



TURKS AND CAICOS ISLANDS

CHAPTER 9.04
STRATA TITLES ORDINANCE
and Subsidiary Legislation

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STRATA TITLES ORDINANCE

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CHAPTER 9.04

STRATA TITLES ORDINANCE

(Ordinances 6 of 1971, 15 of 1983, 5 of 1993 and 2 of 1999)

AN ORDINANCE TO PROVIDE FOR THE SUBDIVISION OF LAND IN STRATA AND FOR THE DISPOSITION OF TITLES THEREOF.

Commencement

[24 February 1975]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Strata Titles Ordinance.

Interpretation

2. In this Ordinance unless the context otherwise requires—

“building” means the building or buildings shown in a strata plan;

“certificate of fitness for occupancy” means the Certificate of Occupancy issued by the Director of Planning under the Turks and Caicos Islands Building Code; *(Inserted by Ord. 5 of 1993)*

“common property” means in relation to any strata plan, so much of the land to which such plan relates as is for the time being not included in any strata lot contained in such plan;

“the corporation” means, in relation to any registered strata plan, the body incorporated under section 4;

“the court” means the Supreme Court;

“executive committee” means the executive committee of the corporation constituted under the Schedule 1;

“land” has the meaning assigned to it by the Registered Land Ordinance;

“parcel” means land subdivided in accordance with a strata plan registered pursuant to section 3;

“proprietor” means the proprietor for the time being of a strata lot;

“Registered Land Ordinance” means the Registered Land Ordinance or any subsequent amendment or re-enactment thereof;

“Registrar” means the Registrar of Lands appointed under the Registered Land Ordinance;

“strata lot” means a horizontal or vertical subdivision of a parcel which is shown on a registered strata plan as a strata lot; (*Substituted by Ord. 5 of 1993*)

“strata plan” means the plan referred to in section 3(1); (*Amended by Ord. 5 of 1993*)

“unanimous resolution” means a resolution unanimously passed at a duly convened meeting of the corporation at which all persons entitled to exercise the power of voting conferred by or under this Ordinance are present personally or by proxy at the time of the motion;

“unit entitlement” means in relation to any strata lot the number specified in accordance with section 7(1)(d).

Subdivision into strata lots

3. (1) Subject to the provisions of this Ordinance, the proprietor of land upon which a building has been or is to be constructed may apply to the Registrar in such manner as may be prescribed under this Ordinance for the registration of the horizontal or vertical subdivisions, to be known as strata lots, in accordance with a plan, to be known as a strata plan, which shall accompany the application. (*Substituted by Ord. 5 of 1993*)

(2) When a strata plan has been so registered any lot included therein may devolve or be transferred, leased, charged or otherwise dealt with in the same manner and form as land under the provisions of the Registered Land Ordinance.

(3) Notwithstanding the provisions of the Registered Land Ordinance the registered proprietor of each strata lot shall hold his share in the common property subject to—

(a) any interests affecting such strata lot or such share; and

(b) any amendments to strata lots or common property notified, or shown, as the case may require, on the registered strata plan or register.

(4) Each parcel shall have been properly subdivided under the provisions of the Registered Land Ordinance prior to registration.

PART II

BODY CORPORATE

Body corporate

4. (1) The proprietors of all the strata lots contained in any strata plan shall, upon registration of the strata plan, become a body corporate (hereafter referred to as “the corporation”) under the name “The Proprietors, Strata Plan No. _____” (with the appropriate number of the strata plan inserted in the blank space).

(2) The corporation shall have perpetual succession and a common seal and be capable of suing and being sued in its name.

(3) The provisions of any enactment providing for the incorporation, regulation and winding-up of companies shall not apply to the corporation.

Duties and powers of the corporation

5. (1) The duties of the corporation shall include the following—
- (a) to insure and keep insured the building to the replacement value thereof against fire, earthquake, hurricane and such other risks as may be prescribed, unless the proprietors by unanimous resolution otherwise determine;
 - (b) to effect such insurance as it may be required by law to effect;
 - (c) to insure against such risks other than those referred to elsewhere in this subsection as the proprietors may from time to time by unanimous resolution determine;
 - (d) subject to the provisions of section 22 and to such conditions as may be prescribed, to apply insurance moneys received by it in respect of damage to the building in rebuilding and re-instating the building so far as it may be lawful to do so;
 - (e) to pay premiums on any policies of insurance effected by it;
 - (f) to keep in a state of good and serviceable repair and properly maintain the common property;
 - (g) to comply with notices or orders by any competent public or local authority requiring repairs to, or work to be done in respect of the parcel;
 - (h) to comply with any reasonable request for the names and addresses of the members of the executive committee;
 - (i) to pay all rates, taxes and assessments imposed by statute or any regulations.
- (2) The powers of the corporation include the following—
- (a) to establish a fund for administrative expenses sufficient in the opinion of the corporation for the control, management and administration of the common property, for the payment of any premiums of insurance and for the discharge of any of its other obligations;
 - (b) to determine from time to time the amounts to be raised for the fund referred to in paragraph (a) and to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective lots;
 - (c) to recover from any proprietor, by an action for debt in any court of competent jurisdiction, any sum of money expended by the corporation for repairs to or work done by it or at its direction in

