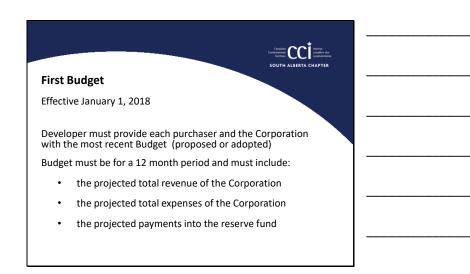


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Stage 2 - Condo Legislation Update	
Governance Issues –	
Revised Condominium Property Regulation	
Revised Condomination Property Regulation	
Presented By:	
Laurie Kiedrowski Dionne Levesque	
Constant CCC to bestier conclusion for conductions	
SOUTH ALBERTA CHAPTER	
Regulation Amendment Process Overview	
Stage 1 Condominium Development, Initial Sales & Turnover	
Status – Completed	
Effective Dates – January 1, 2018 & April 1, 2018	
Stage 2 Governance Issues Status – Completed (except Condo Manager Licensing)	
Effective Dates – July 1, 2019 & January 1, 2020	
Stage 3 Condominium Dispute Tribunal	
Status – Coming next	
Constant CCC the letter condict do	
SOUTH ALBERTA CHAPTER	
Developer Appointed Interim Board	
Effective January 1, 2018	
Interim Board must be registered at LTO within 30 days of Plan registration	
Interim Board must operate in the same manner as an elected Board	
same duties & responsibilities	
keep minutes/written resolutions	
Interim Board cannot delegate its responsibilities to the	



First Owner Elected Board Effective January 1, 2018 First Meeting of Owners Purpose: to elect the first "Elected Board of Directors" Developer must call first meeting within 90 days from the sale of 50% of the Units (first phase) If delay, any Owner may convene the meeting Elected Board takes over from the Interim Board

First AGM Effective January 1, 2018 • Elected Board calls the first AGM • Must be within 1 year from registration of the Plan • Must comply with all requirements for AGM's





Construction CCC states of construction control construction control construction control construction control	
Payment of Condo Fees by Developer	
Effective January 1, 2018	
Developer must pay contributions on all Units it owns in a building on the same basis as the other Owners of Units in the building	
Nothing about Developer's contributions for other types or styles of unsold Units	
Columba CCC Austra CCC Aus	
Developer's Budget Shortfall	
Effective January 1, 2018	
Fiscal year starts with the appointment of the Interim Board	
Financial Statements must be prepared at the end of the first fiscal year	
Developer must pay shortfall if actual expenses are more than 15% above the Developer's Budget	
contents CC i state to	
SOUTH ALBERTA CHAPTER	
Meeting Venue Effective January 1, 2018	
Effective January 1, 2018	
Board Meetings and General Meetings must be held in the municipality in which the Condominium is located	
Owners can vote to change	
Board meetings can be held by electronic conference if members can hear each other	



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Developer's Obligation to Provide Documents

Effective January 1, 2018

At the first General Meeting (s. 29 meeting) the Developer must give the Corporation its documents:

- construction drawings, plans and approvals
- Reserve Fund Report and Building Assessment Report (New Home Buyer Protection Act)
- all Minutes, written resolutions, rules, leases, licences and Agreements
- all financial and legal records
- · insurance policies and the Standard Unit Description



Developer's Agreements

Effective January 1, 2018

The Corporation can terminate most contracts & Agreements entered into by the Developer on 60 days written notice, except:

- easements and restrictive covenants
- exclusive possession agreements entered pursuant to a bylaw and mutual use agreements with other condominium Corporations
- agreements for electricity or natural gas for a term of less than 5 years
- agreements for alternative or renewable energy systems
- agreements for telecommunication services or facilities



Corporation Property

Effective January 1, 2018

All documents prepared for a Corporation are the property of the Corporation $% \left(1\right) =\left(1\right) \left(1$

Documents must be turned over to the Corporation:

- by the Developer at the first Meeting (s. 29)
- by the previous Condominium Manager within 30 days
- by previous Board members within 30 days

CCI South Alberta: March 28, 2019 Luncheon Presentation Stage 2- Condo Legislative Updates: Governance Issues



Bylaws Effective July 1, 2019 Condominiums will have until July 1, 2020 to amend their Bylaws BY ORDINARY RESOLUTION to bring them into compliance with the new provisions of the Act and the Regulation. This DOES NOT APPLY to amending an existing bylaw that is not in conflict with the Act or Regulation, nor does it apply to adding any new bylaws. Bylaws (cont'd) Effective July 1, 2019 Appendix 1 and 2 (Statutory Bylaws) will be deleted from the Act and cease to be of any force and effect. To be replaced by By-laws in Schedule 4 of the Regulation. Numerous changes in Schedule 4 Bylaws. **Rules** Effective July 1, 2019 The Board, may, by Resolution, make Rules regarding: procedures used in the administration of the Corporation the property of the Corporation, the Common Property and the Managed Property. The rules must not restrict the uses of units Owners can change or rescind Rules by Ordinary Resolution

