

# Forms, Finances and the CRT

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[www.choa.bc.ca](http://www.choa.bc.ca)  
1.877.353.2462

Presented by:  
Tony Gioventu  
Executive Director CHOA  
[tony@choa.bc.ca](mailto:tony@choa.bc.ca)



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Branch of BC Housing

Thank you to the provincial Homeowner Protection Office (HPO), a branch of BC Housing for their generous support of CHOA's educational program.

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Due to the nature of information protected under the *Personal Information Protection Act*, and the confidentiality of each participant and their strata corporation, answers to strata corporation specific questions cannot be given during the seminar.

Should any one who takes the course want legal advice pertaining to any specific matter, circumstances or fact pattern then such party must enter into a solicitor/client relationship with a lawyer for such purpose.

Participants are requested to respect the privacy of those persons attending and participating in the seminars.

# What is a Tribunal ?



Part of the justice system

Does not create precedent



Focused on the specific legislation

# The fundamental purpose of the Tribunal is common law:

CRT **can** order a strata corporation, owner or tenant to:

- do something
- stop doing something
- pay money

The CRT **can't** decide matters that affect land interest or the appointment of an administrator.

# What is the authority of the CRT?

CRT **can** order a strata corporation, owner or tenant to:  
Do or stop doing something

Order a strata corporation to:

- Comply with the bylaws and rules
- Enforce bylaws and rules
- Comply with the Act & Regulations
- Administer and allocate the use of common property and common assets

Order an owner, tenant or occupant to:

- Comply with the bylaws, rules, and the Act & Regulations

# What is the authority of the CRT?

CRT **can** order a strata corporation, owner or tenant to pay money for any of the following:

- Damages
- Costs or losses
- Fees or penalties owing
- Insurance deductibles
- Unauthorized alterations
- Repairs and maintenance to common property and common assets

# What are the fundamental changes that provide better access to justice?

- **Strata Corporations:**
  - no  $\frac{3}{4}$  vote required to start CRT process, it is only a decision of the strata council by majority vote
  - No limit on the financial amount that may be disputed for strata issues
  - Limitation period is paused when initiating notice is issued
  - Low cost, no legal fees or costs are awarded
  - Faster process than court proceeding
  - Early binding resolution of some or all claims with party consent
  - Subject matter experts to resolve and adjudicate disputes

## Summary: Strata Jurisdiction

CRT **can** decide strata property disputes concerning:

1. The interpretation or application of SPA, Regulations, bylaws or Rules
2. The common property or common assets
3. The use or enjoyment of a strata lot
4. Money owing, including fines
5. Actions or threatened action by a strata corporation
6. Decisions of the strata corporation in relation to an owner or tenant
7. The exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting



# Strata Jurisdiction

CRT **can** decide strata property disputes concerning:

1. The interpretation or application of SPA, Regulations, bylaws or Rules
  - The CRT can order a strata corporation to do something, in this case comply with the Strata Property Act and Regulations:
    - Hold meetings and procedures
    - Provide requested records and documents
    - Section 35
    - Provide Forms, Payment/Information Certificate
    - Provide financial information
    - Report financial information correctly

# Strata Jurisdiction

CRT **can** decide strata property disputes concerning:

- The interpretation or application of SPA, Regulations, bylaws or Rules
  - The CRT can order an owner, tenant or occupant to comply with the bylaws, including:
    - Remedying a contravention
    - Paying for damages or unauthorized alterations
    - Restoration unauthorized alterations
    - Paying fines and penalties
    - Comply with the bylaws

# Strata Jurisdiction

CRT **can** decide strata property disputes concerning:

2-3. The common property or common assets or the use or enjoyment of a strata lot

- How common property is allocated for use, such as the fair allocation of parking or storage lockers
- Whether an owner is entitled to exclusive use of property or an alteration to common property
- Whether common property is being properly maintained and repaired
- Whether a bylaw that relates to the maintenance and repair of strata lots, limited common property and common property is enforceable, or being applied fairly

# Strata Jurisdiction

CRT **can** decide strata property disputes concerning:

4. Money owing by either the strata corporation, or an owner, tenant or occupant, relating to;
  - Fines and penalties of bylaws
  - A decision for strata fees or special levies to protect the 2 Year Limitation Period
  - User fees permitted for common facilities such as parking or storage lockers
  - Damages caused by an owner, tenant, occupant
  - Insurance deductibles that are the responsibility of the strata lot owner

# Strata Jurisdiction

CRT **can** decide strata property disputes concerning:

5-6-7

Actions or threatened action by a strata corporation

- Decisions of the strata corporation in relation to an owner or tenant, specifically unfair decisions
- The exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting

# Strata Jurisdiction

CRT **can** decide strata property disputes concerning:

Decisions in relation to an owner or tenant.

