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

## **New Proposed Regulations under Condominium Act, 1998 – Bill 106**

By Sonja Hodis

Since December 2015, when Bill 106 received Royal Assent and changes were made to the Condominium Act, 1998, the Ontario Government has been working on drafting the Regulations that will provide more details about the changes that occurred to the Condominium Act, 1998. The Regulations will be implemented in stages and a summary and draft of the first set of proposed Regulations has been released.

Bill 106 addressed four key areas of the current Condominium Act, 1998 that needed revision and updating. Those key areas involved i) dispute resolution, ii) consumer protection, iii) transparency and accountability with respect to condo finances and governance and iv) condo manager licensing and regulation. For more information on these areas and my top 20 specific changes that affect condo owners and directors see my article entitled “Changes to Condominium Act, 1998- Bill 106”. In this article I am going to focus on the newly released proposed Regulations the first of which are anticipated to be in effect on July 1, 2017.

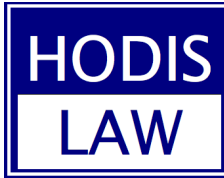
In February 2017, the Ontario Government released a preliminary summary and draft of the 4 areas that the new Regulations will cover.<sup>1</sup> These proposed Regulations provide more details of exactly what new things condominium corporations, directors and owners will need to know in terms of how a condominium will operate.

According to the government’s recent release of the proposed Regulations, the four areas and some details of what can be expected in these areas are:

1. **Communications** (Anticipated to come into force July 1, 2017)
  - Regular mandatory updates from condo corporations to owners on an ongoing basis by way of “information certificates”. If a corporation has fewer than 25 units or 80% of owners consent in writing to dispense with the requirement to distribute information certificates, a corporation will not be required to complete and distribute the information certificates mandated in the Regulations.

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<sup>1</sup> A summary and draft of the proposed Regulations can be found at this link:  
<http://www.ontariocanada.com/registry/view.do?postingId=23688&language=en>



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- New owners will be required to give the condo corporation their name and unit information within 30 days of becoming an owner. Owners can provide an address for service to be included in the record of owners but the address must be in Ontario and be capable of receiving prepaid mail.
- Owners can consent to receive notices electronically.

## 2. **Director Qualification and Disqualification**

(Anticipated to come into force July 1, 2017)

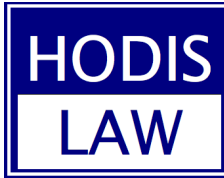
- Mandatory training to be completed within 6 months of being elected or appointed to the board. The cost of training is to be paid by the condominium corporation and directors can be reimbursed for any costs directly incurred to take the required courses.
- Improved transparency and new disclosure requirements for candidates running for board positions and existing directors. Failure to meet the disclosure requirements would automatically disqualify a person from being a director.

## 3. **Meetings** (Anticipated to come into force July 1, 2017)

- New notice of meeting procedures will require a preliminary notice of meeting to be sent in advance of a notice of meeting. The preliminary notice and notice of meeting will be sent in accordance with a standardized mandatory form. The preliminary notice of meeting will set out what information the owners are requested to submit to the Board in advance of the meeting and whether that information must be included in the notice of meeting.
- Quorum requirements will be lowered for certain types of meetings.
- A new mandatory proxy form will be implemented.
- Improvements to meeting and voting procedures.
- Certain types of bylaws could be passed by a majority of owners at the meeting while others will require a majority of unit owners as required under the current legislation.

## 4. **Records** (Anticipated to come into force Fall 2017)

- Clear rules regarding retention periods and access of records will be established.
- There will be two primary minimum retention periods. One will be 7 years for financial and operating records and an unlimited retention period for fundamental corporation documents.
- Proxies, ballots and recorded votes will need to be kept for 90 days from the date of meeting.
- Minimum retention periods can be extended if the corporation receives notice of actual or contemplated litigation or if the records are subject to an access request.



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- Records can be kept electronically or in paper format.
- A four step process will be implemented for requests for records. A standardized form will be implemented to access records and mandatory timelines for a response will be imposed.
- Records will be classified as core and non-core. Certain records will still not be accessible.
- Requesters will not be required to tell the condominium corporation the purpose of request for access but will have to declare that their request is solely related to their interest as an owner, purchaser or mortgagee of a unit.
- The timing of release of records and costs associated with production will depend on whether they are core or non-core records and whether they are requested to be delivered electronically or by paper. The maximum photocopy charge is 20 cents per page. Fees for labour must be reasonable and can not be more than the actual costs incurred by the corporation to provide access to the record.
- The new penalty for non-disclosure by a condominium corporation of records will rise from \$500.00 to a maximum of \$5,000.00.
- Property managers or management providers under a new provision in the legislation will have a right to access corporation's records that are reasonably required and a process will be set out.

It will be interesting to see what the final version of the new Regulations will actually look like once consultations are complete and how condo governance will change in the very near future. The Ontario Government is asking for public comment on these proposed Regulations which closes March 30, 2017.<sup>2</sup> Don't miss the opportunity to have your say.



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](mailto:sonja@hodislaw.com) or you can visit her website at [www.hodislaw.com](http://www.hodislaw.com) or watch her videos at [www.condoinmotion.com](http://www.condoinmotion.com).

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<sup>2</sup>Use the following link to the government website to submit your comments about the proposed regulations by email: <http://www.ontariocanada.com/registry/view.do?postingId=23688&language=en>