

2014 Condo Guide

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Compliments of

Dipika Damerla, MPP

Mississauga East-Cooksville

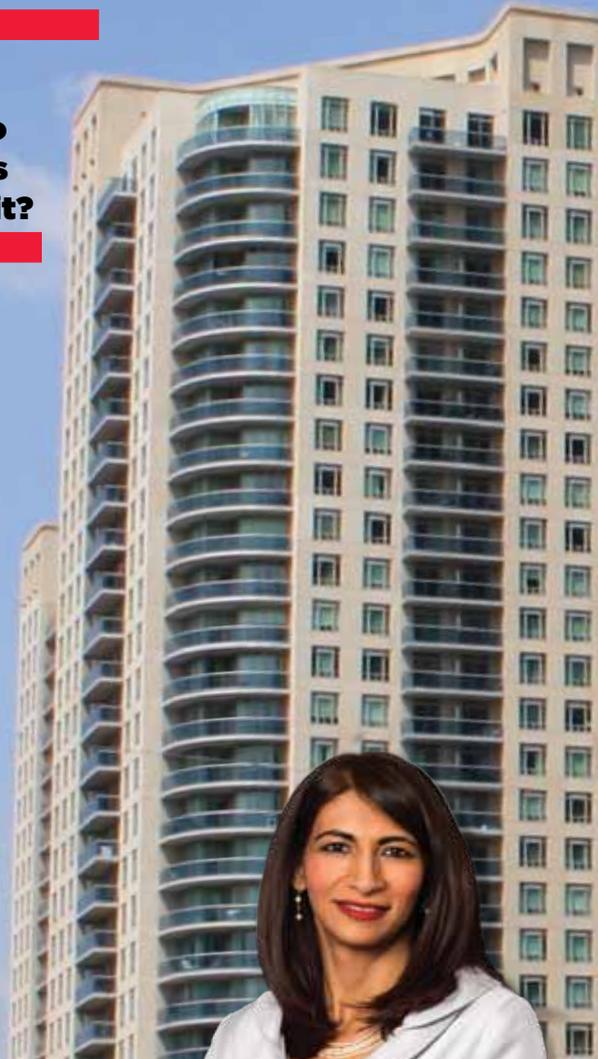


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Acknowledgements and Disclaimers

Material for this guide was taken from the Canadian Condominium Institute's Condominium Handbook by Gerry Hyman and the Ministry of Consumer Services' website.

The guide is intended as a simple non-technical tool to understanding the complex world of condominium living and not meant to substitute legal and professional advice for problems faced by the reader. Referring to the original Act can provide a full understanding of all of its provisions.

Dear Resident,

It is with great pleasure that I present this condominium guide for the residents of Mississauga East-Cooksville.

As your local Member of Provincial Parliament, I often hear from many of you about difficulties you are facing living in a condominium. That is why I have created this simple and easy to understand condominium guide. It explains your rights and responsibilities as the owner of a condominium unit. It is important to be aware of your rights because not knowing them is the same as not having any rights.

Condominiums are self-governing communities with their own set of laws and rules. They are, in many ways, the fourth level of democratic government, with the elected board of directors accountable to the unit holders.

Since being elected, I have advocated for the improvement and modernization of the Condominium Act to make it easier for people to resolve disputes. **If you want to know more about our improvements as they happen, sign up for updates at www.dipikadamerla.onmpp.ca/Enewsletter.**

Finally, I want to thank every single one of you who has ever served, or currently serves, on the board of a condominium corporation. You do this on a voluntary basis, and I know the hard work it requires. You are the reason the vast majority of condominium communities in Ontario are well-run and great places to live in. So Thank You!

Sincerely,



Dipika Damerla, MPP

What is a Condominium? The Basics

When you hear the word condominium, chances are you think of a high-rise building with lots of glass. But a condominium is not a type of building or a style of architecture. Instead, a condominium is a type of real estate ownership.

While condominiums can be high-rises, they can also be town houses or semi-detached or detached homes. It is the type of ownership that matters.

With most condominiums, you own your individual unit and share in the ownership of common elements such as hallways, elevators, fitness facilities, gardens, trees and grounds. In return for the use of these common elements, you pay a fee (common expenses) to the condominium corporation.

One practical challenge is how to deal with do many owners. The answer to that is that the individual unit holders are organized into one group through a legal entity called the condominium corporation. The unit owners are members of the corporation. This is similar to the way shareholders own a for-profit corporation.