The interpretation or application of SPA,  
Regulations, bylaws or Rules

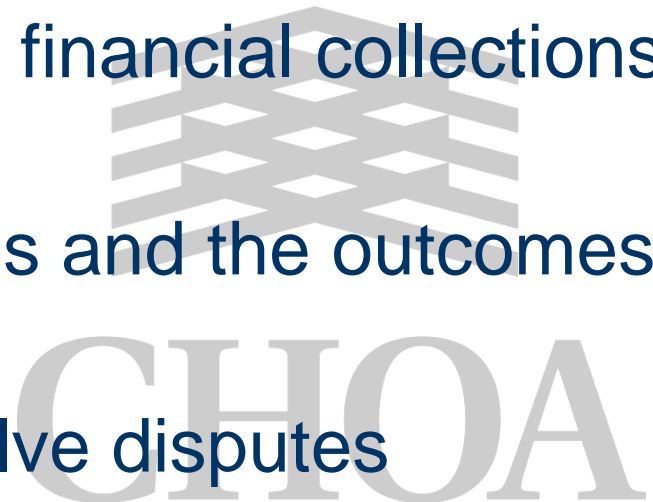
- The CRT can order a strata corporation to do something regarding the application of bylaws;
- Enforce a bylaw
- Enforce bylaws fairly
- Determine whether a bylaw is enforceable or
- Determine whether a bylaw has been enforced fairly and in compliance with the Act & Regulations

# What are the steps we need to take to manage CRT claims?

- Decision making by the strata council is essential:

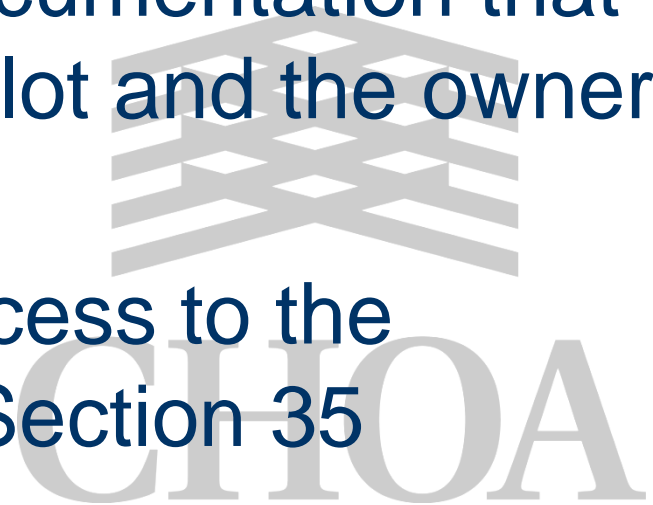
Where did we get the authority to.....

- Record decisions of bylaw enforcement and actions creating the authority to act
- Record decisions relating to financial collections and debt dispute
- Record decisions of hearings and the outcomes at council meetings
- Encourage hearings to resolve disputes



# Record keeping is critical!

- Maintain copies of correspondence relating to bylaw enforcement, financial disputes, collections, allocations for exclusive use, alterations
- Maintain suite files of documentation that relates solely to a strata lot and the owner, tenant, occupants
- Maintain and provide access to the records required under Section 35



