



New Rules Regarding Access to Records

By Joel Berkovitz



The ability of unit owners to access records may be the area most affected by the legislative changes. Up until now, the process by which owners requested and obtained (or were denied!) access to records has been unregulated. The legislative changes introduce new procedures, terms and forms. The following is a high level overview of these changes, but rest assured we could fill five articles with discussion just about records!

Here is what you need to know about an owner's ability to access records:

1. Records are now defined as either "core records" or "non-core" records. Core records are fundamental docu-

ments such as the declaration, bylaws, rules, financial statements, meeting minutes, and prescribed notices. If unit owners request electronic copies of core records, the records must be provided to owners free of charge within 15 days. Condominium corporations have more time to respond to requests for non-core records (all records that are not core records).

2. Condominiums can charge for the cost of producing non-core records and for making copies of core records, but can only charge for actual costs incurred to the corporation. Labour costs must be reasonable, and copying/printing costs cannot exceed \$0.20 per page.

3. A new procedure for requesting records is being introduced. A formal records request must be submitted to

the board, the board will have to issue a response indicating what they will or won't provide and the estimated cost of production, and the requester would then send (another) response confirming which records they want and paying the cost.

Each of these steps will use a prescribed form. The timing for the board to respond, and the costs which the corporation may charge to the owner, will depend on whether the record is a core record or non-core record. A request is deemed abandoned by an owner if they do not submit a response to the board's response within 60 days, or if they do not bring an application to the Condominium Authority Tribunal (CAT) within six months of their initial request.

4. Disputes regarding records can be brought before the new Condominium Authority Tribunal (CAT), with the goal of streamlining the dispute resolution process. The penalty for non-compliance with section 55 of the Act has been increased from \$500 to a maximum of \$5,000.

5. A minimum retention period for all records is being prescribed. Most operating and financial records must be retained for seven years, while fundamental documents (declaration, bylaws and rules, current agreements and insurance policies) must be retained indefinitely. Retention periods can be extended if the records are part of a litigation matter or a records request.

6. Records can now be stored either electronically or in hard copy. Electronic records will be acceptable as long as they can be reproduced and there is protection against their loss. Hard copy records must be kept in a location “reasonably close” to the condominium, or at the manager’s offices.

7. The changes identify records that a corporation does not have to

provide. Owners do not have a right to obtain the email addresses of other owners, opinions from legal counsel, and any portion of a ballot or proxy that identifies the owner or proxy-giver.

Now is a good time for condominiums to update the manner in which records are kept. We recommend that all core records be stored electronically so that they can be quickly and easily provided to unit owners. Condominiums should consider whether it makes sense to store records on an owner’s portal or closed website, which may enable corporations to bypass new procedures relating to the production of records.

This article appeared in the Shibley Righton newsletter and is reprinted with permission. ■

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Photography Guidelines

A picture tells a thousand words. And with more and more hobby photographers, iPhones, Androids and tablets, DSLRs and point and shoots, there should be no shortage of great story-telling images. Here are some guidelines to help you submit the best author’s head shot, condo balcony, lobby or interior image to support your article.

Specs

Images should be in colour and in jpeg format

Resolution should be 300 dpi

Image size should be approximately 8X10 in real size (2400X3000 pixels)

If you must use a cellphone, please ensure that there is sufficient light to take the photo. Steady yourself and your camera to minimize camera shake.

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