

Condominium Law Primer
Section 1
Introduction



Davidson Houle Allen LLP
Condominium Law

Condominium Condo Law Primer
Section 2
Meetings of Owners

Meetings of Owners

Section(s) of *Condominium Act*, 1998 (“the Act”):

Sectons 45, 46, 50, 51

Section(s) of Regulation 48/01 (“the Regulation”):

Section 12.1, 12.2, 12.8, 12.9, 12.10 and 13

Preliminary Notice of Meeting (s. 45.1 of Act and s. 12.2 of the Regs)

A -preliminary notice of meeting is now a legislated requirement.

It must be sent at least 20 days prior to the Notice of Meeting being sent out (therefore at least 35 days before the Meeting). The following information must be included on the Pre-Notice:

- Purpose of the meeting;
- Projected date;
- Call for candidates (if meeting includes elections) and deadline for submission;
- Number of positions on the Board;
- Number of positions for election and term of each;
- Number of positions for owner-occupier;
- Copy of section 29(1) Qualifications;
- Call for material to be included in the Notice of Meeting;
- Other: Ex: If a special vote is to be held.

NOTE: The Preliminary Notice is not required for a notice calling a meeting of owners unless the meeting is held after December 10, 2017, and the Board has not sent any notice with respect to the meeting before November 1, 2017.

Requests for Material to be Included in Notice of Meeting (s. 12.9(1)(a) of Regs)

The deadline for owners to submit information to be included in the Notice of Meeting is one (1) day before the Notice of Meeting is to be sent out.

The Form prepared by the Ministry confirms for owners that the Board is not obligated to include the requested material unless at least 15% of the owners of all units request that the material be included.

Method of Voting and Proxies (s. 52 of Act and s. 13 of Regs)

Votes can be cast by:

- A show of hands personally or by proxy;
- Marked on a proxy; or
- Indicated by telephonic or electronic means, if a by-law has been passed.

“Telephone or electronic means”: any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, fax, email, automated touch-tone telephone system, computer or computer networks.

A vote cast by proxy is subject to the instrument appointing the proxy. [See section 52(1.2)]

It is now mandatory for all proxies to be in the prescribed form.

Quorum Requirements (s. 50 of Act)

The quorum requirement for meetings is now as follows:

- 25% of owners of all units at the first and second attempt to hold a meeting;
- 15% of the owners of all units at the third attempt to hold a meeting.

The Corporation can pass a by-law to require that quorum always remain at 25%

This is a meeting for the purpose of considering an addition, alteration or improvement to the common elements, a change in the assets of the corporation, or a change in a service of the corporation

This is a meeting relating to amalgamation under s. 120 of the *Condominium Act, 1998*

4. Request by owners to include material in the upcoming Notice of Meeting

If you wish to request that any material be included in the notice calling this meeting, please deliver that material to the board to the addresses or in the manner specified above (see item 2 of this form) by this date (yyyy/mm/dd)

Although you can request that material be included in the notice of meeting, the board is not obligated to include this material unless, among other requirements, the owners of at least 15% of the units request that the material be included. For more detail, please refer to the form called "Submission to Include Material in the Notice of Meeting of Owners" which is available on the government's website, and s. 12.8(1)(a) of Ontario Regulation 48/01 under the *Condominium Act, 1998*.

5. A by-law of the corporation requires that additional material be included with this notice.

The following additional material is included with this notice:

Note for common elements condominium corporations: If your corporation is a common elements condominium corporation, all references in this form to "unit(s)" should be read as references to "common interest(s) in the corporation," and all references to "unit owner(s)" should be read as references to "the owner(s) of a common interest in the corporation".

9. Additional material that was submitted by owners by the deadline specified in the preliminary notice is being included with this notice.

10. A by-law of the corporation requires that additional material be included with this notice.

Note for common elements condominium corporations: If your corporation is a common elements condominium corporation, all references in this form to "unit(s)" should be read as references to "common interest(s) in the corporation," and all references to "unit owner(s)" should be read as references to "the owner(s) of a common interest in the corporation".

I (we) appoint the proxy named in row 1 below, or, failing him or her, the proxy named in row 2 below, to attend and vote on my (our) behalf at the meeting of owners to be held on _____ and at any adjournment of the meeting:

Date (yyyy/mm/dd)

Name of Proxy	Signature or initials
1.	

I (we) revoke all proxies previously given.

Please check one of the two boxes below:

<input type="checkbox"/> The proxy may vote on my (our) behalf only with respect to matters of routine procedure at the meeting, and no other matters, as I (we) could do if personally present at the meeting. Instruction for person filling out this form: Check this box if you are appointing the proxy to vote only on matters of routine procedure, and no other matters. If this box is checked, then the rest of the form should not be filled out.	Signature or initials
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<input type="checkbox"/> The proxy may vote on my (our) behalf with respect to all matters that may come before the meeting, subject to my instructions set out below, as I (we) could do if personally present at the meeting. Instruction for person filling out this form: Check this box if you are appointing the proxy to vote on all matters that may come up at the meeting (for example, voting for candidates and other substantive matters), subject to your instructions below.	Signature or initials
--	-----------------------

1. Voting to elect candidates to vacant positions on the board:

<input type="checkbox"/> I/we instruct the proxy to nominate, if necessary, and to vote for the candidates named below and in the order set out below.	
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Order of vote (enter 1, 2, 3, etc.)	Candidates for the Position(s) on the Board	Signature or initials

Instruction to person filling out the form: Your proxy may only vote for individuals whose names are set out above and who, at the time of the vote, are candidates. If you list more names than positions available on the board of directors, your proxy will vote in the order set out above up to the number of positions that are available.

2. Voting for removal of directors and election of substitutes:

<input type="checkbox"/> I (we) instruct the proxy to vote as indicated below with respect to the removal of director(s) from the board of the Corporation:	
---	--

Name of Director	In Favour of Removal	Against Removal	Signature or initials
	<input type="checkbox"/>	<input type="checkbox"/>	

If a vote for the removal of a director(s) is successful, I (we) instruct the proxy to nominate, if necessary, and to vote for the candidate(s) named below and in the order set out below.

Order of vote (enter 1, 2, 3, etc.)	Candidates for the Position(s) on the Board	Signature or initials
	1.	

Submission to Include Material in the Notice of Meeting of Owners

A request by owners to include material in
a notice of meeting

Instructions

This PDF form can be filled out electronically and then saved or printed. When filled out electronically, the form is dynamic – for example, text boxes will expand as you enter information, and checking certain boxes may cause items to appear or disappear as necessary. The blank form can also be printed in full, and then filled out in hard copy. If you are filling out the form in hard copy and you need more space, you may enclose additional sheets of paper with the form.

