

Condo Connection

Wilson, Blanchard Management Inc. – *Condominium Management with Experience and Integrity*

The WB Condo Connection highlights Ontario condominium related articles and educational items that may be of interest to Boards of Directors and condo owners. It is published online and available on our website (www.wilsonblanchard.com) as well as in hard copy format to each of the members of our Boards of Directors.

We hope you enjoy this edition and we welcome your comments, suggestions, or article topic requests by email to newsletter.editor@wilsonblanchard.com or by mail to: Editor – WB Condo Connection, 101-701 Main St. W., Hamilton, ON, L8S 1A2.



Special Edition – Legislative Update

This Special Edition of the WB Condo Connection is a non-exhaustive, plain language summary of some of the recent changes in legislation related to condominiums in Ontario. It is provided for information purposes only. For additional information, please speak with your property manager, refer to the internet links to the Condominium Act, 1998, O. Reg. 48/01, the Condominium Management Services Act, 2015 and governing bodies at the end of this newsletter and / or seek professional legal advice as necessary.

Condominium Management Regulatory Authority of Ontario

Effective November 1, 2017, the Condominium Management Regulatory Authority of Ontario (CMRAO) has been designated by the government as the administrative authority of the Condominium Management Services Act, 2015 (CMSA). The CMSA requires anyone providing Condominium Management services in Ontario, including Condominium Managers and Condominium Management service providers, to be licensed. Licensing for Condominium Managers (individuals) is split into three classes:

1. **Limited Licence:** An entry-level licence for those with less than 2 years' experience. Certain conditions apply on the licensee. A limited licensee must work under the supervision of a general or transitional licensee.
2. **General Licence:** Condominium Managers need a minimum of two years' specified work experience and must complete the educational and examination requirements in order to qualify for a general licence.
3. **Transitional Licence:** This applies to Condominium Managers who, prior to November 1, 2017, had more than 2 years' of work experience as a Condominium Manager but have not yet completed the educational or examination requirements for a general licence. The educational and examination requirements must be completed within three years to qualify as a General Licensee.

A corporation, partnership, sole proprietor, association or other organization or entity seeking to provide Condominium Management services in Ontario must hold a Condominium Management provider licence.

Condominium Authority of Ontario (CAO)

All condominium corporations in Ontario are required to register with the CAO by February 28, 2018, and pay the initial assessment fee covering the period September 1, 2017, to March 31, 2018. Registering a condominium corporation with the CAO will enable payment of the mandatory initial and annual assessment fees, prepare condominium corporations for the new legal requirement to file condominium informational returns, and allow access to the mandatory director training.

Condominium Returns & Notices of Change

As of January 1, 2018, condominium corporations are required to file informational returns with the CAO. The CAO's online system for filing condominium returns will launch March 1, 2018.

1. **Initial Return:** This only applies to corporations created on or after January 1, 2018. The initial return must be filed within 90 days after the declaration and description are registered and the condominium corporation is first created.
2. **Turn-over Return:** The turn-over return must be filed within 90 days after a turn-over meeting is held. This applies to all corporations that hold turn-over meetings on or after January 1, 2018.
3. **Transitional Return:** A one-time transitional return must be filed by condominium corporations created before January 1, 2018. This return must be filed by March 31, 2018.
4. **Annual Return:** An annual return must be filed by all condominium corporations. In most cases, it must be filed between January 1 and March 31 each year.

In addition to filing returns, corporations are required to file notices of change when certain information related to a return changes (for example, a change in the Board of Directors). All notices of change must be filed within 30 days of the change.

Preliminary Notices and Notices of Owners' Meetings

As of November 1, 2017, there is a new requirement for boards to send out a Preliminary Notice to owners in advance of a Notice of Owners' Meeting, using prescribed forms from the Ontario Ministry of Government and Consumer Services.

Under the new requirements, a Preliminary Notice must be sent to owners at least 20 days in advance of a Notice of Meeting. Two exceptions to this requirement are:

1. If the meeting has been requisitioned by owners, the Preliminary Notice only needs to be sent out at least 15 days in advance of the Notice of Meeting. *(The process to be followed by owners when requisitioning a meeting will eventually be changed significantly, however these changes have not been implemented yet. Please see "Additional Changes Coming" for other aspects of the amendments that have not yet come in to force).*
2. Boards or individual owners that call a meeting to fill vacancies when there are not enough directors to constitute quorum are exempt from the Preliminary Notice requirements. If there are not enough directors remaining in office to constitute a quorum, the remaining directors are required to send an Information Certificate Update (see "Information Certificates") to owners asking candidates to identify themselves to the board. The remaining directors must then send out the usual Notice of Meeting.

