

Miroslav Babjarcik

From: Allyson Baker <ABaker@cwilson.com>
Sent: Monday, January 30, 2023 2:24 PM
To: Miroslav Babjarcik
Cc: Allyson Baker
Subject: RE: Strata Plan EPS3084 - Inquiry on VPD Damages - FSR LEGAL RETAINER

Categories: 05 - EPS 3084 Sequel 138

Hello,

The strata corporation has no authority to waive claims on behalf of the residents. Beyond that, I don't have any knowledge of the extent to which the strata corporation would be able to bring a claim against the police for damage that it might cause to property that the strata corporation is required to repair and maintain as I have never had this issue arise previously and reviewing applicable legislation and caselaw is outside of the scope of the retainer.

While I expect that there are some limitations on anyone's ability to bring a claim against the police, I would be concerned that agreeing to the terms below would prevent the strata corporation from bringing a claim where there is a legal basis for doing so.

Kind regards,

Allyson Baker
Partner

CLARK WILSON

Clark Wilson LLP
900-885 West Georgia Street | Vancouver, BC | V6C 3H1 | Canada
Tel: 604.891.7732 | Fax: 604.687.6314 | Email: ABaker@cwilson.com
www.cwilson.com | [Profile](#)



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From: Miroslav Babjarcik <Miroslav.Babjarcik@fsresidential.com>
Sent: Monday, January 30, 2023 1:58 PM
To: Allyson Baker <ABaker@cwilson.com>

Subject: FW: Strata Plan EPS3084 - Inquiry on VPD Damages - FSR LEGAL RETAINER

Importance: High

[CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Hello Allyson,

FSR LEGAL RETAINER,

The VPD has a program where the Strata can grant for certain types of emergencies uncontrolled access to VPD.

One Owner flagged it with the BFL insurance regarding the limitation of liability clause in the VPD's agreement. BFL's response can be seen in the screenshot below.

Can you please tell me if this clause should be a concern?

In other words, should the Strata proceed with this in your opinion.

Regards

To: Gaelan Porter <Gaelan.Porter@fsresidential.com>
Cc: Carolyn Lust <clust@bflcanada.ca>
Subject: RE: Strata Plan EPS3084 - Inquiry on VPD Damages

Hi Gaelan,

Thank you for your patience. This does not appear to be an Insurance issue. However we do recommend obtaining independent legal a

Further to our legal team's review, they recommend bringing up a few key points below:

- Does the VPD require any specific insurance requirements for this agreement?
- We recommend getting independent legal advice about the impact of the following if there are concerns:

LIMITATION OF LIABILITY

22. The Counterparty now acknowledges and agrees that neither the VPD nor EComm, nor any of their respective of "the VPD and E-Comm Group") will, under any circumstances, be liable for any direct, indirect, incidental, special, costs, expenses, losses, damages or liabilities incurred by the Counterparty or any of its owners, residents, or occuparising from any act or omission of the VPD and E-Comm Group, which but for this MOU would not or could have occby way of example only, any loss arising from unauthorized access, systems failure or breach of any term of this MOU and by entering into this MOU, the Counterparty now agrees on its own behalf and on behalf of the Building Group no against the VPD and EComm Group for anything arising under this MOU and to reimburse the VPD and E-Comm Gr within the Building Group suing or making a legal claim against the VPD and E-Comm Group under this MOU.

- How would the VPD handle the conduct of its own Defence (or reimbursements of costs associated therewith) in the Defendant in a lawsuit, and which provision gives rise to a duty to defend?

If you have any further questions or concerns, please let us know.

Kind regards,

Brandon Jimenez
Client Service Manager

For Emergencies – leaks, fire, flood, security issues, please call 604 683-8900 (Option 9).

For general inquiries, please call Customer Care Centre at 1-855-273-1967 (Option 0) or email info.bc@fsresidential.com.

For general forms and to sign-up for **FSRConnect**, please visit: <https://www.fsresidential.com/british-columbia/homeowners/forms>.

For fobs, enterphone changes, moves or to book amenities, as applicable, please contact **Building Manager or Caretaker** on site.

For questions on strata fees and your personal account, contact Accounts Receivable at 604-684-5329 or ar.bc@fsresidential.com.

