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A Message from the President

Dear Board of Directors,

Spring has certainly sprung and summer is just around the corner. The cooler days are becoming fewer, the sun is out longer, and the smell of spring blooms fill the air.

With most Spring maintenance tasks complete, and the buzz and anticipation of warm weather upon us, we would like to take this opportunity to wish you all a Happy Summer.

Sincerely,



Liron Daniels
President R.C.M., P.P.L., B.E.S.



LEGALIZING MARIJUANA - What it means for Ontario Condominiums

On June 19, 2018, in a vote of 52-29 the Senate passed Bill C-45, the federal government's *Cannabis Act* to legalize marijuana. The next step in the legislative process is for the Bill to receive Royal Assent to officially pass into law. Once the Bill receives Royal Assent the federal government is expected to declare the date that legalization will come into force.

The initial plan to have the legislation passed by in time for legalization by July 1, 2018, has been pushed back. **The new plan is for legalization to take place in the next 8 to 12 weeks to allow the provinces time to further prepare for the sale of recreational marijuana.**

As you may know, the purpose of the legislation is to legalize and regulate the marijuana market. Much of the framework around how legalized marijuana will be sold and used is up to the provincial and territorial governments. In Ontario, **residents will be able to grow up to four of their own plants and will be permitted to smoke on private property or in private residences but likely not on common elements of condominiums.**

In the Ontario condominium context this raises key questions for Boards in terms of how they may wish to regulate marijuana use and growing in their communities (subject, of course, to the finalized regulations). Our regular readers know that, in our view, if Boards wish to regulate these issues, the safest approach is to consider a rule or declaration amendment (see Jim Davidson's previous post on the topic [here](#)).

For those Boards that are considering regulating marijuana, now is likely a good time to finalize your rule or declaration amendment *before* marijuana is officially legalized. While this type of rule or declaration amendment can be completed at any time, doing so after marijuana is legalized *may* raise questions of whether certain owners that use marijuana recreationally must be grandfathered for a period of time.



THE NEW CONDO PROXY

In early May, the province of Ontario issued a new and improved version of the Condo Proxy Form. The information on this new form is re-organized and it offers more choices when delegating your proxy powers.

In simple terms, the condo proxy is a document allowing you to appoint someone to represent you at a meeting of owners. If, for instance, you cannot attend the Annual General Meeting (AGM), you can appoint someone else to attend for you.



The condo proxy has two purposes:

- Reaching quorum: Condos can only conduct business at an owners' meeting if they have quorum (25% of all owners must be present at the first attempt). By giving your proxy to someone, you will be counted towards quorum as if you were present
- Voting: Many issues are submitted to a vote of owners. Think of the election of directors, for instance. With a proxy, you can cast your vote or delegate to someone the decision to vote for you.

Who to pick as a proxy?

You can give your proxy to anyone who will be present at the meeting of owners. The proxy holder does not have to be an owner. It can be your tenant, a trusted neighbor, a friend or even someone on the board of directors. For instance, you could name the president of the board (or any other board member) to be your proxy. Pick someone you trust to represent you properly.

How to complete the proxy?

If you are going to give someone a proxy, you must use the Proxy Form issued by the Province. This is a prescribed form, which cannot be modified. It is crucially important you properly complete your proxy to avoid it being rejected at the meeting.

What to do with the proxy once it is completed?

Once complete, your proxy should be given to the individual you have chosen as your proxy holder (the person attending on your behalf). Alternatively, if you've completed all sections and have "locked in your vote", and not letting your proxy chose who to vote for, you can return the duly completed proxy to a trusted board member or to the corporation's manager. Proxies and ballots must be kept by the corporation for at least 90 days following the meeting or longer if an owner has advised of actual or contemplated litigation relating to the proxy.



Short-Term Stay & Hoteling

With the onset of businesses such as Airbnb, many corporations have been forced to turn their mind to the issue of short term stays.

Unit owners and tenants, unaware of the “Rules”, may advertise the use of their units on websites for short periods. For condos, many owners and boards have expressed concerns over the constant arrival and departure of short term visitors who feel no obligation to be good houseguests. There is also a general sentiment that short-term use of units detracts from a sense of neighbourliness and community that many unit owners desire.



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A new rule goes into effect July 1. Tenants in secondary suites, if it is their primary residence, will be allowed to list their homes on Airbnb subject to their lease or their obligations under provincial law.

Secondary suites – must have their own entrance, kitchen and bathroom – would not be allowed to be listed on Airbnb, unless there was a tenant listing the unit and it was the tenant's primary residence.

The rules would force Airbnb-type hosts to register with the city, pay a \$50 annual fee and keep records. Entire homes could not be rented out for more than 180 nights a year, but when the homeowner is present, there would be no limit for up to three rooms.

Online platforms such as Airbnb would have to pay a \$5,000 fee for a licence and a \$1-a-night tax for each booking. They would also have to ensure every listing on their platforms has a valid registration number.

Review Your Documents and Look For:

- Minimum lease terms (i.e. 6 months);
- Transient use prohibitions (i.e. short-term stays); and
- Explicit permissions to use units for short term stays.

If the Corporation’s Documents do not address short term stays, then Rules may be adopted to restrict or prohibit this type of use.

Remember: Rules must be consistent with the Declaration.



