

CONDOMINIUM ACT

CHAPTER 61

[Consolidated November 25, 1993]
[See status sheet following this Act.]

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2. Phased Strata Plans	77 - 91
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Interpretation

1. (1) In this Act

- "approving officer" means approving officer as defined in the *Land Title Act*;
- "bare land strata plan" means a strata plan on which the boundaries of the strata lots are defined on a horizontal plane by reference to survey markers under section 6 (2) (b), and not by reference to the floors, walls and ceilings of a building;
- "building" means a building, or a group of buildings, shown on a strata plan;
- "bylaws" mean the bylaws of a strata corporation in force under this Act as amended by the strata corporation;
- "charge" means a registered interest less than fee simple and a registered encumbrance on land;
- "common facility" means a facility that is available for the use of all the owners, and, without limiting the generality of the foregoing, may include a laundry room, playground, swimming pool, recreation centre, clubhouse or tennis court;
- "common property" means so much of the land and buildings comprised in a strata plan that is not comprised in a strata lot shown on the strata plan, and includes pipes, wires, cables, chutes, ducts or other facilities for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television services, garbage, heating and cooling systems and other services contained within a floor, wall or ceiling of a building shown on the strata plan, where the centre of the floor, wall or ceiling forms the common boundary of a strata lot with another strata lot or with common property;
- "contingency reserve fund" means a fund for the expenditures, other than annual, of the strata corporation for repair, maintenance and replacement of the common property, common facilities and other assets of the strata corporation, including where applicable, without limiting the generality of the foregoing, the roof, exterior of the buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators, laundry and recreational facilities;
- "council" means the strata council;
- "court" means the Supreme Court of British Columbia;
- "improvements" means improvements defined in paragraph (a) of that definition in the *Assessment Act*;

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- “contingency reserve fund” means a fund for the expenditures, other than annual, of the strata corporation for repair, maintenance and replacement of the common property, common facilities and other assets of the strata corporation, including where applicable, without limiting the generality of the foregoing, the roof, exterior of the buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators, laundry and recreational facilities;
- “council” means the strata council;
- “court” means the Supreme Court of British Columbia;
- “improvements” means improvements defined in paragraph (a) of that definition in the *Assessment Act*;

- "limited common property" means common property designated under section 53 (1) and (2) for the use of one or more strata lot owners;
- "minister" includes a person designated in writing by the minister;
- "owner" means the person registered in the register of a land title office as owner in fee simple of a strata lot, whether entitled to it in his own right or in a representative capacity or otherwise, or,
- (a) where there is a registered agreement for sale and purchase of the strata lot, the registered holder of the last registered agreement for sale and purchase; and
 - (b) where there is a registered life estate, the tenant for life;
- "owner developer" means a person who, on the date that a strata plan is tendered to the registrar for deposit, is the person registered in the land title office as owner in fee simple of the land included in the strata plan, and, for the purposes of this Act, includes
- (a) an affiliate, defined in the *Company Act*, of the owner developer; and
 - (b) a trustee of any right, title or interest of the owner developer, or affiliate, in the land included in the strata plan;
- "phased strata plan" means a strata plan deposited in respect of a phased development under Part 2;
- "purchaser" means a person who purchases a strata lot from an owner developer, and any subsequent purchasers of that strata lot, but does not include an affiliate, trustee, assignee or nominee of an owner developer, or any person whose business includes the development, sale or management of real property to whom the owner developer has transferred any right, title or interest in the land included in the strata plan, unless that person personally occupies the strata lot;
- "regional district" means a regional district defined in the *Municipal Act*;
- "registrar" means a registrar of a land title office;
- "special resolution" means a resolution passed at a properly convened general meeting of the strata corporation, of which at least 14 days' notice specifying the purpose of the special resolution has been given, by not less than 3/4 of the votes of all persons entitled to vote thereon under this Act or the bylaws, present at the meeting in person or by proxy at the time the resolution is passed;
- "strata corporation" means the corporation created by section 13;
- "strata council" means the council designated or elected pursuant to the bylaws;
- "strata lot" means a lot shown as such on a strata plan;
- "strata plan" means a plan that
- (a) is described in the heading to it as a strata plan;
 - (b) shows the whole or any part of the land comprised in the plan as being divided into 2 or more strata lots, whether on one level or more, and whether or not connected with another or others; and
 - (c) complies with the requirements of section 4,
- and includes a bare land strata plan and a plan of resubdivision or consolidation of any strata lot or strata lots on a strata plan;
- "superintendent" means the Superintendent of Real Estate;
- "unanimous resolution" means a resolution unanimously passed at a properly convened general meeting of the strata corporation, of which at least 14 days' notice specifying the purpose of the unanimous resolution has been given, at which all persons entitled to vote on it under this Act or the bylaws are present in person or by proxy at the time the resolution is passed;

"unit entitlement" means the unit entitlement of a strata lot and indicates the share of an owner in the common property, common facilities and other assets of the strata corporation and is the figure by reference to which the owner's contribution to the common expenses of a strata corporation is calculated.

(2) A schedule of unit entitlement that is acceptable to the superintendent is required for each strata plan.

(3) In the case of a residential strata plan, the owner developer may submit

(a) a schedule of unit entitlement based on the following formula:

$$\frac{\text{unit entitlement of strata lot}}{\text{total unit entitlement of all strata lots in the strata plan}} = \frac{\text{square footage of strata lot expressed as the nearest whole number}}{\text{total square footage of all strata lots in the strata plan expressed as the nearest whole number}}$$

and the unit entitlement so calculated shall be expressed as the nearest whole number resulting from the application of the formula; or

(b) an alternative schedule of unit entitlement not based on the formula set out in paragraph (a).

(4) Where the owner developer submits a schedule under one paragraph of subsection (3), the superintendent may require the owner developer to submit a schedule under the other paragraph and may accept the schedule submitted, which, in his opinion, would result in a more equitable contribution by the owners to the common expenses of the strata corporation.

(5) In the case of a strata plan which is nonresidential, the superintendent may accept a schedule of unit entitlement if, in his opinion, it equitably reflects the relative square footage of the strata lots as set out in subsection (3) (a), the location of the strata lots, their proximity to the common property and any other factors relevant to their contribution to the common expenses.

(6) In the case of a strata plan consisting partially of residential lots and partially of lots that are not residential, or of various types of lots not residential, the superintendent may accept a schedule of unit entitlement if, in his opinion, it takes into account the criteria set out in subsections (3) and (5) and reflects an equitable relationship between the various types of strata lots in respect of their contribution to the common expenses.

(7) Where in this Act reference is made to a strata lot being "conveyed" to a purchaser, the strata lot is, for the purposes of this Act, conveyed on registration in the land title office of a deed of land or transfer transferring title to the strata lot, or an agreement for sale for the strata lot or an assignment of the purchaser's interest in the agreement for sale.

1974-89-1; 1975-74-1.2; 1977-64-1.2; 1978-25-332,334; 1985-20-18, effective October 1, 1985 for some purposes and in full effect January 1, 1987 (B.C. Reg. 291/85); 1985-75-1, effective February 10, 1986 (B.C. Reg. 18/86).

PART 1

STRATA TITLES AND STRATA CORPORATIONS

Subdivision into strata lots

2. Land may be subdivided into strata lots by the deposit of a strata plan, and the strata lots so created, or any one or more of them, may, subject to this Act, devolve or be disposed of in the same manner and form as any land the title to which is registered in a land title office.

1974-89-2(1).

Nov. 14, 1986

Registration

3. (1) A registrar shall not accept a strata plan unless title to the land included in the strata plan is registered in the name of the owner developer and the land included in the strata plan is shown as

- (a) a single parcel on a subdivision plan, reference plan or air space plan deposited in a land title office;
- (b) separate parcels, if the parcels are separated only by a highway, dyke, stream or right of way;
- (c) separate parcels, if the parcels form part of a phased strata plan as set out in Form E; or
- (d) separate parcels separated by land not owned by the person depositing the strata plan, if the approving officer has approved the development under section 10.

(2) The registrar shall examine the application and the instrument and strata plan produced in support of it, and, if satisfied that they are in order and comply with all applicable requirements for registration in the land title office, shall assign to the strata plan a serial deposit number and register new indefeasible titles for the strata lots shown on the strata plan as may be necessary.

(3) On the registration of a new indefeasible title, the former indefeasible title shall be cancelled in like manner as provided in section 185 of the *Land Title Act* in the case of a transfer of the whole or a portion of the land included in an indefeasible title.

(4) A strata plan shall be deemed, on registration, to be embodied in the register, and the owner shall hold his strata lot and his share in the common property subject to any interests affecting the same for the time being notified on the registered strata plan and subject to any amendments to strata lots or common property shown on that plan.

1974-89-2(2 to 5); 1978-15-6; 1978-25-335; 1982-60-89, proclaimed effective August 1, 1983.

Strata plans**4. A strata plan shall**

- (a) delineate the plan boundaries of the land included in the strata plan and, except in the case of a strata lot in a bare land strata plan, the location of the buildings;
- (b) bear a statement containing particulars necessary to identify the title to the land included in the strata plan;
- (c) include a drawing illustrating the strata lots and distinguishing them by numbers or letters in consecutive order;
- (d) subject to section 6, define the boundaries of each strata lot;
- (e) show the approximate square footage of each strata lot, including the spaces referred to in section 5;
- (f) show, in a schedule, the unit entitlement of each strata lot to be used in determining the undivided share of each owner in the common property and the proportion payable by each owner of contributions levied under section 35;
- (g) show, in a schedule acceptable to the superintendent, to the nearest whole number, the share of each owner as a tenant in common of the property and assets of the strata corporation on the destruction of the building referred to in section 64, calculated in the proportion that the value of each strata lot bears to the total value of all strata lots on that strata plan; and, in respect of

a phased strata plan, the share of each owner shall bear an equitable relationship to the share of an owner of a comparable strata lot in a previous phase and not to the purchase price of the strata lot;

- (h) for a strata plan that is not residential or is partially residential, show in a schedule acceptable to the superintendent the number of votes allocated to each strata lot and that, in his opinion, provides an equitable relationship between individual lots that are not residential and between the lots that are not residential as a group and the residential lots as a group, and in order to achieve the relationships required by this paragraph, the superintendent may approve a schedule in which the votes allocated to lots that are not residential are not expressed in whole numbers;
- (i) show the address at which documents may be served on the strata corporation; and
- (j) contain other data prescribed by regulation.

1974-89-3(1); 1975-74-3; 1977-64-3; 1978-15-6; 1981-20-13, proclaimed effective April 14, 1982.

Strata plans: garages, etc.

5. Garages, parking spaces, storage areas and other areas or spaces related to the use of a strata lot that are intended for residential use shall not be designated as separate strata lots but shall be included as part of the strata lot or as part of the common property.

1977-64-3(2).

Strata plans: boundaries

6. (1) Except in the case of a bare land strata plan and unless otherwise stated on the strata plan, the common boundary of a strata lot with any other strata lot or with common property is the centre of the floor, wall or ceiling, as the case may be.

(2) For the purpose of section 4 (d), the boundaries of a strata lot shall be defined,

- (a) by reference to the floors, walls and ceilings;
- (b) in the case of a bare land strata plan, on a horizontal plane by reference to survey markers in compliance with the regulations that may be made by the Surveyor General and, for this purpose, unless otherwise shown on the strata plan, the boundaries shall be deemed to extend vertically upward and downward without limit; or
- (c) where the strata lot includes balconies, patios, private yard areas, garages, parking spaces, storage areas and other areas and spaces not enclosed by floors, walls or ceilings, in any manner approved by the registrar.

1974-89-3(3,4); 1977-64-3.

Strata plans: deposit in land title office

7. (1) Every strata plan tendered for deposit in a land title office

- (a) shall be accompanied by the certificate of a British Columbia land surveyor that the building shown on the strata plan is within the external boundaries of the land that is the subject of the strata plan, or that appropriate and necessary easements or other interests exist to provide for access to any parts of the building that are not within the boundaries;

- (b) shall be accompanied by the number of copies of the plan required by the registrar for taxing authorities;
 - (c) shall comply with all regulations made by the Surveyor General for the purposes of this Act;
 - (d) shall be signed by the owner developer and the owner of a charge on all, or a part of, the land included in the strata plan;
 - (e) shall comply with section 4;
 - (f) shall, for a phased development or a bare land strata plan, be accompanied by a certificate of approval issued by an approving officer;
 - (g) shall, in the case of a conversion into strata lots of a previously occupied building by an owner developer other than the Crown, be accompanied by a certificate of approval under section 9 (5); and
 - (h) in all other cases shall be accompanied by a certificate of a British Columbia land surveyor issued under section 8.
- (2) The registrar may accept a strata plan that has not been signed by all of the persons required to sign if, in his opinion, the interests of the persons who have not signed are not affected by the deposit of the plan.

1974-89-3(5,6); 1975-74-4; 1977-64-3; 1978-25-334.

Certificate of approval

8. (1) Where a strata plan is not a bare land strata plan, does not form part of a phased strata plan and includes a building that has not been previously occupied, or a building to be constructed and developed, the owner developer shall, on tendering a strata plan for deposit, file with the registrar a certificate of a British Columbia land surveyor, dated not more than 90 days prior to the date on which the strata plan is tendered for deposit, certifying that the building has not been occupied prior to the date of the certificate.

(2) In the case of a phased strata plan, the approving officer shall, on application by the owner developer, issue a certificate of approval for each separate phase, if it substantially complies with the requirements for that phase set out in Form E as may be amended under section 78, and the certificate shall be filed with the registrar by the owner developer on the deposit of the strata plan for the phase to which the certificate relates.

(3) In the case of a bare land strata plan, the approving officer shall, subject to the regulations, approve the strata plan prior to the plan being tendered for deposit in the land title office.

1977-64-4; 1978-25-334.

Approval of existing buildings

9. (1) On the conversion into strata lots of a previously occupied building by an owner developer, the approving authority may approve the strata plan, refuse to approve the strata plan or refuse to approve the strata plan until terms and conditions imposed by the approving authority are met. The decision is final.

(2) The approving authority shall not approve the conversion unless the building substantially complies with the applicable bylaws of the municipality, or, where the building is not situated within a municipality, substantially complies with the National Building Code of Canada issued by the Associate Committee on the National Building

Code, National Research Council, as amended from time to time, and with any other bylaws that may apply to the building.

- (3) The approving authority shall consider, in making its decision,
- (a) the priority of rental accommodation over privately owned housing in the area;
 - (b) the proposals of the owner developer for the relocation of persons occupying the building;
 - (c) the life expectancy of the building; and
 - (d) projected major increases in maintenance costs due to the condition of the building.

It may consider any other matters that, in its opinion, are relevant.

