



Strata Insurance is Unique

All strata lot owners are stakeholders in their strata corporations.

With this financial relationship, the *Strata Property Act* (the “Act”) prescribes that each has an insurable interest in all that is owned by the strata corporation. (§ 153)

Regardless of the entity considered or the type of risk, to be insurable there must be a calculable financial vulnerability in the event of an unanticipated loss. Whether it be for life insurance or property insurance, those exposed to such a loss are free to assess their potential exposure and either implement a risk loss strategy or ignore the risk.

In the world of insurance, strata insurance is unique. The strata corporation must insure its common assets, property, and those buildings shown on the strata plan against major perils for their full replacement value. (§ 149.4.a)

With the exception of bare land strata plans, the fourth unique strata insurance requirement is to insure those fixtures built or installed within each strata lot by the developer as part of the original construction, whenever that may have been. (§ 149.1.d)

As specified in the Act’s Regulations, fixtures include items attached to the building such as floor and wall coverings as well as electrical and plumbing fixtures, but

excludes those that can be removed without damaging the building such as dishwashers, dryers, microwaves, refrigerators, stoves, and washers. (§ Reg. 149.1.d, Reg. 9.1.1)

The Regulations also prescribe major perils as losses from explosion, fire, hail, lightning, smoke, water escape, and windstorm as well as human-related losses resulting from aircraft or vehicle impacts, civil commotion or riots, strikes, or malicious or acts of vandalism. (Reg. 9.1 § 149.4.b, Reg. 9.1.2)

While the Act requires the strata’s insurance to reflect its replacement value, insurers, not the Act, require an annual appraisal.

While earthquakes are not prescribed as a major peril, subject to geographic availability and/or limitations, strata corporations may secure such optional insurance coverage. (§ 152, Reg. 9.1.2)

While the Act requires the strata’s insurance to reflect its replacement value, insurers, not the Act, require an annual appraisal. (§ 149.4.a) While on-site appraisals are usually done every 3 years, for the 2 intervening years there are usually only arithmetic adjustments computed by professional appraisal firms.

While the Act also requires each strata to have at least \$2,000,000 of property damage and bodily injury liability insurance, each strata may purchase optional insurances. (§§ 150, 152, Reg. 9.2)

Commonly known as “Directors’ and Officers’ (D&O) Insurance,” another insurance option is for the strata to purchase liability insurance for council members exercising their powers and performing their duties. (§§ 4, 26, 151)

As the Act’s Schedule of Standard Bylaw #20 permits a council to delegate “some or all of its powers and duties,” it is important to clarify with the strata’s insurer the requirements, if any, to include persons delegated under the strata’s D&O insurance. Additionally, it will be important to clarify with each insurer if there is a formal protocol in identifying who is a “volunteer” as such coverages are usually included within a strata’s insurance.

As bare land strata and sections are legal entities, the Act provides insurance options. (§§ 149.3, 161.2, 194.4)

Insurance deductibles, particularly for property insurance, can be a complex decision-making process. Claims experience and/or premium cost-control may lead a strata to higher deductibles. In the event of a claim, however, the strata’s deductible is a common expense based on the applicable unit entitlement formula that, unless provided for in the annual

budget, may be paid by means of a special levy or withdrawn from the Contingency Reserve Fund without ownership approval. (§§ 92, 97, 99, 149, 158.3, Reg. 6.4, 6.5)

Conversely, a lower deductible can trigger the strata's insurance for what might otherwise be considered a nonconsequential and minimal claim.

While most deductibles are based on a dollar value, earthquake deductibles are based on a percentage. If a strata corporation has an appraised value of \$24,000,000 and a 10 percent deductible, the dollar value for that strata's deductible would be \$2,400,000, that if collectible under such dire circumstances, would be shared by owners on a unit entitlement basis. Until the strata was unable to collect such a deductible, it is unlikely the restoration would proceed. (§§ 92, 97, 99, 149.4.a, 152, 158, Reg. 6.4, 6.5)

Even though owners, tenants, and persons who normally occupy a strata lot are named insureds under the strata's insurances, the Act does

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not require an owner to obtain and maintain their own liability, property, or loss of use insurance policies. (§§ 155, 161)

Privacy Legislation may limit a strata's capacity to catalogue those without strata lot insurance. In the event of a claim attributable to an owner, that owner's risk exposure may be personally financially disastrous due to uncovered losses and possibly exposure to a strata suing the owner for the strata corporation's deductible. As an alternative, many mortgage lenders require proof of insurance. (§§ 149, 158.2)

Noting that the strata's insurance covers the building and the originally built or installed fixtures, strata lot owners must be aware that subsequent improvements, known as betterments,

are not routinely covered under the strata's insurance. Additionally, while there are substantial variations in strata insurance covering additional living expenses if a strata lot were uninhabitable due to a loss, unless otherwise specified in their bylaws, each owner will still be required to pay monthly strata fees.