If short term stays are permitted in the Declaration, the Board may consider amending the declaration to prohibit this type of use. Speak to legal counsel to discuss how to handle those units who may currently use their units for short term stays

Advice Residents and Staff

The residents and staff are the eyes and ears of the building. Consider the following tips to assist with enforcement:

- Ensure that residents are familiar with the Corporation's documents
- Circulate the provisions that restrict or prohibit the use of units for short term stays.
- Notices should be sent to each resident or posted in elevators or on bulletin boards/websites reminding residents of the restrictions or prohibitions.
- Provide clear direction to residents as to what to do if a resident believes that units are being used for short term stays. ° For example, residents should be advised to immediately inform on-site security or email property management in the event they suspect that units are being used for short term stays. Residents should further be advised to document all observations including the date and conduct of the occupants.
- Security or concierge should be directed to be mindful of the issue. If visitors to a unit are coming and going from the building (especially with suitcases), security/concierge should log this conduct and/or attempt to converse with these individuals to determine if they live in the building or are just visiting.

GO Online

Go online to see if the unit is posted on one of the many websites that offer these services.

- airbnb.com • vrbo.com • kijiji.ca • roomorama.com • craigslist.ca • flipkey.com
- tripadvisor.ca • homeaway.ca

Document Your Steps

It is crucial to properly document all steps before turning the matter over to legal counsel.

- Gather incident reports and written or verbal complaints from owners.
- Obtain a copy of the advertisement from the website, which often contains a picture of the host (i.e. owner or tenant). Such documentation is compelling evidence that the unit is being used for short term stays.

Enforcement

Corporations should notify offenders of their non-compliance and demand that use of the unit for short-term stays cease immediately. Any evidence that is gathered will assist the condo manager and the board with enforcement. If the non-compliance by the owner or tenant continues, the



matter could be escalated to legal counsel where the complaints, advertisements or incident reports gathered will assist with effective and timely enforcement (and recovery of all legal fees).

Mandatory training for Condo Directors

Given this important role of a condominium director, as of November 1, 2017, the *Condominium Act, 1998* requires that all condominium board directors complete designated training courses within 6 months of being appointed, elected or re-elected to a board. Mandatory director training also applies to individuals who are elected, re-elected or appointed on or after November 1,



2017, unless they have already completed the training in the preceding seven years. The Condominium Authority of Ontario (CAO) is responsible for designating the training courses that directors must complete. The training is available to everyone, free of charge, and covers topics including director responsibilities and obligations.

If a director is elected, re-elected or appointed on or after November 1, 2017, and does not complete director training within 6 months, they immediately cease to be a director.

Training overview

The Condominium Director Training Program's

learning path consists of six parts, with each part addressing an important area of knowledge for condo board directors. There are a series of e-modules or courses in each part that cover specific topics. In total, there are 21 short e-modules that can be completed in any order and at any pace, if they are all completed within the six-month period following the director's appointment, election or re-election. Collectively, these online modules are the designated training.

Exceptions

Directors appointed by a developer or elected by owners to the pre-turnover board (that is controlled by the developer) are exempt from this training requirement. Once a turnover meeting has occurred, *the newly elected and/or appointed directors must complete the mandatory training.*



Certificate of completion

Once training is complete, you will receive a certificate of completion. Directors are required to provide a copy of their certificate to their condo board within 15 days of completing their training. We recommend you transmit the certificate to your condo board by email so that you have a record that the certificate was provided the certificate of completion can be printed, downloaded, and shared electronically.

REMEDIATING HOARDED UNITS

A hoarded unit can contain a mix of garbage, including rotten food items, wet garbage, soiled clothing, furniture, paper and items that may have been retrieved from the trash. The environment becomes an optimal breeding ground for bacteria, mold and pests that enjoy a safe home and constant supply of moisture and food. Items brought in from the trash by the hoarder can contain bedbugs and other pests that can rapidly infest the unit.



A previously hoarded condo unit can look like a bit of a disaster after the trash and unwanted items are cleared out. Carpets are generally soiled beyond repair and a majority of surfaces stained or ruined. Windows that have been left shut for years can be stuck shut. Appliances are often broken and smell of rotten food. Cupboard doors are often broken and vanities can be ruined. There can be plumbing issues, including dripping taps, toilets that have been left to run on and plugged drains. The air quality in the unit is often poor because of mold and bacteria growth.

Previously hoarded unit will require an extreme clean before tradespeople will agree to go in to repair problems. The unit will likely have to be stripped of all carpeting and appliances will most likely have to be partially dismantled to be cleaned properly or discarded. All surfaces, including hard furniture and windows, will typically require a thorough clean. A thorough clean of the entire unit should remove surface mold and kill the bacteria. Killing the bacteria and mold will create a fresh-smelling environment. At this point, the unit should be ready for repairs, renovation or re-decorating, depending on the extent of the damage.

Exterminators may have to be called in to deal with pest issues. Unfortunately, pests from the hoarded unit may have infiltrated common areas or surrounding units. The units surrounding the



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hoarded unit may have to be treated for pests. If mice were an issue, there could be issues with chewed wiring, which should be investigated.

Air quality in the unit may be a concern even after the unit is cleaned. Odours are caused by mold growing behind walls and under fixed cabinetry. It would be wise to have an air quality test performed at this point. If hidden mold is an issue, a mold remediation service may be brought in. Mold spores can spread and impact other areas of the condominium building. The HVAC system should be investigated to ensure filters are changed and the system is clean. Antibacterial spray can be applied inside ducts of forced air systems.

The goal of remediating a hoarded unit is to return it to a state that is safe for the resident and the condominium building. A previously hoarded unit can also be renovated to look like new at a further cost. The owner of the unit will have to decide whether he or she wants to invest in renovating the unit after it has been restored to a safe living environment.

NADLAN-HARRIS NEWS



Nadlan-Harris Property Management Inc. is happy to announce a recent addition to our portfolio.

We now proudly manage PCC No. 110 located at 1535 Lakeshore Road East, Mississauga, consisting of 190 units.



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PHOTOS

Nadlan Harris Team Seminar, June 5, 2018



A presentation by Jeff Rodin, President of Condo Insurance Solutions, and his team.

