

YORK CONDOMINIUM CORPORATION 323

# INTRODUCTION TO CONDOMINIUM LIVING

Communication Committee  
BOARD OF DIRECTORS February, 2019

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## CONDOMINIUM TYPES

When you are looking for a condominium, you may find different options on the market. It's best to familiarize yourself with the types of condos available in Ontario.

There are two main types of condominiums: **freehold** and **leasehold**.

### FREEHOLD CONDOMINIUM CORPORATIONS

Freehold condominiums fall into one of three categories:

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#### 1. STANDARD CONDOMINIUM CORPORATIONS

When you buy a condominium, you are likely buying a unit in a standard condominium corporation. This could be a building that is divided into condo units, row-townhouses or stand-alone townhouses.

Your money buys you:

- ownership of your unit; and
- an interest in the property's common elements and assets (such as hallways, elevators, etc.). You cannot separate this interest from ownership of your unit.

Before a builder can transfer title of a unit to a purchaser, the condominium must be registered. If you move into a unit before the condominium is registered, you will likely have to pay "occupancy rent" until the condominium is registered and you get title to your unit.

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#### 2. COMMON ELEMENTS CONDOMINIUM CORPORATIONS

This type of corporation has no units, but has common elements like roads, a golf course, or a ski hill. Owners enjoy the common elements and jointly fund their maintenance and repair.

For instance, if you buy property in a community that includes a common elements condominium corporation:

- you own your house and the land on which it sits, and
- all owners within the community share ownership of the roads and community center.

Your part-interest in the corporation is attached to the parcel of land you own, not your house. The parcel of land on which your house sits is:

- Considered a parcel of tied land (POTL).
- Title to that parcel of tied land is permanently attached to your common interest in the common elements condominium corporation.
- Not included in the land described in the common elements condominium corporation's description.
- Situated within the boundaries of the land titles and registry divisions of the land registry office where the developer registered the corporation's description.

Unlike in standard condominium corporations, as there are no units, developers do not need to divide the land into units before they register a common elements condominium corporation.

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### **3. VACANT LAND CONDOMINIUM CORPORATIONS**

In this type of corporation:

- Buildings do not need to be constructed before the condominium corporation is registered.
- Structures can be built after the declarant registers the condominium.
- Several types of structures can be accommodated in a single development.

It's important to read the condo's declaration, which may restrict development size, construction or design standards and maintenance requirements.

## **LEASEHOLD CONDOMINIUM CORPORATIONS**

In a leasehold condominium, the land is not owned by the condominium corporation. Lease purchasers buy a leasehold interest in units and common elements, but do not own the

land. The [Condominium Act](#) treats leasehold condominiums much like freehold condominiums. Key differences include the following:

- A common expenses fee that includes a portion of the rent payable to the land owner.
- Once the ground lease expires, the owner's right to occupy the unit is automatically terminated

The cost of the land isn't included in the price of the condominium, but a portion of the rent payable to the landowner is included in the common expenses fee. The lease term must be between 40 and 99 years, so you will enjoy many of the advantages of owning a freehold condominium. You can sell, transfer, mortgage and take other actions with your unit without asking the landowner for permission. However, the sale price you can ask for your unit may be affected by the time remaining on the land lease. Once the ground lease expires, the owner's right to occupy the unit is automatically terminated.

## OWNER RIGHTS AND RESPONSIBILITIES

Owning a condominium is different from owning a house because you are part of the larger condominium community. You have rights and responsibilities for your unit as well as for common areas, such as the parking garage, hallways, and recreation centre. You must also comply with the Condominium Act and the [declaration, by-laws and rules](#) of your condominium.

## YOUR RIGHTS

As a unit owner, you have the right to:

- quiet enjoyment of your unit.
- be notified in advance if the condominium needs to access your unit for a valid purpose, such as inspecting the balcony.
- vote at owners' meetings.
- vote for board members.
- seek election to the board.

- review your condo corporation's records (like financial statements and meeting minutes).
- requisition an owners' meeting.
- ask for an issue to be added to an owners' meeting agenda.
- file specified disputes for resolution with the [Condominium Authority Tribunal \(CAT\)](#).
- seek accommodation related to a disability.
- rent or sell your unit. Your condo's [by-laws or rules](#) may limit your ability to rent your unit.

## YOUR RESPONSIBILITIES

As a unit owner, you must:

- follow your condominium's [declarations, by-laws, and rules](#).
- repair and maintain your unit (condominium by-laws and rules may limit some of the things you can do in your unit).
- pay a common expenses fee to the corporation. This fee includes special assessments, charge backs or liens.
- not interfere with your neighbours' quiet enjoyment of their units.

