

Guide 4 The Role and Responsibilities of Strata Councils

IMPORTANT NOTICE

This guide was prepared by the Superintendent of Real Estate and updated by the Ministry of Housing and Social Development. This guide, along with other guides in the series, provides basic information about certain parts of the British Columbia *Strata Property Act* (the “Act”) and its Regulations.

Readers cannot rely on the guides for legal advice

The guides do not:

- provide a legal interpretation of provisions of the *Act* or Regulations. Please consult the *Act* and Regulations and court judgments to determine the complete and precise requirements of the legislation.
- include information about how the courts may have interpreted provisions of the *Act* or Regulations.

Readers should seek professional advice if they need to determine specific legal rights and duties which may apply in their particular situations.

The Province of British Columbia may periodically update the guides. Nevertheless, neither the Superintendent of Real Estate, nor any other authority of the Province of British Columbia, is liable for any inaccurate or incomplete information in any guide. For the convenience of readers, **updated information has been flagged in bold italic** in the guides and will remain marked this way for approximately one year from their noted revision dates.

In addition, the Standard Bylaws referred to in the guide do not necessarily apply to every strata corporation. Strata corporation bylaws can be enacted, amended or repealed by the developer or the strata corporation. Please conduct a search at the Land Title Office to obtain a copy of all filed bylaws and bylaw amendments for a specific strata corporation to determine which bylaws are applicable.

1. **General Role of the Strata Council**

The strata council’s role is to:

- act as the managing body for the strata corporation;
- make daily decisions that enable the strata corporation to operate smoothly; and
- operate within any restrictions created by the Act, Regulations, bylaws, or a majority vote of the owners.

The Act states that the strata council’s role is to: “exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules”.

The strata council can hire a strata manager to perform some or most of the functions of the strata council. However, if a strata council has delegated its powers to a strata manager, the strata council is still ultimately responsible for ensuring that its obligations under the Act are fulfilled.

2. **Limiting the Powers of the Strata Council**

The strata corporation can pass a resolution by majority vote at general meetings to direct or restrict the actions of the strata council.

However, the strata corporation can never restrict or limit the strata council if the restriction or limitation:

- is contrary to the Act, Regulations, or bylaws;
- interferes with the strata council's ability to decide based on the facts whether:
 - a person has breached a bylaw or rule;
 - a person should be fined;
 - a person should be restricted from using a recreational facility;
 - ***a person should be required under section 133(2) to pay the reasonable costs of remedying a contravention of the bylaws or rules; or***
 - ***an owner should be exempted under section 144 from a bylaw that limits rentals.***

3. **Eligibility to Sit on Strata Council**

The following persons are eligible to sit on strata council:

- all owners, including existing or past strata council members unless:
 - their strata lot can be liened for money owing to the strata corporation, and
 - a bylaw permits this restriction;
 - there are multiple owners of one strata lot, in which case, only one owner can sit on the strata council, unless all owners are on council (but each lot only has one vote). The Standard Bylaws provide that if there are fewer than four strata lots or owners, then all owners must sit on the strata council;
- representatives of corporate owners;
- tenants who have been assigned the owner's right to vote, by either:
 - being a family member, as defined in the Regulations;
 - entering into a lease of three years or more; or
 - the landlord delivering a written notice to the strata corporation which discloses the terms of the voting assignment;
- different classes of persons, if a bylaw is created to permit certain classes of persons to sit on strata council, such as spouses not registered on title or children of owners.

4. Election of Strata Council

The strata council is usually elected every year at the annual general meeting, in accordance with strata corporation bylaws.

The number of persons on the strata council is determined by the bylaws.

The number of strata council members set out in the Standard Bylaws is between three and seven members. However, if there are fewer than four lots or four owners, then all owners are required to sit on the strata council.

5. Strata Council Terms and Early Removal from Term

The following provisions dealing with strata council terms and the early removal from a term are set out in the Standard Bylaws:

- a current strata council term ends and a new strata council term begins at the end of the annual general meeting in which the new strata council is elected;
- a strata council member can be removed, with or without cause, by a majority vote of the owners at a general meeting, and the owners must then elect a replacement strata council member; and
- a petition item to remove a strata council requires 25% under the Standard Bylaws or in accordance with any amendment of the Standard Bylaws.
- if a strata council member is unwilling or unable to perform his or her duties for two months or longer, he or she can be replaced by a new strata council member to be appointed by the existing members of strata council. The new strata council member will hold the seat for the remainder of the replaced member's term.

6. Remuneration (Pay)

Strata council members may be paid if their remuneration is permitted by one of the following:

- the bylaws;
- a resolution passed by a $\frac{3}{4}$ vote of the owners; or
- the annual budget.

7. **Strata Council Meetings**

The following provisions dealing with strata council meetings are set out in the Standard Bylaws:

- at the first meeting of the new strata council, members must elect from amongst themselves the following:
 - a president;
 - a vice-president;
 - a treasurer; and
 - a secretary.
- a member can hold more than one office, so long as it is not both president and vice-president;
- any strata council member can call a strata council meeting:
 - by giving other members at least one week's notice specifying the reason for the meeting; or
 - by giving less than one week's notice if:
 - the strata council members agree; or
 - the meeting is required to deal with an emergency situation, and strata council members either consent in advance of the meeting, or are unavailable to provide consent after reasonable attempts to contact them.

[Please refer to part 8 of this guide for an explanation about how the notice period runs.]

