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RESPONSE BOOKLET

Consultation Paper
on
Common Property,
Land Titles, and Fun-
damental Changes
for Stratas

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

December 2018

Supported By:



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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
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-

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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 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)
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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 common property, land titles, and fundamental changes 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
- 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 common property, land titles, and fundamental changes for stratas, then we must receive it by **28 February 2019**.

**Response Booklet for Consultation Paper on Common Property, Land Titles, and
Fundamental Changes for Stratas**

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.

Common property—defining common property

1. *The Strata Property Act's definition of "common property" should not be amend-ed. (pages 32-35)*

Agree

Disagree

Comments:

2. *The Strata Property Act's definition of "limited common property" should be amend-ed to read as follows: " 'limited common property' means a form of common property, designated for the exclusive use of the owners of one or more strata lots, as provided in this Act." (pages 35-36)*

Agree

Disagree

Comments:

Common property—transactions involving common property

3. *The Strata Property Act should provide that any lease, entered into by the owner-developer, of a fixture that is common property or of common asset must not have a term that exceeds five years. (pages 39-41)*

Agree

Disagree

Comments:

**Response Booklet for Consultation Paper on Common Property, Land Titles, and
Fundamental Changes for Stratas**

4. For the purpose of the previous tentative recommendation, the definition of “fixtures” found in section 9.1 of the Strata Property Regulation (“‘fixtures’ means items attached to a building, including floor and wall coverings and electrical and plumbing fixtures, but does not include, if they can be removed without damage to the building, refrigerators, stoves, dishwashers, microwaves, washers, dryers or other items”) should apply. (pages 41–43)

Agree

Disagree

Comments:

5. The Strata Property Act should provide that the Superintendent of Real Estate for British Columbia has the authority to approve a lease of a fixture that is common property or of a common asset entered into by the owner-developer with a term that exceeds five years. (pages 43–44)

Agree

Disagree

Comments:

Common property—parking stalls and storage lockers

6. The Strata Property Act should provide that any lease or licence of a parking stall or storage locker entered into before or after the deposit of a strata plan by the owner-developer is void. (pages 46–47)

Agree

Disagree

Comments:

**Response Booklet for Consultation Paper on Common Property, Land Titles, and
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7. Section 258 of the Strata Property Act should be amended by: (a) striking out the words 'first annual general meeting' wherever they appear and replacing them with 'third annual general meeting'; (b) adding a new subsection that reads 'This section only applies when the owner-developer has not conveyed all the strata lots'; and (c) amending subsection (6) to read 'A designation of parking stalls under subsections (1) or (3): (a) does not require approval by a resolution at an annual general meeting or special general meeting; (b) the owner-developer must give the strata corporation written notice of an amendment of the strata plan. (pages 48–49)

Agree

Disagree

Comments:

8. The Strata Property Act should provide that at the strata corporation's third annual general meeting any parking stalls that have not been designated as limited common property under section 258 remain common property. (pages 49–50)

Agree

Disagree

Comments:

Land titles—emerging issues in subdivision control

9. The Strata Property Act should not provide that all strata plans require the approval of an approving officer. (pages 59–62)

Agree

Disagree

Comments:

**Response Booklet for Consultation Paper on Common Property, Land Titles, and
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10. *The Strata Property Act should provide that a strata plan that depicts the boundaries of strata lots as the exterior surface of a floor, wall, or ceiling, or as a boundary external to a building, must meet the same approval requirements for a bare-land strata plan. (pages 62–64)*

Agree

Disagree

Comments:

11. *Section 14.1 of the Strata Property Regulation should be amended to read “For the purposes of sections 241 and 242 of the Act, ‘**previously occupied**’ means occupied at any time in its past for any purpose, including residential, commercial, institutional, recreational or industrial use, but does not include the occupation of a proposed strata lot (a) by the owner developer solely as a display lot for the sale of strata lots, or (b) for temporary construction purposes, in the proposed strata plan.” (pages 65–66)*