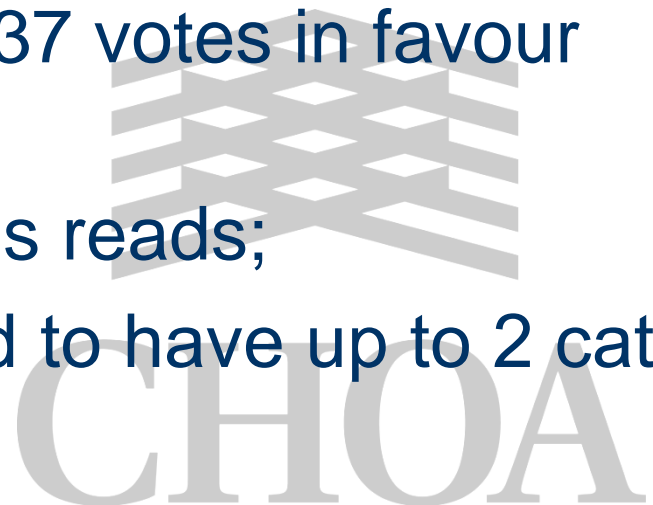


# Typical Claims

- Challenge of a bylaw. Whether it was passed correctly, filed properly, or is enforceable
- Challenge of amounts claimed on Form F Payment Certificates. The amounts can be paid in trust to the strata corporation, to be accounted and held separately, while the CRT complaint is being resolved
- Challenge of fines imposed, whether they are fair, enforceable, and were applied correctly
- Order for the strata to comply with the Act: Hold meetings, financial reports, budgets, disclose information, hardship applications, hearings and decisions

# Enforceable bylaw?

- The notice package is issued with the following proposed bylaw amendment:
- “ every strata lot is permitted to have up to 2 cats or 2 dogs”
- The minutes read: “ the poet amendment bylaws was passed by  $\frac{3}{4}$  vote with 37 votes in favour and 5 votes opposed”
- The filed bylaw in Land Titles reads;
- “ every strata lot is permitted to have up to 2 cats and 2 dogs”



# General Meeting Accuracy

- the proposed agenda with resolutions (bylaws)
- report on insurance
- proposed budget for the next fiscal year
- financial statements
- proposed special levies for  $\frac{3}{4}$  vote (108)
- proposed majority vote expenses for recommended depreciation costs (CRF)
- exact wording of proposed bylaws
- any new rules to be ratified

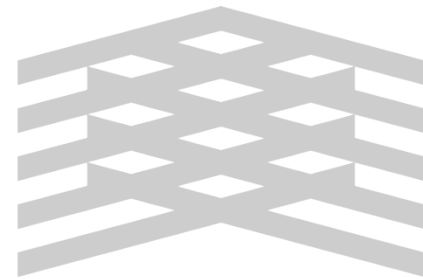


# **Strata Fees & Special Levies: Accurate calculations**

- The annual contribution to strata fees for the operating budget and the contingency reserve contributions are based on the Schedule of Unit Entitlement (SUE )or any amendments that have been passed by unanimous vote and filed in the proper form with the Land Title Registry. The same formula applies to special levies.
- The Schedule of Unit Entitlement is published on the Registered Strata plan or a Separate Schedule Filed in the Land Title Registry

# Strata Fees: Example

- 4 unit strata corporation SUE
- Strata Lot # 1                      1,129
- Strata Lot # 2                      1,050
- Strata Lot # 3                      1,020
- Strata Lot # 4                      1,080
- Total UE                              4,279



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# Strata Fees: Example

- 4 unit strata corporation SUE

Total Approved annual budget 12,000

Total annual CRF contribution 2,400

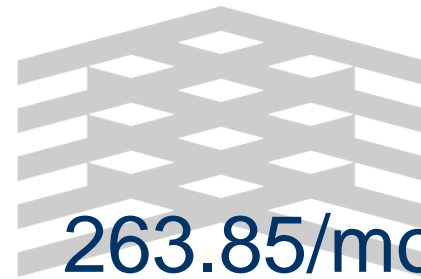
Total 14,400

SL # 1

$1,129/4,279 \times 12,000/12 = 263.85/\text{month}$

$1,129/4,279 \times 2,400/12 = 52.77/\text{month}$

Total monthly fee = 316.62/month



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# Financial Report – Operating and Contingency Reserve Fund

- Regulation 6.6 & 6.7
  - Opening and current balances
  - Details of all income
  - Details of all expenses
  - Closing balances
- 
- **Separate financial report of Special Levies**
  - Details of all income
  - Details of all expenses

