

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

<p style="text-align: center;">McCarthy Tétrault's ANNOTATED BRITISH COLUMBIA STRATA PROPERTY ACT by Scott D. Smythe and E.M. (Lisa) Vogt Release No. 2, September 2021</p>
--

Publisher's Special Release Note 2021

The pages in this work were reissued in June 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the June 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

THOMSON REUTERS CANADA®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

What's New in this Update:

This release features updates to the Strata Property Act as well as additions to the Schedule of Standard Bylaws and Strata Property Regulations.

Highlights

- **Strata Property Act — Case Law — Section 1(1) — “owner”** — The court interpreted the term “owner” expansively to include former owners. Noting that s. 164 of the SPA is a remedial provision, the court concluded that it is consistent with the purpose of s. 164 that the entitlement to seek a remedy thereunder be based on whether the claimant is an owner or tenant at the time of the alleged unfairness and not on whether the claimant continues to be an owner at the time the action is commenced: *Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 CarswellBC 38, 263 A.C.W.S. (3d) 508, 2016 BCSC 32 (B.C. S.C.), additional reasons 2016 CarswellBC 377, 263 A.C.W.S. (3d) 754, 2016 BCSC 246 (B.C. S.C.), additional reasons 2016 CarswellBC 2755, 271 A.C.W.S. (3d) 715, 2016 BCSC 1808 (B.C. S.C.), reversed in part The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc., 2017 CarswellBC 2773, 287 A.C.W.S. (3d) 578, 2017 BCCA 346 (B.C. C.A.), affirmed The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc., 2017 CarswellBC 2773, 287 A.C.W.S. (3d) 578, 2017 BCCA 346 (B.C. C.A.) (costs award varied).
- **Strata Property Act — Case Law — Section 6 — Decisions from Other Jurisdictions** — Ontario Court of Appeal agreed that the vendor of a pre-sale condominium unit could retain the deposit paid by a purchaser who rescinded the purchase contract, notwithstanding that, on the closing date, various common elements within the development, including a parkette and gates, had not yet been constructed. While the disclosure statement stated that the parkette and gates would be provided within the development, the purchase contract contained an acknowledgment by the purchaser that the failure to complete other condominium units or the common elements by the “Occupancy Date” would not be deemed to be a failure to complete the unit: *Lin v. Brookfield Homes (Ontario) Limited*, 2019 CarswellOnt 14419, 309 A.C.W.S. (3d) 884, 2019 ONCA 706 (Ont. C.A.), affirming 2018 CarswellOnt 21688, 300 A.C.W.S. (3d) 883, 2018 ONSC 7682 (Ont. S.C.J.).

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages

