

BY-LAW NO. 12
YORK CONDOMINIUM CORPORATION NO. 323

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BY-LAW NO. 12
YORK CONDOMINIUM CORPORATION NO. 323

BE IT ENACTED as a By-law of York Condominium Corporation No. 323 (the "**Corporation**") as follows:

By-law No. 3 and By-law No. 6 of York Condominium Corporation No. 323 are hereby repealed.

The terms used herein shall have ascribed to them the definitions contained in the *Condominium Act, 1998* S.O. 1998, c. 19, as amended, and the regulations made thereunder (the "**Act**") and in the declaration of the Corporation (the "**declaration**").

ARTICLE 1 - SEAL

The seal of the Corporation shall be in the form impressed in the margin beside this paragraph.

ARTICLE 2 - YEAR-END

The financial year-end of the Corporation shall be the 30th day of April in each year or such other date as the board of directors (the "**Board**") may by resolution determine.

ARTICLE 3 - RECORDS OF THE CORPORATION

The Corporation shall maintain the following records in either paper or electronic format:

3.1 Required By the Act

- (a) the minute book for the Corporation including a copy of the registered declaration and description, registered by-laws, current rules and minutes of owners' meetings and Board meetings;
- (b) copies of any resolution of the Board changing the address for service or mailing address of the Corporation;
- (c) copies of all agreements entered into by the Corporation, or the declarant or the declarant's representatives on behalf of the Corporation, including property management contracts, deeds, leases, licences and easements;
- (d) copies of all policies of insurance and the related certificates or memoranda of insurance and all insurance trust agreements;
- (e) bills of sale or transfers for all items that are assets of the Corporation but not part of the property;

- (f) the records maintained under subsection 47(2) and subsection 83(3) of the Act; the names and addresses for service of owners and mortgagees who have provided the Corporation in writing with this information;
- (g) copies of all notices sent on behalf of the Corporation;
- (h) copies of all requests for Status Certificates and copies of each certificate issued for the preceding ten (10) fiscal years;
- (i) as required by Act:
 - (i) notice delivered by an owner that his/her unit is leased;
 - (ii) the lessee's name, the owner's address and a copy of the lease or renewal or summary of it; and
 - (iii) notice by an owner that a lease of a unit is terminated and not renewed;
- (j) all records that it has related to the units or to employees of the Corporation.
- (k) the existing warranties and guarantees for all the equipment, fixtures and chattels included in the sale of either the units or common elements that are not protected by warranties and guarantees given directly to a unit purchaser;
- (l) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;
- (m) the as-built specifications, indicating all substantive changes, if any, from the original specifications;
- (n) all existing plans for underground site services, site grading, drainage and landscaping, and television, radio or other communications services;
- (o) all other existing plans and information not mentioned above that are relevant to the repair or maintenance of the property;
- (p) a table setting out the responsibilities for repair after damage and maintenance and indicating whether the Corporation or the owners are responsible;
- (q) all reserve fund studies that have been completed or are required to have been completed;
- (r) all plans to increase the reserve fund under subsection 94 (8) of the Act;
- (s) any report that the Corporation receives from an inspector in accordance with subsection 130(5) of the Act;
- (t) the names of directors and officers, their mailing address and respective terms of office;

- (u) a copy of all annual notices of assessment and any extraordinary assessments;
- (v) a copy of all consents for alterations to units and/or the common elements in accordance with the declaration and any by-law of the Corporation including any agreement entered into with an owner under section 98 of the Act;
- (w) proxies for meetings to be retained for ninety (90) days; and
- (x) any other information required to be maintained as records, including the Budgets and Financials under section 55 of the Act, by the Act and the regulations made thereunder.

3.2 Request for Records

A request to review records of the Corporation which an owner is entitled to review must be in writing and give specific details of the records to be reviewed. The records will be made available for review in the office within one business day if they are current records or within three business days if they are archived records. A request for copies of documents reviewed shall be in writing. The Corporation may charge a fee for labour and copying including the cost of compiling records, and where necessary redacting records in an amount set by the board from time to time. The costs will be paid at the time of delivery of the records by the Corporation. All requests for records are subject to the provisions of section 55 of the Act.

ARTICLE 4 - DUTIES OF THE CORPORATION

4.1 Duties of the Corporation

The duties of the Corporation shall include, but shall not be limited to the following:

- (a) the operation, care, upkeep, maintenance and repair of the common elements and the repair of units when an owner fails to repair as provided for in the Act and in the declaration;
- (b) the collection of contributions toward common expenses from the owners;
- (c) the arranging for the supply of utilities to the common elements and the units, in accordance with the declaration, unless separately metered, except where prevented from carrying out such duty by reason of any event beyond the reasonable control of the Corporation. The Corporation shall not be liable for indirect or consequential damage or for damages for personal discomfort or illness by reason of the breach of such duty;
- (d) obtaining and maintaining insurance for the property as may be required by the Act, declaration or by-laws;
- (e) the preparation of certificates of lien and status certificates as required by the Act;
- (f) the preparation of an estimated budget in accordance with Article 11.1(b) hereof;

