

Condominium Living – The Legalities

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Living in a condominium unit is not the same as living in a “house”. Why? The legalities of both are different and unique. Let’s explore eight (8) condominium legalities that owners or prospective owners need to know and understand.

1. What You Buy Affects Your Future

When you buy a non-condominium residence, you own the land and everything built on the land. You are responsible for the land and everything built on the land. You make all the decisions affecting your property. You set all the time lines. Your home is your castle, subject to the provincial and city laws and your neighbours’ complaints.

When you buy a condominium unit, you own property and share ownership of property with your neighbours. You also become part of the business and part of the community called condominium. It is not a rental situation or otherwise “carefree” lifestyle, where you call the landlord if the fridge or furnace doesn’t work. As a property owner, you continue to have obligations and costs.

Each part of condominium – property, business and community - brings responsibilities, obligations and rights for the owners. Your home is still your castle, but there are different rules, obligations and financial burdens. Most decisions are made by and the timelines set by the community or its elected government – the board.

2. The Law – all condominium units and condominium owners are governed by and must abide by the Condominium Property Act and Regulation, adopted by the provincial Legislature. Every province has its own legislation, although many provisions are similar across Canada. Owners cannot change the law or ignore it, but they can exceed the minimum provisions in the legislation.

Alberta’s legislation is built on two principles: consumer protection and self-policing. This means a purchaser or owner is entitled to a lot of information but there is no government agency that investigates or enforces the legislation. Owners must be their own police – using arbitration, mediation, court and other enforcement agencies to aid them.

3. The principles of condominium – every condominium complex has its own bylaws and its own personality. All operate on the principles of democracy, like a city or municipality – owners elect a board who runs the condominium corporation between annual meetings. The board is similar to a city/town council – setting the budget and condominium contributions, collecting the

money, determining how and when to spend the money, and reporting to the owners annually. Everyone must follow the bylaws, but the owners can change the bylaws if enough want a change. The required majority for different decisions in condominium varies with the topic and who is voting.

4. *The Property* – The property you alone own may include land, or buildings, or only airspace within a building. Check the condominium plan and the unit title to find out. Property boundaries affect your rights and obligations, including future costs. There may be parts of the common property only you can use even if you don't own them (exclusive use areas), for example, the balcony on a high rise suite or the driveway on a townhouse or a yard outside the front or back door.

The condition of the property becomes critical to maintaining or enhancing property value. The law requires condominium corporations to establish a reserve fund to set aside money to maintain the common property. How much money is required and when is shown in the mandatory reserve fund study report – which must be renewed every five (5) years. Just as a home inspection will tell you about the condition of a house, the reserve fund study report will tell you about the condition of the condominium common property. If the condominium unit is new, there should also be a warranty. Finally, what property you own affects what insurance you have to obtain and what is insured by the condominium corporation.

5. *The rules* – The rights and restrictions unique to a particular condominium complex/community are contained in the condominium bylaws. Bylaws are registered at Land Titles Office and are available to anyone for a fee. Owners need to know about things like– pets, parking, running a business, satellite dishes, posting signs, flying a flag, barbeques, cutting the grass, noise, etc. The bylaws set out things like: when the board passes the budget, the fiscal year, the number of directors and their qualifications and term. Bylaws impose limits on the board as well as on owners. The Condominium Property Act and Regulation also apply and cannot be changed or ignored by owners. Owners do have the ability to change the bylaws for their corporation, thus creating their own community rules.

6. *The finances* – Owners know about mortgages rates and payments. However, they also need to know the financial health of the condominium corporation and what owners contribute to the common expenses or operational costs of the condominium corporation through condominium contributions or fees. The financial statements of the condominium corporation, the value of the reserve fund account, the amount of the current condominium fees, information on future condominium fees and special assessments, and the status of any arrears on the unit are only some of the information available to owners. Minutes of board meetings and general meetings will help owners learn about the financial stewardship by the elected board of directors. An

estoppel certificate ensures owners only pay for their condominium fees, not those of the previous owner.

7. *The people* – yes the location, the price and the unit each have desirable features for owners. But who are the neighbors and therefore the business partners? As owners they also have a right to participate and exercise their rights, as well as the obligation to pay their share and to meet their obligations. Not all owners would or are happy working with certain other owners in the condominium's business and socializing with them as neighbors. To get a pulse on the people, speak to the condominium manager or president of the board. Read minutes of past general meetings and board meetings to see what type of issues arise and how they are handled. Attending owner's meetings is very informative. Serving on the board is even more enlightening and can also help to share the load. Different owners have and bring different skills, experience and perspectives, but one owner alone should not be a dictator.

