

Lash / Condo Law

OUR CONDO EXPERTISE

CONDO OWNERS

GUIDE TO THE CONDO ACT AMENDMENTS AS OF NOVEMBER 1ST

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Important changes to the Condominium Act, 1998 (the “Act”) came into effect on November 1, 2017 and many more changes are coming in the near future.

As a condo owner, many of the November 1st changes affect you. These include: increased communication from your Corporation, new methods for requesting records, new authoritative bodies and a new dispute resolution forum.

This guide provides general information on relevant changes to the Act. Please consult the Act and the regulations in conjunction with this guide.

1. INCREASED COMMUNICATION AND TRANSPARENCY

Information Certificates

Corporations will be required to send out three new notices to owners in the Corporation. These notices will help increase communication, transparency and keep owners informed.

These notices include:

1. **Periodic information Certificates (PICs)** will be sent out twice a year to owners. These act as a “mini status certificate” outlining pertinent information about the Corporation, such as:
 - Information regarding directors;
 - How to contact management; and
 - Information on the Corporation’s budget, reserve fund and insurance policies.
2. **Information Certificate Updates (ICUs)** will be sent out when certain triggering events happen, such as a change in the management provider, directors, the address of service for the Corporation, etc.
3. **New Owner Information Certificates (NOICs)** will be sent to all new owners and will include the most recent periodic information certificate and information certificate update.



Notice of Meetings

In addition to receiving a notice of meeting before an owners' meeting, you will now receive a **Preliminary Notice**, approximately 35 days before the scheduled owners' meeting.

Preliminary Notices will include information on the purpose/nature of the meeting, any proposed changes to the declaration, description, by-laws, rules or agreements, and the number of positions on the board for election at the meeting.

In addition, a Preliminary Notice will ask whether there is any information owners would like to include in the notice of meeting. If the owners of **15%** of the units submit information to be included in the notice of meeting at least 1 day before the notice of meeting is sent out to owners, the board **must** include the information, unless the information is contrary to the Act. Note, owners are required to submit this information using a standardized form.

Visit our website at www.lashcondolaw.com to find this standardized form.

Director Disclosure Obligations

The amendments to the Act provide that prior to any director being appointed or elected to the board of directors they must disclose the following:

- if the person is an owner of a unit and if the person is an occupier of a unit;
- if the person, their spouse, child, parent or occupier of their unit etc. is a party to any legal action against the Corporation;
- if the person has been convicted of an offense under the Act in the last 10 years;
- if the person has, directly or indirectly, an interest in a contract with the Corporation or the developer;
- if the person is in arrears for 60 days or more; and
- any other information required by a by-law.



2. NEW PROCEDURE FOR RECORD REQUESTS

- Step 1 - Request the Record:** You must submit a completed standardized form to the board. In the request, you will not need to have to tell the board or management why you are requesting the record, however, the request must be “solely related to that person’s interest as an owner...having regard to the purposes of the Act.” In addition, owners cannot access records relating to:
 - employees of the Corporation (except an employment agreement between an employee and the Corporation);
 - records relating to actual or contemplated litigation or insurance investigations involving the Corporation; or
 - specific unit owners or units (other than your own unit).
- Step 2 - Board’s Response:** The board must respond within 30 days of a request for core or non-core records. The response must be made using a standardized form and must include:
 - a description of each record requested;
 - indication of whether it is a core record;
 - whether the record can be examined;
 - if the request is refused, reasons that the board is basing its refusal on;
 - where the requester can examine the record (if they request to examine it in person); and
 - an itemized estimated cost of providing the records;
- Step 3 - Requester’s Response:** A requester must respond to the board’s response within 60 days and submit payment of the estimated cost of providing the records or it will be deemed to be abandoned. The requester’s response will also be made using a standardized form.

Note: Any owner can apply to the Condominium Authority Tribunal with respect to a record dispute.



3. NEW AUTHORITATIVE BODIES

Condominium Authority of Ontario (CAO)

The CAO will offer owner a range of services including:

- online dispute resolution resources to resolve issues before they escalate. This includes self-help tools, template letters that owners may send the board and/or condo management and how-to guides on a number of priority topics (e.g. pets, noise, access to records, neighbour-neighbour disputes, etc.)
- information to condo owners about condo ownership, condo living, and a guide for condo buyers;
- self-help tools for members of the condo community who have questions or want to resolve disputes on their own;
- an up-to-date registry of all Ontario condo Corporations, which will include the directors on each condo board;

CAO Fees

As of November 1, 2017, condo owners are responsible for paying the CAO Fee. This fee is calculated for each Corporation on the basis of \$1/voting unit per month. This fee will be added to owner's common expenses.

Condominium Authority Tribunal (CAT)

If you have a dispute with the Corporation or condo manager, you will soon be able to apply to CAT, an online dispute resolution forum, providing a fast, efficient and cost-effective way to resolve disputes.

Soon CAT will offer dispute resolution services in the following areas: enforcement of the declaration, by-laws and rules; the Corporation's tendering process; records requests; noise; personal property; meetings; odours; issues with the condo manager; pets; neighbour-to-neighbour; and short-term rentals.

Currently, CAT is only accepting disputes regarding record requests.



The Process for Dispute Resolution with the CAT

1. **Stage 1** – Guided Negotiation (**\$25 fee**): provides access to CAT’s online dispute resolution services, where parties will be directed to a guided negotiation process.
2. **Stage 2** – Assisted Resolution (**\$50 fee**): CAT members will assist parties to try to resolve the dispute collaboratively.
3. **Stage 3** – Tribunal decision (**\$125 fee**): provides parties with a CAT member who will conduct a formal adjudication of the issues in dispute, consider the evidence of the parties and issue a binding order.

CAT can order:

- A party to take, or refrain from taking, an action;
- A party to pay compensation for damages incurred up to \$25,000;
- Legal costs payable to another party, or to the Tribunal; and/or
- Costs payable for refusing to provide records.

4. OTHER IMPORTANT INFORMATION

As an owner, you are responsible for notifying your Corporation when you lease your unit. The amendments provide that an owner of a unit who leases their unit or renews their lease must notify the Corporation within 10 days of entering into the lease or renewal. You must provide the Corporation with the lessee’s name, your address and a copy of the lease or renewal or a summary of it. Don’t forget to provide your tenant with a copy of the Corporation’s declaration, by-laws and rules.

If a lease is terminated and not renewed, owners must notify the Corporation in writing within 10 days of termination.

Visit our website at www.lashcondolaw.com to find all of the standardized forms we refer to in this guide and learn more about the amendments to the Condo Act!



NOTES

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PRACTICAL ADVICE, CREATIVE SOLUTIONS, COST EFFECTIVE

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

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