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**Supported By:**



**Response**

**Booklet**

**Consultation Paper**

**on**

**Terminating**

**a Strata**

**Prepared by the**

**Strata Property Law (Phase Two) Project Committee**

**May 2014**

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The British Columbia Law Institute was created in 1997 by incorporation under the provincial *Society Act*. Its strategic mission is to be a leader in law reform by carrying out:

* the best in scholarly law reform research and writing; and
* the best in outreach relating to law reform.

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**Strata Property Law (Phase Two)**

**Project Committee**

The Strata Property Law (Phase Two) Project Committee was formed in fall 2013. This all-volunteer project committee is made up of some of the leading experts in strata-property law and practice in British Columbia. The committee’s mandate is to assist BCLI in developing recommendations to reform strata-property law in the seven areas selected for study in this phase-two project. These recommendations will be set out in the committee’s final report, which will be published in December 2016.

The members of the committee are:

|  |  |
| --- | --- |
| Patrick Williams—chair  *(Partner, Clark Wilson LLP)* | Larry Buttress  *(Deputy Executive Officer, Real Estate Council of British Columbia)* |
| Garth Cambrey  *(President, Cambrey Consulting Ltd.)* | Tony Gioventu  *(Executive Director, Condominium Home Owners Association)* |
| Tim Jowett  *(Deputy Registrar of Land Titles, Land Title and Survey Authority)* | Judith Matheson  *(Realtor, Coldwell Banker Premier Realty)* |
| Elaine McCormack  *(Associate Counsel, Alexander Holburn Beaudin Lang LLP)* | Doug Page  *(Manager, Housing Policy, Office of Housing and Construction Standards, Ministry of Natural Gas Development and Responsible for Housing)* |
| David Parkin  *(Assistant City Surveyor, City of Vancouver)* | Allen Regan  *(Vice-President, Bayside Property Services Ltd.)* |
| Stanley Rule  *(Lawyer, Sabey Rule LLP)* | Sandy Wagner  *(President of the Board of Directors, Vancouver Island Strata Owners Association)* |
| Ed Wilson  *(Partner, Lawson Lundell LLP)* |  |

Kevin Zakreski (staff lawyer, British Columbia Law Institute) is the project manager.

**For more information, visit us on the World Wide Web at:**

**http://www.bcli.org/project/strata-property-law-phase-two**

**Call for Responses**

We are interested in your response to this consultation paper. It would be helpful if your response directly addressed the tentative recommendations set out in this consultation paper, but it is not necessary. We will also accept general comments on reform of the law on terminating a strata.

The best way to submit a response is to use a response booklet. You may obtain a response booklet by contacting the British Columbia Law Institute or by downloading one at **<http://www.bcli.org/project/strata-property-law-phase-two>**. You do not have to use a response booklet to provide us with your response.

Responses may be sent to us in one of four ways—

|  |  |  |
| --- | --- | --- |
| by mail: |  | British Columbia Law Institute  1822 East Mall  University of British Columbia  Vancouver, BC V6T 1Z1  Attention: Kevin Zakreski |
| by fax: |  | (604) 822-0144 |
| by email: |  | strata@bcli.org |
| by online survey: |  | link from www.bcli.org/project/strata-property-law-phase-two |

If you want your response to be considered by us as we prepare our report on terminating a strata, then we must receive it by **30 September 2014**.

**RESPONSE**

**Name:**

**Organization:**

**Position:**

You may provide us with your name, the name of any organization you represent, and the title of your position within that organization, if you wish. You do not have to give us any of this information. You may still submit your response even if you leave some or all of the above spaces blank.

You may respond to all or some of the tentative recommendations in this response booklet. If you wish to provide a more extensive comment than space permits, then please use the additional pages at the end of this response booklet.

Your response will be used in connection with the Strata Property Law (Phase Two) Project. It may also be used as part of future law-reform work by the British Columbia Law Institute or its internal divisions. All responses will be treated as public documents, unless you expressly state in the body of your response that it is confidential. Respondents may be identified by name in the final report for the project, unless they expressly advise us to keep their name confidential. Any personal information that you send to us as part of your response will be dealt with in accordance with our privacy policy. Copies of our privacy policy may be downloaded from our website at: <http://www.bcli.org/privacy>.

The numbers in parentheses refer to pages in the consultation paper where the tentative recommendation is discussed.

