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April 23, 2012

Dear Council Members:

Re: Depreciation Report Legislation Now in Effect – Information for Strata Councils and Strata Lot Owners

As most Council members and Owners are aware, the government of British Columbia enacted new legislation effective December 13, 2011. The regulations to section (94) of the *Strata Property Act* were introduced, essentially requiring Strata Corporations of five or more strata lots to obtain and have in hand a legislation compliant Depreciation Report for their Strata Corporation as of December 13, 2013.

In our opinion, this is the most significant change to government law governing Strata Corporations in British Columbia since the enactment of the *Strata Property Act* itself in 1998.

It is very important that Strata Councils and in turn, strata lot Owners understand the importance and implications of this issue going forward. Your Strata Corporation, to be compliant, will have to either obtain a report or alternately approve the necessary exemption in accordance with the legislation.

To this end, we are providing the attached information to Council in this regard. Included here is the following;

- Depreciation Report legislation now in effect – what your Strata Council and Owners need to know;
- An overview of the regulations in summary form circulated by the office of Housing and Construction Standards for the province of British Columbia;
- Copy of Section (94) and the regulation to the *Strata Property Act* concerning Depreciation Report;
- Preparing for the futureDepreciation Reports under the *Strata Property Act*, prepared by Shawn Smith, Cleveland and Doan, Barristers and Solicitors.

We urge all Strata Council members to take the time to carefully review this material. We also recommend that Strata Council's circulate this important information amongst the Owners in order to achieve understanding of the requirements generally. This could be achieved by attaching the information to your next set of Council meeting minutes, as an example.

We trust you will find the attached information of benefit. If upon review there are any questions or clarification required, please do not hesitate to contact our office, we would be glad to help.

Yours truly,

LEONIS MANAGEMENT & CONSULTANTS LTD.

Depreciation Report Legislation Now In Effect – What Your Strata Council and Owners Need To Know

The British Columbia Government released new Strata Property Act Regulations on December 13, 2011, now making it mandatory for Strata Corporations to have a Depreciation Report (Reserve fund Study) prepared for your Strata Corporation by December 13, 2013. Strata Corporations of less than five strata lots will be exempted from this requirement. Strata Corporations of five or more Strata Lots that wish to be exempt from this requirement will have to approve a ¾ vote to resolution of the Owners each year to continue to exempt themselves from this requirement.

In assisting our Strata Corporation clients in understanding the new regulations, we want to help in two ways with this background information. One, attached here is a copy of the British Columbia Government Bulletin providing summary of the new regulations, as well as the text of the new legislation as written. Here's our Summary of the regulations for Depreciation Reports set out in a Question and Answer format.

So what do we as a Strata Corporation have to do?

The Strata Corporation will need to have prepared, and in hand, a Strata Property Act compliant depreciation report on or before December 13, 2013.

What if we don't feel, as a group of Owners, that we want to have a depreciation report prepared?

Strata Corporations of less than five strata lots are exempted. Strata Corporations of more than five strata lots may exempt themselves or a year to year basis by approving a ¾ vote resolution at a General Meeting. The exemption to have a report in hand is then 18 months (12 month exemption and 6 months to have the report prepared and in hand)

Okay, so we have decided to proceed with the preparation of a report, what do we need to do?

The cost of funding the report will be an annual budget item and identified as such. Once the budget is approved by the Owners, the funding is approved and the requisition of the report can be initiated.

Can anyone prepare the Report? What qualifications is an individual or company required to have?

The Strata Property Act and Regulations require that the report be prepared by a qualified person as defined in the Regulations. The regulations say that a "qualified person" means any person (or organization) who has the knowledge and expertise to understand the individual components, scope and complexity of the Strata Corporations common property, common assets and those parts of a strata lot or limited common property or both that the Strata Corporation is responsible to maintain. The prepared report must include the following information relating to the person (or organization) that has prepared the report;

1. The person's qualifications;
2. The errors and omission insurance, if any, carried by that person and;
3. The relationship between that person and the Strata Corporation

What documents or information will the person preparing the report require from the Strata Corporation?

- Registered Strata Plan(s) and/or any building drawings or plans;
- Registered Strata Corporation bylaws;
- Any assumption of responsibility agreements, if any, where an owner has agreed to assume responsibility for repair and maintenance of an altered area of the common property.
- The person preparing the report will also require access to all common property, facilities and assets of the Strata Corporation for physical inspection.

What will the report include?

The report must include:

1. A physical component inventory and evaluation based upon on-site visual inspection conducted by the person preparing the report.