For strata documents such as bylaws, rules, strata insurance, minutes, financial reports, statements of account, letters and notices of work, please log in and find them on your Strata's website portal in **FSRConnect**.

For assistance with the resident portal on **FSRConnect**, please call Connect Customer Care Centre at 1-833-710-6869 or email the **FSRConnect** Team at connect.bc@fsresidential.com.



MIROSLAV BABJARIK
Strata Manager

200 Granville Street | Suite 700 | Vancouver, BC, Canada V6C 1S4
1.855.333.5149 | Office 604.683.8900 | Fax 604.689.4829
Toll Free 1.855.683.8900 | Customer Care Centre 1.855.273.1967
Email Miroslav.Babjarcik@fsresidential.com
www.fsresidential.com
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From: Gaelan Porter <Gaelan.Porter@fsresidential.com>
Sent: Wednesday, January 18, 2023 3:16 PM
To: Miroslav Babjarcik <Miroslav.Babjarcik@fsresidential.com>
Subject: FW: Strata Plan EPS3084 - Inquiry on VPD Damages

Hi Miro,

Please see below.

In terms of getting legal advice – in reviewing the signed agency agreement I see the strata has a retainer with Clark Wilson that they pay \$15 for each month.

Another option is using the ARAG legal expense which is included in the strata’s policy.

If you need anything else please let me know.

Best,
Gaelan



GAELAN PORTER, M.A., B.Comm.
Senior Director, Insurance (Canada)
Insurance Broker / Level 2 and Licensed Strata Manager

200 Granville Street, Suite 700 | Vancouver, BC V6C 1S4
Direct 604.689.6931
Email gaelan.porter@firstservicefinancial.com
24/7 Customer Care Center: 855.333.5149
[Website](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)

From: Brandon Jimenez <bjimenez@bflcanada.ca>
Sent: Wednesday, January 18, 2023 2:59 PM
To: Gaelan Porter <Gaelan.Porter@fsresidential.com>
Cc: Carolyn Lust <clust@bflcanada.ca>
Subject: RE: Strata Plan EPS3084 - Inquiry on VPD Damages

Hi Gaelan,

Thank you for your patience. This does not appear to be an Insurance issue. However we do recommend obtaining independent legal advice.

Further to our legal team’s review, they recommend bringing up a few key points below:

- Does the VPD require any specific insurance requirements for this agreement?
- We recommend getting independent legal advice about the impact of the following if there are concerns:

LIMITATION OF LIABILITY

22. The Counterparty now acknowledges and agrees that neither the VPD nor EComm, nor any of their respective officers or other personnel (collectively, "the VPD and E-Comm Group") will, under any circumstances, be liable for any direct, indirect, incidental, special, consequential, punitive or exemplary costs, expenses, losses, damages or liabilities incurred by the Counterparty or any of its owners, residents, or occupants, (collectively the "Building Group") arising from any act or omission of the VPD and E-Comm Group, which but for this MOU would not or could have occurred, including, without limitation and by way of example only, any loss arising from unauthorized access, systems failure or breach of any term of this MOU by the VPD and E-Comm Group, and by entering into this MOU, the Counterparty now agrees on its own behalf and on behalf of the Building Group not to sue or make any legal claim against the VPD and EComm Group for anything arising under this MOU and to reimburse the VPD and E-Comm Group for any costs arising from anyone within the Building Group suing or making a legal claim against the VPD and E-Comm Group under this MOU.

- How would the VPD handle the conduct of its own Defence (or reimbursements of costs associated therewith) in the hypothetical event it were named as a Defendant in a lawsuit, and which provision gives rise to a duty to defend?

If you have any further questions or concerns, please let us know.

Kind regards,

Brandon Jimenez
Client Service Manager
T. 1-604-637-4593
BFL CANADA

From: Gaelan Porter <Gaelan.Porter@fsresidential.com>
Sent: Tuesday, January 17, 2023 10:17 AM
To: Brandon Jimenez <bjimenez@bflcanada.ca>
Cc: Allan Pasacreta <apasacreta@bflcanada.ca>; Carolyn Lust <clust@bflcanada.ca>
Subject: FW: Strata Plan EPS3084 - Inquiry on VPD Damages
Importance: High

EXTERNAL EMAIL - COURRIEL EXTERNE

Hello Brandon an Allan,

Here you go. Miro has a meeting with them on Jan 23 and is hoping to have an update for council.

