

Guide 10: What to Know about Budgeting and the Collection of Strata Fees

IMPORTANT NOTICE

This guide was prepared by the Superintendent of Real Estate and updated by the Office of Housing and Construction Standards. 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. Please note that guides have not been updated to take into account legislative or regulatory amendments that have occurred since they were prepared on the date shown at the bottom of each page.

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, ***recently 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 Strata corporation bylaws can be enacted, amended or repealed by the developer or the strata corporation.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. **The Annual Budget**

Before each annual general meeting ("AGM"), the strata council must prepare an annual budget for the strata corporation's upcoming year, and distribute it with the notice of the AGM at least two weeks before the AGM.

- The budget must contain an itemized list of estimated common expenses that occur either once a year or throughout the year. Monies collected to pay for the estimated common expenses comprise an **operating fund**.
- The budget usually contains a single line item indicating the contribution to the **contingency reserve fund**.

[Please refer to “*Guide 12: What to Know about Contingency Reserve Funds and Special Levies*” for an explanation of how and when the strata corporation must make contributions to the contingency reserve fund.]

2. **Preparing the Budget**

The strata corporation budget must contain:

- the opening balance in the operating fund and contingency reserve fund, which will be the surplus or deficit from the year just ending;
- the estimated income from all sources other than strata fees, itemized by source;
- a list of the estimated expenditures from the operating fund, including a list of all expenditures that relate exclusively to:
 - a type of strata lot identified as a type in a bylaw;
 - limited common property; and
 - strata lot repair and maintenance that the strata corporation has taken responsibility for, by bylaw.
- the total of all estimated expenditures from the operating fund;
- the total of all contributions to the operating fund;
- the total of any contributions to the contingency reserve fund;
- each strata lot’s monthly contribution to the operating fund and the contingency reserve fund - this sum is called a strata fee; and
- the estimated balance in the operating fund and contingency reserve fund at the end of the fiscal year.

Strata corporations with sections must have:

- a strata corporation budget for expenses relating to the whole strata corporation which meets the requirements set out above; and
- a budget for each section for expenses relating exclusively to the section, which meets the requirements set out above.

3. Preparing a Financial Statement

Before every AGM, the strata council must also prepare a financial statement for the present fiscal year that is just ending, and distribute it with the notice of the AGM. The financial statement must cover the period up to two months before the AGM.

The purpose of the financial statement is to report on the strata corporation's actual income and expenses for the year that is just ending. It should contain:

- the opening and current balance in the operating fund;
- the opening and current balance in the contingency reserve fund;
- the details of the strata corporation's income from all sources, except special levies;
- the details of expenditures from the operating fund, including details of any unapproved expenditures;
- the details of expenditures from the contingency reserve fund, including details of any unapproved expenditures; and
- income and expenditures by special levy, if any.

Within eight weeks after the end of its fiscal year, the strata corporation must prepare a financial statement updated to the end of the fiscal year.

4. Approving the Budget

The budget for the next fiscal year must be approved by a majority vote at the AGM.

The proposed budget can be amended by a majority vote at the meeting before the final vote to approve the budget.

Within two weeks of the budget being approved, owners must be informed of the new strata fees.

5. Failure to Approve the Budget

If a budget is not approved at the AGM:

- the strata corporation must prepare a new proposed budget to be approved by a majority vote at a special general meeting to be held within thirty days of the AGM. The special general meeting can be held later than thirty days if the later period is approved by a $\frac{3}{4}$ vote at the AGM; and
- the owners must continue to pay the same monthly strata fees required to be paid under the previous budget until the new budget is approved.
- Until a new budget is approved, the strata corporation may only spend money out of the operating fund if the expenditure:
 - meets the requirements necessary to make an unapproved expenditure; **or**
 - is the type of expense that is set out in the previous budget and usually occurs once a year or more often than once a year; **and**
 - does not exceed the maximum amount in the previous budget for that particular category of expense.

6. Budget Surpluses and Deficits

A budget surplus occurs when the contributions to the operating fund for the previous fiscal year exceed the actual expenditures.

A budget surplus should be dealt with in a new budget in one or more of the following ways:

- transferred to the contingency reserve fund;
- carried forward as part of the operating fund as a surplus, which will not reduce the strata fees;
- used to reduce the total contribution to the next year's operating fund, which, in effect reduces strata fees; or
- any other way determined by a resolution approved by a $\frac{3}{4}$ vote at an annual or special general meeting.

