

Breaking Down ONTARIO CONDO ACT Changes

October 2017 v.3



IN PARTNERSHIP WITH



OVERVIEW

PART 1. Improved Communications

Periodic Information Certificate (PIC)
Information Certificate Update (ICU)
New Owner Information Certificate (NOIC)

PART 2. Records

Core Records
Required Records
Retention Periods
Methods of Retention
Requests to Access to Records
Timing & Costs for Access to Records
Delivery & Communication of Records
Abandonment of Requests for Records
Exemptions from Access
Penalty for Non-Compliance
Access to Records by Managers

PART 3. Meetings

Preliminary Notice
Notice of Meeting
Notice by the First Board
Board Vacancies

PART 4. Voting

Quorum
Proxies
Board Meetings
By-law Voting Thresholds

PART 5. Condominium Authority of Ontario (“CAO”)

Mandate
Public Registry
Online Resources

PART 6. Condominium Authority Tribunal ("CAT" or "Tribunal")

- Permitted Applications
- Prohibited Applications
- Timing of Applications
- Methods of Proceedings
- Types of Orders the Tribunal Can Make
- Payments of Orders
- Appeals
- Settlements

PART 7. Condominium Returns

- Condominium Registrar
- Returns
- Verification of Returns
- Notices
- Registrar's Database

PART 8. Directors

- Qualifications
- Disqualifications
- Mandatory Disclosure Obligations
- Mandatory Training Obligations
- Director's Term Amendments
- Quorum for Director's Meetings
- Amendments
- Teleconference Meeting Amendments

PART 9. Enhanced Protection

- Maintenance & Repairs
- Reserve Funds
- Insurance
- Owners' Liability of Damage
- Chargebacks
- Procurement Process

PART 10. Property Management

Responsibilities

Condominium Management Services Act, 2015

Condominium Management Regulatory Authority of Ontario

Licensing Requirements

Notice of Changes to Registrar

Complaints

Code of Ethics

A MESSAGE ABOUT OUR EXPERT

OVERVIEW:

The province of Ontario has amended the Condominium Act and enacted a new piece of legislation called the Condominium Management Services Act. These changes are the first improvements in over 16 years which introduce new condo authorities and regulations to enhance consumer protection. Some of the benefits which were born out of collaborative efforts of condo owners, developers, managers and other experts over more than 18 months of review provided by the changes in legislation include:

Improve Communication between boards and owners

Mandatory Training for Condo Directors

Protect Consumers

Simplify Access to Records

Enhance Owner Participation in Meetings

Mandatory Education and Licensing of Managers

Streamlined Dispute Resolution

Changes to the Act will allow for flexibility and consumer input in a rapidly changing industry by permitting the development of regulations. This guide has been assembled to explain the changes as we understand them prior to their implementation scheduled as early as November 1, 2017.

PART 1



IMPROVED COMMUNICATIONS

Information Certificates

IMPROVED COMMUNICATIONS:

The amendments are to improve communications between boards and owners about:

- Corporation's board
- Reserve Fund
- Finances
- Legal Proceedings
- Insurance
- Other matters

HOW?

Regular mandatory updates achieved by issuing three different types of **information certificates** to owners:

1. Periodic Information Certificate (PIC)
2. Information Certificate Update (ICU)
3. New Owner Information Certificate (NOIC)

Type, timing and content of information certificates are set out in the amended Ontario Regulation 48/01 including mandatory forms and ability to post on a website but with notice

PERIODIC INFORMATION CERTIFICATE (PIC):

- Sent to owners twice in a corporation's fiscal year:
 - Within **60 days** of the end of the first fiscal quarter
 - Within **60 days** of the end of the third fiscal quarter
- Must contain the following information (if applicable):



GENERAL INFORMATION

- Address for service of the Corporation
- Directors and officers of the Corporation
- Condominium management providers, condominium manager or any other person responsible for the management of the property
- Any physical address or electronic method of communication that the board has decided can be used to receive record requests and any method of electronic communication that can be used to deliver copies of records to requesters

BYLAW INFORMATION

- Any by-law that establishes a standard unit and the by-law number
- Any additional information required by the corporation's by-laws to be included

INSURANCE INFORMATION

- Certificate of memorandum or insurance for each corporation policy
- Deductible information including maximum amount that could be added to common expenses
- Any required insurance policy the corporation fails to obtain or maintain

PERIODIC INFORMATION CERTIFICATE continued:

FINANCIAL INFORMATION

- Corporation's budget for the current fiscal year and a copy of all amendments, if any
- Disclosure if corporation's budget may result in surplus or deficit and projected amount
- Balance of Reserve Fund
- Annual contribution made to Reserve Fund for remainder of fiscal year
- Anticipated expenditures to be made from the Reserve Fund
- Plans to increase contributions to Reserve Fund, if any
- Status of any outstanding claim for payment out of the guarantee fund under Ontario New Home Warranties Plan Act by an owner
- Total number of leased units for which corporation has received notice during current fiscal year

LEGAL INFORMATION

- Disclosure of all outstanding judgements against the corporation including financial implications
- Status of all legal actions to which the corporation is a party including financial implications
- Disclosure of any director in office who:
 - Is party to any legal action that the condominium corporation is also party to
 - Was party to a legal action that resulted in a judgement against the corporation and the judgement is outstanding
 - Has common expense contributions that are in arrears for 60 days or more
- Disclosure of whether the condominium corporation failed to comply with its obligations relating to paying the annual fee to the condominium authority or filing a return
- Copy of any compliance order issued by the Registrar that has been made against the corporation

INFORMATION CERTIFICATE UPDATE (ICU):

- Sent to owners when updates are to be communicated including:
 - Within **30 days** of triggering events. Examples of such events include:
 - A change of address for service of the corporation or directors and officers or condominium management provider
 - Any change in the address or methods for receiving records requests or communicating about records requests
 - Discovering a change in the deductible clause or maximum amount that could be added to the common expenses payable for an owner's unit
 - Within **5 days** of losing quorum meaning a vacancy arises in the condominium board and there are not enough directors remaining in office .
 - The ICU must include :
 - A statement of that fact
 - The number of vacancies on the board,
 - A request that each individual who intends to be a candidate for election to the board notify the board in writing.
 - The candidate's information must be delivered to the board within 5 days after this ICU is sent by the board
 - **As soon as reasonably possible** but no later than 30 days after termination of insurance policy
 - Any other information set out in a by-law



NEW OWNER INFORMATION CERTIFICATE (NOIC):

PIC + ICU
for new
owners



- Sent to all new owners of a condominium unit containing information from the most recent PIC, ICU and all other materials set out in a by-law.
- Must be sent **30 days** after a new owner has supplied the corporation with their information.

ADDITIONAL DETAILS:

- Corporations will be able to pass by-laws to require that PIC or ICU be sent on a more frequent basis or to include other information not already listed.
- A copy of the most recent PIC and ICU would also need to be made available at the Annual General Meeting (AGM).
- All three type of information certificates will be sent using a mandatory, standardized form developed by the Ministry of Government and Consumer Services which will be found on the government's website.
- Corporations will be allowed to distribute certificates through a website as long as a prescribed notice of online posting is sent to owners pursuant to the methods set out in Section 47 of the Condominium Act.



