Notice: This is a summary of the key elements of the proposed amendments to Ontario Regulation 48/01 (O. Reg. 48/01) made under the Condominium Act, 1998 ("Condominium Act") as amended by the Protecting Condominium Owners Act, 2015 ("PCOA"). This summary is intended to facilitate dialogue concerning the contents of the proposed amendments.

This summary refers to a draft regulation, which will contain details about the proposed amendments to O. Reg. 48/01 that are not addressed in the summary. The summary also does not reflect the complete technical scope of the proposed amendments. The draft regulation will be posted on Ontario's Regulatory Registry as soon as it is available. Note that references in this summary to new sections of the Condominium Act are references to sections that are amended by the PCOA, and are not yet in force.

Should the decision be made to proceed with the proposals, the comments received during this consultation will be considered during the preparation of the final regulation.

Contents

I. Communications from corporations to owners and mortgagees

A. Information Certificates: Summary of Proposed Regulations Relating to s. 26.3 of the Condominium Act

1. Context and overview of the proposal

The PCOA amends the Condominium Act to create a new s. 26.3 that would require corporations to send out "information certificates" to owners, at certain times, containing information about the condominium corporation (see s. 26.3 of the Condominium Act for more detail). Most of the details regarding the type, timing and content of these certificates would be set out in the amended Ontario Regulation 48/01 ("O. Reg. 48/01") made under the Condominium Act.

These changes are focused on communications from condominium corporations to owners about the corporation's board, finances, insurance, reserve fund, legal proceedings, and other matters.

Under the proposal, condominium corporations would be required to send out three different types of information certificates to owners:

1. A "periodic information certificate" (PIC) to be sent to owners twice in a corporation's fiscal year, namely within 30 days of the end of the first fiscal quarter and 30 days of the end of the third fiscal quarter.

2. A "information certificate update" (ICU) to be sent to owners when certain events trigger the need for an update, for example, when there is a change in the directors on the board.

3. A "new owner information certificate" (NOIC) that must be sent to all new owners of a condominium unit, containing information from the most recent PIC and ICU that was sent to owners.

Condominium corporations would be able to pass by-laws to require that a PIC or ICU be sent on a more frequent basis. A copy of the most recent PIC and any ICU would also need to be made available at the Annual General Meeting.

All three types of information certificates would have to be sent using a mandatory, standardized form developed by the Ministry of Government and Consumer Services and posted on the government's website.

Corporations would be allowed to distribute information certificates through a website, as long as a prescribed notice of online posting is sent to owners. Information certificates and notices of online posting would have to be sent to owners using the allowed communication methods set out in s. 47 of the Condominium Act.

Some of the information that must be included in the PIC is based on information that must already be included in the status certificates that are typically provided to purchasers (see s. 76 of the Condominium Act).

Condominium corporations that have fewer than 25 units and have held a turnover meeting under s. 43 of the Condominium Act can exempt themselves from the information certificate requirements for any given fiscal year, provided that the owners of 80% of the units agree by way of consent.

See in particular proposed ss. 11.1 to 11.5 and 12.1 of O. Reg. 48/01 for more detail.

It is anticipated that the information certificate provisions would come into force on July 1, 2017.

2. "Periodic Information Certificate" ("PIC")

A PIC would be required to contain all of the information listed below if applicable. The information in the PIC would need to be current as of the last day of the quarter before it is sent out (either the last day of the first or the third fiscal quarter, as the case may be).

1. The four status certificate items that clause 26.3 (a) of the Condominium Act refers to, namely:

    a. the address for service of the corporation (see para. 2 of the current status certificate form);
    b. the names and address for service of the directors and officers of the corporation (see para. 4 of the current status certificate form);
    c. a statement of all outstanding judgments against the corporation and the status of all legal actions to which the corporation is a party (see para. 18 and 19 of the current status certificate form); and
    d. a certificate or memorandum of insurance for each of the corporation's current insurance policies (see para. 33(d) of the current status certificate form).

2. Name and address for service of the condominium management provider or the condominium manager, or any other person responsible for the management of the property.

3. Any physical address or electronic method of communication that the board has decided can be used to receive records requests, and any method of electronic communication that can be used to deliver copies of records to requesters.

4. A statement identifying any director in office who:

    a. is a party to any legal action that the condominium corporation is also a party to;

    b. was a party to a legal action that resulted in a judgment against the corporation and the judgment is outstanding; or

    c. has common expense contributions that are in arrears for 60 days or more.

5. The total number of leased units for which the corporation has received notice of during the current fiscal year under s. 83 of the Condominium Act (similar to para. 24 of the current status certificate form).

6. The financial implications of all outstanding judgements against the corporation.

7. The financial implications of the legal actions to which a corporation is a party.

8. If an insurance policy maintained by the condominium corporation has a deductible, then a statement describing the deductible and the maximum amount of the deductible that could be added to the common expenses payable for an owner's unit under section 105 of the act.

9. Identifying any required insurance policy that the corporation fails to obtain or maintain (similar to para. 26 of the current status certificate form).

10. If the corporation has passed a by-law that establishes what a standard unit is, then a statement identifying the number of the by-law.

11. A copy of any disclosures made by directors under the new disclosure requirements (see part II.A. of this summary).

12. A copy of the corporation's budget for the current fiscal year and a copy of all amendments, if any, made to that budget.

13. A statement whether the budget of the corporation may result in a surplus or deficit and the amount of the projected surplus or deficit (information from para. 9 of the status certificate).

14. Additional financial information:

    a. the balance of the reserve fund (information from para. 13 of the status certificate);
    b. the annual contribution to be made to the reserve fund for the remainder of the current fiscal year(information from para. 15 of the status certificate);
    c. the anticipated expenditures to be made from the reserve fund for the remainder of the current fiscal year; and
    d. if the board has proposed a plan to increase contributions to the reserve fund.

15. The status of any outstanding claim for payment out of the guarantee fund under the Ontario New Home Warranties Plan Act by an owner (information from para. 21 of the status certificate).

16. A statement of whether the condominium corporation failed to comply with its obligations relating to paying the annual fee to the condominium authority under s. 1.30(6) of the Condominium Act or filing a return under Part II.1 of the Condominium Act.

17. A copy of any compliance order issued by the Registrar that has been made against a condominium corporation. See s. 134.1(9) of the Condominium Act.

18. The corporation's by-laws may require that additional information be included in the PIC.

See in particular proposed s. 11.1 of O. Reg. 48/01 for more detail.

3. "Information Certificate Update" ("ICU")

These are the events that would trigger an ICU.

1. Any change in address for service of the corporation or the directors and officers, or any change in the directors or officers. This ICU would need to be sent within 15 days of the change.

2. Any change in the name and address for service of the condominium management provider or the condominium manager, or any other person responsible for the management of the property. This ICU would need to be sent within 15 days of the change.

3. Any change in the address or methods for receiving records requests or communicating about records requests. This ICU would need to be sent within 15 days of the change.

