

WHAT STRATA CORPORATIONS NEED TO KNOW ABOUT DEPRECIATION REPORTS

What is a depreciation report?

A depreciation report is a legislated planning requirement for strata corporations in British Columbia. Depreciation reports are used to establish long term planning for common property and common assets to determine:

- 1) What assets you own (an inventory)
- 2) The asset condition (evaluation)
- 3) When things need to be replaced (the anticipated maintenance, repair and replacement)
- 4) How much money you currently have (contingency reserve report)
- 5) What it is likely to cost for future replacement (a description of the factors and assumptions in projecting costs)
- 6) How you are going to pay for the costs (three cash flow models projecting 30 year replacement periods)

The regulations have set out requirements for time periods of the reports, qualifications of persons providing reports, schedules for updates, disclosure of reports, conditions of the reports and what information must be contained and financial planning and disclosure.

Which Regulations were passed or amended on December 13, 2011 that relate to depreciation reports and the contingency reserve fund?

As of December 13, 2011, a depreciation report is a mandatory function of strata corporations in the Province of British Columbia. Strata Corporations who are not exempt, must comply with the provision by December 13, 2013. Strata corporations with fewer than 5 strata lots, and those strata corporations who pass an annual three quarter vote, are exempt from the requirement.

On December 10, 2009, Bill 8, the *Strata Property Amendment Act* came into effect. At that time, only half of the sections came into effect, with section 15 of the amendments, depreciation reports, being deferred. The regulations passed on December 13, 2011 brought section 15 into effect, and implemented the regulations that identify the requirements for depreciation reports as well as the inclusion of changes to Form B Information Certificates which take effect on March 1, 2012 for depreciation reports, and January 1, 2014 for parking stalls and storage lockers.

What can we do as strata corporations at this time to start the process of planning for a depreciation report?

If your strata corporation does not pass a three quarter vote for exemption from the requirement, then you will be required to have a report completed by December 13, 2013. To start the process your strata corporation can contribute greatly to the ease of providing the depreciation report and economizing by gathering all of your records and documents that are specific to your type of strata corporation. A sample list follows that illustrates the types of records and documents the person preparing the depreciation report may need to review. In the absence of documents, the person preparing the depreciation report will need to make some reasonable assumptions. For smaller strata corporations your document requirements may be limited; however, at the minimum a copy of the registered strata plan, any registered bylaw amendments, and any property conditions will be important for the first stages of the proposals and planning.

Documents & Records

- **Operating budget**
- **Current balance sheet, including the contingency reserve fund balance and any investments & assets**
- **General ledger**
- **Copies of invoices relevant to operations and repairs**
- **Current insurance certificate or insurance appraisal**
- **Any reciprocal easements/Service agreements/Air Parcel Agreements**
- **Any leases and licenses (enterphone systems, parking garage use)**
- **Any agreements granting third party use and access of the strata property**
- **Prints, plans and drawings – architectural, structural, mechanical, electrical, fire protection and other systems.**
- **Any prior investigation reports: maintenance, repair, investigation etc.**
- **Annual fire inspection report**
- **Maintenance manuals**
- **Maintenance logs**
- **Registered strata plan & any amendments**
- **Registered bylaws & any amendments**
- **Any bylaws where the strata corporation has taken responsibility for the maintenance and repair of part of a strata lot**
- **Any information & bylaws relating to sections**
- **Any registered allocations of Limited Common Property**
- **Any alteration agreements where an owner has taken responsibility for the cost of the maintenance or renewal of the alteration**
- **Lawsuits or arbitration decisions that impact property use, maintenance repair or obligation**

To simplify the depreciation report process, and to assist with accurate long-term archiving of documents, it is recommended documents, including the large scale drawings, be scanned into electronic format if possible to use when preparing the depreciation report.

Who is a “qualified person” that will develop the depreciation report?

Regulation 6.2(6) broadly defines who is qualified to develop your depreciation report.

