



Strata (Condo) Law

This info sheet provides general information summarizing relevant provisions of the *Strata Property Act*, the *Strata Property Regulation* and the *Standard Bylaws*. The answers below may vary depending on the bylaws of your own strata corporation; you should review these bylaws, and discuss any questions you may have with your strata agent/property manager (or the strata council). This info sheet is to be used as general information only, and is not intended to substitute for legal advice.

ACCESS TO THE STRATA LOT

My building has been affected by the wildfires. When can I get access to my unit?

The strata corporation is responsible for the safe operation of the common elements of the building, (e.g. the electrical and gas distribution systems; the common aspects of the plumbing, heating and air conditioning; etc.). The strata corporation must follow applicable building code and health and safety rules in assessing and repairing damage to those systems. Until those assessments and health and safety repairs are completed, it may be unsafe for you to enter your unit.

How do I know if my building or my unit is safe or healthy for occupancy?

If you have any concerns about the safety or health of your building or your unit for occupancy, report them to your property manager or, if there is no property manager, to the strata council. If you are not satisfied with the information provided, or the actions taken by the property manager or your strata council, contact the British Columbia Provincial Health Services Authority for health-related concerns, or your local municipal office if the concern relates to a building inspection or municipal bylaw enforcement matter.

DAMAGE TO THE CONDO UNIT

What do I do if my unit has been damaged by the wildfires?

The first step is to notify your insurer. If you don't have insurance, you will be responsible for the cost of any damage to your unit and its contents.

The second step is to notify your property manager (or the strata council if you do not have one), and request that a claim be made against the strata corporation's insurance.

For each step, report all damage, and provide as much detail as possible about the potential damage to the suite, including photographs if possible. Depending on the cause, nature and extent of the damage, there may be insurance coverage under either your own insurance or the strata corporation's insurance.

Who is responsible for repairing and paying for damage to common property?

The strata corporation is required to maintain and repair the common property, including damage caused by natural disasters like wildfires.

The strata corporation is also required to maintain insurance on the common property. The strata corporation is not required, however, to insure the value of any improvements to units made by its owners, unless this is specified in its bylaws. The strata corporation should report any damage to units or common property to its insurance provider for determination of what, if any, coverage exists. Unit owners are entitled to a copy of the strata corporation's insurance policy on request.

The strata corporation is responsible for any uninsured damage to common property. As such, the strata corporation collects monthly maintenance fees for the purpose of maintaining a contingency reserve fund, and for its annual operating expenses. Depending on the nature of the damage, the strata corporation may be able to use a portion of this contingency reserve fund to pay for the uninsured damage.

Depending on the cost of repairs, the strata corporation may also need to raise money by way of a special levy approved by a vote of the owners passed at an annual or special general meeting. In such a case, unit owners would each be responsible for a proportionate share of the special levy calculated based on their respective strata lot's unit entitlement.

Who is responsible for repairing damage to parking areas?

Generally, and unless your strata bylaws say otherwise, the strata corporation is responsible for maintaining, cleaning and repairing parking areas, unless the parking area is identified as part of a strata lot on the strata plan.

If an owner or someone for whom an owner is responsible causes the damage to the parking area, however, the strata corporation may seek the repair costs for that damage from the owner, as well as other remedies available under the bylaws.

How do I tell the difference between common property, limited common property and strata lot property (i.e. my unit)?

Contact the property manager or strata council or review your Strata Plan and bylaws. If your property manager or strata council does not have a copy of the strata plan, they can obtain a copy for you from the Land Title & Survey Office for a fee. If you are still unsure, seek legal advice.

Limited common property (LCP) is an area of common property that has been designated for the exclusive use of one or more strata lots. LCP

usually includes decks, balconies, patios and yard areas to which only one or more owners, and not all owners, have access. The strata corporation is largely responsible for repair and maintenance to LCP, subject to an owner's responsibilities under the bylaws.

If damage has occurred to my unit while we were evacuated, who is responsible for it?

