

*The Committee of Council submit for the consideration of
His Honour the Lieutenant-Governor a Bill intituled
"Strata Titles Amendment Act, 1976"*

*and advise that the same be transmitted by Message to the
Legislative Assembly.*

Victoria, 8th day of June, A.D. 1976

W. R. Bennett
Presiding Member of the Executive Council.

Approved this 8th day of June, A.D. 1976

W. S. Deer
Lieutenant-Governor.

wrb

W S Owen

Lieutenant-Governor

First Session, Thirty-first Parliament
25 Elizabeth II, 1976
Legislative Assembly of British Columbia

BILL 73

STRATA TITLES AMENDMENT ACT, 1976

Honourable Minister of Housing

Printed by K. M. MACDONALD, Printer to the Queen's Most Excellent Majesty
in right of the Province of British Columbia.
1976

EXPLANATORY NOTES

SECTION 1: "Owner" is presently defined as follows:
"owner" means the person registered in the books of any Land Registry Office as owner in fee-simple of a strata lot, whether entitled thereto in his own right or in representative capacity or otherwise, and includes a purchaser as defined by this section; .
The definition of "special resolution" is amended for greater clarity.

SECTION 2: Section 3 (4) (b) is amended for greater clarity. Subsection (4) (c) is amended to allow patios to be included in a strata lot. By the amendment to (5) (d) all persons having a charge on the land will be required to sign a strata plan being deposited in the Land Registry Office.

SECTION 3: At present support structure strata plans can be used as a method of subdividing for single family lots with subdivision approval.

SECTION 4: Section 5 (1) presently reads:
(1) Upon the conversion into strata lots of a previously occupied building, or of a building in respect of which no building permit was issued on the basis that the building was to be included in a strata plan, the approving authority may, notwithstanding any other Act, approve the strata plan, or refuse to approve it, or approve it subject to such terms and conditions as the approving authority considers appropriate, and its decision is final.

BILL

No. 73]

[1976

Strata Titles Amendment Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

S.B.C.
1974
c. 89
s. 1.

1. Section 1 of the *Strata Titles Act* is amended
 - (a) in the definition of "owner" by striking out "and includes a purchaser as defined by this section" and substituting "and, where there is an agreement for sale and purchase of the strata lot, includes the registered holder of the last registered agreement for sale and purchase",
 - (b) in the definition of "special resolution" by inserting "of the votes" after "three-fourths", and
 - (c) by repealing the definition of "support structure" and substituting the following:

"support structure" means, where the owner-developer intends to provide only support structures, a structure erected as a foundation or base upon which improvements may be constructed or erected, or a structure with reference to which the boundaries of a strata lot may be determined pursuant to section 3 (4) (b);

"support structure strata plan" means a strata plan where the boundaries of the strata lots are established by reference to support structures and not by reference to the floors, walls and ceilings of an existing building or buildings; .
2. Section 3 is amended
 - (a) in subsection (4) (b) by striking out "where the owner-developer intends to provide only support structures," and substituting "where the strata plan is a support structure strata plan,"
 - (b) in subsection (4) (c) by inserting "patio," after "balconies," and
 - (c) in subsection (5) (d) by striking out "mortgagee," and substituting "the holder of any registered charge on the land,".
3. Section 4 is amended by adding the following after subsection (2):

(3) In the case of a support structure strata plan, the approving officer shall, subject to the regulations, approve the strata plan prior to the plan being tendered for deposit in the Land Registry Office.
4. Section 5 (1) is amended by striking out "or of a building in respect of which no building permit was issued on the basis that the building was to be included in a strata plan,".

s. 3.

s. 4.

s. 5.

SECTION 5: Section 9 (10a) is revised for greater clarity and to require a special resolution before a strata corporation can undertake legal proceedings on matters affecting individual strata lots.

SECTION 6: This amendment removes the right of a strata corporation to restrict the number of strata lots in a development that can be rented out by the individual owners.

SECTION 7: Section 19 (2) (b) presently reads:

(2) The strata corporation may

(b) pay on behalf of the owner any taxes, assessments, rates, and charges required to be paid by the owner; .

SECTION 8: Section 21 (1) presently reads:

(1) Where an owner defaults in the payment of his share of the common expenses, the strata corporation may, upon a resolution passed by a majority, and after seven days' notice to the owner, authorize the termination of the utilities services to the defaulting owner.