complying with any notice or order by a competent public or local authority in respect of that portion of the building which constitutes or includes the strata lot of that proprietor;

(d) to enter any strata lot and effect repairs or carry out work pursuant to its duty under paragraph (g) of subsection (1).

(3) Subject to the provisions of subsection (4) any contribution levied pursuant to subsection (2) shall be due and payable on the passing of a resolution to that effect and in accordance with the terms of such resolution, and may be recovered as a debt by the corporation in an action in any court of competent jurisdiction from the proprietor entitled at the time when such resolution was passed and from the proprietor entitled at the time when such action was instituted, both jointly and severally.

(4) The corporation shall, on the application of a proprietor or any person authorised in writing by him, certify—

(a) the amount of any contribution determined as the contribution of that proprietor;

(b) the manner in which such contribution is payable;

(c) the extent to which such contribution has been paid by that proprietor,

and, in favour of any person dealing with that proprietor, such certificate shall be conclusive evidence of the matters certified therein.

(5) A policy of insurance authorised by this section and in respect of the building shall not be liable to be brought into contribution with any other policy of insurance save another policy authorised by this section in respect of the same building.

Service of documents on the corporation

6. (1) The corporation shall cause to be kept at a conspicuous place at or near the front of the land to which the relevant strata plan relates a receptacle suitable for purposes of postal delivery, with the name of the corporation clearly shown thereon.

(2) Any summons, notice, order or other document may be served on the corporation by post in a prepaid letter addressed to the corporation at the address shown on the strata plan, or by placing it in the receptacle referred to in subsection (1).

PART III

STRATA PLANS

Requirements of strata plans

7. (1) Every strata plan shall—

- (a) state the number, section and Island to which it refers, and shall be described as a strata plan;
- (b) delineate the boundaries of the parcel and the location of the proposed or existing building or buildings in relation thereto;
- (c) include such elevations, sections, plans, diagrams and other information as shall be sufficient to—
 - (i) illustrate the strata lots and distinguish each lot by number;
 - (ii) define the boundaries of each strata lot in the building or buildings by reference to floors, walls and ceilings, so however that it shall not be necessary to show any bearings or dimensions of strata lots;
 - (iii) specify the approximate floor area of each strata lot;
- (d) have endorsed upon it a schedule setting out the unit entitlement of each strata lot indicating as a whole number the proportion of the common property allocated to that strata lot;
- (e) have endorsed upon it the address at which documents may be served upon the strata lot corporation;
- (f) have endorsed upon it and on every drawing or schedule appended thereto the heading “Strata Plan No ...” followed by the legal description (as defined by section 14(2) of the Registered Land Ordinance) of the parcel to which it refers;
- (g) contain such other particulars and be accompanied by such certificates and documents as may be prescribed.

(2) The reference of the parcel and the number of the strata lot shall together be a sufficient reference to a strata lot.

(3) The common boundary between any two strata lots or between a strata lot and common property shall, unless otherwise specified in the relevant strata plan, be the centre line of the floor, wall or ceiling between such strata lots or strata lot and the common property, as the case may be.

(4) The unit entitlement of each strata lot, as respects the proprietor of such strata lot, shall determine—

- (a) the quantum of his share in the relevant corporation;
- (b) the quantum of his undivided share in the common property; and
- (c) the proportion payable by him of contributions levied pursuant to section 5(2).

(Substituted by Ord. 5 of 1993)

Registration of strata plans

8. If the Registrar is satisfied that application for registration of a strata plan is in order he shall—

- (a) file the strata plan;

- (b) open a new register in respect of each strata lot shown on the strata plan in accordance with section 10;
- (c) in respect of the register relating to the parcel—
 - (i) record in the property section that the land comprised consists only of the common property;
 - (ii) in the proprietorship section delete the name of the proprietor, substitute the name of the strata corporation established under section 4 (and enter a restriction prohibiting any dealings with the land otherwise than by order of the court or of the Registrar);
 - (iii) note in the encumbrance section that registers in respect of the strata lots have been opened.