4. Any change to the deductible clause or the maximum amount that could be added to the common expenses payable for an owner's unit under s. 105 of the Condominium Act (dealing with insurance deductibles). This ICU would need to be sent within 15 days of when the corporation became aware of the change.

5. Termination of any insurance policy that the corporation is obligated to maintain. This ICU would need to be sent as soon as reasonably possible after the day the corporation became aware of the termination and, in any event, no later than 15 days after that day.

6. When a vacancy arises in the condominium board and there are not enough directors remaining in office to constitute a quorum, then a statement of that fact and the number of vacancies on the board, as well as a request that each individual who intends to be a candidate for election to the board notify the board in writing. This ICU would need to be sent within 5 days of losing quorum, and the candidate's information must be delivered to the board within 5 days after this ICU is sent by the board.

7. All other information relating to the corporation set out in a by-law. This ICU would need to be sent in the time period set out in the by-law.

See in particular proposed s. 11.2 of O. Reg. 48/01 for more detail.

4. "New Owner Information Certificate" ("NOIC")

The NOIC would need to be sent within 15 days of a new owner giving notice in writing to the corporation under ss. 46.1(2) of the Condominium Act.

The NOIC would need to contain the information listed below.

1. a copy of the most recent PIC;

2. a copy of the most recent ICU; and

3. all other materials set out in a by-law of the corporation.

See in particular proposed s. 11.3 of O. Reg. 48/01 for more detail.

5. Exemption for small corporations with consent of the owners

Under the proposal, a corporation would not be obligated to send out any of the information certificates for any given fiscal year if:

1. a turn over meeting under section 43 of the act has been held;
2. the corporation consist of fewer than 25 units; and
3. the owners of at least 80 per cent of the units consent in writing to dispense with the requirements to distribute the information certificates.

The exemption would apply only to information certificates required to be sent for the remainder of the fiscal year in which the consent of the owners of 80 per cent of the units is obtained. See in particular proposed s. 11.4 of O. Reg. 48/01 for more detail.

B. Record of Owners and Notice to Owners: Summary of Proposed Regulations Relating to s. 46.1 and 47 of the Condominium Act as amended by PCOA

1. Context and overview of the proposal

The PCOA amends the Condominium Act to: (1) create a new s. 46.1 dealing with a record of owners and mortgagees, and (2) replace the existing s. 47 with a new section dealing with delivery of notices to owners and mortgagees. Details regarding how the record of owners and mortgagees is created, and how owners and corporations can agree to communicate electronically, are to be set out in regulations.

This summary outlines proposed regulatory changes that would prescribe how a new owner or a mortgagee must give notice to the corporation that they are an owner or mortgagee, and the form in which owners and mortgagees can agree with corporations to receive notices electronically. The proposal would also clarify in certain cases how notices can be delivered electronically or non-electronically. The proposal also addresses how a corporation may rely on its existing record of owners and mortgagees once the related new Condominium Act amendments come into force.

2. Timing

It is anticipated that the new provisions relating to the record of owners and mortgagees, and the new provisions around agreements to communicate electronically, would come into force on July 1, 2017. If the condominium corporation already has a record for an owner and mortgagee under existing ss. 47(2) of the Condominium Act when the new regulations come into force, that record could be deemed to contain a record of the owner’s address for service under the new clause 46.1(3)(b). See in particular proposed ss. 12.4 and 12.6 of O. Reg. 48/01 for more detail. Changes or

updates to the existing records after July 1, 2017 would proceed under the new regulations.

3. Record of owners and mortgagees

a) Notice by new owners to the corporation

The amended Condominium Act requires owners to give notice in writing to the corporation setting out the owner's name and identifying the owner's unit, as soon as possible after becoming an owner and in any event no later than 30 days after becoming an owner. The corporation would then be obligated to maintain this information in the record of owners and mortgagees, along with information about the owner's address for service (if the owner provided one) and any agreement with the owner to receive notices electronically. See s. 46.1 of the Condominium Act for more detail.

Under the proposed regulatory changes, an owner would be able to identify her or his unit to the corporation in a number of different ways, including by (1) stating the unit's full address (if the unit is not a parking or storage unit), or (2) combining the unit number with a statement that clearly identifies the condominium corporation or property (if the unit is not a parking or storage unit), or (3) using legal descriptions of the unit. For more detail on the different ways that owners would be able to identify their unit in their notice to the corporation, including parking and storage units, see in particular proposed s. 12.3 of O. Reg. 48/01 for more detail.

Owners in a common elements condominium property would be required to identify their common interest in the property (since there are no units in a common elements condominium property). The common interest could be identified in a number of different ways, including a statement identifying the full address of the owner's parcel of tied land that attaches to the common interest, and describing the condominium plan, property or corporation. For more detail on the different ways that owners would be able to identify their common interest in a common elements condominium, see in particular proposed s. 12.3 of O. Reg. 48/01 for more detail.

Owners who are obligated to give notice to the corporation under the above proposals would be able to make use of an optional form that would be made available on the Government of Ontario website.

If an owner also wishes to identify an address for service to be included in the record of owners, the address would need to be one that is in Ontario and that is capable of receiving prepaid mail (for example, it could not be a parking spot or storage space).

If a corporation already has a record for an owner under the existing ss. 47(2) of the Condominium Act when the new regulations come into force, and the record contains the information required by the new regulations, the owner would not be obligated to give an additional notice to the corporation.

See in particular proposed s. 12.3 of O. Reg. 48/01 for more detail.

b) Notice by first owner upon registration

The first owners of a condominium property's units immediately after the condominium is registered (typically the developer) would also be required to identify all of the units in the property using a combination of full addresses and legal descriptions. Similar regulations would apply for first owners of the common interests in a common elements corporation. For more detail on how first owners would be required to identify their units, see in particular proposed s. 12.3 of O. Reg. 48/01 for more detail.

c) Notice by mortgagees

The amended Condominium Act also gives mortgagees a right to be included in the corporation's record of owners and mortgagees in certain cases. Under the proposal, mortgagees would be able to identify a unit that is subject to a mortgage in a number of different ways, similar to how owners would be able to identify units.

Mortgagees who give notice to the corporation under the above proposals would also be able to make use of a non-mandatory form that's made available on the Government of Ontario website.

If a corporation already has a record for a mortgagee under the existing ss. 47(2) of the Condominium Act when the new regulations come into force, and the record contains the information required by the new regulations, the mortgagee would not be obligated to give an additional notice to the corporation.

See in particular proposed s. 12.5 of O. Reg. 48/01 for more detail.

4. Agreements to communicate electronically

Under the amended Condominium Act, corporations can send notices to an owner or mortgagee using a method of electronic communication (for example, email) if the owner or mortgagee agrees to that method of delivery. Information about the agreement would also be maintained in the record of owners and mortgagees. See the new clauses 46.1(3)(d) and (e) and the new ss. 47(4)-(6) and of the Condominium Act for more detail.

