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BRITISH COLUMBIA

LAW INSTITUTE STRATA PROPERTY LAW PROJECT—PHASE TWO

Summary Consultation

on

Complex Stratas

Date: 31 2016

Introduction

The purpose of this summary consultation is to highlight three proposals from the British Columbia Law Institute's *Consultation Paper on Complex Stratas*. In the interest of brevity, background information and discussion of these proposals has been kept to a bare minimum. Citations and footnotes for the text have not been provided. If you wish to read about the issues raised in this summary consultation in depth, or if you want to comment on all of this consultation's 68 tentative recommendations (or a greater range of those tentative recommendations than is offered in this summary consultation), then you are encouraged to obtain a copy of the full *Consultation Paper on Complex Stratas* by downloading it for free from <http://www.bcli.org> or by contacting BCLI and asking us to send a hard copy to you.

How to respond to this summary consultation

You may respond to this summary consultation by email sent to strata@bcli.org. Alternatively, you may send your response by mail to 1882 East Mall, University of British Columbia, Vancouver, BC V6T 1Z1, by fax to (604) 822-0144, or by linking to an online survey through our website <http://www.bcli.org>.

If you want your comments to be considered in the preparation of the final report on complex stratas, then we must receive them by **15 January 2017**. BCLI expects to publish this report in early 2017.

About the British Columbia Law Institute

The British Columbia Law Institute is British Columbia's independent law-reform agency. Incorporated as a not-for-profit society in 1997, BCLI's 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. After public consultations, BCLI makes recommendations for legislative changes to the provincial government. BCLI's recommendations can

supported by



only be implemented by British Columbia's legislative assembly, which is responsible for the enactment of legislation.

About the Strata Property Law (Phase Two) Project

This consultation forms part of a broader BCLI project on strata-property law. The Strata Property Law Project—Phase Two builds on the research and consultation carried out in the phase-one project. Phase two is concerned with making legislative recommendations to reform the *Strata Property Act* in the following seven major areas: (1) fundamental changes to a strata; (2) complex stratas; (3) selected governance issues; (4) common property; (5) selected land-title issues; (6) selected insurance issues; (7) leasehold stratas. Work on phase two began in summer 2013 and will carry on until the final report for the project is published in December 2017.

BCLI is carrying out the phase-two project with the assistance of an all-volunteer project committee. The members of the committee are:

Patrick Williams—chair
(Partner, Clark Wilson LLP)

Veronica Barlee (Jul. 2014–present)
(Senior Policy Advisor, Housing Policy Branch, Ministry of Natural Gas Development and Responsible for Housing)

Larry Buttress (Oct. 2013–Jun. 2016)
(Deputy Executive Officer, Real Estate Council of British Columbia)

Garth Cambrey
(Real Estate Institute of British Columbia)

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Alex Longson (Jul. 2016–present)
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Elaine McCormack
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David Parkin
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Stanley Rule
(*Lawyer, Sabey Rule LLP*)

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(*President of the Board of Directors, Vancouver Island Strata Owners Association*)

Ed Wilson
(*Partner, Lawson Lundell LLP*)

Our supporters

The Strata Property Law Project—Phase Two has been made possible by project funding from the Real Estate Foundation of British Columbia, the Notary Foundation of British Columbia, the Ministry of Natural Gas Development and Responsible for Housing for British Columbia, the Real Estate Council of British Columbia, the Real Estate Institute of British Columbia, Strata Property Agents of British Columbia, the Association of British Columbia Land Surveyors, the Vancouver Island Strata Owners Association, and the Condominium Home Owners Association.

