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**Legislative Update**

# Welcome to Ontario's New Condo World

One of the Biggest Changes is the New Condominium Authority of Ontario



By now, most of us have heard of Bill 106, Protecting Condominium Owners Act, 2015. This is an Act to amend the Condominium Act, 1998 and to enact the Condominium Management Services Act, 2015. The amendments to the Condominium Act, 1998 are a result of an extensive review of the Condominium Act, 1998 that was initiated by the Government of Ontario in 2012. The Condominium Management Services Act, 2015 will implement the requirement for the licensing of managers and management service providers (i.e. the management companies).

At the time of writing this article, we are only a few weeks away from November 1, 2017, which will be the day that begins the implementation of the biggest changes in the condominium industry that we have seen in Ontario since the inception of the industry and implementation of the first Condominium Act in 1967.

Considering that there are approximately 10,000 residential condominium corporations in Ontario with approximately

800,000 residential units, it was time for some changes.

*The following is just a brief overview of some of the changes as of November 1, 2017.*

**The Amendments to the Condominium Act, 1998**

The amendments to the Act will come into force in stages. The first batch of amendments will be coming into force on November 1, 2017. These amendments primarily relate to governance matters, communications with owners, mandatory disclosures and training for directors, meetings and voting, corporation records and the creation of the Condominium Authority of Ontario.

**The Condominium Authority**

One of the biggest changes is the new Condominium Authority of Ontario (“CAO”). The CAO is focused on consumer protection with a view to supporting healthy condominium communities across Ontario. The CAO will be a source for information, training, dispute resolution, and other services.

The CAO will offer a new, online dispute resolution process, called the Condo Authority Tribunal (CAT), starting November 1, 2017. The CAT will have the exclusive jurisdiction to hear and make legally binding and enforceable decisions about condo disputes. Only disputes identified by the government in the regulations can be filed with CAT, which at first will be limited to disputes about records of the Corporation.

**Information Certificates**

Condominium Corporations will have to provide new information certificates to owners. These include Periodic Information Certificates (PICs), Information Certificate Updates (ICUs) and New Owner Information Certificates (NOICs).

The PICs will have to be sent twice per fiscal year, within 60 days of the end of the Corporation’s first and third fiscal quarters. They will include information about legal actions and judgments, insurance information including the maximum insurance deductibles that can be charged back to owners, information about directors involved

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in legal action and if they are in arrears 60 days or more, budget information, reserve fund balance, remaining contributions, anticipated expenditures, projected increases, and more.



## Condominium Corporations will have to provide new information certificates to owners. These include Periodic Information Certificates, Information Certificate Updates and New Owner Information Certificates).

ICUs will have to be sent within 30 days of changes to the address for service of the corporation or the manager, changes to insurance or deductibles payable and any termination of an insurance policy. ICUs will have to be sent within 5 days of a loss of quorum on the board, indicating the number of vacancies and requesting owners who wish to be candidates to notify the corporation.

A copy of the most recent PIC and ICU, if any, must be made available at the annual general meeting.

The NOIC is to be sent within 30 days to new owners that notify the corporation of their ownership and will include the most recent PIC and ICU.

### Preliminary Notices of Meetings

Preliminary Notices will now have to be sent to owners at least 20 days before a No-

tice of Meeting is sent that will provide basic information about the upcoming owners' meeting. It will indicate the purpose and projected date for the meeting and if the meeting is to elect directors, it will include a deadline for submitting a candidacy, candidate disclosure, and information or material to be included with the Notice of Meeting.

### Board Candidate Disclosure and Training

A welcome new requirement is the disclosure obligations for board candidates. Each candidate will have to disclose whether he/she is 60 days in arrears or more in the payment of common expenses, whether he/she is an owner or occupier of a unit, has been convicted of an offence under the Act or regulations in the past 10 years, is (or a fam-

ily member or tenant is) involved in legal proceedings with the corporation, or is a party to or has a material interest in a contract or transaction with the corporation or the developer. These disclosures must be submitted in writing to be included with the Notice of Meeting or made orally at the meeting. Corporations will be able to pass by-laws to require additional disclosures.

All directors will now have to complete prescribed training within 6 months of being elected, re-elected or appointed to the board. The courses are free and available online. There is no test or exam. The training must be renewed every 7 years.