A budget deficit occurs when the actual expenditures exceed the contributions to the operating fund for the previous fiscal year.

A budget deficit must be eliminated during the next fiscal year in a new budget by:

- raising strata fees; or
- approving a special levy.

7. Contributions to the Operating Fund

To collect the funds for the operating fund, strata lots are assessed strata fees based on the approved annual budget. The strata fees are calculated by apportioning the total costs amongst the strata lots. Usually, each strata lot's strata fee is based on its unit entitlement.

The strata fees may be calculated by using a formula other than unit entitlement, by passing a unanimous resolution approving the new formula, and registering the resolution in the Land Title Office.

If operating expenses relate exclusively to:

- a type of strata lot identified as a type in a bylaw;
- strata lots with limited common property; or
- strata lot repair and maintenance for which the strata corporation has by bylaw, taken responsibility

the contributions for those expenses should be assessed only to the strata lot(s) to which the expense relates.

If a strata corporation has separate sections, and has operating expenses within a section that relate exclusively to:

- a type of strata lot identified as a type in a bylaw;
- strata lots with limited common property; or
- strata lot repair and maintenance for which the strata corporation has by bylaw, taken responsibility;

the contributions for those expenses should be assessed only to the strata lot(s) to which the expense relates.

In addition to the operating fund being funded by the monthly strata fees, it can include contributions that have been created by:

- surplus funds from the previous years' operating fund.

8. **Late or Non Payment of Strata Fees**

Most strata corporations have a bylaw setting out when strata fees are to be paid.

Standard Bylaw 1 applies to any strata corporation which does not have its own bylaw dealing with the payment of strata fees. It requires strata fees to be paid on or before the first day of each month.

A strata council can fine a strata lot owner for failing to pay strata fees in accordance with a bylaw, by proceeding with the bylaw enforcement procedures set out in "*Guide 14: How to Enforce Bylaws and Rules*".

A bylaw may also be passed which sets out the rate of interest that can be charged for late payments. However, the interest:

- cannot exceed 10% per annum compounded annually;
- is not a fine; and
- forms part of the strata fees.

A lien for unpaid strata fees may be registered at the Land Title Office against the title of a strata lot by filing a "Certificate of Lien" (Form G).

A bylaw can be created to prohibit a strata lot owner or tenant, if they have unpaid strata fees, from sitting on the strata council or from voting on resolutions requiring a majority or $\frac{3}{4}$ vote at general meetings.

9. **Expenditures from the Operating Fund**

The strata council is authorized to make expenditures from the operating fund, if the expenditure usually occurs either once a year or more often than once a year, and:

- is approved:
 - in the annual budget; or
 - by a resolution passed by a $\frac{3}{4}$ vote at a general meeting;
- is unapproved, provided that:
 - the unapproved expenditure plus all previous unapproved expenditures made in the same fiscal year do not exceed:

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- the limit for unapproved expenditures set out in a bylaw; or
- if no bylaw exists, the lesser of \$2,000 or 5% of the total contributions to the operating fund for the current fiscal year; or
- is unapproved, provided that:
 - the expenditure is the minimum amount that the strata council needs to expend in order to ensure safety and prevent significant loss or damage; and
 - the strata council informs owners as soon as possible about the expenditure.

10. Changing the Fiscal Year End and Start Date

The strata corporation may, by a resolution passed by a $\frac{3}{4}$ vote at an annual or special general meeting, change the date of its fiscal year by up to six months. As a result, a budget may cover a period of:

- longer than twelve months, but must not exceed eighteen months; or
- less than twelve months, but must be at least six months.

If a change is made that results in a period not covered by a budget, any expenditure the strata corporation makes before a new budget is approved must follow the guidelines noted above in part 5 of this guide “Failure to Approve the Budget”.

11. Borrowing Against Unpaid Strata Fees

The strata corporation, with a resolution approved by a $\frac{3}{4}$ vote, can borrow money and use unpaid strata fees as security for the principal and interest.

References:

Sections of the Act: 14, 28, 45, 53, 81, 92, 97-100, 102-107, 111, 116

Sections of the Regulations: 6.4-6.8, 17.9

Standard Bylaws: 1, 28