

# THE BRITISH COLUMBIA EXPERIENCE WITH LICENSING CONDOMINIUM PROPERTY MANAGERS



By Sean Cornish  
Apollo Property Management



It is hard to believe that it has been more than 11 years since the Government of British Columbia introduced licensing for Strata (Condominium Property) Managers and Strata Management Companies in B.C. I was working as a Strata Manager in B.C. at that time, and have dealt with implementation of provincial licensing first hand. Previously, Rental Property Managers and Realtors were licensed but there were no restrictions on who could call themselves a Strata Manager.

By December 31, 2005 there were over one million individual residential strata units within 30,000 strata corporations in B.C. Almost 70% of these strata corporations were managed by paid property managers. On January 1, 2006, the vast majority of these property managers now had to be licensed under the B.C. *Real Estate Services Act (RESA)* as did the management companies they worked for. There were some exemptions such as owners providing strata management services to a strata corporation in which they own a strata lot.

The impetus for licensing was understandable as, until then, anyone with a pulse could call themselves a Strata Manager. The industry suffered from the commodification of property management with the resultant race to the bottom on

management fees which inevitably contributed to declining standards of service.

Licensing was introduced to great fanfare for strata owners as a way to ensure a minimum standard of qualifications and provide some confidence that those entrusted with hundreds of millions of dollars in strata corporation funds would not abscond with them

## What does it mean to be a licensed Strata Manager?

The Real Estate Council of British Columbia (RECBC) is responsible for the licensing, education and discipline of real estate service providers, including strata managers and strata management companies (brokerages), under the authority of the *RESA* and the associated rules.

Under the *RESA*, a strata property management company must be a licensed brokerage. The brokerage providing strata property management services can be a company, partnership or sole proprietorship.

Every company must have a managing broker who is responsible for the activities of the company and who supervises individual strata managers and other employees.

A Strata Manager provides services to the strata corporation on behalf of the brokerage (i.e. the strata management company). In addition to licensed Strata Managers, the company may also have other employees such as clerks, accountants or other staff providing services to the strata corporation.

During the initial transition period, existing Strata Managers could be licensed if they successfully passed an exam. Following this transition period, all new Strata Managers had to enroll in the full Strata Management Licensing Course offered by the University of British Columbia, Sauder School of Business (Real Estate Division).

The course is flexible, allowing a candidate to register at any time and to complete the course at their pace within one year of registration. Most candidates complete the required assignments within six months of registration following which they must obtain a minimum of 70% on an exam. In addition, Strata Managers must pass a criminal record check and meet the language proficiency requirement.

Besides the time commitment, there is also a financial cost to the process:

- \$1,150 Strata Management Licensing Course fee
- \$109 Language Proficiency Index examination (if required)
- Criminal record check – costs vary depending on police agency
- \$1,660 Licensing fee (includes 2-year licensing fee, Errors & Omissions Insurance and Compensation Fund Corporation assessment)

A license is valid for a two year period during which the Strata Manager must also complete a course as part of the Relicensing Education Program (REP).

There are currently about 1,291 licensed Strata Managers and 275 brokerages providing strata property management services in B.C. A 2016 article in *Business in Vancouver* suggests the industry needs another 200 to 400 Strata Managers to meet the needs of the strata corporations.

While the *Strata Property Act* governs the actions of the Strata Corporation and Strata Council, the Strata Manager is governed by the *Real Estate Services Act* and the Rules. The Rules will address the general responsibilities of strata managers and strata management companies, advertising, relationships with their clients, disclosure requirements, accounting and financial requirements, and record keeping.

