

# BRITISH COLUMBIA



BRITISH COLUMBIA  
LAW INSTITUTE

# LAW INSTITUTE

1822 East Mall  
University of British Columbia  
Vancouver, British Columbia  
Canada V6T 1Z1  
Voice: (604) 822 0142  
Fax: (604) 822 0144  
E-mail: [bcli@bcli.org](mailto:bcli@bcli.org)  
Website: <https://www.bcli.org>

# RESPONSE BOOKLET

## Consultation Paper on Insurance Issues for Stratas

Prepared by the  
Strata Property Law  
(Phase Two) Project  
Committee

September 2018

Supported By:



## **Disclaimer**

The information and commentary in this publication is not offered as legal advice. It refers only to the law at the time of publication, and the law may have since changed. BCLI does not undertake to continually update or revise each of its publications to reflect post-publication changes in the law.

The British Columbia Law Institute and its division, the Canadian Centre for Elder Law, disclaim any and all responsibility for damage or loss of any nature whatsoever that any person or entity may incur as a result of relying upon information or commentary in this publication.

You should not rely on information in this publication in dealing with an actual legal problem that affects you or anyone else. Instead, you should obtain advice from a qualified legal professional concerning the particular circumstances of your situation.

---

© 2018 British Columbia Law Institute

The British Columbia Law Institute claims copyright in this publication. You may copy, download, distribute, display, and otherwise deal freely with this publication, but only if you comply with the following conditions:

1. You must acknowledge the source of this publication;
2. You may not modify this publication or any portion of it;
3. You must not use this publication for any commercial purpose without the prior written permission of the British Columbia Law Institute.

These materials contain information that has been derived from information originally made available by the Province of British Columbia at: <http://www.bclaws.ca/> and this information is being used in accordance with the Queen's Printer License—British Columbia available at: [http://www.bclaws.ca/standards/2014/QP-License\\_1.0.html](http://www.bclaws.ca/standards/2014/QP-License_1.0.html). They have not, however, been produced in affiliation with, or with the endorsement of, the Province of British Columbia and **THESE MATERIALS ARE NOT AN OFFICIAL VERSION.**

# British Columbia Law Institute

1822 East Mall, University of British Columbia, Vancouver, BC, Canada V6T 1Z1

Voice: (604) 822-0142 Fax: (604) 822-0144 E-mail: [bcli@bcli.org](mailto:bcli@bcli.org)  
WWW: <https://www.bcli.org>

-----

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.
- 

The members of the Institute are:

Thomas L. Spraggs (Chair)	Andrea L. Rolls (Vice-chair)
Margaret H. Mason, QC (Treasurer)	Oliver A. Fleck (Secretary)
Prof. Elizabeth Adjin-Tettey	Emily L. Clough
Jan Christiansen	Dr. Tesh W. Dagne
R. C. (Tino) Di Bella	Mathew P. Good
Hon. Kenneth C. Mackenzie, QC	Dylan T. Mazur
Susan M. Mercer	Brent B. Olthuis
Lisa A. Peters, QC	Dr. Janis P. Sarra

The members emeritus of the Institute are:

Prof. Joost Blom, QC	Arthur L. Close, QC
Prof. Robert G. Howell	D. Peter Ramsay, QC

-----

***This project was made possible with the sustaining financial support of the Law Foundation of British Columbia and the Ministry of Justice for British Columbia. The Institute gratefully acknowledges the support of the Law Foundation and the Ministry for its work.***

-----

# Strata Property Law (Phase Two) Project Committee

The Strata Property Law (Phase Two) Project Committee was formed in fall 2013. This volunteer project committee is made up of 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 final reports for each area.

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 Municipal Affairs and Housing)*

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

Garth Cambrey  
*(Real Estate Institute of British Columbia)*

Tony Gioventu  
*(Executive Director, Condominium Home Owners Association)*

Ian Holt (Oct. 2016–Apr. 2017)  
*(Realtor, Re/Max Real Estate Services)*

Tim Jowett  
*(Senior Manager, E-Business and Deputy Registrar, Land Title and Survey Authority)*

Alex Longson (Jul. 2016–present)  
*(Senior Compliance Officer, Real Estate Council of British Columbia)*

Judith Matheson (Oct. 2013–Oct. 2016)  
*(Realtor, Coldwell Banker Premier Realty)*