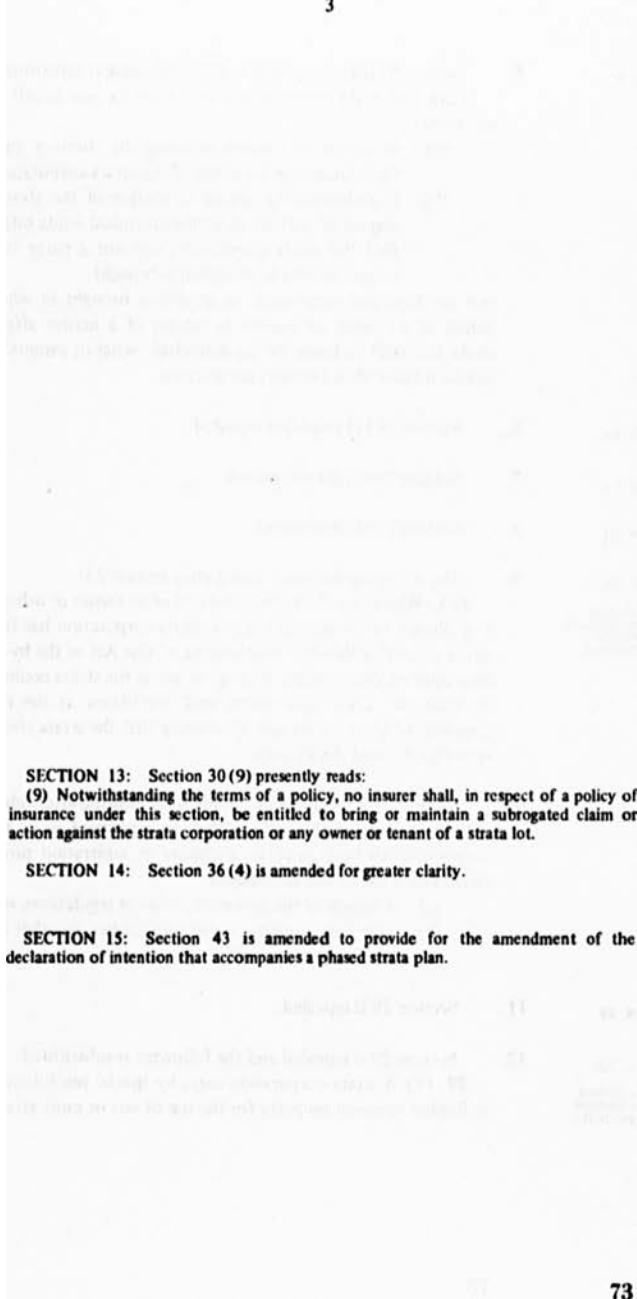
SECTION 9: Appointment of strata council by minister where corporation has failed to do so.

SECTION 10: Self-explanatory.

SECTION 11: Section 28 allows a separate organization to be formed within a strata corporation to regulate a designated group of strata lots.

SECTION 12: Section 29 is revised. Under the present section the establishment of an area as limited common property is done by an ordinary resolution of the strata council. Subsection (4) is new.

- s. 9. 5. Section 9 (10a) is repealed and the following is substituted:
 (10a) The strata corporation may sue on its own behalf and on behalf of any owner
- (a) in respect of matters affecting the common property, common facilities, and other assets of the strata corporation, and
 - (b) if authorized by special resolution of the strata corporation, in respect of matters affecting individual strata lots notwithstanding that the strata corporation was not a party to the contract in respect of which the action is brought
- and the legal and court costs in an action brought in whole or in part on behalf of an owner or owners in respect of a matter affecting his or their strata lots shall be borne by the individual owner or owners in the proportion in which his or their interests are affected.
- s. 18. 6. Section 18 (2) and (3) is repealed.
- s. 19. 7. Section 19 (2) (b) is repealed.
- s. 21. 8. Section 21 (1) is repealed.
- s. 23A. 9. The following section is added after section 23:
Failure to appoint strata council.
 23A. Where, on the written request of an owner or other interested party, it is shown to the minister that a strata corporation has failed to appoint a strata council within the time limited by this Act or the by-laws, the minister may appoint one or more persons to act as the strata council for such period of time and upon such terms and conditions as the minister considers appropriate for the purposes of insuring that the strata corporation complies with this Act and the by-laws.
- s. 24. 10. Section 24 is amended by adding the following after subsection (12):
 (13) Nothing in this section shall be construed so as to require a strata corporation to be a party to a dispute or arbitration proceedings between owners only that is not in respect of
- (a) a breach of the by-laws or rules or regulations, or
 - (b) common property, common facilities, or other assets of the strata corporation.
- s. 28. 11. Section 28 is repealed.
- s. 29. 12. Section 29 is repealed and the following is substituted:
Limited common property.
 29. (1) A strata corporation may, by special resolution, designate an area as limited common property for the use of one or more strata lot owners if



SECTION 13: Section 30(9) presently reads:
(9) Notwithstanding the terms of a policy, no insurer shall, in respect of a policy of insurance under this section, be entitled to bring or maintain a subrogated claim or action against the strata corporation or any owner or tenant of a strata lot.