- (g) the supervision of all public or private service companies which, at the request of the Corporation, enter upon the common elements and into the units for the purpose of supplying, installing, replacing and servicing their systems;
- (h) the employment and dismissal of personnel necessary for the maintenance and operation of the common elements;
- (i) the obtaining and maintaining of fidelity bonds for any person dealing with Corporation monies and in such amounts, if any, as the Board may deem reasonable;
- (j) the investment of monies held by the Corporation in accordance with the Act;
- (k) the settling, adjusting or referring to mediation and/or arbitration of any claim or claims which may be made upon or which may be asserted on behalf of the Corporation;
- (l) the purchase and maintenance of insurance for the benefit of all directors and officers (with an extended discovery period clause in the case of change of insurers to ensure that directors' actions are protected when the Corporation changes insurers) in respect of anything done, or required to be done or permitted to be done by them in respect of the execution of the duties of their offices except insurance against a liability, cost, charge or expense of such directors or officers incurred as a result of a contravention of any of the duties imposed upon them pursuant to the Act;
- (m) the preparation and/or maintenance of the records to be kept by the Corporation in accordance with Article 3 hereof;
- (n) causing audits to be made after every year end and providing financial statements to the owners in accordance with the Act;
- (o) the calling and holding of meetings and the delivery of notices, as required;
- (p) the consistent and timely enforcement of the provisions of the Act, the declaration, the by-laws and the rules of the Corporation;
- (q) establishing and maintaining adequate reserve funds for the major repair or replacement of the common elements and of the assets of the Corporation in accordance with the Act;
- (r) appointing members of the Board as representatives to the Shared Facilities Committee (High Park Green Recreation Centre) and enacting a resolution as to the powers and duties of those representatives; and
- (s) the carrying out of the duties of the Corporation and or the Board as required by the Act, the Corporation's declaration and by-laws.

ARTICLE 5 - POWERS OF THE CORPORATION

5.1 Powers Of The Corporation

The powers of the Corporation shall include, but shall not be limited to the following:

- (a) the entering into of an agreement with a person or corporation to provide professional management for the property. The management agreement shall be in a form acceptable to the Board;

- (b) the authority to make a complaint under Section 40 of the *Assessment Act*, R.S.O, 1990, c. A.31, as amended, on behalf of the owners or a group of owners;
- (c) the mediation and/or arbitration of those matters set out in the Act or any contract or agreement to which the Corporation is a party and to commence or defend legal actions where arbitration is not available;
- (d) the borrowing of such amounts, for any fiscal year, that the Board in its discretion decides are necessary that the Corporation borrow, up to one-twelfth of the annual budgeted common expenses for the current fiscal year, provided that any such amounts are included in the budget for the Corporation for each and every such fiscal year and that any amount borrowed will be repaid within one year unless an extension of the time to repay is authorized by a vote of the owners;
- (e) any borrowing in excess of the amount set out in (d) above, even if included in the Corporation's budget, must be approved by a vote of owners at a meeting called for that purpose;
- (f) to charge, mortgage, hypothecate or pledge all or any of the real or personal property of the Corporation, including book debts and rights, powers and undertakings, to secure any such securities or any money borrowed in accordance with (e) above, or other debts, or any obligation or liability of the Corporation;
- (g) conducting, periodically, a building and/or operations audit as deemed appropriate by the Board;
- (h) the Corporation may enter into an agreement for the purpose of granting telecommunications access in the nature of a licence over the non-exclusive common elements of the Corporation to install, operate, remove, replace, supplement and maintain signal distribution and processing equipment necessary for the provision of communication services to the Corporation;
- (i) entering into or amending any agreement with another corporation with respect to shared services or facilities; and
- (j) the delegating to such one or more of the officers and/or directors of the Corporation as may be designated by the directors all or any of the powers conferred by the foregoing clauses of Article 5.1 of this by-law to such extent and in such manner as the directors shall determine at the time of such delegation.

ARTICLE 6 - NOTICE

6.1 Notice to Owner/Mortgagee

Subject always to any specific provision to the contrary in the Act, any notice, communication or other document, including budgets and notices of assessment required to be given or delivered by the Corporation to any owner or mortgagee shall be sufficiently given if:

- (a) delivered personally to the person to whom it is to be given; or
- (b) sent by prepaid ordinary mail addressed to the person at the address shown on the records of the Corporation; or

(c) sent by facsimile transmission, electronic mail or any other method of electronic communication if the person agrees in writing that the party giving the notice may give the notice in this manner; or

(d) delivered at the person's unit or at the mail box for the unit, unless the person giving the notice has been advised in writing by the person that delivery is not to be effected in this manner or the address for service on the records of the Corporation is not the address of the person.

