

GUIDE 10: STRATA PROPERTY ACT

Strata Corporation Finances and Budgeting

February 2013

Disclaimer: the guides are periodically updated as per the date noted on the front page. The guides are provided for the reader's convenience; they are not a substitute for professional advice including legal advice. Please note: the Standard Bylaws can be amended.

Overview

Strata owners pay for common expenses through strata fees and, if necessary, special levies. Strata fees and the budget are approved each year by majority vote at the strata corporation's annual general meeting (AGM). Special levies are approved by a minimum $\frac{3}{4}$ vote.

Key financial duties of strata owners include:

- paying for common expenses through strata fees and, if necessary, special levies;
- approving strata finances, by voting on the annual budget and other expenditures; and
- ensuring financial controls are in place. Although a strata corporation is run by the elected strata council, and may be assisted by a strata property manager, the responsibility for the strata corporation ultimately remains with the strata owners.

Common Expenses in Strata Corporations

There are two types of common expenses:

Operating Fund expenses are the day-to-day expenses for common property that occur once a year or more often than once a year and are paid from the operating fund. These can include such things as: utilities, landscaping, cleaning, minor maintenance, strata property management, etc.

Contingency Reserve Fund (CRF) expenses are for common property expenses that occur less often than once a year and are paid from the contingency reserve fund. These include things such as replacing the roof or upgrading the elevator.

Contingency reserve fund expenses are usually known in advance, identified by a depreciation report and must be approved by a $\frac{3}{4}$ vote of the owners. However, the CRF can also be used to pay for emergency repairs and insurance deductibles that are a common expense.

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Paying for common expenses

Strata lot owners pay strata fees and special levies to pay for common expenses. Contributions to common expenses can also include income from sources such as: interest on investments, fines, parking, monies generated from the laundry room or the rental of common areas such as a guest room.

Common expenses may not apply to all strata lots

It is important to note that in some strata corporations, contributions for common expenses may only apply to some strata lots. Separate sections within a strata corporation are separate legal entities.

- Strata corporations with separate sections must have both separate section budgets and section CRFs for those section expenses **which relate exclusively to that section**. Contributions for the section budget are usually based on the unit entitlement of each strata lot in the section.
- Contributions to the separate section operating fund and the CRF are approved in the separate section annual budget and collected through separate section strata fees.

Strata lots in a section will also contribute to a strata corporation budget and strata corporation CRF for expenses common to strata lots in all sections, or expenses which are shared by more than section.

Note, strata lots that are differentiated as different **types** of strata lots in a bylaw do not have the power to establish their own operating fund and CRF. However, if a common expense relates exclusively to:

- a **type** of strata lot identified as a type in a bylaw;
 - strata lots with limited common property; or
 - strata lot repair and maintenance for which the strata corporation has, by bylaw, taken responsibility;
- then contributions for those expenses should be assessed only to the strata lot(s) to which the expense relates.

Expenditures from the Operating Fund

The strata council is authorized to make expenditures from the operating fund (if the expenditure occurs either once a year or more often than once a year).

Operating fund expenditures can be made:

- if approved:
 - in the annual budget; or
 - by a resolution passed by a $\frac{3}{4}$ vote at a general meeting;
- if unapproved, the expenditure, plus all previous unapproved expenditures made in the same fiscal year, may not exceed:
 - the limit for unapproved expenditures set out in a bylaw; OR
 - if no bylaw exists, the lesser of \$2,000 or 5% of the total contributions to the operating fund for the current fiscal year; OR
 - the expenditure is the minimum amount that the strata council needs to expend in order to ensure safety and prevent significant loss or damage. The strata council must inform owners as soon as possible about this expenditure.

Some Financial Best Practices for Strata Corporations

Keep It Simple

- Present financial information simply and clearly so that strata lot owners, and other readers, can easily understand financial statements and reports.
- Have all strata funds in bank/credit union accounts in the legal name of the strata corporation. Consider having separate bank/credit union accounts for separate funds: operating, contingency reserve and special levies.

Consider Future Costs:

- Has a depreciation report been done? How much money is in the contingency reserve fund in relation to expected expenses?

