

Condominium Legislative Changes -- January 2018 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 and related legislation are implemented. We endeavour to keep our contacts and clients up to date as developments occur.

The changes to the condominium-related legislation continue to be enacted in various stages. Our office had prepared a "[Directors' Guide](#)" to the changes which came into force on November 1, 2017.

This update highlights some of the changes which came into force on January 1, 2018 and also which are scheduled to come into force on February 1, 2018.

1. February 1, 2018 - Condominium Management Services Act and Regulations

The most substantive changes coming into force on February 1, 2018 relate to the regulation of condominium managers. These include regulations 3/18 and 4/18 filed on January 15, 2018.

Specifically, the recently finalized regulations under the *Condominium Management Services Act* ("**CMSA**") address various issues, as follows:

Code of Ethics (O. Reg. 3/18)

The Code of Ethics will have various requirements for managers, including what should be obvious duties to:

- act fairly, honestly and with integrity
- treat all persons equally without discrimination or harassment
- provide conscientious and responsive service, and demonstrate reasonable knowledge, skill and judgment.

Other provisions of the Code of Ethics address the protection of the client's interests and confidentiality.

Discipline and Appeals Committee (O. Reg. 3/18)

Breaches of the Code of Ethics will be addressed by Discipline and Appeals Committees.



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Complaints (O. Reg. 4/18)

Complaints concerning condominium managers may be made to the Condominium Management Regulatory Authority of Ontario ("**CMRAO**"), which will have various investigative and other powers. The CMRAO has various options in dealing with a complaint, including: doing nothing, issuing a warning, requiring the manager to take further educational courses, refuse to renew a licence, suspend or revoke a licence, refer to the Discipline Committee, or refer for an investigation as an offence under the CMSA.

Insurance (O. Reg. 4/18)

Condominium management providers must carry errors and omissions insurance as well as fidelity coverage, and provide a copy of the Certificate of Insurance to the condominium before entering into an agreement for management services.

Other Requirements (O. Reg. 4/18)

Other requirements are imposed including disclosure of-interests in certain transactions and contracts, record retention for clients and supervision by condominium management providers of their licensees.

Apart from these newly filed regulations, additional provisions in the CMSA itself come into force on February 1, 2018, including:

s.53 - Prohibition on proxy solicitation if subject matter of meeting includes any matter directly related to manager, removal or election of any board members, or any prescribed matter.

s.54 - Upon termination of a management agreement, the manager is required to transfer client documents and is not permitted to retain as a means of 'pressuring the client'.

s.56 - No counselling, advising or knowingly assisting a person to contravene the CMSA, the Condominium Act, 1998 or any other prescribed Act.

2. January 1, 2018 - Condominium Act, 1998 - Condominium Returns

As of January 1, 2018, condominiums are now required to file information statements (the "**returns**") with the Registrar. The key elements of the applicable regulations are as follows:

Types of Returns

The four types of returns and the deadlines for filing for each are as follows:

Annual Return - between January 1 and March 31 of each year

Initial Return - for new condominiums - within 90 days of registration

Transitional Return - on or before March 31, 2018

Turn-over Return - within 90 days of the turn-over meeting

All of the returns require a long list of basic information including, but not limited to: address for service, municipal address, total number of units, total number of voting units, names of directors, name and address of property management company.

Notice of Change

A corporation must file a Notice of Change (outlining changes in various issues) with the Registrar within 30 days of the change. The applicable changes include, but are not limited to: change in the address for service or email address for the corporation, change in the property management company, or in the address for service for same.

Keep in mind that the Condominium Act, 1998 itself (not the regulations) specifically requires the Notice of Change where there is a **change in directors** elected or appointed to the Board.

Public Registry

The regulations also set out the details of a Registry which is to be made available to the public on the Condominium Authority of Ontario's website (and possibly other means). The Regulations provide that the publication of the Registry is to commence on **April 1, 2018**.

The Registry will contain certain information from the aforementioned returns, including, but not limited to address for service of the Corporation, names of directors, name and address of service for the property management company.

The regulations place some limits on the availability of the aforementioned public information including that the information is not to be made available in bulk (subject to certain exceptions) and that the person accessing the

3. Other Items of Note

On February 1, 2018, s. 17.0.1 of the *Condominium Act, 1998* states that a condominium shall enter into an agreement for management services unless the management entity is licensed under the CMSA.

Tarion coverage will apply to condominium conversions, as of January 1, 2018.

This has been a very broad overview, and some exceptions to the foregoing may apply depending upon the circumstances.