An owner can also call a meeting to fill the vacancies if there are no directors left on the board or the remaining directors do not constitute a quorum and do not call a meeting within 15 days of the board losing quorum. The owner would be required to send out a specially prescribed notice of meeting and the meeting would need to be held within 30 days of the notice going out.

In cases other than these exceptions, the Notice of Meeting must in turn be sent to owners at least 15 days in advance of a meeting of owners.

The Preliminary Notice must also set out a deadline for owners to submit information to potentially be included in the subsequent Notice of Meeting. This deadline must be at least 15 days after the Preliminary Notice is given and at least 1 day before the Notice of Meeting is given.

Quorum

As of November 1, 2017, the quorum requirements have been lowered for Turn-over Meetings, Annual General Meetings, and any other meeting to elect one or more directors and/or to appoint an auditor. For these meetings, quorum is reached with:

- a) 25% of owners at the first and second attempts to hold the meeting; or,
- b) 15% of owners at the third attempt and any subsequent attempts.

Proxies

As of November 1, 2017, owners or mortgagees who wish to be represented at a meeting of owners by proxy, or to vote on any matters at a meeting of owners by proxy, must use a prescribed proxy form available from the Ministry of Government and Consumer Services.

Effective February 1, 2018, a licensee, or any person acting on behalf of a licensee, cannot solicit proxy forms for a meeting of owners if the subject matter of the meeting includes matters directly related to the licensee, the election or removal of at least one of the condominium corporation's directors, or any other prescribed matter.

The retention period for proxy instruments (as well as ballots and recorded votes from meetings of owners) is now a minimum of 90 days from the date of the meeting.

Mandatory Disclosures for Condominium Board Directors

New disclosure rules for candidates for director positions will apply to candidates in elections that are held on or after December 11, 2017 (40 days or more after November 1, 2017).

The disclosure process for candidates makes use of the new procedures for Preliminary Notices of meeting, and Notices of Meeting. If a Preliminary Notice of meeting announces an election for a director position, and you respond to the notice by indicating your intention to be a candidate in the election, you are also required to submit a statement containing any required disclosure information. That information would then be distributed to owners with the Notice of Meeting in advance of the election. Candidates who do not identify their candidacy in advance of the meeting will be required to make the disclosure at the meeting itself.

Candidates who wish to be appointed to a vacant board position by a majority of the remaining board members would need to make the required disclosures directly to the board in advance of the appointment.

The new disclosure requirements for sitting directors also came into force on November 1, 2017. As of that date, individuals appointed or elected to a position on the board are subject to ongoing disclosure requirements for the duration of their term. Failure to meet the disclosure requirements immediately disqualifies the person from being a director.

Board Meetings by Electronic Means

Directors can now agree to hold board meetings by teleconference or another electronic or digital communication system, as long as the system allows the directors to communicate concurrently. These changes apply to any meeting of directors called on or after November 1, 2017.

When Condominium Board Rule Changes Become Effective

As of November 1, 2017, if the board gives notice of a rule change and does not receive a requisition for a meeting of owners within 30 days, the rule change becomes effective the next day. If the board does receive a requisition for a meeting of owners within 30 days of giving notice of the rule change, the rule change will become effective if:

- a) there is no quorum at the first attempt to hold the meeting, or
- b) quorum is established but the owners do not vote against the rule change at the meeting.

Mandatory Training for Condominium Board Directors

All directors elected or appointed to a position on the board after November 1, 2017, must complete the required training within 6 months of being elected or appointed. Directors elected or appointed to a board before November 1, 2017, do not need to take the training unless they are re-elected or re-appointed after November 1, 2017.

Directors are required to retake the training if they are elected or appointed to the board again and have not completed the training within the past seven years.