6.2 Notice to Owner and Mortgagee

The Corporation shall not be obliged to give notice to any owner who has not notified the Corporation in writing that the person has become an owner or to any mortgagee who has not notified the Corporation in writing that the person has become a mortgagee.

6.3 Notice To The Board Or Corporation

Except as otherwise provided in the Act or this By-Law, any notice, direction or other instrument required or desired to be given, shall be given to the Corporation, by delivering it to the office of the Corporation, either personally or by registered mail.

6.4 Receipt of Notice

Any notice, communication or document shall be deemed to have been received:

(a) when it is delivered personally; or

(b) when sent by prepaid ordinary mail, such notice, communication or document shall be deemed to have been received on the second business day following the day on which it was mailed provided mail service is in operation; or

(c) when the recipient agrees to accept by fax, when it is sent by means of facsimile transmission.

(d) when the recipient agrees to accept by email or other electronic method, when it is transmitted or

(e) the date of delivery receipt if sent by an appropriate communication company, courier or agency.

6.5 Omissions And Errors

The accidental omission to give any notice to anyone entitled thereto or the non-receipt of such notice or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

6.6 Notices Of Meetings

At least fifteen (15) days' written notice of each meeting of the owners of the Corporation specifying the place, the date, and the hour thereof and the nature of the business to be presented shall be given to each owner and to each mortgagee or chargee, whose name and address for service is listed on the records of the Corporation, twenty (20) days before the date of the meeting.

ARTICLE 7 - BOARD OF DIRECTORS

7.1 Duties

- (a) the affairs of the Corporation shall be managed by the Board; and
- (b) the Board shall have the obligation to perform all of the duties of the Corporation; however, the Board may delegate certain specific duties to a Manager by a resolution of the Board and/or pursuant to the terms of any management agreement.

7.2 Number and Quorum

The number of directors shall be 5 of whom 3 shall constitute a quorum for the transaction of business at any meeting of the Board. Notwithstanding vacancies, the remaining directors may exercise all the powers of the Board so long as a quorum of the Board remains in office.

7.3 Qualifications

No person shall be nominated, elected or appointed to the Board unless the person meets the following criteria:

- (a) the person must be eighteen (18) years of age or older;
- (b) the person shall be a resident owner of a unit or a resident spouse of an owner;
- (c) the person shall be capable of managing property within the meaning of the *Substitute Decisions Act, 1992*, S.O. 1992, c. 30, as amended (the "*Substitute Decisions Act, 1992*");
- (d) the person shall not have a lien for common expenses registered against his/her unit;
- (e) the person, or a member of the person's household or family, shall not be a party to litigation, mediation, and/or arbitration against the Corporation, for clarity, the term "against" shall mean adverse, contrary, or opposed to the Corporation;
- (f) only one (1) person per unit can be a member of the Board at any one time;
- (g) the person shall not be an employee of the Corporation or the company managing the property of the Corporation;
- (h) The person shall not be an undischarged bankrupt
- (i) a person who is nominated, elected or appointed a director is not a director unless:
 - (i) the person was present at the meeting when the person was elected or appointed and did not refuse at the meeting to act as a director; or
 - (ii) when the person was not present at the meeting when the person was elected or appointed, the person consented in writing to act as a director before his/her election or appointment or within ten (10) days thereafter.

7.4 Disqualification

A person immediately ceases to be a director if:

- (a) a certificate of lien has been registered against a unit owned by the director and the director does not obtain a discharge of the lien within ninety (90) days of the registration of the lien;
- (b) the director misses three (3) consecutive Board meetings or a total of five (5) meetings in any year commencing at the date of the annual general meeting and is unable to provide an explanation for his or her absence that is satisfactory to the Board, acting reasonably;
- (c) the director no longer meets the qualifications in Article 7.3;
- (d) the director resigns in writing; or
- (e) the director dies

7.5 Replacement of a Director

If a person ceases to be a director for any reason other than the expiry of their term the Board may appoint any qualified person to replace that director until the next Meeting of the Owners. At the next Meeting of Owners a new director will be elected to serve the unexpired balance of the director's term.

7.6 Election And Term

Subject to the Act,

- (a) the directors of the Corporation shall be elected in rotation and shall be eligible for re-election. Those directors who have been elected to office and whose terms have not expired at the meeting, at which the owners approve this By-law, will complete the terms for which they have been elected;
- (b) at each annual general meeting, directors elected to replace directors whose terms have expired shall be elected for a term of three (3) years;
- (c) the term of office for members of the Board shall be three (3) years;
- (d) where directors are elected by acclamation, the Board at its first meeting shall determine the distribution of terms;
- (e) election to the Board shall be by written ballot, unless the election is by acclamation;
- (f) the person receiving the highest number of votes will serve the longest term and the person receiving the next greatest number of votes will serve the next longest term, etc.
- (g) pursuant to the Act one director shall be elected solely to represent owner-occupied units. Only owner-occupied units shall be entitled to vote for this director. A unit will be deemed to be owner occupied if, on the date the notice is sent, one or more of the registered owners are normally resident in the unit or if, on the date notice is given, the unit is occupied by a spouse, parent or child of a registered owner.