No monetary sanctions (fines) for violation of Rules



Rules (cont'd) Effective July 1, 2019 Written Notice of Rules must be provided to both: Owners and Tenants (occupants) Previously adopted Rules cease to be effective unless Notice is provided by September 29, 2019 New Rules don't come into effect until 30 days after Notice Tip – Start putting together a Rules Manual **Service of Documents** Effective January 1, 2020 Previous (2018) 1. Personal Service – "hand to hand" – Served on the date it was given 2. Recorded Mail – Served on the date it was accepted 3. Ordinary Mail - Served 7 days after mailing Electronic means (IF owner has specifically provided email address to which info may be provided) - 24 after sent Service of Documents (cont'd) Effective January 1, 2020 4. Mandatory Electronic Service (13+ Units) (minutes, notices of meetings, other notices & notifications) Owner must first:

Request & consent to electronic service
 Provide an electronic address for service
 Service is effected 24 hours after document is sent.



Service of Documents (cont'd) Effective January 1, 2020 Tips: • Prepare a standard Electronic Service consent form to be signed by Owners. • Use a web-site that sends e-mail notices to Owners. **Documents – Estoppel Certificate** Effective July 1, 2019 Now Section 43.2 of the Act Must *certify* within 10 days of request (including by a solicitor) • Amount of Contributions payable by the Owner; • Frequency of Contributions • Amount of Contributions in Arrears • Amount of Interest in Arrears Documents - S.44 Documents/Information Effective July 1, 2019 Documents requested by owner, purchaser, mortgagee... or their solicitor. May be provided in electronic form unless specific request for paper form Prescribed documents ($\underline{\text{changes underlined}}$): • Particulars of action against Corporation including amount claimed, unsatisfied judgment or written demand in excess of \$5000 \$ (\$ - 3 day provision) A statement setting out the amount of the capital replacement reserve fund \$ • A statement setting out the amount of the contributions and the basis on which that amount was determined \$ • A statement setting out any structural deficiencies that the Corporation has knowledge of at the time of the request in any of the buildings that are included on the condominium plan \$



Documents - S.44 (cont'd) Effective July 1, 2019 • Loan disclosure statements (starting balance, balance, interest rate, monthly payment, purpose of loan, amortization period and default • The particulars or a copy of any subsisting or prior management agreement • The particulars or a copy of any subsisting recreational agreement · Copy of the budget • The particulars respecting any post tensioned cables that are located anywhere on or within the property that is included in the condominium • Copy of the budget of the Corporation and the annual financial statements Documents - S.44 (cont'd) Effective July 1, 2019 • In respect of a particular fiscal year, a copy of all approved minutes (of proceedings) of all general meetings of the corporation, or if not available, draft minutes, and approved minutes of board meetings · A statement setting out the unit factors and the criteria used to determine unit factor allocation Copies of lease agreements and exclusive possession agreements for real property of Corporation or common property Copy of consolidation of rules (s.32.1 of Act) · List of names and addresses for service of Board members Documents - S.44 (cont'd) Effective July 1, 2019 · Text of ordinary and special resolutions voted on by Corporation and results of voting (unless show of hands) • Copies of reports by professionals, including engineers, excluding reports requested by legal counsel for actual or contemplated litigation • Copies of insurance certificates and policies (previously s.48 of Act) Copies of reserve fund plans, reports and annual reports NOTE: An Owner is not precluded from making copies of any documents provided under section 44 of the Act and providing copies of these documents

to other persons.



Documents - Fees Effective July 1, 2019 A corporation or person on its behalf may charge fees for documents or ${\it classes~of~documents,}~{\rm as~follows:}$ • Estoppel Certificate (s. 43.2 of the Act) \$100 (maximum); • A document other than an Estoppel Certificate - \$10 • If a person requests a "3 DAY DOCUMENT" (s. 20.57(1)(a-e) and it is produced within 3 days (excluding holidays), then up to \$30 Where a bylaw, Act or this Regulation requires free provision of a document, cannot charge a fee when that documents is provided in response to that requirement Documents - Fees (cont'd) Effective July 1, 2019 What can be charged for an Information Statement? \$10 ?! An Information Statement responding to a s.44 request is likely a single document. Section 20.571 of Regulations does not allow for fees to be charged for information, only documents or classes of documents.... **Documents/Information Retention** Effective July 1, 2019 SCHEDULE 3 of the Regulations - Minimum Retention Period for a Corporation's Documents and Information • Electronic retention acceptable IF document is complete, legible in its entirety and may be produced in electronic or hard copy format. Further, such electronic document deemed to be the original document Bylaws v. Schedule 3 – maintain for whatever period is longer • Schedule 3: 180 days to permanent retention periods depending on the