About strata-property law

When a landowner wants to develop a strata property this owner-developer must have a professional land surveyor create a strata plan. The owner-developer deposits this strata plan in the land title office. This act gives rise to the three defining characteristics of a strata property:

- (1) The units in a strata property—in British Columbia these units are called *strata lots*—are owned outright by individual owners. Each strata lot gets a separate title in the land title office. For strata lots, think of apartments in a multi-unit residential building—though they could also be offices in an office tower, commercial spaces in a business park, or even rooms in a hotel.
- (2) This individual ownership of strata lots is combined with collective ownership of the strata's common property and assets. These common elements can include things like lobbies, hallways, pipes and other building components installed between strata lots, and elevators. All the strata-lot owners own these common elements through a form of shared ownership called tenancy in common. In addition to shared ownership of property and assets, strata-lot owners also share liability for the strata's debts.
- (3) Finally, depositing a strata plan results in the creation of a strata corporation, which is given the responsibility to manage and maintain the strata's common property and assets for the benefit of all strata-lot owners. Each strata-lot owner is a member of the strata corporation.

In British Columbia, legislation called the *Strata Property Act* provides for these distinctive characteristics and sets out the rules for governance of strata properties. The *Strata Property Act* is largely made up of ideas, concepts, and rules drawn from older bodies of law, such as property law, contract law, and corporate law.

About complex stratas

The words *complex strata* don't appear anywhere in the *Strata Property Act*. In fact, *complex strata* isn't a legal term at all. It's a description, which kept coming up when BCLI was doing its consultations for phase one of the Strata Property Law Project.

A little historical background is necessary to understand the term. Strata-property legislation was introduced in British Columbia in the 1960s. At that time, strata properties were seen as a means to foster high-density residential housing. When policymakers thought of a strata property, what invariably came to mind was an image of a high-rise apartment building.

But there was nothing in the legislation that restricted strata properties to just this one type of residential development. And the real-estate sector quickly discovered that it could adapt strata properties to other kinds of uses. The result was more and more strata properties being built for commercial, industrial, office, and recreational purposes.

And this trend touched off two other trends. One involved combining two or more of these uses in a single building, creating a mixed-use strata. The other involved creating larger and more varied residential developments. These developments would boast a number of different architectural styles, such as an apartment building surrounded by townhouses. The large size of these developments allowed them to support a greater array of costly amenities, such as swimming pools, gyms, gardens, courtyards, and tennis courts.

It's these kinds of strata properties that, in the committee's view, have earned the title complex strata.

By the mid-1970s, complex stratas were fully established on the real-estate scene. So the legislation was amended to try to keep pace with them. This is the origin of the three subjects that form the heart of this consultation: (1) sections; (2) types; and (3) phases.

What are sections?

One judge has succinctly described sections as "mini strata corporations." Sections are allowed to represent the different interests of groups of strata-lot owners in certain kinds of complex stratas.

There are two ways to create sections. The first way may only occur at the time the strata property is established—that is, when the owner-developer deposits the strata plan in the land title office. Certain documents must be attached to this strata plan. One of these documents is the strata property's bylaws, which set out the ground rules for administering the strata corporation. The owner-developer may include in these bylaws provisions calling for the creation and governing the administration of a section or sections within the strata corporation. The second way involves an established strata corporation taking action to amend its bylaws. The strata corporation may set up a section if the bylaw amendment is

approved by (1) a 3/4 vote of the eligible voters in the strata corporation and (2) a sectional 3/4 vote, that is a 3/4 vote of just the eligible voters within the proposed section.

Whether it's done by the first way or the second, sections may only be created if one of the following three conditions is met:

- the strata property has both residential strata lots and nonresidential strata lots;
- the strata property has only nonresidential strata lots, but their owners are using the strata lots for significantly different purposes;
- the strata property has only residential strata lots, but those strata lots include at least two of the following:
 - apartment-style strata lots;
 - townhouse-style strata lots;
 - detached houses.

Once one of these conditions is met and the strata has created a section, that section has the same powers as and duties of a strata corporation, with respect to a matter that relates solely to the section. (But note that the strata corporation also retains its powers and duties in matters of common interest to all the owners.) Specifically, a section may:

- establish its own operating fund and contingency reserve fund;
- set up a budget and require owners to pay strata fees and special levies for expenses it authorizes;
- sustain lawsuits and arbitrations;
- enter into contracts;
- acquire and dispose of land and other property;
- enforce bylaws and rules.