Registration pending issue of Certificate of Occupancy

9. (1) Notwithstanding section 8, if the Registrar is not satisfied that an application for registration of a strata lot is in order solely by reason of the non-issuance of a certificate of fitness for occupancy of the strata lot, the Registrar may notwithstanding such non-issue, open a register for the strata lot if—

- (a) the proprietor applies to the Registrar in the prescribed manner seeking the opening of a register in respect of the strata lot;
- (b) the proprietor consents to the placing of a restriction on the register of the strata lot prohibiting any dealing with it until a certificate of fitness for occupancy is issued in respect of that strata lot; and
- (c) the Director of Planning certifies that the walls and the roof of the strata lot have been built and that the windows and doors are in place.

(2) The Registrar shall not remove a restriction entered in the register of a strata lot in accordance with subsection (1) unless and until he is satisfied that a Certificate of Occupancy has been issued in respect of it.

(Inserted by Ord. 5 of 1993)

Strata lot registers

10. (1) The registers opened by the Registrar in accordance with section 8 in respect of each strata lot in a parcel shall record—

- (a) all the particulars recorded in the property section of the register relating to the parcel in question and including the unit entitlement of the strata lot in question;
- (b) the proprietor of the parcel as the first proprietor of the strata lot; and
- (c) the encumbrances noted in the encumbrances section of the register relating to the parcel:

Provided that if the Registrar is satisfied that any such particulars of encumbrances do not apply to the strata lot he shall omit them from the register relating to the strata lot and record the reason for his decision.

(2) A strata lot shall be deemed—

- (a) for the purposes of the Registered Land Ordinance to be a parcel;
and
- (b) for all purposes of law to be land.

Definition

11. In sections 12 to 18 “unified strata plan” means the strata plan created by virtue of section 12. (*Inserted by Ord. 2 of 1999*)

Unified strata plan

12. (1) Notwithstanding anything in this Ordinance to the contrary but subject to the provisions of the by-laws in respect of the corporations of the strata plans to be merged, a majority of the proprietors of the strata lots contained in each of two or more contiguous strata plans may lodge with the Registrar a plan for merging the strata plans containing their respective strata lots into one unified strata plan.

(2) A plan for merging two or more contiguous strata plans may also merge with them land in the ownership of a person who was the first proprietor within the meaning of section 10(1)(b) of all the strata lots in the strata plans to be merged, on the conditions set out in subsection (3).

(3) The conditions referred to in subsection (2) are—

- (a) the land referred to in subsection (2) is contiguous with one or more of the strata plans to be merged;
- (b) the owner of that land consents in writing; and
- (c) that land has been held by its owner for the benefit and enjoyment of the proprietors in one or more of the strata plans to be merged.

(Inserted by Ord. 2 of 1999)

Some of contents of unified strata plan

13. The unified strata plan shall—

- (a) specify all the strata lots contained in it;
- (b) specify the whole of the common property in relation to it; and
- (c) have a schedule setting out the unit entitlement of each strata lot indicating as a whole number the proportion of the common property allocated to the strata lot.

(Inserted by Ord. 2 of 1999)

Duty on Registrar to combine parcels and register unified strata plan

14. On lodgement of the unified strata plan the Registrar shall forthwith—

- (a) combine the parcels comprised in the two or more contiguous strata plans being merged other than the parcels in respect of the strata lots and assign a new parcel number to the combination; and
- (b) register the strata lots contained in and the common property in relation to, the unified strata plan.

(Inserted by Ord. 2 of 1999)

Effecting of registration

15. Registration of the unified strata plan shall be effected—

- (a) by filing the strata plan;
- (b) by opening a new register in respect of each strata lot contained in the unified strata plan; and
- (c) in respect of the register relating to the parcel with the new parcel number under section 14(a), the provisions of section 8 shall apply with the substitution of “section 16(1)(a)” for “section 4”.

(Inserted by Ord. 2 of 1999)

Consequences of registration

16. (1) Upon registration of the unified strata plan—

- (a) the proprietors of all the strata lots contained in it shall become a body corporate under the name “The Proprietors Strata Plan No. ...” (with the appropriate number of the unified strata plan inserted in the blank space);
- (b) the corporations created in respect of the two or more merged strata plans shall be dissolved and their rights and obligations and the rights, obligations and interests of the strata lot proprietors in them shall be merged into the new corporation formed under paragraph (a);
- (c) the executive committee of the corporation formed under paragraph (a), until the election of an executive committee at the first general meeting of that corporation shall consist of not less than three nor more than nine proprietors elected by the members of the executive committees of the corporations dissolved under paragraph (b).