(4) For the purposes of this section, "approving authority" means, in a municipality, the municipal council, or outside a municipality, the regional board of the regional district in which the land is situated.

(5) The approving authority shall, at the time of approval, issue a certificate in the form prescribed and the certificate shall be filed with the registrar on deposit of the strata plan.

1974-89-5; 1977-64-5.

Approval of separated parcels

10. Where a strata plan or a phased strata plan includes parcels of land that are separated by land not owned by the person depositing the strata plan, the approving officer may approve the strata plan or phased strata plan where he is of the opinion that the strata plan or phased strata plan would result in a stable functioning development of benefit to the community.

1974-89-6.

Dealings in strata property

11. (1) On registration of title to land or an interest in land acquired, or of an instrument evidencing a transfer of or interest in land, by a strata corporation, the registrar shall note the acquisition or transfer on the page of the strata plan that refers to dealings with the common property.

(2) The registrar shall not accept for registration an assignment, lease or agreement for sale of, or conveyance of title to, a strata lot unless it is accompanied by a certificate in Form A that the strata corporation has received payment in full of all money owing to it for that strata lot. The certificate shall be valid for a period of 3 months.

1974-89-7; 1977-64-6.

Common property

12. (1) The common property, common facilities and other assets of the strata corporation shall be held by the owners as tenants in common in shares proportional to the unit entitlement of their strata lots.

(2) Subject to this Act, a share in the common property, common facilities and other assets of the strata corporation shall not be dealt with separately from the strata lot of the owner. An instrument dealing with a strata lot operates to deal with the share of the owner in the common property, common facilities and other assets of the strata corporation, without express reference.

(3) The registrar shall show on every indefeasible title for a strata lot the owner's share in the common property created by that plan.

1974-89-8; 1977-64-7; 1982-60-90, proclaimed effective August 1, 1983.

Strata corporation

13. (1) The owners of the strata lots included in a strata plan and their successors shall, on deposit of the strata plan in a land title office, constitute and be members of a corporation under the name "The Owners, Strata Plan No." (the registration number of the strata plan).

(2) The *Company Act* does not apply to a strata corporation.

(3) In this section and sections 14 to 16 "owners" includes

(a) the persons entitled to the land included in the strata plan under section 64 (3); and

(b) the lessee, sublessee or his successor in title of a strata lot under section 69.

1974-89-9(1 to 3); 1978-25-334.

Duties of corporation

14. Subject to this Act, the strata corporation is responsible for the enforcement of the bylaws, and the control, management and administration of the common property, common facilities and the assets of the strata corporation.

1974-89-9(4).

Legal proceedings

15. (1) A strata corporation may, as representative of the owners of the strata lots included in the strata plan,

(a) bring proceedings for damages and costs for any damage or injury to the common property, common facilities and the assets of the strata corporation caused by any person; and

(b) be sued on any matter relating to the common property, common facilities or assets of the strata corporation.

(2) A judgment against the strata corporation is for all purposes a judgment against the owners of the strata lots included in the strata plan in amounts proportionate to their unit entitlements shown on the strata plan, and execution may be made accordingly.

(3) Where judgment against the strata corporation relates to the limited common property, the judgment shall be deemed to be against the owners who are entitled to use the limited common property in the unit entitlement proportion.

(4) The strata corporation may join, in proceedings against it, an owner whose act, default or omission gave rise to the claim against the corporation.

(5) Except as provided in subsections (2), (3) and (4), an owner has no personal liability for damages relating to the use of the common property, common facilities or the assets of the strata corporation, for damages caused by the corporation, or for a contract made, or debt or liability incurred, by the corporation.

(6) An owner may sue the strata corporation about any matter relating to the common property, common facilities or the assets of the strata corporation.

- (7) The strata corporation may sue on its own behalf and
- (a) on behalf of an owner about matters affecting the common property, common facilities and other assets of the strata corporation; and
 - (b) if authorized by special resolution of the strata corporation, on behalf of those owners who consent in writing to the strata corporation so doing, about matters affecting individual strata lots notwithstanding that the strata corporation, in the case of a contractual claim, was not a party to the contract about which the proceeding is brought.
- (8) The legal or court costs in a proceeding brought in whole or in part on behalf of owners on a matter affecting their strata lots shall be borne by the individual owners in the proportion in which their interests are affected.

1974-89-9(5 to 10); 1975-74-6; 1977-64-8

Owners who are lessees

- 16.** When there is a deemed assignment under section 69,
- (a) the lessor shall not deal with his estate in reversion in derogation of his grant;
 - (b) the owners who are lessees shall not, without the lessor's consent, do or purport to do any act that may affect the lessor's estate in reversion, and, without limiting the generality thereof, shall not, without the lessor's consent, exercise any of the powers conferred on owners under sections 20 (1), 22 (1) and 23 (1);
 - (c) section 12 (1) applies to owners who are lessees to the extent of their estates as lessees only; and
 - (d) sections 64 to 66 do not apply to owners who are lessees.

1974-89-9(11); 1975-74-6; 1977-64-8.

Contracts about common property

- 17.** A contract entered into by a strata corporation providing for the control, management and administration of the common property, common facilities or the assets of the strata corporation shall be limited to matters affecting the security and maintenance of the common property, common facilities or the assets of the strata corporation, and, without either party to the contract incurring any liability for breach,
- (a) may be cancelled on 3 months' notice at the option and discretion of the owners, by special resolution of the corporation; or
 - (b) may be cancelled on 3 months' notice by the management company or manager.

1974-89-10.

Voting rights of mortgagees

- 18.** (1) Where an owner's interest is subject to a registered mortgage, the mortgage may provide that the power of voting conferred on an owner by or under this Act be exercised by the mortgagee, but only in respect of any matter relating to insurance, maintenance, finance or other matters affecting the security for the mortgage.
- (2) This section does not apply unless the mortgagee has given written notice of his mortgage to the strata corporation, and of his intention to exercise his power to vote, to the owner.

(3) Where a mortgagee does not give the notice to the owner under subsection (2) at least one day prior to the meeting, the owner has the right to vote personally or by proxy.

(4) Where a meeting is adjourned for lack of a quorum, the mortgagee is not entitled to vote at a subsequent meeting unless he had given his notice of intention to vote at least one day prior to the original meeting.

1974-89-11(1,2,3,4).

Notice of default to mortgagee

19. Where a mortgagee has given written notice of his mortgage to the strata corporation, the corporation shall send to the mortgagee a copy of any notice of default that it sends to the owner.

1974-89-11(5).

Dispositions of common property

20. (1) The owners may, by special resolution, direct the strata corporation to dispose of all or part of its common property or assets, and, without limiting the generality of the foregoing, may direct the strata corporation to grant an easement or a restrictive covenant burdening the common property included in the strata plan.

(2) Where there is a resolution under subsection (1), the strata corporation shall execute the appropriate instrument.

(3) Where there is a resolution under subsection (1) and all persons, other than owners, having registered interests in the common property evidenced by memorandum on the page of the strata plan that refers to dealings in the common property have, in writing, consented to the proposed disposition, the strata corporation shall execute the appropriate instrument. The instrument is valid and effective without execution by a person having an interest in the common property.

(4) The receipt of the strata corporation for the purchase money, rent, premiums or other money payable to the strata corporation under the terms of a disposition, is a sufficient discharge, and shall exonerate all persons taking under the instrument from any responsibility for the application of the money.

(5) An instrument referred to in subsection (2) presented for registration in a land title office shall be endorsed with or accompanied by a certificate under the seal of the strata corporation that the resolution was passed and that the instrument conforms to the terms of the resolution.

(6) An instrument referred to in subsection (3) presented for registration in a land title office shall be accompanied by a certificate under the seal of the strata corporation that the resolution was passed, that the instrument conforms with the terms of the resolution, and shall be accompanied by the written consents referred to in that subsection.

(7) The certificate is, so far as the purchasers of the asset and the registrar are concerned, conclusive evidence of the facts stated.

1974-89-12(3 to 5); 1975-74-7; 1977-69-9.

Registration of disposition

21. (1) The registrar shall register each disposition of common property by registering a new indefeasible title for the land disposed of, and notification of the disposition shall not be made on any indefeasible title.

(2) On registration of a disposition of common property, the registrar shall, before registering a new indefeasible title, note the disposition on the page of the strata plan that refers to the common property.

(3) The registrar shall register each disposition of an interest in land owned as an asset of the strata corporation in the same manner as is provided for the registration of a disposition of an interest in land in a land title office.

(4) Notwithstanding the *Land Title Act*, a disposition, not including a lease for a term of 3 years or less, of all or part of the common property of a strata corporation under section 20 is a subdivision of land, and Part 7 of the *Land Title Act* applies.

1974-89-12(6 to 9); 1977-64-9; 1978-25-332,335; 1982-60-91, proclaimed effective August 1, 1983.

Easements and covenants

22. The strata council may, by resolution, accept on behalf of the owners a grant of easement or a restrictive covenant benefiting the land included in the strata plan. The strata council shall file the resolution in the appropriate land title office.

1977-64-10; 1978-25-334.

Acquisition of property

23. (1) The owners, by special resolution, may direct the strata corporation to acquire as sole owner, or as a tenant in common with other strata corporations, any property or any interest in it as an asset of the strata corporation, or as an addition to the common property and, without limiting the generality of the foregoing, may include a strata lot within a strata plan, or land which is not adjacent to the land included in that strata plan.

(2) Every document evidencing acquisition, so far as it is an interest in land that is presented for registration in a land title office shall be endorsed with or accompanied by a certificate under the seal of the strata corporation that the resolution was passed.

(3) On application of the strata corporation to register title to an interest in land under this section, the registrar shall note the document evidencing the acquisition by the strata corporation on the page of the strata plan that refers to common property.

(4) It is not necessary to name as grantees the owners of the strata lots or refer to their unit entitlements in any conveyance to them if these words are used to describe the grantees: "The owners, Strata Plan No., [address], a corporation under the *Condominium Act* on behalf of the strata lot owners".

(5) The registrar shall register an acquisition of an interest in land by a strata corporation as an asset in the same manner as is provided for the registration of an interest in land in a land title office.

1974-89-14; 1977-64-11.

Easement implied

24. (1) In respect of each strata lot included in a strata plan, there is implied, without registration,

- (a) in favour of the owner of the strata lot, and as appurtenant to it, an easement for its subjacent and lateral support by the common property and by every other strata lot capable of affording support;

- (b) as against the owner of the strata lot and to which the strata lot is subject, an easement for the subjacent and lateral support of the common property and of every other strata lot capable of enjoying the support of that strata lot;
 - (c) in favour of the owner of the strata lot, and as appurtenant to it, easements for the passage or provision of water, sewage, drainage, gas, oil, electricity, garbage, heating and cooling systems and other services, including telephone, radio and television services, through or by means of any pipes, wires, cables, chutes or ducts for the time being existing in the land included in the strata plan to the extent to which those pipes, wires, cables, chutes or ducts are capable of being used in connection with the enjoyment of the strata lot; and
 - (d) as against the owner of the strata lot, and to which the strata lot is subject, easements for the passage or provision of the systems and services described in paragraph (c) for the time being existing within the strata lot, as appurtenant to the common property and also to every other strata lot capable of enjoying the easements.
- (2) In the case of a bare land strata plan, a strata lot does not have the benefit of, and is not subject to, the burden of the easements implied under subsection (1) (c) and (d) for pipes, wires, cables, chutes or ducts the existence of which was not disclosed to the purchaser of the strata lot by the owner developer in the prospectus required under the *Real Estate Act*, or to which the owner of the strata lot burdened by the easement has not consented in writing.
- (3) All ancillary rights and obligations reasonably necessary to make easements effective apply in respect of easements implied or created under this Act.

1974-89-15; 1977-64-12.

Easement for shelter

- 25.** (1) The owner of a strata lot is entitled to have his strata lot sheltered by every part of the building shown in the strata plan capable of affording shelter.
- (2) This right is an easement for shelter to which every part of the building shown in the strata plan capable of affording shelter is subject.
- (3) The easement entitles the owner of the dominant tenement to enter on the servient tenement to replace or restore any shelter.
- (4) This section does not apply to buildings constructed on a strata lot shown on a bare land strata plan.

1974-89-16; 1977-64-13.

Bylaws of strata corporation

- 26.** (1) The strata corporation shall have bylaws providing for the control, management, administration, use and enjoyment of the strata lots and common property, common facilities and other assets of the strata corporation, and the bylaws shall be the bylaws set out in Part 5 until they have been altered or repealed under this Act at the time of alteration or repeal.
- (2) Where a strata plan is exclusively residential or is a bare land strata plan, the bylaws shall not be amended unless a strata council has been elected under the bylaws and the changes have been approved by special resolution, or, where a unanimous resolution is required under this Act or bylaws, by unanimous resolution.

(3) In the case of a strata corporation administering a strata plan in which there is not more than one residential strata lot, the bylaws may be amended or repealed at any time after the deposit of the strata plan and the changes have been approved by special resolution, or, where a unanimous resolution is required under this Act or the bylaws, by unanimous resolution.

(4) In the case of a strata corporation administering a strata plan that is not exclusively residential but contains more than one residential strata lot, the bylaws shall not be amended unless the changes are made as specified in the bylaws, or a strata council has been elected and the changes have been approved by a resolution passed at a properly convened meeting of the strata corporation, of which at least 14 days' notice specifying the purpose of the meeting has been given in the same manner as notice is required to be given of a special resolution, by not less than 3/4 of the votes of the owners of the residential strata lots and not less than 3/4 of the votes of the other owners of strata lots entitled in each case to vote on it under this Act or the bylaws and who are present at the meeting in person or by proxy at the time the resolution is passed.

1974-89-17(1 to 4); 1975-74-8; 1977-64-14; 1978-15-6,7

Bylaws: prospectuses

27. (1) Where a prospectus for a strata plan that is exclusively residential or that is a bare land strata plan has been filed with the superintendent, the proposed bylaws of the strata corporation as disclosed in the prospectus shall not be amended before the deposit of the strata plan unless the superintendent has accepted the changes.

(2) Where a prospectus for a strata plan that is not exclusively residential but contains more than one residential strata lot has been filed with the superintendent, the proposed bylaws of the strata corporation, as disclosed in the prospectus, shall not be amended before the deposit of the strata plan unless the superintendent has accepted the changes.

(3) The superintendent may accept changes under this section if, in his opinion, the particular nature of the strata corporation is such that the proposed changes would be of material benefit to it and the owners.

1977-64-14(b,d); 1978-15-6,7.

Bylaws: general rules

28. (1) The bylaws set out in Part 5 have force and effect from the time of the deposit of the strata plan in the land title office until amended or repealed under sections 26 and 27.