Condominium corporation's name

Name of the owner who is submitting the form			
Last Name		First Name	
Address of the owner who is submitting the form			
Unit Number	Street Number	Street Name	PO Box
Concession		Rural Route	
City/Town		Province	Postal Code
Optional contact information for the owner who is submitting the form			
Phone number (optional)		Email address (optional)	

This submission requests that (check any that apply):

- material be included in the notice of meeting. Attached to this form is the material to be included.
- a record of the corporation be included in the notice of meeting. Attached to this form is either a description of the record of the corporation to be included, or a copy of the record to be included.
- an addition be made to the business to be presented at the meeting. Attached to this form is a description of the addition to be made to the business of the meeting.

Although you can request that material be included in the notice of meeting, the board is not obligated to include this material unless, among other requirements, the owners of at least 15% of the units request that the material be included. See in particular s. 12.8(1)(a) of O. Reg. 48/01 for more detail. The reference to "units" here does not include units that are intended for parking, storage purposes, or for the purpose of providing space for services or facilities or mechanical installations, unless all of the units in the corporation are those kinds of units.

Printed Name

Date (yyyy/mm/dd)

Note for common elements condominium corporations: If your corporation is a common elements condominium corporation, all references in this form to "unit(s)" should be read as references to "common interest(s) in the corporation," and all references to "unit owner(s)" should be read as references to "the owner(s) of a common interest in the corporation".

**Notice of Meeting of Owners under
s. 34 (5) of the Condominium Act**Information for owners about a meeting to
elect directors called under s. 34 (5) of the
Condominium Act**Instructions**

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Meeting Information

Condominium corporation's name _____

This meeting is being called by _____ because
name of owner

- there are no longer any directors on the board.
- the number of directors remaining on the board are not sufficient for a quorum, and the remaining directors have not called a meeting to fill the open positions.

1. Date and Time of the Meeting _____

2. Place of the meeting _____

3. The nature of the business to be presented at the meeting is (a meeting agenda may be included with this form) _____

4. The quorum needed for this meeting is the owners of _____ out of _____ units in the corporation.

The reference to "units" here does not include units that are intended for parking, storage purposes, or for the purpose of providing space for services or facilities or mechanical installations, unless all of the units in the corporation are those kinds of units. Only owners that are entitled to vote at the meeting and are either present at the meeting or represented by proxy can count towards quorum.

Note for common elements condominium corporations: If your corporation is a common elements condominium corporation, the reference above to "units" should be read as a reference to "the common interest(s) in the corporation."

5. A by-law of the corporation authorizes methods of being present at the meeting, in addition to attending in person or by proxy (e.g., by phone or online)

 Yes No

6. A by-law of the corporation authorizes voting methods, in addition to voting by a show of hands, by ballot, by proxy (e.g., by phone or online), if any

 Yes No

Condominium Condo Law Primer
Section 3
Record Keeping and Access to Records



Davidson Houle Allen LLP
Condominium Law

Record Keeping & Access to Records

Section(s) of *Condominium Act*, 1998 (“the Act”):

Section 55

Section(s) of Regulation 48/01 (“the Regulation”):

Section 13.1 to 13.12

Record Keeping

Section 55(1) of the Act lists the records that all condominiums in Ontario are required to maintain, while subsection 55(2) of the Act (together with section 13.1 of the Regulations) sets out the time frame in which each record must be maintained. Generally speaking the records that must be maintained, and the applicable timeframe for retention, are as follows:

- 90 days
 - Proxies and ballots (unless the Corporation receives written notice of actual or contemplated litigation to which the proxies/ballots relate within that timeframe)

- 7 Years
 - Financial records
 - Returns and notices filed with the Registrar
 - Copies of status certificates
 - Records received in relation to the new disclosure obligations of board members ✓
 - Records related to Board training ✓
 - Records related to employees
 - Records related to specific units or owners;
 - Records registered on title (including liens)
 - Records related to common elements modifications
 - Records related to litigation (7 years from the date on which the litigation concludes)
 - Copies of expired warranties or guarantees (7 years from the date of expiration)
 - Copies of reports from an engineer and/or architect
 - Copies of expired insurance policies (7 years from the date of expiration)

- Maintain at all times (i.e. forever!)
 - Board minutes and minutes from owners’ meetings
 - Declaration, Bylaws and Rules
 - Documents turned over to the condominium by the declarant
 - Copies of agreements entered into by the condominium

- Records related to employees of the condominium, except for copies of employment contracts (which may be disclosed);
- Records related to litigation or insurance claims; and
- Records related to specific units or owners.

Requests for Records – the Procedure

There are four main steps for accessing records, summarized as follows:

(a) Step 1: The Request

- The request must be made on the “Request for Records” form (available online). The form must identify the records requested and indicate preferred method of delivery (electronic or paper copy).

(b) Step 2: The Board’s Response

- Within 30 days of receipt of the request, the Board must respond using the “Board’s Response to Request for Records” form (also available online). In the form, the Board must list each of the records requested, including a description of each record, and must confirm the fee, if any, that will be charged with respect to the records to be copied and/or made available. The form must also identify those records that will **not** be disclosed, with an explanation for the refusal.

(c) Step 3: The Requester’s Response

- With respect to those records that the Board has determined will be made available to the requester, if the requester agrees with the stipulated fees, the requester must deliver the Waiver by Requester of Records, to confirm which records listed in the Board’ Response he/she wishes to have, and must include payment of the applicable fees with the delivery of the form.

(d) Step 4: Access and Accounting

- The Corporation delivers or provides access to the records requested (and paid for) by the requester.
- The Corporation must also include a Statement identifying each record delivered (or made available) and an explanation for any redaction contained in those records.
- The Corporation must also include a statement of account with respect to the estimate of costs and the actual costs associated with the request for records. If the actual costs are more than estimated costs, the requester must pay the difference within 30 days – but the

- Apply to the Condominium Authority Tribunal, or Small Claims Court, for a resolution.
- If within 6 months of delivering the Request for Records, the requester does not apply to the Condominium Authority Tribunal, or Small Claims Court, for a resolution.

Enforcement and Penalty

If a condominium, without reasonable excuse, does not permit a requester to examine or obtain copies of records, the condominium may be subject to a penalty of up to \$5,000.00. [This is a significant increase over the \$500 penalty applicable under the previous version of the Act.]

An owner may seek payment of this penalty, as well as an order for disclosure, from the Condominium Authority Tribunal. This is a change from the previous version of the Act, which required a claim in Small Claims court for such orders. Currently, the Condominium Authority Tribunal is set up to arbitrate all records disputes electronically.