(Inserted by Ord. 2 of 1999)

Savings for rights in old strata lots

17. (1) Nothing in sections 11 to 16 shall affect the rights and obligations of any person having an interest whether statutory or otherwise, in any strata lot contained in the two or more contiguous strata plans immediately before

registration of the unified strata plan and such rights, obligations and interests shall be preserved and continued in respect of that strata lot in the unified strata plan.

(2) The Registrar shall forthwith upon opening a new register under section 15(b) in respect of each strata lot contained in the unified strata plan, cause to be recorded in the encumbrance section a note of every encumbrance and every right, obligation and interest adversely affecting that strata lot immediately before registration of the unified strata plan.

(Inserted by Ord. 2 of 1999)

Application of other provisions to sections 11 to 17

18. Subject to the provisions of sections 12 to 17 the other provisions of this Ordinance shall apply in respect of a unified strata plan as they apply in respect of a strata plan.

(Inserted by Ord. 2 of 1999)

PART IV

COMMON PROPERTY

Easements

19. (1) In respect of every strata lot there shall be implied—

(a) in favour of the proprietor thereof, and as appurtenant thereto—

- (i) an easement for the subjacent and lateral support thereof, by the common property and by every strata lot capable of affording support thereto;
- (ii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing in the land to which the relevant registered strata plan relates, to the extent to which such pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of such strata lot;

(b) as against the proprietor thereof and to which it shall be subject—

- (i) an easement for the subjacent and lateral support of the common property and of every other strata lot capable of enjoying support from such strata lot;
- (ii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, and other services (including telephone, radio and

television services) through or by means of any pipes, wires, cables or ducts for the time being existing within such strata lot, as appurtenant to the common property and to every other strata lot capable of enjoying such easements.

(2) The proprietor of a strata lot shall be entitled to have his strata lot sheltered by all such parts of the building as are capable of affording shelter thereto.

(3) The right created by subsection (2) shall be an easement to which the aforesaid parts of the building shall be subject and such easement shall entitle the proprietor of the dominant tenement to enter on the servient tenement to replace, renew or restore any shelter.

(4) All ancillary rights and obligations reasonably necessary to make easements effective shall apply in relation to easements implied or created by this section.

By-laws

20. (1) Subject to the provisions of this Ordinance the control, management, administration, use and enjoyment of the strata lots and the common property contained in every registered strata plan shall be regulated by by-laws.

(2) The by-laws shall include—

- (a) the by-laws set forth in Schedule 1, which shall not be amended or varied except by unanimous resolution;
- (b) the by-laws set forth in the Schedule 2 which may be amended or varied by the corporation.

(3) Until by-laws are made by the corporation in that behalf the by-laws set forth in Schedule 1 and Schedule 2 shall as and from the registration of a strata plan be in force for all purposes in relation to the parcel and the strata lots and common property therein.

(4) No by-law shall operate to prohibit or restrict the devolution of strata lots or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any easement implied or created by this Ordinance.

(5) No amendment or variation of any by-law shall have effect until the corporation has lodged with the Registrar a notification thereof in such form as may be prescribed and until the Registrar notifies the corporation that he has made reference thereto on the relevant registered strata plan or in the relevant register.

(6) The corporation shall on the application of a proprietor or any person authorised in writing by him make available for inspection the by-laws for the time being in force.

(7) The by-laws for the time being in force shall bind the corporation and the proprietors to the same extent as if such by-laws had respectively been signed and sealed by the corporation and each proprietor and contained covenants on the part of the corporation with each proprietor and on the part of

each proprietor with every other proprietor and with the corporation to observe and perform all the provisions of the by-laws.

Ownership of common property

21. (1) The common property shall be held by the proprietors as tenants in common in shares proportional to the unit entitlement of their respective strata lots.

(2) The Registrar shall, in making out a certificate of title for any strata lot, certify therein the proprietor's share in the common property.

(3) Save as is provided in this Ordinance, no share in the common property shall be disposed of except as appurtenant to a strata lot and any assurance of a strata lot shall operate to assure the share of the disposing party in the common property without express reference thereto.

(4) Section 102 (2) and sections 103, 104 and 105 of the Registered Land Ordinance shall not apply to strata titles registered under the provisions of this Ordinance.

Disposition of common property

22. (1) The proprietors may by unanimous resolution direct the corporation to transfer or lease the common property or any part thereof.

