

## LAW442 – CONDOMINIUM LAW – Syllabus 2020-21

### I. INTRODUCING CONDOMINIUM

#### A. Condominium

- Harris, "[Condominium and the City: The Rise of Property in Vancouver](#)," 694-698

#### B. Condominium & Property

- Alexander, "Governance Property," 1853-1860
- Heller, "Common Interest Developments," 329-334
- Harris, "[Embedded Property](#)," 31-39
- [Syndicat Northcrest v Amselem](#), 2004 SCC 47, paras 1-18, 35, 79-87, 91-102 (Iacobucci J); 183-85, 206-209 (Binnie J)

#### C. Condominium & the City

- Rosen & Walks, "Castles in Toronto's Sky: Condo-ism as Urban Transformation," 289-291, 299
- Lehrer & Wieditz, "Condominium Development and Gentrification," 82-86
- Harris, "[Condominium and the Right to Live in the City](#)," 377-389
- [Omnicare Pharmacy Ltd. v The Owners, Strata Plan LMS 2854](#), 2017 BCSC 256, 37-66

#### D. Alternatives to Statutory Condominium

- i. Common Law
- ii. Housing Cooperatives
  - [Cooperative Associations Act](#), SBC 1999, c 28, s 8
- iii. Building Schemes
  - [Land Title Act](#), RSBC 1996, c 250, ss 1, 220
- iv. Party Wall Agreements
  - [Land Title Act](#), RSBC 1996, c 250, ss 223.1 & 223.2

### II. CONDOMINIUM – The Actors

#### A. Owner-Developer

- [Strata Property Act](#), SBC 1998, c 43, ss 1 ("owner developer"), 5

#### B. Owner

- [Strata Property Act](#), SBC 1998, c 43, ss 1 ("common property", "limited common property", "owner", "strata lot"), 2, 53, 66-67
- [2475813 Nova Scotia Ltd. v Rodgers](#), 2001 NSCA 12, paras 1-5

## Additional Material:

- Randy K. Lippert, “Condo Owners and Boards” in *Condo Conquest: Urban Governance, Law, and Condoization in New York City and Toronto*, 35-46

**C. Strata Corporation**

- [Strata Property Act](#), SBC 1998, c 43, ss 1 (“eligible voters”, “majority vote”, “3/4 vote”, “80% vote”, “unanimous vote”), 2-4, 40, 42, 45, 46, 48, 50, 53, 54, 147, 148, 163-166
- [Strata Property Act](#), SBC 1998, c 43, [Schedule of Standard Bylaws](#), 25-28
- BC Strata Property Practice Manual, VIII. Schedule A – Sections of the Act that Require Approval by Owners before Action Can Be Taken
- [Gentis v The Owners, Strata Plan VR 368](#), 2003 BCSC 120, paras 1-16, 20-26, 41
- [Norenger Development \(Canada\) Inc. v. The Owners, Strata Plan NW 3271](#), 2016 BCCA 118, paras 1-14, 43-45, 59-65

## Additional Material:

- [2475813 Nova Scotia Ltd. v Rodgers](#), 2001 NSCA 12
- [Sterloff v Strata Plan VR 2613](#), 1994 CanLII 1011
- [The Owners, Strata Plan NW 971 v Daniels](#), 2010 BCCA 584, paras 1-13, 32-45

**D. Strata Council**

- [Strata Property Act](#), SBC 1998, c 43, ss 3-4, 25-34.1 (Strata Corporation Governance, Division 1 – The Council)
- [Dockside Brewing Co v Strata Plan LMS 3837](#), 2007 BCCA 183, paras 1-7, 16-35, 47-58

**E. Strata Property Manager**

- BC, [Strata Property Managers](#)

**III. CREATING CONDOMINIUM****A. The Strata Plan**

## i. Creating the strata plan

- [Strata Property Act](#), SBC 1998, c 43, ss 2, 239-40, 243-46

## ii. Amending the Strata Plan

- [Strata Property Act](#), SBC 1998, c 43, ss 257, 259(3), 261, 263

## Additional Material:

- Easthope et al, “How Property Title Impacts Urban Consolidation: A Life Cycle Examination,” 289-304