Living in a Condominium

In practical terms living in a condominium is like living in a town or city. Just as the City of Mississauga has a city council elected by the residents, your condominium corporation has a board of directors elected by the unit owners. Just as the City of Mississauga has its own by-laws and has the power to create new by-laws, your condominium corporation has its own by-laws and has the power to create new by-laws as required, with the approval of the owners.

Dipika's Tip

Condominium communities are often called the fourth level of government. They have their own bylaws, rules and an elected government, i.e. the board of directors.

The condominium corporation is a not-for-profit corporation that is responsible for managing the condominium property (individual units and common areas).

If you live in a condominium property in Mississauga, you are probably familiar with the acronym PCC ##. The PCC stands for Peel Condominium Corporation.

Laws That Govern Living in a Condominium

When you live in a freehold home in Mississauga, you live under the laws of the Government of Canada, the Province of Ontario and the City of Mississauga. When you live in a condominium there is a fourth set of laws that you have to live by. This fourth set is made up of the Condominium Act, Declaration, By-laws and the Rules.

Together these four documents provide the set of rules and restrictions to live by in a condominium corporation. If you're new to condo living, you might find some of the rules and restrictions surprising.

For example, they may:

- restrict the size or number of pets;
- specify the colour of your shades or blinds;
- require you to file certain documents with the condo corporation if you want to rent your unit;
- restrict certain renovations in your unit.

1. Condominium Act, 1998:

The Condominium Act, 1998 is provincial legislation that governs the rights and responsibilities of condo owners, corporations and developers. The Act establishes a number of protections for condo buyers and owners. It defines condominium developments as self-governing communities that run as corporations. A copy of the act can be accessed online at: www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_98c19_e.htm



2. Declaration: The declaration outlines ownership details of the condo corporation. It:

- describes the units and common elements;
- shows how much each owner must pay in condo fees (e.g., large units vs. small units);
- can define things such as what kind of pets are allowed or not allowed etc.

The declaration is originally drafted by the developer or the developer's lawyers. The declaration can be changed by the unit owners at a later date. For example, the basis of a unit's contributions to condo fees can be changed if 90 per cent of the owners consent in writing. Changing a non-financial matter in the declaration, such as changing any restrictions on pets, would need 80 per cent of the unit owners to agree.

The declaration is an important document with practical implications. For example, to find out what repairs are the responsibility of the corporation (i.e., the common elements), you should consult your condo's declaration. If the building's outside wall is defined as part of the individual units then you must pay for window-washing services or repairs to the exterior brick of your townhouse.

Where can you find your declaration?

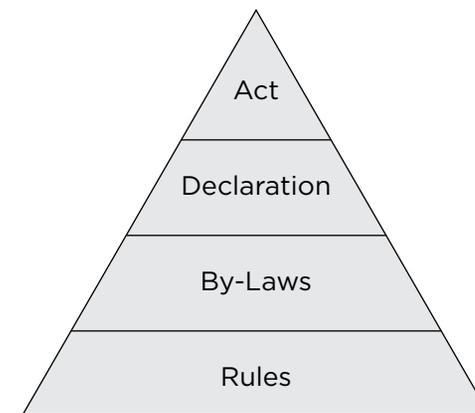
The declaration is included in the disclosure statement¹ when you purchase a new condo or in the status certificate² if you purchase a re-sale.

3. By-laws: The by-laws set out how the condominium corporation will be run. They deal with the responsibilities and powers of the board of directors, how meetings will be run and the collection of condo fees.

Usually, the original set of by-laws is drafted by the builder. Subsequently, your elected board can propose new by-laws or amendments to the existing by-laws. However, for these proposed by-laws to come into effect, they must be ratified by an affirmative vote of a majority of the owners. The by-laws have to be reasonable and consistent with the Act and the declaration.

4. Rules: The Act gives your board of directors the authority to also make rules to govern day-to-day living in a condominium community. Rules should help promote the safety, security and welfare of the owners. These may include how the freight elevator can be used or the number of pets permitted. While by-laws have to be ratified by the owners, boards can pass rules on their own without ratification by unit owners. However, the board must, in writing, give residents a 30-day notice period before the rule comes into effect. If the owners do not like the proposed rule, they can ask for an owners' meeting with 15% of the owners' signature where they can vote against the proposed rule.

All of these documents together provide the laws and rules that govern living in a condominium community. The provincial Condominium Act is the most senior document, which is then followed by the others.



What this means is that lower order documents, such as the declaration or the by-laws cannot conflict with the Act or other provincial legislation. Similarly, the board cannot make up a rule that goes against the declaration or the by-laws.