Under the proposed regulations, the agreement to electronic delivery could be contained in one or more communications between the corporation and the owner or mortgagee, and would need to include:

1. the name of the owner or mortgagee;
2. a statement of a method of electronic communication that the condominium board has decided to use for sending notices; and
3. a statement indicating that the owner or mortgagee agrees that using this method of electronic communication would be sufficient service.

Owners and mortgagees would also be able to make use of an optional form for their agreement to electronic delivery that is made available on the Government of Ontario website.

Under the proposal, an agreement to electronic delivery would not need to be in writing. However, in that case, the owner or mortgagee would still need to give written notice of the agreement to the corporation (see clauses 46.1(3)(d)-(e) of the Condominium Act), and that written notice would be required to include a statement indicating that the owner or mortgagee agrees that using the electronic delivery method would be sufficient service.

The expressions “electronic communication” and “electronic email” would be defined in such a way to ensure that recipients would be able to view, store, retrieve, and print the contents of the communication. The proposed definition is:

“electronic communication” and “electronic mail” mean a communication that,

a) is transmitted in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for transmission similar to those means;

b) enables the recipient to view, store, retrieve and print;

    i) the contents of the communication;

    ii) the contents of any documents included in the communication; and

    iii) the contents of any links in the communication, including any links to external documents; and

c) clearly identifies,

    i) each document mentioned in clause (b); and

ii) each separate electronic file, if any, of which the document consists.

See in particular proposed ss. 1(2) and 12.7 of O. Reg. 48/01 for more detail.

5. Non-electronic delivery

The proposed regulations would also set out what “delivered” means for purposes of clause 47(4)(d) of the Condominium Act, which allows notices to be delivered (in certain cases) to an owner’s unit or the mailbox for the unit. For the purpose of clause 47 (4) (d) of the Condominium Act, a notice is sufficiently delivered if it is:

a. sent by prepaid mail to an address for the unit or the mail box for the unit that is capable of receiving prepaid mail;

b. sent by courier delivery to an address for the unit or the mailbox for the unit that is capable of receiving courier delivery; or

c. deposited in the mailbox for the unit.

See in particular proposed s. 12.7 of O. Reg. 48/01 for more detail.

II. Mandatory Disclosures and Training for Condominium Board Directors

A. Disclosures: Summary of Proposed Regulations Relating to clauses 29(1)(f) and 29(2)(f) of the Condominium Act as amended by PCOA

1. Context and overview of the proposal

The PCOA amends s. 29 of the Condominium Act, dealing with qualifications and disqualification for condominium corporation directors. This includes new requirements that, among other things: (1) directors and candidates for director positions make certain disclosures, and (2) directors complete mandatory training. Details about these new requirements are to be set out in regulations.

This summary outlines proposed regulatory changes that would prescribe mandatory disclosures for both directors and candidates for director positions, including who must make the disclosures, and when and how they must be made. The proposal also sets out a framework for the training that directors would be required to take.

2. Disclosure obligations for candidates for director positions

a) Timing and process

It is anticipated that the new disclosure regulations for candidates for director positions would come into force on July 1, 2017. However, the new regulations would only apply to candidates in elections that are held 40 days or more after the new s. 29 of the Condominium Act comes into force, and for which a notice of meeting was not sent before the in-force date. This would allow for the new candidate disclosure regulations to come into effect at the same time as the regulations regarding the new preliminary notice and notice of meeting procedures come into effect.

The disclosure process for candidates would make use of the proposed new procedures for information certificate updates, preliminary notices of meeting, and notices of meeting. If a preliminary notice of meeting announces an election for a director position, and a person responds to the notice by indicating her or his intention to be a candidate in the election, the person would also be required to submit a statement containing the required disclosure information (if any). That information would then be distributed to owners with the notice of meeting, in advance of the election. Candidates would be required to disclose the required information at the meeting where the election is taking place if they did not identify their candidacy or make the required disclosures in advance. Candidates who wish to be appointed to a vacant board position, by a majority of the remaining board members where a quorum of the board remains, would need to make the required disclosures directly to the board in advance of the appointment. Directors appointed by a developer or elected by owners to the first board (the pre-turnover board that is controlled by the developer) would be exempt from the candidate disclosure requirement.

The disclosure process for candidates would be different in cases when there are not enough directors remaining in office to constitute a quorum. In those cases no preliminary notice of meeting would be sent to owners; instead, the corporation would be obligated to send an information certificate update (ICU) to owners requesting that candidates submit their names to the board. When responding to the ICU, candidates would be required to submit a statement containing the required disclosure information (if any). That information would then be distributed to owners with the notice of meeting, in advance of the election. An owner would also be able call a meeting to fill the vacancies (pursuant to ss. 34(5) of the Condominium Act) if there are no directors left on the board or the remaining board does not call a meeting within 15 days of the board losing quorum, and no other owner has called a meeting. In that case the owner who chooses to call the meeting would be required to send out the notice of meeting using a special mandatory form for ss. 34(5) meetings. In either case, if candidates do not identify their candidacy in advance or an ICU is never issued, candidates would be

required to disclose the required information at the meeting where the election is taking place.

See in particular proposed ss. 11.2, 11.6, 11.9 to 11.11, 12.1 to 12.2, and 12.8 of O. Reg. 48/01 for more detail.

b) What candidates for director positions must disclose

The proposed regulations would require that candidates for director positions (excluding positions on the first developer-appointed board) disclose the information listed below.

1. If the candidate is a party to any active legal proceedings in which the corporation is also a party, together with a statement containing a brief and general description of the legal action.

2. If the spouse, child, or parent of the candidate, or the child or parent of the candidate's spouse, is a party to any legal proceedings involving the corporation, together with a statement containing the name of the spouse, child or parent and a brief and general description of the legal action.

3. If the candidate has been convicted of an offence under the Condominium Act or the regulations, within the past 10 years, together with a statement containing a brief and general description of the offence.

4. If the candidate has an interest in a contract or transaction that the corporation is also a party to, and the candidate's interest is not as a purchaser, mortgagee, or owner/occupier of a unit, then a statement of that fact and the nature and extent of this interest. (For reference, this obligation is similar to but not the same as the obligation in existing s. 40 (1) of the Condominium Act, dealing with disclosure of director interests).

5. If the contract or transaction that paragraph 4 applies to involves the purchase or sale of property by the corporation (as a buyer) or to the corporation (as a seller), that the seller acquired within 5 years before the date of the contract or transaction, then the candidate must provide a statement of the cost of the property (for reference, this obligation is similar to but not the same as the obligation in existing s. 40 (2) of the Condominium Act, dealing with disclosure of director interests in the purchase of property).

6. If the candidate has an interest in a contract or transaction, in a capacity other than as a purchaser, mortgagee, or owner/occupier or a unit, to which the developer or a developer's affiliate is a party as well, then the nature and extent of this interest.

7. If the candidate is a unit owner in the corporation and the candidate's common expense contributions are in arrears for 60 days or more.

8. Anything else a condominium corporation's by-laws require.

See in particular proposed ss. 11.6 and 11.9 of O. Reg. 48/01 for more detail.

