



Home Health Solutions
CHANGE THE LANDSCAPE

The Elephant In the Room

The Alberta Condo Act

The Alberta Condominium Act, in its latest version of April 1, 2023, is online through the Alberta King's Printer and can be viewed online at no cost (if you view it in html). (kings-printer.alberta.ca). Its official Regulation is C-22 RSA 2000 and the Ministry Responsible is Service Alberta. The associated Regulations are 168/2000.

I'm sure most of you know of the "Act" and may have tried to read through it. It is complex, even for those of us who have tried to study its contents and make sense of its sections. The above version is the latest of many iterations that have been published and put into law over the years in Alberta and as you may have gathered was written by a bevy of lawyers.

I will tell you right up front that although it is THE document that determines all aspects of the condominium legal realm in Alberta in my humble opinion the Act has been primarily structured, revised and rewritten by government personnel with industry insiders – major land development firms, major land owners, property management firms, major residential building construction firms and private law firms specializing in the condominium market and directed to those who manage a condominium complex – namely, a condominium board.

Some of the members of this Facebook site know full well that Service Alberta leans heavily on the Canadian Condominium Institute and it's Alberta Chapters (CCI) for input to the "Act" when updates are being considered. I, like Shelly McMillan in the group chat and several others, who have a tremendous amount of knowledge and experience on condo issues, have closely observed the operations of the CCI and its educational materials. **THE CCI, ITS STAFF, BOARD AND PRESENTERS ARE PRIMARILY ASSOCIATED WITH THE CONDO MARKETPLACE – IE. CONDOMINIUM MANAGERS, CONSTRUCTION REPS SPECIALIZING IN CONDOS, CONDO RETROFIT COMPANIES, MECHANICAL CONTRACTORS, RESERVE FUND SPECIALISTS AND PROMINENT CONDOMINIUM LEGAL FIRMS.**

Much of the written information and seminars materials appear to be structured with considerations for a condominium's board of directors and how they can best manage a condo complex. I have yet to discover any educational material on the other side of the spectrum – condo owners who have a significant issue in their complex or a disagreement with their board

I will be forthright with respect to my opinions in this section with regards to the Act and its application in the condominium environment. First, some sections of the Act are clearly straight forward and hard to debate and I'll address some of these briefly. Other sections are as clear as mud and can be interpreted in different way and often are by condo boards and their lawyers.

So, let's take a view of the Act in some detail (at least those elements that are of day-to-day importance):

First, there are a couple of different condominium units. The biggest and most problematic are of course multi-unit complexes (apartment style) that may comprise one or more buildings all under the same condominium plan. In this case, owners or renters reside in a building or buildings usually of multiple floors with units adjacent, above and below each other with common areas such as hallways, foyers, games rooms, a gym, garbage room, stairwells and perhaps a parkade – underground or above ground. Usually, there is a patio or balcony attached to each unit that is for the "exclusive use of the owner/renter" but is controlled by the board of directors of the condominium. Parking can be defined in a number ways, units can own one or more parking spaces with relevant unit factors, parking stalls can be rented or rented out, handicap spots must be designated for owner or guest usage and guest parking spots are administered by the board.



The other major condominium arrangement is a “bare land condominium” which is generally a single or attached individual home that is within a defined and designated condominium complex. Often there are 15 to 30 condo homes, many being duplexes. Generally, the home owner is responsible for the interior maintenance/repair of their homes and the board maintains, roof systems, exterior doors/windows, driveways, landscaping, fences, and snow clearing. Condominium fees for these condo projects are generally low and may be suspect in the long run as they usually assume snow clearing, grass cutting, condo interior roads and landscaping are the major maintenance issues. However, this can be highly deceiving as part of the average 30 year cycles for any residential structure must into account – roof replacements of each unit (colour and type of roof must match) about every 15 to 18 years, windows and door usually are due for replacement every 15 to 20 years along with garage doors, and comes from condo reserve funds.

And, condo owners in a bare land condominium are responsible for mechanical system replacements or upgrades including heating (hot air furnaces, baseboard heating, hot water tanks, air conditioning units, plumbing, water ingress or flooding issues, interior

maintenance and repair just as you would in a home you may have owned.

Getting back to apartment style condo complexes.

All condominium plans for your particular situation are registered with “Alberta Land Titles” and fully available online at a small cost. They include – who is officially on the board of your condo (updated with each change in board members), who owns (titled) each unit in your building and who is on title, survey plans of the surface of your complex including exterior walls, interior common walls, surface parking and walkways, parkade entrances, garbage room(s), stairwells, mechanical rooms, social rooms, foyers, exterior doors. The surveyed plans are by condo corp Plan Number (eg, - 072 ####), condo corporation owner/name eg, (Sask. Ave. Condominiums) date registered, Lot number and surveyed Plan Number.

