



Government  
\_\_\_\_\_ of \_\_\_\_\_  
Saskatchewan

# *Condominium Property Law*

- Law Society of Saskatchewan  
Continuing Professional Development
  - An Update on the Condominium  
Property Act Amendments
  - January 16, 2015



# What we will talk about?

- Completion of the review of Condominium Property Law
- Highlights of various changes and areas of interest
- Q and A?



# The Act and Regulations

- *The Condominium Property Act, 1993 (Act)*
- *The Condominium Property Regulations, 2001 (Regs)*
- Both amended as of June 16, 2014
- All changes are incorporated into current versions at [www.qp.gov.sk.ca](http://www.qp.gov.sk.ca)
- All forms are included in the regulations



# To Be Discussed

- Services Units
- Conversion Units
- Parking
- Security
- Financial Statements
- Reserve Fund Study
- Annual Returns
- Bylaw Changes
- Standard Unit Description
- Insurance
- Minutes
- Short Term Rentals
- Dispute Resolution
- Estoppel Certificate



# Services Units

- **Act s. 2(1)(y.2) - Added in 2009:**
  - Owned by the condominium corporation
  - Shown on condominium plan as a unit
  - Consists of areas for the use and benefit of all owners
  - Can include:
    - Laundry room
    - Recreational facility
    - Landscaping areas
    - Roadways
    - Hallways



# Conversion Units

- **Act s. 2(1)(j.2):**
  - A unit contained on a condominium plan that converts existing premises used for any purpose into units used for residential purposes



# Parking – Residential Requirements

- **Act s. 11(1) - A condominium plan must include:**
  - At least one parking space as an exclusive use area for each unit; or
  - At least one parking unit for each unit
- **Act s.11(2) – except when:**
  - Local authority zoning does not require;
  - Units are not intended for residential use; or
  - A parking area or garage is included as part of a unit





# Parking - Spaces versus Units

- **Act s. 2(1)(s.1) - Parking Space:**
  - An area of common property or services unit that is used for parking
- **Act s. 2(1)(s.2) - Parking Unit:**
  - Added in 2009
  - A titled unit that is used for parking
  - May be bought and sold with some restrictions as it relates to designation to a residential unit
  - Recorded in the Land Registry in the same way as other unit titles
  - Can convert from space to unit



# Parking – Designation

- **On the Plan:**
  - Parking location is still shown on plan
  - Designation of parking used to be shown on plan
  - Re-designation of parking used to occur on plan
  - Designation and Re-designation is no longer on the plan



# Parking – Designation

- **In the Land Registry:**
  - Designation and re-designation now occurs in the Land Registry
  - Parking Spaces
    - Designated via registration of a Parking Designation Interest and Form F.1
    - Re-designation via an amendment of the interest and Form D
  - Parking Units
    - Designated via a title in the name of the owner and a link between unit titles and parking titles and Form F.1
    - Re-designation via a transfer



# Parking – Conversion

- **Regs s. 15.2 - Conversion Process:**
  - A special resolution approving the conversion
  - An application to ISC to obtain approval of a new condominium plan
  - An application to ISC to issue new titles
  - ISC fees



# Security - Posting

- **Sections 5.2 and 16 of the Act:**
  - Required to post security or obtain a waiver for all condominiums that include residential units, or if bare land or phased
  - Before raising of new titles for the condo plan
- **Sections 16 and 22 of the Act:**
  - Minister of Justice is responsible
  - Delegated duties to Office of Public Registry Administration



# Security - Protection

- **Bare land**
  - Security protects completion of the condo's common property, common facilities and services units
- **Phased**
  - Security protects completion of the condo's common property, common facilities, services units and additional units in the subsequent phases



# Security – Amount

- **Regs s. 17 - Amount as of June 16, 2014:**
  - $\leq$  \$500,000 – equal to the cost
  - $>$ \$500,000 to  $<$ \$2.5 million - \$500,000
  - $>$ \$2.5 million – 20% of the cost
- **Different formula prior to June 16, 2014 with maximum amount of \$200,000**



# Security - Release

- **Regs s. 18 & 19 – Release of Security:**
  - On more than 50% complete of items listed on Developer's Declaration
    - Form I - May request a 50% reduction
  - Once all work on Developer's Declaration is complete
    - Form M - May request 100% release
  - Notice is provided to the condominium corporation





# Financial Statements

- Commencing June 16, 2014
- Act s. 39(3) indicates must be audited annually
- Regs s. 53.1 prescribes the person:
  - Must be a member in good standing of a recognized accounting profession that is regulated by an Act
  - Must be prepared in accordance with generally accepted accounting principles published by Chartered Professional Accountants of Canada
- Regs s. 53.1(d) indicates who auditor cannot be