3. Disclosure obligations for directors

a) Timing and process

Under the amended Condominium Act, once a person is elected to a position on the board, the person would be subject to ongoing disclosure requirements for the duration of the person's term. Failure to meet the disclosure requirements would immediately disqualify the person from being a director. See ss. 29(2)(f) of the amended Condominium Act.

It is anticipated that the new disclosure regulations for directors would come into force on July 1, 2017. For directors elected or appointed to their position before the disclosure regulations come into effect, the deadlines for disclosure to the board would typically begin on the in-force date. The disclosures would need to be made in writing to the condominium corporation's board. See in particular proposed ss. 11.9 and 11.10 of O. Reg. 48/01 for more detail.

b) What a director appointed or elected to a "first board" must disclose

If a director is appointed or elected to the first board under s. 42 of the Condominium Act, which is the developer-controlled board before a turnover meeting where control is transferred to the owners, then the director would need to disclose the following information:

1. If the director has been convicted of an offence under the Condominium Act or regulations within the previous 10 years;

2. All other information set out in a by-law of the corporation.

See in particular proposed s. 11.10 of O. Reg. 48/01 for more detail

c) What a director appointed or elected to a board that is not the "first board" must disclose

If a director is elected to a board that is not the first board (in other words, is elected to a post-turnover owner-controlled board), then the director would need to disclose the following information:

a. If the director's spouse, child, or parent, or the child or parent of the director's spouse, is a party to a legal action to which the corporation is also a party, together with a statement containing the name of the spouse, child or parent and a brief and general description of the legal action, unless those statements have already been disclosed as part of the mandatory disclosures for candidates.

b. If the director has been convicted of an offence under the Condominium Act or the regulations, within the past 10 years, together with a statement containing a brief and general description of the offence, unless those statements have already been disclosed as part of the mandatory disclosures for candidates.

c. If the director has an interest in a contract or transaction that the corporation is also a party to, and the director's interest is not as a purchaser, mortgagee, or owner/occupier or a unit, then a statement of that fact and the nature and extent of this interest (unless those statements have already been disclosed as part of the mandatory disclosures for candidates). This obligation is similar to but not the same as the obligation in existing s. 40 (1) of the Condominium Act, dealing with disclosure of director interests.

d. If the contract or transaction that paragraph c. applies to involves the purchase or sale of real or personal property by the corporation (as a buyer) or to the corporation (as a seller), that the seller acquired within 5 years before the date of the contract or transaction, then the director must provide a statement of the cost of the property. This obligation is similar to but not the same as the obligation in s. 40 (2) of the Condominium Act, dealing with disclosure of director interests in the purchase of property.

e. If the director has an interest in a contract or transaction, in a capacity other than as a purchaser, mortgagee, or owner/occupier or a unit, to which the developer or a developer's affiliate is a party to as well, then the director must provide a statement of this together with a statement of the nature and extent of the interest.

f. Anything else a condominium corporation's by-law requires.

See in particular proposed s. 11.10 of O. Reg. 48/01 for more detail.

B. Training: Summary of Proposed Regulations Relating to ss. 29(2)(e) of the Condominium Act as amended by PCOA

1. Who must take the training and when

It is anticipated that the provisions relating to director training would come into force on July 1, 2017. The proposed regulations would require that all directors complete the required training within 6 months of being elected or appointed to a board, if they are elected or appointed after the new training provisions come into force. Additionally, the obligation to take the course would only be triggered after July 1, 2017 if a course has in fact been designated. Directors would be required to retake the training if they are elected or appointed to the board again and have not completed the training within the past seven years.

Directors appointed by a developer or elected by owners to the first board (the pre-turnover board controlled by the developer) would be exempt from the training requirement, unless they are elected or appointed to the board on or after the turnover meeting.

See in particular proposed ss. 11.7 to 11.8 of O. Reg. 48/01 for more detail.

2. Developing the training content

The PCOA amends the Condominium Act to allow for a new condominium authority to administer some of the provisions of Condominium Act, including director training. The proposed regulations would authorize the condominium authority to develop the content of the training by designating the training course(s) that directors would need to take (it may also designate other organizations that are authorized to provide the training course). Once a course is designated, the authority would be required to communicate that fact on its website. You can find more information on the proposed new authority here. If there is no condominium authority, the Minister of Government and Consumer Services would be authorized to designate the training courses.

Directors would also have a right to be reimbursed by their condominium corporation for any costs directly incurred in taking the required course.

See in particular proposed ss. 11.7 to 11.8 of O. Reg. 48/01 for more detail.

3. Records relating to training

Within 15 days of receiving evidence of completion, the directors who completed the training would be required to send evidence of completion to all condominium corporations that they were directors of at the time of the training,

The condominium authority would be required to maintain adequate records relating to each person who has completed the training course, including:

a. the name of each person who has completed the training;

b. the name of each corporation in respect of which the person was a director at the time the person completed the training; and

c. the date the person completed the training.

The condominium authority would be required to allow a corporation to examine or obtain copies of these records with respect to the corporation's own directors.

See in particular proposed s. 11.8 of O. Reg. 48/01 for more detail.

III. Meetings and Voting

A. Preliminary Notices and Notices of Meeting: Summary of Proposed Regulations Relating to the new s. 45.1 and s. 47 of the Condominium Act as amended by PCOA

1. Context and overview

The PCOA amends the Condominium Act to create a new s. 45.1. This new section requires boards to send out a preliminary notice to owners in advance of a notice of meeting. Many of the details regarding the content of the preliminary notice are to be set out in regulations. The PCOA also amends the Condominium Act to create new regulation-making authority to require that certain information be included in the notice of meeting.

This summary outlines proposed regulatory changes that would prescribe the content of the preliminary notice and notice of meeting for specific types of owner meetings, the timing and process for submitting information about candidates for director positions (if the meeting is to elect a director), and the timing and process for owners to submit other material to the board to potentially be included in the notice of meeting.

The new preliminary notice and notice of meeting process would be facilitated by a mandatory form.

Directors or owners that call a meeting to fill vacancies when there are not enough directors to constitute quorum are exempted from the preliminary notice requirements. See section G. below for a summary of the proposed procedure for calling a meeting when there are not enough directors to constitute quorum.

2. Timing

It is anticipated that the new regulations for preliminary notices and notices of meeting would come into force on July 1, 2017. However, the new regulations would only apply to a meeting of owners that is held 40 days or more after the regulations come into force, and for which a notice of meeting was not sent before the in-force date.

Under the amended Condominium Act, a preliminary notice must be sent to owners at least 20 days in advance of a notice of meeting. The notice of meeting must in turn be sent at least 15 days in advance of a meeting of owners (see new clauses 47 (1) (b) and (c) of the Condominium Act.).

The amended Condominium Act also requires that the preliminary notice set out a deadline for owners to submit information to potentially be included in the subsequent notice of meeting. The proposed regulations would require that this deadline be set at least 15 days after the preliminary notice goes out and at least 1 day before the notice of meeting goes out.

See in particular proposed ss. 12.2 and 12.8 of O. Reg. 48/01 for more detail.