The report must include a description and estimated service life over 30 years of those items that comprise the common property, common assets and any part(s) of Strata Lots and/or limited common property that the Strata Corporation is responsible to maintain or repair under the act or, the Strata Corporation Bylaws or agreement with an owner.

The report itemizing common property, facilities and assets is to include, but not be limited to the following items:

- The building structure;
- The building's exterior, including roofs, roof decks, doors, windows and skylights;
- The buildings systems, including the electrical, heating, plumbing, fire protecting and security systems;
- Common amenities and facilities;
- Parking facilities and roadways;
- Utilities including water and sewage;
- Landscaping, including paths, sidewalks, fencing and irrigation;
- Interior finishes, including floor covering and furnishings;
- Green building components;
- Balconies and patios

The report must also identify common property and limited common property that the Strata lot owner and not the strata Corporation, is responsible to maintain and repair.

2. Summary of repairs and major maintenance work for common expenses of the items identified in 1. that usually occurs less often than once a year or that does not usually occur.

3. Financial forecasting of expenses including;

   a) Anticipated maintenance repair and replacement costs of common expenses projected over 30 years
   b) Description of the factors and assumptions, including interest rates and rates of inflation, used to calculate costs over the 30 year period;
   c) A description of how the contingency reserve fund is currently being funded;
   d) The current balance of the reserve fund minus any expenditures that have been approved, but not yet taken from the fund;
   e) At least 3 cash-flow funding models for the contingency reserve fund relating to the maintenance, repair and replacement over 30 years beginning with the current or previous fiscal year of the Strata Corporation.

Cash flow funding models may include any one or more of the following:

I) Balances of, contributions to and withdrawals from the contingency reserve fund;
II) Special levies;
III) Borrowings.

Summary:

As Strata Property Agents we have been challenged over many years with what we feel is still the single biggest issue for our Strata Corporation clients. That issue is educating Owners as to the relative scope and scale of what is required to repair and maintain buildings from an asset management point of view.

The funding requirements of future capital repairs and replacements have not been given the attention required. In many instances working to the government imposed minimum reserve fund requirements together with a "we'll worry about that when the time comes" attitude has left many Strata Corporations now with aging structures and equipment and nowhere near the reserve fund balances in savings to undertake major replacements required.

A depreciation report will quickly become a very meaningful tool to use in future planning for eventual repair/replacement of building components and equipment. Whether a Strata Corporation of Owners collectively or an individual Owner, the report will guide funding requirements of saving for the future.

The report will also prove valuable to prospective purchasers of homes in a Strata Corporation so they too will have a more comprehensive understanding of future maintenance and associated costs. Lenders of monies for mortgages or other associated loans will now also be aware of future costs as well, enabling lenders to work more effectively to ensure borrowers can, in fact, afford home ownership over the long term.

It is for the foregoing reasons that Leonis Management, as Strata Property Agents, fundamentally recommends that its Strata Corporation clients obtain and be guided by a Depreciation Report.

LEONIS MANAGEMENT & CONSULTANTS LTD

March 2012

Doug Page <BCStats.SurveyMail1@gov.bc.ca>
Thursday, December 15, 2011 1:28 PM

Subject: Update on Regulations of the Strata Property Act

You are receiving this email because you had requested to be informed of updates to the Strata Property Act and regulations. Amendments to regulations related to depreciation reports and Form B (the Information Certificate) have been made and certain previously passed amendments to the Act have been brought into force. Additional information is available at the Strata Property website and updated strata property guides are expected in February 2012. These amendments were made with extensive consultation with the strata community and the public.

DEPRECIATION REPORTS HIGHLIGHTS

- Like other provinces, depreciation reports are now mandatory unless a strata corporation exempts themselves by an annual 3/4 vote. Strata corporations will have by December 13, 2013 to obtain a depreciation report or hold a 3/4 vote to exempt. Strata corporations with less than five units are not required to prepare depreciation reports or hold a 3/4 vote to exempt themselves.
- Given the wide range of strata properties, strata corporations will have the flexibility to select the person or team best-suited to analyze their particular property. The regulations require that the depreciation report provide the person's name, qualifications, whether they have errors and omissions insurance and their relationship to the strata corporation.
- Depreciation reports will include an onsite visual inspection and are to be updated every three years. Corporations will have 18 months from the time a 3/4 vote expires to get a depreciation report.
- Strata corporations are not required to fund contingency reserve funds (CRF) above the minimum previously required (25% of the operating budget). However strata owners may now make any additional contributions to the CRF by simple majority vote. (Previously an annual 3/4 vote was required to make contributions to the CRF above 100% of the operating budget).
- The legislation and regulations are only one component of depreciation reports. Education and best practices will also provide information on: selecting a qualified person or team; formatting and presenting a report; securing materials electronically to facilitate regular updating and best practices in maintaining, repairing and funding common property and limited common property.

