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## STRATA PROPERTY LAW PROJECT—PHASE TWO

### Backgrounder

#### Legislative Fact Sheet:

#### Report on Complex Stratas

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### Introduction

BCLI's second report in the Strata Property Law Project—Phase Two, the *Report on Complex Stratas*, recommends reforms to the *Strata Property Act* and the *Strata Property Regulation* and contains draft legislation and regulations illustrating those reforms. This backgrounder summarizes the content and rationale for the report's recommended reforms.

### What are complex stratas?

- *Complex strata* is the report's term for strata developments that result from trends in British Columbia's real-estate sector toward more mixed-use and architecturally varied strata properties.
- Two examples of a complex strata are (1) an apartment tower surrounded by townhouses (architecturally varied) and (2) a four-storey building with commercial uses on the first floor and residential uses on the upper three floors (mixed-use).
- While complex stratas support urban-planning goals, they also raise both financial issues (especially sharing common expenses) and legal issues. The *Strata Property Act* and the *Strata Property Regulation* seek to manage these issues through three tools: sections, types, and phases.

### Sections

#### *Description of sections*

- Sections are mini strata corporations.

- The act allows an owner-developer or a strata corporation to create sections to represent the different interests of (1) owners of residential strata lots and owners of nonresidential strata lots, (2) owners of nonresidential strata lots, if they use their strata lots for significantly different purposes, or (3) owners of different kinds of residential strata lots (i.e., apartments, townhouses, or detached houses).

### *Concerns sections raise*

- Because a section is a corporation in its own right, the law views it as distinct from the strata corporation.
- This can lead to administrative complexity, duplication of procedures, potential conflicts of interest to manage, uncertain authority to carry out tasks such as repairs and maintenance, and increased costs.

### *Reforms recommended by report*

- The report recommends clarifying the procedures for creating and cancelling sections, spelling out section powers and duties, strengthening section governance, budgets, and finances.

### *Why these reforms should be adopted*

- They will clarify the lines of authority between the strata corporation and a section.
- They will dispel uncertainties about the scope of section powers and duties.
- They will provide for the first time a cancellation procedure that addresses the legal and financial implications of dissolving a mini corporation.

## **Types**

### *Description of types*

- Types of strata lots may be designated in a strata corporation's bylaws. If a type is designated, then the strata corporation may, in its annual budget, allocate responsibility for specific common expenses, to be paid for out of the operating fund, to the type.

### *Concerns types raise*

- The act contains no provisions that detail the creation, administration, or cancellation of a type. Types are only mentioned in regulations on strata-corporation finances.

### *Reforms recommended by report*

- The report recommends spelling out the procedures for creating and cancelling types and fine-tuning the operation of types.

### *Why these reforms should be adopted*

- They will provide clear and certain legislative authority for creating types.
- They will establish new procedures for creating and cancelling types, which will enhance protection of strata-lot owners' interests.
- They will strengthen financial accountability for strata corporations with types.

## **Phases**

### *Description of phases*

- Phases allow for the development of strata property in segments, over an extended time. This allows for more developers to take on sophisticated strata developments (because selling strata lots in early phases can finance the development of later ones), which increases diversity in the strata marketplace.

### *Concerns phases raise*

- Phasing legislation is highly complicated and rule-bound.
- Phased strata properties force the owner-developer to remain in a long-term relationship with early-phase strata lot owners, often creating tensions that can affect governance and finances.

### *Reforms recommended by report*

- The report recommends enhancing the oversight of the phasing process, simplifying governance in a phased strata corporation, and providing additional protections for the financial interests of owners in a phased strata property.

### *Why these reforms should be adopted*

- They will simplify and clarify governance in a phased strata corporation.
- They will provide enhanced protection for the financial interests of owners in a phased strata corporation.
- They will clarify and streamline the regulatory oversight of the phasing process.