3. Requests for information about candidates and other meeting material

The proposed regulations would add detail (in addition to what is in the amended Condominium Act) about what information the preliminary notice should request that owners submit to the board in advance of the meeting, and whether that information must be included in the subsequent notice of meeting.

a) Information about candidates for director positions

If the meeting is to elect a director, the preliminary notice must request (among other things) that individuals interested in being candidates notify the board in writing of their intention to be candidates, their names, and their addresses (see s. 45.1 (1) (a) of the Condominium Act). The preliminary notice would also be required to include the text of s. 29(1) of the Condominium Act and the proposed regulation dealing with candidate

disclosures. The proposed regulation would require candidates to submit any required disclosures along with their notice of candidacy to the board. If a candidate notifies the board of their candidacy before the deadline identified in the preliminary notice (see Section B. above), then the candidate's information must be included in the notice of meeting. See section G. below for a summary of what would happen if the meeting is being held to elect a director under s. 34(4) or (5) of the Condominium Act, when there are not enough directors on the board to constitute quorum. See in particular proposed ss. 12.2 and 12.8 of O. Reg. 48/01 for more detail.

b) Information about candidates for auditor

If the meeting is to remove or appoint an auditor, the preliminary notice would need to provide that owners who wish to propose a candidate for auditor may notify the board in writing of the name and address of the candidate. If the information about the proposed candidate for auditor is submitted to the board before the deadline identified in the preliminary notice, then this information would need to be included in the notice of meeting. See in particular proposed ss. 12.2 and 12.8 of O. Reg. 48/01 for more detail.

c) Other material that owners wish to be included in the notice of meeting

Every preliminary notice must request that owners provide to the board any material they wish to include in the notice of meeting (see clause 45.1 (1) (b) of the Condominium Act) by a deadline identified in the preliminary notice (see Section B. above). The board would not be obligated to include the material in the notice of meeting, unless:

1) the submission is made on behalf of the owners of15 per cent of the units who also appear in the corporation's record of owners; and

2) the submission does not request to add anything to be presented at the meeting that is contrary to the Condominium or the regulations.

Such a submission made on behalf of the owners of 15 per cent of the units would be required to use a standardized government-approved form. See in particular proposed ss. 12.2 and 12.8 of O. Reg. 48/01 for more detail.

4. Content of preliminary notice

Under the proposal, a preliminary notice would need to be sent using a standardized, form. The form would be required to contain all of the information listed below (where relevant to the specific meeting being called). Some of the information identified below would be in the form of a standardized statement embedded into the mandatory form.

1. Statement about the purpose of the preliminary notice (and the fact that a subsequent notice of meeting will be sent).

2. The purpose of the meeting. This would include a statement of the nature of the business to be presented at a requisitioned meeting under the current ss. 46(2) of the Condominium Act, and a statement of the purpose of any proposed changes to the declaration, description, by-law, rules or agreements that will be discussed at the meeting.

3. The projected date of the meeting.

4. The deadline for submitting information or material to potentially be included in the notice of meeting, discussed in Section B. above, and how and where to submit the information or material. This would include standardized statements about what the board is and is not required to ultimately include in the notice of meeting, as discussed in Part III above.

5. If the meeting is to elect a director, then:

    a. the number of persons of which the board consists;

    b. the number of positions on the board for election at the meeting;

    c. the number of positions that are reserved for voting by owners of owner-occupied units;

    d. the term of each director who may be elected at the meeting; and

    e. a copy of the text from section 29(1) of the Condominium Act and the draft regulation dealing with disclosure obligations for candidates.

6. If the meeting is about the removal or appointment of an auditor, then information that owners who wish to propose a candidate for auditor may notify the board in writing of the name and address of the candidate.

7. If the meeting is to vote on a proposed addition, alteration, or improvement to the common elements, a substantial change in the assets of the corporation, or a substantial change in a service that the corporation provides, then information about the proposed addition, alteration, improvement, or change, its cost, and how the corporation proposes to pay for it.

8. If the meeting is about an amalgamation under ss. 120 (2) of the Condominium Act, then a copy of the certificate as to the status for each amalgamating corporation and a statement of the municipal address or mailing address of each amalgamating corporation.

9. All other material set out in a by-law of the corporation.

See in particular proposed s. 12.2 of O. Reg. 48/01 for more detail.

5. Content of notice of meeting

Under the proposal, a notice of meeting would need to be sent using a standardized, form. The form would be required to contain all of the information listed below (where relevant to the specific meeting being called). Some of the information identified below would be in the form of a standardized statement embedded into the mandatory form.

1. Information about the quorum required for the meeting, and a statement about who may count towards quorum.
2. A statement of the manner in which an owner may be present at the meeting (and may vote at the meeting.
3. If the meeting is to elect one or more directors, then the following:
    a. a statement of the number of persons of which the board consists;
    b. a statement of the number of positions on the board for election at the meeting;
    c. a statement of the number of positions, if any, that are reserved for voting by owners of owner-occupied units;
    d. a statement of the term of each director who may be elected at the meeting;
    e. the name and address of each individual who provided notice to the board in accordance with the request in the preliminary notice to notify the board of their intention to be a candidate for election;
    f. the name and address of each individual who provided notice to the board in response to a request in an information certificate update, where there are not enough directors remaining to constitute a quorum (see part I.A.3. above);
    g. a copy of the statements or information provided to the board in accordance with the proposed regulation dealing with director disclosures; and
    h. a copy of the text of subsection 29 (1) of the act and the proposed regulation dealing with director disclosures.

4. If the meeting is about the removal or appointment of an auditor, then the name and address of each person who is presented as a candidate in accordance with the request in the preliminary notice.

5. If the meeting is to vote on a proposed addition, alteration, or improvement to the common elements, a substantial change in the assets of the corporation, or a substantial change in a service that the corporation provides, then information about the proposed addition, alteration, improvement, or change, its cost, and how the corporation proposes to pay for it.

6. Any material that owners proposed to include in the notice in response to the request in the preliminary notice, and that the board chose to or was required to include (in accordance with the process set out in Section C.3. above).

7. All other material set out in a by-law of the corporation.

See in particular proposed s. 12.8 of O. Reg. 48/01 for more detail.

6. Notice by the first board

The proposal would require that all declarations contain deemed provisions obligating developers to notify the first board regarding when a threshold number of units have been or are anticipated to be transferred to owners. This is related to the first board's obligation under the Condominium Act to call a meeting of owners. See in particular proposed s. 6.1 of O. Reg. 48/01 and ss. 42 and 43 of the Condominium Act for more detail.

7. Notice of meeting when there is no quorum on the board

If there are not enough directors remaining in office to constitute a quorum and the remaining directors would be required to send an information certificate update (ICU) asking candidates to identify themselves to the board (see part I.A.3.). The remaining directors would then send out a notice of meeting as described above, which would include the candidate information.