(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 property, 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).

In addition to providing a legislated planning tool for renewals, maintenance and financial planning for the strata corporations, the depreciation report imposes a significant level of responsibility on the strata corporation. The report will become a significant document in assessing property asset value and must be disclosed in a Form B Information Certificate. The report may be used by insurance providers, mortgage providers, mortgage insurers, and most of all, buyers. This is an official report, and will be used to determine a buyer’s qualification’s for a mortgage, to establish risk for insurers, and for buyers to determine their future liabilities before they decide to make an offer for purchase. Throughout all of these transactions third parties are relying upon the information in the depreciation report which could result in potential liability for the strata corporation with respects to the accuracy and reliability of information in the report.

What is the duty of the qualified person preparing the report?

The person preparing the report will have a duty to disclose in the report their qualifications, their relationship with the strata corporation and whether or not they carry errors and omissions insurance, as well as a description of that insurance. Their qualifications will have a direct link to their duties under the regulations. The qualified person will be required to:

- Provide an inventory of the strata corporation’s common property common assets, and any limited common property or part of a strata lot that the strata corporation has a duty to maintain, repair and renew.
- Once the inventory is complete they must provide an evaluation of that inventory by performing a physical review of the site.
- The evaluation will have to address the following requirements:
 - Estimate the service life of the assets over the next 30 years
 - The anticipated maintenance, repair and replacement costs that usually occur less than once per year
 - Evaluation of the components (the current condition)
 - Financial evaluation of the factors and assumptions used in estimating the 30 year period
 - A description of how the contingency reserve fund is currently being funded, along with a current balance, minus any expenditures that have been approved but not yet taken from the fund, and
 - At least three cash flow models for the contingency reserve fund relating to the maintenance, repair and replacement over 30 years.

What skills will be necessary for the person / team / firm providing the report?

- The ability to read and interpret technical documents and drawings.
- The education, experience and knowledge to be able to conduct on site inspections of building components and provide a reliable assessment of their condition and remaining life expectancy.
- A knowledge of building systems, building codes, plus possess an understanding of material defects, product compatibility, product availability and new technologies.
- An understanding of the structure and governance of strata corporations and their legislated obligations for maintenance, repair and replacement of components, with an understanding of the application of strata corporations that have duly constituted sections, air parcel agreements, and multiple strata corporations that share joint facilities.
- An understanding of strata corporation financial obligations for annual budgets, contingency reserve funds and special levies.
- The ability to financially project and prepare at least three different cash flow models over 30 years.

Who do we hire to do the depreciation report?

Several of the following professions may have the skills and qualifications necessary to prepare a depreciation report.

- A person who is a registered professional engineer with the Association of Professional Engineers and Geoscientists of B.C.
- A person who holds a certificate of practice within the meaning of the Architects Act of BC
- A person who is a member of the Real Estate Institute of Canada and holds the designation of a certified reserve planner
- A person who is a member of the Appraisal Institute of Canada
- A person who is a member of the Canadian Institute of Quantity Surveyors and holds the designation of professional quantity surveyor.
- Other persons who meet the qualifications and skills required.

Any one of the above designations unto itself is not a complete representation of a person's qualifications or skills. A depreciation report requires technical, financial planning, and management skills. This combination of expertise may be difficult to find in one individual. A review of the experience of the person, references, the ability to provide errors and omission insurance, samples of reports and any other relevant documentation that attests to the knowledge and competency of the person are all a part of finding the right person to conduct your depreciation report.

Do the Regulations permit our strata corporation to conduct our own Depreciation Report?

