

# MULLIN DEMEO

BARRISTERS & SOLICITORS

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## MULLIN DEMEO ELECTRONIC LEGAL UPDATE January 18, 2010

The Provincial Government has recently enacted changes to the *Strata Property Act* and the Regulations thereto. Enacted December 15, 2009 via the *Strata Property Amendment Act* (the "Amendment Act"), the following changes are important for both strata corporations and property management companies.

### Depreciation Report

The Amendment Act substantially repealed Section 94 and replaced it with provisions requiring that all existing and future strata corporations obtain a depreciation report (the "Report"). The Report must estimate the repair and replacement costs for "major items in the strata corporation and the expected life of those items". These "major items" will be prescribed in the regulations by future order-in-council.

The Amendment Act requires that the Report be prepared by "qualified persons". The legislative record suggests that this will include accountants, surveyors, engineers and architects among others.

If the strata corporation has not previously completed such a Report, they will be required to do so within 2 years of the coming into force of this provision. If they have previously obtained a Report that complies with the requirements of the Amendment Act, the corporation will be required to obtain a new Report not later than the date that is the prescribed period after the date on which that Report was obtained.

The strata corporation can release themselves from their obligation to complete a depreciation report by a resolution passed by a 3/4 vote at an annual or special general meeting, or if the strata corporation is a member of a prescribed class. The prescribed class, according to the legislative record, will include bare land strata developments and small strata developments, i.e. duplexes and similarly sized projects.

### Annual Financial Audit

Section 103 now requires audited financial statements be distributed alongside any proposed budget. The audit must be completed by a "qualified person", unless the audit requirement is waived by the strata corporation by a 3/4 vote at an annual or special general meeting, or belongs to a prescribed class of strata corporation. "Qualified person(s)" remains undefined, but will likely include Chartered Accountants.

This requirement will require developers to either complete an audit in advance of the first AGM or prepare a vote vetoing this requirement and hope that the owners approve such a vote by a ¾ margin. This change will require that developers and property managers gather financial documents well in advance of the AGM so as to allow for completion of an audit. The new rules do not define the term "audit".

This discussion of recent changes to British Columbia's *Strata Property Act* is intended only as a brief introduction to the subject. Should you have any questions or concerns with respect to this or any other aspect of real estate law, please contact Mullin DeMeo at [lawyers@mdlawcorp.com](mailto:lawyers@mdlawcorp.com), or (250) 477-3327.

Thank you for your time,