Under the Act, the powers and duties of the strata corporation are performed by the strata council. (§§ 4, 26)

Although not specified as a council duty, each year the Act requires the strata corporation to review the adequacy of its insurance and to report on the insurance coverage at each AGM. A challenge with such a responsibility is that strata council members or their appointees may not be qualified in the field of insurance and/or duly licensed by the Insurance Council of BC. (§§ 4, 26, 154). ▲

An authority on Disability Insurance, Ian Callaway, MA, MEd, RHU, BCFE, applies a strategic management approach to the *Strata Property Act*.

Theme: The Homeownership Industry in BC

<i>The Scrivener: What's in a Name?</i>	4	Homeownership Affordability . . .	
THE PRESIDENT		Going, Going, Gone?	30
Our Board Roles and Rules	6	<i>Jeff Tisdale</i>	
<i>Rhoda Witherly</i>		Exploring the Value of Title Insurance for Homeowners	33
MESSAGE FROM THE CEO		<i>Amanda Magee</i>	
Working Together for Homebuyers and Sellers	7	Market-specific Issues Make an Owner's Title Policy Particularly Valuable in BC	33
<i>Jacqui Mendes</i>		<i>Amanda Magee</i>	
EXECUTIVE DIRECTOR		Drones in Land Surveying	34
It's All about Home	8	<i>Akash Sablok</i>	
<i>John Mayr</i>		Strata Insurance is Unique	36
KEYNOTE		<i>Ian Callaway</i>	
Wisdom, Values, and Participation	9	Strata Collections and Estates	38
<i>Val Wilson, Editor-in-Chief</i>		<i>Elaine McCormack</i>	
COVER STORY INTERVIEW		Protecting Your Real Estate Investment with a Home Inspection	40
Darlene Hyde's First 100 Days at the British Columbia Real Estate Association (BCREA)	10	<i>Barry Brooks</i>	
Your House, Your Home?	15	The Top Benefits of Home Inspections	41
<i>Filip de Sagher</i>		<i>Barry Brooks</i>	
The BC Land Title System	16	Mortgage Refinance Approved. Now what?	42
<i>Ron Usher</i>		<i>Patricia Wright</i>	
This Just In . . .	17	Tips for Getting Home-Buying Done Right	44
Land Titles in BC Are a Sure Thing	18	<i>Hemesh Parbhu</i>	
<i>Craig Johnston, Mike Thomson</i>		How to Value Renovations when Selling, Buying, and Residing	46
What is Conveyancing?	20	<i>Christina Dhesi</i>	
<i>Jackie Tait</i>		Cohousing in British Columbia: Independent Seniors' Stratas with Heart and Soul	48
Getting a Foot in the Door	22	<i>Bob Stamp</i>	
<i>Lisa Gordon</i>		To Move or Not to Move: How Do You Decide?	49
Purchasing a Strata Property vs. a Detached House. What's the Difference?	25	<i>Lori McLeod</i>	
<i>Michele De Fehr</i>		RRSP Tax-Free Withdrawals for Buying a Home	50
Successful Downsizing	27	<i>Andréa Agnoloni</i>	
Borrower Beware: What to Know About a Reverse Mortgage	28		
<i>Emily Amirkhani, Kevin Zakreski</i>			

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The Scrivener: What's in a Name?

"A professional penman, a copyist, a scribe . . . a Notary." Thus the *Oxford English Dictionary* describes a Scrivener, the craftsman charged with ensuring that the written affairs of others flow smoothly, seamlessly, and accurately. Where a Scrivener must record the files accurately, it's the Notary whose Seal is bond.

We chose *The Scrivener* as the name of our magazine to celebrate the Notary's role in drafting, communicating, authenticating, and getting the facts straight. We strive to publish articles about points of law and the Notary profession for the education and enjoyment of our members, our allied professionals in business, and the public in British Columbia.