In order to carry out these tasks, a section is required to have an executive, which is effectively a mini strata council.

A section is responsible for expenses of the strata corporation that relate solely to the strata lots in that section. These expenses are shared among strata-lot owners in the section. Strata-lot owners in a section are also subject to the strata corporation's bylaws, budgeting, and governance requirements.

What are types?

Types are the most enigmatic of these three subjects. They can be best understood in comparison with sections.

While the *Strata Property Act* has a dedicated part for sections, the legislation doesn't even mention types once. They are only referred to briefly in the regulations for the act.

There's a clear procedure for creating a section. For types, in contrast, the only thing that's clear is that the type of strata lot must be identified in the strata corporation's bylaws. This raises the question of what can be identified as a type of strata lot. It's necessary to turn to the case law to answer this question. But the cases are few and far between. All they tend to say is that what constitutes a type is a matter for the facts of a given case and that types can't be created by drawing arbitrary distinctions between strata lots.

In practice, types are usually created by reference to different architectural characteristics among strata lots. For example, a strata property made up of townhouses and an apartment building could identify strata lots in the townhouses as one type and strata lots in the apartment building as another type. But the distinctions could be even more fine-grained than this. For example, strata lots with balconies and those without balconies could be different types. Or different types could be strata lots with gas fireplaces and those without. Often, a penthouse strata lot will be identified as a type. And, finally, some strata corporations identify types based on the use of strata lots: residential and nonresidential, for example.

Unlike sections, types don't have corporate status. This means they can't exercise the kinds of powers or be held to the kinds of duties that accrue to a section. Types don't have an executive, or any semblance of their own governance.

The sole purpose of types is to allow a strata corporation to share costs in a special way. If the cost of a good or service relates to and benefits only one type of strata lot, then the strata corporation's budget may assign responsibility for that cost to the owners of that type of strata lot.

The wrinkle to note here is that this budgetary manoeuvre is only allowed if the cost is paid for out of the strata corporation's operating fund. If the strata corporation has to pay the cost out of its contingency reserve fund or by means of a special levy of owners, then the strata corporation can't allocate it just to owners of the specific type of strata lot.

A simple example illustrates this point. Say a strata corporation's bylaws identified two types of strata lots: townhouse strata lots and apartment strata lots. The cost of regular upkeep and maintenance for the apartment building's elevator could be allocated to apartment strata-lot owners. But when the time comes to replace the elevator, the cost of this job would have to borne by both the apartment strata-lot owners *and* the townhouse strata-lot owners.

What are phases?

Phasing allows an owner-developer to divide a piece of land up into segments and then develop parts of a strata property on each of those segments in a sequence. People in the real-estate industry often use the word *phase* in a loose, colloquial way to describe any planned

and staged development. These developments may or may not be what the *Strata Property Act* calls *phased strata plans*. In order to qualify as a phased strata plan, a development must comply with the act's detailed and exacting set of rules.

These rules are complex. Simplifying them allows readers to see that they tackle four issues.

First, they provide for enhanced disclosure and oversight. A phased strata plan won't be accepted for deposit in the land title office unless it's accompanied by a standard form called a Phased Strata Plan Declaration. This declaration must give a summary of the owner-developer's plans for developing the phased strata property. In it, the owner-developer must disclose information such as the order in which the phases will be developed and the estimated dates for beginning and completing construction of each phase. The Phased Strata Plan Declaration must also be reviewed and approved by a public official called an approving officer before the development can go ahead.

Second, they establish a procedure controlling any proposed departures from the plan of development described in the Phased Strata Plan Declaration. Once the owner-developer has begun to develop a phased strata plan, it no longer has a completely free hand to change course on the project. An owner-developer must get the approving officer's consent to elect not to proceed with a planned phase, or to extend the time in which to decide whether to proceed with a phase.