Fees

As noted above, the Regulations specifically permit Boards to charge reasonable fees in relation to requests for records. Subsections 13.3(8) of the Regulations governs these fees, and confirm that the following conditions are applicable to fees charged:

1. The fee shall be a reasonable estimate of the amount required to reimburse the corporation for the actual labour and delivery costs that the corporation incurs for making the record requested available for examination or for delivering a copy of the record, which costs shall include the printing and photocopying charges established under paragraph 3 and the actual labour costs that the corporation incurs during the examination.
2. The fee shall be reasonable.
3. The board shall establish a charge of no more than 20 cents per page for printing or photocopying.
4. If the request is to examine or obtain a copy of a core record, the corporation shall not charge any fee for the request if it delivers the copy to the requester in electronic form.
5. If the request is to examine a copy of a core record, the corporation shall not charge any fee for the request if it makes a copy of the record available for examination in paper form, other than a fee for the actual labour costs that the corporation incurs during the examination and the printing and photocopying charges established under paragraph 3.
6. If the request is to obtain a copy of a core record, the corporation shall not charge,
 - i. any fee for the request if it delivers the copy to the requester in paper form and if the request for records provides that the requester wishes to obtain the copy in electronic form, or
 - ii. any fee for the request, other than the printing and photocopying charges established under paragraph 3, if it delivers the copy to the requester in paper form and if the request for records does not provide that the requester wishes to obtain the copy in electronic form.



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To: Condominium corporation (corporation name)

Requester:

1. I am an owner mortgagee purchaser of a unit or a common interest in the corporation

I affirm that this request for records is solely related to my interests as an owner, a purchaser or a mortgagee, having regard to the purposes of the *Condominium Act, 1998*

2. My name

3. Date (yyyy/mm/dd)

4. Identify the unit or common interest referred to in question 1 above

5. My mailing address (located in Ontario):

Unit Number	Street Number	Street Name	PO Box
City/Town		Province Ontario	Postal Code

6. My Email Address (optional)

7. My Telephone Number (optional)

For communications about this request, I would prefer to be contacted by Mail Email Phone

Agent for requester:

1. I am a duly authorized agent of owner mortgagee purchaser of a unit or a common interest in the corporation

I affirm that this request for records is solely related to my principal's interests as an owner, a purchaser or a mortgagee, having regard to the purposes of the *Condominium Act, 1998*

2. My name

3. Date (yyyy/mm/dd)

4. Name of owner/mortgagee/purchaser

5. Identify the unit or common interest referred to in question 1 above

Instruction

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Condominium corporation's name

Requester's Information

Requester's Last Name

Requester's First Name

This form must be returned by the requester to the condominium corporation in the following manner:

Requested Records (title)

1. Requested record

The requested date or date-range of records

- The Board has determined that you may not examine or obtain a copy of this record, for the following reasons:
- The Board has determined that you may examine or obtain a copy of this record. See below for information about how you may access the record and any applicable costs.

Condominium Condo Law Primer
Section 4
Mandatory Training for Directors



Mandatory Director Training

Section(s) of *Condominium Act, 1998* (“the Act”):

Sections 29(2)

Section(s) of Regulation 48/01 (“the Regulation”):

Sections 11.7, 11.8, 11.9

As of November 1st, 2017, the *Condominium Act, 1998* requires that all condominium board directors complete the Condominium Director’s Training Program. The Condominium Authority of Ontario (“CAO”) is responsible for designating the training courses that directors must complete.

Condominium Director Training Program

- The Condominium Director Training Program (the “Training Program”) consists of six parts that each contains a series of e-modules. Each part addresses an important area of knowledge for condominium directors.
- The Training Program will take between three to six hours to complete depending on whether the user listens to the audio recording or reads the transcript. The user can control the speed and complete the program at a faster or slower pace as desired.
- The Training Program does not require the user to complete tests and/or exams.
- The Training Program is free of charge and is available via the CAO’s website (see below).
- The following six parts and twenty-one e-modules are collectively the designated training:

Part 1 – Foundational Education

- Module 1: The Fundamentals of Condominium Corporations
- Module 2: The Legal Framework Governing Condominiums

Part 2 – The Board of Directors

- Module 3: The Role of Directors & Their Key Responsibilities
- Module 4: Effective Leadership: Creating Strong Condominium Communities
- Module 5: Board Meetings and Owners' Meetings
- Module 6: Requisitioned Meetings
- Module 7: Best Practices for Conducting Owners' Meetings
- Module 8: Obligations Regarding Corporate Records

Part 3 – Financial Management

- Module 9: Financial Fundamentals
- Module 10: Reserve Funds and Reserve Fund Studies
- Module 11: Auditors and Annual Statements
- Module 12: Collection & Liens

Can an owner or a non-owner occupant who is not a director take the Training Program?

The Training Program is available free of charge to condominium owners, residents and members of the public.

Accessing the Training Program

- You can access the Training Program at <https://www.condoauthorityontario.ca/en-US/training/>.
- **Login instructions for condominium directors:**
 - **If you have an existing account:**
 - Log in to your account that is associated with the director's condominium corporation.
 - Do not create a second account to access the Training Program. If a second account is created, the CAO may not be able to track training that a director has completed as part of the mandatory requirements and may have to take it again.
 - **If you do not have an existing account:**
 - Ask your condominium corporation to include you in their corporation profile and send you an invitation through the CAO's online registration system.
 - The condominium corporation must be registered with the CAO before they can send an invitation.
 - If you create an account and take any of the training before your corporation is registered, you must ensure that you use that same account when responding to the invitation code.
- **Login instructions for condominium owners, residents, and the public**
 - **If you do not have an existing account:**
 - Create an account with the CAO when you access the training in order to take the Training Program

Condominium Condo Law Primer
Section 5
Chargebacks to Owners



Davidson Houle Allen LLP
Condominium Law

Chargebacks

Section(s) of *Condominium Act*, 1998 (“the Act”):

Sections 7(4) and 84

Indemnification Provisions

Condominium corporations rely on indemnification provisions to add chargebacks to an owner’s common expense. The specific language of each indemnification provision can vary from declaration to declaration. However, the following wording is very common:

“Each unit owner shall indemnify and hold harmless the condominium from and against any loss, costs, damage, injury or liability whatsoever which the condominium may suffer or incur resulting from or caused by an act or omission of such owner, their agents, occupants, tenants, (etc...) to or with respect to the common elements and/or all other units (except for damage covered by the condominium corporation’s insurance).”

The chargebacks can include a variety of costs, such as management, administrative and legal costs associated with an owner’s breach of the condominium’s governing documents. However, a recent Divisional Court decision and the anticipated amendments to the *Condominium Act* raise questions about whether such costs are permitted by the above-noted wording in an indemnification provision.

Wexler v. Carleton Condominium Corporation No. 28

The Divisional Court in *Wexler v. Carleton Condominium Corporation No. 28* dealt with the interpretation of an indemnification provision (that was almost identical to the above-noted wording) contained in the condominium’s declaration.