7.7 Calling Of Meetings

(a) meetings of the Board shall be held from time to time at such places and at such times and on such days as either the President or a Vice-President, or any two directors may determine, and the Secretary shall call meetings when directly authorized by the President or by the Vice-President and/or any other director. Notice of any meeting shall be given personally, by ordinary prepaid mail, electronic communication, courier, facsimile or telephone to each director not less than forty-eight (48) hours (excluding any part of a Sunday or of a holiday as defined by the *Legislation Act, 2006*, S.O. 2006, c. 21, Sched. F, as amended) before the time when the meeting is to be held, save that no notice of a meeting shall be necessary if all the directors are present or if those absent waive notice of, or otherwise signify in writing their consent to, the holding of such meeting;

(b) the Board may appoint a day or days in any month or months for regular meetings at a place and hour to be named. A copy of the resolution of the Board fixing a place and time of regular meetings of the Board shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meeting; and

(c) if a director is unable to attend a meeting of the Board in person, he or she may participate in the meeting by way of teleconference or other form of communication system that allows for simultaneous and concurrent communication. A director participating in a meeting by teleconference or other form of communication system, as permitted herein, shall be deemed (for the purposes of the Act and this by-law) to be present at such meeting.

7.8 Declaration Of Interest

(a) the provisions in the Act relating to the declaration of interest of any director in any contract or arrangement entered into by or on behalf of the Corporation shall be followed and complied with; and

(b) in addition, the Board shall, prior to voting on any contract in which a director has an interest, obtain at least two (2) other independent bids from other contractors to supply or provide the same supplies or services to the Corporation.

7.9 Confidentiality

All matters discussed at a Board meeting, including all documents and information, are privileged and confidential and may not be disclosed to any person unless such information or documentation is determined by the Board as evidenced by the minutes of the Corporation, not to be privileged and confidential. The duty not to disclose information extends to all information obtained as a result of a director's position on the Board. The purpose of this section is to preserve the confidentiality of the Board's deliberations and it does not prevent the release of documents under section 3.2 and does not prevent officers and directors from discussing with owners and residents decisions of the Board which affect the owners generally and matters under discussion by the Board where the Board has expressly provided for consultation with the owners.

7.10 Conflict of Interest

Any information gained, including but not limited to any information respecting units, unit owners, tenants or residents, as a result of a director's position on the Board, may not be used for personal benefit, whether monetary or otherwise. The directors and officers will be governed by the terms of the Code of Conduct as amended from time to time.

7.11 Protection Of Directors And Officers

No director or officer of the Corporation shall be liable for:

- (a) the acts, neglect or default of any other director or officer;
- (b) any loss or expense incurred by the Corporation through the insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the Corporation;
- (c) the insufficiency or deficiency of any certificate or instrument in or upon which any of the monies of the Corporation shall be invested, provided always that the investment certificate or instrument conforms with the provisions of the Act;
- (d) any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any of the monies, certificates, term deposits, instruments or effects of the Corporation shall be deposited;
- (e) any loss occasioned by an error of judgment or oversight on his/her part provided the Board member has acted in accordance with his/her obligations and duties pursuant to the Act; or
- (f) any other loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his/her office or in relation thereto;

unless as a result of a director's or officer's own dishonest or fraudulent act or acts, bad faith, failure to meet the standard of care established in the Act and/or wilful misconduct.

7.12 Indemnity Of Directors And Officers

Every director or officer of the Corporation and his/her heirs, executors, successors and assigns, respectively, shall at all times be indemnified and saved harmless out of the funds of the Corporation from and against:

- (a) all costs, charges and expenses whatsoever, which such director or officer sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him/her for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him or her in or about the execution of the duties of his/her office; and
- (b) all other costs, charges and expenses which the person properly sustains or incurs in or about or in relation to the affairs of the Corporation.
- (c) Notwithstanding the above, no director or officer shall be indemnified by the Corporation in respect of any liability, costs, charges or expenses that the person sustains or incurs in or about an action, suit or other proceeding as a result of which the director or officer is adjudged to be in breach of the duty to act honestly and in good faith. If a director or officer is adjudged to be in breach of the duty to act honestly and in good faith, any costs incurred by the Corporation, including but not limited to all legal costs and disbursements, in the matter will be recoverable from the director or officer and will be added to the common expenses payable for the Board member or officer's unit and will be recoverable in the same manner as common expenses.

7.13 Minutes

The Corporation shall prepare and maintain a minute record of each meeting which records, at a minimum, the following information:

- (a) the date, time and place of the meeting;
- (b) those names of those in attendance and those absent from the meeting;

- (c) the identity of the chairperson and the Secretary of the meeting;
- (d) confirmation that there was a quorum;
- (e) the disposition of each agenda item including the name of the moving and seconding parties and the outcome of the vote;
- (f) the disposition of every other motion made at the meeting; and
- (g) the adjournment of the meeting.