FORM B OVERVIEW

The Form B has been revised to improve disclosure:

- By January 1, 2014 strata corporations will be required to provide additional information to prospective purchasers on parking and storage allocated to the strata lot.
- As well, by March 1, 2012, strata corporations must attach: copies of the strata corporation's rules; the current budget; the owner developer's Rental Disclosure Statement, if any; and the most recent depreciation report, if any. With the exception of the depreciation report, none of these requirements are new.

If they choose to do so, strata corporations may use the revised Information Certificate sooner than the required dates.

Regulations for audited financial statements are expected next year; the consultation process identified some timing issues that need to be addressed.

Please feel free to share this information with others you think may be interested. Any updates will be posted to the Strata Property website.

Doug Page
Manager, Housing Policy Branch
Office of Housing and Construction Standards
Province of British Columbia

STRATA PROPERTY ACT

[SBC 1998] CHAPTER 43

Part 6 — Finances

Division 1 — Operating Fund and Contingency Reserve Fund

Depreciation report

94 (1) In this section, **"qualified person"** has the meaning set out in the regulations.

(2) Subject to subsection (3), a strata corporation must obtain from a qualified person, on or before the following dates, a depreciation report estimating the repair and replacement cost for major items in the strata corporation and the expected life of those items:

(a) for the first time, the date that is 2 years after the coming into force of this section;

(b) if the strata corporation has, before or after the coming into force of this section, obtained a depreciation report that complies with the requirements of this section, the date that is the prescribed period after the date on which that report was obtained;

(c) if the strata corporation has, under subsection (3) (a), waived the requirement under this subsection to obtain a depreciation report, the date that is the prescribed period after the date on which the resolution waiving the requirement was passed.

(3) A strata corporation need not comply with the requirement under subsection (2) to obtain a depreciation report on or before a certain date if

(a) the strata corporation, by a resolution passed by a 3/4 vote at an annual or special general meeting within the prescribed period, waives that requirement, or

(b) the strata corporation is a member of a prescribed class of strata corporations.

(4) A depreciation report referred to in subsection (2) must contain the information set out in the regulations.

Depreciation report

6.2 (1) For the purposes of section 94 of the Act, a depreciation report must include all of the following:

(a) a physical component inventory and evaluation that complies with subsection (2);
(b) a summary of repairs and maintenance work for common expenses respecting the items listed in subsection (2) (b) that usually occur less often than once a year or that do not usually occur;
(c) a financial forecasting section that complies with subsection (3);
(d) the name of the person from whom the depreciation report was obtained and a description of
    (i) that person's qualifications,
    (ii) the error and omission insurance, if any, carried by that person, and
    (iii) the relationship between that person and the strata corporation;
(e) the date of the report;
(f) any other information or analysis that the strata corporation or the person providing the depreciation report considers appropriate.

(2) For the purposes of subsection (1) (a) and (b) of this section, the physical component inventory and evaluation must

(a) be based on an on-site visual inspection of the site and, where practicable, of the items listed in paragraph (b) conducted by the person preparing the depreciation report,
(b) include a description and estimated service life over 30 years of the items that comprise the common property, the common assets and those parts of a strata lot or limited common property, or both, that the strata corporation is responsible to maintain or repair under the Act, the strata corporation's bylaws or an agreement with an owner, including, but not limited to, the following items:
    (i) the building's structure
    (ii) the building's exterior, including roofs, roof decks, doors, windows and skylights;
    (iii) the building's systems, including the electrical, heating, plumbing, fire protection and security systems;
    (iv) common amenities and facilities;
    (v) parking facilities and roadways;
    (vi) utilities, including water and sewage
    (vii) landscaping, including paths, sidewalks, fencing and irrigation;
    (viii) interior finishes, including floor coverings and furnishings;
    (ix) green building components;
    (x) balconies and patios, and
c) identify common property and limited common property that the strata lot owner, and not the strata corporation, is responsible to maintain and repair.