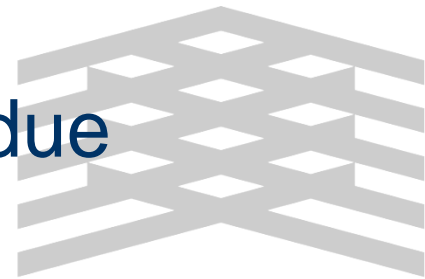


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# Special Levies $\frac{3}{4}$ votes

- SPA 108
- The purpose of the levy
- Total amount
- Method to calculate each SL share ( UE)
- Amount of each strata lot
- Date(s) by which the levy is due

*\*Each special levy must be calculated, accounted for a reported separately*



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# Special Levies Council Decision

- Insurance Deductible, council decision
- SPA 108
- The purpose of the levy
- Total amount
- Method to calculate each SL share ( UE)
- Amount of each strata lot
- Date(s) by which the levy is due

*\*Each special levy must be calculated, accounted for a reported separately*



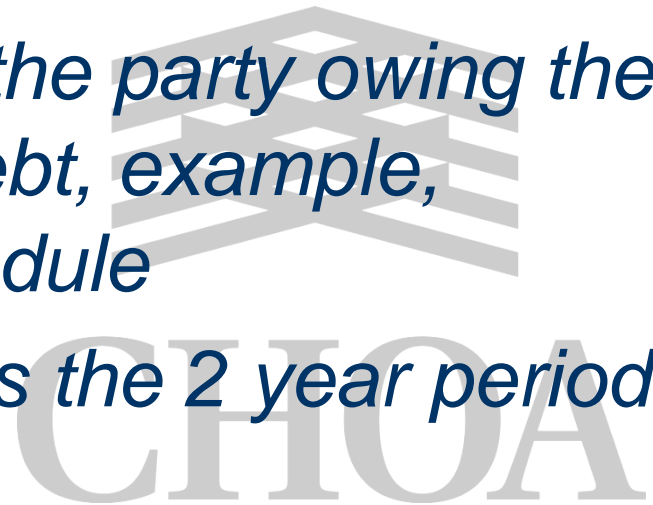
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# Special Levies Council Decision

- Insurance Deductible, example:
- *“ Whereas the strata corporation are required to pay an insurance deductible in the amount of \$10,000 for a water escape, be it resolved by majority vote of council, a special levy in the total amount of \$10,000 is due and payable on November 1, 2016. Each strata lot shall pay the amount based on the unit entitlement based on the following schedule:*
- *( show the share of each strata lot )*

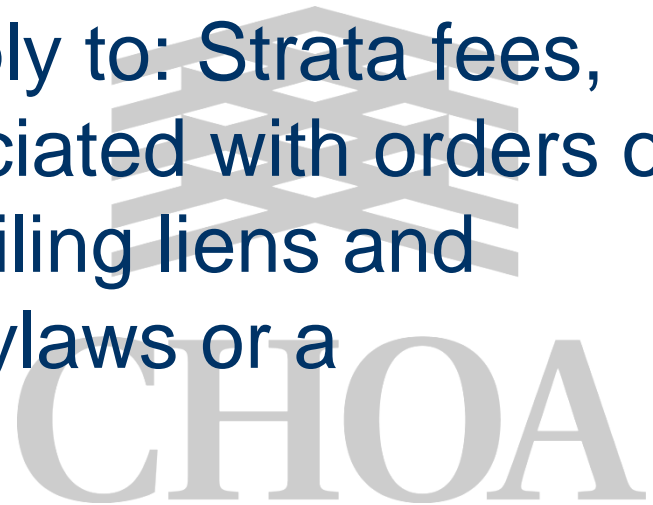
# Collections

- *The Limitation Act sets a maximum of 2 years to commence an action for the collection of an unpaid debt owing.*
- *The period begins when the amount or claim is generated*
- *The period may extend if the party owing the debt acknowledges the debt, example, agrees to a payment schedule*
- *An action in the CRT stops the 2 year period during the proceeding*



# Secure Debts

- The Strata Property Act grants a super priority to strata corporations for debts that may be secured through the filing of a lien or application to the courts for an order for sale of the strata lot to pay the debt.
- These conditions only apply to: Strata fees, special levies, costs associated with orders of an authority, the costs of filing liens and interest permitted in the bylaws or a resolution.