(2) If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel have consented in writing to the release of those interests in the land comprised in the proposed transfer or lease or, in the case of a lease, the corporation shall execute the appropriate transfer or lease and such transfer or lease shall be valid and effective without execution by any person having an interest in the common property, and the receipt of the corporation for the purchase money, rent or other money payable to the corporation under the terms of the transfer or lease shall be a sufficient discharge and shall exonerate all persons taking under the transfer, or the lease, as the case may be, from any responsibility for the application of the moneys expressed to have been received.

(3) Every such transfer or lease lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed, that the transfer or lease conforms with the terms thereof and that all necessary consents were given and such certificate shall, in favour of purchasers of the common property and in favour of the Registrar, be conclusive evidence of the facts stated therein.

Creation of easements and covenants

23. (1) The proprietors may by unanimous resolution direct the corporation—

- (a) to execute on their behalf a grant of easement or a restrictive agreement burdening the parcel;
- (b) to accept on their behalf a grant of easement or a restrictive agreement benefiting the parcel.

(2) If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, the corporation shall execute the appropriate transfer or agreement, and the transfer or agreement shall be valid and effective without execution by any person having an interest in the parcel, and the receipt of the corporation for any money payable to it under the terms of the transfer shall be a sufficient discharge and shall exonerate all persons taking under the transfer from any responsibility for the application of the moneys expressed to have been so received.

(3) Every such transfer or agreement lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed and that all necessary consents were given, and such certificate shall, in favour of persons dealing with the corporation pursuant to this section and in favour of the Registrar, be conclusive evidence of the facts stated therein.

Administration

24. (1) The corporation or any person having an interest in a strata lot may apply to the court for appointment of an administrator.

(2) The court may in its discretion on cause shown appoint an administrator for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit.

The remuneration and expenses of the administrator shall be an administrative expense within the meaning of this Ordinance.

(3) The administrator shall, to the exclusion of the corporation, have the duties and powers of the corporation or such of those duties and powers as the court shall order.

(4) The administrator may delegate any of the powers vested in him by virtue of subsection (3).

(5) The court may in its discretion on the application of the administrator or any person referred to in subsection (1) remove or replace the administrator.

(6) On any application made under this section the court may make such order for the payment of costs as it thinks fit.

Destruction of the building

25. (1) Where the building is destroyed—

- (a) the corporation shall forthwith lodge with the Registrar, in such form as may be prescribed, a notification of such destruction;
- (b) the Registrar shall, upon receipt of such notification, make, in such form as may be prescribed, an entry thereof on the registered strata plan or register, and thereafter;
- (c) the proprietors of all the strata lots contained in such strata plan, or register shall be entitled to the parcel as tenants in common in

shares proportional to the unit entitlement of their respective strata lots and the provisions of sections 22 and 23 shall apply in relation to the transfer or lease of the parcel and to the creation of any easement or restrictive agreement burdening or benefiting it.

(2) For the purposes of this Ordinance the building referred to in subsection (1) is destroyed—

- (a) when the proprietors by unanimous resolution so resolve; or
- (b) when the court is satisfied that having regard to the rights and interests of the proprietors as a whole it is just and equitable that such building shall be deemed to have been destroyed and makes a declaration to that effect.

(3) In any case where a declaration has been made pursuant to paragraph (b) of subsection (2) the court may by order impose such conditions and give such directions for the payment of money as it thinks fit for the purpose of adjusting, as between the corporation and the proprietors and amongst the proprietors themselves, the effect of the declaration.

(4) An application for a declaration under paragraph (b) of subsection (2) may be made to the court by the corporation or by a proprietor or by a registered chargee of a strata lot.

(5) On any application to the court for a declaration under paragraph (b) of subsection (2) any insurer who has effected insurance on the building or on any part thereof (being insurance against destruction of strata lots or damage to the building) shall have the right to appear in person or by attorney.

(6) The court may, on the application of the corporation or any member thereof or the administrator by order make provision for the winding-up of the affairs of the corporation and may, by the same or a subsequent order, declare the corporation dissolved as on and from a date specified in the order.

(7) On any application under this section the court may make such order for the payment of costs as it thinks fit.

(8) The court may from time to time vary any order made by it under subsection (3) or subsection (7).

Voting rights

26. (1) Any powers of voting conferred by or under this Ordinance may be exercised—

- (a) in the case of a proprietor who is an infant, by his guardian;
- (b) in the case of a proprietor who is for any other reason unable to control his property, by the person who for the time being is authorised by law to control that property.