# Financial Statements

- Regs s. 53.2 provides available options:
  - If more than 50 units:
    - Audit is mandatory
  - If 12 units to 50 units:
    - With 100% consent - No audit or review
    - With 80% consent - No audit but still require a review
  - If fewer than 12 units:
    - No audit requirement, but still require a review
    - With 80% consent – No review



# Financial Statements

- Other things to note:
  - Regs s. 53.2(5)(b)
    - Consent is only good until the next annual general meeting
  - Regs s. 53.2(1)
    - Calculation of units does not include parking or services units



# Reserve Fund Study

- Commencing June 16, 2014
- Regs s. 51.2 indicates must be conducted every five years
- Regs s. 51.1(d) defines a qualified person:
  - Must hold liability insurance in a minimum amount of one million
  - Includes:
    - Applied Science Technologists
    - Accredited Appraisers
    - Architects
    - Certified Reserve Planners
    - Licensed Professional Engineers



# Annual Returns

- **Commencing April 1, 2015:**
  - Will receive an annual return from ISC 1-2 months before due date
  - Regs s. 45.1(1)(a) - anniversary month is the month on which the corporation was incorporated or as set by Director
  - Regs s. 45(1)(b) – due date is the last day of the month following anniversary month
  - Regs s. 45(5) - Director can designate another anniversary month if the corporation satisfies the director that it is reasonable and appropriate to do so



# Annual Returns

- Form MM (Annual Return) requires three pieces of information:
  - Address for Service
  - Director information
  - Submitting Party information
- Form DD (Change of Address or Change of Directors) only required to complete if something has changed
  - Includes detailed instructions with it
  - All corporations will have to include Form DD in first annual return because director information not currently filed with Corporate Registry



# Bylaw Changes

- **Making, amending or repealing bylaws:**
  - All bylaws except sector:
    - Act s.46(1) & (2) - Require a special resolution
    - Act s.47(1)(f.1) – May pass bylaws that allow the corporation to maintain all or any portion of a unit
  - Sector
    - Act s. 47.1(4) - Require unanimous approval or 80% approval with notice to those not voting or voting against to advise of ability to apply to court
  - Scheme of Apportionment
    - Regs s. 48(2) – Require written consent from 75% of the owners



# Bylaw Changes

- **Act s. 2(1)(z) - Special Resolution:**
  - A resolution approved by a majority of not less than  $2/3^{\text{rds}}$  of the persons entitled to vote
  - Includes all persons entitled to vote regardless of whether they attend the meeting or not
  - Can be done by:
    - Voting at a meeting
    - Signatures
    - Combination voting at a meeting and signatures





# Bylaw Changes

- **Act s. 46(3) - Filing bylaws:**
  - No effect until filed with the Corporate Registry at Information Services Corporation
  - Corporate Registry reviews bylaws for key features and files
  - Filing does not make valid an otherwise invalid bylaw
  - If nothing filed, the initial bylaws prescribed in the regulations apply



# Standard Unit Description

- **Regs s. 11.1 – Description of Standard Unit**
- **If available/newer condos:**
  - Description of any standard items that were initially provided to purchasers by developers on plan
- **If not available/older condos:**
  - Agree to what should be considered standard items
  - Include in bylaws using special resolution



# Insurance

- New insurance requirements:
  - Act s. 65 – Duty to ensure
  - Must carry insurance on bare land units developed as apartments, row houses or townhouses
  - Must carry director and officers' liability insurance
  - Standard unit description to assist in determining division of insurance liability between owner and condo corporation



# Minutes

- **Requirements:**

- Act s. 39(2)(e) - Keep minutes of board proceedings
- Act s. 39(2)(f) - Keep minutes of proceedings at general meetings
- Regs s. 39.2(1)(c) – Developer to provide minutes for preceding year
- Standard Bylaws s. 3(b)(ii) & s. 17(1)(f) – Make meetings minutes available to owners
- Estoppel Form GG - Disclose minutes for the preceding year to a purchaser



# Minutes

- **What does disclosure include:**
  - Regs s. 39.2(2)(a) & Standard Bylaws s. 3(b)(ii)
  - Proceedings of any general meetings of the corporation or board
  - All appendices or other attachments that are referenced in minutes
- **How to disclose:**
  - Regs s. 39.2(2)(b), Standard Bylaws s. 3(b)(ii) & 3.1
  - Do not disclose the identity of any individual unit owner to whom the minutes relate
  - By paper, electronic or other format acceptable to the purchaser



# Short Term Rentals

- **Added in 2014:**
  - **Act s. 2(1)(y.3) - Short-term Rental Management Pool**
    - A rental management agreement pursuant to which one or more units will be rented out for periods of less than one month
  - **Regs s. 62.3(1) - Require owner to provide to the corporation**
    - Notice at least 30 days in advance of intention to rent or cease renting for periods of less than one month
    - Contact information for the manager of the pool who will provide the name of the tenant on request
  - **Form GG s. 29 - Require corporation to provide to purchasers**
    - Notice of plans or agreements in estoppel certificate