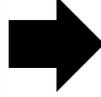
The Act can be changed or amended only by the provincial legislature and applies uniformly to all condominium corporations. The declaration, by-laws and rules change from corporation to corporation and can be changed by unit owners.

Governance

As a unit owner you are at the top of the governance model. The following flow chart gives an overview of a typical condominium corporation:

OWNERS

The “owners” exercise their rights via voting at annual general meetings (AGMs), and special meetings (“requisitioned” meetings). At AGMs, owners elect the board of directors, vote on major decisions appoint the auditor and review the audited financial statements. Each unit is entitled to one vote. The owners may call a special meeting at any time for a specific reason if the owners of 15 per cent of the units make a written request for such a meeting. Reasons for a special meeting can range from changing a rule to addressing a Director’s performance.



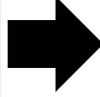
BOARD OF DIRECTORS

Elected by the owners for a term of up to three years, the board’s duty is to manage the affairs of the corporation and make decisions that are in the best interest of the corporation. The board meets about once per month and is responsible for: preparing the annual budget; appointing an auditor; organizing the AGM; passing rules; ensuring the reserve fund is adequately funded; and ensuring the property is well-maintained and repaired.



PROPERTY MANAGER

The board may choose to hire a property manager to whom it may delegate day-to-day operations. The property manager is therefore accountable to the board. Subject to the authority of the board he or she may be responsible for the following duties: hiring and supervising staff to maintain the building and uphold security; collecting monthly fees; maintaining operating records; and providing customer service to owners.



FULL-TIME, PART-TIME & CONTRACT STAFF

Including, but not limited to, security, cleaning, parking and maintenance staff. They serve the owners, but are accountable to the property manager.

Dipika’s Tip

A simple way to distinguish between the role of the board and property manager is this—the board makes the decisions, the property manager executes these decisions. The board cannot and should not delegate decision-making power to the property manager.

Your Rights as an Owner

To recap, a condominium community is self-governing, almost like a fourth level of government. As the condo owner you get to elect a board whose primary job is to manage the affairs of the corporation. Well, that is the theory. In practice, how do you as a condominium owner actually make sure that your board is properly managing the corporation?

Read on...

This is where the governance documents come into play. The Act, declaration and by-laws clearly provide you, the condominium unit owner, with some powers and rights to ensure your board of directors is working in everybody's best interest.

1) Right to Vote

This is a basic right that gives you a voice in the running of the corporation. You can vote to elect a board of directors, remove a director before their term is up, and vote on amending the declaration, by-laws or rules of your condominium corporation. Voting is based on the number of units you own. Each unit is entitled to 1 vote whether it has a single owner, two owners, or more. If a single person owns more than one unit, they will have more than one vote. To be eligible to vote you have to be up to date in all your payments to the condominium corporation. If you are in arrears for 30 days or more you cannot vote.

2) Right to Attend Annual General Meetings and Vote on Major Decisions

An Annual General Meeting (AGM) of all owners must be held within six months of the end of the fiscal year of the condominium corporation. At an AGM, an owner may raise any matter relevant to the affairs and business of the condominium corporation.

At the AGM, you may also hear first-hand about issues (like an upcoming major repair), items of concern (e.g. how a security incident was handled), or new rules the board or owners would like to propose.

The AGM is your window into the affairs of your condominium corporation. You will learn about the financial state of the condominium corporation and have the opportunity to ask the auditor questions about how your money was spent.

When you get the notice of an annual general meeting, it should include a copy of the audited financial statements, as well as copies of any changes being planned to the declaration, by-laws or rules. This will allow you to prepare for the AGM. Remember, any changes proposed by your board to declaration or by-laws need to be approved by you, the unit holder.

The AGM is also your chance, as an owner to have a say in important decisions. Like the old saying goes, "decisions are made by those who show up."

3) Right to Know What Your Board Discusses at its Meetings

While you cannot actually attend the board meetings, you can get a pretty good idea of what was discussed, what decisions were made, whether due process was followed while making decisions, and the voting record of board members by asking for the minutes of each board meeting. If the board refuses to give you the minutes, find out how you can get them to do so in Right #4, below.

4) Right to Access the Corporation's Records

Under the Condominium Act, condo corporations have to:

- keep adequate records, including the corporation's financial records, minutes from owners' and board meetings, and a copy of the declaration, by-laws and condo rules;
- allow owners to view its records. However, as an owner, you have to ask for records to be provided in writing and you may have to pay a fee for covering photocopying charges. There are some records that condo corporations may not have to release to a unit owner, such as records that have to do with other owners or units, records with information relating

to employees of the condo corporation, records about actual or pending lawsuits, or records about insurance investigations;

- provide copies of records within a reasonable time.

