

PUBLICATION

Temporary Relief to Protect Condominium Dwellers

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It's nice to have the opportunity to impart some good news for a change. We must confess that even after all these years we continue to be impressed with what stakeholders in Condominiums can accomplish when push comes to shove.

On April 9, 2020 Nate Glubish, the Minister of Service Alberta, issued a [Ministerial Order](#) under the authority given to him under the *Public Health Act*. Minister Glubish, recognizing that adhering to the strict timelines found under the *Condominium Property Act* (the "Act") and Regulations thereto was not necessarily in the best interest of the members of the Condominium Corporation, temporarily amended certain provisions of the Act.

To assist you we have taken the liberty of highlighting a few of the amendments. Of course you all know that we love to throw in our two cents, so we've also provided our commentary on those amendments.

Right of Entry - s. 24.1

The right to enter a Unit on notice but without the Owner's consent is limited such that you cannot enter unless expressly or impliedly invited if the occupant of the Unit or the person seeking entry is self-isolating, in quarantine or displaying symptoms consistent with COVID-19 or has tested positive for COVID-19.

Comment: This doesn't impact the Condominium Corporation's right to enter in the case of emergency (i.e. flood), but at this time, and for the foreseeable future, Condominium Corporations should be suspending all in Unit inspections unless ordered by law to proceed. Those fan coil units are just going to have to wait a wee bit longer.

Annual General Meeting ("AGM") - s. 30 and Turnover Meeting - s. 29(1)

The obligation of the Board to convene the first AGM within 12 months of plan registration, and thereafter annually no more than 15 months after the last AGM is on hold, though the Corporation isn't precluded from holding a virtual AGM. The same applies to developer turnover meetings.

Comment: Though the Act previously allowed a Board Member to attend a Board Meeting, there was never any mention of holding an AGM in the same fashion. Therefore this is a new addition to the Act. While the

Act now appears to allow for virtual AGMs, the question is whether you should conduct your business in this fashion. Do your Bylaws have provisions speaking to how such a meeting would be handled?

Our opinion remains that unless you have urgent business to conduct, or unless you are an extremely small Corporation (i.e. twelve units or less) the Corporation is better off waiting until the restrictions on social gatherings have been lifted. While a virtual AGM might be permitted, the addition to the *Act* hasn't addressed the issues that arise in holding your meeting in this fashion such as accessibility (not all have remote access) and voting.

Special General Meetings ("SGM") - s. 30.1

The obligation of the Board to convene an SGM upon receipt of a requisition in writing by at least 15% of the total unit factors for all Units has been suspended.

Comment: If the Condominium Corporation receives a requisition in writing to convene an SGM they need not comply at this time. Note, though, that the ability of the Board to convene an SGM under its own volition still exists, but keep in mind that even though they can they likely shouldn't unless there truly is urgent business to be conducted.

5-year Review (Reserve Funds) - s. 30 Regulation

The requirement that the Corporation update its Reserve Fund Study, Report and Plan, and thereafter provide a copy to the Owners within 5 years of the last Plan being approved is suspended.

Comment: While the Condominium Corporation has an extension in terms of obtaining its Reserve Fund Study, Report and Plan, if this was undertaken and obtained prior to the pandemic then it still ought to be circulated to the Owners, though electronic only at this time would be for the best. Furthermore, if it is possible to proceed with the Reserve Fund Study, Report, and Plan, we suggest that you carefully consider why you would wait. The pandemic has not put the aging process of our buildings on hold, and the legislation does not tell us that we cannot proceed - only that we do not have to proceed.

Please note that the above are only highlights of the temporary amendments to the *Condominium Property Act*. There are further amendments that might be relevant to your project. We encourage you to take the time to review the [Ministerial Order](#).

As with all of the content provided on our website and through social media, this update is for general information. It is not intended to be construed as formal legal advice under retainer or to be relied upon as advice for any particular purpose by any person or organization.

If you have questions about your condominium property, we can help. Call one of our lawyers in our [Condominium Law group](#) — we're here to assist you.

Stay safe and healthy everyone!