7.14 Consents

Any consent required under the provisions of the Act, the declaration, the by-laws or the rules shall be given by the Board in writing after a resolution for same has been passed.

7.15 Execution Of Instruments

- (a) deeds, transfers, assignments, contracts and obligations of the Corporation must be signed by the President or a Vice-President together with the Secretary or any other director;
- (b) subject to the Act and the declaration, but notwithstanding any provisions to the contrary contained in the by-laws of the Corporation, the Board may by resolution at any time and from time to time direct the manner in which and the person or persons by whom any particular deed, transfer, assignment, contract, cheque or obligation or any class of deed, transfer, assignment, contract, cheque or obligation of the Corporation may or shall be signed;
- (c) any member of the Board, or by resolution of the Board, any authorized agent may execute a status certificate and cause the corporate seal to be affixed thereon provided there is delivered with the status certificate a statement under the signature of the authorized agent that the person has examined the records and confirms that the particulars set out in the status certificate are accurate; and
- (d) the property manager, any two members of the Board or the Corporation's solicitor may execute a notice of lien or discharge of a certificate of lien.

ARTICLE 8 - OFFICERS

8.1 Election Of President

At the first meeting of the Board, after each election of directors, the Board shall elect from among its members a President. In default of such election the then incumbent President, if a member of the Board, shall hold office until his/her successor is elected.

8.2 Appointed Officers

At the first meeting of the Board, after each election of directors, and then from time to time, the Board shall appoint the officers of the Corporation. The Board shall appoint a Secretary and may appoint one (1) or more Vice-Presidents, a Treasurer and such other officers, including a Privacy Officer, as the Board may determine, including one (1) or more assistants to any of the officers so appointed. The officer so appointed shall be a member of the Board. One (1) person may hold more than one (1) office and if the same person holds both the office of Secretary and the office of Treasurer, the person may be known as Secretary-Treasurer.

8.3 President

The President shall:

- (a) when present, be the chairperson at all meetings of the Board and of the owners or designate the chairperson at all such meetings;
- (b) have one (1) vote (only) at all meetings of the Board;
- (c) co-ordinate the activities of the remaining members of the Board and officers;
- (d) in the absence of a resolution of the Board specifying another officer, deal directly with the property manager and/or the Corporation's solicitor in all areas of concern;
- (e) direct the enforcement of the Act, the declaration, the by-laws and the rules and regulations of the Corporation by all lawful means at the Board's disposal.

8.4 Vice-President

The Vice-President shall during the absence of the President, perform his/her duties and exercise his/her powers. If there is more than one Vice-President then the Vice-Presidents, in order of seniority as determined by the Board, shall perform the functions of the President. A Vice-President shall also perform such duties and exercise such powers as the Board may prescribe from time to time.

8.5 Secretary

The Secretary shall:

- (a) give or cause to be given all notices required to be given to the owners, directors, mortgagees and all others entitled thereto pursuant to the Act or the declaration, by laws or rules or any contracts to which the Corporation is a party;
- (b) attend all meetings of the directors and of the owners;
- (c) enter or cause to be entered in books kept for that purpose minutes of all proceedings at such meetings;
- (d) be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation. This does not require the Secretary to keep these documents in his/her personal custody; and
- (e) cause to have the by-laws registered and notice of the by-laws and of the rules and regulations to be sent to all owners and mortgagees as required by the Act.

8.6 Treasurer

The Treasurer shall:

- (a) prepare or cause to be prepared, in consultation with property management, the annual budget and the annual financial statements to be presented to the owners at the annual general meeting;
- (b) prepare or cause to be prepared, in consultation with property management and others as selected by the Board, a plan for future funding of the reserve fund pursuant to the Act, if required; and

- (c) prepare or cause to be prepared, in consultation with those selected by the Board, an investment plan for the Corporation's funds.

8.7 Officers

The officers of the Corporation shall have such additional responsibilities as may be approved by resolution of the Board.

8.8 Committees

(a) in order to assist the Board in managing the affairs of the Corporation, the Board may from time to time constitute such advisory committees to advise and make recommendations to the Board in connection with the activities, management, budgets, house rules, or any other matter related to the common elements or any other property to which the Corporation has any rights or shares or obligations; and

(b) the members of such committees shall be appointed by the Board to hold office and may be removed at any time by resolution of the Board.

8.9 General Manager

The Corporation will be managed by a professional condominium management company unless the owners decide at a meeting of owners that the condominium will be self-managed in which case a General Manager shall be appointed by the Board. The General Manager shall report to the Board and have the day to day management and direction of the Corporation's business and affairs subject to the terms of a written agreement. The General Manager shall be a person holding a current certification by a recognized organization of property managers and shall have experience in management of similar properties. No director or former director shall be eligible to be appointed General Manager.