(3) For the purposes of subsection (1) (c), the financial forecasting section must include

(a) the anticipated maintenance, repair and replacement costs for common expenses that usually occur less often than once a year or that do not usually occur, projected over 30 years, beginning with the current or previous fiscal year of the strata corporation, of the items listed in subsection (2) (b).
(b) a description of the factors and assumptions, including interest rates and rates of inflation, used to calculate the costs referred to in paragraph (a),
(c) a description of how the contingency reserve fund is currently being funded,
(d) the current balance of the contingency reserve fund minus any expenditures that have been approved but not yet taken from the fund, and
(e) at least 3 cash-flow funding models for the contingency reserve fund relating to the maintenance, repair and replacement over 30 years, beginning with the current or previous fiscal year of the strata corporation, of the items listed in subsection (2) (b).

(4) For the purposes of subsection (3) (e), the cash-flow funding models may include any one or more of the following:

(a) balances of, contributions to and withdrawals from the contingency reserve fund;
(b) special levies;
(c) borrowings.

(5) If a strata corporation contributes to the contingency reserve fund based on a depreciation report, the contributions in respect of an item become part of the contingency reserve fund and may be spent for any purpose permitted under section 96 of the Act.

(6) For the purposes of section 94 (1) of the Act, **"qualified person"** means any person who has the knowledge and expertise to understand the individual components, scope and complexity of the strata corporation's common propery, common assets and those parts of a strata lot or limited common property, or both, that the strata corporation is responsible to maintain or repair under the Act, the strata corporation's bylaws or an agreement with an owner and to prepare a depreciation report that complies with subsections (1) to (4).

(7) The following period are prescribed

(a) for the purposes of section 94(2) (b) of the Act, 3 years;
(b) for the purposes of section 94 (2) (c) of the Act, 18 months;
(c) for the purposes of section 94 (3) (a) of the Act, the one year period immediately preceding the date on or before which the depreciation report is required to be obtained.

(8) A strata corporation is prescribed for the purposes of section 94 (3) (b) of the Act if and for so long as there are fewer than 5 strata lots in the strata plan.

PREPARING FOR THE FUTURE: DEPRECIATION REPORTS UNDER THE STRATA PROPERTY ACT

By Shawn M. Smith, Esq.

On December 13, 2011 the provincial government brought into force those sections of the *Strata Property Amendment Act* (which was passed in 2009) dealing with depreciation reports. Strata corporations will now be required (unless they decide otherwise by way of a ¾ vote) to have a detailed report prepared at specified intervals setting out the condition of the common property, the expected life span of each component of it, the anticipated cost to repair those components and suggestions as to how to fund those anticipated costs. The depreciation report is meant to provide an overview of both the short term and long term expenses faced by each strata corporation and assist them in planning for these costs. For most strata corporations this will have a significant impact on how strata corporations operate, how they arrange their finances and how major repairs are approached. Some may even see increased strata fees as a result.

The Report

As a result of these amendments, section 94 of the *Strata Property Act* ("SPA") will now require strata corporations to "obtain from a qualified person... a depreciation report estimating the repair and replacement cost for major items in the strata corporation and the expected life of those items." Regulation 6.2 (which set out the criteria for the previously optional reports) has also been replaced with a new regulation detailing what must be in the report and what the criteria for the "qualified person" who prepares them are.

The report must contain:

(a) a physical component inventory and evaluation of those compenents;
(b) a summary of the repair and maintenance work to be done (other than on an annual basis) over the next 30 years;
(c) a projection of the costs of the anticipated repairs for the next 30 years and how they might to be funded;
(d) the qualifications of the author of the report and their relationship, if any, to the strata corporation.

The person who is preparing the depreciation report is required to conduct an on-site visual inspection of the strata corporation's building(s). They are to review both the common and limited common property as well as any part of the strata lots for which the strata corporation is responsible to repair and maintain (which in turn will require the person preparing the report to review the strata corporation's bylaws). Regulation 6.2(2)(b) gives examples of the components that are to be reviewed (the list is not exhaustive):

(a) building structure
(b) building exterior including roofs, decks, doors and windows;
(c) building systems such as electrical, plumbing, heating, fire protection and security;
(d) common amenities (ie. pool, exercise room, clubhouse)
(e) parking facilities and roadways;
(f) utilities (ie. water and sewer)
(g) landscaping;
(h) interior finishes (but only if a bylaw makes the strata corporation responsible for the same);
(i) green building components; and
(j) balconies and patios.

The report must also identify those parts of the common property and limited common property for which individual owners are responsible to repair (usually through an assumption of responsibility agreement arising out of alterations to the common property). Not only will this part of the work require a careful review of the bylaws by the person preparing the report, but strata corporations will have to keep a master list of assumption agreements that clearly identify the areas in question. The report is, however, not required to estimate the life expectancy or future repair costs of these items.

