

"BRACING FOR IMPACT" - NOVEMBER 1, 2017 CHANGES - CONDOMINIUM LEGISLATION UPDATE

By David E. Thiel

This is one of a series of newsletters that the Condominium Law Group at Fogler, Rubinoff LLP will be providing to our condominium industry contacts as changes to the Condominium Act, 1998 are implemented. We endeavour to keep our contacts and clients up to date as developments occur.

Many changes to the *Condominium Act, 1998* and related legislation are due to come into force tomorrow, November 1, 2017. Are you ready?

Do keep in mind that the November 1, 2017 changes are just a portion of the changes to the condominium legislation. Many changes will come into force on future (unknown to a large extent) dates.

The November 1, 2017 changes focus on four main areas of changes, as follows:

- Director Disclosures and Training
- Communications to Owners
- Meetings and Voting
- Records

These and other changes, some subtle and some substantial, are found throughout the *Condominium Act, 1998*. This list includes the following:

- information certificate requirements;
- directors' training, director qualification and disqualification;
- directors' disclosure requirements;
- various owners' meeting changes, including a two-step process with preliminary notices, mandatory proxy forms, permitting electronic voting if the by-laws provide for same;
- changes to the Corporation's record of owners and the information to be compiled;
- generally, changes to permitted methods of delivery of notices to owners. Includes provisions permitting for electronic delivery of Notices of Lien for example if certain conditions met;
- record keeping requirements and record request changes;
- deadline for owners to provide notice to the condominium of leasing a unit - was 30 days, will now be 10 days.

This is not an exhaustive list. In addition to the changes to the *Condominium Act, 1998* itself, the mandatory licensing requirements of the *Condominium Management Services Act, 2015* come into force on November 1, 2017.



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So, what should we look out for at the outset?

A. Records Requests

This is perhaps the most immediate concern, especially given that penalties will now be up to \$5,000 for non-compliance and the deadlines for response are firm. (As short as 15 days depending on the request).

B. Owners' Meetings - Transition Period

Condominiums wishing to avoid the two-step process of calling owners' meeting (preliminary notice, then actual meeting notice) will want to consider holding a meeting prior to December 10, 2017. Meetings held on after December 10, 2017 will require the entire two-step process (unless a meeting notice was sent prior to November 1, 2017).

C. Wait for the Forms

Forms relating to many of the aforementioned changes have not yet been released as of October 30, 2017. This will be important of course. For example, while there is a transition period for owners' meetings, mandatory proxy forms still apply. Other forms of note will include records requests forms.

D. Pay Your Tax

Condominium must register with the Condominium Authority of Ontario prior to December 31, 2017 and pay the 'condo tax' of \$1 per (voting) unit per month for the period September 1, 2017 through March 31, 2018, all before December 31, 2017.

E. Directors' Disclosure

Directors will be required to disclose various matters to the Board. There is no mandatory form, and condominiums should have a checklist or form available to assist with the process. Our office is developing a form for such use.

F. Doublecheck Everything

Until these changes become 'second nature' (which may be never), the best advice is to check each step related to the Act to determine if a change is now in effect. For example, if you are sending out a Rules change notice, check to see if the Rules enactment procedure has changed (hint - it has, slightly). In addition, some changes to the *Condominium Act, 1998* previously discussed throughout the year (e.g. requisition meeting changes, and non-leased voting unit issues) which may have initially been thought to come into force with the first phase of changes, will be delayed.

Stay tuned for further updates on the rollout of these various extensive changes to the condominium legislation.-