(2) Where the court upon the application of the corporation or of any proprietor is satisfied that there is no person able to vote in respect of a strata lot the court—

- (a) shall, in cases where a unanimous resolution is required by this Ordinance; and
- (b) may in its discretion in any other case, appoint some fit and proper person for the purpose of exercising such powers of voting under this Ordinance as the court shall determine, and the court may in making such appointment make such effect to such appointment, including an order as to the payment of costs of the application, and may vary any order so made.
- (3) The court may order service of notice of the application referred to in subsection (2) on such person as it thinks fit or may dispense with service of such notice.

PART V

PHASED DEVELOPMENT

Definitions

27. In this Part, unless the context otherwise requires—

“complete strata plan”, in relation to a subdivision of land into strata lots in phases, means a plan specifying all the strata lots and the whole of the common property comprising the development in relation to a building or buildings;

“future development strata lot”, in relation to a subdivision of land into strata lots in phases, means a strata lot that is proposed to be developed at a later phase of the development, and that is shown on a phase strata plan as a future development strata lot;

“phase strata plan”, in relation to a subdivision of land into strata lots in phases, means a plan specifying each strata lot and each part of the common property that has so far been completed showing that every building shown on the plan has been erected, and all other development work has been carried out, to the extent necessary to enable all the boundaries of every strata lot and the common property shown on the plan to be physically measured at the date of the lodgement of the plan, the balance being specified as one or more future development strata lots;

“proposed strata development plan”, in relation to a subdivision of land into strata lots in phases, means a plan specifying all the strata lots and the whole of the common property proposed to comprise the development when it is completed.

Subdivision of land into strata lots in phases

28. Notwithstanding anything in this Ordinance to the contrary, every person who is entitled, by virtue of section 3(1) to subdivide land, may in accordance with this Part effect that subdivision in two or more phases.

How subdivision in phases effected

29. The subdivision of land so as to provide for strata lots in two or more phases shall be effected by the successive lodging under this Ordinance of—

- (a) a proposed strata lot development plan, which shall specify all the strata lots, and the whole of the common property proposed to comprise the development when it is completed;
- (b) one or more phase strata plans, which shall specify each strata lot and each part of the common property (if any) that has so far been completed in relation to a building or buildings comprising part of the development and already erected on the land, and also specify the areas (each such area being designated on the plan as a future development strata lot) in which further development or subdivision and other works are still required to complete the development;
- (c) a complete strata plan, which shall specify all the strata lots and the whole of the common property comprising the development in relation to a building or buildings already erected on the land.

Proposed development plans

30. (1) A proposed strata development plan shall not be lodged unless it is accompanied by a phase strata plans relating to the same development.

(2) When a proposed strata development plan has been lodged, the proposed development shall not be altered in any way, unless a new proposed strata development plan has been lodged, incorporating the proposed changes, in accordance with the following provisions—

- (a) subject to paragraph (b), the consent of every proprietor of a strata lot (including a future development strata lot) shown on the latest phase strata plan deposited in respect of the development, and of every other person who has a registered interest in any such strata lot, and of every cautioner claiming any interest in any such strata lot, shall be required to the lodging of a substituted proposed strata development plan;
- (b) where the unanimous consent of the persons referred to in paragraph (a) is not forthcoming but a majority of those persons are in favour of the lodging of a substituted proposed strata development plan, that plan may be lodged with the consent of the court; and for the purposes of this paragraph section 35 (Rules of Court) shall apply with the necessary modifications;
- (c) the substituted proposed strata development plan shall be deposited under the same number as the original proposed strata development plan.

Deposit of phase strata plans

31. Every successive phase strata plan (except the first) and the complete strata plan relating to a development shall be deposited in substitution for, and

under the same number as, the phase strata plan previously lodged in respect of that development.

Unit entitlement

32. (1) Before the proposed strata development plan is lodged there shall be assigned to every strata lot shown on the plan its unit entitlement.

(2) On each phase strata plan, and on the complete strata plan, the unit entitlement to be assigned to each strata lot shall be that shown on the proposed strata development plan in respect of that strata lot.

Application of other provisions to this Part

33. Subject to the additions, exclusions, and modifications set out in this Part, the other provisions of this Ordinance shall all apply in respect of—

- (a) subdivisions of land into strata lots under sections 27 to 32 in the same manner as they apply to subdivisions of land into strata lots under the other provisions of this Ordinance; and
- (b) phase strata plans and complete strata plans lodged or to be lodged under sections 27 to 32 in the same manner as they apply to strata plans lodged or to be lodged under the other provisions of this Ordinance.