If the corporation refuses to let you examine or have a copy of the records without a reasonable excuse, the corporation must pay you \$500 upon written request. If they do not pay you the \$500 you can file a claim with Small Claims Court. The Small Claims Court can order the corporation to pay the \$500 and to give you the records.

5) Right to Requisition Owners' Meeting

The AGM is typically called by your board of directors. In addition, the owners can requisition an owners' meeting at any time. The board is required to call and hold an owners' meeting if owners of at least 15 per cent of units ask for it in writing. If the board fails to call the meeting within 35 days of the request, any owner who signed the original written request can call and hold the meeting. Practically speaking, in order for the owners to hold the meeting when the board fails to, you will need a list of all the unit owners and their address to send out the meeting notice. The board or management has to give you this information. If they refuse you can get a court order to force them to provide you with the information.

The corporation also has to reimburse the unit owner for reasonable costs incurred in calling the meeting (postage, printing, etc.).

At an owners' meeting, owners can discuss any matter relevant to the condominium. An example would be discussing the removal of a director. While they can discuss a wide range of issues, owners may only vote on matters for which a vote is specified on the meeting agenda.

6) Right to Remove Directors Before Their Term is Up

Typically a director is elected for up to three years. However, you can remove a director before his or her term expires.

The vast majority of board members in condominium communities are hard-working people with the best interest of the owners in mind. Remember, these are voluntary positions and that board members are sacrificing a significant amount of time out of their personal lives to serve their condominium community. However, on rare occasions, there are cases of board members who may not be up to the job. In such a situation, unit owners can either wait for the next round of elections to vote a director out, or choose to remove a director before his or her term is up.

The Condominium Act does provide unit owners a method to remove directors before their term is up.

Step 1—Requisition an owners' meeting. The requisition must identify each director to be removed and a give a reason for removal.

Step 2—At the meeting, if owners of more than 50 per cent of all of the units vote in favour of removing the director, the director is removed. There must be a separate vote for each director who is being considered for removal.

7) Right to Amend the Declaration, By-Laws or Rules of the Corporation

For changes to a declaration, depending on the type of change, either 80% or 90% of the unit owners have to agree.

8) Right to Get a Court Order

If the corporation or the board of directors breaks the law, as set out in the Condominium Act or the by-law, declaration or rules of a condo, unit owners have the right to get a court order to force the condominium corporation to comply. First, see Dispute Resolution section for details.

Dipika's Tip

As an owner, you may not have to concern yourself with the day-to-day running of the corporation. That said, remember that as an owner you have many rights under the Act that allow you to hold your board to account. Make sure you know your rights. Also remember that your board is made up of co-owners like you, they are volunteering their time. When they do a good job, be sure to thank them.

Can I Withhold My Condo Fees Until Urgent Repairs are Carried Out in My Unit?

The simple answer is no. The Act gives the corporation the right to put a lien on the owner's unit if the owner does not pay his or her common expenses, regardless of the reason for not paying it. A lien gives the condominium corporation the right to sell the unit in order to recover the unpaid common expenses, as well as all interest owing and all reasonable expenses and legal costs incurred by the condominium corporation to recover the unpaid common expenses. For a lien to be enforceable, certain steps have to be taken.

Step 1—The property manager, or the board of directors, should advise the unit owner in writing at least once about the non-payment of the common expense. The owner should be advised that failure to pay will result in a lien being registered.

Step 2—Before the condominium corporation registers a lien it has to give the unit owner at least 10 days notice about their intention to register a lien. This notice is in addition to Step 1.

Step 3—The condominium corporation has to register the lien at the appropriate land registry office. This registration has to be done within three months of the default of the common expenses. If the condominium corporation does not register the lien within three months of the default, they lose the right to put a lien. Once a lien is registered it covers all future defaults and collection and legal costs until the full amount secured by the lien is paid.

Other options to recover unpaid common expenses from a unit owner

The Act also gives the corporation the right to demand that tenants of an owner who has defaulted on common expenses pay their rent to the corporation and not to the owner. The amount of rent to be paid to the corporation will depend on the amount of common expenses not paid by the owner.

If the tenant refuses to pay the rent to the condominium corporation, the condominium corporation can apply for a court order to terminate the lease of the tenant.

Repairs & Maintenance—Who Does What?

There are two types of repairs in a condominium property: repairs to your individual unit and repairs to the common elements.

The boundaries between units and common elements are set out in the condominium declaration and the condominium's description, i.e. the plans of the condominium.

