

Condo Smarts

Headline: Bare Land Strata Insurance

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Written by: Tony Gioventu

Dear Tony: Our strata is a bare land development in Kamloops. For the past 12 years, the strata corporation, starting with the developer, have purchased insurance for our complex that included the coverage for the homes built on the strata lots. One of the owners recently had a claim resulting from a flood in her unit. The insurance company has come back to us advising that the insurance for the strata corporation does not cover the individual homes as they are a bare land strata and the strata corporation has no obligations to maintain or insure a bare land strata. The insurance policy only covers the common roadways, our club house and liability. The owner is now facing a \$19,000 bill for the damages to her unit, along with replacing her hardwood floors, with no coverage. We have reviewed our past policies and meeting minutes, and the information clearly indicates the buildings shown on the strata plan are part of the policy. Our minutes of our meetings show that our buildings are insured for full replacement value. We have contacted a number of agencies and have received conflicting information. Is there a clear answer? *Audrey P.*

Dear Audrey: I am surprised at the number of strata corporations under 25 units that are not properly insured. Our offices across the province receive weekly complaints about underinsurance, misinformation about insurance and improper information provided to owners about their insurance in small townhouse developments or bare land stratas. The policy wording is correct as it applies to a typical bare land strata. Bare land strata corporations are different from conventional townhouse/apartment style condos because the strata lot is not the boundary of the walls or ceilings of the units, but rather the measured piece of property that the unit sits on. If we look closely at Audrey's strata plan, we find that the only building shown on the plan is the club house, whereas the strata lots, are bare-land lots which have had houses built on them, but not shown on the plan. The policy refers only to the buildings shown on the plan, which is their club

house, and not the remainder of constructed homes. This is a very easy error to make as it is a simple nuance in the language. In most bare land developments, it is critical to instruct your owners, that the strata corporation is not responsible to maintain or insure their homes built on their strata lots, and that they must fully insure their home, their personal liability and their personal property and betterments. There are some quirky variations of bare land strata corporations that look like multiple duplexes. In these cases, the strata corporations have obtained legal advice to develop bylaws where the strata corporation has taken responsibility to maintain the building exteriors and maintain insurance on the replacement of the structures and fixtures. This helps to ensure a neighbouring property would not be affected by a negligent owners' unwillingness to insure their property.

It is important for strata corporations to exercise care when writing minutes or notices to owners. Verify that the information provided to the owners, does not contradict the terms, conditions, or facts of the policy or the strata bylaws. The incorrect information in the minutes may provide an owner with a reasonable argument that the strata corporation contributed to their loss, and they may consider a court action to recover costs. Work closely with your insurance broker to confirm your strata is properly insured and your owners receive the correct instructions each year with the report on insurance as part of the Annual General Meeting of the strata.

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