document or information

Review document management systems

• Each manager and Board should have a copy of Schedule 3



Fines & Other Sanctions Effective July 1, 2019 Sanctions must still be set out in the Bylaws (not Rules) and must still be Sanctions must not be over prescribed limits Notice of $\underline{proposed}$ sanction $\underline{\textit{may}}$ be served on person who fails to comply Notice of proposed sanction must contain •unit number •name of person being sanctioned provision of Bylaw or Rule being breached •date and time of breach and relevant particulars •description of required corrective action and deadline for such (3 clear days (no Fines & Other Sanctions (cont'd) Effective July 1, 2019 Person receiving notice of proposed sanction must be provided at least 3 days (excluding holidays) to respond or to comply If no response or compliance then can issue sanction · On person identified person in notice, • On the owner if s.53(5) notice RE tenant not provided by the owner, or if tenant no longer in possession, OR Corporation must serve notice of <u>issued</u> sanction Amount of sanction, instructions and deadline for payment (or particulars if non-monetary sanction) · Date Board approved sanction Fines & Other Sanctions (cont'd) Effective July 1, 2019 If non-owner, notice of proposed sanction may be served personally, mailed to address, left with person 18 years or older at unit, or by email if such has been provided If sanctioning a tenant, owner must be provided with notice of proposed sanction and notice of issued sanction No delegation of responsibility to issue a sanction notice or imposition of a sanction by the Board Maximum sanctions: · Residential: \$200 (or lower if in bylaws) for first instance and \$500 for subsequent. IF Continuing - \$200 first week and \$500 subsequent weeks

 Commercial: \$1000 (or lower if in bylaws) for first instance and \$2500 for subsequent. IF Continuing \$1000 first week \$500 subsequent weeks



Fines & Other Sanctions (cont'd) Effective July 1, 2019 Maximum aggregate sanction totals (same event or series of events): \$2700 residential units, parking spaces and storage units • \$13,500 non-residential other than parking spaces and storage units NOTE: ONLY sanction for breach of bylaws?....Yes • 73.53(1) A corporation may serve a notice of proposed sanction on a person who fails to comply with a bylaw or rule established under a bylaw. • 73.54(6) For greater certainty, despite any bylaws to the contrary, no monetary sanction may be levied for a contravention of a rule. • S.35(1) of Act: A corporation may by bylaw establish monetary or other sanctions that may be imposed on owners, tenants and occupants who fail to comply with the bylaws. **Reserve Funds** Effective July 1, 2019 Section 38 of the Act is replaced: · Corporation must establish and maintain a reserve fund that is reasonably sufficient to provide for major repairs and replacement of Corporation real, personal, common and managed property. · Such repairs must not be the type that occurs annually Special Resolution for capital improvements unless such improvements are required to comply with health, building, maintenance and occupancy standards are required by law. • Further clarity as to what is not a capital improvement (contemporary equivalent of obsolete property or lower cost equivalent of existing property) Reserve Funds (cont'd) Effective Jan 1, 2020 Specified qualifications for reserve fund provider (professional engineer, engineering technologist, architect, appraiser, certified reserve fund planner, individual approved by director - all with specified knowledge Specified people who cannot act as reserve fund provider (director, officer, employee, manager of corporation, an owner, occupant or spouse, partner, parent or child of such Developer has to ensure reserve fund provider "at arms' length" (July 1, 2019) Small corporations (12 units or less) by special resolution may do their own reserve fund



Reserve Funds (cont'd) Effective July 1, 2019 · Time focus increased from 25 to 30 years Reserve fund provider to conduct visual inspection, interview Board/manager and review relevant documents (condo plan, construction documents, maintenance records) • Qualifications of provider to be stated in provided reserve fund report Corporation must prepare an annual report which now to include: · forecasts amount of reserve fund projected for current year forecasts payments (by special or ordinary resolution) into/out of depreciating property to be repaired/replaced with cost of same **Borrowing** Effective July 1, 2019 • Borrowing now expressly provided for in Act and Regulations - If greater than 15% of revenues or prior maximum approved amount, then must be approved by Ordinary Resolution (or Special Resolution if Bylaws require) Resolution must specify a maximum amount • Board may issue statement to a lender or prospective lender attesting to maximum permitted borrowing amount or remaining permitted amount. If the borrowing limit or remaining borrowing amount changes prior to loan being advanced the statement must be revised. NOTE: Loan disclosure requirements for owners, purchasers, mortgagees and their solicitors (s.20.57 of Regulations) Contributions Effective July 1, 2019 · Contributions are set out through an amendment to section 39 of · Clarifies that a Board may "by resolution" determine the amounts necessary for the administration of the Corporation • Confirms that sanctions are not to be considered a contribution TIP: Pass a Board resolution and record it in your minutes to approve the budget and assess condominium fees.



Contributions (cont'd) Effective July 1, 2019 • A special assessment is now called a "special levy" • A process is set out to issue a special levy at section 39.1 of the Act The Board must pass a resolution to approve the special levy • The Board resolution must include: · Purpose of the levy · Total amount to be levied Method of how the special levy is assessed to the units. This should be in accordance with your Bylaws • Date the special levy is to be paid by Contributions (cont'd) Effective July 1, 2019 As set out in section 39.1(2) the purpose of a special levy may include: •Payment of unexpected and urgent maintenance, repair or replacement of the real and personal property of the corporation, common property or managed property, •To cover unexpected shortfalls in the operating account •To increase the balance of the reserve fund •For the payment of a capital improvement, which will now require a special resolution •To satisfy a judgement If there is a surplus after collecting the money in a special levy, the surplus must be paid to the Reserve Fund **NOTES:**



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