Repairs Inside an Individual Unit

Except as specified in the declaration, unit owners are responsible for repairing and maintaining their units.

If there is damage inside a unit (e.g., there is a flood from a unit above), owners should contact the property manager to see who is responsible and for what. If an owner has chosen to have insurance for his or her unit, he or she should also consider contacting their insurance company. Owners should note that time may be a factor in these cases.

If repairs must be made inside a unit (e.g., if a sink doesn't drain), owners should read the condominium declaration to understand their responsibilities. Generally speaking, the Act requires that owners have things repaired in a reasonable time.

Repairs to the Common Elements

Except as otherwise specified in the declaration, the corporation is responsible for the upkeep, maintenance

and repairs to common elements. For example, if the lobby needs maintenance, the condominium corporation must maintain it, with the cost shared by all of the owners as a common expense.

Exclusive-use common elements that are used by only one or just a few owners are generally maintained by the unit owners who have the exclusive use.

What to Do When Disputes Arise?

From time to time, sharing common elements and following by-laws and rules can lead to disagreements. If you disagree with a policy taken by your condominium board or feel the condo corporation is not being properly managed in some way, you have a number of options. You can:

- **Discuss your concern informally with members of the board or management**—Usually this is the best way to start and may solve the problem. Remember, your board is made up of owners like you; talking things out is the best way.
- **Write to the board requesting formal consideration of your concern.** You may also ask to speak about your concern at a board meeting. Generally, only directors have a right to attend board meetings, but they can invite you if they wish.
- **Raise your concern at an AGM of the owners.** At an annual general meeting, an owner may ask to discuss anything about the condo corporation, e.g., how it's run, etc. This is a good way to test if other owners share your concern.
- **Make your concern the topic of a special owners' meeting.** Owners may call on the board to have an owners' meeting known as a requisition meeting. To do this unit owners have to send the board a written petition (known as a "requisition") signed by owners of at least 15 per cent of the units in the condominium. See Right #5.

Mediation, Arbitration and Other Legal Action

- If a disagreement cannot be resolved in these ways, you can seek mediation, arbitration and other legal actions. The steps you take depend on the nature of your dispute.
 - 1) If the alleged breach is of the Condominium Act, you may make a court application directly without going through mediation and arbitration.
 - 2) If the alleged breach is of the declaration, by-laws or rules you may only make a court application if mediation and arbitration have failed or to enforce an arbitrators award.
- **In most cases, mediation is a mandatory first step.** This is where the unit owner and condominium corporation agree upon a neutral facilitator to help work out a mutually-agreeable solution. Mediation is often less costly than filing a case with the courts. A mediator attempts to reach a settlement, but does not have the power to impose a settlement.
- **If a mediator is not agreed upon or the mediation fails, binding arbitration is the next step.** An arbitrator has the power to render a decision that is binding on the parties. The people involved in the dispute bring evidence to this hearing and the arbitrator makes a binding decision. An arbitration decision can be appealed in a court.

Any one of the parties to a disagreement can request a mediator. Mediators and arbitrators are listed in online directories, like YellowPages.ca, and through organizations like the *ADR Institute of Ontario*.

- **If none of the above work, then you may want to go to court and get a Compliance Order.** Any of the parties to a dispute can make a court application for an order enforcing compliance with the Condominium Act, or the declaration, by-laws and rules of a condominium corporation. A person who fails to comply with a court order may be found to be in contempt of court and could face a fine and even a jail sentence. A court may terminate the lease of a tenant who fails to comply with a court order.

What to Look for When You Buy a Condominium Property

When you buy a condominium property you are buying more than the apartment. You are buying into a community complete with its own set of rules. That is why it is essential that you understand the whole package that you are buying.

When you buy from a developer you are entitled to receive and review a package of materials called a disclosure statement.

With a resale condo, you can review a similar package, but it is called a status certificate which is provided by the corporation. While the disclosure statement is free, you have to request and pay a fee to receive a status certificate.

Both packages include copies of the declaration, by-laws and rules. However, there are also substantial differences in the information that a status certificate of a resale condominium contains compared to a disclosure statement of a brand new condominium.

For example, the status certificate of a resale condominium would list if the current owner has any unpaid common fees and if there are major repairs or replacements in place for the coming fiscal year. Such information is usually not applicable for a brand new condominium.

A status certificate is often obtained by the purchaser's lawyer after the purchase agreement has been signed. As the purchaser, you may not be entitled to cancel the deal because the status certificate has unfavourable information. You should consider making the offer conditional upon your satisfaction with the status certificate.