EXEMPTIONS:

- Condominium Corporations would not be obligated to send out any of the information certificates for any given fiscal year if the following exemptions are applicable:
 - A turnover meeting has been held
 - Corporation consists of fewer than 25 units AND
 - Owners of at least 80% of the units consent in writing to dispense with requirements to distribute the information certificates



PART 2
RECORDS

The amendments to the Act categorize records into core records or non-core records

CORE RECORDS:

1. Current versions of the declaration, by-laws, rules and shared facilities or mutual use agreements
2. Current fiscal year budget and any amendments
3. The most recent financial statements approved by the corporation's board and the most recent auditor's report presented to the board (or to the audit committee, if any)
4. The record of owners and mortgagees (under the new ss. 46.1(3) of the Condominium Act)
5. The record of notices relating to units that are leased (under s. 83 of the Condominium Act)
6. Information certificates (under s. 26.3 of the Condominium Act) that were sent or required to be sent to owners within the 12 month period preceding the records request
7. Minutes from any owner or board meetings held after the new regulations come into force and within the 12 month period preceding the records request
8. The most recent reserve fund study plan (under ss. 94 (8) of the Condominium Act)
9. Any other record that a by-law specifies as a core record

RECORDS THAT CONDOMINIUMS ARE REQUIRED TO MAINTAIN UNDER BILL 106:

1. Record of owners and mortgagees:

Owners are required to give notice in writing to the corporation setting out the owner's name and identifying the owner's unit as soon as possible after becoming an owner, or in any event no later than 30 days after becoming an owner.

The corporation is obligated to maintain this information, along with the owner's address for service (if the owner provided one) and any agreement with the owner to receive notices electronically.

The amended Condominium Act also gives mortgagees a right to be included in the corporation's records in certain cases.

Pursuant to section 12.3(1), an owner's unit shall be identified by stating the unit's full address (if the unit is not a parking or storage unit); or combining the unit number with a statement that clearly identifies the condominium corporation or property (if the unit is not a parking or storage unit); or using legal descriptions of the unit.

Owners in a common elements condominium would be required to identify their common interest in the property by either including a statement identifying the full address of the owner's parcel of tied land that attaches to the common interest, and describing the condominium plan, property or corporation.

2. Agreements to communicate electronically:

Under the amendments, corporations can send notices to owners or mortgagees using a method of electronic communication if the owner or mortgagee agrees to that method of delivery.

Information of the agreement must be maintained in the record of owners and mortgagees and would need to include:

- the name of the owner or mortgagee
- a statement of the method of electronic communication that the condominium board has decided to use for sending notices
- a statement indicating that the owner or mortgagee agrees that using this method of electronic communication would be sufficient service

There will be a standardized form provided on the Ministry's website for agreements to electronic delivery.



RECORDS RETENTION PERIODS:

Amendments create new regulations regarding record retention and access, including the ways in which they may be kept and new procedures for how owners, mortgagees, and purchasers (or their duly authorized agents) can access a corporation's records.

Financial Records and other operating records of the corporation – DEFAULT 7 YEAR MINIMUM

Fundamental Corporation Documents – UNLIMITED

- Declaration (including Amendments to Declaration)
- By-laws and Rules
- Insurance policies
- Record of owners
- Leases and Warranties
- Drawings and plans
- Turnover documents
- Performance audits
- Reserve fund studies and plans

Proxies, Ballots and unspecified records – MINIMUM OF 90 DAYS FROM DATE OF MEETING

Other documents not specifically included in the regulations but the corporation is required to maintain under the Act must be kept for whatever period the board determines is necessary for the corporation to perform its objects and duties or to exercise its powers.

METHOD OF RECORD RETENTION:

Electronic Records

Electronic Records must be kept in a manner that is capable of reproducing the record in an intelligible form within a reasonable time. The system would need to use reasonable methods to protect against unauthorized access (e.g., password-based access), and would need reasonable protection against loss of the information (e.g., use of back-ups).

Paper Records

Paper Records must be stored on the condominium property, or at another location the board determines will enable it to carry out its duties with respect to records, is an appropriate location for record storage, and is reasonably close to the property.



ACCESS TO RECORDS:

The amendments to the Act would mandate the use of standardized forms for record requests and a corporation's responses to requests, set mandatory timelines for a corporation's response including expedited access to certain "core" records, and put limits on the fees that corporations could charge for record requests.

PURPOSE OF RECORDS REQUESTS:

Requests for access to records by an owner, mortgagee or purchaser must be solely related to that person's interests as an owner, a purchaser or a mortgagee of a unit and must reasonably relate to the purposes of the Act. An owner, purchaser or mortgagee are not required to tell the corporation the purpose of their request.



PROCESS FOR ACCESSING RECORDS:

1

REQUEST

Requester is required to send a request to corporation using a standardized form, identifying the records being sought and how the requester prefers to access them (e.g., delivered by email or in hard copy, or examined in person)

2

15 DAY BOARD'S RESPONSE

The board is required to reply to the requester within 15 days using a standardized form, containing an itemized estimate of the cost, if any, of providing access to each set of records requested, and identifying any records or portions of records that will not be disclosed and the reasons for not disclosing them.

15 Day CORE E-Records Due

3

REQUESTER'S RESPONSE

The requester would be able to send back the standardized board's response form to the corporation confirming which records she or he wants, along with payment of the estimated cost if any.

7 Day CORE Paper Records Due

4

ACCESS & ACCOUNTING

The corporation would be required to provide access to the requester, along with an accounting of the actual costs incurred in providing the access.

The timing for steps 3 and 4 and any costs associated with the request would depend on whether the request is for "core" or non-"core" records. The proposal would give requesters the right to access core records on an expedited basis at a reduced cost.

TIMING & ALLOWABLE FEES FOR CORE RECORDS:

Request for Electronic Delivery

If the requester requests or agrees to obtain copies of core records in electronic form, the corporation would not be able to charge for providing them. The corporation would need to deliver the records within 15 days of receiving the request for records. This means that the record would be delivered at the same time as the board's response.



Request for Paper Delivery

If the requester does not agree to delivery of records in electronic form, then the corporation would only be able to charge for copying/printing costs. The paper copies would need to be delivered or made available for pick up within 7 days of the corporation receiving the requester's response along with payment of the estimated allowable copying cost (step 3 of the process).

Request for Examination in Person

If the requester asks to examine core records in person, then the corporation would only be able to charge labour costs for examination, and copying and printing costs. The records would need to be made available for examination within 7 days of the corporation receiving the requester's response along with payment of the estimated allowable costs (step 3 of the process). The requester would also be able to agree to electronic delivery as a form of examination, if the records are kept in electronic format. In that case Request for Electronic Delivery timing and costs would apply.

For non-core records, the same process applies, however, the corporation would be obligated to provide access to the records within 30 days of receiving the requester's response from the requester, along with the requester's payment of the estimated allowable costs.

COSTS ASSOCIATED WITH ACCESS TO RECORDS:



Labour and delivery costs:

The corporation would only be able to charge a fee for labour or for delivery of records if the fee is reasonable and will reimburse the corporation for the actual costs incurred by the corporation in providing access to records. The corporation may only charge a maximum of 20 cents per page for printing and photocopying.



Accounting:

If the actual cost is more than the estimated cost that the requester paid, the requester would be obligated to pay the amount of the difference to the corporation, but only up to 10 per cent above the estimate. If the actual cost is less than the estimate, the corporation would reimburse the requester for the full difference.

DELIVERY & COMMUNICATION OF RECORDS:

Requests would be sent to the address for service for the corporation or the corporation's manager, or at another address that the corporation's board designates for receiving record requests (for example, an email address). Any address for receiving record requests would need to be included in the information certificates sent to owners.

The standardized request form would allow requesters to specify a delivery option for the records regardless of any agreement to receive notices electronically. The corporation would not be obligated to provide records in electronic form if those records were not maintained in electronic form.

