



LAND TITLES OFFICE

Information Bulletin 2011-06 (Replaces Information Bulletin 2011-05)

Registration of a Plan under the *Condominium Act*

A. Definition of "Plan" and Required Contents

Pursuant to section 4 of the *Condominium Act*, in order for a parcel of land to be governed by the *Condominium Act*, a "declaration" and a "plan" of that parcel must be registered in the registry at Land Titles Office. The information in this bulletin only addresses the requirements for registration of a "plan" and not a "declaration".

Section 1 of the *Condominium Act* defines "plan" as follows

"plan" means the plan to which reference is made in section 6 and includes any amendments thereto.

Section 6 of the *Condominium Act* sets out the contents that must be included in a "plan" submitted for registration.

Subsection 6(1) states

A plan shall delineate the perimeter of the horizontal surface of the land and the perimeter of the buildings in relation thereto, and shall contain

- (a) structural plans of the buildings;
- (b) a specification of the boundaries of each unit by reference to the buildings;
- (c) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings;

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(d) a certificate of a surveyor certifying that the surveyor was present at and personally superintended the survey represented by the plan, and that the survey and plan are correct;

(e) a certificate of an architect certifying that the buildings have been constructed, and that the diagrams of the units are substantially accurate and substantially in accordance with the structural plans; and

(f) a description of any interest appurtenant to the land that is included in the property.

B. "Units" Versus "Bare Land Units"

The *Condominium Act* provides for two different methods of partitioning a parcel of land in order to facilitate the division of that parcel into parts to be owned or leased individually and parts to be owned or leased in common: horizontally and vertically stratified partitioning into "units" and strictly horizontal partitioning into "bare land units".

The requirements in subsection 6(1) of the *Condominium Act* apply in respect to a plan that shows the horizontal and vertical partitioning of a parcel into "units".

A "unit" is defined in section 1 of the *Condominium Act* as

"unit" means a part of the land included in the plan and designated as a unit by the plan, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and plan are registered.

The boundaries of a "unit" are generally defined by using aspects of a building structure (i.e. roof, floors, and walls). In this regard, "units" can be created in vertical layers.

Alternatively, the *Condominium Act* provides for the option of horizontal partitioning of a parcel of land via the showing of "bare land units" in a plan.

A "bare land unit" is defined in section 1 of the *Condominium Act* as

a part of the land included in [a] plan as a unit by horizontal boundaries only without reference to any buildings and, unless otherwise shown in [a] plan, comprises

(a) all of the space vertically above and below those boundaries; and

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(b) all of the material parts of the land within the space referred to in paragraph (a) at the time the declaration and plan are registered.

“Bare land units” can only be created without referring to any aspect of a building structure in the plan for the purpose of defining its boundary. In accordance with subsection 6(3) of the *Condominium Act*, the boundaries of a “bare land unit” must be established by monuments.

Subsection 6(2) of the *Condominium Act* provides an exception to the requirements as set out in subsection 6(1) of the *Condominium Act* in respect of the showing of a “bare land unit” in a plan. Subsection 6(2) of the *Condominium Act* provides that in respect of a “bare land unit”, the portion of the plan that shows the “bare land unit(s)” is not required to show the perimeter of buildings in relation to the perimeter of the surface of the land, nor are the requirements set out paragraphs 6(1)(a), (b), and (e) applicable. This exemption strictly applies to the “bare land units” shown on the plan because such units must be created without referencing any aspects of a building structure unlike a vertically ‘stratified’ “unit”.

There is no prohibition in the *Condominium Act* with respect to the depiction of buildings within a “bare land unit” shown on a plan so long as such a depiction is not used for the purposes of defining the boundaries of the respective “bare land unit”.

C. Amended Plans

The *Condominium Act* does not explicitly provide for what is commonly referred to as, and known in other jurisdictions as, ‘phased-in developments’. However, as noted above, a plan under the *Condominium Act* may be amended at any time so long as such amendments are in accordance with the relevant provisions of the Act. It will be the responsibility of the party submitting an amendment of a plan for registration to ensure that each amendment meets the applicable statutory requirements.

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Land Titles Office
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