Third, the rules contain a special regime for the governance of a phased strata property. In this case, the legislation is trying to manage two concerns. First, an owner-developer and strata-lot owners will be in a much longer relationship with one another in a phased strata than they would be in any other kind of strata. Second, phased stratas periodically have new phases, with new owners, coming online. The legislation strives to integrate these new phases as quickly as possible into the existing strata corporation. This is done through a host of measures, such as mandating an early date for the annual general meeting after the deposit of the new phase and setting aside two spots on the strata council for new-phase owners.

Fourth, the act provides some special protections for phase owners' financial interests. The focus of this protection is on what the act calls *common facilities*. This is a term defined to include such major facilities as swimming pools, recreation centres, laundry rooms, and clubhouses. When an owner-developer plans to construct common facilities on a later phase of the strata plan, it must post security to ensure that it sees their construction through. And if the owner-developer builds common facilities in an early phase, then it must make a contribution to the strata corporation's common expenses that are attributable to those common facilities until all phases have been deposited in the land title office.

Why do people use sections, types, or phases?

Legislation on sections, types, and phases primarily has an economic rationale. In the simplest terms, when an owner-developer or a strata corporation decides to employ sections, types, or phases, it's trying to address some concern about money.

Sections and types are, in the main, a response to what might be called the cost-sharing problem. To understand this problem, it's necessary to back up a little bit and describe how strata-lot owners ordinarily share their common expenses.

The strata corporation is responsible for common expenses. To obtain the money needed to pay for these expenses, the strata corporation extracts funds from its members (the strata-lot owners). This is done in one of two ways. One way is by strata fees, which are collected in accordance with the strata corporation's annual budget. Strata fees fund the strata corporation's operating fund (used to pay for expenses that occur once a year or more often) and its contingency reserve fund (used to pay for expenses that occur less than once a year or don't usually occur). The other way the strata corporation obtains funds is by a special levy of owners.

An individual owner's share of a common expense is determined by reference to the unit entitlement for the owner's strata lot. On paper, unit entitlement can be calculated in any way that results in a fair allocation of common expenses. Usually, unit entitlement is calculated by reference to a surveyor's measurement of the size of a strata lot. This is done at the time the strata property is being developed, and a list of unit entitlements for all strata lots is included as a schedule to the strata plan.

The basic rule for sharing costs in a strata property is that strata-lot owners are all in it together. A strata-lot owner must pay strata fees and all special levies in the share determined by the strata lot's unit entitlement.

In the ordinary course, this rule works out rather well. Size of a strata lot is an effective proxy, in most cases, both for consumption of goods and services and for ability to pay.

But some cases put a real strain on the basic rule. For example, a mixed-use strata might require extra trash pickup for its commercial strata lots. Or an all-residential strata property could require natural gas for fireplaces that are only located in half of its strata lots. In these cases, the owners who receive no benefit from the service will likely think it's unfair to have to contribute to paying for it.

An obvious response to this sense of unfairness is to charge owners for these expenses based on usage. But the act makes it extremely hard to implement this kind of solution. If a strata corporation wants to use some basis other than unit entitlement for its common expenses, then it must obtain a resolution of its owners by a unanimous vote. In all but the very smallest stratas, getting every owner to agree to a plan to reallocate expenses is next to impossible.

This is where sections and types come in. They aren't a departure from the basic rule, but they do allow certain strata corporations to blunt its sharp edges. In their individual ways, sections and types allow strata corporations to shift responsibility for common expenses that exclusively benefit only one group of owners onto that group. Within the section or the type, these shifted expenses are still shared by reference to the strata lots' unit entitlements.

Phases aren't directly concerned with cost sharing. Phasing legislation is meant to deal with a different set of money matters.

Phasing legislation allows a greater range of real-estate developers to build large-scale, sophisticated strata properties than would be possible under any other method. Owner-developers are able to tap into a cash flow created by a combination of sales of strata lots in early phases and loans secured against unsold strata lots in those phases to finance construction of the later phases.

