by majority vote at general meetings;
- limit the power of the strata council by majority vote at general meetings;
- requisition general meetings with a petition of 25% of the owners;
- add matters and resolutions to a general meeting agenda with a petition of 25% of the owners;
- obtain insurance for:
 - loss or damage to his or her:
 - ◆ strata lot; and
 - ◆ fixtures built or installed on the strata lot by the Owner Developer as part of the original construction

for perils not covered by the strata corporation insurance or for amounts in excess of any strata corporation insurance;
 - fixtures in the owner's strata lot that were not built or installed by the Owner Developer as part of the original construction;
 - improvements to fixtures built or installed on the strata lot by the Owner Developer as part of the original construction;
 - loss of the rental value of his or her strata lot; and
 - liability for property damage and bodily injury that occurs either on his or her strata lot or on the common property.
- seek a court or arbitration order to prevent or stop unfair acts of the strata corporation or strata council;
- seek a court or arbitration order to prevent a person who holds more than 50% of the votes, including proxies, from exercising those voting rights;
- seek a court or arbitration order to require the strata corporation to perform a duty under the Act, Regulations, bylaws or rules; and
- seek a court or arbitration order to require the strata corporation to stop contravening the Act, Regulations, bylaws or rules.

Owners do not have a right to:

- place items on the agenda of annual or special general meetings, unless 25% of the owners petition to have items on the agenda;
- requisition general meetings, unless 25% of the owners petition to have a general meeting for a specific purpose;
- claim any interest in the Contingency Reserve Fund upon selling his or her strata lot.
- under the Standard Bylaws:
 - participate in discussions or decision making at strata council meetings, if they attend as observers;
 - refuse entry to their strata lot by any authorized person:
 - ◆ in an emergency, even though no notice has been given; and
 - ◆ to inspect and repair parts of common property or the strata lot that the strata corporation is responsible to maintain or insure, if 48 hours written notice has been given.
 - alter certain parts of the strata lot without written strata council approval;
 - alter common property or limited common property without written strata council approval.

4. **The Obligations of Strata Lot Owners**

Strata lot owners must do the following:

- pay regular strata fees, usually in proportion to their unit entitlement, on the date set out in the bylaws, which is the first day of each month under Standard Bylaw 1;
- maintain and repair all parts of their strata lot and limited common property which are required by the bylaws;
- use property in a manner required by the bylaws, which under the Standard Bylaws requires that owners:
 - not cause a nuisance to others;
 - not make unreasonable noise;
 - not use their strata lot for an illegal purpose; and
 - leash and secure pets in common areas.
- pay special levies to the strata corporation if the special levy has been approved by the necessary vote;

- under the Standard Bylaws, within two weeks of becoming an owner, inform the strata corporation of their name, strata lot number, and any mailing address outside the strata development; and
- comply with work orders from a local authority to do work to his or her strata lot.

5. **What Owners in a Strata Development Should be Willing to Do**

In order for a strata corporation to function effectively, strata lot owners should be willing to do the following:

- participate in managing the strata corporation by sitting on the strata council;
- attend general meetings to participate in important discussions and decision making about the strata corporation;
- understand and observe the bylaws and rules of the strata corporation;
- educate themselves about the Act and Regulations, so the strata corporation functions as it should;
- compromise individual interests for the good of the strata corporation as a whole; and
- take responsibility for resolving disputes between owners through discussion, mediation and arbitration, as there is no government body that can become involved in strata affairs.

References:

Sections of the Act: 1, 25, 27, 36, 43, 46, 53-55, 66, 68, 84, 92, 99, 101, 107, 108, 142, 147, 148, 161, 164
Standard Bylaws: 1-8, 17, 27