Some Checks and Balances to Help Prevent Fraud

- Financial records should be easily available to owners (subject to privacy legislation). Additional owner scrutiny is a good thing.
- All expenditure and contract decisions should be recorded in the minutes.
- Petty cash should be for a minimal amount (\$50 or less) and must have receipts for payments.
- Review, and include in the financial statements, all revenue sources such as: parking, storage, laundry machines, fines and the interest on invested funds.
- Have at least two people formally responsible to review and approve expenses and sign cheques. Are invoices being paid for work actually done or goods received for *your* strata corporation?
- Every month the strata council needs to review bank statements; monitor whether strata lot owners are paying their monthly strata fees and any special levies; and review the treasurer's report for accuracy and to ensure expenditures have prior approval.
- How long have people been in positions, e.g., treasurer, strata property manager? How is their work being checked?
- How are contractors selected? If recommendations are received for a contractor, are the recommendations impartial? Is more than one contractor being considered?
- Consider having an audit or an independent financial review (such as a review engagement) for the strata corporation. Audits conducted by the Real Estate Council of BC (RECBC) on real estate brokerages who employ strata property managers are only for some of a brokerage's trust accounts. These RECBC audits are *not* a detailed audit of an individual strata corporation's accounts. Also it should be noted that the *Real Estate Services Act* insures to a maximum of: \$100,000 per strata corporation; and to a maximum of \$500,000 for all the strata corporations that a brokerage is managing.

Due diligence is required from owners to ensure a financially well-run strata corporation. Strata lot owners should keep themselves informed about their strata corporation by checking that financial controls are in place, attending meetings, voting, and reviewing records.

Strata Fees

Each strata lot owner pays strata fees to cover budgeted common expenses. Strata fees are usually paid monthly and include contributions to the operating fund and the contingency reserve fund. Strata fees are set when the budget is approved by majority vote at the Annual General Meeting (AGM). Within two weeks of the budget passing, the strata corporation must inform owners of the new strata fees.

Calculating Strata Fees

Strata fees are normally calculated by dividing the expenditures in the approved budget among the strata lots on the basis of unit entitlement. In apartment style or townhouse strata developments, unit entitlement is often based on the habitable size of the strata lot. In bareland stratas, unit entitlement is usually equal for each strata lot.

The schedule of unit entitlement is contained in the strata plan for the strata corporation and must be registered at the Land Title and Survey Authority (LTSA) or filed separately on a Form “V” at the LTSA. (The Form “V” is often used for more recent strata corporations).

Strata fees may also be calculated by using a formula other than unit entitlement, **by passing a unanimous vote** on a resolution approving the new formula, and registering the resolution, and the approved formula, in the Land Title and Survey Authority.

Late or Unpaid Strata Fees

Most strata corporations have a bylaw setting out when strata fees are to be paid. If strata corporations don't have their own bylaw for the payment of strata fees, then Standard Bylaw 1 requires strata fees to be paid on or before the first day of each month.

A strata council can fine a strata lot owner for failing to pay strata fees in accordance with the bylaw. (Standard Bylaws 23 and 24 apply to any strata corporation that does not have its own bylaw.)

Additionally, a strata corporation may charge interest for late or unpaid strata fees if they pass a bylaw setting out the rate of interest that can be charged for late payments. The interest:

- cannot exceed 10% per annum compounded annually;
- is not a fine; and
- forms part of the strata fees.

The strata corporation may also file a lien for unpaid strata fees against a strata lot. The lien may be registered at the Land Title and Survey Authority (LTSA) against the title of a strata lot by filing a [Form G \(A Certificate of Lien\)](#). Note: a lien may not be filed for unpaid fines.

A bylaw can be created to prohibit a strata lot owner or tenant, if they have unpaid strata fees, from sitting on the strata council or from voting on resolutions requiring a majority or $\frac{3}{4}$ vote at general meetings.

Borrowing Against Future Strata Fee Revenue

With a resolution approved by a $\frac{3}{4}$ vote, a strata corporation can borrow money and assign future strata fee revenue as security for the principal and interest. A strata council should seek legal advice on the writing of the $\frac{3}{4}$ resolution, and the loan negotiations.

The Annual Budget

At each Annual General Meeting (AGM) the owners approve the budget by majority vote.

Checklist for the Annual Budget

At least two weeks before the AGM the strata council must prepare and distribute:

- the notice of the annual general meeting
- the annual budget for the upcoming year
- a financial statement for the fiscal year just ending.

Within 2 weeks of the annual or special general meeting at which the budget is passed, the strata corporation must inform owners of the new strata fees.