In *Wexler*, an owner had sued the condominium corporation – and lost. The issue then became: Did the condominium corporation have the right to a special cost award (i.e. to recover all its legal costs) based on the indemnification provision? The Court said “no” because the indemnification provision did not apply (at least to the legal costs relating to that particular Court dispute).

Based on the language of the indemnification provision, the Court stated that the provision “is not applicable as there has been no loss, costs, damage, injury or liability suffered or incurred with respect to the common elements and/or all other units caused by an act or omission by the unit owner.” In other words, the language of the indemnification provision did not give the corporation the authority to recover other costs and expenses beyond those specifically related to the common elements and/or all other units. Simply put, the legal costs did not fall within the wording of the indemnification provision.

This is a particularly noteworthy decision, because, as noted above, many condominium declarations have indemnification provisions that contain similar wording to the wording in CCC No. 28’s

Condominium Condo Law Primer
Section 6
Contact Information for Owners and Notices to Owners



Davidson Houle Allen LLP
Condominium Law

November 2017

Maintaining Owners' Contact Information & Sending Notices Electronically

Section(s) of the *Condominium Act, 1998* ("the Act"):

Sections 46.1, 139

Section(s) of Regulation 48/01 *General* ("the Regulation")

Sections 12.3, 12.4

The Condominium Corporation is required to maintain a record of its unit owners

- I. Under s. 46.1 of the Act and s. 12.3 of the Regulation, a corporation needs to maintain the following information about unit owners:
 - The owner's name;
 - the owner's unit number and level (as found on the land title);
 - The owner's address for service (needed for sending out notices); and
 - If the owner agreed to receive notices electronically, the method of communication agreed upon.
- II. For persons that became owners before November 1, 2017, the existing list of owner's names and addresses is the starting point.
- III. If the owner does not provide an address to the corporation, the address is deemed to be:¹
 - The address of the owner's unit; or
 - For common element condominium corporations, the address of the owner's parcel of tied land.

New owners have an obligation to provide contact information to the corporation

- New owners (after Nov 1) are obligated, within 30 days, to provide their names and unit numbers to the corporation.²

¹ S.12.4 of the Regulation.

² S. 46.1(2) – 46.1(3) of the Act.

The prescribed form (ie. the “Agreement to Receive Notices Electronically”) can be signed on behalf of the corporation by any one of the Directors or by one representative of the corporation’s manager.

Step 2 – Obtaining the Owner’s Agreement: There are two options:

Option 1: The agreement can be set out in written communications (like an email exchange) between the condominium corporation and the owner that contain (1) the owner’s name, (2) a statement of the fact that the corporation has passed a resolution authorizing the corporation to send notices to owners using the particular method, and (3) a statement that the owner agrees that communications sent to the owner using the particular method will be sufficiently served on the owner in accordance with Section 54 of the Condominium Act.

Option 2: Have the corporation and the owner sign the prescribed form.

Suggested Procedure for Option 2:

1. The corporation prepares the form (see attached suggested template).
2. The corporation arranges for one Director or one representative of the Manager to sign the form, and includes the statement “*I have authority to bind the corporation.*”
3. The corporation sends the form (signed by the corporation) to the owner, with a note along the following lines:

Dear Owner,

We are writing to see if you are willing to receive communications from the condominium corporation electronically. [Electronic communications will mean some cost-savings for the corporation.]

The Condominium Act and Regulations allow owners to agree to accept communications electronically – provided the Board has first passed a resolution stating the methods of electronic communication that the corporation may use for purposes of the Condominium Act and Regulations.

The Board has passed the following resolution:

Provided the owner agrees, the corporation may use any of the following electronic methods of communication for purposes of the Condominium Act and Regulations:

1. *Email, with any attachments included in pdf, Word or other format reasonably approved by the Board, or with attachments obtained via a link to a dropbox, private webpage or website or other online system reasonably approved by the Board.*
2. *Fax.*
3. *The owner accessing the communication including any attachments via a dropbox, private webpage or website or other online service reasonably approved by the Board, combined with a notice delivered to the owner (by Email, Fax or Ordinary Mail) containing a reasonable description as to how the owner can access the communication.*

The prescribed form (ie. the “Agreement to Receive Notices Electronically”) can be signed on behalf of the corporation by any one of the Directors or by any representative of the corporation’s manager.

**Agreement to Receive Notices
Electronically**Agreement by owner or mortgagee to
receive notices from the corporation by
electronic delivery

Owner's or mortgagee's name

Condominium corporation's name

In order for your condominium corporation to enter into this agreement, the board of your corporation must have passed a resolution to determine the methods of electronic communication that it will use for serving notices on owners or mortgagees. Before filling out this form, you should consider contacting the corporation to find out what those methods are.

Method the corporation will use to deliver notices to me:

 Email

My email address is _____

 Facsimile

My fax number is _____

 Other _____ I agree that I am sufficiently served, as described in section 54 of the *Condominium Act, 1998*, if the corporation uses the method of delivering notices identified in this agreement._____
Signature of owner or mortgagee_____
Date (yyyy/mm/dd)_____
Signature of individual on behalf of the
condominium corporation_____
Date (yyyy/mm/dd)_____
Signature of individual on behalf of the
condominium corporation_____
Date (yyyy/mm/dd)

Please affix the corporate seal or add a statement below that the person signing has the authority to bind the corporation.

Condominium Condo Law Primer
Section 7
New Types of By-Laws and Voting



November 2017

New By-laws and Voting Requirements

Section(s) of the *Condominium Act, 1998* (“the Act”):

Sections 21.1(4), 52(1)(b)(iii), 55(1) and (2), and 56

Section(s) of Regulation 48/01 *General* (“the Regulation”):

Section 1, 11.1, 11.2, 11.3, 11.6, 14(0.1)

New By-laws permitted under the Act

- I. Changes to the Act permit the following new by-laws to be created:
 - a. A by-law to establish a period of time within which a corporation shall update its record of owners and mortgagees;
 - b. A by-law to govern the permitted methods for holding a vote and the procedure for holding the vote (including permitting a recorded vote to be submitted to the corporation by mail and permitting a vote by “telephonic or electronic” means); and
 - c. A by-law to govern any matter relating to the obligations of the parties with respect to property, assets, facilities or services that are subject to a shared facilities agreement.

New By-laws permitted by the Regulations

- II. By virtue of changes to the Regulation, , condominium corporations may now pass the following additional by-laws:
 - a. A by-law to specify additional “core records”.
 - b. A by-law to include additional information (beyond what is prescribed by the Regulation) in a periodic information certificate, an information certificate update or a new owner information certificate. [Note: If a by-law is passed to require additional information in an information certificate update, the by-law should also specify the time period in which the Corporation shall send the information certificate update to which the by-law relates.]