The Condominium Authority of Ontario (CAO) designates the training that directors need to take. The training is accessed by logging on to the CAO website using the email address provided when the director was elected / appointed or when the corporation was registered with the CAO. The training itself is free, however directors have a right to be reimbursed by their condominium corporation for any costs directly incurred while completing the training. Within 15 days of receiving evidence of completion, directors who complete the training are required to send the evidence of completion to all condominium corporations in which they held a director position at the time of the training.

Information Certificates

As of November 1, 2017, condominium corporations are required to send out three different types of “Information Certificates” to owners, using mandatory forms developed by the Ministry of Government and Consumer Services.

1. A “Periodic Information Certificate” (PIC) must be sent to owners at least twice in a corporation’s fiscal year; within 60 days of the end of the first fiscal quarter and 60 days of the end of the third fiscal quarter. The PIC contains information for owners about the condominium corporation’s board, finances, insurance, reserve fund, legal proceedings, and other matters.
2. An “Information Certificate Update” (ICU) must be sent to owners when certain events trigger the need for an update, for example, when there is a change in the directors on the board. Details on what events require an ICU to be sent can be found on the prescribed ICU form.
3. A “New Owner Information Certificate” (NOIC) must be sent to all new owners, containing information from the most recent PIC and any subsequent ICU that were sent to owners.

A copy of the most recent PIC and any subsequent ICU also needs to be made available at the Annual General Meeting.

Condominium Corporations are not required to send Information Certificates in a fiscal year if the owners of at least 80% of the units consent in writing to dispense with the requirements to distribute such certificates for said fiscal year.

Record Requests

As of November 1, 2017, the process for accessing records:

- Requires the use of standardized forms for record requests and a corporation’s response to requests.
- Sets mandatory timelines for a corporation to respond, including quicker access to certain “core” records.
- Puts limits on the fees that corporations can charge for record requests.

The new process for accessing a corporation’s records proceeds in four main steps:

1. **Request:** The requester must send their request to the corporation using the prescribed form identifying the records being sought and how the requester prefers to access them.
2. **Board’s Response:** The board of the corporation must respond to the requester within 30 days using a prescribed form which requires an estimate of the cost, if any, of providing access to each set of records requested, and identifies any records or portions of records that will not be disclosed and the reasons for not disclosing them.
3. **Requester’s Response:** Requesters may be required to send back the Board’s Response form to confirm which records they want, along with payment of any estimated cost.
4. **Access and Accounting:** The corporation provides access to the requester, along with an accounting of the actual costs incurred in providing the access. When providing records, each record must be separately identified by the corporation.

The timing for steps 3 and 4 (Requester’s Response, and Access and Accounting), and the costs associated with the request depend on whether the request is for “core” or “non-core” records.

For non-core records, the corporation is obligated to provide access to the records within 30 days of receiving the requester's response, along with the requester's payment of the estimated costs. There are limits on the costs a corporation can charge to requesters.

Requesters have the right to access core records on an expedited basis at a reduced cost. Core records include fundamental corporation documents such as the declaration, by-laws, rules, the current fiscal year budget, and minutes of meetings from the last 12 months (that are held after November 1, 2017). The timing and costs for core records differ depending on the form in which the requester agrees to have the records delivered.

Additional Changes Coming

Many aspects of the reforms are being implemented through regulations which allow for flexibility in a rapidly changing market. While Ontario plans to work quickly to develop the regulations, many have not yet been developed and / or are still in the draft stages as they are being prepared in consultation with the public, condo owners and the condo sector. The following regulations are not yet in force but are expected to come into force on a date (or dates) set by proclamation of the Lieutenant Governor.

a) Section 97 – Changes to Common Elements & Assets by the Corporation

- Changes “without notice” enable a board to authorize an addition, alteration or improvement to the common elements, a change in the assets, or a change in the service the corporation provides without consulting owners. The current law allows such “without notice” changes under certain circumstances. The amendments are expected to update and clarify when boards may carry out modifications to the common elements, any assets of the corporation, or services the corporation provides without notice to owners.

b) Budget Notifications

- Under the expected amendments, a condo board would have to notify owners within a specified time if it proposed an expense exceeding the budgeted amount by more than a set margin. Regulations will determine the margin, the form of the notice, and the time for notification.

c) Reserve Budgeting

- In one of several provisions aimed at greater transparency, the expected amendments will require every condo corporation to prepare an annual budget covering operating accounts *and the reserve fund*.

d) Owner Chargebacks

- The rules regarding when a corporation is required or permitted to carry out an owner's repair or maintenance obligation are expected to be clarified in the regulations, including an owner's responsibility for reimbursing the corporation for its costs. The terms “repair” and “maintain” would also be clarified so that each would have a distinct meaning.