Using a phased strata plan gives an owner-developer greater flexibility to respond to changes in market conditions. And phasing has lower transaction costs than any alternative approach, which would probably have to involve cobbling together different strata properties on different parcels of land and using the act's amalgamation procedures to bring them under one strata corporation.

Phasing legislation brings direct benefits for strata-lot purchasers and owners. It increases competition and choice in the marketplace. Phasing also creates economies of scale. Larger strata corporations are able to support a broader and more diverse range of amenities for strata-lot owners.

These advantages for sections, types, and phases also come with corresponding disadvantages. In some ways, sections, types, and phases bolster strata-corporation finances and governance and in others they pose challenges for strata-corporation operation and administration. These problems come out in the three proposals that the committee has highlighted for this summary consultation.

Should the Strata Property Act continue to allow sections?

British Columbia is one of only two jurisdictions in Canada that allow a strata corporation to have sections (Saskatchewan is the other). Sections have been enabled under British Columbia's legislation for over 40 years, and in that time it's become apparent that they cause administrative and operational challenges for many of the stratas that have adopted them.

Before discussing these challenges, it's helpful to get a handle on the advantages conferred by sections. The first and most important benefit has already been touched on: sections give strata corporations tools to deal with cost-sharing issues. Without these tools, it would be much more difficult to operate mixed-use and other complex stratas. Owners in these kinds of stratas would likely fall into protracted disputes over how to spend the strata corporation's money.

The other major advantage of using sections is that they give groups of owners with different interests more control over aspects of the strata's property. For example, in a mixed-use strata, owners of residential and commercial strata lots often have different ideas about things like parking and access. Residential owners tend to value their privacy, while commercial owners need open access and additional parking to support their businesses. Under a strict majority-rules regime it would be difficult for commercial owners to thrive. Setting up a section gives these owners a measure of autonomy. Because a section is a corporation in its own right, it can have and enforce its own bylaws. This gives section owners a level of control that is often necessary to foster a mixed-use strata.

But, ironically, these qualities of sections carry the seeds of problems. The price that strata corporations have to pay for the autonomy of subgroups is the complexity, duplication, and costs that come with having to administer two or more distinct corporations. A strata corporation with a section will have two levels of governance.

At first glance, it might seem that since the sphere of authority of section government is relatively small any costs or complexity will be easily managed. In practice, things don't tend to work out this way. Each section (along with the strata corporation) will have to hold an annual general meeting, prepare and adopt a budget, and elect a section executive and strata council. Because the strata corporation and sections are considered distinct entities (with different interests), strata managers and other professionals dealing with the strata corporation and its sections have to take care to avoid conflicts of interest. If a conflict can't be avoided, then a section or the strata corporation has to find another representative or service provider, at an additional cost.

At this point it might be tempting to conclude that these added complications and costs are simply trade-offs that strata-lot owners knew, or could reasonably be expected to know, would be one of the consequences of creating sections. But this conclusion might miss the mark. In fact, sections are in most cases created by the strata's owner-developer. An owner-developer often has its own motivations for creating sections, or it creates them anticipating the strata property's future needs. If the owner-developer's speculations turn out to be inaccurate, or if circumstances change, subsequent strata-lot owners may find themselves saddled with the complex realities of sections. And it isn't a simple matter to rid a strata property of sections: it requires the approval of supermajorities within the section and the strata corporation.

This point leads into a broader complaint about sections. The frustrations that arise from the administrative complexity of sections apparently cause many stratas to flout the rules governing sections. While non-compliance shouldn't be excused, if it takes place on a large enough scale it may be a sign of deeper problems. While the concept of corporations within corporations might make sense in theory, in practice this difficult idea can leave people without legal training at a loss. Taking this point a step further, this may be a sign that improving and clarifying the legislation might not be enough to tackle all the problems associated with sections. These problems may exist at a conceptual level, and may point to a fundamental mismatch between the problems that sections are most often adopted to solve

(cost sharing, control over facilities) and the tool selected to solve those problems (creating autonomous corporations).