Communications from the corporation to the requester about the records request would proceed pursuant to the new Subsection 47(4) and (5) of the Condominium Act, or in another way the corporation and requester agree on.

When providing records electronically or in paper copy in response to a request, each record would need to be separately identified by the corporation.



ABANDONMENT OF REQUESTS FOR RECORDS:

Requests for records would be deemed to be abandoned under two scenarios:

1. If within 60 days of receiving the board's response, the requester does not return the requester's response or start an application at the Condominium Authority Tribunal.
2. If within 6 months of submitting the initial request, the requester does not start an application at the Condominium Authority Tribunal or in court (if the Tribunal is not established).

ABANDONED

EXEMPTIONS FROM ACCESS:



The amendments provide that requesters would not have a right to access the following:

- Email addresses (or other methods of electronic communication) agreed to by owners or mortgagees for the purposes of receiving notices from the corporation, unless those owners or mortgagees agree to such access.
- Reports or opinions from lawyers or licensed paralegals to the corporation with respect to specific units, owners, or purchasers or mortgagees of a unit (or communications in respect of the report or opinion).
- Any portion of a ballot or proxy form that identifies specific units in a corporation or owners in a corporation (unless a by-law provides otherwise).

PENALTY FOR NON-COMPLIANCE:

For the purposes of the new Subsection 55(8) of the Act, a corporation that, without reasonable excuse, does not permit an owner, a purchaser, or a mortgagee of a unit or an agent of one of them (who is duly authorized in writing) to examine or to obtain copies of records would be subject to a penalty up to a maximum of \$5,000.

ACCESS TO RECORDS BY MANAGERS:

Subsection 55 (2.2) of the Act gives condominium managers or management providers the right to access a corporation's records that they reasonably require, subject to procedures set out in the regulations.



If a manager or management provider is entitled to a corporation's records pursuant to an agreement to provide management services to the corporation, the proposal would require the corporation to provide those records in the manner set out in the management services agreement.

If a manager or management provider requires a corporation's records in order to comply with the Condominium Management Services Act, 2015 or the regulations made under it, then the proposal would require the corporation to provide those records in accordance with the procedures set out in the regulations, subject to any processes or other requirements set out in the agreement between the corporation and the manager or management provider.

If a provider or manager no longer has a management services agreement with the corporation, the corporation would be able to withhold certain records from the manager or provider, including records relating to actual or contemplated litigation, reports or opinions of lawyers relating to the manager or provider, or records relating to other managers or providers. The corporation would also be obligated to withhold certain records from the manager or provider, including records relating to employees and to specific units or owners.

Disputes about access to records by a would be submitted to mediation and arbitration in accordance with the Condominium Act.



PART 3

MEETINGS

MEETINGS:

Bill 106 amends the Act to create a new Section 45.1 that requires boards to send out preliminary notices to owners in advance of a notice of meeting.

PRELIMINARY NOTICE:

A preliminary notice must be sent to owners at least 20 days in advance of a notice of meeting which in turn must be sent at least 15 days in advance of the meeting of owners. **This is a total of 35 days prior to an Owners' Meeting**



It will be sent using a standardized form that would be required to contain:

- Statement about the purpose of the preliminary notice
- Purpose of the subsequent meeting (nature of business to be presented at a requisitioned meeting and state the purpose of any proposed changes to the declaration, description, by-law, rules or agreements that will be discussed at the meeting)
- Projected date of the meeting and the deadline for submitting information or material potentially to be included in the notice of meeting

The preliminary notice must also set out a deadline for owners to submit information to potentially be included in the subsequent notice of meeting. This deadline must be set at least 15 days after the preliminary notice goes out and at least 1 day before the notice of meeting goes out.

The board would not be obligated to include the material in the notice of meeting, unless the submission is made on behalf of owners of **15% of the units** and the submission does not request to add anything to be presented at the meeting that is contrary to the Act or the regulations.

The preliminary notice must also contain all other material set out in a by-law of the corporation.

POTENTIAL CONTENTS OF THE PRELIMINARY NOTICE

And requirements to be included:

Election of Directors:

- Number of persons of which the board consists
- Number of positions on the board for election at the meeting
- Number of positions that are reserved for voting by owner-occupied units
- Term of each director who may be elected at the meeting
- Copy of the text from section 29(1) of the Act and the draft regulation dealing with disclosure for candidates.

Removal / Appointment of an Auditor:

- Instructions for owners who wish to propose a candidate for auditor on how to notify the board in writing of the name and address of the candidate

Amalgamation under Subsection. 120 (2) of the Act

- Copy of the certificate as to the status for each amalgamating corporation
- Statement of the municipal address or mailing address of each amalgamating corporation

Votes of Proposals such as:

- Addition, Alteration, or Improvement to the Common Elements
- Substantial Change in the Assets of the Corporation
- Substantial Change in a Service that the Corporation Provides

Information about such proposals, the cost and how the corporation proposes to pay for it must also be included.

NOTICE OF MEETING:

A Notice of Meeting, which must be sent at least 15 days in advance of the meeting of owners, needs to be sent on a standardized form.



Required contents of notice of meeting:

- Information about the quorum required for the meeting, and a statement about who may count towards quorum
- A statement of the manner in which an owner may be present at the meeting
- If the meeting is to elect one or more directors, then the following:
 - Statement of the number of persons of which the board consist
 - Statement of the number of positions on the board for election at the meeting
 - Statement of the number of positions, if any, that are reserved for voting by owners of owner-occupied units
 - Statement of term of each director who may be elected at the meeting
 - Name and address of each individual who provided notice to the board in accordance with the request in the preliminary notice to notify the board of their intention to be a candidate for election
 - Name and address of each individual who provided notice to the board in response to a request in an information certificate update, where there are not enough directors remaining to constitute a quorum
 - Copy of the statements or information provided to the board in accordance with the regulation dealing with director disclosures
 - Copy of the text of subsection 29 (1) of the act and the regulation dealing with director disclosures

Required contents of notice of meeting continued:

- If the meeting is about the removal or appointment of an auditor, then the name and address of each person who is presented as a candidate in accordance with the request in the preliminary notice.
- If the meeting is to vote on a proposed addition, alteration, or improvement to the common elements, a substantial change in the assets of the corporation, or a substantial change in a service that the corporation provides, then information about the proposed addition, alteration, improvement, or change, its cost, and how the corporation proposes to pay for it.
- Any material that owners proposed to include in the notice in response to the request in the preliminary notice, and that the board chose to or was required to include.
- All other material set out in a by-law of the corporation.



NOTICE BY THE FIRST BOARD:

All declarations would be required to contain deemed provisions obligating developers to notify the first board regarding when a threshold number of units have been or are anticipated to be transferred to owners. This is related to the first board's obligation under the Act to call a meeting of owners.



BOARD VACANCIES:

Notice of meeting when there is no quorum on the board:

If there are not enough directors remaining in office to constitute a quorum, then the remaining directors would be required to send out information certificate update (ICU) asking candidates to identify themselves to the board. The remaining directors would then send out a notice of meeting as described above, which would include the candidate information.

An owner can call a meeting to fill vacancies in the board

An owner would also be able call a meeting to fill the vacancies (pursuant to ss. 34(5) of the Act) if there are no directors left on the board or the remaining directors do not constitute a quorum and do not call a meeting within 15 days of the board losing quorum, and no other owner has called a meeting.

The owner would be required to send out a notice of meeting using a particular mandatory form for s. 34(5) meetings. The notice would be distributed using either the record of owners and mortgages (obtained through a request for records under s. 55 of the Condominium Act) or by delivering the notice personally to owners or to owners' units or the mailboxes for the units.

