

## Draft Condominium Management Regulations Released

By David E. Thiel

Finally, we are starting to see some of the regulations released, in **draft**, arising from the *Protecting Condominium Owners Act, 2015*. This Act enacted both the *Condominium Management Services Act, 2015* (the "**CMSA**") as well as extensive changes to the *Condominium Act, 1998*. These new statutory provisions are not yet in force, pending filing of final regulations and proclamation.

Note that while the changes to the *Condominium Act, 1998* as well as the CMSA received Royal Assent in December of 2015, much of the content to both of these Acts referred to the additional requirements to be found in the regulations. The first portion of those **regulations**, specifically many of the regulations under the *Condominium Management Services Act, 2015* (the "**Regulations**") were released to the public in mid-December 2016 in draft for comment.

### "Condominium Management Services" and the Licensing Requirement

Essentially, under the CMSA, anyone providing "condominium management services" must be licensed to do so. The definition of "condominium management services" is quite broad, and includes collecting or holding common expenses, making payments to third parties on behalf of the condominium, negotiating contracts with third parties and supervising employees and contractors: in general, exercising the delegated powers and duties of a condominium or its board of directors.

The definition is subject to activities excluded by the Regulations and in fact the Regulations contain a large number of exceptions, including certain accountants, architects, engineers, lawyers, insurance brokers, banks and various other roles. Directors on a condominium Board are exempt, unless doing so for compensation or reward.

### Types of Licences

The Regulation also provides that there will be various forms of licences for condominium managers and these would include limited, general and transitional general licences. "Condominium Management Providers" (essentially, the property management firms including sole proprietorships) would also need to be licensed and would be subject to various other requirements.

#### "Limited Licences"

A person could apply for a limited license if he/she meets the educational and examination requirements set out by the Minister. These requirements would be detailed in further regulations and are not finalized.

Conditions of a limited licence would include that the licensee is not to:



[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)



[Khalid Karim](#)  
Associate

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

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- i. provide condominium management services except under the supervision of a supervising licensee;
  - ii. enter into any contracts or manage general funds on behalf of a condominium without approval of a supervising licensee;
  - iii. sign status certificates or manage a condominium's reserve fund account.

*"General Licences"*

Essentially, a person may apply for a general licence if he/she holds a limited licence, has successfully completed the educational and examination requirements set out by the Minister, and has at least two years of work experience that meets certain requirements.

*"Transitional General Licence"*

An individual is deemed to hold a transitional general licence if the individual has more than two years of demonstrated experience during the past five years in providing condominium management services. The individual must also be employed as a condominium manager at the time the applicable provisions of the CMSA come into force, or was so employed within the previous three months.

This deemed transitional general licence expires 150 days after the applicable provisions of the CMSA come into force, unless extended or any of various other exceptions apply. It appears that a transitional general licence would be available for a period of three years, presumably to allow these managers to meet the educational requirements which are to be announced.

As an additional transitional provision, managers who currently meet certain work experience requirements and educational requirements should be able to immediately apply for the full general licence. That is, an individual is exempt from requirements concerning holding a limited licence and the certain specific educational requirements to be enacted, IF an individual holds a deemed transitional general licence and, immediately before the applicable provisions of the CMSA come into force:

- i. was a member in good standing of the Association of Condominium Managers of Ontario as a Registered Condominium Manager OR
- ii. has successfully completed certain courses developed by ACO, being Condominium Law, Physical Building Management, Financial Planning for Condominium Managers and Condominium Administration and Human Relations.

**Condominium Management Providers**

Condominium management firms (corporations, partnerships, sole proprietors, association or other entity) must also be licenced. There will be a deemed licence under the Regulations for a period of 150 days during which the condominium management provider would apply for a licence. The condominium management provider must designate a principal condominium manager.

**Beyond Licensing Requirements**

Beyond the licensing requirements, the Regulation also provides some additional detail concerning the following issues:

- i. restrictions on managers soliciting proxies;
- ii. requirements in management agreements for certain information concerning managers insurance. (The extent of insurance carried by managers must be clearly disclosed in management agreements.);
- iii. disclosure by managers of an interest in contracts;
- iv. turnover of documents by managers upon termination (within ten (10) days);
- v. complaints process and discipline.

Again, these regulations are in draft and could change. The foregoing discussion is merely a flavour of the Regulations and they are quite complex and reference should always be made to the actual Regulations.

Note that the public can comment on these **draft** Regulations, with a deadline of February 6, 2017. It appears that based upon the information provided by the Ministry that the intent is to have these Regulations in force by July 1, 2017.

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The industry also awaits the anticipated regulations under the *Condominium Act, 1998*. These are expected to be quite extensive, and we endeavour to provide our clients and industry contacts updates and comments throughout concerning these important developments.