## BUYING, RENTING OR SELLING

A condominium isn't a building type, but an ownership structure. Condominiums can take many different physical forms, such as:

- a high-rise building
- a low-rise building
- blocks of townhouses
- a group of detached houses
- a combination of building types

When you buy a condominium, you:

- own a unit, and

- share ownership of [common elements](#) (e.g. parking garage, hallways, lobby) with other unit owners.

You have full title to your unit and you can buy and sell your unit. You cannot separate ownership of your unit from your share of the condominium's common elements.

## **BUYING A CONDOMINIUM**

In many ways, buying a condominium unit is like buying a house, with brand-new and resale options. But purchasing a condominium does differ in several key ways.

## **RENTING A CONDOMINIUM**

Renting a condominium is largely the same as renting an apartment: you need to follow the community's rules and pay the rent on time. To make the most of renting, both landlords and tenants need to be aware of their rights and responsibilities.

## **SELLING A CONDOMINIUM**

Selling a condominium is just like selling any other real estate. As an owner, you have full title to your unit and you can sell your unit if you wish. However, you cannot separately buy or sell your proportional share of the common elements.

Potential condominium buyers are entitled to review a condominium **status certificate**, which provides information such as the financial status of your unit and of the condominium corporation. You are not responsible for preparing the status certificate. The condominium corporation does this.

# **CONDOMINIUM MANAGEMENT**

Managing a condominium corporation is like managing a business. Corporations must follow laws, keep records, resolve conflicts, maintain the property and follow a budget.

Your corporation is managed by several people who work together:

- The [board of directors](#), a volunteer group of owners elected by their fellow owners, are responsible for managing the condominium.
- Boards typically hire a condominium manager (often an employee of a condominium management company) to oversee day-to-day operations. The board regularly meets with the manager to make decisions about the property.

A condominium corporation must work effectively to ensure its operations are efficient and well-run. Here are a few key aspects and obligations of your condo corporation:

## **REPAIRS AND MAINTENANCE**

As an owner, you are responsible for maintaining your own unit. The condominium corporation is responsible for maintaining common elements through day-to-day and long-term maintenance.

## **ACCOMMODATING DISABILITIES**

All condominium corporations must comply with the [Accessibility for Ontarians with Disabilities Act, 2005 \(AODA\)](#). The AODA requires that all employees are trained in customer service and may require condominiums to renovate so that they accommodate the needs of residents with disabilities.

## **FINANCIALS**

Your condominium corporation manages its finances by fulfilling responsibilities like:

- budgeting
- arranging contracts
- collecting common expenses fees
- having [reserve fund studies](#) undertaken
- maintaining appropriate balances in the operating and reserve funds
- arranging year-end audits

The annual budget for a large condominium can be over \$1M.

## **FIRE AND SAFETY**

 your unit, you are responsible for your own safety. Outside the unit on condominium property, your corporation takes on some responsibility for owners' safety and security.

## **INFORMATION CERTIFICATES**

[Section 26.3 of the Condominium Act, 1998](#) (the Act) sets out the timing and the content for information certificates. These certificates help to ensure that owners receive ongoing information about their condo corporation throughout the year.

## **COMMON EXPENSES FEES**

A **common expenses fee** is the fee unit owners pay to maintain the condominium's common elements.

**Common elements** are everything in a condominium that isn't a unit. Examples include a parking garage, hallway, lobby, recreation centre and elevator.

Condominium ownership expenses can be broken as:

- paying the full cost for the upkeep of a unit
- maintaining common elements

The board calculates an annual budget every year and splits it into monthly fees billed to each owner.

## **HOW ARE COMMON EXPENSES FEES CALCULATED?**

A common expenses fee consists of several components:

- an amount for the operation of the condominium
- an amount for a [reserve fund](#) (see below), and

- an amount to pay for a portion of facilities shared with other condo corporations (like a parking garage or recreation center), if applicable.

The corporation's [declaration](#) states the portion each owner must contribute to the budget. This portion is expressed as a percentage and may vary often by the size of the units.

## WHAT IS A RESERVE FUND?

A condominium corporation saves money in a [reserve fund studies](#) so it can manage the financial burdens of major repair or replacement of common elements as needed.

All owners in a condominium – past, present, and future - must share the cost of major work. The reserve fund balances the rights of ownership with the need for stewardship of the condominium.

Without a reserve fund in place, the financial burden falls only on owners who own units at the time the work is undertaken. It is not borne by people who enjoyed the common elements during their time as owners but who have since sold their units.