- Under the current act, a condo board can issue a charge-back to recover costs that the corporation incurs. It is expected the amendments will clarify what a charge-back is and when it can be charged. Corporations will be required to provide a notification to owners on any charge-backs that the unit owners owe, which would include a deadline for payment. Owners will be able to submit certain charge-backs to dispute resolution within 30 days of receiving a charge-back notice. Payment would be suspended during dispute resolution proceedings related to the charge-back.

e) Insurance Deductibles

- Sometimes an owner's carelessness results in damage to the common elements, assets of the corporation or to another unit. The existing law was unclear about who pays the corporation's insurance deductible for the damaged property, although currently a board has the option to pass a by-law assigning this responsibility. For greater clarity on this issue, it is expected that the amendments will make it clear that the responsibility for damage lies with the owner of the unit where the person (or, if set by regulation, the thing, such as a pet, who caused the damage) lives, provided the damage was not caused by agents or employees of the corporation.
- Once in force, a condo board would not be able to make certain alterations to this obligation through a by-law (as is the case under the current act). It could be changed only by amending the condo declaration.

f) Standard Units and Insurance on same

- The review of the Condominium Act resulted in a recommendation for a set definition of a standard unit. A corporation would have authority to amend the definition through a by-law. In line with this recommendation, it is expected that regulations will set out a basic, default definition of a standard unit in cases where a condo corporation has not passed its own by-law spelling out such a definition. The condo corporation would be required to obtain insurance for all standard unit components of a unit, as well as the common elements.

g) Procurement Process

- The expected amendments will forbid condo corporations from concluding procurement contracts unless they fulfill certain requirements, such as a sealed bid process. Regulations will set out the procedures that would need to be followed and under what circumstances (e.g., for contracts exceeding a certain value).

h) Non-Leased Voting Units

- It is expected that a reserved board position for a "non-leased voting unit" (previously known as an "owner-occupied unit") will no longer be mandatory. Specifically, corporations would have to reserve the position only if the "non-leased voting unit" owners are a minority in the corporation and at least 1 of them requests an election of the reserved position on the board.

Links for Additional Information

- Condominium Authority of Ontario (CAO) - <https://www.condoauthorityontario.ca>
- Condominium Management Regulatory Authority of Ontario (CMRAO) - <https://www.cmrao.ca>
- Condominium Act & Regulations - <https://www.ontario.ca/laws/statute/98c19>
- Condominium Management Services Act - <https://www.ontario.ca/laws/statute/15c28>
- Condo Act Forms – https://www.ontario.ca/search/land-registration?field_forms_act_tid=condominium

Welcome!

Wilson, Blanchard would like to welcome our newest managed properties:

HCECC # 679
 WaSCC # 528
 WCECC # 538
 HSCC # 627
 HSCC # 613
 WaCC # 204
 WCC # 289

HSCC # 680
 WaSCC # 560
 WCC # 20
 MTCC # 1139
 WaNCC # 11
 WaCC # 218

The Trafalgar Building at Victoria Common
 Victoria Common Shared Facility
 WLCC # 65
 PCC # 102
 WaNCC # 201
 WaSCC # 642

Are you looking for an easy way to stay up-to-date on news from Wilson, Blanchard Management and information related to Condominiums in Ontario? It's simple – follow us on social media! There are lots of options to fit your social media preferences.



101-701 Main Street West
 Hamilton, ON
 L8S 1A2

Phone:
 905-540-8800
Fax:
 905-540-4450

Email:
info@wilsonblanchard.com

206-16 Four Seasons Place
 Toronto, ON
 M9B 6E5

Phone:
 416-642-2807
Fax:
 416-642-2810

Email:
toinfo@wilsonblanchard.com

200-149 Ainslie Street North
 Cambridge, ON
 N1R 3P4

Phone:
 519-620-8778
Fax:
 519-620-8558

Email:
kwinfo@wilsonblanchard.com

Newsletter Editor Email:
newsletter.editor@wilsonblanchard.com

Visit us at:

www.wilsonblanchard.com