- Additionally, this reduced threshold also applies to the passing of the following by-laws:
 - By-laws specifying:
 - Additional records that the Corporation is required to keep;
 - The period of retention for the additional records, specified by by-law that the Corporation is required to keep; and
 - That voting may occur by telephonic or electronic means.

Condominium Condo Law Primer
Section 8
Condominium Returns and Condominium Registrar



November 2017

Condominium Returns and the Condominium Registrar

Section(s) of the *Condominium Act, 1998* (“the Act”):

Sections 9.1, 9.2 and 55

Section(s) of Regulation 377/17 *Condominium Returns* (“the Regulation”)

All

The Condominium Registrar

- I. Section 9.1 of the Act confirms that the Board of the Condominium Authority (or the Minister) shall appoint a Registrar and up to two deputy Registrars.
- II. The Act also requires the Registrar to exercise the powers and fulfill the duties as set out in the Act. These duties include:
 - a. Approving forms for filing with the Registrar;
 - b. Accepting filings from condominiums;
 - c. Creating and maintaining a database for information contained in every return and notice that the Registrar receives under Part II.1 of the Act and any other information that relates to Part II.1 and is prescribed under the Regulation;
 - d. Making the database available to the public (subject to the restrictions for privacy contained in the Act and the Regulation); and
 - e. Making an order directing a person to comply with subsection 1.30 (6), any provision of Part II.1 or subsection 132 (9) of the Act if the Registrar believes on reasonable grounds that the person has contravened any of these provisions.

The Condominium Corporation is required to file annual returns with the Registrar

- I. Under s. 9.2 of the Act condominium corporations are required to file the following returns with the Registrar:
 - An initial return;
 - A turn-over return;
 - An annual return; and
 - Other returns as prescribed by the Regulation.

All of the above-noted returns must contain:

II. Initial Return

This return only applies to condominium corporations that are declared after the new Regulations come into force (i.e. after January 1, 2018). This return is to be filed with 90 days of the registration of the Declaration and Description.

In addition to the above-noted requirements, the Initial return must also contain the name of the Declarant.

III. Turn-over Return

This return is to be filed within 90 days after the turnover meeting is held under section 43 of the Act, where the turnover meeting takes place after the new Regulations come into force (i.e. after January 1, 2018).

In addition to the foregoing information, the Turn-over Return must also contain:

- The name of the Declarant; and
- The date that the turn over meeting was held.

IV. Annual Return

This form is to be filed annually by all condominium corporations. Corporations must file this return between January 1 and March 31 of each year. [Note: In the year that the condominium corporation is created, the corporation must file the Annual return within 90 days after the corporation is created, if it is created between January 1 and March 31 in the year to which the return relates.]

In addition to the foregoing information, the Annual Return must also contain:

- The date of the last Annual General meeting; and
- A statement as to whether or not 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,
 - o the name and business address of the inspector or administrator, as the case may be, and
 - o the date of the order appointing the inspector or administrator, as the case may be.

#	Item	Type of Return				
		Initial (90 days of Declaration)	Turnover (90 days of turnover meeting)	Annual (between Jan. 1 and March 31)	Transitional (MARCH 31, 2018)	Notice of Change (Within 30 days of change)
1.	Name of declarant	✓	✓		✓ (if no turn-over meeting has been held)	
2.	Date of registration	✓	✓	✓	✓	
3.	Date of turn-over meeting		✓			
4.	Condo corporation name	✓	✓	✓	✓	
5.	Type of condo corporation (standard, common elements, etc.)	✓	✓	✓	✓	
6.	Condo corporation's address for service	✓	✓	✓	✓	✓
7.	Email address (optional)	✓	✓	✓	✓	✓
8.	Municipal address	✓	✓	✓	✓	✓
9.	Name of each director and effective date of appointment	✓	✓	✓	✓	✓
10.	Number of units *not applicable for Common Elements Condo Corporations	✓	✓	✓	✓	✓
11.	Maximum number of votes that could be counted at a meeting of owners	✓	✓	✓	✓	✓
12.	Name and address for service of condo manager and management provider, if any	✓	✓	✓	✓	✓
13.	Start and end dates of the corporation's fiscal year	✓	✓	✓	✓	
14.	Date of last AGM			✓	✓	
15.	Information about court-appointed administrator, if any			✓	✓	✓
16.	Information about court-appointed inspector, if any			✓	✓	✓
17.	Termination of the condo corporation in certain cases including any notices received or legal action taken					✓
18.	Sale of property (Section 124 of Act)					✓
19.	Notice of Expropriation, if any					✓



[Français](#)

Condominium Act, 1998

ONTARIO REGULATION 377/17

CONDOMINIUM RETURNS

Consolidation Period: From September 29, 2017 to the [e-Laws currency date](#).

Note: THIS REGULATION IS NOT YET IN FORCE. It comes into force on January 1, 2018, the day section 12 of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force.

Last amendment: O. Reg. 377/17, s. 13.

This is the English version of a bilingual regulation.

DEFINITIONS

Definitions

1. In this Regulation,

“annual return” means an annual return mentioned in paragraph 3 of subsection 9.2 (1) of the Act; (“rapport annuel”)

“electronic database” means the electronic database required by subsection 9.7 (1) of the Act; (“base de données électronique”)

“employ” means to employ, appoint, authorize or otherwise arrange to have another person act on one’s behalf, including as an independent contractor; (“employer”)

“initial return” means an initial return mentioned in paragraph 1 of subsection 9.2 (1) of the Act; (“rapport initial”)

“transitional return” means a return described in section 6; (“rapport transitoire”)

“turn-over return” means a turn-over return mentioned in paragraph 2 of subsection 9.2 (1) of the Act. (“rapport de transfert des pouvoirs”)

RETURNS

Contents of all returns

2. (1) An initial return, a turn-over return, an annual return and a transitional return shall each contain the following information in respect of the corporation as of the date of delivery of the return:

1. The date of the registration of the declaration and description.
2. The name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act.
3. The type of corporation as described in subsections 6 (1) and (2) of the Act.

1. 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 under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be, and
 - ii. the date of the order appointing the inspector or administrator, as the case may be.

2. The date of the last annual general meeting.

(2) A corporation shall file an annual return with the Registrar by,

- (a) 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 return relates; or
- (b) March 31 of each year, but no earlier than January 1 of that year, if clause (a) does not apply.

Transitional return

6. (1) A transitional return is prescribed for the purposes of paragraph 4 of subsection 9.2 (1) of the Act.

(2) 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.

