



**By Natalie Farrel-Ross**

### **THE INs AND OUTs OF APARTMENT LIVING**

The Registration (STRATA TITLES) Act governs the law in relation to what may be called condominium or apartment living. The trend has been towards this form of development, within the corporate area, due to:

- increased land costs
- limited supply of land
- security considerations

Strata ownership however comes with its own set of peculiarities:

- each strata owner essentially owns a part of a building together with a share in the common facilities connected to such building( lawn areas/staircases etc)
- as the strata lot is part of a larger building the Act provides that automatically (without the need for any consent) the owner of a lot in a strata complex is entitled to have his apartment supported by the rest of the building and by the common property. He therefore cannot alter his unit in a way as to affect the support it offers to adjoining apartments.
- the Act provides for the setting up of a governing body (a Strata Corporation) to manage the complex. Once the Strata Plan is registered all the owners of the units in the complex automatically become a body corporate known as a Strata Corporation.
- The use and enjoyment of the strata lots and the common property in every development is governed by a set of rules called “by laws” ( set out in the First

and Second Schedules to the Act ).These by laws come into effect immediately on the registration of the strata plan and remain in force unless amended or altered by the Corporation

### **INSURANCE AND MAINTENANCE**

Because of the peculiarities set out above a strata lot owner becomes involved in issues such as maintenance and insurance of the buildings of which his unit forms a part. The Act requires the Strata Corporation to:

- maintain the common property
- effect insurance coverage on the buildings in the development
- establish a fund to meet these expenses
- levy contributions on unit owners to raise this fund

The payment of maintenance fees is critical to the successful operation of strata developments. The non payment of these fees often leads to the non payment of insurance premiums as well as to the absence of the funds required to upkeep the common area facilities. In such circumstances all the unit owners are at risk-both in terms of the value of their investment as well as possible damage to their unit in the event of a natural disaster.

Presently the only option available under the Act to a Strata Corporation, against a delinquent apartment owner, is to institute legal proceedings in court to recover the outstanding maintenance. This has proved to be a tedious and drawn out process.

What would be most welcome is the introduction of a right to sell an apartment where maintenance is in arrears as this would certainly give the Act the teeth it needs with regard to enforcing the payment of maintenance fees by unit owners.

We understand that plans are afoot to review and amend the Act in a number of respects. It is hoped that one or more of the amendments will provide an effective solution to enforcing the payment of maintenance fees.

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