**B. Bare Land Strata**

- [Strata Property Act](#), SBC 1998, c 43, ss 1, 243, 244, 246
- [Bare Land Strata Regulations](#), BC Reg 75/78, ss 2-3
- [Swan Lake Recreation Resort Ltd v Kamloops \(City, Land Title Registrar\)](#), 1999 CanLII 6678 (BC SC), paras 1-9, 22-36
- [Tuwanek Ratepayers Association v Sechelt \(District\)](#), 2014 BCSC 2625, 1-4, 23-35

### C. Leasehold Strata

- [Strata Property Act](#), SBC 1998, c 43, ss 199-216 (Part 12 – Leasehold Strata Plans)
- [Strata Property Regulations](#), BC Reg 43/2000, s 12.1

### D. Types and Sections

- [Strata Property Act](#), SBC 1998, c 43, ss 91-92, 99-100, 190-198
- [Strata Property Regulation](#), BC Reg. 43/2000, 6.4(2), 11.1-11.3
- British Columbia Law Institute, [Report on Complex Stratas](#), 9-30
- Real Estate Council of British Columbia, “Strata Corporations: Types and Sections” in [RECBC Newsletter 48:5 \(March 2013\)](#), 2-5

### E. Air Space Parcels

- [Land Title Act](#), RSBC 1996, c 250, ss 138-144, 169
- [Strata Property Act](#), RSBC 1998, c 43, s 240
- BC Land Title Survey Authority, [Practice Bulletin No. 01-16](#) Subdivision of Air Space Parcels
- [Owners, Strata Plan LMS 3905 v Crystal Square Parking Corp.](#), 2020 SCC 29

## IV. DISPUTE RESOLUTION

### A. Suits against the Strata Corporation

- [Strata Property Act](#), SBC 1998, c 43, ss 163-169
- [Civil Resolution Tribunal Act](#), SBC 2012, c 25, ss 120-123
- [Dollan v The Owners, Strata Plan BCS 1589](#), 2012 BCCA 44, 1-40

#### Additional Material:

- [Reid v. Strata Plan LMS 2503 \(Owners\)](#), 2001 BCSC 1578
- [Gentis v. Owners, Strata Plan VR368](#), 2003 BCSC 120
- [Peace v The Owners, Strata Plan VIS](#), 2009 BCSC 1791
- [Radcliffe v. The Owners, Strata Plan KAS1436](#), 2015 BCCA 448
- [King Day Holdings Ltd. v. The Owners](#), Strata Plan LMS3851, 2020 BCCA 342

### B. Suits by the Strata Corporation

- [Strata Property Act](#), SBC 1998, c 43, ss 170-173.1
- [Hamilton v Ball](#), 2006 BCCA 243, paras 1, 19-29
- [The Owners Strata Plan LMS 2768 v Jordison](#), 2013 BCCA 484

- Harris, “[Anti-Social Behaviour, Expulsion from Condominium, and the Reconstruction of Ownership](#),” (2016) 54:1 Osgoode Hall Law Journal 53-85.

Additional Material:

- [Owners, Strata Plan LMS 888 v Coquitlam \(City\)](#), 2003 BCSC 941
- [Ang v Spectra Management Services Ltd](#), 2002 BCSC 1544

### C. The Civil Resolution Tribunal

- [Strata Property Act](#), SBC 1998, c 43, s 189.1
- [Civil Resolution Tribunal Act](#), SBC 2012, c 25, ss 2, 4, 16.1-16.4, 17-20, 48(1), 56.7, 120-123
- [Administrative Tribunals Act](#), SBC 2004, c 45, s 58
- Salter, “Public-Centred Justice Redesign: A Case Study of the British Columbia Civil Resolution Tribunal” (2016), pp. 113-119, 123-135

Additional Material:

- [Downing v Strata Plan VR2356](#), 2019 BCSC 1745

### D. Appeals/Judicial Review

- [The Owners, Strata Plan BCS 435 v Wong](#), 2020 BCSC 1972, paras 1-68

Additional Material:

- [Dhanji v The Owners, Strata Plan LMS 2472](#), 2021 BCSC 284
- Lisa Mackie, “Judicial Appeals & Interpretations” (2019)