The meeting would need to be held within 15 days of the notice going out. In this case, candidates for the vacancies would only be required to provide any necessary disclosures at the meeting.



PART 4
VOTING

VOTING:

The amendments lower the quorum requirements for certain mandatory meetings, create new regulations for how condominium corporations can hold votes, require a mandatory form for proxies, and provide greater flexibility for board meetings.

Quorum:

Pursuant to Section 50(1.1) of the Act, quorum at turnover meetings and annual general meetings would be reached with:

- 25% of owners at the first and second attempts to hold the meeting

Or

- 15% of owners at the third attempt and any subsequent attempts, unless a by-law has been passed that requires quorum to be 25% at any owners' meeting.

Proxies:

There will be new mandatory, standardized proxy forms which will be available online.

Board Meetings:

The amendments will allow boards to hold meetings using teleconference or any other communication system that allows for transmission in digital or electronic form (or similar means), as long as it allows the directors to communicate concurrently and board members consent.

By-law Voting Thresholds:

Section 56 (10)(a) of the Act allows regulations to set different voting thresholds for owners to confirm by-law changes. Absent of a specific provision in the regulation, the threshold would be the owners of a majority of the units of the corporation.

The regulations lower the required by-law voting threshold for specific matters. For these specific matters, the by-law voting threshold would be a majority of the votes cast by **owners at the meeting** in accordance with subsection 52 (1).

This lower voting threshold would apply to these by-law matters:

- To add information to be included in a periodic information certificate, an information certificate update or a new owner information certificate
- To specify more frequent time periods for sending a periodic information certificate
- To specify additional disclosure obligations under subsection 29 (1) (f) and 29 (2) (f) of the Act, and any related time periods for those additional obligations
- To govern the manner in which required information is presented at a meeting of owners, and identifying additional material to place before the owners at the meeting
- To govern the manner in which an individual may notify the board under Section 45.1 (1)(a) of the Act, and the manner in which an owner may provide material to the board under Section 45.1 (1)(b) of the Act
- To govern additional materials that are to be included in a preliminary notice or notice of meeting sent by the condominium corporation
- To specify the method of electronic communication the condominium corporation can use in relation to communication by the corporation under the Act and the accompanying regulations
- To govern the manner in which an owner may be present at a meeting of owners or represented by proxy
- To allow for voting by telephonic or electronic means under Section 52(1)(b)(iii) of the Act
- To specify additional records that must be maintained and to increase required retention periods



PART 5

Condominium Authority of Ontario

CONDOMINIUM AUTHORITY OF ONTARIO:

CAO's Mandate:

Once proclaimed and the CAO is fully operational, it will offer a range of services including:

- Providing education and awareness for condo owners about their rights and responsibilities, condo ownership, condo living, as well as a guide for condo buyers
- Providing mandatory education for condo directors to help ensure that condo boards run smoothly
- Offering self-help tools for members of the condo community who have questions or want to resolve disputes on their own
- Administering the Condominium Authority Tribunal (“CAT”), which will be a comprehensive dispute resolution service including: negotiation, mediation and adjudication to help resolve the issues and settle disputes in an easy, cost-effective and accessible manner
- A registry of all Ontario condominium corporations, which will include the condominium board members on each board.



Education
Dispute Resolution
Corporation Registry

CAO's Public Registry:

CAO will provide a comprehensive, searchable online database that will include a listing of all condominium corporations and their directors, along with other information (e.g. condo type, number of units). The contents of the registry will be specified in a regulation that has yet to be drafted.



There is debate about exactly what information will be included with regard to directors. Corporations will be required to file annual corporate information returns with the CAO, and will be responsible for updating this information throughout the year.

CAO's Online Resources:

The CAO will provide online resources to resolve issues before they escalate into disputes. These resources will be free and available to all.

The guided pathways will offer self-help tools, templates and how-to guides on a number of priority topics (e.g. pets, noise, access to records etc.)

There will also be some guided pathways available via phone, however it will be limited.

CAO's Funding:

The authority will be funded by fees charged to users of its services and small fees levied on condo corporations across the province intended to reduce dispute resolution costs and cover costs of prevention services such as the Condo Buyer's Guide and online self-help tools.



PART 6

TRIBUNAL

Condominium Authority Tribunal

CONDOMINIUM AUTHORITY TRIBUNAL:

The goal of this change in legislation is to correct the imbalance between condo boards and owners by providing a faster, more effective, less expensive and fairer dispute resolution process.

Permitted Applications:

A corporation may apply to the tribunal for resolution of a prescribed dispute with one or more of its owners or one or more occupiers or mortgagees of a unit.

An owner or a mortgagee of a unit may apply to the Tribunal for the resolution of a prescribed dispute with the corporation, another owner or an occupier or a mortgagee of a unit.

Two or more persons may be entitled to make an application together or the Tribunal may direct two or more application to be joined or heard together.

Applications that may not be made to the Tribunal:

Dispute with respect to:

- Ownership
 - Type of property, ownership of property, easements, effect on encumbrances, discharge of encumbrances and assessments.
- An easement described in a declaration or phase
- Occupier's liability
- Corporation's sale of the property
- Right of dissenters
- Lien upon default
- Priority of lien
- Prohibited conditions and activities:
 - No person shall, through an act or omission, cause a condition to exist or an activity to take place in a unit, the common elements or the assets, if any, of the corporation if the condition or the activity, as the case may be, is likely to damage the property or the assets or to cause an injury or an illness to an individual
- Amalgamation
- Termination
- A dispute involving the determination of title to any real property



Condo Tribunal will handle disputes including:

- Access to records
- Condo document enforcement
- Requisition meeting procedures
- New, statutorily coded prohibition against unreasonable conduct, noise, nuisance, annoyance or disruption

Mediation and Arbitration is mandatory for disputes between condominiums and owners regarding the declaration, by-laws and rules; with respect to:

- Shared facilities agreements
- First year budget statements
- Management contracts between condominiums and managers

Superior Court will continue to deal with disputes regarding:

- Ownership of units
- Easements
- Condominium liens,
- Dangerous conditions

TIMING OF APPLICATIONS:

The application will be on a form approved by the Tribunal and an application must be commenced within 2 years after the dispute to which the application relates arose, unless the Tribunal extends the deadline.

Extensions to the deadline are limited to 1 year if the Tribunal is satisfied that the delay in not applying was incurred in good faith and no substantial prejudice will result to any person affected by the delay.

If the Corporation is not a party to the proceeding or if a person or body makes an application under section 1.36 with respect to a unit, the applicant must serve a copy of the application on the corporation and the corporation is entitled to intervene in the proceeding.



METHODS OF PROCEEDINGS:

Any proceeding with respect to an application may be held:

- Orally
- In writing
- In person
- By telephone
- Via video conference or electronic mail
- Through the use of other electronic means



The Tribunal may also direct parties to a proceeding to participate in ADR.

The Tribunal may refuse to allow an application or dismiss an application without holding a hearing if the Tribunal is of the opinion that the subject matter is frivolous or vexatious or has not been initiated in good faith or discloses no reasonable cause of action or if the Tribunal believes the applicant knew or ought to have known that the application contained false or misleading information.

TYPES OF ORDERS THE TRIBUNAL CAN MAKE

During the Proceeding:

The tribunal may make an order for the detention, preservation or inspection of property or documents that are the subject of the application in the proceeding or as to which a question may arise in the proceeding, and may order a party to provide security in that connection.