You can purchase through Land Titles the plans for the surface layout, the layout of each floor with the official unit numbers, the layout of any underground parkade with unit numbers. On those plans will be:

- | | | | |
|---|---|---|--|
| 1 | the registered unit number of each condominium unit in your complex. | 3 | the unit factors (out of 10,000) for each condo unit and each parking space. |
| 2 | the unit number of each owned parking space or stall within your complex. | 4 | the area in sq. m. of each condo unit and each parking space/stall. |

This is very important information for those who wish to know the breakdown of unit factors for each condo and parking stall for the purposes of condominium fees per unit and taxation.

A Condo Unit

A unit refers to the interior walls of your owned condo and is defined by the interior walls, floors, ceilings, interior doors in your comdo as described in your condominium plan (interior walls refer to the finished surface – drywall, concrete, painted surfaces and finishes and floors refer to concrete floor surfaces, wood floors under the finishes (carpet, hardwood, vinyl tile). Each condo unit will have a specific “unit factor”, which is a fraction of the total 10,000 unit factors for each condominium complex. Importantly, all EXTERIOR WINDOWS AND DOORS AND PATIOS/BALCONIES are the

responsibility of the condo corp including repair and replacement. (We fought in correspondence with our Board for 6 months to get them to replace one of our ground floor main bedroom windows that we suspect was broken – from the outside by something thrown up by a lawnmower. Of course, what was critical was our citing of the exact wording of the appropriate section of the “Act.” Even then they said further replacements would be at our expense, which of course is blatantly false.)

Condo Plans and Documents

Of utmost importance is that you are made aware that all REGISTERED plans and documents of your condo complex are readily available at Alberta Land Titles for a small fee. You can get the plans and documents and the owner(s) of each unit online or by [going to Land Titles in person and obtaining paper and plan copies](#), which we did for about \$20.00.

You can also get a copy of the ownership details for each unit which

includes the name(s) on title and the unit factors associated with each owned unit or parking space. However, you must be aware that this can be pretty cost prohibitive if you want this information for every unit in your complex. If several of you in the complex are having problems with your board go together and get the info on each owner in the building. With that information, you will be even with the board in terms of writing to or explaining to other owners what common issues may be at stake.

THE BOARD OF DIRECTORS, OF COURSE, HAS ALL OF THIS INFORMATION FOR EVERY UNIT AND PARKING STALL WHICH MAKES IT EASY FOR THEM TO COLLECT PROXIES FOR THOSE NOT INTENDING TO GO TO AN ANNUAL GENERAL MEETING PUTTING THOSE WHO ATTEND AGMs AND MAY WISH TO GAIN A SEAT ON THE BOARD OR GET A MOTION PASSED AT A DISTINCT DISADVANTAGE!!

Right of Entry Section 24.1

Remember you own your condo unit and "no person may enter a unit without the consent of the owner of the unit or of an adult person lawfully on the premises that comprise the unit." A person can enter a unit if there is reasonable grounds to believe that there is an **"IMMEDIATE EMERGENCY"**. No one can enter a unit without consent but can do so if notice is served on the owner at least 24 hours before the time of entry. A notice must be in writing and the reason for entering specified.

Board of Directors

Section 28(1)

Every member of a board, in exercising the powers and performing the duties of the office of member of the board shall act **HONESTLY AND IN GOOD FAITH** and exercise **CARE, DILIGENCE AND SKILL**.

I would have to ask you at this point if you feel the above is being applied!!

As a member of the group, and the number of members is growing in leaps and bounds, I would guess you would not be on this site if you suspected the above is true.

This is where the rubber meets the road so to speak. For as long as I and others have been looking at the complaints of condo boards and condominium property managers in Alberta the distrust of the **HONESTY, INTEGRITY AND ETHICS** of many board members can make [condo living in Alberta](#) uncomfortable. How do we attack the problem – stay tuned as this educational series unwinds and hopefully leads to some focused efforts to correct.

Voting Rights Section 26(1)

The voting rights of the owner (the registered names on the deed) are determined by the unit factor. (We have a situation where a prominent owner and renowned oil engineer ran for our Board but was rejected as he had put his adult children on the ownership and the Board refused to let his name stand as his name was not there.)

Note: if at the time of an AGM you owe monies to the corporation as an owner you will not be allowed to vote and the board readily has that information.



Special General Meetings

Section 30.1 - A POTENTIAL STEP TO ADDRESS COMMON ISSUES

I'm going to skip over Annual General Meetings at this time to review the above.