### Records

Most records will have to be kept for a minimum of 7 years, including financial records,

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operating records and status certificates etc... Fundamental documents such as the declaration, by-laws, rules, current agreements and insurance policies will have to be kept indefinitely. Proxies and ballots have to be kept for 90 days unless the corporation receives notice of a claim.



Those with more than 2 years' experience will hold a deemed transitional general licence and will have 90 days to apply for a general licence or a transitional general licence

Records must be maintained in paper or electronic format and electronic records must be capable of being reproduced within a reasonable time and must include a mechanism to protect against unauthorized access. Steps must be taken to protect against loss, damage or inaccessibility such implementing an automatic back-up system.

There are now 2 types of records: core documents and non-core documents. Core documents include the declaration, by-laws, rules and shared facilities agreements, if any, the current budget and most recent financial statements, most recent auditor's report, record of owners and mortgagees, information certificates sent within the last 12 months, recent minutes of owners and board meetings and the most recent plan for future funding of the reserve fund. Generally, copies of core documents must be provided at no cost. When a charge is

applicable, the maximum charge is 20 cents per page.

Requests for records must be made using the prescribed form. The request must be related to the person's interests as an owner, purchaser or mortgagee and have regard to the purposes of the Act, although the requester does not have to provide the reason. The board will have 30 days to respond to the request using the prescribed form, and if a request is denied, the reason must be given. There is a form to then be used for the requester's response.

**The Condominium Services Act, 2015 ("CMSA")**

The CMSA creates a new regime in Ontario for the regulation and licensing of condominium managers and management service

providers. There are different categories of condominium management licenses and deemed licences for condominium managers. Included in the regime are educational and examination requirements.

Anyone providing "condominium management services" will have to be licensed, subject to some exceptions. The CMSA defines "condominium management services" to mean collecting or holding contributions to the common expenses or other amounts levied by, or payable to, the corporation, or exercising delegated powers and duties of the corporation or its board of directors including: making payments to third parties on behalf of the corporation; negotiating or entering into contracts on behalf of the corporation; and supervising employees

  
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or contractors hired or engaged by the corporation.

There are 2 main categories of licences: a general licence and a limited licence. There are also temporary categories of deemed licences for those working as property managers at the time the legislation comes into force.



All directors will now have to complete prescribed training within 6 months of being elected, re-elected or appointed to the board. The courses are free and available online.

Those working for less than 2 years at the time the CMSA comes into force will hold a deemed limited licence and will have to apply for a limited licence within 90 days.

Those with more than 2 years' experience will hold a deemed transitional general licence and will have 90 days to apply for a general licence or a transitional general licence. An applicant for a transitional general license must hold a deemed transitional general license and will have 3 years to apply for a general licence.

An applicant for a general licence must hold a limited licence (or a transitional general licence) and have successfully completed the educational and examination requirements for a general licence within the 5 years before making the application.

An applicant for a general licence must also have 2 years of work experience within the 5 years before making the application. The work experience must include: having

planned and participated in board meetings, owners meetings including at least one AGM; participated in preparing a budget that the applicant has presented to the board; interpreted and presented financial statements to the board; prepared and presented reports to the board; and, overseen the maintenance or repair of units, common elements or assets of the condominium.

An applicant is exempt from the educational and examination, and the work experience requirements if he/she has successfully completed the examination that the Association of Condominium Managers of Ontario (ACMO) requires to qualify for the designation as a Registered Condominium Manager (RCM) or has successfully completed all of the following courses developed by ACMO (or the applicable challenge examination): Condominium Law; Physical Building Management; Financial Planning for Condominium Managers; and Condominium Administration and Human Relations. There are also exemptions that

relate to the prior successful completion of programs of study, training programs, internship programs, apprenticeship programs, courses, seminars, lectures or tutorials, the successful completion of examinations or tests and prior work experience.

There are new rules for disclosures of interests. A licensee who, directly or indirectly, has a material interest in a contract or transaction to which the client is a party or a proposed contract or transaction, is required to disclose the nature and extent of the interest, in writing, in accordance with the prescribed requirements. If the interest arises after the client enters into the contract or transaction, the interest must be disclosed as soon as the licensee becomes aware of the interest. If a licensee is required to disclose an interest in a proposed contract or transaction, the licensee cannot enter into the contract or transaction on behalf of the client unless the licensee has disclosed the interest and has obtained the written approval of the client to enter into the contract or transaction. **CV**



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