Dipika's Tip

I highly recommend that you familiarize yourself with the disclosure statement/status certificate before you make an offer. Even better, get a lawyer to review the package to make sure that you understand all of the terms, conditions, rules and restrictions you are signing on to before you make the offer.

There are two main differences you should know about between buying a unit from the developer and buying a resale condo:

- 1) The Act gives people who buy a newly-built condo a 10 calendar day cooling-off period during which they can cancel the purchase. However, the Act does not provide buyers of resale condo units with a cooling-off period. If you exercise your right to cancel, the developer must refund any deposit plus any interest that may be payable. A developer cannot terminate your purchase contract without your consent or a court order.
- 2) Like all new home purchases, newly-built condo units are covered by the Ontario New Home Warranties Plan Act, which is overseen by Tarion Warranty Corporation. To learn more about Tarion's, visit: **www.tarion.com/Pages/default.aspx**.



Checklist if You are Buying a Newly Built Condominium Unit from a Developer

Keep in mind that this is not an exhaustive list. Also, it does not include questions related to the agreement of purchase and sale. Answers to most of these questions will be in the disclosure statement.

1) How might my condo fees increase in the second fiscal year of the corporation? Are there any deferred costs? For example, will the corporation have to buy a superintendent's suite or a guest suite for which costs don't kick in until the second fiscal year? If so, will that result in a fee increase to condo owners?	
2) Do the condo fees seem comparable to other buildings of the same size and with similar amenities?	
3) Is the reserve fund contribution for the 1st year only at 10 per cent of the corporation's budget for the first fiscal year? 10% is the bare minimum and is quite likely to be less than is required. It also means the reserve fund contribution may have to be increased fairly quickly in the second fiscal year. This could affect your condo fees.	
4) How many units does the developer intend to own and lease? Remember that at owners' meetings, an owner gets one vote for each unit that he or she owns. This means that if a developer keeps a large number of units for themselves, they will have block voting rights.	
5) Are there any restrictions for owners looking to rent their units? Some corporations may have some restrictions on renting condo units.	

Checklist if You are Buying a Resale Condominium Unit

Keep in mind that this is not an exhaustive list. Also, it also does not include questions related to the agreement of purchase and sale. Answers to most of these questions will be in the status certificate.

1. Is the budget in a deficit or a surplus? If it is in a deficit you may be facing a condo fee increase.	
2. Has the budget increased in the past few years? Are the increases due to things other than inflation or utility costs? What are the reasons for these increases? Past budget increases may help you see if future increases are likely to happen.	
3. Examine the current budget. Does it have a large amount set aside for repairs or legal bills? A large repair budget indicates that the building may have serious maintenance issues. Sizeable legal bills could mean that there might be serious disputes down the road but could also indicate divisions in the community you are planning to join.	
7. Is the corporation involved in any lawsuits? If so, what is the case about and how much money is at stake? Are there any judgments against the corporation? If so, does the corporation have to pay any money to another party? Lawsuits and judgments could mean a lot of legal costs have to be paid by the condominium corporation. This in turn may mean an increase in your common expenses down the road.	
4. Are all utilities for the unit included in the condo fees? If they are not, there will be an additional expense that you will need to budget for.	
5. What services (e.g. security, maintenance, staffing) does the budget include? How much do they cost?	
6. What is the amount in the corporation's reserve fund? Is the amount in the reserve fund as required by the reserve fund study? If it is lower	

<p>than required, you might find your common expenses going up in the future. However, it is also not necessarily a bad thing if the reserve fund is low. It could mean that the corporation just spent money on major repairs and is now replenishing the fund. So make sure you find out the reason for a low reserve fund. Sometimes, when a corporation has a large reserve fund in relation to its operating budget, it could mean that major repairs may be needed soon. Keep in mind that this is not necessarily a bad thing. It could mean that the corporation planned well and saved money in advance.</p>	
<p>8. Is the current owner up to date in payment or is money due to the condominium corporation? If the current owner is in default, you may owe these fees to the corporation if you purchase the unit.</p>	

Check List for All Condos

Here are some questions that all condo owners should discuss when reviewing the condo declaration, by-laws and rules with their lawyer, real estate agent or accountant.

Buyers (New and Resale):

Keep in mind that this is not an exhaustive list. Also, it also does not include questions related to the agreement of purchase and sale.