(Inserted by Ord. 5 of 1993)

PART VI

GENERAL

Regulations

34. The Governor may make regulations generally for the proper carrying out of the purposes and provisions of this Ordinance, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

- (a) as to the manner and form of registering strata plans and strata lots;
- (b) providing for the amendment of registered strata plans;
- (c) prescribing the manner of registering transfers and leases of common property;
- (d) providing for cases where the building is damaged but is not destroyed;
- (e) providing for the insurance of strata lots by the proprietors thereof;
- (f) providing for the voting rights of chargees of strata lots;

- (g) prescribing the fees to be paid for anything required or permitted to be done under this Ordinance;
- (h) prescribing any other matter or anything which may be, or is required by this Ordinance to be, prescribed.
(Amended by Ord. 5 of 1993)

Rules of Court

35. Provision may be made by rules of courts as to the practice and procedure to be followed in relation to any application which may be made to the court under this Ordinance.

Offences

36. If there is failure to comply with any notice, order or request referred to in paragraph (g) or (h) of section 5(1), or with any requirement of section 6(1) or section 20 (6) or section 25 (1)(a), the corporation and every member thereof who is knowingly a party to such failure shall be guilty of an offence and shall be liable on conviction to a fine of \$500 or to imprisonment for a term of six months or to both such fine and imprisonment.

SCHEDULE 1*(Section 20)*

BY-LAWS (GENERAL)

PROPRIETORS

1. A proprietor shall—
 - (a) permit the corporation and its agents, at all reasonable times on notice (except in the case of emergency when no notice shall be required), to enter his strata lot for the purpose of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the strata lot and capable of being used in connection with the enjoyment of any other strata lot or common property, or for the purpose of maintaining, repairing or renewing common property, or for the purpose of ensuring that the by-laws are being observed;
 - (b) pay all rates, taxes, charges, outgoing and assessments that may be payable in respect of his strata lot;
 - (c) repair and maintain his strata lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted;
 - (d) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors or their families or visitors;
 - (e) not use his strata lot or permit it to be used in such manner or for such purpose as shall cause a nuisance or hazard to the occupier of any other strata lot (whether a proprietor or not) or the family of such occupier;
 - (f) notify the corporation forthwith upon any change of ownership or of any change or other dealing in connection with his strata lot.

THE CORPORATION

2. The corporation shall—
 - (a) control, manage and administer the common property for the benefit of all proprietors;
 - (b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings (including elevators) used in connection with the common property;
 - (c) where practicable establish and maintain suitable lawns, shrubs, trees and gardens on the common property;
 - (d) maintain and repair (including renewal where reasonably necessary) pipes, wires, cables and ducts for the time being existing in the parcel and capable of being used in connection with the enjoyment of more than one strata lot or common property;

- (e) on the written request of the proprietor, or registered chargee of a strata lot, produce to such proprietor or chargee, or any person authorised in writing by such proprietor or chargee, the policy or policies of insurance effected by the corporation, and the receipt or receipts for the last premiums in respect thereof.

3. The corporation may—

- (a) purchase, hire or otherwise acquire personal property for use by proprietors in connection with their enjoyment of common property;
- (b) borrow moneys required by it in the performance of its duties or the exercise of its powers;
- (c) secure the repayment of moneys borrowed by it, and the payment of interest thereon, by negotiable instrument, or charge of unpaid contribution (whether levied or not), or charge of any property vested in it, or by combination of those means;
- (d) invest as it may determine any moneys in the fund for administrative expenses;
- (e) make an agreement with the proprietor or occupier of any strata lot for the provision of amenities or services by it to such strata lot or to the proprietor or occupier thereof;
- (f) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common property.

GENERAL MEETINGS

4. A general meeting of proprietors shall be held within three months after registration of the strata plan.

5. Subsequent general meetings (hereafter referred to as annual general meetings) shall be held one in each year:

Provided that not more than fifteen months shall elapse between the date of the first general meeting and the date of the first annual general meeting and the date of one annual general meeting and that of the next.

6. All general meetings other than the annual general meetings shall be called extraordinary general meetings.

7. The Corporation may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to twenty-five *per centum* of the total unit entitlement of the strata lots convene an extraordinary general meeting.

8. Seven days' notice of every general meeting specifying the place, the date and the hour of meeting and, in case of special business, the general nature of such business, shall be given to all proprietors and registered first chargees who have notified their interests to the corporation but accidental omission to give such notice to any proprietor or to any registered first chargee or non-receipt of such notice by any proprietor shall not invalidate any proceedings at any such meeting.

9. All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts, or at an extraordinary general meeting.

10. Save as is in these by-laws otherwise provided, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business. One-half of the persons entitled to vote present in person or by proxy shall constitute a quorum.

