

Sonja Hodis, Barrister, Solicitor & Notary
62 Camelot Square, Barrie, Ontario, (705) 737-4403
sonja@hodislaw.com

Other areas of practice include estate administration and disputes, property law disputes and employment law issues.

Aging in Place – The Legal Issues

By Sonja Hodis

The changing demographics in condominiums raises a number of legal issues that condominium corporations, owners, directors and property managers must consider. A few of those issues are:

Condo as “caregiver”

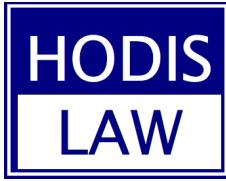
One issue that must be considered is where the corporation draws the line between “caring” for the residents and carrying out their legal duties. As individuals one may want to be a good neighbor and provide care giving functions to fellow residents; however, directors, property managers and corporations must be careful not to engage in functions that would set a precedent in which owners (and their families) would rely on the condominium corporation to carry out those caregiving functions. Setting such a precedent could create unwanted liability for the corporation.

Succession Planning

Another issue that directors and owners must consider is who will continue to manage the assets of the corporation and conduct the affairs of the corporation. A review of current bylaws should be conducted to see what are the requirements to become a director in your condo and an analysis should be undertaken to determine if those requirements are still realistic given the demographics. For example, if the demographics of the condominium are such that it is becoming difficult to attract owners to volunteer for Board positions, you may want to look to amending your bylaws to allow non-owners and/or residents to be members of the Board. This will ensure that there will be an adequate number of board members available to conduct the affairs of the corporation. The Board should also look to implementing a succession plan to ensure that there will always be people available and with the requisite knowledge to continue to manage the property and assets of the corporation. The Board should also ensure that there is a system in place that maintains the corporation’s records and that those records are readily accessible to successive boards.

Requests for Accommodation under Human Rights Code

Another challenge Boards, property managers and corporations face in an aging demographic is the potential increase in requests for accommodation or



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need to accommodate under the Human Rights Code. Corporations should ensure that they have proper policies and procedures in place to deal with such requests as they arise.

Powers of Attorney and Executors

Boards and property managers need to be aware of and should seek legal assistance to make sure that they are dealing with the right person who has legal authority to deal with issues arising in connection with a condominium unit when the owner is incapacitated and unable to make decisions on their own or has passed away. Understanding the difference between powers of attorney and executors and when they take effect is important. Ensuring you obtain proper legal documentation confirming who has been given the authority to deal with an owner's assets is becoming increasingly important. It is not safe to assume that a spouse or a family member has the legal authority to deal with the owner's unit when that owner is no longer able to make decisions on their own or has died.

These are but a handful of issues that arise when the demographics of a condominium change. Regardless of the issue, a common theme that is evident is that Boards and property managers will need to manage the risks associated with these types of changes.



Sonja Hodis is a litigation lawyer based in Barrie that practices condominium law in Ontario.. She advises condominium boards and owners on their rights and responsibilities under the *Condominium Act, 1998* and other legislation that affects condominiums such as the Human Rights Code. She represents her clients at all levels of court, various Tribunals and in mediation/arbitration proceedings. Sonja has also gained recognition for creativity and tenacity in ground breaking human right caselaw in the condominium industry. Sonja can be reached at (705) 737-4403, sonja@hodislaw.com or you can visit her website at www.hodislaw.com or watch her videos at www.condoinmotion.com.

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