

A New Condominium Act

Background

The Land Titles Modernization Project was initiated in April 2012 to improve condominium development in Yukon and to facilitate more timely and efficient land titles services.

Working with a Stakeholder Advisory Committee, Justice reviewed the existing condominium development framework and corresponding land titles system. It was immediately identified that modernizing the *Condominium Act* was an essential component of developing and regulating contemporary condominiums.

Information related to Land Titles Modernization Project—[discussion papers](#), [consultation feedback](#), and stakeholder advisory committee [meeting minutes](#)—is available on the Department of Justice website.

How was the bill developed?

In early 2014, drafting of a new *Condominium Act* began. The work was supported by Department of Justice staff, the Stakeholder Advisory Committee and a Drafting Advisory Group. The drafting group includes representatives from the Association of Canada Lands Surveyors; Canadian Bar Association – Yukon, Real Property Sub-Section; Surveyor-General's Branch of Natural Resources Canada; City of Whitehorse; and Lands Branch of the Department of Energy, Mines and Resources.

The new draft bill is nearing completion. Stakeholders and the public are encouraged to provide feedback on the [Summary of the draft new Condominium Act](#), which outlines the proposed contents and provisions within the bill. Comments are invited until January 31, 2015, and will be considered in the final draft introduced in the Yukon Legislative Assembly. The bill is expected to be introduced during the spring 2015 session.

The development of regulations are planned to commence in early 2015. Consultations will be held to gather input around regulations that pertain to phased and bare land condominiums and reserve fund requirements.

What can I expect to see in the new act?

The new *Condominium Act* is intended to create modern development and management practices similar to other jurisdictions in Canada. Fundamental aspects of the current condominium requirements in Yukon will continue to apply, but there are some important new elements in the proposed legislation.

At present, an application to create a condominium is made to the Land Titles Office and must include a declaration and a plan of survey. Under the new act, an application will require a(n):

- **Plan of survey** stating, in its heading, whether it is a plan of conventional units, bare land units, or phased condominium.

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- **Declaration** that includes a schedule of unit entitlement. The declaration must allocate to each unit a fair portion of the corporation's expenses, liabilities and assets and include a schedule of voting rights outlying the number of votes allocated to each unit.
- **Notice of bylaws** of the condominium corporation, which state whether the condominium corporation is to be governed by standard bylaws (to be provided in new regulations), the standard bylaws as amended or new bylaws.
- **Notice** stating the first condominium **board of directors**.
- **Address** for service on the condominium.

Applications to create a condominium corporation will be assigned a number following the existing system. Documents—those listed above plus the common property certificate and individual certificates of title issued for each unit—will be indexed and stored in a corporate records folder by the registrar at the Land Titles Office.

The ability to develop bare land condominiums is maintained in the new bill; however, for the first time, the ability to develop condominiums in phases will be specifically identified. Regulations will outline the requirements, such as the need to identify the development as a phased condominium; the number of phases; the timeline for completing each phase; and the overall timeline for completing the entire project.

The bill introduces new “duty of fairness” and disclosure requirements when the developer sells condominium units. The developer will be required to disclose specific legal and financial information to the initial unit purchasers, within 30 days of the condominium registration or before an agreement of purchase and sale is made.

A person who purchases a unit from the developer will now have new rights to cancel the agreement of purchase/sale in certain circumstances and within certain time periods. The purchaser's right to cancel must be displayed on the agreement of purchase/sale.

Condominium corporations will continue to function through a board of directors, but the new act will provide much more guidance and direction as to the board's authorities and responsibilities. New guidance provisions included in the bill outline:

- **Eligibility of board of directors:** elected directors may be unit owners, unit tenants, a mortgagee, or other designated representative who has been assigned the unit owner's right to vote.
- **Management authorities:** instructions for staged transfer of authorities from the developer to an elected board.
- **Voting rules:** one unit is one vote, but unit owners may lose their voting right if the corporation has a lien against their unit.
- Allowances and rules for **proxy votes:** proxies must be signed and in writing; one person may hold only 2 proxies unless regulations say otherwise.
- **Rights and duties of condominium tenants:** boards may pass bylaws to regulate tenancies and create options to correct contraventions of its rules, including evictions.
- **Bylaw and rule enforcement:** there are improved abilities to enforce bylaws and rules and introduce voluntary dispute resolutions as an alternative of going to court.

The bill includes a new requirement for reserve funds, which are used to pay for major condominium repairs and replacements. Reserve funds are an alternative to special levies,

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which may have been used for major repairs in the past. A condominium corporation will be required to have a reserve fund study done to estimate the expected life time of common property and common assets, and the repair and replacement costs of such assets. Regulations will outline guidelines for establishing reserve funds, including who is qualified to complete reserve fund estimate reports and any exemptions for special circumstances (e.g., small condominiums).

New insurance provisions are also added. A condominium corporation must obtain property insurance on the full replacement costs of common property, common assets and condominium units. The bill outlines responsibilities for bare land condominiums and situations where the unit owner must also hold insurance.

The bill introduces a new offence for making a material (substantial) false statement in a certificate of a condominium corporation, which may be punishable by a fine of not more than \$2,000 or imprisonment for not more than six months, or to both.

The legislation generally modernizes language and processes to make the new act clearer and easier to follow.

Where can I learn more about the new bill?

A summary outlining the proposed legislative provisions of the new act and more information on the Land Titles Modernization Project can be viewed here:

http://www.justice.gov.yk.ca/land_titles_modernization.html.

Please direct your comments and question by January 31, 2015, to:

Email: condoactreview@gov.yk.ca
Telephone: 867-393-7081
Fax: 867-667-5200
Mail: Condominium Act Review
Department of Justice
Government of Yukon
Box 2703 (J-1A)
Whitehorse, Yukon, Y1A 2C6