# Short Term Rentals

- **Act s. 76 - Renters shall not**
  - Cause damage to the property
  - Contravene the bylaws of the corporation
  
- **Act s. 77 - Deposit**
  - Corporation may require a damage deposit from owner
  - Cannot exceed maximum amount pursuant to *The Residential Tenancies Act, 2006*
  - Use to maintain, repair or replace property damaged, destroyed lost or removed by renter



# Short Term Rentals

- **Bylaws**

- Act s. 44 (2) - No bylaw shall prohibit or restrict the lease of units
  - Cannot restrict the owner's property rights
  - A bylaw that attempted to prevent the rental of units would contravene the Act
- Act s. 47(2) - could consider bylaws to better manage short term rentals remembering that no bylaw shall be passed that is contrary to the Act or the condo plan





# Dispute Resolution – Courts

- **Condominium Corporation**

- Act s. 98 – to recover sums expended for repairs to owner's units or work done in complying with local authority
- Act s. 99 – regarding bylaw enforcement in Small Claims Court
- Act 79.1 – may recover damages greater than rent deposit collected under s. 77 from owner

- **Owners**

- Act s. 99.1 – to direct condo corporation or board to fulfill its duties
- Act s. 99.2 – oppression remedies to determine if owner or other is being treated unfairly
- Act 79.1 – may recover damages greater than rent deposit collected under s. 77 from tenant



# Dispute Resolution

- **Other Remedies**
  - Act s. 99.3 – Nothing in Act restricts other remedies available
  - Act s. 100 – Arbitration
  - Act s. 101 – Administrator appointed by courts



# Dispute Resolution

- **Assistance**
  - Small Claims Court -  
<http://www.sasklawcourts.ca/index.php/home/provincial-court/small-claims-court>
  - Hire a lawyer
  - Hire a mediator or alternate dispute practitioner
    - ADR Institute of Saskatchewan
    - Conflict Resolution Saskatchewan
    - Dispute Resolution Office, Ministry of Justice
  - Office of Residential Tenancies
    - Deposit disputes



# Estoppel Certificate Changes

- In response to feedback that it was not user friendly and not being completed properly
- Format change to Form GG
  - From statement as to what was required to a question and answer format
  - Sorted into categories to keep related questions together
- Majority of disclosure requirements have not changed
- Maximum fee for estoppel is \$200



# Estoppel Certificate Changes

- **Removed:**
  - Requirements to note appeals to Saskatchewan Municipal Boards
  - Condo Apportionment Committee was phased out
  - Received no applications since 2003



# Estoppel Certificate Changes

- **Common Expense and Reserve Fund:**
  - s. 8 - Advise if condominium was converted from a previous use as an apartment, tenement or flat
  - If yes, reserve fund study has to be attached at no additional cost
  - If no, reserve fund study is still available for a fee
  - s. 9 - Confirm liability insurance by person completing reserve fund study



# Estoppel Certificate Changes

- **Financial Statement:**
  - s. 12 - Advise when financial statements were last audited, reviewed or why not
- **Parking:**
  - s. 16 - Advise if parking space or parking unit is included
  - s. 17 – Advise if any additional parking is included or available for rent
  - s. 18 – Advise if there are any exclusive use areas
  - s. 19 – Advise of charges for the use of parking or other exclusive use areas



# Estoppel Certificate Changes

- **Insurance:**
  - s. 21 - Advise if there is a standard unit description and attach if there is one
- **Bylaws:**
  - s. 25 - Advise that bylaws are in good standing and filed with the Corporate Registry





# Estoppel Certificate Changes

- **Agreements:**
  - s. 29 - Advise if there are short term rentals of less than one month and provide particulars
  - s. 30 - Advise if there are agreements with other condominium corporations and provide copies of any existing agreements
- **Meetings and other Proceedings:**
  - s. 31 - Attach copies of minutes
  - s. 34 - Advise of annual return status



# Estoppel Certificate Changes

- **Property:**
  - s. 37 – Advise if the property is managed by a property manager and if so, who
  - s. 38 – Advise if use of any common property is prohibited
  - s. 39 – Advise if the corporation owns other real property outside of condo plan



# Estoppel Certificate Changes

- **Development:**
  - s. 40 – For condos still under development, provide completion information
  - s. 41 – Provide copies of any final inspection reports detailing compliance with zoning, building and fire code requirements
  - s. 42 - Indicate whether the unit factors were apportioned for each unit by area of unit and explain if it is apportioned differently



# Estoppel Certificate Changes

- **General:**
  - Provide the name and contact information for the person completing the certificate in case of questions



# Questions?

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