An owner would also be able call a meeting to fill the vacancies (pursuant to ss. 34(5) of the Condominium Act) if there are no directors left on the board or the remaining directors do not constitute a quorum and do not call a meeting within 15 days of the board losing quorum, and no other owner has called a meeting. The owner would be required to send out a notice of meeting using a particular mandatory form for s. 34(5) meetings. The notice would be distributed using either the record of owners and mortgages (obtained through a request for records under s. 55 of the Condominium Act)

or by delivering the notice personally to owners or to owners' units or the mailboxes for the units. The meeting would need to be held within 15 days of the notice going out. In this case, candidates for the vacancies would only be required to provide any necessary disclosures at the meeting (see Part III above for more detail on disclosures).

See in particular proposed ss. 11.2, 11.11, 12.2, and 12.8 of O. Reg. 48/01 for more detail.

8. Timing of preliminary notice for requisitioned meetings

The current regulatory proposal anticipates that the new s. 46 of the amended Condominium Act would not come into force during the first phase of implementation of the PCOA. That means that existing s. 46 of the Condominium Act (un-amended by the PCOA) would continue to be in force. The proposed regulations would create a transitional rule requiring that the preliminary notice be sent only 15 days in advance of the notice of meeting, rather than 20 days, in the case of a meeting called pursuant to a requisition. This would give the board up to 5 days to prepare the preliminary notice of meeting after the board receives the requisition.

See in particular proposed s. 67 of O. Reg. 48/01 for more detail.

B. Quorum and Voting: Summary of Proposed Regulations Relating to new ss. 35(5), 50 (1.1) and 52 of the Condominium Act as amended by PCOA

1. Context and overview

The PCOA amends the Condominium Act to lower the quorum requirements for certain mandatory meetings, create new regulations for how condominium corporations can hold votes, require a mandatory form for proxies, and provide greater flexibility for board meetings .

This summary outlines proposed regulatory changes that would expand the types of meetings that the new d quorum requirements would apply to, clarify new regulations around voting, prescribe new mandatory proxy forms, and set out what communications systems boards can use to hold board meetings.

2. Quorum

Under the new ss. 50 (1.1) of the Condominium Act, quorum at turnover meetings and annual general meetings would be reached with:

a. 25% of owners at the first and second attempts to hold the meeting; or

b. 15% of owners at the third attempt and any subsequent attempts.

The proposed regulatory changes would apply the above new quorum determination to any other meeting to elect one or more directors and any meeting to appoint a new auditor, in addition to turnover meetings and annual general meetings.

It is anticipated that the new quorum regulations would come into force on July 1, 2017. However, the new regulations would only apply to a meeting of owners that is held 40 days or more after the new ss. 50(1) of the Condominium Act comes into force, and for which a notice of meeting was not sent before the in-force date.

See in particular proposed s. 12.9 of O. Reg. 48/01 for more detail.

3. Voting

In addition to the new voting-related provisions in the amended Condominium Act (see ss. 51 (1) of the amended Condominium Act), the proposed regulatory changes would provide that all condominium corporations in the province would have a standard by-law provision providing that no person voting by ballot or by proxy, through an instrument appointing a proxy, or through telephonic or electronic means, would be required to identify her or his name, or the unit in respect of which the vote was cast. Only a board described in the new ss. 11(8) of the Condominium Act would be able to amend or repeal this standard by-law provision.

The proposal would also clarify that a “recorded vote” mentioned in s. 52(2) of the Condominium Act refers to any of the voting methods in clause 52(1)(b) of the Condominium Act.

See in particular proposed ss. 12.10 and 14.1 of O. Reg. 48/01 for more detail.

It is anticipated that these new voting regulations would come into force on July 1, 2017.

4. Proxies

The proposal would create new mandatory proxy forms. It is anticipated that the new proxy regulations would come into force on July 1, 2017. However, the new regulations would only apply to a meeting of owners that is held 40 days or more after the regulations come into force, and for which a notice of meeting was not sent before the in-force date. See in particular proposed s. 13 of O. Reg. 48/01 for more detail.

5. Board meetings

The proposal would allow boards to hold meetings using teleconference or any other communication system that allows for transmission in digital or electronic form (or similar means), as long as it allows the directors to communicate concurrently. It is anticipated that these new regulations for board meetings would come into force on July 1, 2017. See in particular proposed s. 11.12 of O. Reg. 48/01 for more detail.

C. By-law voting thresholds: Summary of Proposed Regulations Relating to ss. 56(10) of the Condominium Act as amended by PCOA

1. Context and overview

The new clause 56 (10) (a) of the amended Condominium Act allows regulations to set different voting thresholds for owners to confirm by-law changes. Absent a specific provision in the regulation, the threshold would be the owners of a majority of the units of the corporation.

The proposed regulations would lower the required by-law voting threshold for specific matters. For these specific matters, the by-law voting threshold would be a majority of the votes cast by owners at the meeting in accordance with subsection s. 52 (1).

This lower voting threshold would apply to the by-law matters listed below.

1. To add information to be included in a periodic information certificate, an information certificate update or a new owner information certificate.
2. To specify more frequent time periods for sending a periodic information certificate.
3. To specify additional disclosure obligations under subsection 29 (1) (f) and 29 (2) (f) of the Condominium Act, and any related time periods for those additional obligations.
4. To govern the manner in which required information is presented at a meeting of owners, and identifying additional material to place before the owners at the meeting.
5. To govern the manner in which an individual may notify the board under clause 45.1 (1) (a) of the act, and the manner in which an owner may provide material to the board under clause 45.1 (1) (b) of the act.

6. To govern additional materials that are to be included in a preliminary notice or notice of meeting sent by the condominium corporation.
7. To specify the method of electronic communication the condominium corporation can use in relation to communication by the corporation under the Condominium Act and the accompanying regulations.
8. To govern the manner in which an owner may be present at a meeting of owners or represented by proxy.
9. To allow for voting by telephonic or electronic means under s. 52(1)(b)(iii) of the Condominium Act.
10. To specify additional records that must be maintained and to increase required retention periods.

See in particular proposed ss. 14(0.1) and (2) of O. Reg. 48/01 for more detail.

IV. Record Retention and Access: Summary of Proposed Regulations Relating to the new s. 55 of the *Condominium Act* as amended by PCOA

A. Context and overview

The PCOA amends s.55 of the Condominium Act to create new regulation-making authority to allow for new regulations regarding record retention and access.

This summary outlines proposed regulatory changes that would prescribe how long certain types of records must be kept for, the ways in which they may be kept, and new procedures for how owners, mortgagees, and purchasers (or their duly authorized agents) can access a corporation's records.

B. Timing of proposal

It is anticipated that the new regulations for record retention and access would come into force in the fall of 2017. The new regulations regarding access to records would only apply to requests for access made after the in-force date.

C. Retention Periods

1. Two primary retention periods

The proposed regulations identify specific types of records that a corporation must keep in addition to those records identified in s. 55(1) of the Condominium Act. The proposal also provides for minimum retention periods for each type of record. The proposal relies on two primary retention periods:

1) a default 7 year minimum retention period for financial records and other operating records of the corporation; and

2) an unlimited retention period for fundamental corporation documents, including current or unexpired versions of agreements and insurance policies.