11. If within half an hour from the time appointed for a general meeting a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the persons present entitled to vote shall be a quorum.

12. At the commencement of a general meeting, a chairman of the meeting shall be elected.

THE EXECUTIVE COMMITTEE

13. There shall be an executive committee of the corporation which shall, subject to any restriction imposed or direction given at a general meeting, exercise the powers and perform the duties of the corporation.

14. The executive committee shall consist of not less than three nor more than nine proprietors and shall be elected at the first general meeting of the corporation and thereafter at each annual general meeting:

Provided that where there are not more than three proprietors the executive committee shall consist of all the proprietors.

15. Except where the executive committee consists of all the proprietors, the corporation may by resolution at an extraordinary general meeting remove any member of the executive committee before the expiration of his term of office and appoint another proprietor in his place to hold office until the next annual general meeting.

16. Any casual vacancy on the executive committee may be filled by the remaining members thereof.

17. The quorum of the executive committee shall be such number as the committee may fix from time to time, being not less than one-half the number of members thereof.

18. At the commencement of each meeting the executive committee shall elect a chairman for the meeting, and if any chairman so elected vacates the chair during the meeting the executive committee shall elect in his stead another chairman.

19. At meetings of the executive committee all matters shall be determined by simple majority vote and the chairman shall in addition to an original vote, have a casting vote, in any case in which the voting is equal.

20. Subject to the provisions of these by-laws the executive committee shall have power to regulate its own procedure.

21. The executive committee may—

- (a) employ for and on behalf of the corporation such agents and servants as it thinks fit in connection with the control, management and administration of the common property and the exercise and performance of the powers and duties of the corporation;

- (b) subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and may at any time revoke such delegation.

22. The executive committee shall—

- (a) keep minutes of its meetings;
- (b) cause proper books of accounts to be kept in respect of all moneys received and spent by it;
- (c) prepare proper accounts relating to all moneys of the corporation, and the income and expenditure thereof, for each annual general meeting;
- (d) on the application of a proprietor or a chargee or any person authorised in writing by either of them, make the books of account available for inspection at all reasonable times.

23. The validity of the proceedings of the executive committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

VOTING

24. At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy. Unless a poll is so demanded a declaration by the chairman that a resolution has on the show of hands been carried shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn.

25. A poll if demanded shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

26. In the case of equality in the votes whether on a show of hands or on a poll the chairman of the meeting shall be entitled to a casting vote in addition to his original vote.

27. On a show of hands each proprietor shall have one vote; on a poll the votes of proprietors shall correspond with the unit entitlement of their respective strata lots.

28. On a show of hands, or on a poll votes may be given either personally or by proxy.

29. An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and may be either general or for a particular meeting. A proxy need not be a proprietor.

30. Except in cases where by or under the Ordinance a unanimous resolution is required, no proprietor shall be entitled to a vote at any general meeting unless all contributions payable in respect of his strata lot have been duly paid.

31. Co-proprietors may vote by proxy jointly appointed by them, and in the absence of such proxy shall not be entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Ordinance but any one co-proprietor may demand a poll. On any poll such co-proprietor shall be entitled to such part of the vote applicable to a strata lot as is proportionate to his interest in the strata lot. The joint proxy (if any) to a poll

shall have a vote proportionate to the interests in the strata lot of such of the joint proprietors as do not vote personally or by individual proxy.

32. Where proprietors are entitled to successive interests in a strata lot, the proprietor entitled to the first interest shall alone be entitled to vote, whether on a show of hands or a poll; and this by law shall be applicable whether by the Ordinance the unanimous resolution of proprietors is required or not.

33. Where a proprietor holds his strata lot as a trustee he shall exercise the voting rights in respect of the strata lot to the exclusion of persons beneficially interested in the trust, and such persons shall not vote.

USE OF COMMON SEAL

34. The corporation shall at the first general meeting held after registration of the strata plan, and may from time to time, at subsequent general meetings, determine how the common seal of the corporation shall be used.

SCHEDULE 2

BY-LAWS (PROHIBITIONS)

(Section 20)

- 1.** A proprietor shall not—
 - (a)* use his strata lot for any purpose which may be illegal or injurious to the reputation of the building; or
 - (b)* make undue noise in or about any strata lot or common property; or
 - (c)* keep any animal on his strata lot or the common property after notice in that behalf from the executive committee.

- 2.** When the purpose for which a strata lot is intended to be used is shown expressly or by necessary implication on or by the registered strata plan the proprietor of such strata lot shall not use it or permit it to be used for any other purpose.