

CONDO LEGISLATION RENOVATED

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Whether as a business investment or a residence, purchasing a condominium is a big decision for buyers. Amendments to *The Condominium Property Act, 1993* took effect February 1, 2005. For owners, investors and vendors, these will have an impact upon the purchase and sale of condominiums.

Some of the biggest changes relate to insurance coverage, reserve fund studies and tax assessments.

Adequate insurance coverage is a must. Under the amendments, any portion of a loss which is the condominium corporation's responsibility, i.e., either an uninsured portion or the deductible, is a common expense and thus is passed on to the owners of the units as a whole. If an individual owner is responsible for a loss, then the uninsured portion can be added to their unit assessment and enforced against the owner.

An owner does not now have to wonder about the adequacy of the condominium corporation's insurance coverage, as long as they take the time to check. The amendments to the Act require that the condominium Board review and report annually at the Annual General Meeting on the adequacy of the insurance coverage. If investing in a condominium, reviewing the condominium's insurance coverage is a no brainer. Take the time and ensure that you are not buying a condominium whose insurance coverage is substandard. It could be the difference between a few hundred dollars and a few thousand in the event of a major loss.

For existing owners, or those deciding to buy a condominium, ensuring the adequacy of their own coverage is also a worthwhile investment of time. Call an insurer and make sure that the policy covers all foreseeable loss and is consistent with the value of the unit.

Amendments to the Act include the addition of reserve fund study requirements. Reserve funds are important, because they represent a cash account to cover future capital repairs and improvements. Without a reserve fund, owners can be called upon to pay large emergency assessments for such things as parking lot repairs, common area replacement, and similar items. Condominium corporations which have 12 units or more must conduct a reserve fund study by January 31, 2008. Any new condominiums must complete a reserve fund study within 3 years of their first Annual General Meeting. After the initial study has been completed, subsequent reserve fund studies must be completed at least every 10 years.

These changes protect potential buyers and can also add to the resale value of individual units. For owners of condominiums that have a low reserve fund at present, however, this may impact the resale value negatively, and may also mean a higher assessment (which comes out of the unit owner's pocket in order to increase the reserve fund to an adequate level).

The estoppel certificate form has changed effective February 1, 2005 and is mandatory. The certificate must now include some critical information, such as whether a reserve fund study exists, when it was conducted, and if no study exists, the reason why. It must also include the qualifications of who conducted the study and whether the condominium corporation has implemented the recommended funding plan. Again, if it has not, the reason why must be set out. If making the decision to invest, determining the adequacy of the reserve fund is crucial.

Obtain advice from your lawyer on the adequacy of the reserve fund before making the decision to buy. This, too, may save you thousands of dollars in the future.

The amendments to the Act also require a change to how units are assessed. Previously, the entire condominium complex was assessed as one parcel and taxes were apportioned among the unit owners on the basis of unit factors. The changes provide that each unit will pay taxes based on the individual assessment of the unit. There may now be discrepancies in the taxes paid by same sized units if one has more amenities than another. Be aware when purchasing or selling how these changes may impact the amount of taxes that are to be paid for the unit, and factor this into your decision to buy or sell.

This article is only intended as brief overview of some of the changes that will affect current owners and potential buyers. Current boards should be aware that these and other amendments to the Act might necessitate amendments to the present condominium bylaws.

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