Thank you,
Gaelan



GAELAN PORTER, M.A., B.Comm.
Senior Director, Insurance (Canada)
Insurance Broker / Level 2 and Licensed Strata Manager

200 Granville Street, Suite 700 | Vancouver, BC V6C 1S4
Direct 604.689.6931
Email gaelan.porter@firstservicefinancial.com
24/7 Customer Care Center: 855.333.5149
[Website](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)

From: Miroslav Babjarcik <Miroslav.Babjarcik@fsresidential.com>
Sent: Tuesday, January 17, 2023 10:12 AM
To: Gaelan Porter <Gaelan.Porter@fsresidential.com>
Cc: Michael Chung <Michael.Chung@fsresidential.com>
Subject: RE: Strata Plan EPS3084 - Inquiry on VPD Damages
Importance: High

Hi Gaelan,

Here you go, please see attached. Can you let me know by January 18, 2023?

I have a meeting with them! 😊

Thank you

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For fobs, enterphone changes, moves or to book amenities, as applicable, please contact [Building Manager](#) or [Caretaker](#) on site.
For questions on strata fees and your personal account, contact Accounts Receivable at 604-684-5329 or ar.bc@fsresidential.com.
*For strata documents such as bylaws, rules, strata insurance, minutes, financial reports, statements of account, letters and notices of work, please log in and find them on your Strata's website portal in **FSRConnect**.*
*For assistance with the resident portal on **FSRConnect**, please call Connect Customer Care Centre at 1-833-710-6869 or email the **FSRConnect** Team at connect.bc@fsresidential.com.*



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Email Miroslav.Babjarcik@fsresidential.com
www.fsresidential.com
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From: Gaelan Porter <Gaelan.Porter@fsresidential.com>
Sent: Tuesday, January 17, 2023 9:36 AM
To: Miroslav Babjarcik <Miroslav.Babjarcik@fsresidential.com>
Subject: FW: Strata Plan EPS3084 - Inquiry on VPD Damages

Hi Miro,

Do you have this agreement on file? If so, can you send it to me?

Thanks,
Gaelan



Gaelan Porter, M.A., B.Comm.
Senior Director, Insurance (Canada)
Insurance Broker / Level 2 and Licensed Strata Manager

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From: Brandon Jimenez <bjimenez@bflcanada.ca>
Sent: Tuesday, January 17, 2023 9:20 AM
To: Gaelan Porter <Gaelan.Porter@fsresidential.com>
Cc: Carolyn Lust <clust@bflcanada.ca>
Subject: Strata Plan EPS3084 - Inquiry on VPD Damages

Hi Gaelan,

Wanted to bring this to your attention as we have been advised by a unit owner the strata signed an agreement with the VPD.

Are you able to get us this agreement so we can review on our end?

If you require anything further, please let us know.

Kind regards,

Brandon Jimenez
Client Service Manager
T. 1-604-637-4593
BFL CANADA

From: Allan Pasacreta <apasacreta@bflcanada.ca>
Sent: Monday, January 16, 2023 4:10 PM
To: Brandon Jimenez <bjimenez@bflcanada.ca>
Cc: Jn@138esthasing.com
Subject: RE: Strata Plan EPS3084 - Inquiry on VPD Damages

Hi Brandon,

I spoke with Jayun, the owner of unit 613 and I think there may be a concern with coverage. Apparently the Strata has signed an agreement with the VPD that the Strata would be responsible to pay for any legal fees that arise as a result if they are sued in the course of their duties within the Strata. If the VPD were named in a lawsuit for 3rd party property damage or bodily injury, that occurred within the Strata; and then subsequently asked the Strata to pay their legal fees, then I do not think the Strata's Liability policy would respond. You may want to review the contract between the Strata and the VPD and determine if the VPD should be added as an Additional Insured.

Allan Pasacreta, CIP
Claims Advisor - Real Estate Division
T. 1-604-678-5453
BFL CANADA

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