

Lash / Condo Law

OUR CONDO EXPERTISE

THE ROLE OF CONDO DIRECTORS

PRACTICAL ADVICE, CREATIVE
SOLUTIONS, COST EFFECTIVE

LASHCONDOLAW.COM





BEST PRACTICE TIPS

1. Become familiar with the Condominium Act and your Corporation's documents
 - These set out all your responsibilities and powers
2. Complete mandatory training and attend educational seminars, including Community Associations Institute (CAI Canada) and Canadian Condominium Institute courses and seminars
3. Read industry publications
4. Disclose direct or indirect conflicts of interest
5. Abide by a code of ethics
6. Maintain confidentiality of board information
 - When in doubt, confirm with the rest of the board whether information is confidential
7. Prepare for, attend and actively participate at board meetings
8. Use professionals as needed and rely on their opinions
 - Do not "shop around" for preferable opinions
 - Do not finagle the reserve fund study
9. Make the decisions that need to be made, even if controversial or unpopular (e.g. special assessments)
10. Seek approval for decisions where necessary
 - Approval for changes to common elements, services or assets unless exempt from notice or a vote under Section 97 of the Condominium Act
 - No approval required: special assessments, budget, reserve fund



BEST PRACTICE TIPS CONTINUED

11. Develop a communication strategy
12. Directors direct, managers manage
13. Try to avoid litigation
 - Litigation can be costly for both sides – even if you win, you are rarely fully recompensed
 - Courts want to ensure that corporations act reasonably – there may be cost implications for those that do not
14. Do not levy penalties or fines against owners. The Corporation can only recover costs incurred in carrying out its responsibilities
15. Ensure your by-laws and rules are up-to-date
 - Good by-laws and rules are effective enforcement tools
16. Respect democracy
 - Board members have a right to dissent on a vote, but the majority rules
 - Present a unified board
 - Do not go “rogue”
17. Remember that you are all volunteers
18. Conduct yourself with a view to the best interests of the Corporation
 - Try to avoid an “us vs. them” mentality
 - Do not use director’s position for personal gain
 - Remember that your Corporation is a community



DIRECTOR'S DUTIES

- s. 17(1) - Manage the property and assets of the Corporation on behalf of the owners
- s. 17(2) - Control, manage and administer the common elements and assets of the Corporation
- s. 17(3) - Take all reasonable steps to enforce compliance with the Condominium Act, declaration, by-laws and rules

Delegate day-to-day executive responsibilities to the condominium manager, who works under the board's supervision.

MANDATORY EDUCATION

Every condo director elected or appointed after November 1, 2017 must take a mandatory education course within six months of joining the board. Check your Corporation's by-laws to see whether there are further educational requirements.

Director training is aimed at ensuring directors know their obligations and can provide good governance for the community. If a director does not complete the required training within six months of joining the board, they will immediately cease to be a director.



DISCLOSURE REQUIREMENTS

Prior to becoming a director, a person must disclose information relating to the following:

1. Any legal action involving the Corporation to which the person, their family or an occupant of their unit is a party;
2. Prior convictions under the Condominium Act within the last 10 years;
3. Conflicts of interest with the Corporation or declarant;
4. Common expense arrears greater than 60 days;
5. Ownership and residence in the Corporation

Check your Corporation's by-laws to determine whether there are additional disclosure requirements.

Candidates for election to the board must make disclosure:

- at the same time as notifying the Corporation of their intention to run for the board, if the notice is provided by the date specified in the preliminary notice
- at the meeting, if notice is provided after the date specified in the preliminary notice.

If a person is being appointed to the board, disclosure must be provided before being appointed or by the time specified in a by-law. This information must be in writing and signed.



STANDARD OF CARE

A fiduciary responsibility to act in the best interests of the Corporation and the owners as a whole (duty not owed to individual owners)

s. 37(1) – Objective standard of care

Acting honestly and in good faith

- Exercising the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances
- Actions may be compared against other Corporations, not just other directors of your corporation

s. 37(3) – Reliance on professional opinions

- Give all information required for professional to adequately assess the situation
- Base decisions on professional opinions

s. 38 – Indemnification

- Directors are not indemnified if they have breached the duty to act honestly and in good faith
- Directors and officers liability insurance will not cover those breaches



NOTES

LASH CONDO LAW

PRACTICAL ADVICE, CREATIVE SOLUTIONS, COST EFFECTIVE

We are committed to helping our clients make informed decisions and create strategies to successfully resolve condo issues.

LASHCONDOLAW.COM

The information provided in this brochure is intended for general informational purposes only and does not constitute legal advice or an opinion of any kind. Lash Condo Law does not warrant or guarantee the quality, accuracy or completeness of any information provided herein.

© 2017 Lash Condo Law



Lash / Condo Law

Denise Lash
dlash@lashcondolaw.com
416 214 4130

Joseph Salmon
jsalmon@lashcondolaw.com
416 214 4132

Josh Milgrom
jmilgrom@lashcondolaw.com
416 214 4133

Natalia Polis
npolis@lashcondolaw.com
416 214 4135

Danielle Swartz
dswartz@lashcondolaw.com
416 214 4131