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Ten Things to Know About the New Legislation

1. THE NEW LEGISLATION

The new legislation is Bill 106, Protecting Condominium Owners Act, 2015. This legislation: (a) amends the Condominium Act, 1998 and other Acts with respect to condominiums; and (b) creates the Condominium Management Services Act, 2015.

2. WHEN CHANGES COME INTO FORCE

Only some of the legislation is currently in force. Many Condominium Act, 1998, amendments came into force on November 1, 2017, or will come into force on January 1 and February 1, 2018. For some amendments, no date has been set for them to come into force. Most of the Condominium Management Services Act, 2015, came into force on November 1, 2017, and the rest will come into force on February 1, 2018.

3. PRESCRIBED FORMS

The Ministry of Government and Consumer Services has posted 15 mandatory forms to the Ontario land registry documents website.

4. CAO AND CMRAO

The Condominium Authority of Ontario (the “CAO”) will develop a registry of all Ontario condominiums, provide educational resources, assist in dispute resolution, and

oversee board training. The Condominium Management Regulatory Authority of Ontario (the “CMRAO”) administers the mandatory condominium management licensing program, enforces educational and training requirements, and manages a licensee complaints process.

5. RETURNS AND ASSESSMENTS

Effective January 1, 2018, condominiums will have to file applicable returns (initial return, turnover return, annual return, and transitional return) and notices of change (e.g. a change in directors) with the Condominium Registrar. The Registrar will maintain an electronic database of the information it receives.

Condominiums are required to register with the CAO and pay the first assessment fee by February 28, 2018. The fee is based on \$1 per month for each voting unit (e.g. not parking and locker units).

6. DIRECTORS’ DISCLOSURE AND TRAINING

Disclosure obligations apply to candidates for election and all sitting directors. The regulations list different statements which, if the statements apply, candidates must disclose before the election and directors must disclose by a deadline during their term. Candidates who fail to make required

disclosures are not qualified to join the board. Directors who fail to make required disclosures are automatically disqualified from the board.

Mandatory director training has begun for directors elected or appointed on or after November 1, 2017. Such directors must complete training within six months of their election or appointment. Individuals who are directors as of November 1, 2017, do not have to complete the training until they are re-elected or re-appointed.

7. MANAGEMENT LICENSING

Condominium management providers (companies) and managers have until January 29, 2018, to apply to the CMRAO for a licence. After that date, it will be illegal to provide condominium management services without a licence or proof that you have applied for a licence.

8. CAT AND REQUESTS FOR RECORDS

The Condominium Authority Tribunal (the “CAT”) is an online tribunal that helps settle and decide condominium-related disputes. Effective November 1, 2017, any disputes regarding access to records must be brought before the CAT. It is expected that the CAT’s jurisdiction will expand beyond records disputes.

The new procedure for requesting records requires delivering prescribed forms for requests for records and the board’s response to requests for records. In addition to ordering a condominium to produce records, the CAT may order up to a \$5,000 penalty payable to the owner, purchaser, or mortgagee that made the request.

9. INFORMATION CERTIFICATES

Condominiums will now have to deliver three types of information certificates on prescribed forms. Condominiums may post them on a website and send notice of the posting to satisfy the delivery requirements.

• Periodic Information Certificate (“PIC”)

The PIC is organized into nine categories: (1) General information; (2) Directors and officers; (3) Insurance; (4) Finances; (5) Legal actions; (6) Outstanding legal judgments; (7) Directors’ disclosure; (8) Compliance with condominium return and assessment obligations; and (9) Other information required by by-laws. A PIC must be delivered twice per year: within 60 days of the last day of the condominium’s first and third fiscal quarters.

• Information Certificate Update (“ICU”)


The ICU sets out updates to information in the PIC and must be delivered following certain triggering events (e.g. within 30 days of a change in directors or officers).



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- **New Owner Information Certificate (“NOIC”)**

The NOIC includes copies of the most recent PIC and any subsequent ICU and must be delivered within 30 days after a new owner gives written notice of the owner’s name and unit in accordance with the regulations.

Post-turnover condominiums may be exempt from delivering information certificates if the owners of at least 80% of the units consent in writing to dispense with them until the next fiscal year. This process must be repeated for each fiscal year that the exemption applies.

10. OWNERS’ MEETINGS

Changes to calling and holding owners’ meetings include:

- Prescribed forms and deadlines for delivering a preliminary notice of meeting and a notice of meeting.
- Additional directors’ qualifications and disqualifications, including mandatory directors’ disclosure and education.
- A new prescribed proxy form.
- A lower quorum requirement of 15% of the voting units for the third attempt and any subsequent attempt to call a meeting (unless a condominium’s by-law requires quorum to remain at 25%).
- An opportunity for individual owners to request the inclusion of an auditor’s name and address in the notice of meeting as a candidate for the appointment of an auditor at the meeting.

Mark Willis-O’Connor is an associate lawyer at McCarter Grespan Lawyers. He provides a full range of legal services to condominiums and owners. Mark serves on the first board of directors for the Grand River Chapter and as co-chair of the Communications Committee.


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