# Unsecured Debts: Impact on the Form F

- Unsecured debts fall into two categories
- Fines, penalties, the cost to enforce bylaws, User fees, and costs owing for alteration agreements or contractual agreements
- Damages and insurance deductibles



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# Unsecured Debts

- Fines, penalties, the cost to enforce bylaws, User fees, and costs owing for alteration agreements
- These may be collected and declared on Form F requests and through actions in the Civil Resolution Tribunal, Provincial Court or the Supreme Court of BC



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# Unsecured Debts

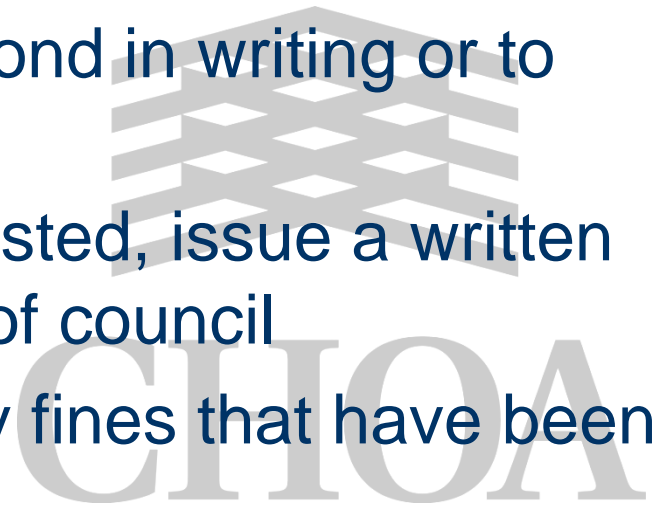
- Damages and insurance deductibles
- May be collected through an action through the Civil Resolution Tribunal or BC Provincial Court, Supreme Court Damages and insurance deductibles may not be included on a Form F unless there is a court, arbitration or CRT decision.



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# Procedures for bylaws enforcement

- Enforcing Bylaws & Rules
- Before a strata corporation imposes a fine for the violation of a bylaw they must:
  1. Give the person notice in writing of the complaint
  2. Permit the person to respond in writing or to request a hearing
  3. Grant the hearing if requested, issue a written response of the decision of council
  4. Issue written notice of any fines that have been imposed



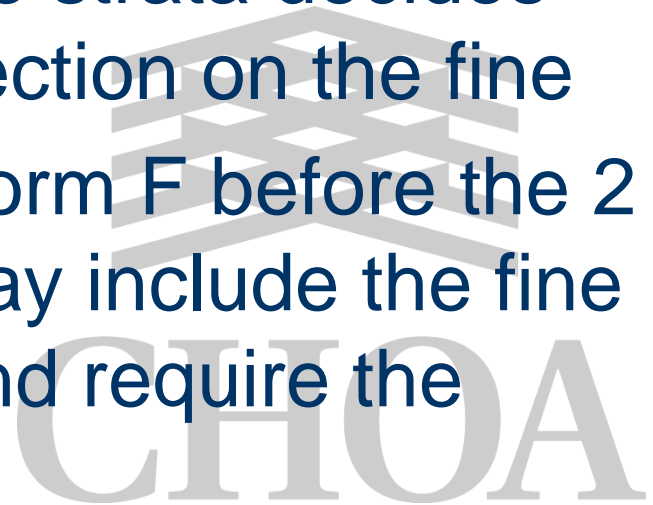


# Scenario # 1 Bylaw enforcement

1. SL6 files a complaint about noise coming from SL 10
2. The strata sends notice of complaint to SL 10 advising of the particulars of the complaint
3. SL 10 requests a hearing, at the hearing provides information they were not making too much noise but had a family party
4. Council meet and decide to impose a \$200 fine as this is the third such complaint

## Procedures for bylaws enforcement

5. The minutes show a fine was imposed against SL 10 for a violation of Bylaw 10
6. The fine is added to the receivables report and dated for the 2 year limitation period.
7. Before 2 years expire, the strata decides how to proceed with collection on the fine
8. If the owner requires a Form F before the 2 year period, the strata may include the fine amount on the Form F and require the amount be paid.