(3) In addition to the information that section 2 requires be contained in a transitional return of a corporation, the return shall contain the following information in respect of the corporation as of the date of delivery of the return:

1. If the corporation has not held a turn-over meeting under section 43 of the Act, the name of the declarant.
2. 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 under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be, and
 - ii. the date of the order appointing the inspector or administrator, as the case may be.

3. The date of the last annual general meeting.

(4) A corporation required to file a transitional return shall do so by March 31, 2018.

Notice of change

7. (1) The following information is prescribed for the purposes of clause 9.3 (1) (b) of the Act:

1. Every change in the address for service for the corporation.
2. Every change in the electronic mail address for the corporation if the corporation submitted an electronic mail address in the return that it has most recently filed under Part II.1 of the Act.
3. In the case of a corporation that is not a common elements condominium corporation, every change in the total number of units in the corporation.
4. In the case of a corporation that is not a common elements condominium corporation, every change in 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.
5. In the case of a common elements condominium corporation, every change in the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection 2 (2).
6. For every change in the directors elected or appointed to the board, the effective date on which the change occurred.
7. Every change in,
 - i. the condominium management provider, if any, with whom the corporation has entered into an agreement to receive condominium management services or the condominium manager who is employed by the provider and who provides the services, or
 - ii. the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services or the condominium management provider, if any, that employs the manager.
8. Every change in the address for service of,

1. If the Registrar or the Licence Appeal Tribunal has made a compliance order under section 134.1 of the Act directing a corporation or a director or officer of that corporation to comply with any provision of Part II.1 of the Act and if there is no possibility of it being replaced under subsection 134.1 (5) of the Act,
 - i. the date that the order is made,
 - ii. the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act,
 - iii. the name of the directors or officers of the corporation who the order directs to so comply,
 - iv. the provisions of Part II.1 of the Act that the Registrar or the Tribunal making the order believes on reasonable grounds that the corporation, director or officer has contravened, and
 - v. a description of the order.
2. If the Registrar determines that, in respect of a corporation, the Act has ceased to govern the property, a statement that the corporation no longer exists.

No publication of database

11. The Registrar is exempt from subsection 9.7 (2) of the Act.

Note: On April 1, 2018, section 11 of the Regulation is revoked and the following substituted: (See: O. Reg. 377/17, s. 13 (2))

Publication of database

11. (1) For the purposes of subsection 9.7 (2) of the Act, the Registrar shall make the following information about every corporation contained in the electronic database available to the public:

1. The name of the declarant.
2. The date of the registration of the declaration and description.
3. The name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act.
4. The type of corporation as described in subsections 6 (1) and (2) of the Act.

Note: On the day subsection 9 (4) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 4 of subsection 11 (1) of the Regulation is amended by adding “and whether the corporation is a phased condominium corporation” at the end. (See: O. Reg. 377/17, s. 13 (3))

5. The address for service for the corporation.
6. The municipal address for the corporation, if any, contained in the declaration pursuant to clause 7 (2) (e) of the Act.
7. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation.
8. In the case of a corporation that is not a common elements condominium 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.
9. In the case of a common elements condominium corporation, the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection 2 (2).
10. For each director of the corporation, the name of the director and the effective date of the director's election or appointment to the board.
11. The name and address for service of,
 - i. the condominium management provider, if any, with whom the corporation has entered into an agreement to receive condominium management services and the condominium manager who is employed by the provider and who provides the services, and
 - ii. the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services and the condominium management provider, if any, that employs the manager.

Condominium Condo Law Primer

Section 9

BREAK



Condominium Condo Law Primer
Section 10
New Information Certificates



Davidson Houfe Allen LLP
Condominium Law

November 2017

New Certificates for Owners

Section(s) of *Condominium Act*, 1998 (“the Act”):

Section 26.3

Section(s) of Regulation 48/01 (“the Regulation”):

Sections 11.1, 11.2, 11.3, 11.4, 11.5, 12.1

The New Certificates

1. Periodic Information Certificate [Prescribed Form attached]
2. Information Certificate Update [Prescribed Form attached]
3. New Owner Information Certificate [Prescribed Form attached]

When must they be delivered?

Periodic Information Certificate [PIC]

- Twice per year – within 60 days of the last day of the corporation’s first quarter and third quarter.

Information Certificate Update [ICU]

- Within 30 days following a change to:
 - (i) the address for service of the corporation;
 - (ii) the address for service of the directors or officers of the corporation;
 - (iii) the directors or officers of the corporation;
 - (iv) the name and address for service of the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services;
 - (v) the address or methods for receiving records requests or communicating about records requests;
 - (vi) the method of electronic communication that the corporation will use in connection with records requests and related communications.

Section 11.5 of the Regulation reads as follows:

Delivery of information certificates

11.5 (1) In addition to section 54 of the Act, a periodic information certificate, an information certificate update or a new owner information certificate that a corporation sends to the owners is sufficiently served if,

(a) the corporation posts it on a website and sends a notice of the posting that complies with subsection (2) of this section to the owners in accordance with section 54 of the Act;

(b) the posting meets the requirements specified in clauses (b) and (c) of the definition of "electronic communication" and "electronic mail" in subsection 1 (2) of this Regulation; and

(c) the posting can be accessed by electronic means in the manner set out in the statement described in clause (2) (c) and for at least 30 days following the day on which the corporation complies with clauses (a) and (b) of this subsection. O. Reg. 180/17, s. 5 (2).

(2) The notice of the posting shall,

(a) be in English or French and in the form that the Minister responsible for the administration of section 26.3 of the Act specifies;

(b) identify whether the posted certificate is a periodic information certificate, an information certificate update or a new owner information certificate;

(c) state how the posting can be accessed by electronic means; and

(d) state that if an owner wishes to obtain a copy of the posted certificate in paper form, the owner can do so by making a request under subsection 55 (3) of the Act. O. Reg. 180/17, s. 5 (2).

(3) The provisions of sections 13.3 to 13.11 that apply to a core record apply to a request described in clause (2) (d). O. Reg. 180/17, s. 5 (3).

Available at AGM

According to Section 12.1 of the Regulation, the latest PIC and any following Updates must be available for review in paper form at the AGM.

2. Directors and officers of the corporation

Name	Position/Title		Address for Service	Email Address (optional)
	Director	Officer		
	Title			

Add item (+)

3. Insurance information about the corporation

The corporation has obtained and maintained all of the insurance required by the *Condominium Act, 1998* or that is otherwise legally required, at all times during the current fiscal year.

Yes No

If an owner causes damage to the condo property, the condo corporation may be required to add the cost of repairing the damage or the deductible limit of the corporation's required insurance policy, whichever is less, to the owner's common expenses, or the corporation may seek to recover the amount from the owner in another manner. This could be affected by a by-law the corporation may have passed under clause 56 (1)(i).