Elaine McCormack  
*(Partner, Wilson McCormack Law Group)*

Susan M. Mercer (Sep. 2013–present)  
*(Notary Public)*

Doug Page (Oct. 2013–Jul. 2014)  
*(Director of Legislation, Housing Policy Branch, Ministry of Municipal Affairs and Housing)*

David Parkin  
*(Assistant City Surveyor, City of Vancouver)*

Allen Regan  
*(Vice-President, Bayside Property Services Ltd.)*

Garrett Robinson (Apr. 2017–present)  
*(Realtor, Re/Max Crest Realty—Westside)*

Stanley Rule (Oct. 2013–Sep. 2016)  
*(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:  
<https://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. General comments on insurance issues for stratas are also welcome.

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 <https://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](mailto:strata@bcli.org)
- by online survey: link from [www.bcli.org/project/strata-property-law-phase-two](http://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 insurance issues for stratas, then we must receive it by **15 December 2018**.



## 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 <https://www.bcli.org/privacy>.

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

### The insurance mandate

1. *The Strata Property Act should require a strata corporation to obtain directors-and-officers insurance.* (54–56)

Agree

Disagree

Comments: \_\_\_\_\_

---

---

**Response Booklet for Consultation Paper on Insurance Issues for Stratas**

---

*2. For the purposes of section 151 of the Strata Property Act, the strata corporation must obtain and maintain directors-and-officers insurance for a minimum amount of \$2 000 000. (57)*

**Agree**

**Disagree**

**Comments:** \_\_\_\_\_

---

*3. The definition of “major perils” in the Strata Property Regulation should not be amended to include earthquakes. (57-59)*

**Agree**

**Disagree**

**Comments:** \_\_\_\_\_

---

*4. The definition of “major perils” in the Strata Property Regulation should not be amended to include overland flooding. (59-60)*

**Agree**

**Disagree**

**Comments:** \_\_\_\_\_

---

### Insurance deductibles

5. Section 158 of the Strata Property Act should be amended to allow a strata corporation to decide to charge back to an owner, if the owner is responsible for the loss or damage that gave rise to the claim, the lesser of the following amounts: (a) the cost of repairing the loss or damage; (b) the deductible limit of the insurance claim. **(63-66)**

Agree

Disagree

Comments: \_\_\_\_\_

---

6. A new standard bylaw should be added to the Schedule of Standard Bylaws that requires a strata-lot owner to have insurance that covers payment of a deductible under a strata-corporation policy. **(66-67)**

Agree

Disagree

Comments: \_\_\_\_\_

---

### Named insureds

7. Section 155 of the Strata Property Act should not be amended. **(69-70)**

Agree

Disagree

Comments: \_\_\_\_\_

---

## Reporting and administration

8. Section 149 (4) (a) of the Strata Property Act should be amended by adding the words “as determined by the most recent appraisal” after “full replacement value.” (70–71)

Agree

Disagree

Comments: \_\_\_\_\_

---

9. The frequency of appraisals should be determined by regulation. The regulation should initially set this frequency at a minimum of three years. (71–72)

Agree

Disagree

Comments: \_\_\_\_\_

---

10. Section 154 of the Strata Property Act should be amended to require a strata corporation to inform the owners and tenants as soon as feasible of any material change in insurance coverage, including an increase in any deductible. (72–73)

Agree

Disagree

Comments: \_\_\_\_\_

---





## PRINCIPAL FUNDERS IN 2017

The British Columbia Law Institute expresses its thanks to its funders in 2017:

- Law Foundation of British Columbia
- Ministry of Attorney General for British Columbia
- Notary Foundation of British Columbia
- Real Estate Foundation of 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
- Vancouver Island Strata Owners Association
- Condominium Home Owners Association
- Ministry of Municipal Affairs and Housing for British Columbia
- Employment and Social Development Canada
- Vancouver Foundation
- Coalition of BC Businesses
- BC Government Employees Union
- Health Employees Union
- Ministry of Labour for British Columbia
- eHealth Saskatchewan (Vital Statistics)
- Service New Brunswick (Vital Statistics)
- Statistics Canada
- Government of Nunavut (Vital Statistics)
- Ontario Law Foundation Access to Justice Fund
- Canadian Women's Foundation
- Canadian Human Rights Commission

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