



HighPoint

PROPERTY MANAGEMENT CORPORATION

The Ontario government gave royal assent to two new acts on December 3, 2015 as part of its commitment to update the Condominium Act, 1998 – the **PROTECTING CONDOMINIUM OWNERS ACT, 2015 (THE “PCOA”)** and the **CONDOMINIUM MANAGEMENT SERVICES ACT, 2015 (THE “CMSA”)**.

The PCOA updates the Condominium Act, 1998 with numerous changes and the CMSA regulates the services and licensing of property managers, setting up education requirements, and establishing a Condominium Authority of Ontario (CAO) and related Tribunal (CAT) to adjudicate complaints and disciplinary actions. The CAO and CAT are proposed to be established later in 2017 but no in-force date has yet been announced. A Condominium Management Regulatory Authority of Ontario will also be established (CMRAO) which will act as an administrative authority and oversee the licensing and regulation of condominium managers and condominium management firms.

The implementation of the changes will be accomplished in phases and will only be applicable when provisions are declared to have come into force, some of which provisions will occur in 2017, and others will be declared or proclaimed in the following year. Many of the details of the changes will be contained in the regulations to follow.

The first phase of the new provisions deals with condo board governance under the following headings – communication (from the corporation), qualifications (training and disclosure requirements), meetings (notice procedures) and records (retention, access, procedures). The condo legal experts indicate that the changes will be onerous on property managers and boards alike, and will impose a heavy burden of additional reports and filings as well as fees.

The following are examples of the provisions included in the first phase of the changes -

Communication –

- Periodic information certificates (PIC) will be required to be sent to owners a minimum of twice yearly – first quarter and third quarter.
- Information certificate updates (ICU) will be sent to owners triggered by certain events – change in directors on the board, for example.
- New owner information certificate (NOIC) must be sent to all new owners containing information on the most recent PIC and ICU that have been sent out.
- Small corporations of less than 25 units can be exempted if 80% of the owners agree in each fiscal year.

Qualification –

- Corporations will have to file an annual information return.
- Directors will be required to receive training and comply with disclosure requirements for directors and candidates for the Board. Training will be required within 6 months of election or appointment to the Board.
- A Condominium Authority is to be set up and will administer the training, keep records, etc.

Meetings –

- Corporations and property managers will have to send more notices surrounding meetings – for example a preliminary notice will have to be sent to all owners before the actual notice of **an owner's** meeting. The preliminary notice will provide for owners sending information to the corporation or property manager for items to be included in the upcoming meeting, following which the actual notice of meeting will be sent out.
- The preliminary notices have specific items of information that are mandatory for inclusion – board candidates, auditor appointments, changes to the common areas proposed would be examples of subjects to be included in the preliminary notice. Both the preliminary notice and the notice of meeting itself will have mandatory forms.
- Minimum quorum requirements are established – 25% for first and second meeting attempts, then 15% thereafter.
- A new mandatory proxy form has been prepared and boards will now be able to hold meetings by teleconference, without a specific by-law to authorize such meetings.

Records –

- There are many provisions dealing with the retention of, and access to, records – 22 pages of regulations. Record retention can also be inspected under the new provisions.
- Two types of records – core records and non-core records.
- Standard forms will be required to request records – an owner can access records by hard copy, electronically, or physical inspection.
- Certain records and information will be restricted from access – ballots, proxies, and private information relating to individual owners or units.
- Restrictions on the cost of providing the records information are included in the provisions.

Other Changes –

- Condominium managers will be required to have a written contract for the provision of condominium management services.
- All condominium managers and condominium management firms must now be licensed and subject to specific education requirements. A number of exemptions exist for those involved in the process of condominium management – lawyers, engineers, insurance brokers, trades, office assistants. An important exemption is a director or officer who is elected or appointed, unless actually providing condominium management services to the corporation.
- A code of ethics is contemplated to be developed and introduced later in the process.
- There are a large number of mandatory forms associated with the changes – currently 41 forms – preliminary notices & notice of meetings, information certificates, proxies, requests for records, condominium returns, etc.
- Condominiums will be required to submit numerous returns under the new provisions – an initial return, a return at turnover, and an annual return – all as prescribed by the regulations and to be submitted to the Condominium Registrar.
- The latest release of information surrounding the new regulations specifies that each condominium unit will have to pay \$1.00/month in support of the Condominium Authority of Ontario – at \$12.00/year/unit, a complex of 50 units would be required to contribute \$600.00/year in support of the CAO. Condominium budgets will have to be adjusted accordingly for these additional charges.
- Developers will be required to provide a **“Condominium Guide”** and a disclosure statement to the corporation and the owners.
- Budgets will be required to be provided to the owners at least 30 days prior to the implementation date and will have to be distributed in prescribed form.
- Substantial changes to common elements remains at a 66 2/3% approval requirement from the owners before changes can be proceeded with.
- Other regulations that are coming in later phases, but with no committed dates are as follows – insurance deductibles, standard unit, shared facility agreements, disclosure statements, budgets, repairs and maintenance, etc. There is some thought, which has been expressed by several legal experts, that insurance deductible by-laws may be grandfathered.

Further Updates –

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For further details, please see the attached release from the Province of Ontario.



Dates Announced for New Condo Law Changes

Ontario is making progress on its commitment to increase consumer protection in condos and improve how condos are run. The ministry is excited to announce a number of new protections under the amended Condominium Act (Condo Act) and the Condominium Management Services Act (CMSA) that will be taking effect this fall, and in early 2018.

New Condo Law Changes:

Condo Act – New changes to the general regulation under the Condo Act are now available on the [e-laws website](#). These changes include increased protections for condo owners, including improvements to how condos in Ontario are governed and greater transparency and accountability of condo boards. (Please note that it may take several days before updates are added to [Ontario Regulation 48/01](#)).

Condo Authority Tribunal – A new regulation is also available on the [e-laws website](#) that supports the establishment of the Condominium Authority Tribunal. The tribunal will offer alternative dispute resolution services for certain types of disputes prescribed by this regulation.

Condo Manager Licensing - As a reminder, a new regulation regarding licensing of condo managers and management providers was previously released and is available on the [e-laws website](#).

When Changes Take Effect:

On November 1, 2017 - Most Condo Act changes, including the new tribunal, and the licensing provisions of the CMSA will come into effect.

On February 1, 2018 – Remainder of the CMSA will come into effect.

Designation of Administrative Authorities:

On September 1, 2017 – The Condominium Authority of Ontario (CAO) will be designated as the condominium authority for purposes of the Condo Act and will become responsible for the administration of certain provisions of the Condo Act, including management and oversight of the tribunal. You can find more information on the [CAO's website](#).

On November 1, 2017 – The Condominium Management Regulatory Authority of Ontario (CMRAO) will be designated as the administrative authority for purposes of the CMSA and will become responsible for administering the CMSA including licensing condo managers and providers. You can find more information on the [CMRAO's website](#).

What's Coming Next:

The ministry will be releasing in the near future:

- A series of new forms under the Condo Act to make it easier for condo corporations and owners to comply with the new requirements.
- **A set of plain language guides and fact sheets to help Ontario's condo community better understand the new condo law changes.**
- The education and exam requirements for condo managers.

The ministry will also be seeking public input on future regulations, including:

- Public registry of condo corporations.
- Complaints procedures, code of ethics and insurance requirements for condo managers.

Stay tuned as we will be notifying you as soon as these become available!