The corporation's deductibles for each required insurance policy are:

Policy	Deductible Amount	Maximum amount that could be added to an owner's common expenses under s. 105 (2) of the <i>Condominium Act, 1998</i> or as a result of a by-law passed under s. 56 (1) (i) of the Act.

Add item (+)

The Corporation has obtained and maintained the insurance policy described in section 39 of the *Condominium Act, 1998*

Yes No

The Corporation has obtained and maintained the insurance policy described in section 99 of the *Condominium Act, 1998*

Yes No

The Corporation has obtained and maintained the insurance policy described in section 102 of the *Condominium Act, 1998*

Yes No

The corporation has or had a legal obligation to maintain insurance, aside from the insurance described in section 39, 99, and 102, at any time during the fiscal year

Yes No

Information about the "standard unit"

The standard unit is described in a by-law made under s. 56 (1) (h) of the *Condominium Act, 1998*

A certificate or memorandum of insurance for each of the corporation's current insurance policies is enclosed with this information certificate.

If no certificate or memorandum of insurance for each of the corporation's current insurance policies is enclosed, then an explanation may be provided here

A copy of any compliance order made by a Registrar directing the corporation, or a director or officer of the corporation, to comply with subsection 1.30(6), any provision of Part II.1 or subsection 132 (9) of the *Condominium Act, 1998*, is enclosed with this certificate, unless the corporation, director or officer of the corporation, has taken the required steps for a hearing by the License Appeal Tribunal in respect of the compliance order, under section 134.1 of the *Condominium Act, 1998*.

Yes Not applicable

9. Other information about the corporation that is required by a corporation's by-laws

Not applicable

A by-law of the corporation requires additional information to be included with this certificate. The additional information required by the by-law is included below, or is enclosed with this certificate as a separate document.

Note for common elements condominium corporations: If your corporation is a common elements condominium corporation, all references in this form to "unit(s)" should be read as references to "common interest(s) in the corporation," and all references to "unit owner(s)" should be read as references to "the owner(s) of a common interest in the corporation".

Save Form

Print Form

Clear Form

New Owner Information Certificate

Information for new owners about the corporation

Instruction

This PDF form can be filled out electronically and then saved or printed. When filled out electronically, the form is dynamic – for example, text boxes will expand as you enter information, and checking certain boxes may cause items to appear or disappear as necessary. The blank form can also be printed in full, and then filled out in hard copy. If you are filling out the form in hard copy and you need more space, you may enclose additional sheets of paper with the form.

Condominium corporation's name:

Date (yyyy/mm/dd)

-
- Enclosed is a copy of the most recent Periodic Information Certificate sent to owners.
- Enclosed is a copy of any Information Certificate Update sent to owners after the most recent Periodic Information Certificate was sent.

Other information that is required by a corporation's by-laws

- Not applicable
- A by-law of the corporation requires additional information to be included with this certificate. The additional information required by the by-law is included below, or is enclosed with this certificate as a separate document.

[Save Form](#)[Print Form](#)[Clear Form](#)

Condominium Condo Law Primer
Section 11
New Disclosure Obligations for Director Candidates



Davidson Houle Allen LLP
Condominium Law

November 2017

New Disclosure Obligations – Candidates for Director

Section(s) of *Condominium Act*, 1998 (“the Act”):

Section 29

Section(s) of Regulation 48/01 (“the Regulation”):

Sections 11.6, 12.1

New Qualification for Directors

A new qualification for condominium Directors – set out in Section 29 of the Act – is as follows: The person must comply with the prescribed new disclosure obligations for Director candidates, within the prescribed time. [The requirements and time periods are *prescribed* in the Regulations.] If the candidate does not comply, he or she is disqualified.¹

What Disclosure is Required?

The new disclosure obligations are triggered in the following circumstances:

- Involvement in a ^{legal action} Court proceeding that also involves the condominium corporation:
 - If the candidate, or certain members of the candidate’s family, is/are involved in a Court proceeding also involving the condominium corporation. OR
 - If an occupant of the unit is involved in a Court proceeding also involving the condominium corporation (if the unit is owned by the candidate or by the candidate’s spouse, or if the unit is also occupied by the candidate).
- Convicted of an offence: If the candidate has been convicted of an offence under the Act or Regulations in the previous 10 years.
- Interest in certain contracts or transactions:
 - If the candidate has a material interest in a contract or transaction to which the condominium corporation is a party. OR
 - If the candidate has a material interest in a contract or transaction to which the declarant or declarant affiliate is a party.

¹ Condominium Act – Section 29

From our reading of the timing requirements (for disclosure), it's our view that the new disclosure obligations apply only to *candidates* for election or appointment to the Board. The disclosure obligations do not apply to incumbent Directors (unless of course the Director failed to make disclosure at the time of the Director's election or appointment, as described above). It is accordingly our view that disclosure obligations are not triggered if the circumstances arise *after a Director is elected or appointed to the Board*. However, the separate disclosure obligations in Section 40 of the Act (disclosure of contracts or transactions of the corporation in which the Director has a material interest) would of course apply (but compliance with those requirements is not a qualification to remaining on the Board).

Available at AGM

According to Section 12.1 of the Regulation, in the event of disclosure by a candidate seeking election at an AGM, the Board must add an item to the AGM agenda for oral presentation of the disclosure. Therefore, we suggest the following agenda item (as a sub-item under the "Election" agenda item): "**Any required disclosure from candidates**".

Condominium Condo Law Primer
Section 12
The New Condominium Authority of Ontario – An Overview



Davidson Houle Allen LLP
Condominium Law

November 2017

The Condominium Authority of Ontario

Section(s) of *Condominium Act, 1998*:

Part 1.1 – Administration of this Act (Sections 1.1 – 1.30)

Regulation 181/17 – Designation of Condominium Authority

Overview

The Condominium Authority of Ontario (CAO) has been up and running since September 1, 2017, but is currently limited to dealing with matters covered by the first phase of the amendments. It was established under the *Condominium Act* as an independent body to improve condominium living in Ontario by providing services and protection to condominium owners. Some of the key purposes of the CAO are as follows:

- To set up and maintain a public registry of condominium corporations and their directors;
- To provide the online, mandatory training for condominium directors;
- To act as a centralized source of information to condominium owners and corporations about:
 - The rights and responsibilities of condominium owners;
 - The roles and responsibilities of the board of directors and condominium manager;
 - and
 - Further changes to the *Condominium Act*.
- To provide special resources for condominium owners and residents to resolve issues that commonly arise in condominium living, including:
 - Template letters for certain dealings with condominium corporations and managers;
 - How-to guides;
 - Information about changes to condominium law; and
 - General information about condominium living.
- To administer the online dispute resolution service through the Condominium Authority Tribunal.