## WHAT IS A SPECIAL ASSESSMENT?

A condominium corporation creates a budget for every fiscal year. Should a budget shortfall occur, the corporation must find a way to cover its expenses. Large shortfalls can force the corporation to assess an extra one-time charge, known as a special assessment, for each unit.

Special assessments can occur for reasons like:

- Unforeseen urgent repairs.
- Changes in government regulations that require equipment to be updated sooner than predicted.
- Budgeting tactics that keep common expenses fee artificially low while not effectively covering anticipated expenses.

## GOVERNANCE

Owners elect a **board of directors** to oversee the business affairs of the condominium corporation. As an owner, you are a member of the condominium corporation, so board

activities affect your condominium experience every day. Therefore, it's important that you vote for the directors or become a director yourself. Elections occur during the annual general meeting (AGM).

## WHAT ARE THE ROLES AND RESPONSIBILITIES OF THE BOARD OF DIRECTORS?

Your board of directors meets regularly to conduct condominium business. Meetings typically occur once a month, though they can happen frequently. The board of directors must ensure the corporation is run in compliance with the Condominium Act. As part of their responsibilities, directors must:

- track your condominium's financial performance.
- ensure all required maintenance and repairs are carried out
- hire specialists, like engineers, to update *the* [reserve fund studies](#) every three years.
- propose changes to condominium by-laws. For these proposed changes to take effect, a majority of unit owners must vote in favour of the changes.
- enact rules to promote the safety, security, and welfare of all owners.
- Provide regular communication with the other owners

The board cannot conduct any business except at a meeting of directors. Further, there must be a quorum at the meeting. A quorum for a directors meeting is a majority of the number of directors. Director meetings don't have to be face-to-face meetings. A director's meeting can be held by teleconference.

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## DIRECTOR QUALIFICATIONS

To be a director, you must:

- be at least 18 years of age
- not be bankrupt
- be capable of managing property within the meaning of the [Substitute Decisions Act](#) or the [Mental Health Act](#)

A person immediately ceases to be a director if a lien is registered against their unit or they become bankrupt.

A director does not have to be an owner of a unit in the building if a certificate of lien has been registered against a unit owned by the person and has not been discharged within 90 days, or they become bankrupt. The condominium corporation's by-laws may include conditions for qualification or disqualification of directors.

## **MANDATORY DISCLOSURE**

Effective November 1, 2017, directors of condominium corporations, as well as candidates for director positions, must make certain disclosures. Once a person is elected to a board, he or she is subject to ongoing disclosure requirements for the duration of the term. Failure to meet these requirements will immediately disqualify someone from being a director.

## **HOW TO ELECT PEOPLE TO THE BOARD OF DIRECTORS?**

At every AGM, one or two director terms expire. That means other residents can run for a seat on the board. The process for electing directors depends on your condominium's by-laws and rules.

If you want to run for a position on the board, you should notify the board ahead of the AGM. Your name will then be included in the AGM package sent to residents before the meeting. However, you can still stand for election the day of the meeting.

At the AGM, candidates will be able to introduce themselves. You will then be able to vote for them. When you vote for new directors, consider:

- the information you have about the candidates;
- speaking with the candidates directly; and,
- discussing candidates with your neighbours.

Subject to the by-laws, the directors elect the president and secretary from among themselves.

### **DIRECTOR TERMS**

The board must have at least 3 directors. An odd number of directors helps prevent stalemates during board votes. The number of directors is specified in the condo declarations. The term for a board member can be up to three years. Terms are typically set so that they don't all expire at the same time. This helps ensure that there is always an experienced director on the board.

## WHAT TRAINING IS AVAILABLE FOR CONDOMINIUM BOARD MEMBERS?

Effective November 1, 2017 directors elected or appointed on or after November 1, 2017 are required to take online training offered by the Condominium Authority of Ontario. It is expected that the training can be completed in about three hours.

## WHAT IF A BOARD MEMBER IS NOT DOING THEIR JOB?

Directors must uphold a standard of care. This means they must perform duties with care, diligence, and skill.

If a board member is not doing their job or is acting inappropriately, they can be removed. To have a director removed, a meeting of owners must be called for the purpose. [Click here for more information on requisitioning an owners' meeting.](#)

At the meeting, the owners must vote to remove the director. To remove the director, a majority of **all** owners must vote in favour of removal, either in person or by proxy.

If the owners vote to remove a director, the owners may elect any person qualified to be a member of the board to serve the remaining term of the director who has been removed, according to the condo corporation's by-laws dealing with the election of directors.