The chart at the end of this Part contains a list of specific record types the corporation would be required to retain and the corresponding retention period proposed for each. For more detail on retention periods, including the start dates for counting the retention period, see in particular proposed s. 13.1.

2. Minimum retention for proxies, ballots, and unspecified records

In addition to the two primary retention periods mentioned above, proxy instruments, ballots, and recorded votes from meetings of owners would need to be kept for a minimum of 90 days from the date of the meeting. For records that a corporation maintains but that are not specifically identified in the proposed regulations, the corporation would be required to keep them for whatever period the board determines is necessary for the corporation to perform its objects and duties or to exercise its powers. See in particular proposed s. 13.1 of O. Reg. 48/01 for more detail.

3. Extensions of the minimum retention periods

In certain cases, the minimum retention period would be extended.

If the corporation receives written notice of actual or contemplated litigation relating to proxy instruments or ballots, and the corporation still has those records, the records would have to be kept until the dispute is abandoned or finally resolved.

If records are subject to a request for access from an owner, mortgagee or purchaser, and the corporation still has those records, those records would not be able to be destroyed until the request is abandoned or finally resolved.

See in particular proposed s. 13.1 of O. Reg. 48/01 for more detail.

D. Method of Retention

The proposal sets out frameworks for how a corporation should maintain the records it keeps to help ensure ease of access by owners and others, whether in paper or electronic format.

1) Electronic records: Electronic records would need to be kept in a manner that is capable of reproducing the record in an intelligible form within a reasonable time. The system would need to use reasonable methods to protect against unauthorized access (e.g., password-based access), and would need reasonable protection against loss of the information (e.g., use of back-ups).

2) Paper records: The condominium corporation would need to store paper records on the condominium property, or at another location the board determines will enable it to carry out its duties with respect to records, is an appropriate location for record storage, and is reasonably close to the property.

See in particular proposed s. 13.2 of O. Reg. 48/01 for more detail.

E. Access to Records

The proposal would mandate the use of standardized forms for record requests and a corporation's responses to requests, set mandatory timelines for a corporation's response including expedited access to certain "core" records, and put limits on the fees that corporations could charge for record requests.

1. Purpose of record requests

The proposal would provide that a request for access to records by an owner, mortgagee, or purchaser must be solely related to that person's interests as an owner, a purchaser or a mortgagee of a unit, having regard to the purposes of the Condominium Act.

While requesters would be required to declare that their request is solely related to their interest as an owner, a purchaser or a mortgagee of a unit, they would not be required to tell the corporation the purpose of their request.

See in particular proposed s. 13.3 of O. Reg. 48/01 for more detail.

2. Overview of process for accessing records

The proposed process for accessing a corporation's records would proceed in four main steps: (1) Request, (2) Board's Response, (3) Requester's Response, and (4) Access and Accounting. Steps 1, 2, and 3 would be facilitated by the use of mandatory, standardized forms.

1) Request: The requester would be required to send a request to a corporation using a standardized form, identifying the records being sought and how the requester prefers to access them (e.g., delivered by email or in hard copy, or examined in person).

2) Board's Response: The board of the corporation would be required to the requester within 15 days using a standardized form, containing an itemized estimate of the cost, if any, of providing access to each set of records requested, and identifying any records or portions of records that will not be disclosed and the reasons for not disclosing them.

3) Requester's Response: The requester would be able to send back the standardized board's response form to the corporation confirming which records she or he wants, along with payment of the estimated cost if any.

4) Access and Accounting: The corporation would be required to provide access to the requester, along with an accounting of the actual costs incurred in providing the access.

The timing for steps 3 and 4 (Requester's Response, and Access and Accounting), and the costs associated with the request, would depend on whether the request is for "core" or non-"core" records. See sections E.3. and 4. below for a summary of the differences between accessing core and non-core records.

Although corporations would be able to charge costs for providing access to records within the limits summarized in section E.5. below, they would not be obligated to. Additionally, corporations and requesters would be able to agree to skip any or all of the above steps (and they would be able to make use of a standard non-mandatory form that would allow requesters to confirm that they waive their rights to the above steps).

See in particular proposed ss. 13.3 to 13.7 of O. Reg. 48/01 for more detail.

3. Core records and the process for accessing them

The proposal would give requesters the right to access core records on an expedited basis at a reduced cost. Core records would include:

1) current versions of the declaration, by-laws, rules and shared facilities or mutual use agreements;

2) the current fiscal year budget and any amendments;

3) The most recent financial statements approved by the corporation's board and the most recent auditor's report presented to the board (or to the audit committee, if any);

4) the record of owners and mortgagees (under the new ss. 46.1(3) of the Condominium Act);

5) the record of notices relating to units that are leased (under s. 83 of the Condominium Act);

6) information certificates (under s. 26.3 of the Condominium Act) that were sent or required to be sent to owners within the 12 month period preceding the records request;

7) minutes from any owner or board meetings held after the proposed new regulations come into force and within the 12 month period preceding the records request;

8) the most recent reserve fund study plan (under ss. 94 (8) of the Condominium Act); and

9) any other record that a by-law specifies as a core record.

The timing and costs for core records would differ depending on the form in which the requester agrees to have the records delivered.

a) Request for electronic delivery: If the requester requests or agrees to obtain copies of core records in electronic form, the corporation would not be able to charge for providing the records (although the corporation could still choose to deliver the records to the requester in paper form, if they are not already kept in electronic form). The corporation would need to deliver the records within 15 days of receiving the request for records. This means that the record would be delivered at the same time as the board's response.

b) Request for paper delivery: If the requester does not agree to delivery of records in electronic form, then the corporation would only be able to charge for copying/printing costs. The paper copies would need to be delivered or made available for pick up within 7 days of the corporation receiving the requester's

response along with payment of the estimated allowable copying cost (step 3 of the process).

c) Request for examination in person: If the requester asks to examine core records in person, then the corporation would only be able to charge labour costs for examination, and copying and printing costs. The records would need to be made available for examination within 7 days of the corporation receiving the requester's response along with payment of the estimated allowable costs (step 3 of the process). The requester would also be able to agree to electronic delivery as a form of examination, if the records are kept in electronic format. In that case, paragraph a) above would apply.

Any allowable printing/copying and labour costs would be limited as described in section E.5. below.

See in particular proposed ss. 1, 13.3, 13.4, and 13.6 of O. Reg. 48/01 for more detail.

4. Process for accessing non-core records

For non-core records, the same four steps described in s. E.2. above would apply (request for records, board's response, requester's response, and Access and Accounting). The corporation would be obligated to provide access to the records within 30 days of receiving the requester's response from the requester, along with the requester's payment of the estimated allowable costs. Costs would be limited as summarized in the section E.5. below. See in particular proposed ss. 13.3, 13.5, and 13.7 of O. Reg. 48/01 for more detail.

5. Limits on the cost of providing access

Corporations would be able to charge costs for providing access to records within the limits summarized below, but would not be obligated to charge these full amounts. Note that requests for core records are subject to additional limits on allowable costs. See above section E.3. about accessing core records.