(2) An amendment or repeal of a bylaw set out in Part 5 has no effect until the strata corporation gives notice to the registrar of the amendment or repeal in the form prescribed by regulation. On receiving the notice, the registrar shall make a reference to the notice on the deposited strata plan.

(3) The strata corporation shall, on application of an owner or mortgagee of a strata lot or any person authorized in writing by him, make available for inspection the bylaws for the time being in force.

(4) The bylaws for the time being in force bind the strata corporation and the owners to the same extent as if the bylaws had been signed and sealed by the strata corporation and each owner and contained covenants on the part of the corporation with each owner and on the part of each owner with every other owner and with the corporation to observe and perform their provisions.

1974-89-17(5 to 9); 1977-64-14; 1978-25-334.

Dealings in strata lots

- 29.** Subject to section 30, the bylaws do not operate to prohibit or restrict
- (a) a devolution of a strata lot; or
 - (b) a transfer, lease, mortgage or other dealing with a strata lot, or to destroy or modify an easement implied or created by this Act.
- 1977-64-15.

Restriction on leasing: general

- 30.** (1) A strata corporation administering a strata plan that is wholly or partially residential may, by bylaw, limit the number of residential strata lots within the strata plan that may be leased by the owners.
- (2) A bylaw under subsection (1) shall set out the number of strata lots that may be leased and the manner in which the limitation will be enforced.
- 1977-64-15.

Leasing rules for owner developer

- 31.** (1) An owner developer who has leased, or intends to lease, one or more residential strata lots in a strata plan shall disclose to every prospective purchaser of a residential lot in the plan
- (a) the number of strata lots leased by him at the date the purchaser agrees to purchase his strata lot;
 - (b) the number of additional residential lots he intends to lease;
 - (c) the length of time he intends to lease the lots; and
 - (d) the text of any bylaw limiting the number of residential lots in the plan that may be leased by the owners.
- (2) An owner developer shall satisfy subsection (1) by delivering a rental disclosure statement in prescribed form to the superintendent prior to the first sale of a strata lot, and to the purchaser before the owner accepts an offer to purchase or the purchaser signs an agreement to purchase a strata lot.
- (2.1) Notwithstanding subsections (1) and (2), where the first agreement to purchase a strata lot in a strata plan was entered into before February 1, 1978, the owner developer may apply to the superintendent to approve and file a rental disclosure statement for the strata plan and, if the superintendent approves and files the rental disclosure statement, the owner developer shall be deemed to have complied with subsections (1) and (2) and may lease residential strata lots in accordance with the rental disclosure statement.
- (3) A bylaw passed by a strata corporation under section 30 does not restrict the right
- (a) of the owner developer to lease the number of strata lots for the periods shown on the rental disclosure statement; or
 - (b) of an owner who has leased his strata lot to a tenant pursuant to a tenancy agreement entered into before the bylaw is passed to continue the lease pursuant to the agreement or renew or extend it.
- (4) Where an owner developer sells a strata lot that is leased to a tenant, or that he intended to lease to a tenant, pursuant to the disclosure statement, the purchaser may lease or continue to lease the strata lot to a tenant for the period disclosed in the statement. Thereafter the purchaser is not entitled to lease or continue to lease the strata lot except under the bylaws of the strata corporation.

(5) The owner developer may, with the approval of not less than 75% of the owners of residential strata lots, excluding the owner developer and owners who are leasing their strata lots, modify the rental disclosure statement by changing the number of strata lots he intends to lease or the length of time he intends to lease them or both.

(6) Where a rental disclosure statement is altered under this section, subsections (3) (a) and (4) apply.

1977-64-15; 1981-20-14, proclaimed effective April 14, 1982

Restrictions: appeal

32. (1) Where

(a) the owner developer is unable to obtain the owners' consent under section 31 (5); or

(b) an owner is prevented from leasing by a bylaw under section 30; and

(c) hardship results to the owner developer or owner,

he may appeal to the strata council for permission to lease his strata lot, and the council shall not unreasonably refuse the appeal.

(2) Where an owner developer or owner appeals to the strata council, the council shall hear the appeal within 21 days after the date the owner developer or owner requested the strata council to hear the appeal, and, if the strata council has not delivered its decision within 7 days after hearing the appeal, the appeal shall be deemed to have been allowed.

(3) The strata council may on an appeal authorize the lease of one or more strata lots in contravention of the bylaw, or permit alteration of a rental disclosure statement without the consent of the owners.

1977-64-15.

Offence

33. (1) An owner developer or owner who fails to comply with or contravenes a requirement of section 30 or 31 is guilty of an offence.

(2) A promise or agreement to purchase or lease a strata lot in a plan that is wholly or partially residential is not enforceable against the purchaser or tenant by an owner developer or owner who has contravened a provision of section 30 or 31.

1977-64-15.

Duties and powers of strata corporation

34. (1) The strata corporation shall

(a) obtain and maintain insurance on the buildings, the common facilities and any insurable improvements owned by the strata corporation to the full replacement values under section 54;

(b) review annually the adequacy of the insurance;

(c) pay the premiums on the insurance policies;

(d) keep in a state of good and serviceable repair and properly maintain common property, common facilities and assets of the strata corporation; and

(e) comply with notices or orders by a competent public or local authority requiring repairs or work to be done in respect of the land included in the strata plan or the buildings, common facilities or assets of the strata corporation.

- (2) The strata corporation may
- (a) carry out repairs or work required by the notice or order of a competent public or local authority on a strata lot, whether authorized by the owner or not;
 - (b) obtain and maintain insurance in respect of any other perils, including liability, under section 54; and
 - (c) remove privileges or fix fines for breach of the bylaws, rules and regulations.

(3) Money spent under subsection (2) is due and payable to the strata corporation on demand, and shall be added to the levy on that owner under section 35 for the following month.

1974-89-19; 1977-64-16.

Administrative expenses and reserves

35. (1) The strata corporation shall

- (a) establish a fund for administrative expenses sufficient for the control, management and administration of the common property, for the payment of premiums on policies of insurance and for the discharge of other obligations of the corporation;
- (b) establish a contingency reserve fund not exceeding an amount calculated in the manner fixed by regulation and determine the annual levy for the contingency reserve fund; and the levy shall, if the amount of the reserve is less than 25% of the total annual budget of the strata corporation, be not less than 5% of that budget; and the strata corporation shall hold the fund as a reserve fund to pay unusual or extraordinary future expenses;
- (c) determine the amounts to be raised for the purposes set out in this section and notify the strata lot owners of those amounts; and
- (d) raise the amounts so determined by levying contributions on the owners in proportion to the unit entitlement of their respective strata lots in the manner provided for in the bylaws.

(2) The strata council shall not make expenditures out of the contingency reserve fund without a special resolution, unless the strata council considers that the expenditure is necessary to meet an emergency.

(3) Unless otherwise provided in the bylaws, there shall be no reduction of the contribution of the owner developer under subsection (1) (d) for strata lots owned by him.

(4) Unless otherwise provided in the bylaws, the contributions levied under subsection (1) (d) shall become due and payable on the first day of each month.

(5) Subject to section 36, a strata corporation may recover from an owner in a court of competent jurisdiction a sum of money owing to the strata corporation

- (a) as the owner's monthly contribution under this section; or
- (b) for money expended by the strata corporation under section 34.

(6) An action may be brought against the owner at the time the debt was due and against the owner of the same strata lot at the time the action is brought, jointly and severally.

1974-89-20(1,2,3,4); 1977-64-17.

Certificate of corporation

- 36.** (1) The strata corporation shall, on the application of an owner, or purchaser or his authorized agent, certify within 7 days
- (a) the amount of contribution of the owner under section 35;
 - (b) the manner in which the contribution is payable;
 - (c) the extent of payment;
 - (d) the amount of money expended for the owner under section 34 (2) and not recovered by it;
 - (e) the amount, if any, by which the expenses of the strata corporation for the current fiscal year are expected to exceed the expenses budgeted for the fiscal year;
 - (f) the amount of the contingency reserve fund;
 - (g) that there are no amendments to the bylaws not filed in the land title office other than those certified;
 - (h) that no notices have been given for a unanimous or special resolution that has not been voted on, other than those certified; and
 - (i) that there are no pending proceedings against the corporation of which it is aware other than those certified.
- (2) In favour of a person dealing with that owner, the certificate is conclusive evidence of the matter certified in it.
- (3) The strata corporation may require a fee of not more than \$5, or a greater amount prescribed by the regulations, from the person to whom a certificate under subsection (1) is issued.

1974-89-20(5); 1977-64-17, 1978-25-334.

Remedies for owner's default

- 37.** (1) Where an owner defaults in the payment of his share of the common expenses, the strata corporation may register in the land title office a certificate in Form B showing the amount owing and the legal description of the strata lot of that owner.
- (2) A certificate noted in the register is, except as provided in subsection (6), a charge for the amount owing in favour of the strata corporation, in priority to every other lien or charge of whatever kind except those under the *Builders Lien Act*, and those of the Crown, other than mortgages in favour of the Crown.
- (3) On application by the strata corporation, the court may order that judgment be entered against the owner in favour of the strata corporation for the amount owing to the strata corporation on the charge by the owner. The order shall provide that, failing payment to the strata corporation of the amount owing within 30 days after the order is made, the strata corporation may sell the strata lot at a price and on terms to be approved by the court, taking into account the priority of the charge.
- (4) The strata corporation shall, before seeking an order for sale under subsection (3), give not less than 4 days' notice of the application to the owner and the owners of all charges ranking in priority after the charge in favour of the strata corporation, by service of a written notice and copies of all documents filed with the court in support of the application.
- (5) The strata corporation shall, on receipt of the amount owing, file with the registrar acknowledgment of payment in Form C.
- (6) The priority of the strata corporation's charge under this section over a charge in favour of another person, as between them, and subject to a contrary intention appearing from the instrument creating them, is according to the date and time of the

applications to register or file, to the extent that the amount owing to the strata corporation consists of the owner's share of common expenses incurred on satisfaction by the strata corporation of a judgment entered against the strata corporation.

(7) In this section "common expenses" includes the contribution levied under section 35, and the amounts, if any, added to the levy under section 34 (3).

(8) A strata corporation may add the land title fee and the legal and administrative costs of filing under subsection (1) or (5) and the legal costs of a proceeding under subsection (3) to the amount owing by the owner to the strata corporation.

1974-89-21; 1975-74-10; 1977-64-18; 1978-25-334.

Certificate of full payment

38. (1) The strata corporation, on the application of the owner, shall, within 7 days, issue a certificate in Form A that no money is owing to it by the owner.

(2) In preparing the certificate, the strata corporation may take into account arrears in contributions to common expenses, fines for breach of the bylaws, money expended under section 34 (2), unsatisfied judgments against the owner and pecuniary awards of an arbitrator. It shall not take into account claims for damages caused by the owner and not determined by an arbitrator or a court.

(3) The strata corporation may issue the certificate on arrangements with the owner, satisfactory to it, that will ensure that money owing to the corporation will be paid on sale of the strata lot.

(4) A fee not greater than a prescribed amount may be charged for the certificate.

1974-89-22(1,2,3); 1977-64-19; 1981-20-15, proclaimed effective December 18, 1981.

No claim on contingency fund

39. On the sale of a strata lot, the vendor shall have no claim against the contingency reserve fund established under section 35.

1974-89-22(4).

Mandatory injunction

40. Where a strata corporation fails to fulfil an obligation under this Act or bylaws, the owner of a strata lot, or a registered mortgagee, may apply to the court for a mandatory injunction requiring the strata corporation to perform the obligation.

1974-89-23.

Failure to appoint strata council

41. Where it is shown to the minister that a strata corporation has failed to elect or re-elect a strata council within the time required by this Act or bylaws, or that there is no longer a quorum of members, the minister may appoint one or more persons to act as the strata council or to make up a quorum, for the period of time and on the terms considered appropriate by the minister to ensure that the strata corporation complies with this Act and bylaws.

1977-64-20.

Oppressive acts

42. An owner may refer to arbitration or may apply to the court to prevent or remedy a matter where he alleges

- (a) the affairs of the strata corporation are being conducted, or the powers of the corporation or strata council are being exercised, in a manner oppressive to one or more owners, including himself; or

- (b) that some act of the strata corporation has been done or is threatened, or that some resolution of the owners or a class of owners has been passed or is proposed that is unfairly prejudicial to one or more owners, including himself.

1977-64-20.

Court order

43. On an application to court under section 42, the court may make the interim or final order it considers appropriate, and, without limiting the generality of that power, may

- (a) direct or prohibit an act of council or vary a transaction or resolution; and
- (b) regulate the conduct of the corporation's future affairs.

1977-64-20.

Arbitration

44. (1) The strata corporation or an owner may, prior to the commencement of a court proceeding about a dispute, refer to arbitration the dispute between the strata corporation and an owner or between 2 or more owners about any matter, including, without limiting that statement, a dispute about

- (a) contributions to common expenses or money paid under section 34 (2);
- (b) fines for the breach of the bylaws or rules and regulations;
- (c) damages to common property, common facilities and other assets of the strata corporation; and
- (d) decisions of the strata council or the strata corporation where the strata corporation consists of 2 strata lots.

(2) Notice shall be given to the strata council, the strata corporation or the owner affected, as the case may be. Within 2 weeks after the notice is received, the parties to the reference shall agree on and appoint a single arbitrator.

(3) If they cannot agree on a single arbitrator, each party shall, within one further week, appoint an arbitrator, and the 2 arbitrators so appointed shall appoint a third arbitrator who shall be the chairman. If the 2 arbitrators cannot agree on a chairman, the *Commercial Arbitration Act* applies.

(4) Unless the parties otherwise agree, each arbitrator shall be an owner and occupier of a strata lot in another strata development for at least one year, but may not be a member of the strata corporation affected by the arbitration.

1974-89-24(1 to 5); 1975-74-11; 1986-3-53, effective July 4, 1986 (B.C. Reg. 148/86).

Arbitration proceedings

45. (1) The arbitrators shall hear the reference as soon as possible at a convenient location in the strata plan or nearby.

(2) The arbitrators shall conduct the hearing as they believe proper, allowing each party adequate opportunity to present or rebut evidence.

(3) The arbitrators may accept evidence on oath, affidavit or otherwise, as they believe proper, whether or not admissible in a court. Members of the corporation who are not parties may present evidence only if requested to do so by a party, but the hearing is open to all members.

(4) The arbitrators may make whatever award they consider just and equitable, including an order in the nature of a mandatory or prohibitive injunction, or for payment

of pecuniary damages and shall make an order about the contribution of the parties to the cost of the arbitration and remuneration of the arbitrators.

(5) The award of the arbitrators may be entered in the registry of the court and enforced with the leave of the court in the same manner as an order of that court.