Technically, the regulations do not prohibit a strata corporation from preparing their own depreciation report; however, consider the requirements of the Act & Regulations and the liabilities first. A person (when applied also means the consulting firm or group of certified professionals who make the proposal) is going to have to be identified as providing the report. If it is the strata corporation providing their own report, then it will be disclosed in the report that the information has been provided by the strata corporation, and/or specific individuals. You will have to disclose in the report who that is and the liability, qualifications and competency of that person. In addition to providing a planning tool for renewals, maintenance and financial planning for the strata corporation, the report also imposes a level of liability on the strata corporation for accuracy. Remember that the report may be used by insurance providers, mortgage providers and mortgage insurers, and most of all, buyers. This is an official report, and will be used to determine a buyer's qualifications for a mortgage, to establish risk for insurers, and for buyers to determine their future liabilities, before they make a decision or make an offer for purchase. Throughout all of these transactions, the strata corporation is exposed to liability.

How does a strata corporation manage the liabilities of possible inaccurate information or errors in reporting information?

Ultimately, the strata corporation and the person(s) in the strata corporation who do the depreciation report are left with the complete scope of liability with no recourse against a 3rd party. If there is an error, resulting in an action for damages against the corporation, does the strata corporation have any coverage under the directors and officers liability insurance, with respects to having provided this service? Every insurance policy has unique terms, conditions and exclusions, and before a strata corporation ventures into creating and providing the depreciation report, they are advised to contact their insurance broker to determine the extent of coverage under these conditions.

Who makes the decision to provide your own report?

Before you perform your own service work, has this been a decision of the strata council or the owners at a general meeting, and are they aware that they are assuming these liabilities before they make this decision? The Strata Property Act holds council members to a standard to exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances; however, these conditions are not likely that of a volunteer in light of the conditions set out by the regulations. *SPA 31(b)* The Regulations, 6.2 (6) set out the interpretation of a "qualified person" to mean any person who has the knowledge and expertise to understand the individual components, scope and complexity of the strata corporation's common property, common asset 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).

Can our strata corporation be exempt from the need for a depreciation report and what are the implications of such a decision?

One of the most valuable benefits of a depreciation report is the assembled inventory of common property, common assets, plus the portions of the limited common property and the strata lot that the strata corporation is going to have to repair, maintain and replace. There are many strata corporations that have operated with limited function under the *Strata Property Act*. The new regulations impose an additional obligation that the strata corporation complies with the regulation. Strata corporations of five or more units are required to provide a depreciation report by December 13, 2013. However, a strata corporation of five or more units may be exempted, if the strata corporation annually passes a three quarters vote at a general meeting. This will require the strata corporation to include the exact wording of a three quarters vote resolution with the notice of the general meeting and on the agenda. The minutes will then reflect the results of the three quarters vote.

However, before your strata corporation considers an exemption, consider the implications. Depreciation reports are going to be a widely used tool to manage risk for buyers purchasing in a strata corporation. A buyer and their mortgage provider or mortgage insurer may have a keen interest in a depreciation report. The absence of a report may make it more difficult for an owner to sell their unit – financial institutions may be reluctant to lend if possible special levies and other future costs are unknown. Also, buyers will be using depreciation reports to determine the accuracy of the asking price. The absence of a depreciation report may impose restrictions on the property that limit the ability to sell.

If we are in the process of completing our depreciation report, what information do we include with the Form B?

The Form B Information Certificate, Section 59 of the *Strata Property Act*, is a document completed by the strata corporation/strata agent that discloses the specified information about the strata corporation and the strata lot for only that date of issue. If the strata corporation does not have a recent depreciation report completed, then implication of a pending report should not be disclosed. The conditions, details and financial information of pending reports would not be accurate and are subject to change until the report is received from the person, consultant, company providing the report. Once the strata corporation, council/strata agent has received the report, it must be included with a Form B.

Enclosed:

- Sample: Depreciation Report Request for Proposal
- Addendum: *Strata Property Act* and Regulations

SAMPLE: DEPRECIATION REPORT REQUEST FOR PROPOSAL:

PART ONE: TO BE PROVIDED BY THE STRATA CORPORATION

The owners, Strata Plan (ABC1234) are requesting proposals for a depreciation report that meet the conditions and provisions of the B.C. *Strata Property Act* & Regulations.