Preparing the Annual Budget

The budget must contain:

- The **opening balance** in both the operating and contingency reserve funds. This is the surplus or deficit from the year just ending (or estimated surplus or deficit);
- **Estimated income** from all sources other than strata fees, itemized by source. (For example: interest, fines, parking, leasing space for cell-phone towers, etc.);
- A list of the **estimated expenditures** from the operating fund, itemized by category of expenditure. (For example: electricity, landscaping, janitorial, strata property management, professional services, etc.);
- Where applicable, a list of estimated expenditures from the operating fund that relate exclusively to:
 - a type of strata lot identified as a type in a bylaw;
 - limited common property; and
 - strata lot repair and maintenance that the corporation has responsibility for, by bylaw.
- The total of all estimated expenditures from the operating fund;
- The total of all contributions to the operating fund;
- The total of all contributions to the contingency reserve fund (CRF) with consideration to the depreciation report, if any;
- Each strata lot's monthly contribution to the operating fund and the monthly contribution to contingency reserve fund (i.e., the strata fee);
- The estimated balance in the operating fund and the contingency reserve fund at the end of the year.

Section Budgets

Strata corporations with sections must have:

- a strata corporation budget for expenses relating to the whole strata corporation, which meets the requirements set out above; and
- a budget for each section for expenses relating exclusively to the section, which meets the requirements set out above.

The strata corporation budget is voted on at the strata corporation AGM and the section budget is voted on at the section AGM.

Budget Surplus or Deficit

A **budget surplus** occurs when contributions to the operating fund for the previous fiscal year exceed the actual expenditures. A budget surplus can be dealt with in one or more of the following ways:

- transferred to the contingency reserve fund;
- carried forward as part of the operating fund as a surplus, which will not reduce the strata fees;
- used to reduce the total contributions required to the next year's operating fund, which in effect reduces strata fees; or
- any other way determined by a resolution approved by a $\frac{3}{4}$ vote at an annual or special general meeting.

A **budget deficit** occurs when the actual expenditures exceed the contributions to the operating fund for the previous fiscal year.

- A budget deficit must be eliminated during the next fiscal year. This can be done by: raising strata fees, increasing revenues, reducing expenses and/or approving a special levy.

Approving the Budget

The budget for the next fiscal year is approved by a majority vote of the owners at the AGM. The proposed budget may be amended by a majority vote, during the meeting, before the final vote is held to approve the budget.

Failure to Approve the Budget at the AGM

If a budget is *not* approved at the AGM:

- the current budget continues. Owners continue to pay the same monthly strata fees required under the previous budget until the new budget is approved;
- the strata corporation must prepare a new proposed budget that must be approved by a majority vote at a special general meeting to be held within thirty (30) days of the AGM. The special general meeting can be held later than thirty (30) days if the later period is approved by a $\frac{3}{4}$ vote at the AGM.

Until a new budget is approved, the strata corporation may only spend money out of the operating fund if the expenditure:

- 1) meets the requirements necessary for an unapproved expenditure (see Expenditures later in this guide); or
- 2) a) is the type of expense that is set out in the previous budget and usually occurs once a year or more often than once a year; and
b) does not exceed the maximum amount in the previous budget for that particular category of expense.

Confirming Strata Fees

Within two weeks following the annual or special general meeting at which a budget is passed, the strata corporation must inform owners of the new strata fees. Strata fees may not necessarily change from one year to the next. However they are implicitly approved as part of the annual budgeting process.

Changing the Fiscal Year End and Start Date

The strata corporation may (by a resolution passed by a $\frac{3}{4}$ vote at an annual or special general meeting) change the date of its fiscal year by up to six months. As a result, a budget may cover a period of:

- longer than twelve months, but it must not exceed eighteen months; or
- less than twelve months, but it must be at least six months.

If a change is made to the fiscal year that results in a period not covered by a budget:

- the owners must continue to pay the same monthly strata fees required to be paid under the previous budget until the new budget is approved.
- until a new budget is approved, the strata corporation may only spend money out of the operating fund if the expenditure:
 - 1) meets the requirements necessary to make an unapproved expenditure; **or**
 - 2) a) is the type of expense that is set out in the previous budget and usually occurs once a year or more often than once a year; **and**
 - b) does not exceed the maximum amount in the previous budget for that particular category of expense.