At the End of a Proceeding:

The tribunal can order:

- A party to take, or refrain from taking, an action
- A party to pay compensation for damages incurred by another party for an amount up to \$25,000 or as prescribed
- Direct a corporation to pay a penalty for non-compliance under section 55(3) of not more than \$5,000.00
- Costs payable to another party, or to the Tribunal
- Costs payable for refraining to give records



The Condominium Authority Tribunal cannot make an order requiring a person to vacate a property permanently.

A party whom an order of compensation, costs or a penalty is made must pay the order within 30 days, unless the Tribunal specifies a different time.

PAYMENTS OF ORDERS:

If the order requires an owner to pay compensation or costs to a corporation, the corporation may add the amount of the order to the contribution to the common expenses payable to the owner's unit.

On the other hand, if the order requires the corporation to pay compensation, costs or a penalty to an owner and the corporation does not pay the amount within the time limit, the owner may set off the amount against the contribution to the common expenses payable for the owner's unit.



APPEALS:

A party may appeal the order to the Divisional Court on a question of law. On appeal the Divisional Court may affirm, reverse or vary the order of the Tribunal.



SETTLEMENT:

If the parties agree to settle, it must be in writing and signed and is binding on the parties. The tribunal may make an order requiring compliance with the settlement or any part of the settlement.

If a party believes the another party has contravened the settlement, they may apply to the tribunal within 6 months of the contravention or after expiry of 6 months if the tribunal believes the delay in applying was incurred in good faith and no substantial prejudice will result.

The tribunal will make a copy of any order that it makes available to the public in a prescribed manner.





PART 7

CONDO RETURNS

CONDO RETURNS:

The regulations with respect to condominium returns is yet to be finalized.
All reference to the regulations herein are to the proposed regulations.

CONDOMINIUM REGISTRAR:

There will be a condominium registrar appointed and the condominium registrar may appoint two deputy registrars. The condominium registrar will be appointed by the condo authority.

RETURNS:

Every corporation must file with the Registrar the following:

- An initial return
- A turn-over return
- An annual return
- Other returns that are prescribed (transitional return as stipulated in the proposed regulations).

Each type of Condo Return must contain the following information:

- Date of the registration of the declaration and description
- Name assigned to the corporation under subsection 27(3) of the Ontario Regulation 49/01 made under this Act
- Type of corporation as described in subsection 6(1) and (2) of the Act
- Address for service of the corporation; the municipal address for the corporation
- If the condo is not a common element condo, the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49(3) of the Act
- If it is a common elements condo, the maximum number of votes that could be counted at a meeting of owners under the Act
- Names of the directors of the corporation
- Name and address for service of the condominium management provider or manager, if any, with whom the corporation has entered into an agreement to receive condominium management services
- Name and address of any other person responsible for the management of the property
- Start date and end date of the corporation's fiscal year



Types Of Returns:

1

Initial Return

A corporation is not required to file an initial return unless the corporation is created on or after the day section 9.2 of the Act comes into force.

In addition to the information that must be contained, the initial return must include the name of the declarant.

A corporation is required to file an initial return no later than 90 days after the corporation is created.

2

Turn-over return

A corporation is not required to file a turn-over return unless the corporation holds a turn-over meeting under section 43 of the Act on or after the day section 9.2 of the Act comes into force.

In addition to the information that must be included, a turn-over return must include the following information:

- The name of the declaration
- The date of the turn-over meeting

A turn-over return must be filed no later than 90 days after the day of the turn-over meeting which the return related is held and the owners elect a new board.

3

Annual return

In addition to the information that must be contained, the annual return must contain the following:

- Statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so:
 - Name and business address of the inspector or administrator, as the case may be
 - Date of the order appointing the inspector or administrator, as the case may be.
 - Date of the last AGM

The corporation must file an annual return with the Registrar by:

- No later than 90 days after the corporation is created, if it is created on or after January 1 and not later than March 31 in the year to which the returns relates;
- or
- March 31 of each year, but no earlier than January 1 of that year, the above does not apply.

4

Transitional Return

A corporation is not required to file a transitional return unless the corporation was created before the day section 9.2 of the Act comes into force.

In addition to the information required to be included, in all types of condo returns previously listed, a transitional return must include:

- If the corporation has not held a turn-over meeting
- Statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so,
- Name and business address of the inspector or administrator, as the case may be
- Date of the last AGM.

A transitional return must be filed no later than 90 days after this section comes into force.

Verification of Returns:

The return must be verified by one of the following:

- A director or officer of the corporation
- Manager under an agreement for the management of the property
- Licensed condominium manager under the *CMSA*;
- Any other individual having knowledge of the affairs of the corporation

Each return shall be in a form that the Registrar approves.

The Registrar may accept an incomplete return (does not have all the required information) but the corporation will not be considered to have complied with section 9.2 of the Act until it has satisfied all the requirements.



NOTICES:

Filing Notices of Change:

Every corporation shall file with the Registrar, within **30 days**:

1. Notice of change for every change in the directors elected or appointed to the board;
2. Notice of all additional information, if any, that is prescribed which includes:
 - Every change in address for service of the corporation
 - Every change in the municipal address for the corporation
 - Every change in the electric mail address for the corporation if the corporation submitted an electronic mail address in the return that is has most recently filed
3. If the corporation is not a common element corporation, every change in the total number of units
4. If the corporation is not a common element corporation, every change in the maximum number of votes that could be counted at a meeting of owners
5. In the case of a common element corporation, every change in the maximum number of votes that could be counted at a meeting of owners
6. Every change in:
 - The condominium management provider or manager
 - Any other person responsible for the management of the property.
7. Every change in the statement regarding whether there is currently an order of the superior court of justice in effect appointing an inspector under section 130 of the Act of an administrator under section 131 of the Act and every change in name and business address of the inspector or administrator.

9. Whether the corporation has sent for registration, a notice under subsection 122(2) or 123(7) of the Act terminating the government of the property by the Act to the land registry office in which the description of the corporation is registered.
10. Whether the corporation has sold the property and has complied with subsection 124(3) of the Act.
11. Whether the corporation has received a notice of intention to expropriate the property under the *Expropriations Act*.
12. Whether the corporation has made an application under subsection 128(1) of the Act or commenced any other legal action for an order described in subsection 128(2) of the Act.
13. Whether the corporation has received written notice of an application under subsection 128(1) of the Act or any other legal action for an order described in subsection 128(2) of the Act.
14. In the case of a leasehold condominium corporation,
 - Whether the corporation has received written notice of an application described in subsection 173(2) of the Act or any other legal action for an order described in subsection 173(1) of the Act;
 - Whether the corporation has received a written notice of intention not to renew all the leasehold interests in the units in the corporation, as described in clause 174(1)(b) of the Act, or
 - Whether the corporation has given a notice described in subsection 174(6) of the Act to the lessor.

A Corporation shall file a notice no later than 30 days after the change occurs.

A Corporation does not need to file a notice of change if a director is re-elected after an immediately preceding term of office (s9.3(2)).

The notices filed must be verified by either a director or officer of the corporation, a manager under an agreement, a manager who is licensed under the CMSA and provides services to the corporation or any other individual having knowledge of the affairs of the corporation.

The form again will be in a form approved by the Registrar.

There cannot be any false or misleading information with respect to any material fact or statement that omits to state any material fact, the omission of which makes the statement false or misleading.

The Registrar does not have a duty to inquire into the completeness of a notice filed under this section with respect to director changes.

Notices may be filed electronically or by another method that the Registrar approves if the Registrar is of the opinion that delivering it electronically would cause undue hardship to the corporation.

Late Filing Fee:

Any return or notice filed after the time set by the registrar will pay a late filing fee set by the minister or the condo authority.