Printing/Copying costs: For printing/photocopying costs, the corporation would be able to charge a maximum 20 cents per page. The proposal would also make clear that if the requester wishes to examine records (rather than obtain copies), and the records are maintained in electronic form, the requester could accept delivery in electronic form (rather than examine them in person), or pay to have them printed or copied for examination or delivery.

Labour and delivery costs: The corporation would only be able to charge a fee for labour or for delivery of the records if the fee is reasonable and will reimburse the corporation for the actual costs incurred by the corporation in providing access to records.

Accounting: If the actual cost is more than the estimated cost that the requester paid (when the requester submitted the requester's response), the requester would be obligated to pay the amount of the difference to the corporation, but only up to 10 per cent above the estimate. If the actual cost is less than the estimate, the corporation would reimburse the requester for the full difference.

See in particular proposed ss. 13.3 and 13.8 of O. Reg. 48/01 for more detail.

6. Delivery and communication

The proposal would set default regulations for where records could be delivered and how corporations and requesters could communicate about the records request, but requesters and corporations would be free to agree to communicate in other ways. Some of the proposed default regulations are summarized in this section.

Requests would be sent to the address for service for the corporation or the corporation's manager, or at another address that the corporation's board designates for receiving record requests (for example, an email address). Any address for receiving record requests would need to be included in the proposed information certificates sent to owners. See part I.A. above.

The standardized request form would allow requesters to specify a delivery option for the records regardless of any agreements under the new clauses 47(4)(c) or (5)(c) of the Condominium Act to receive notices electronically. The corporation would not be obligated to provide records in electronic form if those records were not maintained in electronic form.

Communications from the corporation to the requester about the records request would proceed pursuant to the new ss. 47(4) and (5) of the Condominium Act, or in another way the corporation and requester agree on.

When providing records electronically or in paper copy in response to a request, each record would need to be separately identified by the corporation.

See in particular proposed ss. 13.3 to 13.9 of O. Reg. 48/01 for more detail.

7. Abandonment

Requests for records would be deemed to be abandoned under two scenarios.

1) If within 60 days of receiving the board's response, the requester does not return the requester's response or start an application at the Condominium Authority Tribunal (if the Tribunal has been set up to receive disputes related to records requests) or in court (if the Tribunal is not established).

2) If within 6 months of submitting the initial request, the requester does not start an application at the Condominium Authority Tribunal (if the Tribunal has been set up to receive disputes related to records requests) or in court (if the Tribunal is not established).

See in particular proposed s. 13.10 of O. Reg. 48/01 for more detail.

F. Exemptions from Access

Subsections 55(4) and (6) of the Condominium Act identify records that may or must be withheld from access.

The proposal provides that although records relating to specific units or owners cannot be disclosed (pursuant to ss. 55(4)(c) and (6)(c) of the Condominium Act), this would not apply to records relating to persons in their capacity as directors or officers of a corporation, including disclosures under s. 29 of the Condominium Act and the related regulatory proposals.

The proposal provides that requesters would not have a right to access the email addresses (or other methods of electronic communication) agreed to by owners or mortgagees for the purposes of receiving notices from the corporation, unless those owners or mortgagees agree to such access.

The proposal provides that requesters would not have a right to access reports or opinions from lawyers or licensed paralegals to the corporation with respect to specific units, owners, or purchasers or mortgagees of a unit (or communications in respect of the report or opinion). Requesters would also not have a right to access any portion of a ballot or proxy form that identifies specific units in a corporation or owners in a corporation (unless a by-law provides otherwise).

See in particular proposed s. 13.11 of O. Reg. 48/01 for more detail.

G. Penalty for non-compliance

For the purposes of the new ss. 55(8) of the Condominium Act, a corporation that, without reasonable excuse, does not permit an owner, a purchaser, or a mortgagee of a unit or an agent of one of them (who is duly authorized in writing) to examine or to

obtain copies of records under the new s. 55 of the Condominium Act, would be subject to a penalty up to a maximum of $5,000.

H. Access to records by managers

The new ss. 55 (2.2) of the Condominium Act gives condominium managers or management providers the right to access a corporation's records that they reasonably require, subject to procedures set out in the regulations. The regulatory changes would set out a process for condominium managers or management providers to access a corporation's records, and put certain limits on that access, subject to any agreements between the corporation and the manager or management provider.

If a manager or management provider is entitled to a corporation's records pursuant to an agreement to provide management services to the corporation, the proposal would require the corporation to provide those records in the manner set out in the management services agreement.

If a manager or management provider requires a corporation's records in order to comply with the Condominium Management Services Act, 2015 or the regulations made under it, then the proposal would require the corporation to provide those records in accordance with the procedures set out in the proposed regulations, subject to any processes or other requirements set out in the agreement between the corporation and the manager or management provider.

If a provider or manager no longer has a management services agreement with the corporation, the corporation would be able to withhold certain records from the manager or provider, including records relating to actual or contemplated litigation, reports or opinions of lawyers relating to the manager or provider, or records relating to other managers or providers. The corporation would also be obligated to withhold certain records from the manager or provider, including records relating to employees and to specific units or owners.

Disputes about access to records by a manager under s. 55(2.2) of the Condominium Act would be submitted to mediation and arbitration in accordance with clauses 132 (1) (a) and (b) of the Condominium Act.

See in particular proposed s. 13.12 of O. Reg. 48/01 for more detail.

I. Retention Chart

The chart below summarizes the proposal for specific record types a corporation must keep and the minimum retention periods for each. See in particular proposed s. 13.1,

13.4, and 13.6 of O. Reg. 48/01 for more detail, including details regarding when retention periods begin.

Type of record	Retention period
• Proxies, ballots, and other recorded votes	90 days (unless a challenge is made)
• Financial records • Condominium authority returns and notices • Expired agreements and policies • Inspector reports • Employee records • Records relating to specific unit owners (correspondence, maintenance records, unit liens, etc.) • Status certificates • Expired warranties • Section 97 or 98 modifications • Appraisals • Director disclosures and training records • Concluded insurance claims/investigations • Past or concluded litigation records • Reports of architects, engineers and other professionals • Records relating to a claim affecting land	May be destroyed after 7 years (unless subject to an ongoing records request)
• Current or ongoing versions of: o Declaration, by-laws, rules o Agreements and insurance policies o Record of owners; record of leases o Warranties o Records relating to litigations and insurance claims/investigations	Cannot be destroyed

Type of record	Retention period
• Meeting minutes • Drawings and plans • Turnover documents • Performance audits • Reserve fund studies and plans	
• All other records that a corporation is required to maintain under s. 55 of the Condominium Act	A period that a board determines is necessary for the corporation to perform its objects and duties or to exercise its powers

V. Transition

The proposed regulations also include transitional rules for certain provisions of the amended Condominium Act that we anticipate would come into force on July 1, 2017. See in particular proposed ss. 67 to 77 of O. Reg. 48/01 for more detail.