1. PLEASE SEND ALL PROPOSALS TO THE FOLLOWING: Email Address Mailing Address Both

Email: _____

Mailing address: _____

2. THE STRATA CORPORATION IS SELF MANAGED _____ OR CONTRACTS STRATA MANAGEMENT _____

If applicable, provide the name of the strata manager , strata management company and contact info:

3. CONTACT PERSON FOR THE PURPOSE OF SUBMISSIONS & QUESTIONS:

Name: _____

Phone #: _____ Alternate phone #: _____

Email: _____ Fax #: _____

4. THE STRATA CORPORATION CONSISTS OF THE FOLLOWING INFORMATION:

Number of buildings: _____ Total number of Strata lots: _____

Sectioned strata? yes no Air parcel Agreement? yes no

Number of stories _____ Number of parade levels: _____

Number of windows per floor: _____ Emergency Generator: yes no

Type of roof: _____ Age of roof: _____

Number of Elevators: _____ Elevator cab / hydraulic upgrade: yes no / year: _____

5. PLEASE INDICATE AS APPROPRIATE:

- Type of strata corporation: residential commercial mixed use industrial
to be confirmed
- Balconies: yes no / open enclosed mixed
- Facilities: Laundry room recreational facilities guest room to be confirmed
- Utilities: water sewage energy septic to be confirmed
- Amenities: Parkade(s) elevators air conditioning to be confirmed
- Green Building Components: yes no to be confirmed
- Phased development: yes no to be confirmed
- Type of construction: wood frame concrete other _____ to be confirmed

6. DATE OF FIRST OCCUPANCY: _____

7. BYLAWS ATTACHED? yes no / hard copy electronic copy available

8. REGISTERED STRATA PLAN ATTACHED? yes no / hard copy electronic copy available

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9. MULTIPLE STRATA CORPORATIONS SHARING COMMON FACILITIES? yes no

10. PREVIOUS DEPRECIATION REPORTS ARE AVAILABLE: yes no

11. DOCUMENTATION AVAILABLE:

- All relevant documentation
- Some relevant documentation
- Unknown
- Most relevant documentation
- Minimal relevant documentation

PART TWO: TO BE COMPLETED BY THE PERSON, TEAM OR FIRM PROVIDING THE DEPRECIATION REPORT PROPOSAL

1. INDICATE YOUR RELATIONSHIP WITH THE STRATA CORPORATION, INCLUDING ANY RELATIONSHIP WITH THE STRATA MANAGEMENT COMPANY ACTING AS THE AGENT OF THE STRATA CORPORATION:

2. INDICATE WHETHER YOU ARE COVERED BY ERRORS AND OMISSIONS INSURANCE FOR THE PURPOSE OF PROVIDING DEPRECIATION PLANS: yes no

NOTE: A copy of the errors & omissions insurance policy, verifying the coverage of the person /team / firm preparing the depreciation report, may be required from the successful submission