The committee sympathizes with the criticisms of sections. But simply abolishing sections would leave a hole in British Columbia's strata-property law when it comes to addressing cost sharing (particularly allocation of capital expenses) and control of property. Despite considering numerous options, the committee concluded that the benefits of sections outweighed the disadvantages.

Proposal (1) *The Strata Property Act should continue to allow the use of sections.*

agree

disagree

comments: _____

Should the Strata Property Act allow the allocation of capital expenses to types of strata lots?

Expanding the circumstances in which types may be used to share expenses would give strata corporations greater flexibility in structuring their affairs. Strata corporations could embrace a broader form of cost sharing that would come without the administrative complexity that results from creating sections.

Allowing for sharing of capital, in addition to operating, expenses would also support the legislative purpose for types, which involves protecting owners of one type of strata lot from having to pay costs that are exclusively for the benefit of another type of strata lot. Limiting types to operating expenses leaves this legislative goal only partially fulfilled.

Finally, expanding the reach of types would not be a leap into the unknown. It would simply restore the law to where it stood before the advent of the *Strata Property Act*. The long experience with full cost sharing under earlier legislation should help to allay any practice concerns that could crop up from changing the law.

The rationale for the current, limited scope of types appears to be that it fits into a broader system for cost sharing under the *Strata Property Act*. The act's solution for owners who wish to allocate costs more broadly is to establish separate sections, each with an operating fund and a contingency reserve fund.

The comparatively informal nature of types could also cause problems for sharing capital expenses. When this is done with sections, each section is a separate entity from the strata corporation and each has (or should have) its own contingency reserve fund. With types, on the other hand, expenses would be allocated with respect to a single (strata-

corporation) contingency reserve fund. There were concerns under the prior act that this approach would result in capital expenses not being properly allocated in practice.

The committee gave serious thought to extending types' cost-sharing rules to capital expenses. This option seemed particularly attractive because it appeared to allow a way to build on the successes of types and tackle some of the shortcomings of sections. If owner-developers and strata corporations were given a way to couple a flexible cost-sharing regime with a streamlined administrative structure they might in the future gravitate toward types and avoid the pitfalls many have found with sections.

But the more the committee discussed proposing this reform, the more it realized that it couldn't simply leave things at that. Other rules, covering financial accountability, administration, and even the beginnings of a governance structure for types, would also have to be contemplated and, in all likelihood, adopted. In the absence of such rules, expanding the scope of types would also, inevitably, expand the scope for abuses involving types—particularly if a type were allowed to have its own contingency reserve fund. But adopting such rules causes another dilemma. Adding these features to types would have the effect of duplicating just those qualities of sections that have caused such administrative trouble. It would be more than ironic if reforms ended up remaking types into an echo of sections.

Proposal (2) *The Strata Property Act should continue not to allow the allocation of capital expenses to types of strata lots.*

agree

disagree

comments: _____

Should special new-phase requirements for interim budgets, expedited annual general meetings, and setting aside places on strata council be amended?

Phases pose some thorny problems for strata-corporation governance. Here, the committee spotlights issues that arise when a new phase is added to a strata corporation that has already had one or more phases come into being.

When a new phase is deposited in the land title office this act gives rise to a strata corporation. By virtue of the act, that new-phase strata corporation is instantaneously amalgamated with the strata corporation that was created by the deposit of the first phase.

The act's goal is to integrate this new phase into the existing strata corporation as quickly as possible. Fulfilling this goal has some wide-ranging consequences, three of which are the subjects of this issue.

The first concerns budgets. Immediately after a new phase is deposited, title to all its strata lots vests in the owner-developer. The owner-developer is solely responsible for the phase's expenses for so long as it holds title to all the strata lots.

Once a strata lot is sold to a purchaser, the phase enters a transitional period for its finances. This transitional period is governed by a document called an interim budget. The owner-developer itself prepares and adopts the interim budget.

This interim budget doesn't just apply to the new phase. It covers the whole strata corporation. If that strata corporation already has an existing budget, then it is replaced by the interim budget. In these cases, the owner-developer is directed to base its interim budget on the strata corporation's budget.