The strata corporation should seek approval from the Canada Revenue Agency prior to changing its fiscal year.

Preparing a Financial Statement

The strata council must prepare a financial statement for the fiscal year that is just ending, and distribute it with the notice of the AGM. The purpose of the financial statement is to report on the strata corporation's actual income and expenses for the year that is just ending.

The financial statement must cover a period not less than up to two months before the AGM. Within eight weeks after the strata corporation's fiscal year end, the strata council must prepare a financial statement updated to the end of the fiscal year.

The financial statement must contain:

- the opening and current balance in the operating fund;
- the opening and current balance in the contingency reserve fund;
- the details of the strata corporation's income from all sources, except special levies. For example, income from interest, fines and even guest room revenue;
- the details of operating fund expenditures, including any unapproved expenditures;
- details of contingency reserve fund expenditures, including any unapproved expenditures; and
- income and expenditures by special levy, if any.

Filing Tax Returns

The strata corporation must file a tax return for each fiscal year with the Canada Revenue Agency, and must provide a copy of their annual financial statements with their tax returns. Most residential strata corporations are essentially non taxable corporations. For more information please check with the Canada Revenue Agency.

Contingency Reserve Fund

Strata corporations must have a contingency reserve fund (“CRF”) to pay for common expenses that:

- usually occur less often than once a year; or
- do not usually occur.

Contributions to the CRF

Contributions from strata owners to the CRF should be reviewed at every AGM with consideration to the depreciation report. CRF contributions usually appear as a single expense line item in the annual budget, without specific detail.

Contributions to the CRF are approved in the annual budget and collected through strata fees. Usually, CRF contributions are calculated based on the unit entitlement of each strata lot in the strata corporation.

The following may also be added to the CRF:

- surplus funds from the previous year’s operating fund; and
- surplus funds from a special levy, as long as the surplus funds owing to each strata lot is \$100 or less;
- sale of assets.

The CRF must have a minimum balance of 25% of the operating fund for the fiscal year. If the amount in the CRF is less, the strata corporation must contribute at least 10% of the total contribution to the operating fund for the current year until the 25% minimum is reached.

Strata owners may now make contributions to the CRF (above the minimum) by simple majority vote as part of the budget approval process and with consideration to the depreciation report. (Previously a $\frac{3}{4}$ vote was required to make contributions to the CRF if the balance in the CRF was above 100% of the operating budget).

Most strata corporations will have significantly more in the CRF than the minimum required, in order to have funds on hand to pay for the repair, replacement and maintenance of common property over the longer term.

Investing and Managing the CRF

The CRF can be invested or held:

- in insured accounts with savings institutions in British Columbia; or
- in those investments permitted by Strata Property Regulation 6.11.

The funds must be accounted for separately from other monies held by the strata corporation or separate section and:

- must include any interest or income earned on the CRF; and
- can be used to secure a strata corporation loan by approval of a $\frac{3}{4}$ vote.

The depreciation report provides important planning information to strata lot owners about future costs to maintain, repair and renew the strata corporation’s buildings, assets and infrastructure over a 30 year time period.

Please see “Guide 12: Depreciation Reports” for more details.

Expenditures from the CRF

Expenditures from the CRF must be:

- approved by a $\frac{3}{4}$ vote at an annual or special general meeting; and
- consistent with the purpose of the CRF.

An unapproved expenditure from the CRF will only be permitted:

- 1) if the expenditure is necessary to ensure safety or prevent significant loss or damage; and
- 2) a) if the expenditure does not exceed what is required to ensure safety or prevent loss or damage; or
b) if the expenditure is for the purpose of paying an insurance deductible required to repair or replace damaged property.

If an unapproved expenditure occurs a strata council must inform owners as soon as possible about the expenditure unless the expenditure was to pay for an insurance deductible.

Funds from the CRF can be lent to the operating fund to cover temporary shortages as a result of expenses becoming payable before contributions to the operating fund have been collected. If a temporary loan is made:

- it must be repaid to the CRF by the end of that fiscal year; and
- the strata council must inform owners as soon as feasible of the amount and purpose of the loan.

Sections and CRFs

Separate sections within a strata corporation are separate legal entities.