REGISTRAR'S DATABASE:

The Registrar must maintain an electronic database of all the information contained in every return and notice that the Registrar receives and any other information that relates to returns/filing and that is prescribed.

This public information may be available to the public by:

- Posting it on the internet on the website of the Condo Authority
- Using any other means that the registrar considers appropriate.

Publication of Returns/Notices:

The Registrar must make available to the public, by electronic or other means the information that is contained in the electronic database and that is prescribed, the proposed regulations provides the prescribed information is as follows:

- The name of the declarant
- The date of the registration of the declaration and description
- The name assigned to the corporation
- The type of corporation
- The address for service of the corporation
- The municipal address for the corporation
- If the condo is not a common element corporation, the total number of units in the corporation
- If the condo is not a common elements corporation, the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49(3) of the Act

Publication of Returns/Notices continued:

- In the case of a common elements condo, the maximum number of votes that could be counted at a meeting of owners under the Act
- The names of the directors of the corporation
- The name and address for service of:
 - The condominium management provider or the condominium manager
 - Any other person responsible for the management of the property
- A statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator
- The date of the last AGM
- Information regarding any compliance order under section 134.1 or the Act directing a corporation or a director or officer of that corporation to comply with the requirements of filing returns and notices including the information listed in section 10(2) of the Regulation
- If a corporation has filed a notice of change regarding a change in directors elected or appointed to the board and all additional information, if any, that is prescribed



Confidentiality Obligations:

A person who obtains any information in the course of exercising a power or carrying out a duty related to the administration of returns/notices must preserve the secrecy with respect to the information and shall not communicate the information to any person except:

- As may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations
- As authorised under the *Regulatory Modernization Act, 2007*
- A prescribed entity or organization, if the purpose of the communication is consumer protection
- To a law enforcement agency
- To the counsel of the person communicating the information
- With the consent of the person to whom the information relates



Registrar's Certificates:

The Registrar may issue a certificate certifying that:

- Any return or notice required to be filed has been filed or has not been filed
- A person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Registrar as a director, officer, manager or attorney of the corporation named in the certificate; or
- Information set out in the certificate has been filed and is contained in the records of the Registrar.

The certificates will be issued under the seal of the Registrar and signed by the Registrar.

A certificate purporting to be under the seal of the Registrar and signed by the Registrar, or any certified copy, shall be received in evidence in any prosecution or other proceeding as proof, in the absence of evidence to the contrary, of the facts so certified without personal appearance to prove the seal, the signature or the official position of the person appearing to have signed the certificate.





PART 8

DIRECTORS

DIRECTORS:

The amendments to the Act create new qualifications for Members of the Board of Directors for a condominium corporation.

QUALIFICATIONS:

No person shall be a director if,

- a) The person is not an individual;
- b) The person is under 18 years of age;
- c) The person has a status of bankrupt;
- d) The person has been found under the *Substitute Decisions Act, 1992* or the *Mental Health Act*, to be incapable of managing property;
- e) Subject to the regulations, the person has been found to be incapable by any court in Canada or elsewhere; or
- f) The person has not complied with the prescribed disclosure obligations within the prescribed time.

QUALIFIED

DISQUALIFICATIONS:

A person immediately ceases to be a director if,

- a) A person has a status of bankrupt;
- b) The person has been found, under the *Substitute Decisions Act, 1992* or the *Mental Health Act*, to be incapable of managing property;
- c) Subject to the regulations, the person has been found to be incapable by any court in Canada or elsewhere;
- d) A certificate of lien has been registered under subsection 85(2) against a unit owned by the person and the person does not obtain a discharge of the lien under subsection 85(7) within 90 days of the registration of the certificate of lien;
- e) The person has not completed the prescribed training within the prescribed time; or
- f) The person has not complied with the prescribed disclosure obligations within the prescribed time.

DISQUALIFIED

MANDATORY DISCLOSURE OBLIGATIONS:

Directors must provide the following statements of fact and a brief general description of:

- If the person is party to any legal action to which the corporation is party;
- If the spouse, child or parent of the person, or the child or parent of the spouse of the person, is a party to any legal action to which the corporation is a party, including, the name of the spouse, child or parent;
- If an occupier of a unit that person or the person's spouse owns or that person occupies with the occupier is party to any legal action to which the corporation is a party, including, the name of the occupier and a brief general description of the action;
- If the person has been convicted of an offence under the Act within the preceding 10 years;
- If the person has, directly or indirectly, a material interest in a contract or transaction to which the corporation is a party, in a capacity other than as a purchaser, mortgagee, owner or occupier of a unit;
- If the person has, directly or indirectly, a material interest in a contract or transaction to which the declarant or declarant affiliate is a party, in a capacity other than as a purchaser, mortgagee, owner or occupier of a unit;
- If the person is an owner in the corporation and if the contributions to the common expenses payable for the person's unit are in arrears for 60 days or more;
- If the person is not an owner of a unit in the corporation;
- If the person is not an occupier of a unit in the corporation; and
- All other information set out in a by-law.

The previously noted information must be provided at the time the person provides the board, in writing, a notice of candidate, or in any event, at the meeting in which the person is running for a position as a candidate in the election of one or more directors.

This information must be provided either orally or in writing if the person is present at the meeting or in writing if the person is not present at the meeting.

If a director is appointed to the board, they must provide the above-noted information at any time before being appointed, unless a by-law provides otherwise or within such other period of time that is set out in a by-law of the corporation that is before the appointment.

The information may be provided orally or in writing either at the meeting when the person is appointed that is before the appointment or in writing before the meeting or at such other time a by-law of the corporation requires.



MANDATORY TRAINING OBLIGATIONS:

The Condo Authority is responsible for the administering mandatory director training. They will publish a description of the courses on its website or in any other format that the Condo Authority considers advisable.

Persons elected or appointed after November 1, 2017 must complete the courses within six months unless:

- The person will no longer be a director on the last day of those six months; or
- Has previously completed the courses within seven years of that applicable date.

The Minister will keep a record of all persons who complete the mandatory training and will ensure that the organization provides written evidence of completion to each person.

Within 15 days of receiving evidence of completion, each person must forward this evidence to each corporation in respect of which the person was a director at the time the person completed the course, including:

- A notice identifying each corporation,
- Evidence of completion
- Written evidence of the costs, charges or expenses, if any, that the person incurred and paid for directly

In respect of which the person has not been indemnified by a corporation, the corporation has 30 days to indemnify the person.

The Condo Authority will keep adequate records of each person who has completed the mandatory training, including:

- The name of the corporation of which the person was a director at the time the person completed the courses
- The date the person completed the courses.

Exemptions from disclosure obligations and training courses:

1. A director appointed or elected to a board before November 1, 2017 is exempt from the disclosure and training obligations but ceases to be so exempt if the person is elected or appointed to the board at or after a turn-over meeting held under section 43 of the Act on or after that day.
2. A director appointed or elected to the first board is exempt from the disclosure and training obligations but ceases to be so exempt if the person is elected or appointed to the board at or after a turn-over meeting on or after November 1, 2017.



If the Condo Authority does not publish the mandatory training courses on or before November 1, 2017, a director appointed or elected to a board on or after November 1, 2017 must complete the mandatory training courses before the earlier of the date that the Condo Authority publishes the mandatory training courses on its website and one year from the day that clause 29 (2) (e) comes into force.