Given the requirements for the report to set out what non-routine repair and maintenance work will be required over the next 30 years and the estimated service life (what I have referred to as "life expectancy") of the various components, to be of practical assistance it will have to include a chart or timeline of the work to be done. It should show what needs to be done each year and whether it can done over time as well.

It is the required financial projections that will likely be of the most interest (and most importance) to the owners. Accompanying the repair timeline, there will need to be a cash flow time line or projection; in other words something showing the amount of money that will need to be spent over each of the next 30 years to keep pace with the anticipated repair schedule. While the regulation also requires inflation to be taken into account, strata corporations must be mindful of the fact that the costs are just estimates and may be more or less then those estimated figures when the time comes. In that regard, it would be perhaps be best for the person preparing the report to be slightly more liberal in their estimates, particularly the long term figures. However, as the reports are updated the expenses in the distant future will become more defined and accurate.

Along with the required cost projection, at least three funding models are to be suggested in the report. Regulation 3(4) suggests that these models include use of the Contingency Reserve Fund, special levies and borrowing.

The Contingency Reserve Fund model will need to show how much money must be saved up and over what time period, in order to meet the anticipated costs. Using the Contingency Reserve Fund model will surely impact the amount of money that owners intend to contribute to the Contingency Reserve Fund (about which I will say more below). This will likely mean an increase in current strata fees, which may or may not be attractive to the owners in the strata corporation. One's view depends on one's own finances and one's own philosophical point of view in saving for the future..

Borrowing is an attractive option for strata corporations whose owners cannot afford a special levy. However, it will mean an increase in future strata fees as the payments on the loan must be made.

Who can prepare the Depreciation Report?

Section 94 of the SPA requires the report to be prepared by a "qualified person" but gives no indication as to what that phrase means. It is Regulation 6.2(6) that assists us in that regard. It requires that the person who prepares the report to have:

(a) knowledge and expertise to understand:
- (i) the individual components the report is required to address;
- (ii) the scope and complexity of the common property, limited common property, etc;
- (iii) the strata corporation's bylaws; and
- (iv) assumption of responsibility agreements entered into with owners

(b) the ability to make the projections (both life expectancy and financial costs) required by the report.

Given the broad scope of the report it may well require a team of individuals to prepare it.

Before commissioning someone to prepare a depreciation report the strata council must ensure, on an objective basis, that the person or firm meets these qualifications. Otherwise the report will not meet the requirements of the legislation, putting the strata corporation in breach of s.94 of the SPA. Council members also have an ethical and legal responsibility not to place a report before the owners that they know does not meet the criteria of Regulation 6.2 or was prepared by someone without the requisite skill or knowledge to prepare it. Diligent investigation will be required before someone is hired.

How often must the depreciation reports be prepared?

The first report (unless there is a ¾ vote dispensing with its preparation) must be prepared no later than December 11, 2013. After that a new one must be done every three years. The costs of these reports (which will likely not come cheap) will have to be raised by way of a special levy or paid for from the Contingency Reserve Fund as they are not expenses which occur once a year or more often than once a year (the criteria for including an expense in the Operating Budget). This raises the prospect of a small group preventing the report from being done by defeating the resolution to raise the monies necessary for its preparation and putting the strata corporation in breach of its obligations under s.94 of the SPA.

What to do with the report once you have it?

What is most interesting about the entire process pertaining to the depreciation report is that there is no mandatory requirement to implement its recommendations or budget in accordance with it. Regulation 6.1(b) simply requires the owners to *consider* the report when deciding if additional contributions should be made to the Contingency Reserve Fund where it is equal to or greater than 25% of the Operating Budget for the previous fiscal year. Based on the language of that section, it appears that the most recent depreciation report must at least be discussed at the annual general meeting, but that it is open to the owners to decide to do nothing about saving for future expenses. This, however, is consistent with the requirement of the report to provide three funding models including raising funds by way of special levy. If the Contingency Reserve Fund is less than 25% of the Operating Budget for the previous fiscal year, there is no requirement to even discuss it (although prudence would dictate that the owners should).

By not requiring owners to save for future expenses by increased contributions to the Contingency Reserve Fund, little may change from the current state of affairs in which many strata corporations find themselves. In a quest to keep strata fees lows, future expenses are either left for future owners to deal with by way of a special levy or simply not done because a special levy is simply not palatable to the owners. The lack of mandatory contributions based on the depreciation report will not help these strata corporations.