|  |
| --- |
| *1. The Strata Property Act’s provisions on termination should be reformed.*   **(47–49)**  **Agree**  **Disagree**  **Comments:** |
| *2. The Strata Property Act should not continue to require the unanimous consent of strata-lot owners to the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator.*   **(49–51)**  **Agree**  **Disagree**  **Comments:** |
| *3. The Strata Property Act should allow at least 80 percent of the eligible votes to authorize the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator.*   **(51–53)**  **Agree**  **Disagree**  **Comments:** |
| *4. The Strata Property Act should not allow stratas to specify in their bylaws that a greater percentage of eligible votes than is required under the act is needed to authorize the voluntary winding up of the strata without liquidator or the voluntary winding up of a strata with liquidator.*   **(53–55)**  **Agree**  **Disagree**  **Comments:** |
| *5. The Strata Property Act should not specify different thresholds for owners to authorize the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator.*   **(55–57)**  **Agree**  **Disagree**  **Comments:** |
| *6. An “eligible vote” for the purposes of a vote on a resolution to authorize the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator should be defined as a vote as shown on the strata’s Schedule of Voting Rights. If the strata does not have a Schedule of Voting Rights, then an “eligible vote” is defined as one vote per strata lot.*   **(68–69)**  **Agree**  **Disagree**  **Comments:** |
| *7. The Strata Property Act should require that a strata corporation must give at least 30 days’ written notice of an annual general meeting or a special general meeting, if that meeting will consider a resolution to authorize the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator, to the following:*  *(a) every owner, whether or not a notice must also be sent to the owner’s mortgagee or tenant;*  *(b) every mortgagee who has given the strata corporation a Mortgagee’s Request for Notification;*  *(c) every tenant who has been assigned a landlord’s right to vote, if the strata corporation has received notice of the assignment.*   **(69)**  **Agree**  **Disagree**  **Comments:** |
| *8. The Strata Property Act should require that notice of an annual general meeting or a special general meeting must include the proposed wording of any resolution to authorize the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator.*   **(69–70)**  **Agree**  **Disagree**  **Comments:** |
| *9. The Strata Property Act should provide that a strata corporation’s bylaw that provides that a vote for a strata lot may not be exercised if the strata corporation is entitled to register a lien against the strata lot under section 116 (1) of the Strata Property Act should not apply to a vote on a resolution to authorize the voluntary winding up of the strata without liquidator or the voluntary winding up of the strata with liquidator.*   **(70–71)**  **Agree**  **Disagree**  **Comments:** |
| *10. The Strata Property Act should provide that votes on a resolution to authorize the voluntary winding up of the strata without liquidator or the voluntary winding up of the strata with liquidator should be calculated on the basis of the total number of votes set out in the Schedule of Voting Rights or as prescribed by the act.*   **(71–72)**  **Agree**  **Disagree**  **Comments:** |
| *11. The Strata Property Act should provide that a mortgagee may not exercise its right to vote in respect of a resolution to authorize the voluntary winding up of the strata without liquidator or the voluntary winding up of the strata with liquidator.*   **(72–73)**  **Agree**  **Disagree**  **Comments:** |
| *12. The Strata Property Act should not contain a special court process available to an owner who dissents from a resolution authorizing the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator.*   **(75–78)**  **Agree**  **Disagree**  **Comments:** |
| *13. The absence of a special court process applicable to an owner who dissents from resolution authorizing the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator should not, in and of itself, bar a dissenting owner from seeking a remedy under any other process that exists in the Strata Property Act.*   **(75–78)**  **Agree**  **Disagree**  **Comments:** |
| *14. The Strata Property Act should not require that an owner who dissents from the voluntary winding up of a strata without liquidator or the voluntary winding up of a strata with liquidator must arbitrate or mediate the dispute before applying to court.*   **(78–79)**  **Agree**  **Disagree**  **Comments:** |
| *15. The Strata Property Act should not require that a strata must obtain the consent to the voluntary winding up of a strata without liquidator from any holder of a registered charge against land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan.*   **(79–81)**  **Agree**  **Disagree**  **Comments:** |
| *16. The Strata Property Act should require that a strata corporation must give all holders of registered charges against land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, at least 30 days’ notice of an annual general meeting or a special general meeting that will consider a resolution to authorize the voluntary winding up of the strata without liquidator.*   **(81)**  **Agree**  **Disagree**  **Comments:** |
| *17. The Strata Property Act should provide for the minimum requirements for the form of notice of an annual general meeting or a special general meeting that will consider a resolution to authorize the voluntary winding up of the strata without liquidator that must be given to all holders of registered charges against land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan.*   **(81–82)**  **Agree**  **Disagree**  **Comments:** |
| *18. The form of notice of an annual general meeting or a special general meeting that will consider a resolution to authorize the voluntary winding up of the strata without liquidator that must be given to all holders of registered charges against land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, should allow for the recipient of notice to register with the strata corporation to receive the results of the vote on the resolution to authorize the voluntary winding up of the strata without liquidator.*   **(81–82)**  **Agree**  **Disagree**  **Comments:** |
| *19. The Strata Property Act should provide that a holder of a registered charge against land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, who has registered to receive notice of the results of the vote on the resolution to authorize the voluntary winding up of the strata without liquidator may apply by petition to the supreme court to object to the voluntary winding up of the strata without liquidator within 30 days of the strata corporation giving the notice of results.*   **(82–83)**  **Agree**  **Disagree**  **Comments:** |
| *20. The committee’s tentative recommendations for reform should, upon the coming into force of legislation implementing those tentative recommendations, apply to all stratas.*   **(85–86)**  **Agree**  **Disagree**  **Comments:** |
| *21. The committee’s tentative recommendations for reform should apply to bare-land strata plans.*   **(86)**  **Agree**  **Disagree**  **Comments:** |

Principal Funders in 2013

The British Columbia Law Institute expresses its thanks to its principal funders in the past year:

* Law Foundation of British Columbia;
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* Continuing Legal Education Society of British Columbia;
* United Way of the Lower Mainland;
* Vancouver Foundation;
* Ministry of Natural Gas Development and Responsible for Housing for British Columbia;
* Real Estate Council of British Columbia;
* Real Estate Institute of British Columbia;
* Strata Property Agents of British Columbia;
* Association of British Columbia Land Surveyors; and
* Vancouver Island Strata Owners Association.

BCLI also reiterates its thanks to all those individuals and organizations who have provided financial support for its present and past activities.