## Scenario # 2

1. Strata lot 88 has a flood from a failed washing machine hose. Insurance are contacted and the claim proceeds. There is a \$5,000 deductible common expense of the strata corporation.
2. The strata council deems the owner is responsible and issue a demand notice for payment
3. The owner/their insurance pays the deductible or they refuse to pay the amount

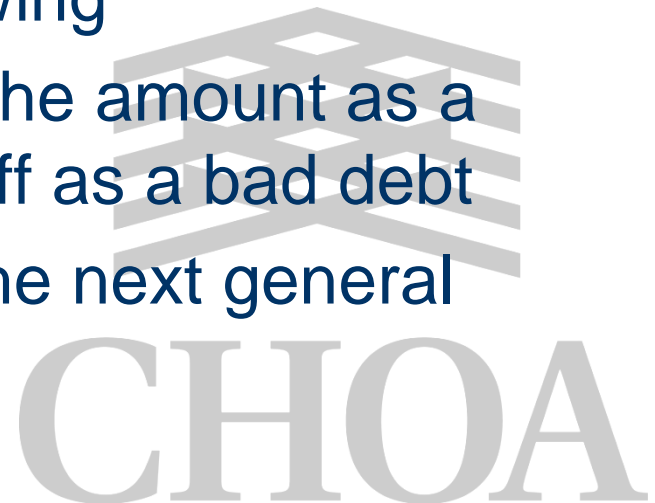
# Procedures for collections

If they refuse to pay the amount, the strata adds the amount to the receivables of the strata corporation, the council decide on how to collect the amount.

- The amount cannot be collected on a Form F
- The strata council by majority vote, may decide to proceed with a CRT action to obtain a decision to secure and collect the amount
- Once a decision is obtained, the strata corporation may register the decision in BC Court Registry then on the strata lot title

# What happens if you don't Act?

1. The owner owes a \$5,000 insurance deductible from January 2016.
2. The owner is selling and requests a Form F payment Certificate valid for 60 days.
3. The strata has taken no action and cannot include the \$5,000 on the amount owing
4. The strata corporation pays the amount as a common expense, writes it off as a bad debt
5. The strata owners revolt at the next general meeting.....

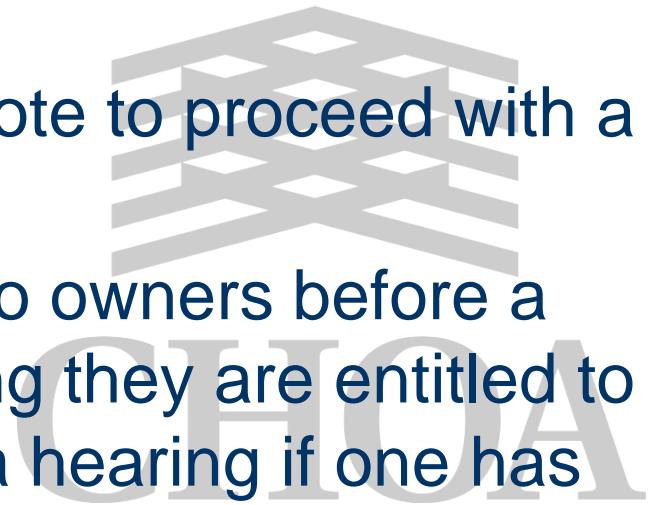


# What happens if you do Act?

1. The owner owes a \$5,000 insurance deductible from January 2016.
2. In September 2016 the strata council voted by majority vote to commence a CRT claim to collect the \$5,000 and was successful in their claim
3. The decision of the CRT was registered in the court registry and registered against the strata lot
4. The owner is selling and requests a Form F, and the strata corporation may withhold the form or include the amount on the Form with an agreement for an undertaking for payment before any transaction occurs.