SECTION 14: Section 36(4) is amended for greater clarity.

SECTION 15: Section 43 is amended to provide for the amendment of the declaration of intention that accompanies a phased strata plan.

- (a) the designation as limited common property does not inequitably exclude other owners from the use and enjoyment of that common property, and
- (b) the limited common property is subject to the rights of ingress, egress and other uses necessary to members and to employees and agents of the strata corporation.

(2) A special resolution of a strata corporation

- (a) designating an area as limited common property shall be filed in the Land Registry Office and shall be accompanied by a sketch map defining the area and specifying every strata lot, the owner of which has the right to use the common property, or
- (b) removing the designation of limited common property in respect of any area shall be filed in the Land Registry Office.

(3) A special resolution of a strata corporation granting the exclusive use of a part of the common property to the owner of a particular strata lot shall be filed in the Land Registry Office, and, when it is filed, shall be accompanied by a sketch map defining the area of exclusive use and specifying the strata lot in respect of which the grant has been made.

(4) Where a special resolution under subsection (3) has been filed in the Land Registry Office, a special resolution of a strata corporation removing a grant of exclusive use shall also be filed in the Land Registry Office.

(5) An owner-developer may at the time of tendering a strata plan for registration designate an area or areas on the strata plan as limited common property for the use of one or more strata lots.

(6) Limited common property may only be removed, added to, or altered by an amendment to the strata plan.

- s. 30. 13. Section 30 (9) is repealed.
- s. 36. 14. Section 36 (4) is amended by striking out "proprietary lease," and substituting "lease, sublease, or assignment of lease, for a term of 3 years or more,".
- s. 43. 15. Section 43 is amended
- (a) by repealing subsection (1) and substituting the following:
43. (1) Where an owner-developer
- (a) does not wish to elect as to whether or not he will proceed with the next phase of the development on the date specified in Form E of the Fourth Schedule, or
 - (b) wishes to amend Form E in the Fourth Schedule,
- he may apply to the approving officer

Delay
in next
phase.

SECTION 16: Section 49 (1) presently reads:

(1) Notwithstanding any other provision of this Act or the by-laws created under this Act, where a phase, other than the first phase, of a phased strata plan is deposited, the strata council of the strata corporation shall call a general meeting of the purchasers of the strata lots included in that phase of the strata plan so deposited within three months after the first conveyance of title to a strata lot in that phase.

SECTION 17: "Ground lease" is presently defined as follows:

"ground lease" means a lease of land made for the purpose of this Part by the Crown, or, if approved by the Lieutenant-Governor in Council under section 58, by the Federal Crown, a municipality, regional district, or other public authority, and registered in the books of the Land Registry Office;

The definition of "lease" is amended for greater certainty of meaning.

SECTION 18: Section 52 (d) relates to an Order in Council under section 58 which is being repealed.

SECTION 19: Section 54 (1) and (2) presently read:

(1) The lessee's interest in his strata lot shall be subject to the right of the Crown or other lessor to purchase that interest at the date of termination or non-renewal of the ground lease.

(2) Where the Crown or other lessor exercises its right to purchase under subsection (1), the purchase price of the lessee's interest in his strata lot shall be

- (a) the price calculated on the basis set out in a schedule filed with the leasehold strata plan; or
- (b) if clause (a) does not apply, its fair market value, and, for the purposes of assessing its fair market value, the interest in the strata lot shall be evaluated as if the lease did not terminate,

and the purchase price shall be arrived at as of the date of termination or non-renewal of the lease.

- (c) for an extension or extensions of the time in which to make the election, or
- (d) for approval for an amendment to Form E in the Fourth Schedule,

as the case may be, and

(b) by adding the following subsections after subsection (3):

(3a) The strata corporation shall be given notice of an application under subsection (1) to amend Form E in the Fourth Schedule and has the right to appear on the application.

(3b) The approving officer, after considering the representation of the owner-developer and of the strata corporation, if any, may approve the amendment of Form E in the Fourth Schedule, with or without changes, and where an amendment is approved, the owner-developer shall file an amended Form E in the Fourth Schedule with the Land Registry Office.