8. *Your limits* – prospective purchasers should investigate the condominium they like before purchasing. Most often we check out the property and our own finances, but rarely look at the condominium as a business or community. An informed buyer is a prepared buyer who will become an informed and active owner. Get legal advice before you remove the conditions on your offer to purchase. Once the conditions on your offer to purchase are removed, you cannot back out. Get a home inspection. Pay for a document review by a professional agency. Buy into a condominium that fits your own limits – finances, perspectives, tolerances, uses, etc – this increases the chances of you having a successful condominium experience.

Rights and Responsibilities of Owners

1. As a unit owner, rights and responsibilities include:
 - the right and responsibility to vote in matters presented to the owners for vote
 - the right of access to common areas, subject to the bylaws
 - the right to obtain information on the management or administration of the corporation
 - the responsibility to inform themselves about the Act, the by-laws and the governance of the condominium corporation
 - the responsibility to participate in governing the condominium corporation – meaning to attend general meetings, and serve on the board or on a committee
 - the right to call the first owners' meeting if the developer does not
 - the responsibility to maintain their own unit and any parts of the common property to which they have exclusive use
 - the responsibility to abide by the Act and the by-laws and to have their family, tenants and guests do so

- the responsibility to pay all condominium contributions and assessments on time.
 - the responsibility to insure their unit and its contents
 - the right to use mediation, arbitration or court action to resolve disputes with the corporation, the board or other owners.
 - the right to challenge improper conduct of a developer, condominium corporation, employee of a corporation, director or other owner using a court process.
2. Responsible owners should have a copy of the condominium plan, the by-laws and the Act and Regulation. Owners can get a copy of the condominium plan and by-laws at any registry office by knowing the seven-digit condominium plan number. In addition, they should know the names of the directors and contact numbers for the directors or the condominium manager, if there is one. (all available from the Board or from Land Titles office).
 3. Owners have a right and responsibility to read the corporation's newsletter, the minutes of the general meetings and board meetings, if available, and the budget and financial statements.
 4. Owners have the right and responsibility to attend the general meetings and to vote. They should express their views and provide input to the Board when requested. They should inform themselves before they vote, rather than second guessing every decision the Board makes or wanting to be consulted on every decision the Board makes. Owners should stand for election on the Board, so that everyone learns and shares the load.
 5. Owners should put any complaints or concerns in writing to the board so it can follow up. They should attempt to resolve matters themselves using mediation or negotiation, rather than waiting for the Board to do it all.
 6. Owners are responsible to obtain insurance on their unit and own belongings.
Owners should become a part of the community of the condominium complex in which they own a unit!

Owners can expect the Board to give them notice before entering a unit to repair common property.

Prospective buyers will expect condominium owners to have more information readily available to provide to the realtor and buyer.

"It's your hard earned money. Know what you're buying when you buy."

For more information on condominium matters, check the following resources:

Canadian Mortgage & Housing Corporation

<http://www.cmhc.ca/>

Condominium Buyer=s Guide

(Can be downloaded 42 pages or can call (1.800.668.2642 to obtain a copy)

Canadian Condominium Institute National

<http://cci.ca/>

(Links to other Chapters as well as Condominium Related Resource Information)

Canadian Condominium Institute North Alberta

<https://cci.geniepad.com/>

(Links to other Chapters as well as Condominium Related Websites and listing of available Resource Material for purchase.)

Metro Community College

<http://www.metrocontinuingeducation.ca/>

(Course on The Condominium Lifestyle: Legal Aspects (0042656)

Condo Check (Bernie Winter)

<http://www.condo-check.com/>

Checking Documents

§ 10 secrets to Surviving Life In a Condominium

(can be ordered through website – prices Ebook \$15.00, 1 book \$19.97, for handling & mailing \$3.95 for the 1st book)

Alberta New Home Warranty Program

<http://www.anhwp.com/>

The Way Home: Your New Home Buying Condominium Guide

(Can be downloaded - 112 pages or can be picked from locations indicated on website)

Condominium Diagnostics

<http://www.condodiagnostics.com/>

ΔThe Original Condominium Checklist Book 2005 edition (19.95 + GST)

Office of the Information and Privacy Commissioner

<https://www.oipc.ab.ca/>

Government Tip Sheet – Buying & Owning a Condominium

§ http://www.servicealberta.gov.ab.ca/Consumer_Info.cfm

Dispute Resolution

• www.highclouds.ca

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