8.10 Delegation of Duties

When the performance of any duty is delegated by an officer of the Board, whether to the property manager or to another person, that person's performance shall be supervised by such officer.

ARTICLE 9 - MEETINGS OF THE OWNERS

9.1 Annual Meetings

(a) the annual general meeting of the owners shall be held within the City of Toronto at such time and on such day in each year as the Board may determine, for the purpose of hearing and receiving the reports and statements required to be read and presented before the owners at an annual meeting; electing directors; and for the transaction of such other business as may properly be brought before the meeting; and

(b) the annual general meeting is to take place no later than six (6) months following the end of the Corporation's fiscal year.

9.2 Special Meetings

The Board shall have the power at any time to call a special meeting of the owners for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.

9.3 Persons Entitled To Be Present

The only persons entitled to attend a meeting of owners shall be:

- (a) the owners and mortgagees entered on the record and who are entitled to receive notice of and entitled to vote at the meeting in accordance with the Act;
- (b) any other person entitled to vote thereat;
- (c) others who, although not entitled to vote, are entitled or required under the provisions of the Act or the by-laws of the Corporation to be present at the meeting; and
- (d) any other person on the invitation of the Chairperson of the meeting or with the consent of the meeting.

9.4 Quorum

A quorum for the transaction of business at a meeting of the owners is those owners who own together at least twenty five per cent (25%) of the units either present in person or by proxy. If a quorum is not present within a reasonable time after the time appointed for the holding of any meeting of the owners (such reasonable time to be determined by the Chairperson of the Meeting) the meeting shall be adjourned and the Board shall call a further meeting of the owners in accordance with the Act.

9.5 Voting

- (a) at each meeting of owners, subject to the provisions of the Act, every owner shall be entitled to vote who is entitled to receive notice of the meeting and is not in arrears of common expenses;
- (b) if the unit has been mortgaged and the right to vote has been given to the mortgagee, the owner (or his/her proxy) may, subject to (c) below, nevertheless represent such unit at meetings and vote in respect thereof;
- (c) in the event the mortgagee has notified the Corporation and the owner of the mortgagee's intention to exercise such right at least four (4) days before the date specified in the notice of meeting, the mortgagee or the mortgagee's proxy may exercise the right to vote;
- (d) any dispute over the right to vote shall be resolved by the Chairperson of the meeting upon such evidence as the person may deem sufficient;
- (e) unless otherwise provided by the Act, the declaration or the by-laws, any vote shall be decided by a majority vote of those owners present in person or by proxy at a meeting called for the purpose of holding such vote.

9.6 Method Of Voting

- (a) at any annual or special meeting any question may be decided by a show of hands. A declaration by the Chairperson that such question has by a show of hands been carried, is prima facie proof of the fact without further proof of ownership of the votes cast in favour of such question;

- (b) a vote for the election of directors shall be by secret ballot only, unless the Board members are elected by acclamation;
- (c) anyone, who has a right to vote, may demand a vote by secret ballot and upon such demand the vote shall be a secret ballot vote unless the demand is withdrawn before the ballots are distributed;
- (d) the Chair of the Meeting shall select two owners present at the meeting to act as scrutineers
- (e) all voting by owners shall be on the basis of and in accordance with the Act;
- (f) all ballots including the ballot portion of a proxy shall be confidential; and
- (g) when all ballots have been deposited into the ballot box the scrutineers, under the supervision of the Secretary, shall then tabulate the votes for and against the matter being voted upon and shall report the result to the Chair.

9.7 Representatives

An executor, administrator, committee of a mentally incompetent person, guardian, trustee or representative of a Corporation, upon filing with the Secretary of the meeting sufficient proof of his/her appointment shall represent the owner or mortgagee at all meetings of the owners and may vote in the same manner and to the same extent as such owner. If there is more than one executor, administrator, committee, guardian or trustee, the provisions relating to co-owners shall apply.

9.8 Proxies

Every owner or mortgagee entitled to vote at meetings of owners may by instrument in writing appoint a proxy, who need not be an owner or mortgagee, to attend and act at the meeting in the same manner, to the same extent and with the same power as if the owner or mortgagee were present at the meeting. The instrument appointing a proxy shall be in writing and signed by the appointer or his/her attorney authorized in writing. The instrument appointing a proxy shall be deposited with the Secretary before any vote or in accordance with procedures established by resolution of the Board.

9.9 Co-Owners

If a unit or a mortgage on a unit is owned by two (2) or more persons, any one (1) of them present or represented by proxy may, in the absence of the other or others, vote, but if more than one (1) of them are present or represented by proxy, the majority of the owners of that unit, present at the meeting in person or by proxy, may exercise the right to vote in respect to that unit. The vote shall not be counted if two (2) or more owners of the unit present at the meeting are evenly divided on how to exercise the vote.