- Strata corporations with separate sections must have both separate section budgets and section CRFs for those section expenses **that relate exclusively to that section**. Contributions for the section budget are usually based on the unit entitlement of each strata lot in the section.
- Contributions to the separate section operating fund and the CRF are approved in the separate section annual budget and collected through separate section strata fees.
- Strata lot owners in a section will also contribute to a strata corporation budget and strata corporation CRF for expenses common to strata lots in all sections, or expenses that are shared by more than section.

Note: strata lots that are differentiated as different **types** of strata lots in a bylaw do not have the power to establish their own operating fund and CRF.

Claims to Monies in the CRF

When the sale of a strata lot occurs, the seller is not entitled to a return of contributions to the CRF.

Special Levy

Overview

A special levy is money collected from strata lot owners for common expenses and a specific purpose. It is in addition to the strata fee and it must be approved at a general meeting.

Special levies occur when:

- the expenditure has not been included in the annual budget because it was either not anticipated or because of the infrequency of the expense;
- there are insufficient funds in the CRF; or
- a decision is made not to use monies from the CRF.

Approving and Contributing to a Special Levy

A resolution for a special levy must be developed and submitted for approval at a general meeting. The resolution must:

- set out the purpose of the levy;
- state the total amount of the levy;
- state the method for determining each strata lot's share of the levy;
- state the amount each strata lot must pay; and
- state the date(s) by which the levy must be paid (i.e. paid as one lump sum or by scheduled installments).

The vote necessary to approve a special levy will be either:

- a **$\frac{3}{4}$ vote** if contributions to the levy are apportioned in the same way strata fees are apportioned, (which is usually by unit entitlement);
- an **unanimous vote**, if contributions to the levy will be apportioned by a fair division of expense rather than the way that strata fees are apportioned.

When a strata lot is sold, if the special levy is approved before the strata lot is conveyed to the purchaser:

- the seller will owe the strata corporation the portion of the levy that is payable *before* the date the strata lot is conveyed to the purchaser; and
- the purchaser will owe the strata corporation the portion of the levy that is payable *on or after* the date the strata lot is conveyed.

Expenditures and Uses of a Special Levy

- The strata corporation must use the money collected by means of a special levy only for the purpose set out in the resolution. The strata council must also inform owners of how monies raised from a special levy have been spent.
- The special levy can be used to secure a strata corporation loan by approval of a $\frac{3}{4}$ vote.

Excess Special Levy Funds

The strata corporation must return excess funds from a special levy to each owner of the strata lot proportional to the contribution made to the special levy in respect of that strata lot, if there is at least one owner entitled to more than \$100. If no owner is entitled to more than \$100, the strata corporation may deposit the excess funds in the CRF.

If a strata lot has been sold since the special levy was paid, any refund of the special levy is given to the current owner of the strata lot (i.e., the strata lot owner at the time of the refund).

Charging Interest on Late Payment of a Special Levy

A strata corporation may, by bylaw or by a resolution approving a special levy, establish a rate of interest not to exceed the rate set out in the regulations, to be paid if the owner is late in paying his or her strata lot's share of the special levy. The interest payable is not a fine and forms part of the special levy.

Investing and Managing the Special Levy

Similar to the CRF, the special levy can be invested or held:

- in insured accounts with savings institutions in British Columbia
- in those investments permitted by Strata Property Regulation 6.11

The special levy must be accounted for separately from other monies held by the strata corporation (or section) and include any interest or income earned on the special levy.

Additional Resources

Other Relevant Strata Property Guides:

- Guide 7: How to Prepare for an Annual General Meeting
- Guide 12: Depreciation Reports
- Guide 19: Unit Entitlement
- Guide 28: Sections

Links to additional resources:

- Guides: www.housing.gov.bc.ca/strata/guides.htm
- Strata Property Act: www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/98043_00
- Strata Property Regulation: www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/12_43_2000

Strata Organizations in British Columbia:

- Condominium Home Owners' Association (CHOA): www.choa.bc.ca
- Vancouver Island Strata Owners Association: visoa.bc.ca
- Canadian Condominium Institute, Vancouver Chapter: www.ccivancouver.ca

References:

Sections of the Act referenced in this Guide: 14, 28, 45, 53, 81, 92, 97-100, 102-108, 111, 116

Sections of the Regulations referenced in this Guide: 3.4, 6.1-6.8, 6.11, 17.9

Standard Bylaws referenced in this Guide: 1, 23, 24