

Province of British Columbia
Guide 24: What to Know About Contracting with a Strata Manager

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1. The Role of a Strata Manager

A strata manager is a person who provides "strata management services" to the strata corporation. A strata corporation performs its duties under the *Strata Property Act* through the elected strata council. The strata council may delegate some of its duties to a strata manager by way of a contract.

Therefore, the relationship between a strata manager and a strata corporation is contractual. It is recommended that the rights and obligations and/or delegated authority of the strata manager should be clearly laid out in a strata management contract.

A strata manager acts on behalf of the entire strata corporation, and not just the strata council.

However, the strata council:

- gives instructions to the strata manager and is responsible for supervising his or her activities; and
- can be directed by the majority of the strata lot owners who are present, in person or by proxy, at a general meeting to deal with the strata manager in a certain way.

As of January 1, 2006, strata managers are required to be licensed under the *Real Estate Services Act*. Under the *Real Estate Services Act*, strata management services mean any of the following services provided to or on behalf of a strata corporation:

- (a) collecting or holding strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the *Strata Property Act*;
- (b) exercising delegated powers and duties of a strata corporation or strata council, including:
 - (i) making payments to third parties on behalf of the strata corporation,
 - (ii) negotiating or entering into contracts on behalf of the strata corporation, or
 - (iii) supervising employees or contractors hired or engaged by the strata corporation

but does not include any activity excluded by regulation;

The *Real Estate Services Regulation* provides some exemptions from the licensing requirement. Since licensing is required of those providing strata management services "to or on behalf of another, for or in expectation of remuneration", the licensing

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requirements of the *Real Estate Services Act* do not apply to strata lot owners in a self-managed strata corporation. Others who may be eligible for exemption from licensing include caretakers/managers employed by a strata corporation and Owner Developers who meet certain conditions.

The Real Estate Council of British Columbia (RECBC) is responsible for the licensing, education and discipline of real estate service providers, including strata managers.

RECBC enforces entry qualifications, investigates complaints against licensees for possible contraventions of the *Real Estate Services Act* and related legislation and imposes disciplinary sanctions under the *Real Estate Services Act* (but **not** the *Strata Property Act*).

2. **Typical Duties of a Strata Manager**

As noted previously, the relationship between a strata manager and a strata corporation is contractual and it is recommended that the rights and obligations and/or delegated authority of the strata manager be clearly laid out in a strata management contract.

Typical duties of a strata manager can include:

- arranging services for the strata corporation and entering into contracts for landscaping, insurance, electrical services, maintenance, etc.;
- hiring and supervising employees hired by the strata corporation;
- collecting strata fees and other money owed to the strata corporation;
- paying strata corporation bills;
- securing adequate strata insurance;
- keeping and permitting access to strata corporation records. [For more information on records please refer to "*Guide 21: What to Know about Record Keeping*";];
- preparing documents on behalf of the strata corporation such as "Information Certificates" (Form B) and "Certificates of Payment" (Form F);
- attending strata council meetings;
- preparing the minutes of all meetings, including strata council meetings and distributing the minutes to owners;
- advising the strata council in regard to the Act, the *Residential Tenancy Act*, and workers compensation matters; and
- preparing annual operating fund budgets and financial statements.

3. **Limitations of a Strata Manager**

Under the *Strata Property Act* and Regulations a strata manager cannot:

- act as an arbitrator in an arbitration proceeding without the consent of all parties;
- keep strata corporation records beyond four weeks after his or her termination;
- act as a proxy holder for any voter in the strata corporation;

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- hold a hearing on behalf of the strata council to determine whether an owner should be permitted to rent on the basis of hardship despite there being rental restriction bylaw; and
- hold a hearing on behalf of the strata council to determine whether an owner or tenant has breached a bylaw or rule.

Under the **Standard Bylaws**, a strata manager cannot:

- determine if a person has contravened a bylaw or rule;
- determine if a person should be fined or determine the amount of a fine for the contravention of the bylaws or rules;
- determine if a person should be denied access to a recreational facility;
- hold a strata council hearing on behalf of the strata council; and
- spend strata corporation money:
 - for a specific expenditure without a strata council resolution authorizing the specific expenditure; or
 - for general expenditures without a delegation of a general spending authority by a strata council resolution. The resolution must set out the maximum sums that can be spent, the purposes for which money can be spent and any conditions that have to be met before money can be spent.