DIRECTOR'S TERM AMENDMENTS:

A director may continue to act until,

- a) a successor is elected, if the director is not elected to a position described in subsection 51(6) ; or
- b) if the director is elected to a position described in subsection 51(6) , the earlier of,
 - i. The time at which a successor is elected, and
 - ii. The first annual general meeting following the expiration of the director's term

QUORUM FOR DIRECTOR'S MEETINGS AMMENDMENTS:

A quorum for the transaction of business is a majority of the number of **persons of which the board consists in accordance with this Act, irrespective of any vacancy that arises in the board.**

Previously the Act simply read "majority of the members of the board."

TELECONFERENCE MEETING AMMENDMENTS:

A meeting of directors may be held in accordance with the regulations, by teleconference or another form of communications system that is prescribed, if all directors of the corporation consent to the means used for holding the meeting. The requirement for this to be established in by-laws has been removed.



PART 9

ENHANCED PROTECTION

MAINTENANCE & REPAIRS:

The condo corporation is responsible for repairing and maintaining the common elements and any assets of the corporation. Unit owners are responsible for maintenance and repair of their units. Under the amendments to the Condominium Act, Condo declarations would be permitted to provide further details on these obligations and alter them including clarification of when a corporation is required or permitted to carry out an owner's repair or maintenance obligation and the owner's responsibility for reimbursing the corporation for its costs. The terms "repair" and "maintain" themselves will be clarified so they have specific meaning.



CHARGE-BACKS:

The amendments to the Condominium Act will clarify what a charge-back is and when it can be charged through a prohibition of fines and the regulation of any indemnification or charge-back clauses in a declaration. Corporations will need to provide a notification to owners on any charge-backs that the unit owners owe including a deadline for payment.

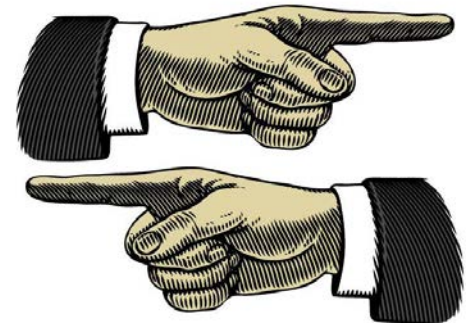
Dispute resolutions would have to be submitted within 30 days of receiving this charge-back notice and payment would be suspended during dispute resolution proceedings. However, if the owner transfers the unit, they would need to ensure the unpaid amount is held in escrow before the transfer and until the dispute is resolved.

INSURANCE:

In order to fill numerous gaps and shortcomings in condo insurance practices, regulations will provide a basic, default definition of a standard unit for condo corporations who have not passed their own standard unit by-laws so owners know exactly what they are responsible for insuring. A corporation would have the authority to amend the standard definition through a by-law. The condo corporation will be required to obtain insurance for all standard unit components of a unit as well as the common elements.

OWNER'S LIABILITY FOR DAMAGE:

Beyond corporation by-laws, the previous legislation was unclear about who pays the corporation's insurance deductible for damage to common elements when it is a result of owner's carelessness. Regulations will make it clear that the responsibility for damage lies with the owner of the unit where the person who caused the damage lives provided the damage was not caused by agents or employees of the corporation. The lesser of either the cost of repair or deductible limit of the corporation's insurance policy will be charged back to the unit owner's contribution to common expenses. Alterations to this responsibility would not be possible through by-laws; only changed through amendments to the condo declaration.



RESERVE FUNDS:

Despite the requirement that condo boards undertake periodic reserve fund studies as a way of ensuring that a corporation's fund is adequate, many reserve funds are too low to meet the corporation's needs particularly when the property is older. This often results in significant extra contributions for unplanned repairs which owners cannot afford. The amendments to the Condominium Act make the following provisions:

Adequacy of Reserve Funds

Regulations will establish how adequacy would be determined for reserve fund studies, funding plan and the amount of common expense fees that a corporation collects from owners to apply to the reserve fund.

Purpose of Reserve Funds

Amendments will broaden the purpose of the reserve funds to include major repairs to units if a corporation has that obligation and other items and projects to be set out in the regulations such as energy-saving projects. The regulations will set out what constitutes a "major repair."

Expert Opinion on the Reserve Fund Balance

If a reserve fund were to fall below level set out in the regulations, the board would be required to obtain an outside opinion on whether it should conduct a study on the adequacy of the fund before the next required periodic study.



First Year Reserve Fund Contribution

Developers would need to specify in the corporation's first year budget, the amount of the common expenses to be paid into a condo corporation's reserve fund. Regulations would set out how that amount would be calculated.

Accountability for a First Year Deficit

If a developer does not comply with the act's rules for calculating the first year budget reserve fund contributions, the developer would be liable to the corporation for the amount of money that it would take to be in compliance.



PROCUREMENT PROCESS:

The Amendments add a new section for procurement processes to address the concerns of “kick-backs” on contracts or payments made to maintenance companies.

A corporation shall not enter into a prescribed contract or transaction unless the procurement process and other contracts or arrangements that the corporation entered into in relation to the contract or transaction meet the prescribed requirements to be defined in the Regulations.





PART 10

PROPERTY MANAGEMENT

PROPERTY MANAGEMENT:

Responsibilities of the Property Manager

With respect to the changes as a result of the new legislation outlined in this E-Book here is a summary of the responsibilities of the Property Manager:

- Ensuring all elected or appointed directors complete the mandatory director training within 6 months of being elected or appointed and ensure that directors provide evidence of completion within 15 days of receiving same
- Keeping adequate records of all owners and mortgagees
- Provide the owners with a notice containing information relating to the insurance of the corporation and the insurance deductible
- Distributing preliminary notices of meetings 35 days before the meeting
- Producing and distributing the information certificates
- Completing and filing condominium returns and notices of change
- Following the process of accessing records
- Disclosing any interest in contracts
- Complying with the manager's code of ethics



Property Manager's Budget Obligations

Property Managers will be required to comply with annual budget requirements outlined in section 83.1 of the Act including:

- Ensuring that at least **30 days before the start of each fiscal year** of the corporation and after its first fiscal year, the board prepares a budget for the upcoming fiscal year that covers the corporation's general and reserve fund accounts and that is prepared in accordance with the regulations
- Provide the following notices to the owners of the corporation:
 - Notice of the budget containing a copy **within 15 days of preparing a budget**
 - Notice of any amendment to the budget containing a copy
 - Notice of proposed expenses that exceed the budgeted amount for that fiscal year within the prescribed time and in accordance with the regulations
- Implement budgets and any amendments only after notice is provided



Condominium Services Act, 2015

In addition to the changes to the Condominium Act outlined in this guide, the government introduced a separate Act known as the Condominium Services Act, 2015 (CMSA) in response to recommendations received during the review of the Condo Act. The new Act and associated regulations provide for:

- Compulsory licensing system for condominium managers and condominium management providers
- Training, education and other requirements for condominium management licences
- Code of Ethics for licensees
- Regulation of the conduct of licensees
- Handling of complaints about condominium management services



The Condominium Management Regulatory Authority of Ontario (CMRAO) will be responsible for administering the CMSA

LICENSING REQUIREMENTS

Individuals or companies providing condominium management services have 90 days after the Act comes into force to apply for a license. They may continue to provide services during the 90 day period until the registrar makes a final decision with respect to the application.