- an owner can requisition a strata council meeting to have a hearing, and the purpose of the hearing must be specified in a written application. A meeting requisitioned for a hearing must be held within ~~a month~~, **four weeks and if a decision is required then the council must give a written decision within one week after the hearing;**
- minutes of strata council meetings need to be taken and the strata council must inform owners of the minutes of all strata council meetings within two weeks of the meeting;
- at the outset of a strata council meeting, members should determine if the required quorum under the bylaws is met;
- strata council members can attend a strata council meeting by electronic means, so long as all members (or participants) can communicate with one another;
- decisions at strata council meetings are made by a majority vote of strata council members;

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- Under the Standard Bylaws, owners may attend strata council meetings as observers only, but they may not attend portions of meetings related to:
 - bylaw enforcement proceedings;
 - rental restriction bylaw exemption hearings; and
 - matters where a person's privacy would be unreasonably interfered with.

8. How the Notice Period Runs

Under the provincial government's Interpretation Act, if the reference to time in other Acts or legislation includes phrases such as "clear" days or weeks, or "at least" in reference to days or weeks, the time must be calculated by excluding the first day and the last day of the period. Another way of thinking about the days that must be excluded is to think that nothing can happen on those days.

Thus, when calculating the number of days within the one week notice period for calling a strata council meeting, the day the notice is given (Day 1 on the chart below) cannot be counted as one of the days. The strata council meeting cannot take place on the last day of the notice period (Day 8 on the chart below). It can only take place on any of the days following the last day of the notice period (Day 9 on the chart below).

Example of How the Notice Period Runs

Notice is Given	When Notice Period Starts To Run	When The Notice Period Stops Running	When Strata Council Meeting Can Be Held
Day 1	Day 2	Day 8	Day 9 or later

9. The Strata Council Member's Standard of Care

In exercising the powers and performing the duties of the strata corporation, each council member must act honestly and in good faith with a view to the best interests of the strata corporation, and exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

The Standard Bylaws provide that strata council members are not personally liable for anything they do or do not do in the course of acting as a strata council member, so long as they are acting honestly and in good faith.

However, strata council members will still be liable for judgments against the strata corporation in their capacity as owner.

The strata corporation can obtain errors and omissions insurance to insure strata council members for any liability resulting from mistakes incurred while acting as a strata council member. However, before obtaining such insurance, the strata corporation may wish to amend the Standard Bylaws, in order to remove the bylaw which limits the personal liability of strata council members.

10. Conflict of Interest

Strata council members must ensure that they refrain from acting in their capacity as a strata council member if their personal interests conflict ***directly or indirectly*** with those of the strata corporation.

Strata council members must:

- disclose any personal interest they have in a contract, transaction or ***matter*** under consideration by the strata corporation;
- disclose fully and promptly to the council the nature and extent of the interest;
- abstain from voting on the contract, transaction or ***matter***, and;
- leave the council meeting
 - while the contract, transaction or matter is discussed, unless asked by council to be present to provide information, and
 - while the council votes on the contract, transaction or ***matter***.

11. Specific Duties of the Strata Council

The specific duties of the strata council include the following:

- keeping a list of the names of owners and tenants, and similar documents;
- paying strata corporation bills;
- making themselves accessible by providing a telephone number or some other method of contact;
- entering into strata corporation contracts and supervising the performance of duties under those contracts;
- hiring and supervising employees of the strata corporation;
- keeping all strata corporation records;
- making records available for inspection and copying for the owners for a charge of not more than 25 cents per page;
- calling and conducting general meetings;
- completing “Information Certificates” (Form B) and “Certificates of Payment” (Form F);
- preparing the budget and financial statements;
- directing investments and expenditures;
- collecting strata fees and other money owed to the strata corporation;
- enforcing the bylaws and rules;
- obtaining adequate strata corporation insurance;
- approving strata lot alterations;
- granting owners and tenants short term exclusive use of common property; and
- exempting the application of rental restriction bylaws for individual owners based on hardship.

12. What if No One or Not Enough People are Willing to Sit on the Strata Council?

If no eligible person or not enough eligible people in a strata corporation are willing to sit on the strata council, then the strata corporation, or an owner, tenant, mortgagee or other person having an interest in a strata lot, may apply to the Supreme Court for the appointment of an administrator to exercise the powers and perform the duties of the strata corporation.

The court may appoint an administrator if, in the court's opinion, the appointment of an administrator is in the best interest of the strata corporation.

This may result in the administrator taking on the responsibilities of the strata council, but it may also eliminate or interfere with the normal democratic functioning of the strata corporation and the rights of owners under the Act.

In particular, the court may:

- appoint the administrator for an indefinite or set period;
- set the administrator's remuneration (which will be paid by the owners as a strata corporation expense);
- order that the administrator exercise or perform some or all of the powers and duties of the strata corporation; and
- relieve the strata corporation of some or all of its powers and duties.

Unless the Supreme Court otherwise orders, an administrator must obtain approval of the owners, by a resolution passed by a majority vote, a ¾ vote or a unanimous vote (as the case may be), for all matters that require owners' approval under the Act.

References:

Sections of the Act: 4, 25-29, 31-36, 40-51, 70, 76, 92-98, 103, 106, 112-118, 129-138, 144, 151, 174

Sections of the Regulations: 4.1, 4.2, 4.4, 6.4, 6.7, 6.10

Standard Bylaws: 5, 6, 9-14, 16-22