# Procedures for collections

- Maintain a receivables chart for all debts
- Confirm they have been applied properly
- Review charges monthly and confirm the dates
- Form decisions as council motions recorded in council minutes to impose fines, penalties or actions for collection
- Council decision by majority vote to proceed with a CRT complaint
- Issue at least 14 days notice to owners before a CRT complaint is filed, advising they are entitled to respond in writing or request a hearing if one has not been requested previously



1.SL#	2.Date	3.Strata Fee	4.Interest	5.Levy	6.Fines	7.Insurance/damages	8.Legal-Admin	9.REF#
7	7.07.14					\$5,000.00	\$500.00	8.15.14
14*	2.01.16	299.40	2.5		25			2.25.16
25**	12.7.15					5,000		12.19.15
178	11.01.15	214.55	1.77		25			11.15.15
178	12.01.15	214.55	1.77		25			12.19.15
178	1.15.15	214.55	1.77		25			1.20.15
178	2.01.15	214.55	1.77		25			2.25.15
22	12.01.15		127.50	\$2,555.00				12.15.15
22	01.15.15		127.50					01.15.15
Totals								



# The Form F Payment Certificate - 60 days

- How the CRT will change the collection process
- An owner requests a Form F Payment Certificate
- The strata corporation issues the certificate with a charge of \$1,500 for damages to the building resulting from an unauthorized alteration in 2010
- The owner disputes the amount
- Commences a claim through the CRT
- Pays it to the strata corporation in trust
- The strata must issue the clear Form F and separately hold and account for the funds in trust until the dispute is finished



# The Form B Information Certificate

- Documents you need to complete a Form B
- Financial Statements, Levy reports
- Contingency Balance
- Alteration Agreements
- Rental inventory of all rentals
- Strata plan showing property allocations
- Parking Spaces, leases, licenses
- Storage Lockers, leases, licenses
- List of all court actions and orders against the strata
- Bylaws, rules, depreciation reports
- Minutes of all meetings



# The Form B Information Certificate

- a. Monthly strata fees ( total )
- b. Any amounts owing to the strata
- c. Agreements – must be attached
- d. Future special levies-approved
- e. Budget deficits
- f. CRF balance minus approved expenses
- g. Bylaw amendments not filed
- h. LTO resolutions not filed
- h.1 Winding up resolutions passed



# The Form B Information Certificate

- i. Notices for  $\frac{3}{4}$ , 80% or unanimous resolutions that have not been voted on
- j. Party to any court, crt or arbitration proceeding?

Any orders against the strata?

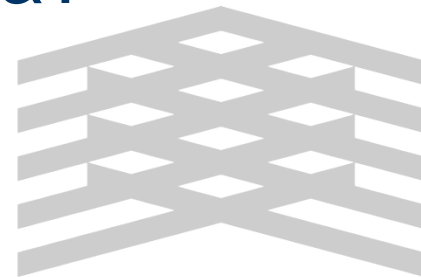
- k. Work orders or notices?

Local Government

Fire Marshall

BC Safety Authority

WorkSafe



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# The Form B Information Certificate

j. Party to any court, tribunal or arbitration proceeding?

*What does a “party” imply?*

*-ongoing action involving the strata*

*-this could materially affect an owner's interest in a purchase*

Any orders against the strata?

*-decisions against the strata corporation*



# The Form B Information Certificate

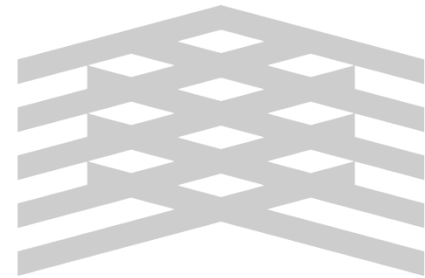
L. Number of strata lots rented total: this is the total number of Form K's the strata has on record. Every rental must provide a Form K

M. Parking stall allocations

N. Storage locker allocations

You must attach:

Rules, current budget, RDS, and complete copy of the most recent Depreciation Report



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## Where it goes wrong? Scenario # 3

- ① A buyer requests Form B for SL 52
- ② Form B discloses parking spaces 52 & 53 are allocated by LCP to SL 52
- ③ Buyer takes possession and moves in to discover 52 & 53 are allocated by lease to another strata lot & they only have space 14
- ④ Buyer commences a CRT complaint against the strata and manager for the error, and claims a \$50,000 loss of value of a parking spot

# Thank you



Condominium Home Owners' Association

1.877.353.2462

[www.choa.bc.ca](http://www.choa.bc.ca)

200-65 Richmond St  
New Westminster, B.C.  
V3J 5Y5  
604.584.2462

222-1175 Cook St.  
Victoria, B.C.  
V8V 4A1  
250.381.9088

26-1873 Spall Road  
Kelowna, B.C.  
V1Y 4R2  
250.868.1195



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