## V. GOVERNING & MAINTAINING CONDOMINIUM PROPERTY

### A. Transitioning from Owner-Developer Control

- [Strata Property Act](#), SBC 1998, c 43, ss 5-24 (Part 3 – The Owner Developer)
- [Real Estate Development Marketing Act](#), SBC 2004, c 41, ss 4-5
- CMHC, [Condominium Buyer’s Guide](#)
- Lippert and Treffers, “Turnover or roll over? Property developer legal avoidance and influence on condominium governance in New York City and Toronto,” 67-78

Additional Material:

- Easthope, H., and Randolph, B. 2016. “Principal-Agent Problems in Multi-Unit Developments: The Impact of Developer Actions on the On-Going Management of Strata Titled Properties.” *Environment and Planning A* 48 (9): 1829–1847.

### B. Regulating the Use of Private Property

#### i. Enacting bylaws

- [Strata Property Act](#), SBC 1998, c 43, ss 119-121, 125
- [Strata Property Act](#), SBC 1998, c 43, [Schedule of Standard Bylaws](#)

- [Kok v Strata Plan LMS 463 \(Owners\)](#), 1999 CanLII 6382 (BC SC), paras 1-15; 25-35

Additional Material:

- [The Owners, Strata Plan LMS 1590 v Yip](#), 2018 BCSC 2185
- [The Owners, Strata Plan VIS4686 v Craig](#), 2016 BCSC 90
- [Strata Plan VIS4663 v Little](#), 2001 BCCA 337

ii. Amending Bylaws

- [Strata Property Act](#), SBC 1998, c 43, ss 120(1), 126-28, 197
- [Omnicare Pharmacy Ltd. v The Owners, Strata Plan LMS 2854](#), 2017 BCSC 256, paras 1-8, 96-135

iii. Enforcing Bylaws

- [Strata Property Act](#), SBC 1998, c 43, ss 26, 27, 115(1), 116, 129-138, 171(1), 173(1), 256(1)
- [Strata Property Regulation](#), BC Reg. 43/2000, s 7.1, Form F
- [Terry v. The Owners, Strata Plan NW 309](#), 2016 BCCA 449, paras 1-6, 26-36
- [The Owners, Strata Plan NW 1815 v Aradi](#), 2016 BCSC 105, paras 1-13, 24-26, 43-46, 55-70

Additional Material:

- [The Owners, Strata Plan VR 19 v Collins et al.](#), 2004 BCSC 1743
- [Drummond v. Strata Plan NW2654](#), 2004 BCSC 1405

## C. Contested Bylaws

i. Rental Restrictions

- [Strata Property Act](#), SBC 1998, c 43, ss 121, 139(1), 141-44
- [Strata Property Regulation](#), BC Reg. 43/2000, ss 7.1, 8.1
- [Mathews v The Owners, Strata Plan VR 90](#), 2016 BCCA 345, paras 1-7, 26-49
- [Ottawa-Carleton Standard Condominium Corporation No. 961 v Menzies](#), 2016 ONSC 7699, 1-23, 46-60
- Harris, "[Regulating Short-Term Accommodation within Condominium](#)" (2018)

Additional Material:

- BC, Housing & Tenancy, "[Rental Restriction Bylaws in Stratas](#)"
- [Strata Property Regulation](#), [Form J Rental Disclosure Statement](#)
- [HighStreet Accommodations Ltd. v. The Owners, Strata Plan BCS2478](#), 2019 BCCA 64
- [Als v Strata Corporation NW1067](#), 2002 BCSC 134
- [Semmler v The Owners, Strata Plan NES3039](#), 2018 BCSC 2064
- [The Owners, Strata Plan EPS2386 v Zhang](#), 2020 BCCRT 279
- [The Owners, Strata Plan VR 812 v Yu](#), 2019 BCSC 2340

ii. Restrictions on Pets and Age

- [Strata Property Act](#), SBC 1998, c 43, ss 121, 123, [Schedule of Standard Bylaws](#), 3(3) & (4)
- [Human Rights Code](#), RSBC 1996, c 210, ss 9, 10, 41(2)

## Additional Material:

- [The Owners, Strata Plan NW498 v Pederson](#), 1999 BCCA 224
- [Owners, Strata Plan NW 499 v. Louis](#), 2008 BCCA 319