(6) Subject to section 44 (3), the *Commercial Arbitration Act* does not apply.

(7) Neither section 44 nor this section requires a strata corporation to be a party to an arbitration proceeding between 2 or more owners only and the proceeding is not about a breach of the bylaws or regulations, or about the common property, common facilities or other assets of the strata corporation.

1974-89-24(6 to 12); 1977-64-21; 1986-3-53, effective July 4, 1986 (B.C. Reg. 148/86).

Leases of strata lots

46. (1) Before an owner leases his strata lot for a term of more than one month, he shall give the strata corporation the undertaking in Form D signed by the tenant, that he and the other occupants of the strata lot will comply with this Act, bylaws, rules and regulations of the strata corporation. The lease shall include or be deemed to include this undertaking as a condition of the lease.

(2) The owner is not released and he and the tenant are jointly and severally liable for a breach of the undertaking.

(3) Where a tenant or occupant of a strata lot contravenes this Act, bylaws, rules or regulations of the strata corporation, the strata corporation, or a person on its behalf, may notify the tenant in writing of the contravention and demand its correction.

(4) If the tenant or occupant does not comply within 2 weeks, the strata corporation may notify the owner and send a copy to the tenant.

1974-89-25(1,2,3,4).

Termination of tenancy

47. (1) Where a tenant or occupant, 2 weeks after he receives a copy of the notice under section 46 (4), continues to contravene, or at frequent intervals contravenes, this Act, bylaws, rules or regulations, the strata corporation may terminate the tenancy pursuant to the *Commercial Tenancy Act* or *Residential Tenancy Act*, as applicable.

(2) For subsection (1), the strata corporation has all the rights of and is deemed the agent of the strata lot owner. The strata council may exercise those rights for the corporation.

(3) For subsection (1), continuous or frequent contravention constitutes just cause under the appropriate tenancy Act for termination of the tenancy.

1974-89-25(5,6,7).

Unanimous resolutions

48. (1) Where the number of owners required under section 1 is not present in person or by proxy for consideration of a unanimous resolution, the meeting shall be adjourned for one week or to a convenient date, and written notice of the adjournment given to all persons entitled to vote on the resolution.

(2) At the meeting following the adjourned meeting the unanimous resolution shall be deemed passed if unanimously passed by all persons entitled to vote present at the meeting in person or by proxy at the time the resolution is passed, and the requirements for a quorum as set out in the bylaws do not apply to that meeting.

1974-89-26; 1975-74-12.

Maximum expenditure by strata council

49. Unless otherwise provided by a bylaw added to Part 5, a strata council shall not, except in emergencies, authorize, without authorization by a special resolution of the strata corporation, an expenditure exceeding \$500 which was not set out in the annual budget of the corporation and approved by the owners at a general meeting.

1974-89-27; 1975-74-13; 1977-64-22.

Fines exceeding \$25

50. Where a strata corporation wishes to impose a fine of more than \$25 for a breach of a bylaw, rule or regulation, it shall amend the bylaws in Part 5 and the resolution shall recite the bylaw, rule or regulation and the amount of the fine.

1975-74-14

Separate residential and commercial sections

51. (1) The owners of residential strata lots in a strata plan that includes lots that are residential and not residential may petition the strata corporation for permission to form a separate section within the corporation consisting of all the residential strata lots in the strata plan.

(2) The owners of nonresidential strata lots in a similar strata plan may petition the strata corporation for permission to form a separate section within the corporation consisting of all the lots in the strata plan that are not residential.

(3) The petition shall include amendments to the bylaws necessary for the formation and administration of the separate section, and, if applicable, an application to have an area designated as limited common property.

(4) Where the petition is signed by 75%, or more, of the owners whose strata lots are included in the proposed separate section, the strata corporation shall approve the formation of the section, may approve the amendments to the bylaws and may designate an area as limited common property.

(5) The owner developer may, as the owner of all strata lots, cause the strata corporation to form the separate sections.

(6) A change in the bylaws on formation of a separate section requires the consent of the superintendent if made within one year after the strata plan is filed.

(7) Any matter on which the strata corporation and the members of the proposed separate section cannot agree may be referred to arbitration under section 44.

1977-64-23

Separate section bylaws, etc.

52. (1) Bylaws set out in Part 5 may be amended for the strata lots within a separate section by a special resolution passed by the members of the separate section and approved by the strata corporation.

(2) A special resolution under subsection (1)

(a) is passed if it receives the affirmative votes of 75% of the owners of the strata lots within the separate section;

(b) shall be filed by the strata council in the land title office; and

(c) shall specify the strata lots to which it applies.

(3) The members of a separate section may elect an executive, call and hold meetings and pass resolutions in the same manner as the strata corporation, and the bylaws set out in Part 5 apply.

(4) The separate section may pass rules, subject to the general bylaws, binding on section members, on matters of common interest to the section and on use of limited common property.

(5) A separate section has the same power as the strata corporation to levy contributions on section members for expenditures they authorize, to collect contributions, to employ staff and to acquire and dispose of land and other property.

(6) The separate section shall not enter into a contract in the name of the strata corporation and the strata corporation has no liability for debts incurred or contracts made by the section.

1977-64-23; 1978-15-6; 1978-25-334; 1981-20-16. proclaimed effective April 14, 1982.

Limited common property

53. (1) A strata corporation, by special resolution, may designate an area as limited common property for the use of one or more strata lot owners and may remove the designation.

(2) An owner developer may, when the strata plan is tendered for registration, designate areas on the plan as limited common property for the exclusive use of one or more strata lot owners.

(3) A designation by the owner developer on the plan may only be removed by amendment to the plan under sections 57 to 59.

(4) The special resolution shall be filed in the land title office, together with, if it designates an area, a sketch map satisfactory to the registrar defining the areas of limited common property, and shall specify each lot entitled to the benefit of the designation. The registrar shall note the resolution on the page of the plan that refers to dealings with the common property.

(5) A designation for the exclusive use of some strata lot owners shall, where necessary because of the nature of the limited common property, be subject to the right of ingress and egress for members, employees and agents of the strata corporation.

(6) A resolution designating limited common property, granting the exclusive use of common property or removing, adding to or altering the designation or grant, has no effect after May 17, 1978, unless a copy of the resolution is filed in the land title office.

1977-64-24; 1978-25-334.

Insurance

54. (1) The strata corporation

(a) shall obtain and maintain insurance for the buildings, common facilities and any insurable improvements owned by the strata corporation to their replacement value against fire and against other perils as are usually the subject of insurance in respect of similar properties; and

(b) may obtain and maintain insurance against other perils, including liability, to the amount it considers advisable.

(2) For this purpose the strata corporation has an insurable interest in the buildings, the common property, common facilities and assets of the corporation and in the subject matter of other perils insured.

(3) Notwithstanding the terms of the policy,

(a) the strata corporation;

(b) the owners and tenants from time to time of every strata lot shown on the strata plan; and

(c) all persons normally occupying the strata lots

shall be deemed to be included as the named insured on a policy of insurance in force under subsection (1).

(4) Where the proceeds of a policy of insurance under this section are not sufficient to satisfy a claim made against the policy, the contribution of an owner toward the deficiency is limited in the same manner as his contribution in respect of a judgment as provided in section 15.

1974-89-30(1,9,10); 1975-74-17; 1977-64-25.

Insurance payments

55. (1) A payment by an insurer under a policy of insurance shall, notwithstanding the terms of the policy, be paid to the order of the insurance trustees, if any, designated by the bylaws. Otherwise it shall be paid to or to the order of the strata corporation.

(2) Subject to subsection (3) and to sections 64 to 66, the strata corporation shall forthwith use the proceeds for the repair or replacement of the damaged buildings, common property, common facilities and assets of the strata corporation so far as they may be lawfully effected.

(3) Where the strata corporation resolves not to repair or replace the damaged buildings, common property, common facilities and insurable improvements, a payment by the insurer shall, notwithstanding subsection (2), be paid,

(a) first, to every person who has an interest in the proceeds, as his interest may appear; and

(b) second, to the insurance trustees, or to the order of the strata corporation.

(4) A policy of insurance issued to a strata corporation under section 54 (1) is not liable to be brought into contribution with another policy of insurance except another policy issued on the same property under section 54 (1), and, notwithstanding the provisions of the policy, shall be deemed not to be other insurance in relation to the other policy.

1974-89-30(2 to 5); 1975-74-17; 1977-64-25.

Owner's insurance

56. (1) Notwithstanding section 54, the *Insurance Act* or any other law, an owner may obtain and maintain insurance for loss

(a) or damage to his strata lot against fire and other perils in excess of insurance by the strata corporation;

(b) or damage to his strata lot in excess of insurance on the improvements by the strata corporation; or

(c) of rental value of his strata lot in excess of insurance by the strata corporation.

(2) A policy of insurance issued to an owner is not liable to be brought into contribution with any other policy of insurance except another policy issued on the same property, and, notwithstanding the provisions of the policy, shall be deemed not to be other insurance in relation to such other policy.

(3) Section 54 does not restrict the capacity of any person to insure otherwise than as provided in that section.

(4) In the case of a bare land strata plan, an owner may, notwithstanding the *Insurance Act* or any other insurance law, obtain and maintain insurance on property constructed or created on the strata lot, and subsection (3) applies to that insurance.

1974-89-30(6,7,8,11); 1975-74-17; 1977-64-25.

Amendment of plan in special cases

57. (1) A strata plan may be amended to

- (a) divide the common property;
- (b) consolidate additional land owned by the strata corporation with the land included in the strata plan;
- (c) remove a designation of limited common property designated on the strata plan;
- (d) divide a strata lot into 2 or more strata lots; or
- (e) consolidate a strata lot with one or more strata lots.

(2) The owners may, by special resolution, direct the strata corporation to amend the strata plan under subsection (1) (a) or (b).

(3) Where there is a resolution to divide the common property or to consolidate additional land with the land on the plan, the strata corporation shall deposit with the registrar a

- (a) subdivision, reference or explanatory plan satisfactory to him and complying so far as he may consider necessary with sections 4 to 7 and the land title office requirements; and
- (b) certificate under the seal of the strata corporation that the resolution has been passed and that the plan conforms to the terms of the resolution.

(4) On deposit of the material, the registrar shall, if satisfied that it is in order and complies, so far as he considers it necessary, with the *Land Title Act*,

- (a) accept the plan under the *Land Title Act* and register new indefeasible titles as he considers necessary; and
- (b) note the subdivision on the page of the strata plan that refers to dealings with the common property.

(5) Where a plan has been accepted for deposit for consolidation purposes, the land consolidated with the land included in the strata plan is common property.

1977-64-26; 1978-25-332; 1982-60-92, proclaimed effective August 1, 1983.

Removal of limited common property

58. The owners may, by unanimous resolution, direct the strata corporation to amend the strata plan under section 57 (1) (c). Section 57 (4) and (5) applies subject to land title procedure.

1977-64-26.

Division or consolidation of strata lots

59. (1) Where the owner of one or more strata lots, the title to each of which is registered in his name, wishes to amend the strata plan under section 57 (1) (d) or (e), he shall deposit with the registrar

- (a) a plan satisfactory to the registrar and complying, so far as the registrar considers necessary, with sections 4 to 7;

- (b) a certificate under the seal of the strata corporation that the strata corporation has, by special resolution, approved the amendment of the strata plan; and
 - (c) schedules approved by the superintendent showing the manner in which the voting rights, unit entitlement and interest on destruction of the strata lots affected by the plan are to be apportioned among the new strata lots.
- (2) On the deposit of the material, the registrar shall, if satisfied that the material is in order,
- (a) assign to the plan a serial deposit number and register new indefeasible titles for the parcels shown on the plans as he considers necessary; and
 - (b) amend the schedules of the strata plan relating to the unit entitlement of, and interest on destruction of, the strata lots affected by the plan.
- (3) The owners of strata lots in a plan of resubdivision or consolidation are, on deposit of the plan under this section, members of the strata corporation and have a right to vote in accordance with the schedule of voting rights.
- (4) On deposit of a plan under this section, the strata lots in the plan are subject to the burden and have the benefit of easements affecting the strata lots in the strata plan affected.

1977-64-26; 1982-60-93, proclaimed effective August 1, 1983

Removal of common boundary

60. A strata lot owner who owns adjoining strata lots, or a strata lot created by consolidation under section 59, may remove all or any part of a wall constituting a common boundary between the strata lots shown on the original strata plan, with the prior written approval of the strata corporation. Approval shall not be withheld unless the proposed alterations would

- (a) weaken a bearing wall or column;
- (b) interfere with the provision of utilities to any other strata lot or to the common property; or
- (c) increase the fire hazard in the building.

1977-64-27.

Amalgamation

61. (1) Two or more strata corporations may, by special resolutions, enter into an amalgamation agreement prescribing the terms and conditions of the amalgamation, including the new unit entitlements, and the manner of carrying out the amalgamation.

(2) Section 18 does not apply to an amalgamation vote.

(3) The registrar, on receipt of the amalgamation agreement and an explanatory plan, that need not be based on a survey, showing the consolidated land, and complying, in so far as the registrar considers necessary, with sections 4 to 7 shall, if satisfied that the material is in order,

- (a) assign a serial deposit number to the explanatory plan which shall, together with the existing strata plans, constitute the strata plan for the land affected;
- (b) endorse on the amalgamation agreement the name of the amalgamated corporation; and
- (c) alter the indefeasible titles and make any amendments to all relevant plans, including the cancellation of dividing lines, necessary to give full effect to the amalgamation agreement.

(4) From the date of the deposit of the explanatory plan the amalgamating strata corporations shall be amalgamated and shall be continued as one corporation under the name endorsed on the agreement. The amalgamated corporation shall be seised of, and shall hold and possess all the property, rights and interests and shall be subject to all debts, liabilities and obligations of each amalgamating corporation, and every owner in each amalgamating corporation shall be bound by the terms of the agreement.

1974-89-32; 1982-60-94, proclaimed effective August 1, 1983.

Owner's duty on amalgamation

62. (1) Where the special resolutions have been passed and the registrar is satisfied that the material filed with him is in order, the owner of a strata lot in an original strata plan for which a duplicate indefeasible title is not on deposit in the land title office shall, within 10 days after receipt of a written request from the registrar, deliver the duplicate to the registrar.

(2) Where the owner fails to deliver the duplicate indefeasible title to the registrar, the registrar shall amend the existing indefeasible title and amend the duplicate indefeasible title when the duplicate indefeasible title is redeposited.

1977-64-28; 1978-25-334; 1982-60-95, proclaimed effective August 1, 1983.

Valuation for assessment and tax purposes

63. For the purposes of assessment and taxation, each strata lot, together with the share of its owner in the common property, common facilities and other taxable assets, shall be deemed to be a separate parcel of land and improvements.