ARTICLE 10 - ADDITIONAL RIGHTS OF THE CORPORATION

10.1 Rights of the Corporation

The contravention of any provisions of the Act, declaration, by-laws and/or rules of the Corporation (the "Contravention"), shall give the Board, subject to its duty to act reasonably in addition to any other rights set forth in the Act and the declaration, the right to the following in relation to the unit of the owner, occupier, tenant, visitor, guest and/or invitee in Contravention:

- (a) prohibit any person from using the facilities or any part of the common elements of the Corporation for any period of time that the Board, acting reasonably, determines appropriate;
- (b) upon reasonable notice, enter the unit, or any part of the common elements in which or with respect to which such contravention exists and to summarily abate and remove at the expense of the owner of the unit, any structure, item or condition that may exist in or about the unit or any part of the common elements contrary to the intent and meaning of the provisions of the Act, declaration, by-laws and/or rules and the Board shall not be deemed guilty of any manner of trespass and/or invasion of privacy;
- (c) enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, including without limiting the generality of the foregoing, any proceeding for compliance pursuant to the provisions of the Act; and
- (d) deem all costs incurred by the Corporation pursuant to Article 10 to be common expenses attributable to the unit and collected in the same manner as common expenses.

10.2 Non-Resident Access to Common Elements

Subject to the terms of the Agreement with York Condominium Corporation 435 those persons who are not residents or guests of residents are not entitled to use any of the facilities or amenities, which are common element areas of the Corporation without the written permission of the Board.

10.3 Indemnification by Owners

- (a) each owner shall indemnify and save the Corporation harmless from and against any and all damages, loss and/or cost, which the Corporation may suffer or incur resulting from, or caused by an owner, or any person, thing or animal for whom or for which the owner is responsible including, but not limited to:
 - (i) all legal costs and disbursements incurred by the Corporation; and
 - (ii) any costs incurred by the Corporation:
 - (A) to redress, rectify and/or obtain relief from any injury, loss or damage;
 - (B) by reason of breach of the Act, declaration, by-laws and/or any rules of the Corporation in force from time to time; and/or
 - (C) in relation to the enforcement of any rights or duties pursuant to the Act, the declaration, the by-laws and/or the rules of the Corporation, including the need for an oppression remedy;
- (b) all amounts for which the unit owner is responsible pursuant to this by-law shall form part of the contributions to the common expenses payable for the particular unit.

ARTICLE 11 - ASSESSMENT AND COLLECTION OF COMMON EXPENSES

11.1 Common Expenses and Budget

- (a) all expenses, charges and costs of maintenance, repair or replacement of the common

elements and the assets of the Corporation and any other expenses, charges or costs which the Board may incur or expend pursuant to its duties shall be assessed by the Board and levied against the owners in the proportions in which they are required to contribute to the common expenses as set forth in the declaration or in accordance with the provisions of the Act; and

(b) the Board shall from time to time and at least annually prepare a budget for the property and determine by estimate the amount of common expenses for the next ensuing fiscal year or remainder of the current fiscal year as the case may be. The Board should allocate and assess such common expenses as set out in the budget for such period among the owners, according to the proportion in which they are required to contribute to the common expenses as set forth in the declaration.

11.2 Reserve Fund

(a) the Board shall establish and maintain a reserve fund(s) in accordance with the Act;

(b) the reserve fund(s) shall be kept in separate interest bearing accounts with institutions in accordance with the Act; and

(c) shall be invested in accordance with the Act.

11.3 Extraordinary Expenditures

Any expenditure not contemplated in the budget and for which the Board shall not have sufficient funds may be assessed at any time during the year, in addition to the annual assessment, by the Board serving notices of such further assessment on all owners, which shall include a written statement setting out the reasons for the extraordinary assessment.

11.4 Delivery of Assessments

(a) the Board shall give notice to all owners of the amount of common expenses payable by each of them respectively, and shall deliver copies of each budget on which such common expenses are based, to all owners and mortgagees entered on the record; and

(b) extraordinary assessments shall be made by the Board only when it is necessary to do so and the Board will provide for payment either in a lump sum or in installments having regard to the date by which funds must be available and the needs of the owners. No payment will be required in less than 30 days from the date that notice of the assessment is sent to the owners. The owner shall pay the assessment on the date or dates set out in the notice.

11.5 Owners' Obligations To Pay Assessments

(a) Common expense payments shall be set by the Board in twelve (12) installments due on the first day of each month.

(b) All owners, except those paying by post dated cheques since 2003, shall deliver to the Corporation an authorization to debit the monthly amount of common expense payments directly from a bank account. Those owners who have been paying by postated cheques may continue to do so as long as they own their units provided that they deliver a series of 12 post dated cheques to the corporation's office each fiscal year prior to the due date of the first cheque.

(c) the Board may, by resolution, authorize such alternate methods of payment as it may reasonably determine provided always that any such method of payment shall apply consistently to and for the convenience of all owners. The acceptance by the Board of this alternate method

of payment by the owner does not constitute a waiver of the owner's obligation to pay his/her proportionate share of the annual assessment as hereinbefore provided.