- s. 49. 16. Section 49 (1) is repealed and the following is substituted:
- (1) Notwithstanding any thing in this Act or the by-laws, where a phase, other than the first phase, of a phased strata plan is deposited, the strata council of the strata corporation shall call a general meeting of the owners of the strata lots included in that phase of the strata plan so deposited by the earlier of
- (a) the date that 60% of the strata lots in that phase have been conveyed by the owner-developer, or
 - (b) 9 months after the deposit of that phase of the strata plan.
- s. 51. 17. Section 51 (3) is amended
- (a) in the definition of "ground lease" by striking out "or, if approved by the Lieutenant-Governor in Council under section 58,";
 - (b) in the definition of "lease" by inserting "of a strata lot" after "means a lease", and
 - (c) by adding the following after the definition of "strata lot":
"termination of the lease" means termination of the lease whether by effluxion of time, forfeiture, cancellation, re-entry by the lessor, surrender, or otherwise howsoever, including termination pursuant to section 62 (2).
- s. 52. 18. Section 52 is amended by adding "and" at the end of paragraph (d) and repealing paragraph (e).
- s. 54. 19. Section 54 is amended
- (a) in subsection (1) by inserting "and obligation" after "right", and
 - (b) by repealing subsection (2) and substituting the following:

SECTION 20: Section 55 is amended to provide for arbitration to establish rent where the parties cannot agree on a renewal of a lease under the section.

SECTION 21: A further reference to the Lieutenant-Governor in Council is removed.

SECTION 22: Section 58 provides authority for the order of the Lieutenant-Governor in Council referred to in the definition of "ground lease" above.

SECTION 23: The section presently states that a strata corporation has power to "negotiate" with the Crown.

SECTION 24: The present wording does not reflect the fact that there are 2 distinct leases involved in a leasehold strata arrangement.

SECTION 25: The standard by-laws for strata corporations are amended.

(2) Where the Crown or other lessor purchases the lessee's interest in the strata lot under subsection (1), the purchase price of the lessee's interest in his strata lot shall be its fair market value, and, for the purposes of assessing its fair market value, the interest in the strata lot shall be evaluated as if the lease did not terminate, and the purchase price shall be arrived at as of the date of termination or non-renewal of the lease.

- s. 55. 20. Section 55 is amended by adding the following subsection after subsection (3):
 (4) In the absence of other provisions for determining the rent, terms and conditions during a renewal period of the lease, or if the lessor and lessee cannot agree thereon before the commencement of the renewal period, the rent, terms and conditions for the renewal period shall be determined by arbitration pursuant to the *Arbitration Act*, in which event the rent shall be determined by calculating the market rental value of the strata lot based upon its use as set out in the lease, excluding from the determination the then value of the buildings and other improvements situated in or on the land forming part of the strata lot as if that land was then unimproved.
- s. 56. 21. Section 56 (5) is repealed.
- s. 58. 22. Section 58 is repealed.
- s. 59. 23. Section 59 is amended by striking out "negotiate" and substituting "contract".
- s. 60. 24. Section 60 (1) is amended by striking out "the lease," and substituting "the ground lease or all strata lot leases,".
- First Schedule.** 25. The First Schedule is amended
 (a) by repealing section 1 (h) and substituting the following:
 (h) receive the written permission of the strata council before undertaking alterations to the exterior or structure of the strata lot, but permission shall not be unreasonably withheld. ,
 (b) by repealing sections 5 to 8 and substituting the following:
 5. The owner-developer shall exercise the powers and duties of the strata council until a strata council is elected by the owners.
 6. The strata council shall be elected at a general meeting of the owners called by the owner-developer by the earlier of
 (a) the date by which 60% of the strata lots have been conveyed by the owner-developer, or
 (b) 9 months following registration of the strata plan.
 7. The strata council shall be elected at the annual general meeting.

8. The strata council shall be elected by and from among the owners and shall consist of not less than 3 or more than 7 members, except as provided in section 49; but where there are not more than 3 owners, the strata council shall consist of all owners. , and

(c) by repealing section 50 and substituting the following:

50. (1) Notwithstanding section 49, during the initial stages of the development and before 60% of the strata lots have been conveyed by the owner-developer, the following provisions apply:

- (a) the owner-developer shall cause to be prepared an interim budget of anticipated common expenses for the first 12 month period and the budget shall be delivered to each purchaser;
- (b) the owners shall pay to the owner-developer their proportionate share of the estimated monthly common expenses, and the owner-developer shall pay the balance of all actual common expenses until the date by which 60% of the strata lots are conveyed by the owner-developer.

(2) Following the date that 60% of the strata lots have been conveyed by the owner-developer, the owner-developer shall pay the amount of the estimated monthly common expenses in respect of those strata lots as yet unsold.