Limited License

- **Up to 2 years** work experience as a condominium manager within the previous 5 years before November 1, 2017
- Have been providing condominium management services 90 days before the Act comes into effect
- Do not have any of the educational requirements completed

Transitional License

- **2 or more years** of work experience as a condominium manager within the last 5 years; and
- Have been providing condominium management services 90 days before the Act comes into effect
- Do not have any of the educational requirements completed

General License

- **More than 2 years** of work experience as a condominium manager within the last 5 years; and
- Have been providing condominium management services 90 days before the Act comes into effect
- Is a member in good standing with ACMO and has ACMO's Registered Condominium Manager (RCM) designation; or
- Has successfully completed the 4 courses developed by ACMO

REQUIREMENTS TO EARN GENERAL LICENSE

Limited Licensee to become General Licensee:

- Must complete the following within 5 years to obtain a general license:
 - Work under the supervision of general licensee or transitional licensee for 2 years; and
 - Successfully complete the 4 ACMO courses; or
 - Successfully complete the 4 ACMO challenge exam; and
 - Perform the following activities under the supervision of a general or transitional licensee:
 - Plan and participate in meetings of the board of directors of a client; and
 - Plan and participate in meetings of owners, including at least one annual general meeting with the meaning of the Condominium Act, 1998; and
 - Participate in preparing a budget for a condominium corporation that the applicant has presented to the board of directors of a client; and
 - Interpret financial statements for a client prepared under section 66 of the Condominium Act, 1998 and present them to the board of directors of the client; and
 - Prepare and present reports to the board of directors of a client; and
 - Oversee the maintenance or repair of units, common elements within the meaning of the Condominium Act, 1998 or client assets if any



Transitional Licensee to become General Licensee:

2 or more years of experience:

- Must complete the 4 ACMO courses within 3 years including:
 - Condominium Law
 - Physical Building Management
 - Financial Planning for Condominium Mangers
 - Condominium Administration and Human Resources

5 or more years of experience:

- Can choose to complete the 4 ACMO courses listed above within 3 years:

OR

- Take the ACMO challenge exams



NOTICE OF CHANGES TO REGISTRAR

Every licensed condo management provider must provide **within 5 days after the event**, notification to the registrar in writing of:

- Any change in address for service; and
- The date of commencement of employment of every condominium manager that the provider employs; and
- The date of termination of employment of every condominium manager that the provider employs including the reason for termination

Every licensed condo manager shall provide **within 5 days after the event**, notification to the registrar in writing of:

- Any change in address for service
- The commencement or termination of his or her employment by a condominium management provider and the date of same
- The commencement or termination of his or her employment by a condominium corporation and the date of same



Principal Condominium Manager

The registrar must be notified of the identity of the principal condominium manager. Changes must be notified within 5 days.

Every licensed condominium management provider must employ at least one licensed condominium manager who meets the prescribed requirements who can be designated as its principal condominium manager who ensures that the provider complies with the Act and the regulations.

Sole Proprietors shall be designated as the principal condominium manager and shall ensure they meet the prescribed requirements.

Financial Statements

Every licensed condominium management provider shall, when required by the registrar, file a financial statement that shows the matters specified by the registrar and that is signed by its principal condominium manager and certified by a person licensed under the Public Accounting Act, 2004.

Manager's Disclosure of Interest

A licensee who, directly or indirectly, has an interest in a contract or transaction, or proposed contract or transaction, to which the client is or will be a party, shall disclose in writing to the client the nature and extent of interest, in accordance with the prescribed requirements and in the form determined by the registrar.

COMPLAINTS

The Condominium Management Services Act (CMSA) will provide that the registrar may receive complaints about a licensee and request information in relation to the complaint from any licensee. The licensee has a duty to comply with any written request for information and shall provide the information as soon as practicable.

Upon receiving a complaint, the registrar may do any of the following as appropriate:

- Attempt to mediate or resolve the complaint
- Give the licensee a written warning that if the activity continues, action may be taken against the licensee
- Require the principal condominium manager of the licensee or the licensee themselves to take further educational courses if the licensee is a condominium management provider
- Refer the matter in whole or in part to the discipline committee
- Take an action to suspend or revoke a licensee or refuse to renew a license upon notification to the licensee
- Take further action as appropriate in accordance with the CMSA



Discipline and Appeals Committees

The CMSA will establish a discipline committee to hear and determine in accordance with the prescribed procedures if a licensee has failed to comply with the code of ethics established within the CMSA. The CMSA will also establish an appeals committee to consider appeals from the discipline committee. The Minister shall appoint members to the discipline committee.

If the discipline committee makes a determination that the licensee has failed to comply with the code of ethics, it may order any of the following:

- Take further educational courses within specified time or at first reasonable opportunity if not specified
- Funding of educational courses
- Impose appropriate fines to maximum of \$25,000 when specified or on the 60th day after the date of the last order if not specified
- Suspend or postpone further educational courses or funding educational courses
- Fix and impose costs to be paid

A party may appeal to the appeals committee who in turn may overturn, affirm or modify the order of the discipline committee and make any of the orders listed above.

The discipline committee and appeals committee will make their decisions available to the public in the manner and at the frequency that is prescribed.



CONDOMINIUM MANAGER'S CODE OF ETHICS

The Condominium Management Services Act (CMSA) regulations provide a code of ethics which includes:

- Fairness, honesty integrity
- No discrimination or harassment, duty to accommodate
- Conscientious and competent services
- Providing opinion
- Ensure all forms and documents used in offering condominium management services are current
- Keeping records
- Being financially responsible
- Not misrepresenting license
- No errors, misrepresentation or fraud
- No unprofessional conduct
- No unreasonable interference
- Engaging and informing the client
- Acting in the client's best interest
- Executing all obligations in a management contract
- Advise client to obtain services from another person if the licensee is unable to provide the services with reasonable knowledge, skill, judgment and competence or if they are not authorized by law to provide the services
- Not discourage a client from seeking a particular kind of service if the licensee is unable to provide the service with reasonable knowledge, skill, judgment and competence or is not authorized by law to provide the service
- Not indicate to any person, directly or indirectly, that remuneration or other costs fixed or approved by the administrative authority, the registrar or any government authority
- Not disclose to a third party any confidential information without prior written consent of the person to whom the information relates



A MESSAGE ABOUT OUR EXPERT:



Denise Lash, B.Sc., LL.B., ACCI, FCCI

Founder
Lash Condo Law

The founder of Lash Condo Law, Denise has over 25 years' experience as a condominium lawyer representing condominium clients in all aspects of condominium law.

Denise has been qualified as an expert in condominium law in the Ontario Courts and has served as a director and/or officer and committee member for the following organizations:

- President of CAI Canada
- Vice-President of the Canadian Condominium Institute (Toronto)
- National Director of the Canadian Condominium Institute (CCI)
- Chair of the council for the Condominium Management Standards for Association of Condominium of Ontario (ACMO) 2000 Committee
- Director of Resilient Communities Ontario (RCO) responsible for promoting safety and security of condominium communities through the property management industry
- CCI Tarion Advisory Committee
- Toronto Atmospheric Fund's TowerWise Energy Efficiency Committee
- Ministry of Consumer Services Expert Panel on Condominium Manager Qualifications

Denise is a writer, lecturer and television host sought after by many media outlets for her condominium legal expertise. In addition to Denise's career as a condominium lawyer, Denise is also a condo owner and condo director who has first-hand experience of the benefits and challenges of condo living.



LARLYN PROPERTY MANAGEMENT LTD.

National Head Office
540 Wharncliffe Road South
Suite 200
London, ON
N6J 2N4

Main Reception: (519) 690-0600
Toll Free: (888) 496-0753
Facsimile: (519) 690-1352
After Hour Emergency: (866) 367-2416
Email: larlyn@larlyn.com



Denise Lash Professional Corporation

LASH CONDO LAW

73 Richmond Street West
Suite L06
Toronto, ON
M5H 4E8

Office: (416) 214-4130
Facsimile: (416) 214-4136
Email: dlash@lashcondolaw.com