Strata Managers have a general duty to act honestly and with reasonable care and skill when providing strata management services. The rules also establish that the strata management company and its Strata Managers have a duty to:

- *act in the best interest of the strata corporation;*
- *act in accordance with the lawful instructions of the strata corporation;*
- *act only within the scope of the authority given by the strata corporation;*

- *advise the strata corporation to seek independent professional advice on matters outside the expertise of the strata management company;*
- *maintain the confidentiality of information respecting the strata corporation;*
- *disclose to the strata corporation all material information respecting the company's strata management services and the strata property itself;*
- *take reasonable steps to avoid any conflict of interest; and*
- *if a conflict of interest does exist, promptly and fully disclose the conflict to the strata corporation.*

RECBC enforces entry qualifications, investigates complaints against licensees for possible contraventions of the *RESA* and the Council Rules and imposes disciplinary sanctions under the *RESA*. Disciplinary actions are posted by RECBC.

As a general policy, RECBC requires complaints regarding licensed Strata Managers, or the strata management company, to be submitted by strata councils – not by individual strata lot owners or residents. The complaint from the strata council needs to be accompanied by a copy of the minutes of the council meeting that confirms the passing of a motion to submit a complaint to RECBC. This provision serves to avoid some of the more spurious complaints from reaching the RECBC.

Nevertheless, in situations involving significant financial concerns, individual strata lot owners or residents can complain directly to RECBC. For example if there are allegations of fraud or misappropriation of funds by the Strata Manager or the strata management company.

The RECBC publishes all Disciplinary Decisions on its websites and through its bi-monthly bulletins

Interestingly one of the biggest scandals involving a brokerage occurred barely one year after licensing came into force. In early 2007, the REC announced that it had suspended the real estate licenses of SwiftSure Strata Services Inc., the Brokerage, and the Managing Broker. The brokerage license was suspended due to their failure to properly account for trust monies it was holding on behalf of strata clients. Without the strict annual reporting requirements under licensing, these issue may not have been found for years.

As licensees, we would regularly review the bi-monthly newsletters from the RECBC which contained informative articles but more importantly list recent disciplinary decisions. Each month we would review the list of decisions to see who had been disciplined and for what.

What we learned was that the disciplinary decisions could be meted out for a wide variety of infractions, some that would otherwise be considered minor and others that were undoubtedly major. A small selection of contraventions follows:

- *The licensee contravened section 3-4 of the Council Rules in that he failed to act with reasonable care and skill by drafting a bylaw for the*

*Strata requiring potential tenant(s) of a rental request to be subject to a screening requirement, when such a bylaw was contrary to provisions set out in the Strata Property Act.*

- *The licensee failed to distribute the financial records and the minutes for the Strata's Annual General Meeting in a timely manner and, failed to respond promptly or at all, to numerous email and telephone requests sent to him by the Strata.*
- *The licensee failed to transfer Contingency Reserve Funds (CRF) within seven days after the end of the month in which the CRF money was received, contrary to section 7-9 of the Council Rules;*
- *The licensee failed to act in the best interests of the strata and to act with reasonable care and skill. He failed to advise the strata to obtain or ensure a contractor obtained building permits required for a project underway at the strata. He failed to advise the strata to ensure the contractor had valid and subsisting WorkSafe BC and insurance coverage for the duration of the project. These actions were contrary to sections 3-3(a) and 3-4 of the Council Rules.*

- *The licensee paid strata corporation expenses from his personal Visa account and reimbursed himself from the strata account fund. These actions were outside his scope of authority and were committed without written authorization from the strata council, contravening section 3-3(c) of the Council Rules.*



Penalties tend to range from fines plus the cost of enforcement and remedial courses to license suspension or revocation. In December 2016 a managing broker was fined \$10,000 which is the highest fine enforced since licensing began in B.C.


Overall, it seems clear that strata corporations and their funds are better protected than before licensing came into force; however, many would argue there is still room for improvement. ■

*Sean Cornish is the Director of Condominium Management and General Operations Manager for Apollo Property Management in Ottawa. Prior to arriving in Ottawa in 2013, Sean was a strata agent, Regional Director and Vice-President of a top strata management company on the west coast for ten years.*

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