<p>1) Do the declaration, by-laws and rules of the condominium suit my lifestyle? For example, some condominiums limit the size and number of pets. Some declarations prohibit certain pets altogether.</p>	
<p>2) Are all utilities for the unit included in the maintenance fees? If they are not, this will be an additional expense to budget for.</p>	
<p>3) What are the boundaries of my unit? Are the windows and doors part of my unit? Is the roof part of my unit in a townhouse complex? Are any of the pipes behind the drywall part of my unit?</p>	

<p>4) What are my repair and maintenance responsibilities? Am I responsible for the maintenance of my heating and cooling equipment? If a pipe leaks behind the wall, is it my responsibility to repair? If I have exclusive use of a yard, deck or fence, am I responsible for maintaining and repairing them?</p>	
<p>5) Is there a standard unit by-law and an insurance deductible chargeback by-law? They may spell out:</p> <ul style="list-style-type: none"> i. How the condo corporation's insurance works when there is damage to your unit ii. How the condo corporation's insurance works when damage to other units or the common elements originates from your unit iii. Owners need to understand how a corporation's insurance coverage works because the cost of damage and repairs could be significant. It is definitely recommended that all condo owners carry condo insurance. 	
<p>6) How many rental units are there? Remember, condo owners who rent out their units as an investment may not share the same interests as owners who live in the building.</p>	
<p>7) Is there a shared facilities agreement with another condominium or property? Some condominium properties may share amenities with others.</p>	
<p>8) Are there commercial units? This means that residents will need to share the building with stores and businesses.</p>	
<p>9) Make sure you get a home inspection.</p>	
<p>10) Is there visitor parking on the property or elsewhere?</p>	
<p>11) Is there a cost to visitor parking?</p>	

12) Will any of the common elements be used for commercial purposes?	
13) Are there parking units owned by the unit owners or is parking based on exclusive use of common element parking spaces?	
14) Check the number of elevators. There should be a ratio of one elevator for every 60 units approximately. What is the ratio of small units, i.e. bachelors and one-bedroom to larger units? Smaller units are more prone to leases.	

Frequently Asked Questions (FAQ)

Is there a limit on how much condo fees can be increased?

There is no maximum amount. Each year, your condominium corporation should set out a budget for current operating expenses and the reserve fund. If you or other owners are concerned about increases to condo fees, discuss this with your board of directors at the condominium's annual general meeting or at any other owners' meeting.

Generally speaking, unit owners have to pay their condo fees even if they have a claim or dispute with the condo corporation. If they do not pay, the corporation can register certificate of lien against a unit. This lien can be enforced, if necessary, by selling a unit.

My condo board wants to use the reserve fund to build a new exercise room. Can they do that?

No. The reserve fund may be used only for major repairs or replacement of the common elements or of any assets of the corporation.

Also, a new exercise room would be a substantial change to the common elements. These kinds of changes must be approved by the owners of at least 66.66% of the units.

Our board says there's no money in the reserve fund to complete necessary repairs. We don't know where the money has gone. What can we do?

Generally speaking, unit owners have the right to examine the financial records of the corporation, including the reserve fund study. This study estimates necessary repairs and sets a minimum balance for the reserve fund.

There is usually a process that owners have to follow when asking for records. See rights section page for more detail.

Also, according to the Act, at the annual general meeting unit owners must appoint an auditor to review the condo board's financial statements and prepare an annual auditor's report. The condo board's financial statements and the auditor's report must be given to all owners as part of the annual general meeting notice package. Owners have the right to have the auditor attend this meeting to answer their questions.

My window has been leaking and causing damage in my unit. I submitted a work order to the condo manager but nothing has happened. What can I do?

Follow up with your condo manager and if necessary, the board of directors to clarify who is responsible for any repair and maintenance needed. Responsibility for repairs can vary from one condominium property to another.

If you have insurance for your unit, you can also consider contacting your insurance company. If the condo board is responsible for making the repairs then ask for a timeline for action (see Handling Disagreements).

The sink in the unit above me overflowed and damaged my unit. Who pays for the repairs?

Consider contacting the condo manager or board of directors as soon as possible. Check:

- if anything has to be done right away to stop any more damage
- if the damage in your unit is covered under the corporation's insurance policy

Also, if you have insurance for your unit, consider contacting your own insurance company. You can also review the condo corporation's declaration and by-laws to better understand who is responsible for what repairs and maintenance.

Can pets be banned or restricted in a condo building?



Yes, it is possible. Check your condominium's declaration, by-laws and rules to see if pets are prohibited in your building or if there are any weight restrictions. Ask the condo manager or board of directors for a meeting to discuss the issue. You may also want to consider getting legal advice, especially before you decide to buy a unit in a condominium that limits or prohibits pets.