## BY-LAWS, RULES AND POLICIES

Thinking of moving into a condo? Here is an overview of the rules and regulations of condominium living.

Important concepts that condominium owners should know are:

- declaration and description

- by-laws
- rules
- policies

## DECLARATION AND DESCRIPTION

The **declaration and description** are the legal documents that create a condominium corporation. The **declarant** (developer or builder) prepares these documents and files them in the land registry office. This process is referred to as **registering the condominium**.

The **declaration** includes information, such as:

- The street address of the condominium.
- The mailing address of the condominium, if it is different from the street address.
- How much each unit will pay for common expenses, expressed as a percentage of the total budget.
- Which parts of the building will be **exclusive use common elements**, like balconies.

The **description** provides:

- A survey showing the boundaries of the property;
- A description of all the elements and assets that are included in the property.
- Diagrams showing the shape and dimensions of each unit.
- A description of what is included as part of each unit. For example, a condo unit may not include a front door. The front door may be a common element, which would prevent the owner from painting it a different colour.

The declaration and description can only be changed if over 80% of the owners agrees to this change. For example, if there are 100 units in the condominium, over 80 owners, depending on what the amendment deals with, would need to agree to a change.

## BY-LAWS TO GOVERN HOW THE CORPORATION IS RUN

By-laws describe how the condominium corporation is to govern itself. By-laws can deal with a wide range of matters, such as:

- how directors are elected
- how common expenses are assessed and collected
- when/how the condominium can borrow money
- maintenance of common elements and units

By-laws must be reasonable and consistent with the Act and declaration. The condominium board of directors can make, amend, or repeal by-laws, and owners can provide input. By-laws do not come into force until they are:

- Approved by a majority of owners at a meeting called for the purpose. The requirement for a majority can be changed by regulation under the Act.
- Registered in the land registry office.

## **RULES - HELPING OWNERS GET ALONG WITH ONE ANOTHER**

**Rules** promote everyone's safety, security, and welfare. They help ensure all owners can enjoy living in their condominium and protects your property and the condominium's assets.

For example, rules can:

- Restrict the use visitors make of common elements.
- Prevent owners from renting out their units for short periods of time.
- Limit the number or size of pets allowed in the building.

The condominium board of directors can make, amend or repeal a rule. Rules must be consistent with the Act and declaration.

When changing rules, the board must:

- Notify owners about any changes they want to make before those changes become effective.
- Provide all owners with written notice of the rule at least 30 days before it becomes effective.

Owners who do not like the rule can act to change it or stop it from becoming effective. For instance, an owner can request an [owners' meeting](#).

## **POLICIES - EVERYDAY RULES TO GUIDE THE CONDOMINIUM**

The Condominium Act specifies which issues require a by-law. But some governance issues do not need to be in a by-law, nor do they need to become rules. Therefore, the board may prepare policies to address such issues.

For example, the board may establish a policy regarding contracts. This policy might require the board to get three quotes before awarding a contract, helping ensure the condominium gets the right deal.

Owners are not directly affected by policies.

## **MEETINGS AND VOTING**

A condominium is run by a corporation that holds various meetings, most of which condo owners can attend.

Learn who is involved in and who can vote at each type of meeting:

### **ANNUAL GENERAL MEETINGS AND VOTING RIGHTS**

The Annual General Meeting (AGM) of all owners is an important meeting. The AGM is one of the main ways to help ensure accountability of the Board of Directors of the condominium corporation (the Board) to the owners.

### **BOARD MEETINGS**

Your board of directors manages your condo corporation. During these meetings, the board discusses and makes decisions about the operation of the condo corporation.

### **OWNERS' MEETINGS**

In some circumstances, boards are legally required to call an owners' meeting. For instance, if the board wants to change any by-laws, it must call for an owners meeting.

## TURN-OVER MEETINGS

The turnover meeting is the first condo owners' meeting and is required after the condo builder or developer has sold 51 per cent of the condo units. This meeting transfers control from the developer-controlled board to the newly-elected owners' board of directors.

### Developer-controlled meetings

A condo is vacant when it's first built, so according to law, a **declarant** (usually the developer or builder) appoints a condominium's first Board of Directors. This first board is also known as a **developer-controlled board**. This first board must hold an owners' meeting while the developer or builder still owns a majority of the units. At this meeting, owners other than the declarant can elect two directors to the first board.

## VOTING BY PROXY

If you can't attend meetings but still want to participate in decision-making processes, you can enable somebody who will attend the meeting to vote for you. You do this by completing a legal document called a proxy form.