11.6 Default In Payment

(a) arrears of payment required to be made under the provisions of the Act, declaration, by-laws or rules shall bear interest at a rate 2 per cent per annum above the prime rate charged by the Corporation's Bank from time to time or such other rate as the Board may by resolution determine, until payment has been received in full from the owner. Interest at the aforesaid rate shall be charged from time to time on the unpaid balance of common expenses plus unpaid interest and any legal costs incurred by the Corporation in the collection or attempted collection of the unpaid amount and interest shall be charged upon the aggregate total amount monthly and shall be compounded monthly until paid; and

(a) in any collection or attempted collection proceedings, including lien proceedings and/or sale or other court proceeding instituted by the Corporation to collect common expenses, or other amounts deemed to be common expenses, from the owner, there shall be added to any amount found due all costs incurred by the Corporation including all legal costs actually incurred.

ARTICLE 12 - BANKING ARRANGEMENTS AND CONTRACTS

12.1 Banking Arrangements

The banking business of the Corporation or any part thereof shall be transacted with such bank as the Board may designate or authorize from time to time by resolution, and all such banking business, or any part thereof, shall be transacted on the Corporation's behalf by at least two people, one of whom shall be a member of the Board, and another person(s), as the Board may designate or authorize from time to time by resolution, and to the extent therein provided, including, without restricting the generality of the foregoing, the operation of the Corporation's accounts, the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders relating to any such banking business, and the defining of the rights and powers of the parties thereto and any act or thing on the Corporation's behalf to facilitate such banking business.

12.2 Execution of Instruments

Subject to the provisions of the Act, all deeds, transfers, assignments, contracts and obligations on behalf of the Corporation may be signed by the President or the Vice-President, together with the Secretary or any other director. Any contract or obligation within the scope of any management agreement entered into by the Corporation may be executed on behalf of the Corporation in accordance with the provisions of such management agreement. Notwithstanding any provisions of the Act, the Board may at any time and from time to time, direct the manner in which, and the person(s) by whom any particular deed, transfer, contract or obligation or any class of deeds, transfers, contracts or obligations of the Corporation may or shall be signed.

12.3 No Seal

Despite anything contained in this by-law to the contrary, any document or instrument that would otherwise require a seal need not be executed under the seal of the Corporation, provided that same has been duly executed by the person or persons expressly authorized and empowered to execute same on behalf of the Corporation, nor shall any such document or instrument be duly witnessed, in order to be valid, effective and binding upon the Corporation, provided that the name of the signatory, his or her office in the Corporation, and the phrase "I/We have the authority to bind the Corporation" are clearly set out below the signature(s) of the person(s)

expressly authorized and empowered to execute same on behalf of the Corporation, and any such duly executed document or instrument shall have the same validity and binding effect on the Corporation (for all purposes) as if same had been duly executed under the seal of the Corporation.

12.4 Execution of the Status Certificate and Notices of Lien and Discharges of Liens

The status certificate, notices of lien and discharges of certificates of lien, as required by the Act, may be signed by any officer or any director of the Corporation, or any person authorized by resolution of the Board of Directors with or without the seal of the Corporation affixed thereto, provided that the Board may, by resolution, direct the manner in which, and the person(s) by whom, such certificates may or shall be signed.

ARTICLE 13- MISCELLANEOUS

13.1 Invalidity

The invalidity of any part of this by-law shall not impair or affect in any manner the validity and enforceability or effect of the balance thereof.

13.2 Waiver

No restriction, condition, obligation or provision contained in this by-law shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

13.3 Headings

The headings in the body of this by-law form no part thereof but shall be deemed to be inserted for convenience of reference only.

13.4 Amendment

This by-law or any part hereof may be varied, altered or repealed by a by-law passed in accordance with the provisions of the Act and the declaration.

13.5 Conflicts

- (a) in the case of a conflict between the provisions of the Act and any provision in the declaration, by-laws or rules and regulations, the Act shall prevail;
- (b) in the case of a conflict between the provisions in the declaration and any provision in the by-laws or rules and regulations, the declaration shall prevail, unless the by-law or rule has been amended after the registration of the declaration as provided for in the Act; and
- (c) in the event the provisions of the Act or the declaration are silent the provisions of the by-laws shall prevail.

The foregoing By-law No. 12 is hereby passed by the Directors of the Corporation (subject to

the required confirmation of owners) pursuant to the Act at a meeting of Directors duly called and held.

DATED this 26th day of September, 2013.

President

Secretary

The foregoing By-law No. 12 is hereby confirmed by owners who own a majority of the units of the Corporation at a meeting of the owners duly called and held on this 24th day of October, 2013 in accordance with the requirements of the Act.

President

Secretary

York Condominium Corporation No. 323 hereby enacts the foregoing By-law passed by the Board and confirmed by a vote of owners who own not less than a majority of units, in accordance with the Act.

WITNESS the corporate seal of the Corporation this 24th day of October, 2013.

c/s