Then, after this budgetary change, the act calls for an annual general meeting of the strata corporation to be held on an accelerated timetable. The annual general meeting must be held during a six-week period after a threshold is passed, the threshold being either the sale of 50 percent plus one of the strata lots to purchasers or the date that is six months after deposit of the new phase, whichever comes first. A new budget for the strata corporation is adopted at that annual general meeting.

Finally, also at that annual general meeting, a new strata council is elected. The strata corporation must grant two extra places on this council for owners in the new phase. This rule overrides any provisions in the bylaws limiting the size of council. If that addition of new council members would cause the strata council to exceed the bylaw limit, then it is allowed to do so until the next annual general meeting.

These rules help to ensure that the new phase is rapidly integrated into the strata corporation. The expansive interim budget places revenue and expenses for the strata corporation and the new phase on the same footing. They are ultimately resolved in a new strata-corporation budget, which is approved at an expedited annual general meeting. And the new strata council elected at that meeting guarantees new-phase representation, which means that critical matters for the new phase, such as warranties, will have the attention of the strata corporation's government.

The downside with each of these rules is that they have the potential to interfere with the existing strata corporation's administration.

Allowing an owner-developer to impose an interim budget on a strata corporation that has already approved its own budget represents a real erosion of democracy in that strata corporation. The only safeguard provided for those democratic interests is the requirement that the interim budget be based on the strata corporation budget. But "based on" is a lax standard. It gives the owner-developer significant leeway to force its own views on expenses on a fully fledged strata corporation. This may upset the strata-corporation's own funding models for its plans. Further, it's unlikely that many owner-developers relish this pow-

er, as it's liable to exacerbate any existing disputes between the owner-developer and strata-lot owners.

While expediting the strata corporation's annual general meeting helps to deal with budgetary concerns, it also creates its own set of administrative headaches. This requirement turns the name of the meeting into a misnomer. Depending on the number of new phases that are deposited, a strata corporation might be called on to have two, three, four, or more "annual" general meetings in a calendar year. This is sure to spread confusion among the ownership. The status of any rules adopted by the strata council may be cast in doubt if they aren't ratified at the appropriate annual general meeting. This requirement also multiplies costs for the strata corporation, as multiple budgets and meeting packages have to be prepared and distributed.

Finally, additional annual general meetings result in additional strata-council elections, with the council growing by two new members for every phase deposited during the year. If there is a high number of new phases, then the result could be a large and unwieldy strata council, dominated by owners who are new to the strata property.

In the committee's view, these administrative problems can be addressed by slowing down the integration of a new phase. The interim budget should only apply to the strata lots in the new phase. This change relieves some of the pressure to hold an early annual general meeting. That pressure can be eliminated by repealing the requirement to elect additional strata council members. This change would remove the guarantee that new-phase owners be represented on the strata council. But it wouldn't mean that their interests could be disregarded. In serious cases, the new-phase owners could requisition a special general meeting. Maintaining the established annual meeting schedule simplifies and streamlines administration of the broader strata corporation.

There are trade-offs involved in the committee's approach. But the committee believes that it would result in a more workable way to administer phases.

Proposal (3) *The Strata Property Act and its regulation should be amended as follows in respect of a phase deposited after the first phase in a phased strata plan:*

- (a) the interim budget that must be prepared by the owner-developer will apply only to that new phase;*
- (b) the requirement to hold an expedited annual general meeting will be repealed; and*
- (c) the requirement to set aside two places on the strata council for new-phase owners will be repealed.*

agree

disagree

comments: _____

Conclusion

The committee is interested in your thoughts on these proposals. And if you wish to pursue any of the ideas raised in this summary consultation in greater detail or depth, the committee encourages you to read and respond to the full consultation paper. Responses to the full and summary consultations received before **15 January 2017** will be taken into account in preparing the final report on complex stratas, which BCLI plans to publish in 2017.