1974-89-33.

Destruction of building

64. (1) Where the building is destroyed, the strata corporation may resolve, by special resolution, not to rebuild, and, in that case, it shall promptly lodge with the registrar a notice of the destruction in the form prescribed by regulation. Section 18 does not apply to a vote on the special resolution.

(2) On receipt of notice, the registrar shall, under the regulations, make an entry of the notice on the relevant strata plan.

(3) Where the entry is made, the owners become owners as tenants in common of the land included in the strata plan, including the strata lots and the assets of the strata corporation, and, notwithstanding section 12, in shares apportioned under the schedule filed under section 4 (g).

(3.1) On the entry being made, the owners of the strata lots included in the plan shall surrender to the registrar their duplicate indefeasible titles.

(3.2) The registrar, after cancelling the registrations of all strata lots comprised in the strata plan, shall register a new indefeasible title in the name of the strata corporation.

(4) The owners, by special resolution, may direct the strata corporation to transfer the assets of the strata corporation and all or part of the land included in the strata plan, including the strata lots, and sections 20 and 21 apply to the transfer.

(5) Where a special resolution is passed and a notice of destruction has been lodged with the registrar under subsection (1), in the absence of an agreement to the contrary between the strata corporation and the strata lot owner, the owners of each of the strata lots in the strata plan shall yield up possession of the strata lots to the strata corporation within 90 days after the notice is lodged with the registrar.

(6) Where a building is destroyed, the strata corporation may apply for an order under section 65 (5).

1974-89-34; 1977-64-29; 1982-60-96, proclaimed effective August 1, 1983.

Deemed destruction of building

65. (1) For the purposes of this Act, the building shall be considered destroyed when the owners by special resolution so resolve, or when the court is satisfied that, having regard to the rights and interests of the owners as a whole, it is just and equitable that the building be considered destroyed and makes a declaration to that effect.

(2) Where a declaration has been made by the court, the court may by order impose conditions and give directions, including directions for the payment of money, as it thinks proper to adjust, as between the strata corporation and the owners and as among the owners themselves, the effect of the declaration.

(3) Where the building is damaged but not considered to be destroyed, the court may, by order, settle a scheme, including provisions

- (a) for the reinstatement in whole or in part of the building; and
- (b) for transfer or conveyance of the interest of owners of strata lots that have been wholly or partially destroyed to the other owners in proportion to the unit entitlements of the strata lots of which they are the owners.

(4) Under subsection (3) the court may make the orders it considers advisable to give effect to the scheme, including orders directing

- (a) the application of insurance money received by the strata corporation for damage to the building;
- (b) payment of money by the strata corporation, or by owners, or by some one or more of them;
- (c) amendment of the strata plan as the court thinks proper to include any enlargement of the common property; and
- (d) imposition of terms and conditions it thinks proper.

(5) The court, on application, may, by order, make provision for winding up of the affairs of the strata corporation, and, by the same or subsequent order, may declare the strata corporation dissolved from a date specified in the order or may direct that a notice of destruction in the prescribed form be filed with the registrar. In that case, the strata corporation shall be deemed to have resolved by special resolution not to rebuild, and section 64 applies.

1974-89-35(1 to 4.6); 1977-64-30.

Procedure

66. (1) An application under section 65 may be made to the court by the strata corporation, an owner or a registered mortgagee of a strata lot. The court may make the order for costs it believes proper.

(2) On the application, a person who could be an applicant and an insurer who has effected insurance on the building or a part of it for damage or destruction has the right to appear.

(3) The court may vary an order made under this section.

1974-89-35(5.7.8.9).

Lease and occupancy agreements

67. (1) An owner may, subject to section 46, assign for a term certain to a lessee, and a lessee may assign for a term certain to a sublessee, on the terms contained in the lease or sublease, any of his rights, powers or obligations under this Act or bylaws.

(2) The owner shall send to the strata corporation a copy of the assignment agreement.

1974-89-36(1,2).

Lessee voting

68. Where an owner assigns to a lessee his right to vote, the strata corporation shall send notice of meetings to the lessee and all references to "owner" in this Act or bylaws for calling of meetings or voting shall be deemed to include the lessee or sublessee, as the case may be.

1974-89-36(3).

Assignment presumed

69. Where an owner developer or an owner gives possession of a residential strata lot to a person on the basis of a lease, sublease or assignment of lease for a term of 3 years or more, the owner developer, or the owner, shall be deemed to have assigned to the occupier all his rights, powers and obligations under this Act or bylaws.

1974-89-36(4); 1975-74-20; 1977-64-31.

Service of documents on corporation

70. (1) The strata corporation shall, at a place convenient for postal delivery, have continually available a receptacle suitable for postal delivery, with the name of the corporation clearly marked on it.

(2) A document may be served on the strata corporation or the strata council by post enclosed in a prepaid letter addressed to the strata corporation or the council, as the case may be, at the address shown on the strata plan or any amendment of it, or by placing it in the receptacle. If the strata corporation's address is changed, the council shall notify the registrar, who shall note the change on the strata plan.

(3) In this section "document" includes a writ of summons, summons, notice of motion, order and other legal process.

1974-89-37; 1975-74-21.

Administrator

71. (1) The strata corporation or any person having an interest in a strata lot may apply to the court for appointment of an administrator.

(2) The court may, for cause, appoint an administrator for an indefinite or fixed period on terms for remuneration or otherwise as it thinks proper.

(3) The remuneration and expenses of the administrator shall be an administrative expense within the meaning of this Act.

(4) The administrator shall, to the exclusion of the strata corporation, have the powers and duties of the strata corporation or such of them as the court orders.

(5) The administrator may delegate a power vested in him.

(6) The court may, on the application of the administrator or person referred to in subsection (1), remove or replace the administrator.

(7) The court may make the order for costs it thinks proper.

1974-89-38.

Voting

72. (1) Except where the schedule of voting rights endorsed on the strata plan of a strata corporation administering a strata plan that is not exclusively residential otherwise provides, at every meeting of the strata corporation each strata lot entitles the owner of it to only one vote for that strata lot.

(2) Powers of voting conferred under this Act may be exercised,

(a) in the case of an owner who is an infant, by his guardian; and

(b) in the case of an owner who is for any reason unable to control his property, by the person who is for the time being authorized by law to control that property.

(3) Where the court, on the application of the strata corporation or an owner, is satisfied that there is no person able to vote for a strata lot, the court shall, in cases where a unanimous resolution is required by this Act, and may, in any other case, appoint the Public Trustee or some other suitable person to exercise the powers of voting as the court determines.

(4) The court may order service of notice of an application on a person it thinks fit or may dispense with service.

(5) On making an appointment under subsection (3), the court may make an order it considers advisable to give effect to the appointment, including payment of costs, and may vary an order.

(6) Where, under section 18, a mortgagee has acquired the voting rights of 51% or more of the owners, or one person owns 51% or more of the strata lots and their voting rights, the exercise of those voting rights in an oppressive or unconscionable manner may be enjoined by the court on an application of a majority of the owners affected.

1974-89-39; 1977-64-32; 1978-15-6.

Applications to court

73. (1) The rules of court apply to every application to court.

(2) On an application, notice shall be served on such persons as the court orders, or the court may dispense with service.

(3) On an application, the court may give directions on all matters, including pleadings, it considers proper for the hearing of the application.

1974-89-40; 1976-33-112.

Rule against perpetuities

74. The rule against perpetuities does not apply to an agreement or document entered into under this Act or bylaws.

1974-89-41.

Builders liens

75. (1) Notwithstanding any other Act, where an owner developer conveys a strata lot to a purchaser, no builders lien shall be filed against the strata lot, or against the purchaser's share in the common property, later than 31 days after the date the strata lot is conveyed to the purchaser.

(2) Notwithstanding any other Act, or any agreement to the contrary, a purchaser of a strata lot from an owner developer shall retain a holdback in the amount of 15% of

the gross purchase price of the strata lot, or any smaller amount fixed by regulation, for a period of 40 days after the date the strata lot is conveyed to the purchaser.

(3) The holdback is subject to a lien under the *Builders Lien Act* and the holdback is charged with the payment of those persons employed under the person from whom the holdback is retained.

(4) Payment of a holdback required to be retained under subsection (2) shall be made after 40 days expire unless in the meantime a claim of lien has been filed, or proceedings have been commenced to enforce a claim of lien against the holdback.

(5) On payment of the holdback amount, all liens of the person to whom the holdback is paid, and of any person employed under him for the strata lot, are discharged.

1977-64-33; 1978-15-6.

Where lien filed

76. (1) Where one or more liens have been filed against a strata lot purchased from an owner developer, the purchaser may, by interlocutory application in proceedings that have been commenced to enforce the lien, or on originating application, pay into the court having jurisdiction the smaller of the

(a) total amount of the claims filed; or

(b) full amount of the holdback under section 75 (2).

(2) Payment into court under subsection (1) discharges the purchaser from liability to the vendor or the lienholder for the claims of lien filed. The money paid into court stands in the place of the strata lot and the order shall provide that the liens be removed from the title to the strata lot.

(3) Except as provided in this Act, the *Builders Lien Act* applies.

1977-64-33.

PART 2

PHASED STRATA PLANS

Phased strata plan

77. (1) A strata plan may be deposited in successive phases known as a "phased strata plan".

(2) The registrar shall not accept a phased strata plan for deposit unless Form E is filed with the first phase, title to the land included in the strata plan is registered in the name of the owner developer, each phase is clearly identified and each phase, when deposited for registration, complies with sections 3 (1) and 4 to 7.

(3) On deposit of each phase of the plan,

(a) the land in that phase of the plan is subdivided from the rest of the single parcel referred to in section 3 (1) and is consolidated with the land in any previously deposited phased strata plan of the same development; and

(b) notwithstanding sections 61 and 62, the constituted strata corporation is amalgamated with any previously constituted strata corporation for the same development.

1974-89-42.

Election to proceed or not

78. (1) Where an owner developer does not wish to elect whether or not he will proceed with the next phase on the date stated in Form E, or wishes to amend Form E, he may apply to the approving officer for an extension of time in which to make the election or for approval of an amendment to Form E.

(2) The approving officer shall not extend the time for more than one year from the date stated in Form E, without the approval of the court. The strata corporation shall be given notice of an application to court under this subsection.

(3) The owner developer shall give the strata corporation notice of an application under subsection (1) to amend Form E.

(4) The approving officer, after considering the representations of the owner developer and the strata corporation, if any, may approve the amendment to Form E with or without changes, and where an amendment is approved, the owner shall file an amended Form E with the land title office and the superintendent.

(5) Where the owner developer does not inform the strata corporation, the approving officer and the land title office of his election not to proceed, he shall be deemed to have elected to proceed.

1974-89-43(2.3.6); 1977-64-34; 1978-25-334

Election not to proceed

79. (1) Where the owner developer elects not to proceed with the next phase, he shall so inform the strata corporation and the approving officer in writing and shall also file a notice of his election not to proceed with the land title office. The registrar shall endorse the notice on Form E.

(2) Where the owner developer elects not to proceed any further with the development, he, or the strata corporation constituted in respect of the completed phase or phases, may apply to the court for an order governing the provision of the common facilities to be developed in accordance with Form E and the application of the proceeds of any bond, or letter of credit or other security for the provision of those facilities.

(3) Where the owner developer elects not to proceed with the next phase of the development and common facilities have been constructed in the existing phases, or the strata corporation has become contractually obligated to contribute toward the operating costs of common facilities on a separate parcel, the owner developer shall, except as otherwise agreed between the strata corporation and the owner developer, contribute to the common expenses attributable to the common facilities in proportion to the unit entitlement of the strata lots of the phases not to be built. The strata corporation may apply to the court for an order for the posting of a bond, letter of credit or other security for the contribution by the owner developer of his share of the common expenses.

(4) Where the owner developer does not proceed with the next phase within a reasonable time or at a reasonable rate, the strata corporation may apply to the court for an order that the owner developer complete the phase by a fixed date, or that he elect not to proceed with that phase.

(5) Where the owner developer does not comply with the court order, he shall be deemed to have elected not to proceed and the strata corporation may apply for an order under subsection (2).

1974-89-43(4.5.7.8); 1977-64-34; 1978-25-334.

Unit entitlement in phased strata plan

80. (1) The unit entitlement of the strata lots within each phase shall be determined in accordance with section 1 (2) and (3) but, notwithstanding that provision, the unit entitlement of comparable strata lots may vary from phase to phase.

(2) The contribution to the common expenses of each strata lot owner in a phased development shall be calculated in the proportion that the unit entitlement of his strata lot bears to the total unit entitlement of the one or more phases of the strata plan.

(3) The owner developer shall contribute to the common expenses attributable to the common facilities in proportion to the unit entitlement of the phases not yet built as set out in Form E.

1974-89-44; 1977-64-35.

Security for common facilities

81. In a phased strata plan in which major common facilities are to be constructed in any phase other than the first phase or on a separate parcel, the approving officer shall not approve Form E unless

- (a) the owner developer provides him with a statement from the owner developer's mortgagee, if any, certifying that the cost of construction of the common facilities has been included in the mortgage financing of the project and specifying the amount of money assigned to the construction of each facility;
- (b) the owner developer provides him with a statement from any public authority or any other person who has required him to post a bond, letter of credit or other security to cover the cost of construction of common facilities, certifying that the bond, letter of credit or other security has been provided and specifying the amount of money assigned to the construction of each facility; or
- (c) the owner posts a bond, an irrevocable letter of credit or other security for the full estimated cost of construction of that common facility, including the cost of the land as determined by the approving officer.

1974-89-45(1); 1977-64-36; 1978-15-6.

Security considered insufficient

82. Where the approving officer does not consider the amounts sufficient

- (a) under section 81 (a), he may require the owner developer to post a bond, irrevocable letter of credit or other security for the difference between the amount assigned to the construction and the amount he considers sufficient; or
- (b) under section 81 (b), he may require the owner developer to post an additional bond, irrevocable letter of credit or other security for the difference referred to in paragraph (a).

1974-89-45(2); 1978-15-6.

Security

83. The bond, irrevocable letter of credit or other security shall be drawn in favour of, and shall be held by, the municipality in which the land is situated, or by the regional district, if the land is not situated in a municipality, and, on the registration of the first phase, the strata corporation or a strata owner may, in its or his own name, claim against, or take proceedings on, the bond, irrevocable letter of credit or other security.

1974-89-45(3), 46(2).