The first installment of the fee is due by December 31, 2017, and will cover the period from September 1, 2017 to March 31, 2018. A corporation can pay the assessment electronically by credit card, interact, cheque, or money order mailed to CAO.

Where a condominium corporation has not paid its assessment by the deadline, it could face certain sanctions, including not being able to file a claim with the CAT, not being able to file a Court claim, and may be subject to prosecution as an offence under the *Condominium Act*. The CAO can also charge interest for non-payment of the assessment.

Common Issues and Solutions

The CAO has information respecting the ten most common issues related to condominium living, which the CAO has determined are:

- Records
- Meetings
- Rules
- Personal property
- Noise
- Pets
- Odour
- Issues with Condominium Managers
- Neighbor to neighbor problems
- Short term rentals

For each issue the CAO website sets out:

- An overview of the issue;
- How the issue is dealt with in the legislation and/or the condominium declaration, rules and by-laws;
- Suggested solutions (primarily self-help remedies) to resolve the problem in an orderly manner; and
- Additional help alternatives such as mediation, arbitration and legal proceedings that can be used when the issue has not been resolved using self-help remedies.

The CAO also provides owners with a sample letter/e-mail for owners to use when contacting the condominium corporation about an issue.

Condominium Condo Law Primer

Section 13

The New Condominium Authority Tribunal (CAT) – An Overview



Davidson Houle Allen LLP
Condominium Law

November 2017

The Condominium Authority Tribunal of Ontario

Section(s) of *Condominium Act*, 1998:

Part 1.2 – Condominium Authority Tribunal (Sections 1.31 – 1.48)

Regulation 179/17 – Condominium Authority Tribunal

Overview

As of November 1, 2017, the new Condominium Authority Tribunal of Ontario (CAT) is up and running. Its purpose is to help settle and decide condominium related disputes in Ontario. This is Ontario's first "online" tribunal, meaning that information can be submitted online, by email, in person, and in writing. This online dispute resolution system is designed, in part, to help parties resolve their disputes quickly and affordably.

Jurisdiction

For now, the Tribunal's jurisdiction is limited to resolving disputes relating to access to records (i.e. disputes arising under section 55 of the *Condominium Act*). However, the Tribunal's jurisdiction may expand in time (by way of amendment to Regulation 179/17), to include a range of disputes like compliance issues, involving the condominium corporation, its owners, occupiers, or mortgagees. The timeframe respecting the expansion of the Tribunal's jurisdiction is not currently known.

The Tribunal has the authority to grant the following types of relief, which as noted above, currently only relate to disputes under section 55 of the *Condominium Act*:

- Orders to comply with the legislation or a condominium's governing documents;
- Orders to require a party to do (or not to do) something over which the Tribunal has jurisdiction;
- Orders to require a party to pay damages of up to \$25,000;
- Orders to require a condominium corporation to pay a penalty where it has refused proper access to records;
- Orders that a party pay another party's legal costs (but only in exceptional circumstances);
- Orders that a party pay the Tribunal's costs; and
- Any other relief the Tribunal considers fair in the circumstances.

Stages in the CAT Process

After the Applicant and Respondent have submitted their relevant information, the case automatically moves to the *negotiation stage* where parties can send messages to each other through the online system to discuss the issue and try to settle it. Any offers to settle made are binding and cannot be retracted. If there is no action on a case for 30 days, the case will automatically be closed.

After both parties have made at least one offer to settle, the Applicant can move the case to the *mediation stage*. The fee for this stage is \$50. The CAT will assign a trained mediator to work with the parties. The mediator's role is to clarify the issue in dispute, help parties understand their rights, help parties come to an agreement where possible, provide their opinion on a party's argument or position, and/or suggest possible settlement options.

If mediation does not resolve the case, the Applicant can next move the case to the *Tribunal decision stage*. At this stage, a CAT member is assigned to decide the case. The CAT member controls the process and the communication between the parties at this stage and the fee is \$125. The CAT member has the option to dismiss the case, resolve the case by way of settlement between the parties, resolve the case by consent of the parties, or come to a binding decision on the case based on the evidence provided and the applicable law.

Representation

A party can represent themselves at the CAT or they may hire a lawyer or paralegal as their representative. However, generally speaking, the costs associated with legal representation are *not* recoverable through the CAT process (see more on this below under "Costs").

Limitation Period

A party that intends to bring a case to the Tribunal must do so within two years from the date on which the issue arose. This is much like the standard "two year limitation period" that exists for most Court claims. However, under the CAT rules, the Tribunal *does* have the authority to extend this limitation period by up to another year, if the party requesting the extension can show that the delay in bringing the claim was incurred in good faith and there is no substantial prejudice to another party.

Appeals

An appeal of a decision from the CAT is available, without leave, to the Divisional Court of Ontario.

Condominium Condo Law Primer
Section 14
Declarations, By-Laws, and Rules



Davidson Houle Allen LLP
Condominium Law

November 2017

Amendments to Declaration and By-laws

Section(s) of *Condominium Act*, 1998 (“the Act”):

Declaration: Section 107

By-laws: Section 56

Section(s) of Regulation 48/01 (“the Regulation”):

Section 14

I. The Declaration

Possible reasons for amendment:

- To add chargebacks to an owner’s common expenses (ie. where an owner causes the corporation to incur costs). [NOTE: A strong Indemnification provision in the Declaration is likely necessary in order to add chargebacks to an owner’s common expenses. *This is a key reason that many condominium corporations may be considering amendments to their Declarations.*]
- Perhaps to clarify or correct repair and maintenance obligations. [NOTE: The legislative amendments will be bringing changes to provisions respecting repair and maintenance.]
- Perhaps to deal with responsibility for deductibles on the corporation’s insurance. [NOTE: The legislative amendments will eliminate insurance deductibles by-laws, but existing by-laws *might* be grandfathered.]
- Perhaps to deal with access to the units. [NOTE: Emergency access (without notice) will require a provision in the Declaration or By-laws.]

- *Specify more frequent time periods for sending a periodic information certificate.*
- *Specify additional disclosure obligations or in some ways regulate disclosure obligations of Director candidates.*
- *Govern the manner in which required information is presented at a meeting of owners, and identify additional material to be placed before the owners at the meeting.*
- *Govern the manner in which an individual may notify the board of (a) his/her candidacy for election (to be mentioned in a notice of meeting) or (b) his/her request that material be added to a meeting notice.*
- *Specify additional records that must be maintained.*
- *Govern additional materials that are to be included in a preliminary notice or notice of meeting.*
- *Specify the method of electronic communication by the condominium corporation.*
- *Govern the manner in which an owner may be present at a meeting of owners or represented by proxy.*
- *Allow for disclosure of identified information on proxy forms or ballots.*