If the damage has been caused by something within your unit, you are likely responsible for it, subject to the strata corporation's bylaws. For example, if water was left on in your unit, and caused damage to your unit or the unit(s) below, you are likely responsible for it. If a pipe or exterior valve leaked in the wall between your unit and your neighbour's unit or the corridor, however, the strata corporation is likely responsible for it.

If water has somehow leaked in through the common property, i.e. the building envelope (doors, windows, siding), and damaged your unit, the strata is responsible for the damage to items that were part of the original construction. Generally, you are responsible for damage to any upgraded items, subject to the bylaws and any optional coverage procured under the strata corporation's insurance.

What if I refuse to repair or pay for repairs that I may be responsible for?

Most strata corporations have bylaws giving them the right to enter your unit, and carry out all necessary repairs with 48 hours' written notice. If you do not allow access, the strata corporation can get an order from the Civil Resolution Tribunal or the Court permitting them to access your unit to carry out the repairs. The strata corporation may then require you to pay for the cost of the repairs (and probably their legal costs as well).

Am I entitled to information regarding the strata corporation's actions with respect to repairs?

The strata corporation or its property manager should provide owners with regular updates on what repairs have been undertaken. If owners think they are not getting the information they are entitled to, they can make a written request for that information to the strata council, and can ask for copies of documents that the strata corporation is required to keep under the *Strata Property Act* (e.g. books of account, written contracts, repair or maintenance reports, etc.).

If the strata council or the property manager fails to answer your questions, or does not provide you with a document that you are entitled to receive under sections 35 and 36 of the *Strata Property Act*, you can enforce your request by applying to the Civil Resolution Tribunal.

PAYMENTS FOR STRATA FEES

Am I responsible for paying my strata fees during the disaster phase?

Strata fees are still due and payable during the period of time that you are out of your unit. This may include the time period in which any repairs or remediation work are being completed. Some forms of insurance may cover this time period, however, and some strata corporations may waive fees as a result of the wildfires and/or the evacuation orders. Please contact your strata corporation for information.

This info sheet is a joint pro bono contribution to APB's 2021 Wildfire Legal Response by lawyers Lisa Mackie and Vivienne Stewart. Lisa is a lawyer at Alexander Holburn, and Vivienne is a lawyer at YLaw.

Resources

RED CROSS: call 1-800-863-6582 to register with Red Cross and make sure you are accounted for during the Wildfires emergency. You may be able to receive up to \$1,200 per household (or up to \$2,000 if you were evacuated from the Lytton region) to assist with evacuation costs: www.redcross.ca/how-we-help/current-emergency-responses/2021-british-columbia-fires.

BC PROVINCIAL HEALTH SERVICES AUTHORITY:
> (604) 675-7400

INSURANCE BUREAU OF CANADA can assist with insurance-related questions and claims. They are currently onsite at 900 McGill Rd, Kamloops.
> www.abc.ca
> 1-844-2ask-IBC

ACCESS PRO BONO'S LAWYER REFERRAL SERVICE can assist you in finding a lawyer. You can receive a free half-hour consultation:
> Lower Mainland: (604) 687-3221
> Toll free: 1-800-663-1919
> Book online: www.accessprobono.ca/our-programs/lawyer-referral-service

POVNET:
> go to www.povnet.org to find an advocate

LEGAL CLINICS MAY BE ABLE TO ASSIST:

ACCESS PRO BONO'S SUMMARY LEGAL ADVICE PROGRAM:
30 minutes of free legal advice.
> 1-866-762-6664 to receive legal advice ASAP over the phone
> (604) 878-7400 to set up an appointment

JUSTICE ACCESS CENTRE (JAC):
> Nanaimo: (250) 741-5447; 1-800-578-8511
> Vancouver: (604) 660-2084; 1-800-663-7867
> Victoria: (250) 356-7012; 1-800-663-7867

FOR MORE INFORMATION ON STRATA LAW:

CONDOMINIUM HOME OWNERS ASSOCIATION OF BC:
> www.choa.bc.ca/

THE CONDOMINIUM MANUAL:
> www.condomanual.ca/

DIAL-A-LAW:
> (604)-687-4680
> 1-800-565-5297 (toll-free)
> www.dialalaw.org