Certificate about common facilities

84. In the case of a phased strata plan in which a common facility is to be constructed in conjunction with a particular phase and the owner developer wishes to deposit that phase of the strata plan for registration, the approving officer shall endorse the certificate issued under section 8 to the effect that the common facility has been satisfactorily provided for

- (a) where the owner developer fulfils the requirements of sections 81 and 82; or
- (b) where the common facility has been 50% completed, as verified by the certificate of a registered architect or professional engineer, or, in its absence, by the approving officer.

1974-89-46(1); 1978-15-5

Release of security

85. (1) A bond, irrevocable letter of credit or other security provided under sections 81 to 84 shall not be released unless

- (a) the common facility is completed;
- (b) a strata council is elected, the strata corporation and the owner developer have entered into an agreement for the completion of the common facilities and the strata corporation, by special resolution, releases the security;
- (c) the court makes an order under section 79 (2) for the provision of the common facilities; or
- (d) the court orders the release.

(2) Security provided under sections 81 to 84 shall be released on completion of the common facility for which it was provided, and, if the municipality or regional district, or strata corporation, refuses to release the security, the owner developer may apply to the court for an order that it be released.

1974-89-47; 1978-15-6.

Where phase has no common facilities

86. In a phased strata plan, the approving officer at the time of application for a building permit shall establish the construction requirements for the common facilities, and, if no requirements exist for the construction of the common facilities, the approving officer shall, in his discretion, establish the construction requirements he considers advisable.

1974-89-48(2)

Building permit

87. In a phased strata plan in which the parcels are separate, but will be consolidated pursuant to section 77 (3) at the completion of the phase, the land shall be deemed to be consolidated for the purpose of enabling a building inspector to issue a building permit in respect of any building.

1974-89-48(1)

Lien on phased strata plan

88. Notwithstanding any Act, in a phased strata plan a lien may be filed only against the strata lots in the phase in which the materials were supplied or the work was done.

1975-74-22

Phased strata council members

89. (1) Notwithstanding this Act or bylaws, where a phase other than the first phase of a strata plan is deposited, the strata council shall call a general meeting of the strata corporation by the earlier of

- (a) the date that 60% of the strata lots in the new phase have been conveyed by the owner developer; or
- (b) 9 months after the deposit of the strata plan for the new phase.

(2) At the meeting called under subsection (1), 2 additional members of the strata council shall be elected from the purchasers of strata lots in the new phase to hold office until the next annual general meeting of the strata corporation.

1974-89-49; 1975-74-23; 1977-64-37.

Transitional phased strata plans

90. (1) Where an owner developer has, before August 15, 1974, deposited a strata plan, or a succession of strata plans, and proposes to develop further strata plans, all of which would qualify as a phased strata plan under this Act, he may convert the strata plans into a phased strata plan by

- (a) amalgamating, under sections 61 and 62, the existing strata corporations that administer the strata plans to be included in the phased strata plan and complying with section 91 at the time of the amalgamation;
- (b) obtaining the consent, by special resolution, of the existing strata corporations to be included in the phased strata plan;
- (c) complying with the provisions of the *Real Estate Act* on phased strata plans; and
- (d) filing the material required under sections 61 and 62, together with the other material that may be required under section 77 for the first phase of a phased strata plan.

(2) The explanatory plan filed with the material under subsection (1) (d) is the first phase of the phased strata plan.

1974-89-50.

Phased strata plan

91. Notwithstanding section 113 (1) (a), where a strata plan becomes part of a phased strata plan under section 90 of this Act, the strata corporation shall, at the time of amalgamation required by that section,

- (a) amend its schedule of unit entitlement pursuant to this Act;
- (b) adopt a schedule of value required by section 4 (g);
- (c) adopt bylaws under sections 26 to 28, which shall be the bylaws of the phased strata plan; and
- (d) file the material required by paragraphs (a), (b) and (c) with the registrar at the time the material required by sections 61 and 62 is filed.

1974-89-66(3).

PART 3**LEASEHOLD STRATA PLANS****Interpretation****92.** In this Part

- "federal Crown" means Her Majesty in right of Canada;
- "ground lease" means a lease of land made for the purpose of this Part by the Crown, the federal Crown, a municipality, regional district or other public authority and registered in the books of the land title office;
- "leasehold strata plan" means a strata plan deposited under this Part in which the land included in the strata plan is subject to a ground lease;
- "lessor" includes the Crown, federal Crown, municipality, regional district or other public authority;
- "owner developer" means a person who, on the date that a leasehold strata plan is tendered to the registrar for deposit, is the registered lessee in a ground lease of the land within the leasehold strata plan, and includes
 - (a) his affiliate, as defined in the *Company Act*; and
 - (b) the trustee of any right, title or interest of the owner developer in the leasehold strata plan;
- "strata lot" means a lot so shown on a leasehold strata plan;
- "strata lot lease" means a lease of a strata lot arising from the conversion of a ground lease under section 96 (1), including an assignment or transmission of it, and that is subject to
 - (a) the rights and obligations, under sections 97 and 100 to 102, of the public authority that owns the land; and
 - (b) the restrictions under sections 103 and 104;
- "strata lot lessee" means a person registered in the books of the land title office as a lessee under a strata lot lease whether entitled to it in his own right, in a representative capacity or otherwise, and, for the purposes of this Part, a reference to "owner" or "purchaser" in Part 1 includes "strata lot lessee";
- "termination", in respect of a strata lot lease, means
 - (a) expiry of the lease without renewal; or
 - (b) termination of the lease under section 109 (2).

1974-89-51(3); 1977-64-38; 1978-25-334.

Application of Part 1

93. Subject to section 92, unless otherwise provided in this Part, the provisions of Part 1 apply, with the necessary changes and so far as are applicable, to this Part but, if there is a conflict or inconsistency between Part 1 and this Part, the provisions of this Part prevail.

1974-89-51(1).

Deposit of leasehold strata plan

94. Notwithstanding sections 2 and 3, the registrar shall not accept for deposit a leasehold strata plan unless

- (a) the title to the land included in the leasehold strata plan is registered in the name of the Crown, the federal Crown, a municipality, regional district or other public authority;

- (b) the person tendering the leasehold strata plan for deposit is the registered lessee in a ground lease of the land included in the leasehold strata plan;
- (c) the unexpired term of the ground lease is at least 50 years after the date of the tender of the leasehold strata plan;
- (d) the ground lease does not include land other than the land included in the leasehold strata plan; and
- (e) the written consent of the lessor under the ground lease to registration of the leasehold strata plan is filed.

1974-89-52; 1977-64-39.

New indefeasible titles

95. Notwithstanding sections 2 and 3, on deposit of a leasehold strata plan, the registrar shall register new indefeasible titles to the owner in fee simple of the land included in the strata plan for each of the lots shown on the plan as may be necessary.

1982-60-97, proclaimed effective August 1, 1983.

Conversion and leasehold charge

96. (1) The deposit of the leasehold strata plan operates as a conversion of the registered ground lease into individual leases in the name of the owner developer of the interest of the Crown or other lessor in each strata lot, including its share in the common property, at a rent, premium or other consideration and subject to the applicable terms contained in the ground lease and in the model strata lot lease attached, and to the provisions of this Act and regulations.

(2) On conversion, the registrar shall issue, in the name of the owner developer, a certificate of leasehold charge, in Form F, in respect of each strata lot lease created under subsection (1), and shall note it in the register.

(3) A certificate of leasehold charge for a strata lot and the strata lot lessee's interest in the strata lot are subject to the obligations of the Crown, or other lessor under the strata lot lease, to purchase the strata lot lessee's interest in the strata lot under section 97. The rights of the Crown or other lessor under the strata lot lease under sections 98 and 99 are, without special reference, subject to any further limitations imposed under sections 103 and 104 or any other enactment.

(4) Every assignee of an owner developer's interest as strata lot lessee in a strata lot shall be deemed to have covenanted and agreed in writing with the Crown or other lessor to observe and perform all of the terms and conditions contained in the model strata lot lease, but is not, notwithstanding an agreement to the contrary, bound by, or required to observe and perform, the terms, covenants and agreements contained in the ground lease that are not also contained in the model strata lot lease.

1974-89-53(2,3,4,5); 1975-74-25; 1977-64-40.

Lessor's right to purchase strata lot

97. (1) The Crown or other lessor shall purchase the strata lot lessee's interest in the strata lot on the termination of the strata lot lease.

(2) The purchase price shall be arrived at as of the date of expiration of the strata lot lease, and shall be

- (a) the price calculated on the basis set out in a schedule filed with the leasehold strata plan; or

(b) if none, the fair market value of the lessee's interest in the strata lot evaluated as if the lease did not expire.

(3) The Crown or other lessor under the strata lot may, if the strata corporation consents by unanimous resolution, change the basis of calculation of the purchase price of the strata lots set out in the schedule, and shall file the amended schedule with the registrar.

(4) Unless otherwise expressly provided in the strata lot lease or agreed in writing by the Crown or other lessor and the strata lot lessee, where the Crown or other lessor and the strata lot lessee have failed to agree on the purchase price under subsection (2) (b), 30 days prior to the date of termination on expiry or 30 days after the date of termination under section 109 (2), the purchase price under subsection (2) (b) shall be determined by arbitration under the *Commercial Arbitration Act*.

1974-89-54; 1977-64-41; 1986-3-53, effective July 4, 1986 (B.C. Reg. 148/86).

Order for sale

98. Where, on a strata lot lessee's default in observing and performing his obligations under the strata lot lease, the Crown or other lessor becomes entitled to re-enter and take possession of the strata lot, the Crown or other lessor shall not, notwithstanding any agreement or enactment to the contrary, re-enter, take possession of the strata lot or otherwise cause the strata lot lease to be terminated, but may apply to the court for an order for sale.

1977-64-42.

Procedure

99. (1) The Crown or other lessor shall give not less than 4 days' notice of an application for an order for sale to the strata lot lessee and to the owners of charges against the strata lot lessee's interest in the strata lot by serving a written notice of application and a copy of each document filed with the court in support of the application.

(2) On an application for sale, the court may declare that the strata lot lessee failed to observe and perform his obligations under the strata lot lease, specifying the nature of the default, and shall in the order provide that, if the default is not cured in 30 days from the making of the order, or such other period as the court considers proper in the circumstances, the Crown or other lessor may sell the strata lot lessee's interest in the strata lot by public auction or private sale at a price and on terms to be approved by the court.

(3) On an application for an order for sale or for an order approving a sale, the court may, by order, give directions it considers necessary for the distribution of the proceeds and the delivery of possession.

1977-64-42.

Renewal of lease

100. (1) Where, at the expiration of the term of a strata lot lease or a renewal of it the Crown or other lessor elects to renew the strata lot lease, it shall be renewed for a term of not less than 5 years.

(2) The Crown or other lessor shall in writing, at least one year prior to the expiry of the lease, advise the lessee that the Crown or other lessor has elected

- (a) to renew the lease for the renewal term specified; or
 - (b) not to renew the strata lot lease.
- (3) Where the advice is not given under subsection (2), the Crown or other lessor shall be deemed to have elected to renew the strata lot lease for a term of 5 years.
- (4) Where the election is not to renew, the Crown or other lessor shall purchase the lessee's interest in the strata lot under section 97 within 15 days after the earlier of the dates on which the purchase price is agreed to, or has been finally determined by arbitration.

1977-64-43.

Renewal terms

101. (1) A renewal of a strata lot lease shall be on the same terms as the strata lot lease, other than for rent.

(2) Unless otherwise expressly provided in the lease, or otherwise agreed to in writing between the lessor and the lessee, the rent for the renewal period shall be determined by agreement between the Crown or other lessor and the strata lot lessee by a date not later than the beginning of the renewal period, and, failing agreement, shall be determined by arbitration.

(3) Where arbitration is required, the *Commercial Arbitration Act* applies. The rent shall be that share of the current market rental value of the land included in the strata plan, excluding all buildings and improvements, apportioned to the strata lot in accordance with the schedule filed under section 4 (g).

1977-64-43; 1986-J-53, effective July 4, 1986 (B.C. Reg. 148/86).

Ineffective renewal election

102. An election not to grant renewals that relates to fewer than all, but more than 1/3, of the lots shown on the strata plan is ineffective unless before delivery of the advice under section 100 (2) (b)

- (a) the Crown or other lessor has given to all strata lot lessees a written notice specifying the strata lot leases not to be renewed and the strata lot leases to be renewed; and
- (b) each of the lessees whose strata lot leases are to be renewed consents in writing to more than 1/3 of the strata lot leases not being renewed.

1977-64-43.

Restrictions on sale

103. (1) The Crown, acting through the minister, or any other lessor, may impose restrictions on the lease, assignment or occupancy of the strata lots included in a leasehold strata plan.

(2) Where restrictions are imposed, the restrictions shall

- (a) be filed, as a schedule, with the leasehold strata plan and come into effect on the registration of the plan; and
- (b) have no effect unless so filed.

(3) On filing, the restrictions bind the strata corporation and the lessee, sublessee or assignee of the strata lot to the same extent as if the schedule had been sealed by the strata corporation and signed by each lessee, sublessee or assignee, and contained covenants on the part of the strata corporation and each lessee, sublessee or assignee with the Crown or other lessor and with every other lessee, sublessee or assignee to comply in all respects with the schedule.

1974-89-56(1.2).

Amended restrictions

104. (1) Subject to section 97 (3), the Crown, acting through the minister, or any other lessor, may on its own, or on the application of the strata corporation following a special resolution, add to, alter or repeal any of the restrictions, and shall file the amended schedule with the registrar.

(2) A lessor under a ground lease, other than the Crown, may amend the schedule of restrictions only with the approval of the Lieutenant Governor in Council.

(3) Alteration or repeal of the restrictions on occupancy of the strata lot does not affect those persons who were strata lot lessees immediately prior to the amendment, but affects new strata lot lessees on the sublease or assignment of the strata lot lease.

1974-89-56(3,4,5,6); 1977-64-44.

Offence

105. (1) Every lessor, assignor, lessee, assignee or other person who participates in the lease, assignment or occupancy of a strata lot in contravention of the restrictions imposed under section 97 or 103, and who knew or ought to have known of the restrictions, is guilty of an offence and liable, on conviction, to a fine of not more than \$2,000, or to imprisonment for a term of not more than one year, or to both.

(2) In a prosecution under this section, the court may order that any portion of the price or other consideration attributable to failure to comply with the restrictions is payable to the Crown or other lessor under the ground lease.