Agree

Disagree

Comments:

Land titles—depicting common property for strata plans

12. *The Strata Property Act should expressly require a strata plan to include a depiction of common property. (pages 68–69)*

Agree

Disagree

Comments:

Land titles—depicting the vertical limits of limited common property for strata plans

13. Section 244 (1) of the Strata Property Act should be amended to provide that all strata plans are required to include a minimum of one cross-section. **(pages 70–71)**

Agree

Disagree

Comments:

14. Section 14.4 (1) (i) of the Strata Property Regulation should be amended to read: “the strata plan must include any representations, including cross-section drawings of the building, to identify and locate the common property, including the limited common property, and the strata lots and floors within the building.” **(pages 71–72)**

Agree

Disagree

Comments:

15. Section 74 (2) of the Strata Property Act should be amended by adding the following as paragraph (d): “is prepared by a British Columbia land surveyor.” **(pages 72–73)**

Agree

Disagree

Comments:

Land titles—certificate of payment

16. *The Strata Property Act should continue not to provide that a registrar of titles must only accept a transmission of a strata lot for registration in the land title office if it is accompanied by a current Certificate of Payment. (pages 77–79)*

Agree

Disagree

Comments:

Fundamental changes—amending a strata plan

17. *The Strata Property Act should require a resolution passed by an 80-percent vote to authorize amending a strata plan to designate limited common property. (pages 94–95)*

Agree

Disagree

Comments:

18. *The Strata Property Act should continue to require a resolution passed by a unanimous vote to authorize amending a strata plan to remove a designation of limited common property. (pages 96–97)*

Agree

Disagree

Comments:

**Response Booklet for Consultation Paper on Common Property, Land Titles, and
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19. The Strata Property Act should continue, in those cases not covered by an exemption, to require a resolution passed by a unanimous vote to authorize amending a strata plan to add to, consolidate, or divide a strata lot. (pages 97–98)

Agree

Disagree

Comments:

20. The Strata Property Act should require a resolution passed by an 80-percent vote to authorize amending a strata plan to add a strata lot to common property. (pages 98–99)

Agree

Disagree

Comments:

Fundamental changes—schedules to the strata plan

21. The Strata Property Act should require a resolution passed by an 80-percent vote to authorize amending a Schedule of Unit Entitlement to reflect a change in the habitable area of a residential strata lot in a strata plan in which the unit entitlement of the strata lot is calculated on the basis of habitable area. (pages 109–110)

Agree

Disagree

Comments:

**Response Booklet for Consultation Paper on Common Property, Land Titles, and
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22. The Strata Property Act should continue to require a resolution passed by a unanimous vote to authorize agreeing to use one or more different formulas, other than the formulas set out in section 99 of the act and in the regulations, for the calculation of a strata lot's share of the contribution to the operating fund and contingency reserve fund. (pages 110–112)

Agree

Disagree

Comments:

23. The Strata Property Act should continue to require a resolution passed by a unanimous vote to approve a special levy when each strata lot's share of the special levy is calculated in a way other than in accordance with sections 99, 100, or 195 of the act. (pages 112–113)

Agree

Disagree

Comments:

24. The Strata Property Act should require the following in cases in which a strata plan has at least one nonresidential strata lot: (a) if voting rights are not to be approved by the superintendent of real estate, the person applying to deposit the strata plan must establish a Schedule of Voting Rights in the prescribed form; (b) if voting rights are to be approved by the superintendent of real estate, the person applying to deposit the strata plan must submit to the superintendent for approval a Schedule of Voting Rights in the prescribed form. (pages 114–115)

Agree

Disagree

Comments:

Fundamental changes—amalgamation

25. *The Strata Property Act should continue to require a resolution passed by a 3/4 vote to approve an amalgamation agreement.* (pages 120–122)

Agree

Disagree

Comments:

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

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- 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
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- Coalition of BC Businesses
- BC Government Employees Union
- Health Employees Union
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- Service New Brunswick (Vital Statistics)
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