3. INDICATE THE PROPOSED TOTAL COST FOR PROVIDING THE REPORT: _____

4. INDICATE THE ESTIMATED TOTAL COST FOR THE 3 YEAR RENEWAL / UPDATE _____

5. INDICATE THE SERVICES THAT YOU WILL PROVIDE WITH THE REPORT: _____

6. WILL THE DEPRECIATION REPORT BE PROVIDED AN ELECTRONICALLY? yes no

7. ARE COPIES OF PREVIOUS DEPRECIATION REPORTS CONDUCTED BY THE PERSON / TEAM / FIRM AVAILABLE FOR REVIEW? yes no

8. PLEASE INDICATE THE PREVIOUS EXPERIENCE OF THE PERSON / TEAM / FIRM PROVIDING THE DEPRECIATION REPORT: _____

ALL INFORMATION EXCHANGED IN THE PROCESS OF REQUESTING AND RECEIVING INFORMATION FOR THE PURPOSE OF PROPOSALS AND CONTRACTS IS PROTECTED UNDER THE PERSONAL INFORMATION PROTECTION ACT OF BC, AND THE STRATA CORPORATION RETAINS ALL INFORMATION FOR IT'S SOLE USE. INFORMATION CANNOT BE SHARED OR COPIED TO ANY 3RD PARTY WITHOUT THE EXPLICIT WRITTEN APPROVAL OF THE STRATA CORPORATION. THE STRATA CORPORATION RESERVES THE RIGHT TO SELECT OR DECLINE ANY OR ALL OF THE APPLICANTS AT THEIR SOLE DISCRETION.

* This Request for Proposal is available in Word format – please contact info@choa.bc.ca for a copy

ADDENDUM: Strata Property Act and Regulations

Effective December 13, 2011 Section 94 of the *Strata Property Act* now reads:

- 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 sub section (3) (a), waived the requirement under this section 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 sub section (2) to obtain a depreciation report on or before a certain date if
 - a) the strata corporation, by a resolution passed by $\frac{3}{4}$ 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.

Effective December 13, 2011 Sections of the Updated *Strata Property Regulations* now reads:

Contingency reserve fund contribution in first annual budget

- 3.4** For the purposes of section 93 of the Act, the amount of the annual contribution to the contingency reserve fund for the fiscal year following the first annual general meeting must be determined as follows:
- (a) if the amount of money in the contingency reserve fund at the time of the first annual general meeting is less than 25% of the estimated operating expenses for the 12 month period set out in the interim budget, the annual contribution to the contingency reserve fund under the first annual budget must be at least 10% of the total amount budgeted for the contribution to the operating fund for the 12 month period covered by that budget;
 - (b) if the amount of money in the contingency reserve fund at the time of the first annual general meeting is at least 25% of the estimated operating expenses for the 12 month period set out in the interim budget, additional contributions to the

contingency reserve fund may be made as part of the annual budget approval process after consideration of the depreciation report, if any, obtained under section 94 of the Act,

2 Sections 6.1 and 6.2 are repealed and the following substituted:

Contributions to contingency reserve fund

6.1 For the purposes of section 93 of the Act, the amount of the annual contribution to the contingency reserve fund for a fiscal year, other than the fiscal year following the first annual general meeting, must be determined as follows:

- (a) if the amount of money in the contingency reserve fund at the end of any fiscal year after the first annual general meeting is less than 25% of the total amount budgeted for the contribution to the operating fund for the fiscal year that has just ended, the annual contribution to the contingency reserve fund for the current fiscal year must be at least the lesser of
 - (i) 10% of the total amount budgeted for the contribution to the operating fund for the current fiscal year, and
 - (ii) the amount required to bring the contingency reserve fund to at least 25% of the total amount budgeted for the contribution to the operating fund for the current fiscal year:
- (b) if the amount of money in the contingency reserve fund at the end of any fiscal year after the first annual general meeting is equal to or greater than 25% of the total amount budgeted for the contribution to the operating fund for the fiscal year that has just ended, additional contributions to the contingency reserve fund may be made as part of the annual budget approval process after consideration of the depreciation report, if any, obtained under section 94 of the Act.

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 property, 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.

SCHEDULE 2 - IN EFFECT MARCH 1, 2012 Order in Council No.623 Approved and Ordered Dec 13, 2011

1 Form B of the Strata Property Regulation, B.C. Reg. 43/2000, is amended by adding the following paragraph (1):

Required Attachments

In addition to attachments mentioned above, section 59(4) of the Strata Property Act requires that copies of the following must be attached to this Information Certificate:

- The rules of the strata corporation;
- The current budget of the strata corporation;
- The owner developer’s Rental Disclosure Statement under section 139, if any; and
- The most recent depreciation report, if any, obtained by the strata corporation under section 94