

CONDOMINIUM NEWS – QUICK HITS

by David Thiel

This is a quick roundup of current condominium legal issues as we head into the Autumn of 2019.

1. New Approach to the Forms?

On September 20, 2019, the Ministry of Government and Consumer Services (the "**Ministry**") announced a proposal to change the way in which the forms (the "**Forms**"). under the *Condominium Act, 1998* (the "**Act**") are to be managed. The Forms include both optional and mandatory forms.

The proposal provided for a tight window for public comments ending on September 30, 2019.

The Ministry has stated that "The intent of the proposal is to provide easier access and usability of frequently used forms for condominium owners, mortgagees, purchasers and condominium corporations."

In essence, the proposal is that the administration of 17 of the Forms will be delegated to the Condominium Authority of Ontario (the "**CAO**") on January 1, 2020.

These 17 Forms include the various information certificates, notices relating to meetings, some records request related forms, the proxy! and the status certificate.

It is also proposed that on July 1, 2020, the administration of two more Forms, being the Notice of Future Funding of the Reserve Fund and the Summary of Lease or Renewal, would be delegated to the CAO.

The CAO would be responsible for making the Forms accessible on its website, and (more importantly), for making any necessary updates to the Forms. The Ministry would have to approve any updates to the Forms proposed by the CAO.

Time will tell if this change, if implemented, will improve the situation with the Forms. Since the rollout of various changes to the Act and its Regulations and the Forms starting in late 2017, there have been a wide variety of complaints, concerns, inconsistencies related to the Forms.

In our view, an effort to address the widely discussed problems with the Forms and provide what (in theory) should be a more responsive system to allow for updates, is welcome. If the proposal is implemented, we will see if these efforts will have a positive effect.

2. Short Term Rentals – Toronto By-law Appeal

The condominium industry, as well as a variety of other affected parties, continues to await the outcome of an appeal of a City of Toronto By-law to regulate short term rentals ("**STRs**")

In a nutshell, the City of Toronto approved a By-law in January 2018 to regulate



[David Thiel](#)

Partner

t: 416.941.8815

dthiel@foglers.com



[Carol Dirks](#)

Partner

t: 416.941.8820

cdirks@foglers.com



[Gareth F.G. Stackhouse](#)

Associate

t: 416.840.0665

gstackhouse@foglers.com



[Rachel Fielding](#)

Associate

t: 416.864.7402

rfielding@foglers.com

STRs, which regulations include:

- requiring STR companies to obtain a licence.
- requiring that STRs are only permitted for the principal residence of an owner.
- requiring those who provide STRs to register with the City, and pay a Municipal Accommodation Tax of 4%.

However, the By-law was appealed to the Local Planning Appeals Tribunal ("LPAT") and has not been enforced pending such appeal.

The original LPAT hearing had been scheduled for August of **2018**, but was adjourned to August 26, 2019. The hearing is ongoing and has lasted for several days. The next date for the continued hearing is October 15 and closing submissions are expected at that time.

This issue is very important for a vast number of condominium corporations and their residents in the City of Toronto. Many condominiums, for example, have been struggling to address various reported problems arising from widespread use of 'sharing economy' platforms which allow for STRs.

The outcome of the appeal may have a profound effect on the operation of STRs in condominium buildings as well as the approach taken by condominiums in addressing the issue of STRs.

For those buildings already struggling to enforce minimum lease terms in their declarations or rules, this may mean that the City of Toronto's By-law could relieve some of the burden of enforcement currently on the condominiums.

This is a developing story of tremendous importance for condominiums in Toronto (and outside if other municipalities develop similar approaches) and we will be watching this closely.

3. Federal Election – October 21, 2019

As we all know, the federal election will take place this year on October 21, 2019. It is very important for condominium boards and managers to be aware of their obligations relating to election campaign access and related matters, as the consequences can be substantial.

Under s. 118 of the Act, condominiums must not restrict reasonable access to candidates or their authorized representatives to the building for the purpose of canvassing. A violation of this provision is an offence under the Act which carries potential fines of up to \$100,000 for a corporation or \$25,000 for an individual.

Under the federal *Canada Elections Act* ("CEA"), a condominium (and its representatives) must not prohibit election canvassing in the building within the hours of 9 am to 9 pm.

Also under the CEA, a condominium must not prohibit residents from displaying election signage. The wording of the legislation could be worded in clearer language, but it appears that this would apply to the unit and any exclusive use common elements. The condominium may set reasonable conditions relating to the size or type of election signage, however.

Violations of the aforementioned provisions of the CEA carry fines of up to \$5,000, imprisonment for up to six months, or both.

Accordingly, the potential consequences of a violation of either the Act or the CEA in relation to election campaigns are very serious. Legal advice should be sought if there are any questions relating to these requirements or if a dispute were to arise.