1974-89-57

Duties of strata corporation

106. The strata corporation shall, at the request of the Crown or other lessor, enter into an agreement with the Crown or other lessor in which the strata corporation covenants to

- (a) obtain and maintain insurance and pay premiums on behalf of the strata lot lessees to the extent that they are required to do so under their leases;
- (b) repair and maintain the common property, common facilities and assets of the strata corporation on behalf of the strata lot lessees to the extent and standard that the strata lot lessees are required so to do under the strata lot leases; and
- (c) require the strata lot lessees to observe and perform the covenants contained in the strata lot leases requiring the strata lot lessees to observe and comply with
 - (i) the bylaws of the strata corporation;
 - (ii) this Act and regulations;
 - (iii) restrictions imposed by the Crown or other lessor under sections 103 and 104; and
 - (iv) the Acts or regulations respecting, or the lawful requirements of, a governmental utility or association of fire insurance underwriters affecting or respecting the use or occupancy of the strata lots by the strata lot lessees.

1977-64-46.

Deemed destruction of buildings

107. (1) On termination of all of the strata lot leases, the buildings shall be treated as if destroyed, and the strata council shall distribute the assets of the strata corporation to the former owners in shares apportioned in accordance with the schedule filed under section 4, and sections 65 and 66 do not apply.

(2) On termination under subsection (1), the strata corporation shall promptly lodge with the registrar a notice of destruction.

1977-64-47.

Destruction of building

108. (1) When a building is destroyed, section 64 (1) and (2) applies to this Part.

(2) If the strata corporation resolves not to rebuild the building, the interest of the strata lot lessee in the land shall revert to the Crown or other lessor.

(3) Section 64 (3) and (4) applies with the necessary changes and so far as applicable to this Part.

1974-89-61; 1977-64-48.

Deemed destruction of building

109. (1) Section 65 (1) and (2) does not apply to this Part unless the building has been damaged or destroyed to an extent in excess of 1/3 of its value.

(2) If the building is deemed to be destroyed, the strata lot lease shall be deemed to have terminated and the Crown or other lessor shall purchase the interest of the strata lot lessees in their strata lots as provided for in section 97 (2).

1974-89-62; 1975-74-26; 1977-64-49.

PART 4**GENERAL****Valuation for tax purposes**

110. For the purposes of assessment and taxation, each strata lot, together with its share in the common property, the common facilities and any taxable assets of the strata corporation, shall be deemed to be a separate parcel of land and improvements.

1974-89-63; 1975-74-27; 1977-64-50.

Regulations

111. (1) The Lieutenant Governor in Council may make regulations and, without restricting the generality of the foregoing, may make regulations

- (a) for fees for any procedure permitted or required to be done under this Act;
- (b) respecting the procedure, or alteration of any procedure, or the exercise of any power, right or duty, whether statutory or otherwise, under any other Act, to the extent necessary to give full force and effect to this Act;
- (c) for notice of destruction of buildings under section 64 or 107;
- (d) defining any word or expression not defined in this Act;
- (e) for the orderly transition of strata plans from the former Act to this Act; and
- (f) respecting the cancellation of bare land strata plans and, without restricting the generality of the foregoing, may
 - (i) establish the circumstances under which a bare land strata plan may be cancelled,

- (ii) establish the procedures to be followed in the cancellation of a bare land strata plan; and
 - (iii) limit the application of the regulations to bare land strata plans that are created before a prescribed date.
- (2) For surrendered land, the regulations may provide for
- (a) the registration under the land title legislation of leases of prescribed land where the land has been surrendered under the *Indian Act* (Canada) and is vested in Her Majesty the Queen in right of Canada;
 - (b) the subdivision of all or part of the surrendered land into strata lots by the deposit in a land title office of leasehold strata plans;
 - (c) strata corporations with respect to the surrendered land, including the composition of the strata corporations; and
 - (d) related matters, including the rights and obligations of any person or strata corporation.
- (3) For the purposes of subsection (2), the regulations may
- (a) exempt all or part of the surrendered land, leases, any person or strata corporation from the application of all or part of this Act; and
 - (b) enact additional provisions respecting the surrendered land, leases, any person or strata corporation notwithstanding that the additional provisions may be wholly or partially inconsistent with this Act.

1974-89-64,661(5); 1979-2-60; 1981-20-17, proclaimed effective December 18, 1981

Other Acts

112. (1) For the purposes of the *Land (Spouse Protection) Act*, a strata lot is deemed to be land on which a building is situated.

(2) The plans cancellation provisions of the *Land Title Act* do not apply to a strata plan deposited under this Act.

1974-89-65; 1985-68-20, effective April 17, 1985 (B.C. Reg. 392/85).

Transitional

113. (1) Where a strata plan has been deposited with the registrar under the *Strata Titles Act*, S.B.C. 1966, c. 46, herein referred to as the "former Act", the following provisions apply:

- (a) for the purposes of this Act, "unit entitlement", unless it is varied pursuant to paragraph (c), (d) and (e), means the unit entitlement of the strata lots as established by section 4 (1) (f) of the former Act, in so far as it determines
 - (i) the quantum of the undivided share of the owner in the common property, including the quantum of such share on destruction of the building; and
 - (ii) the proportion payable by each owner of contributions levied in respect of common expenses;
- (b) the existing bylaws remain in full force and effect until altered or repealed, but an alteration or repeal shall be carried out under this Act;
- (c) notwithstanding paragraph (a), a strata corporation may, by special resolution, amend its schedule of unit entitlement, and, if it does not have a schedule of interest on destruction, it shall at the same time adopt such a schedule;

(d) the schedules shall be submitted to the superintendent for acceptance, based on the criteria set out in sections 1 (2) to (6) and 4 (g) of this Act, and, on acceptance of the schedules, the strata corporation shall deposit them in the appropriate land title office;

(e) the registrar shall amend the strata plan by deleting the previous schedules and substituting those filed under paragraph (d).

(2) Where an owner developer who has deposited a strata plan under the former Act has not sold or entered into any agreement to sell any of the strata lots in the strata plan, he may elect to amend the prospectus filed under the *Real Estate Act*, if any, and the strata plan to conform to the *Real Estate Act* and this Act, and, on the approval of the superintendent and the registrar, the strata plan may be amended accordingly.

1974-89-66(2,4); 1975-74-28; 1977-64-51; 1978-25-334; 1981-20-18, proclaimed effective April 14, 1982.

Approval of support structure plans

114. (1) For the purpose of this section.

"strata lot" means a strata lot comprised in a support structure plan;

"support structure plan" means a strata plan that does not define the boundaries of the strata lots by reference primarily to floors, walls and ceilings.

(2) A registrar shall not accept for deposit a support structure plan unless it has first been approved by an approving officer and it otherwise complies with section 3 (1).

(3) The provisions of the land title legislation applicable to the approval of subdivision plans apply to this section, and for that purpose

(a) all references in them to "plan", "plan of subdivision" or "subdivision plan" shall be deemed to include a support structure plan; and

(b) the creation of strata lots by the deposit of a support structure plan shall be deemed to constitute a subdivision of land.

1977-43-1; [repealed 1977-64-57, to be proclaimed].

PART 5

BYLAWS

Duties of owner

115. An owner shall

(a) permit the strata corporation and its agents, at all reasonable times on notice, except in case of emergency, when no notice is required, to enter his strata lot for the purpose of inspecting the same and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the strata lot and capable of being used in connection with the enjoyment of any other strata lot or common property, or for the purpose of maintaining, repairing or renewing common property, common facilities or other assets of the strata corporation, or for the purpose of ensuring that the bylaws are being observed;

(b) promptly carry out all work that may be ordered by any competent public or local authority in respect of his strata lot other than work for the benefit of the building generally, and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his strata lot;

(c) repair and maintain his strata lot, including windows and doors, and areas allocated to his exclusive use, and keep them in a state of good repair, reasonable wear and tear and damage by fire, storm, tempest or act of God excepted;

- (d) use and enjoy the common property, common facilities or other assets of the strata corporation in a manner that will not unreasonably interfere with their use and enjoyment by other owners, their families or visitors;
- (e) not use his lot, or permit the same to be used, in a manner or for a purpose that will cause a nuisance or hazard to any occupier of a lot, whether an owner or not, or his family;
- (f) notify the strata corporation promptly on any change of ownership or of any mortgage or other dealing in connection with his strata lot;
- (g) comply strictly with these bylaws, and all other bylaws of the strata corporation, and with rules and regulations adopted from time to time; and
- (h) receive the written permission of the strata council before undertaking alterations to the exterior or structure of the strata lot, but permission shall not be unreasonably withheld.

1974-89-1st Sch.-1; 1975-74-29

Duties of strata corporation

116. The strata corporation shall

- (a) control, manage and administer the common property, common facilities or other assets of the corporation for the benefit of all owners;
- (b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings, including the elevators, swimming pool and recreational facilities, if any, and other apparatus and equipment used in connection with the common property, common facilities or other assets of the corporation;
- (c) maintain all common areas, both internal and external, including lawns, gardens, parking and storage areas, public halls and lobbies;
- (d) maintain and repair, including renewal where reasonably necessary, pipes, wires, cables, chutes and ducts for the time being existing in the parcel and capable of being used in connection with the enjoyment of more than one strata lot or common property;
- (e) on the written request of an owner or mortgagee of a strata lot, produce to him or a person authorized in writing by him the insurance policies effected by the corporation and the receipts for the last premiums;
- (f) maintain and repair the exterior of the buildings, excluding windows, doors, balconies and patios included in a strata lot, including the decorating of the whole of the exterior of the buildings;
- (g) collect and receive all contributions toward the common expenses paid by the owners and deposit the same with a savings institution; and
- (h) pay all sums of money properly required to be paid on account of all services, supplies and assessments pertaining to, or for the benefit of, the corporation.

1974-89-1st Sch.-2; 1975-74-29

Powers of strata corporation

117. The strata corporation may

- (a) purchase, hire or otherwise acquire personal property for use by owners in connection with their enjoyment of common property, common facilities or other assets of the corporation;

- (b) borrow money required by it in the performance of its duties or the exercise of its powers;
- (c) secure the repayment of money borrowed by it, and the payment of interest, by negotiable instrument or mortgage of unpaid contributions, whether levied or not, or mortgage of any property vested in it, or by combination of those means;
- (d) invest as it may determine in separate accounts money in the fund for administrative expenses, or in the contingency reserve fund;
- (e) make an agreement with an owner or occupier of a strata lot for the provision of amenities or services by it to the strata lot or to the owner or occupier;
- (f) grant an owner the right to exclusive use and enjoyment of common property, or special privileges for them, the grant to be determinable on reasonable notice, unless the strata corporation by unanimous resolution otherwise resolves;
- (g) designate an area as limited common property and specify the strata lots that are to have the use of the limited common property;
- (h) make rules and regulations it considers necessary or desirable from time to time in relation to the enjoyment, safety and cleanliness of the common property, common facilities or other assets of the corporation;
- (i) do all things necessary for the enforcement of the bylaws and the rules and regulations of the strata corporation, and for the control, management and administration of the common property, common facilities or other assets of the strata corporation, generally, including removing privileges in the use of certain facilities, or fixing and collecting fines for contravention of the bylaws, rules or regulations;
- (j) subject to this Act, determine the levy for the contingency reserve fund which shall be not less than 5% of the total annual budget, until the reserve reaches an amount that the strata council considers sufficient having regard to the type of buildings in the strata plan, and thereafter raise further amounts of replacements of funds from time to time and over a period of time as the strata council thinks fit; and
- (k) join any organization serving the interests of strata corporations and assess the membership fee in the organization as part of the common expenses.

1974-89-1st Sch.-3; 1975-74-29; 1977-64-52.

Strata council

118. (1) The powers and duties of the strata corporation shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata corporation.

(2) The owner developer shall exercise the powers and duties of the strata council until a council is elected by the owners.

(3) A council shall be elected at the first annual general meeting of the owners called by the owner developer under section 123 (1).

(4) The council shall be elected by and from among the owners and shall consist of not less than 3 or more than 7 members, except as provided in section 89. Where there are less than 4 strata lots, or less than 4 owners, the council shall consist of all owners.

(5) Except where the council consists of all owners, where a strata lot is owned by more than one person, only one owner of the strata lot shall be a member of the council at any one time.

(6) At each annual general meeting of the strata corporation all the members of the council shall retire from office and the strata corporation shall elect a new council. A retiring member of the council is eligible for re-election.

1974-89-1st Sch.-4 to 9; 1975-74-29; 1977-64-52(b).

Vacancies, quorum, etc.

119. (1) Except where the council consists of all owners, the strata corporation may, by resolution at an extraordinary general meeting, remove for cause a member of the council before expiry of his term of office and appoint another owner in his place, to hold office until the next annual general meeting.

(2) A vacancy on the council may be filled by the remaining members of the council.

(3) Except where there is only one owner, a quorum of the council is 2 where the council consists of 4 or less members, 3 where it consists of 5 or 6 members and 4 where it consists of 7 members.

1974-89-1st Sch.-10 to 12; 1975-74-29

Officers and meetings

120. (1) At the first meeting of the council held after each annual general meeting of the strata corporation, the council shall elect from among its members a chairman and vice chairman, who shall hold office until the conclusion of the next annual general meeting of the strata corporation or until their successors are elected or appointed.

(2) The chairman of the council shall have a casting vote in addition to his original vote.

(3) Where the chairman is absent from any meeting of the council, or vacates the chair during the course of a meeting, the vice chairman shall act as the chairman and have all the duties and powers of the chairman while so acting.

(4) In the absence of both the chairman and the vice chairman, the members present shall from among themselves appoint a chairman for that meeting, who shall have all the duties and powers of the chairman while so acting.

(5) At meetings of the council all matters shall be determined by simple majority vote.

1974-89-1st Sch.-13 to 17.

Council powers

121. The council may

(a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, and it shall meet when any member gives the other members not less than 7 days' notice of a meeting proposed by him, specifying the reason for calling the meeting, unless the other members agree to waive the notice;

(b) employ for and on behalf of the strata corporation agents and employees as it thinks proper for the control, management and administration of the common property, common facilities or other assets of the corporation,

and the exercise and performance of the powers and duties of the corporation; and

- (c) subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members, or to a member or committee of members of the strata corporation, or to its manager, those of its powers and duties it thinks proper, and at any time revoke a delegation.

1974-89-1st Sch.-18.

Council duties

122. (1) The council shall keep, in one location, or in the possession of one person, and shall make available on request to an owner or a person authorized by him,

- (a) a copy of this Act and of changes in the bylaws under Part 5;
- (b) a copy of special or unanimous resolutions;
- (c) a copy of all the legal agreements to which the corporation is a party, including management contracts, insurance policies, insurance trustee agreements, deeds, agreements for sale, leases, licences, easements or rights of way;
- (d) a register of the members of the council;
- (e) a register of the strata lot owners, setting out the strata lot number, the name of the owner, the unit entitlement, the name and address of any mortgagee who has notified the strata corporation, the name of any tenant or lessee, and a notation of any assignment by the owner to the lessee;
- (f) the annual budget for each year; and
- (g) minutes of all general meetings and of all council meetings.