Concurrent with the changes regarding the depreciation reports, the rules regarding the mandatory contributions to the Contingency Reserve Fund have changed slightly. If the amount in the Contingency Reserve Fund is less than 25% of the budgeted contributions to the Operating Budget (which excludes Contingency Reserve Fund contributions) for the previous fiscal year, the owners must contribute the lesser of:

(a) 10% of the budgeted contributions to the Operating Budget for the current fiscal year; or
(b) The amount required to bring the Contingency Reserve Fund up to an amount equal to 25% of the budgeted contributions to the Operating Budget for the current fiscal year (which would be less than the 10% figure)

This formula will require some calculations to be done when preparing the annual budget.

If the Contingency Reserve Fund is equal to or greater than 25% of the budgeted contributions to the Operating Budget (which excludes Contingency Reserve Fund contributions) for the previous fiscal year, then contributions of any amount may be made. Those additional contributions no longer need to be approved by ¾ vote as was the case under the previous regulation where the Contingency Reserve Fund was equal to the Operating Budget.

It should also be noted that such reports (along with any other similar reports from engineers, etc) are now to be kept as part of the strata corporation's records under s.35 of the SPA and will be available upon request under s.36.

Dispensing with the need for a depreciation report.

Strata corporations with four or less strata lots (ie. duplexes and triplexes) are exempt from the requirements to prepare a depreciation report (see Regulation 6.2(8)). Although they should still consider it, even if it is in some modified form.

Strata corporations with five or more strata lots may opt out of the requirements of s.94 of the SPA by way of a ¾ vote at an annual or special general meeting. Such a vote must occur within 1 year (before or after) the date on which a report is required to be prepared. A new vote must be passed as each new deadline arrives. (It should be noted that should the owners vote not to prepare a report, Regulation 6.2(7)(c) requires the next report to be prepared 18 months after the date of the ¾ vote resolution dispensing with a depreciation report).

Broader implications to consider

Strata council members are required by s.31 of the SPA to:

> (a) act honestly and in good faith with a view to the best interests of the strata corporation, and
>
> (b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

When approaching the subject of depreciation reports strata council members will need to keep these duties in mind. For example, is it acting with a view to the best interests of a strata corporation to introduce a resolution to not have a depreciation report prepared? In answering that question much will depend on the circumstances of each situation. If the intent is to never have one done then doing so is likely not acting with a view to the best interests of the strata corporation. (Of course if the owners force such a resolution on to the agenda and it passes then the council cannot be responsible for that outcome). However, suggesting having a report prepared every five years instead of every three might be fine.

Another issue to consider is whether strata council members are required to propose increased contributions to the Contingency Reserve Fund in accordance with the report and its anticipated costs. Arguably that is the prudent course of action to plan for future costs (particularly in buildings where owners cannot readily raise funds for a special levy). Ultimately the unique situation of each strata corporation and the owners that comprise it will dictate what is prudent.

Section 72 of the SPA requires each strata corporation to repair and maintain to common property. Will a failure to follow the recommendations and/or schedule set out in a depreciation report amount to a breach of that duty? Quite possibly, yes. Again, much will turn on the circumstances of each case. However, such reports will form part of a determination as to whether a strata corporation is acting reasonably in carrying out its repair duties. To the extent that recommendations and findings are clear that something needs to be repaired and it is not, there will be a good case to be made that the duty under s.72 is not being met.

Lastly, thought must be given to the impact of such a report on the resale of strata lots. The most recent report must now be included with each Form B request. Potential purchasers will have a very clear idea of what expenses they face in the future. If sufficient funds have not been accumulating in the Contingency Reserve Fund then a buyer may well want a price reduction to account for those anticipated costs (particularly those expected in the near future). While low strata fees may seem attractive to a buyer, they may have the opposite effect in the long run.

Conclusion

Whether these changes are to be viewed as an improvement will depend on one's perspective. For those who seek to keep expenses low they will likely be viewed with some dislike. No longer will it be possible to avoid repair issues without it being obvious. The changes will, however be heralded as an improvement by those who seek to plan for the future. Time will inevitably tell who is right in their view.

This article is intended for information purposes only and should not be taken as the provision of legal advice. Shawn M. Smith is lawyer whose practice focuses on strata property law. He frequently writes and lectures for a variety of strata associations. He is a partner with the law firm of Cleveland Doan LLP and can be reached at (604)536-5002 or shawn@clevelanddoan.com.