Owners who are dissatisfied with the governance of a board of directors of their condo complex can call for a Special general meeting of the corporation if they obtain not less than 15% of the total unit factors for all the units. I'll use our condo complex as an example. Our board served notice of a Special Assessment which was going to cost owners between 6,000 and 14,000 per unit based on unit factors. A number owners approached me in tears as they just could not afford to fork out 14,000 dollars. (in fact, I believe one owner past aware from the stress). Our complex has 107 units and we knew we had to collect signature of about 25 owners (to make up a 15% unit factors) to get the Board to call a Special Meeting to discuss the Special Assessment. The Board was absolutely furious with me that I took this action but we met the quota going door to door and explaining our intent. I could not approach absent owners (rented units) and did not approach owners I had not met. Lucky for me I personally know about 50% of the owners in the building and felt comfortable approaching them at their door, discussing the issues and asking them to sign a petition for a Special Meeting. Our Board is extremely intimidating and by the time the Special Meeting was called and held offsite the Board had pretty well dissuaded many senior and absent owners and no one but us spoke to the issue but a couple of us.

We lost our effort to discuss the Special Assessment and I've come to realize that there is a cultural phenomenon in condominium complexes.

Condominium living for many is living in your "owned" apartment and little world without the worry for rent payments, lawn care, snow removal, mechanical systems, parking problems or building maintenance. In fact, you don't even have to speak to your next door neighbour or any one else in the complex if you so wish. Go about your business, go to work and come home, park your car, and enjoy the confines of your four walls and patio/deck. I see this every day and only about 30% of our buildings' owners/residents are sociable, friendly or even frequent the common areas of the building.

In other words, many couldn't care less about AGMs, the financials of the complex, the flow of communication from the board, the board's actions on issues, the physical upkeep of the building or the **COMPETENCY OF THE BOARD**. Each of us has to determine if there is enough interest in their own complexes for change that they will stand up, via signature and attendance, to try and effect a change of board members or address other issues via a Special Meeting or AGM.

Bylaws

Section 32(1)

We are all pretty familiar with a condo complexes bylaws and how they are administered. First of all, let me remind you that the Alberta Condo Act (the "Act") supercedes any bylaw and where a bylaw is contrary to a Section of the Act it should be a fairly easy fix to resolve as the Act takes precedence.

Certainly, adherence to bylaws should be a given but what if you unintentionally contravene a bylaw or you might be unaware of an obscure bylaw and violate it?

Is your board reasonable and humanistic? Will a member talk to you directly and professionally point you in the right direction and move on? Will they enforce it to the max and issue you a letter, a fine or otherwise threaten you?

Will you suddenly become ostracized and pointed out by board members?

You may think this foolish but I am a retired academic and my wife a retired business executive and we are toxic to the board. When we purchased some 10 years ago, it was late at night that we made the

offer and the seller's real estate agent had not given all access keys to our realtor. We did not have access to the basement parkade and thus could not see the purchase parking stall.

You think all realtors are honest, think again! When we finally got a fob for the parkade and found out 2 days later where are purchased parking stall was, well, it was a shock!!!! Our stall was beside the make up air unit to provide the underground parkade with fresh air and the 2 inch gas line feeding the air unit for the winter was 2 feet into the middle of our parking space making it unuseable. We hired a lawyer after months of fighting with the board who refused to move the gas line from our private parking stall. I eventually, with our lawyer being present at the scene, hired a mechanical contractor to move the gas line directly in line with the air unit thus freeing up the complete space we owned. Cost - \$2,000 for the lawyer and a \$1,000 from the contractor. Was this the right thing to do. NO! Costs should have been readily covered by the condo board but they would have fought me to Queen's Bench Court and there is no guarantee of success. Costs for our lawyer would have been \$15,000 to \$25,000 with no guarantee of success and the board used the condo fees to pay their board directed lawyer!

Highlights of Other Sections

There are 73 Sections to the Act, not including Appendices and it's not practical for our purposes to go through every one. I will try and highlight some important points.

The voting rights of the owner of a unit are determined by the unit factor for his unit.

The Board shall, once every year, convene an annual general meeting of the owners.

Bylaws regulate the corporation and provide for the control, management and administration of the units and the property.

Bylaws may be amended, repealed or replaced by a special resolution and only take effect when filed with Land Titles.

A corporation (the board) is responsible to keep the property in a state of good repair and maintained and to comply with notices or orders by any local authority.

A corporation must prepare an annual budget for administrative expenses, control and management of the common property, for insurance premiums, etc. and make a copy available at the start of the year to all owners. The corporation may recover from an owner by an action in debt any sum of money owing to the corporation.

We will address, in detail, bylaws, powers of the corporation and election to the board, duties of the board, general meetings and voting in a separate series article.

Understanding the Alberta Condominium Act is essential for all condo owners and board members. We encourage you to review the Act in detail and familiarize yourself with your rights and responsibilities.

Stay informed about the latest updates and actively participate in your condominium's governance. If you face issues or have concerns, consider leveraging the provisions in the Act to call for a special general meeting or seek legal advice. Engaged and informed owners are crucial for maintaining a fair and transparent condominium environment.

Stay tuned for our upcoming articles, where we will delve deeper into specific sections of the Act, including bylaws, board duties, general meetings, and voting rights. Together, we can ensure a better living experience for all condominium residents.