4. **Entering Into a Strata Management Contract**

A strata management contract can be entered into by:

- the strata council on behalf of the strata corporation or the executive on behalf of a separate section:
 - however the strata council or executive of a separate section may be directed by the majority at a general meeting in relation to entering into the contract; and
 - any strata council or executive member who has a direct or indirect interest in a strata management contract must promptly disclose the interest, and cannot participate or vote in relation to the contract.
- the Owner Developer:
 - before the first transfer of a strata lot title;
 - after the first transfer of a strata lot title, but before the first annual general meeting, if the strata manager is at arm's length to the Owner Developer; and
 - after the first transfer of a strata lot title, but before the first annual general meeting, with a unanimous resolution of the strata corporation, if the strata manager is the Owner Developer or is not at arm's length to the Owner Developer.

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5. How the Strata Manager is Paid

Before agreeing to the strata management fee, the strata council, executive or Owner Developer must ensure that the fee is approved:

- in the annual operating budget,
- by special levy, or
- as a contingency reserve fund expenditure until such time as this fee may be budgeted for in the annual operating budget.

6. Important Contract Elements

Strata management contracts should:

- be in writing;
- specify a list of duties, powers and limitations of strata managers;
- clearly specify how strata managers are to be paid, including whether fees paid by third parties, e.g. for the preparation of an "Information Certificate" (Form B) or a "Certificate of Payment" (Form F), belong to the strata corporation or to the strata manager;
- specify who will have signing authority for and access to strata corporation monies and in what kind of account the monies will be held in; and
- include clear termination procedures.

7. Termination of Strata Management Contracts

Strata management contracts entered into by the Owner Developer before the first annual general meeting will automatically terminate, despite any provisions within the contract, on the earlier of either:

- four weeks after the date of the second annual general meeting; and
[Note: the contract may continue if renewed by majority vote at the general meeting.]
- the cancellation date contained in the contract or agreed to by the parties.

Strata management contracts can be terminated without penalty to either party in the contract:

- under the terms specified in the contract;
- by the strata corporation with two months' notice to the strata management company, if first approved by a $\frac{3}{4}$ vote; or
- by the strata management company giving two months' notice to the strata corporation.

When a strata management contract ends, the strata manager must return all strata corporation records in his or her possession or control to the strata corporation within

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four weeks of the contract termination. If a strata manager fails to do this, he or she will owe the strata corporation \$1,000.

8. Disputes with the Strata Manager

If individual strata lot owners or tenants have concerns about a strata manager, which may include disagreements with the action or lack of action taken by the strata manager on a particular issue, they are advised to first take their concerns to their strata council for consideration and any action the strata council may see fit to take.

This may include the strata council submitting a complaint to the Real Estate Council with respect to the conduct of the strata manager if the strata council believes the strata manager has contravened the Real Estate Services Act.

As a general policy, RECBC requires complaints regarding licensed strata managers to be submitted by strata councils, accompanied by a copy of the minutes of the council meeting that confirms the passing of a motion to submit such a complaint to RECBC. More information is available on RECBC's website at www.recbc.ca.

If an individual strata lot owner or tenant has a dispute with the strata manager, and if the strata council refuses to direct a strata manager's actions, the complainant may:

- request, in writing, a hearing at a strata council meeting to discuss their concerns regarding the strata manager and to seek a decision of the strata council;
- requisition a general meeting with a petition of 20% of the owners, to instruct the strata council to deal with the strata manager in a certain way or terminate the strata management contract; or
- add a resolution to the agenda of a general meeting with a petition of 20% of the owners, which seeks to instruct the strata council to deal with the strata manager in a certain way or terminate the strata management contract.

[Note: Directing the strata council for this purpose will require that a resolution be passed by a majority vote at a general meeting.]

References:

Sections of the Act: 4, 10, 24, 30, 32, 33, 34.1, 37-39, 135, 144, 179, 194

Sections of the Regulations: 7.2, 8.2, 18.1

Standard Bylaws: 15, 20, 21

Also please see

- the *Real Estate Services Act* and Regulations, and
- the website for the Real Estate Council of British Columbia at www.recbc.ca.