**D. Common Property**

## i. Managing Common Property

- [Strata Property Act](#), SBC 1998, c 43, ss 1, 3, 66-69, 71-72, 99-100, 108, 125, [Schedule of Standard Bylaws](#), ss 2, 8
- [Foley v The Owners, Strata Plan VR 387](#), 2014 BCSC 1333
- Lippert, “Ups and Downs of Urban Governance: High-Rise Condo Elevators” in *Condo Conquest*, 188-209

## ii. Limited Common Property

- [Strata Property Act](#), SBC 1998, c 43, ss 1 “limited common property”, 73-77, 257

## Additional Material:

- [Moure v The Owners, Strata Plan NW2099](#), 2003 BCSC 1364, paras 20-21

**E. Responsibility for Repairs**

- [Strata Property Act](#), SBC 1998, c 43, ss 72, 99, 100, 108, 165, 173(2), [Schedule of Standard Bylaws](#), ss 2, 5, 6 & 8
- [Strata Property Regulation](#), BC Reg. 43/2000, ss 6.4, 6.5
- [Tadeson v. Owners, Strata Plan NW 2644](#), 1999 CanLII 6999 (BCSC)

## Additional Material:

- *Royal Bank of Canada v. Holden*, 1996 CanLII 3440
- [John Campbell Law Corp v Owners, Strata Plan 1350](#), 2001 BCSC 1342
- [The Owners of Strata Plan NWS 254 v Hall](#), 2016 BCSC 2363
- [Owners, Strata Plan LMS 1537 v Alvarez](#), 2003 BCSC 1085
- [Strata Plan LMS 2446 v Morrison](#), 2011 BCPC 519
- *The Owners, Strata Plan VIS114 v John Doe*, 2015 BCSC 13
- [Santos v. The Owners, Strata Plan LMS 1509](#), 2016 BCSC 1775

**F. Insurance**

- British Columbia Law Institute, [Report on Insurance Issues for Stratas](#), 27-52

**G. Condominium Property and Human Rights**i. The *Charter of Rights and Freedoms*

- [Strata Plan NW 499 v Kirk](#), 2015 BCSC 1487, paras 1-29, 143-166
- [The Owners, Strata Plan NW 499 v Louis](#), 2016 BCCA 494, paras 20-35

ii. *The Human Rights Code*

- [Strata Property Act](#), SBC 1998, c 43, s 121
- [Human Rights Code](#), RSBC 1996, c 210, ss 4, 8, 9, 41(2)
- [Jacobsen v Strata Plan SP1773 \(No. 2\)](#), 2020 BCHRT 170

## Additional Material:

- [Ganser v. Rosewood Estates Condominium Corporation](#), 2002 AHRC 2, “Facts” and “ANALYSIS 1. Whether the Commission has jurisdiction”
- [Williams v. Strata Council #768](#), 2003 BCHRT 17
- [Konieczna v. The Owners Strata Plan NW2489](#), 2003 BCHRT 38
- [Hallonquist v. Strata Plan NW307 and another](#), 2014 BCHRT 117
- [Shannon v. The Owners, Strata Plan KAS 1613 \(No. 2\)](#), 2009 BCHRT 438
- [Leary v. Strata Plan VR1001](#), 2016 BCHRT 139

**VI. DISSOLVING CONDOMINIUM****A. Cancelling the Strata Plan and Winding up the Strata Corporation**

- [Strata Property Act](#), SBC 1998, c 43, ss 272-289 (Part 16 – Cancellation)
- [Bare Land Strata Plan Cancellation Regulation](#), BC Reg 556/82
- Allyson Baker, “Voluntarily Winding Up a Strata Corporation,” BCCLE

## Additional Material:

- Harris, “[Owning and Dissolving Strata Property](#)” (2017) 50:4 UBC Law Review 935
- Harris & Gilewicz, “[Dissolving Condominium, Private Takings, and the Nature of Property](#)” (2015)
- [The Owners, Strata Plan VR2122 v Wake](#), 2017 BCSC 2386
- [The Owners, Strata Plan VR2122 v Bradbury](#), 2018 BCCA 280