(2) The council shall

- (a) keep minutes of its proceedings;
- (b) cause minutes to be kept of general meetings;
- (c) cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which receipt and expenditure take place;
- (d) prepare proper accounts relating to all money of the corporation, and the income and expenditure of it, for each annual general meeting; and
- (e) on application of an owner or mortgagee, or a person authorized in writing by him, make the books of account available for inspection at all reasonable times.

(3) All acts done in good faith by the council are, notwithstanding it is afterwards discovered that there was some defect in the appointment or continuance in office of a member of the council, as valid as if the member had been duly appointed or had duly continued in office.

(4) A member of a strata council is not personally liable for an act done in good faith in carrying out his duties as a member of the council.

1974-89-1st Sch.-19 to 21; 1975-74-29.

General meetings

123. (1) The first annual general meeting shall be called by the owner developer and the meeting shall be held on the earlier of the date on which 60% of the strata lots have been conveyed by him, or a date 9 months after registration of the strata plan.

(2) Subsequent annual general meetings shall be held once in each year, and not more than 13 months shall elapse between one annual general meeting and the next.

(3) General meetings other than the annual general meetings shall be called extraordinary general meetings.

(4) The strata council may, whenever it thinks proper, and shall on a requisition in writing by owners or mortgagees of 25% of the strata lots, within 2 weeks after the requisition, convene an extraordinary general meeting.

(5) Seven days' notice of every general meeting specifying the place, date and hour of the meeting, and in case of special business the general nature of that business, shall be given to all owners and first mortgagees who have notified their interests to the strata corporation. Accidental omission to give notice to an owner or to a first mortgagee or failure to receive the notice by an owner does not invalidate proceedings at the meeting.

1974-89-1st Sch.-23 to 26; 1975-74-29; 1977-64-52(c).

Procedure

124. (1) All business shall be deemed special that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the strata council, or at an extraordinary general meeting.

(2) Save as in these bylaws otherwise provided, business shall not be transacted at a general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business.

(3) One third of the persons entitled to vote present in person or by proxy constitutes a quorum.

(4) If within 1/2 hour from the time appointed for a general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time. If at the adjourned meeting a quorum is not present within 1/2 hour from the time appointed for the meeting, the persons entitled to vote present constitute a quorum.

(5) The chairman of the council shall be the chairman of all general meetings. In his absence from the meeting or in case he vacates the chair, the vice chairman of the council shall act as chairman. In other cases, the meeting shall appoint a chairman.

(6) The order of business at general meetings, and as far as is appropriate for extraordinary general meetings, shall be

- (a) electing the chairman of the meeting, if necessary;
- (b) calling the roll, certifying proxies and issuing a voting card for each strata lot represented at the meeting;
- (c) filing proof of notice of meeting or waiver of notice;
- (d) reading and disposing of any unapproved minutes;
- (e) receiving reports of committees;
- (f) considering the accounts;
- (g) electing a strata council, if necessary;

- (h) unfinished business;
- (i) new business; and
- (j) adjournment.

1974-89-1st Sch.-27 to 32.

Voting at meetings

125. (1) At a general meeting a resolution by the vote of the meeting shall be decided on a show of hands, unless a poll is requested by an owner present in person or by proxy. A request for a poll may be withdrawn.

(2) Unless a poll is requested, a declaration by the chairman that a resolution has, on the show of hands, been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

(3) A poll, if demanded, shall be taken in whatever manner the chairman thinks proper, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was requested.

(4) In the case of equality in the votes, whether on a show of hands or on a poll, the chairman of the meeting is entitled to a casting vote in addition to his original vote.

(5) On a show of hands, an owner shall indicate his vote by showing his voting card. On a show of hands or on a poll, votes may be given either personally or by proxy.

(6) Except in cases where, under this Act, a unanimous resolution is required, an owner is not entitled to vote at a general meeting unless all contributions payable for his strata lot have been paid.

(7) Where owners are entitled to successive interests in a lot, the owner entitled to the first interest is alone entitled to vote, whether on a show of hands or a poll.

(8) An owner who is a trustee is entitled to exercise the vote for the lot. The persons beneficially interested may not vote.

1974-89-1st Sch.-33 to 39,42 to 44.

Proxies

126. (1) An instrument appointing a proxy shall be in writing signed by the appointer or his attorney, and may be either general or for a particular meeting.

(2) A proxy need not be an owner.

(3) Notwithstanding the provisions of these bylaws on appointment of a proxy, where the owner's interest is subject to a registered mortgage and where the mortgage provides that the power of vote conferred on an owner under this Act may be exercised by the mortgagee and where the mortgagee has given written notice of his mortgage to the corporation, no instrument or proxy shall be necessary to give the mortgagee the power to vote. The mortgagee shall indicate his presence at the calling of the roll and he, rather than the owner, shall be issued a voting card.

1974-89-1st Sch.-40,41,45.

Violation of bylaws

127. (1) An infraction or violation of these bylaws or any rules and regulations established under them on the part of an owner, his employees, agents, invitees or tenants may be corrected, remedied or cured by the strata corporation. Any costs or expense so incurred by the corporation shall be charged to that owner and shall be added to and become a part of the assessment of that owner for the month next

following the date on which the costs or expense are incurred, but not necessarily paid by the corporation, and shall become due and payable on the date of payment of the monthly assessment.

(2) The strata corporation may recover from an owner by an action for debt in a court of competent jurisdiction money which the strata corporation is required to expend as a result of an act or omission by the owner, his employees, agents, invitees or tenants, or an infraction or violation of these bylaws or any rules or regulations established under them.

1974-89-1st Sch.-46,47.

Common expenses

128. (1) The strata lot owner's contribution to the common expenses of the strata corporation shall be levied in accordance with this bylaw.

(2) Where a strata plan consists of more than one type of strata lot, the common expenses shall be apportioned in the following manner:

(a) common expenses attributable to one or more type of strata lot shall be allocated to that type of strata lot and shall be borne by the owners of that type of strata lot in the proportion that the unit entitlement of that strata lot bears to the aggregate unit entitlement of all types of strata lots concerned;

(b) common expenses not attributable to a particular type or types of strata lot shall be allocated to all strata lots and shall be borne by the owners in proportion to the unit entitlement of their strata lots.

(3) Where a strata plan includes limited common property, expenses attributable to the limited common property which would not have been expended if the area had not been designated as limited common property shall be borne by the owners of the strata lots entitled to use the limited common property in proportion to the unit entitlement of their strata lots.

(4) The owner developer shall cause to be prepared an interim budget of anticipated common expenses for the first 9 month period following registration of the strata plan, and the budget shall be delivered to each purchaser.

(5) For the period from the date on which the strata plan is registered until the earlier of the date on which the first strata lot is occupied, or the date on which the first strata lot is conveyed to a purchaser, the owner developer shall pay the actual common expenses.

(6) For the period from the earlier of the date on which the first strata lot is occupied, or the date on which the first strata lot is conveyed to a purchaser until the first annual budget is approved at the first annual general meeting, the owners, including the owner developer, shall pay to the strata corporation their proportionate share of the estimated monthly common expenses in accordance with the interim budget prepared under subsection (4).

(7) If the actual common expenses during the period referred to in subsection (6) exceed the estimated common expenses for that period, the owner developer shall pay the excess.

(8) At the first annual general meeting, the strata corporation shall cause to be prepared a budget for a period commencing on the date of the first annual general meeting and ending on the first anniversary of the last day of the month during which the first annual general meeting is held. After that, all owners, including the owner

developer, shall, subject to subsections (2) and (3), pay a monthly assessment based on that budget determined in accordance with their unit entitlements.

(9) Where, at the first annual general meeting, the budget shows that the estimated common expenses as shown on the interim budget exceeded the actual common expenses, the owners, including the owner developer, shall receive from the strata corporation a rebate of their contribution to the common expenses, based on the unit entitlement of the strata lots for which their contribution was paid, and the period of time during which their contribution was paid.

(10) At each annual general meeting subsequent to the first annual general meeting, the strata corporation shall prepare an annual budget for the following 12 month period and, after that, all owners shall, subject to subsections (2) and (3), pay a monthly assessment in accordance with their unit entitlement.

1974-89-1st Sch.-48 to 50; 1975-74-29; 1977-64-52(d).

Notices

129. (1) Unless otherwise specifically stated in these bylaws, delivery of any notice required to be given under this Act or under these bylaws shall be well and sufficiently given if mailed to the owner at the address of his strata lot and if left with him or some adult person at that address.

(2) A notice given by post shall be deemed to have been given 48 hours after it is posted.

(3) An owner may at any time in writing advise the corporation of a change of address at which notice shall be given, and thereafter the address specified shall be deemed to be the address of the owner for the giving of notices.

(4) The word "notice" shall include any request, statement or other writing required or permitted to be given by the strata corporation to the owner of the strata lot.

1974-89-1st Sch.-51 to 54.

Corporate common seal

130. The strata corporation shall have a common seal, which shall not be used except by authority of the council previously given and in the presence of the members of the strata council or at least two members of it, who shall sign every instrument to which the seal is affixed. Where there is only one member of the strata corporation, his signature is sufficient for the purpose of this section, and, if the only member is a corporation, the signature of the appointed representative on the strata council shall be sufficient for the purpose of this section.

1974-89-1st Sch.-55.

Prohibitions

131. (1) An owner shall not

(a) use his strata lot for any purpose which may be illegal or injurious to the reputation of the building;

(b) make undue noise in or about any strata lot or common property; or

(c) keep any animals on his strata lot or the common property after notice in that behalf from the council.

(2) When the purpose for which a strata lot is intended to be used is shown expressly or by necessary implication on or by the registered strata plan, an owner shall not use his strata lot for any other purpose, or permit it to be so used.

1974-89-2nd Sch.-1.2.

Promotion

132. During the time that the owner developer of the strata corporation is the first owner of any units, he shall have the right to maintain any unit or units, whether owned or leased by him, as a display unit, and to carry on all sales functions he considers necessary in order to enable him to sell the units.

1974-89-2nd Sch.-3.

PART 6**PROCLAMATION****Commencement**

133. (1) Section 114 is repealed.

(2) Subsection (1) comes into force by regulation of the Lieutenant Governor in Council.

1977-64-58; 1983-10-25, effective October 26, 1983 (B.C. Reg. 393/83).

SCHEDULE**RESTRICTIONS**

Leasehold Strata Plan No.

1. The purchase price of each strata lot under section 97 of the *Condominium Act* shall be calculated as follows:

2. The restrictions imposed on the lease, assignment or occupancy of the strata lots under sections 103 and 104 of the *Condominium Act* are as follows:

FORMS**FORM A****CERTIFICATE OF FULL PAYMENT**

Strata Corporation No. _____ hereby certifies under section 11 (2) of the *Condominium Act* that no money is owing to it in connection with Strata Lot No. _____ [legal description].

Dated _____ [month, day], 19 _____

.....
Member of Strata Council or Manager.

FORM B**CERTIFICATE OF DEFAULT IN PAYMENT**

Strata Corporation No. _____ hereby certifies

1. That the owner of the strata lot described below is in default in the payment of his share of the common expenses referred to in section 37 of the *Condominium Act*:

[legal description of the strata lot]

2. That the amount owing as of [month, day], 19 , is \$, and that Strata Corporation No. claims a charge against the title to the strata lot under section 37 of the *Condominium Act*.

Dated [month, day], 19 .

.....
Member of Strata Council or Manager.

FORM C

CERTIFICATE OF PAYMENT

Strata Corporation No. hereby certifies

1. That it has received payment of the amount owing under its charge registered under No. against the title to the strata lot described as

[legal description of the strata lot]

2. That the amount owing was paid on [month, day], 19 , and the Strata Corporation No. hereby releases its charge against the strata lot.

Dated [month, day], 19 .

.....
Member of Strata Council or Manager.

FORM D

TENANT'S UNDERTAKING

.....
(Name of Strata Corporation)

To the Owners, Strata Plan No.

Re: Strata Lot No.

I have agreed (or am about to agree) with the owner of this strata lot to rent it from month to month (for a period of years) from [month, day], 19 , and do jointly and severally covenant with you that I shall at all times during the period of my tenancy (lease) comply with the provisions of the *Condominium Act*, as amended from time to time, in so far as they affect me as tenant and occupier of the strata lot, and the provisions of the bylaws and the rules and regulations of the strata corporation as adopted from time to time in so far as they affect me as tenant and occupier of the strata lot.

Witness:

.....
(Name)

.....
(Address)

.....
(Occupation)

The address to which any notices to the registered owner of the strata lot shall be delivered is [address]

FORM E

DECLARATION OF INTENTION TO CREATE A STRATA PLAN
BY PHASED DEVELOPMENT

I, _____, of _____, declare

1. That I intend to create a strata plan by way of phased development of the following land which I own or on which I hold a right to purchase:

2. That the plan of development is as follows:

{Here set out

(a) a schedule setting out the number of phases and specifying any common facility to be developed in conjunction with a particular phase;

(b) a sketch plan showing

(i) all the land to be included in the phased strata plan;

(ii) the present parcel boundaries;

(iii) the approximate boundaries of each phase; and

(iv) the approximate location of the common facilities;

(c) a schedule setting out the estimated date of commencement of construction and completion of construction for each phase;

(d) a statement of the unit entitlement of each phase and the total unit entitlement of the completed development; and

(e) a statement of the maximum number of units and general type of residence or other structure to be built in each phase.]

3. That I shall elect whether or not to proceed with each phase on or by the following dates:

Phase	Date
Phase 1	
Phase 2	

.....
Approving Officer.....
Applicant

FORM F

CERTIFICATE OF LEASEHOLD CHARGE

Land title office, _____, British Columbia

This is to certify that the undermentioned registered lessee is, subject to

(a) the provisions of the *Condominium Act*;

(b) the charges, liens and interest noted by endorsement on this certificate; and

(c) the conditions, exceptions, reservations and restrictions set out on this certificate,

entitled to a charge by way of lease registered by endorsement under No. _____ on the indefeasible title to land situated in British Columbia, and more particularly described below.

Registered owner of charge by way of lease:

Application for registration received:

Description of land:

CHARGES, LIENS AND INTERESTS

Nature of Charge, Number, Date and Time of Application	Registered Owner of Charge	Remarks

Signed and sealed at British Columbia, on [month, day], 19

.....
Registrar

1974-89-3rd Sch., 4th Sch.; 1975-74-30, 31; 1977-64-5; 1982-60-98, proclaimed effective
August 1, 1983.

CONDOMINIUM ACT - STATUS SHEET

CONDOMINIUM ACT
RS1979, c. 61

Repeal of section 114 under section 133 not in force

AMENDMENT NOT IN FORCE

Section	Reference
72	1993-64-30

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