

## CORONAVIRUS AND CONDOMINIUMS — MARCH 12, 2020 UPDATE

by David Thiel

Given the widespread public concern relating to coronavirus (COVID-19), which the World Health Organization has now declared to be a pandemic, we are writing to address some condominium specific issues. For any particular condominium situation, specific legal advice should be sought. This update is intended to provide only a broad overview of the issues and approaches and is current to today's date.

### Wait, isn't this a public health issue, not a condominium issue?

Yes, to a certain extent it is a health issue for the public health authorities to address. However, there are various legal obligations for condominiums to consider, including:

*Condominium Act, 1998* (the "**Act**") — Condominiums have a duty generally to maintain the common areas. This may include additional cleaning steps. As well, condominiums have to take reasonable steps to address potentially dangerous situations under the Act

*Occupiers' Liability Act* — Condominiums are required to take reasonable steps to ensure people are safe while on the condominium property

*Occupational Health and Safety Act* — Condominiums have duties to workers onsite in terms of providing a safe workplace

These and potentially other legal considerations do apply, so coronavirus is not something that can be ignored by a condominium

### So, what steps can a condominium take to help minimize health and other risks?

Every condominium will be different of course. High rises may need to take additional steps, while 'freehold' style detached condominiums may have minimal steps to consider.

Where applicable, some steps to consider to address coronavirus include:

- increasing the frequency and scope of cleaning, especially in high traffic areas such as elevators, lobby, and concierge station and other common areas
- discussing with onsite contractors and service providers what steps those firms are taking to minimize the chance that their representatives may expose residents to the coronavirus, including ensuring those representatives who have travelled to affected areas recently are not sent to the site
- discussing with onsite contractors and service providers what measures may be taken if their representatives will be entering a unit to perform duties, to address any health concerns of the residents and of the workers
- considering postponing non-urgent work where appropriate



[David Thiel](#)  
Partner

t: 416.941.8815  
[dthiel@foglers.com](mailto:dthiel@foglers.com)



[Carol Dirks](#)  
Partner

t: 416.941.8820  
[cdirks@foglers.com](mailto:cdirks@foglers.com)



[Gareth F.G. Stackhouse](#)  
Associate

t: 416.840.0665  
[gstackhouse@foglers.com](mailto:gstackhouse@foglers.com)



[Rachel Fielding](#)  
Associate

t: 416.864.7402  
[rfielding@foglers.com](mailto:rfielding@foglers.com)

- reviewing with onsite staff any concerns they have relating to the safety of the workplace, and encouraging all workers who feel ill not to report to work

In addition to the foregoing steps that relate specifically to safety/health, the condominium may also wish to consider some other steps such as the following to help ensure that the condominium's operations continue without major disruption:

- discussing with all providers whether or not any disruption in service is anticipated, including any disruption due to employee absence or supply disruptions
- reviewing options and considering business continuity plans in the event of any severe disruptions to the Corporation's operations as a result of coronavirus

### **Should the condominium be sending a notice to residents?**

While legal advice should be obtained concerning any notice to residents, it may be of comfort and assistance for residents to know that the condominium is taking the situation seriously, and to know of any requests from the condominium.

A notice to residents might include the following information and statements:

- helpful information including website information for the local public health authority as well as Health Canada and the Ontario Ministry of Health
- in addition to asking residents to comply with all recommendations of the local public health authority (and those of Health Canada and the Ontario Ministry of Health), request that residents refrain from using the amenities and minimize the use of the common areas if they have recently travelled to an area under a travel health advisory and/or exhibit any symptoms such as coughing or fever
- outlining procedure for reporting to property management if the resident is in self-isolation or quarantine

### **What about AGMs?**

One approach of course is to simply delay holding AGMs or other owners meetings until after the coronavirus issue subsides. This, however, runs the risk of non-compliance with deadlines in the Act for the holding of such meetings.

Specific legal advice should be obtained for each condominium but generally at this point if an AGM or other owners' meeting is to be held, reasonable arrangements to reduce risk should be made, which arrangements might include:

- encouraging proxy and electronic voting rather than in-person attendance
- using a venue that is spacious enough to accommodate anticipated attendance without crowding owners and allowing for some safe distance between attendees
- making hand sanitizers available as well as new pens for completion of ballots and sign-in forms
- posting signs with reminders of safety precautions — no hand-shaking, wash hands or use hand sanitizer as may be available, stand apart from other owners and maintain maximum distance, do not touch your face etc.

- consider making arrangements for owners to view the meeting on a live video feed
- keep the meeting moving as expeditiously as possible to minimize the duration of the meeting, perhaps offering to answer owner questions by email prior to the meeting to attempt to both reduce in-person attendance and to minimize the duration of the meeting

Of course, the public health authorities' directives and/or recommendations as to holding meetings of a certain size must be taken into account when making decisions regarding owners' meetings.

\*\*\*

Again, developments in the coronavirus situation may require evolving approaches to these issues.