There is a loud and difficult resident across the hall from me. What can I do about this situation?

Report the concern to your condo manager or the board and ask that they look into the matter.

The condo board must take reasonable steps to make sure that owners and residents comply with the Condominium Act, and the condominium's declaration, by-laws and rules.

Can the property manager enter my unit without notice?

Yes, only in an emergency, such as a fire when it is not possible to provide prior notice.

Otherwise, a representative of a corporation may enter a unit to carry out the "objects and duties" of the corporation, like inspecting the heating and cooling system, as long as he or she gives the unit owner and resident reasonable notice and enters at a reasonable time.

Do condo boards have to call & hold owners meetings?

When it comes to holding owners' meetings, boards have to:

- call and hold an annual general meeting within three months after the condo corporation is created (i.e. after the registration of the condo declaration and description)
- after that, boards have to call and hold annual general meetings within six months of the end of each fiscal year of the corporation
- give notice for a meeting at least 15 days before it is scheduled

Condo boards must also call and hold special owners' meetings, known as requisition meetings. To request a requisition meeting, unit owners must send the board a written petition, known as a requisition, with the support of at least 15 per cent of the unit owners in the condominium.

Condo boards have to call and hold requisition meetings within 35 days of getting the petition.

Does my condo corporation have to give me access to its records?

Yes. See Right to Access Corporation Records on page 11.

Are condominium corporations allowed to impose fines?

The Act does not allow a condo corporation to "fine" a unit owner. But keep in mind that a "fine" is not the same as the recovery of costs against a unit owner. A corporation may be entitled to recover costs against a unit owner depending on certain factors. In these cases, owners may want to consider getting legal advice.

Why did monthly condo fees increase in my new condo?

The 1st year operating budget of a new condo corporation is set by the developer before the condominium is built. Many things can impact the accuracy of that budget, like increase in costs during construction.

Generally speaking, the developer is responsible for any shortfall in that 1st year budget. However, condo fees need to be adjusted in the 2nd year.

Also, fees to cover the cost of certain amenities, like a guest suite, might not take effect until year two of the corporation's operation. Sometimes, these costs may not take effect until later on.

Also, keep in mind that increases in condo fees can happen at any time and for a number of reasons, like an unexpected major repair, legal proceedings involving the corporation, or just to keep up with rising costs (see Buying a Condo).

Do my monthly condo fees cover all of my maintenance?

The condo corporation uses the fees that are collected to operate the condominium. That includes maintenance and repair of the common elements.

But generally speaking, owners must maintain and repair their own units.

For example, the fixtures in a unit are usually the owner's responsibility to repair and maintain. In many condominiums, (but not always) the electrical and plumbing equipment behind the wall that only services the owner's unit is also the owner's responsibility.

Check your condominium declaration for a definition of unit boundaries and to understand what you are responsible to maintain and repair.

You should also keep in mind that condo corporations have to carry certain insurance, which may affect repair and maintenance.

I'm interested in running for election to my board. Is there any training available on how to run a condominium?

Voluntary training on condo governance and the responsibilities of condo directors is available from industry associations.

There are presently no training requirements to become a condominium board member but this issue is being discussed as part of the ongoing review of the condominium act.

Can condo owners vote to change a condominium's declaration?

The declaration can be changed, but this is not very common. Changing financial items, like contributions to condo fees, would require written approval of owners of at least 90 per cent of the unit owners of the condo property. Other matters in the declaration, like pet restrictions, would require the written approval of owners of at least 80 per cent of the units.

Can I make alterations to my condominium unit?

Owners are often unaware that they are restricted by declaration or the rules as to what they are entitled to do within their units. Many declarations prohibit structural alterations within a unit without the prior consent of the board. Always check your declaration or the by-laws of your condominium corporation before you do a renovation.

What if the board has overestimated the common expenses and at the end of the year there is a surplus?

You cannot get a refund. Instead, the surplus must be used towards next years expenses or paid into the reserve fund.

What if the board has underestimated the common expenses?

The board will then have to ask for a special assessment and each of the unit owners will have to pay their portion of the extra expenses.

How can I obtain a list of my directors?

Names and addresses of directors and officers should be part of your status certificate. You may also examine or request copies of the corporation's records to determine changes in the board's composition.

Useful Links

Ministry of Consumer Services
www.sse.gov.on.ca/mcs/en/Pages/Condos.aspx

Tarion—New Home Buyer Protection
www.tarion.com



2014 Condo Guide

If you want to know more about our improvements as they happen, sign up for updates at www.dipikadamerla.onmpp.ca/Enewsletter



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