

Requirements under the *Condominium Property Act* of New Brunswick

The *Condominium Property Act* took effect on January 1, 2010. Three or four documents are required depending on the size of a Corporation.

In this document, "Act" refers to the *Condominium Property Act*, "Regulations" refers to Regulation 2009-169 of the *Condominium Property Act*, and "board" means the board of directors of a corporation and "Director" means the Director of Condominiums under the new Act.

New and existing Condominium Corporations

Under section 66 of the *Act*, a Condominium Corporation created before January 1, 2010, i.e. under the old *Condominium Property Act*, is continued as a corporation under this *Act*. No changes are required in the Declaration or By-Laws because of this new legislation. The *Act* would overrule them if the case arises.

Documents to submit to the Director:

1. A copy of the financial statement
2. A proof of insurance
3. A list of Directors using Form 9 of the Regulations 2009-169
4. A copy of a Reserve Fund Study if more than 10 units.

1. Financial statements

a. All Condominium Corporations:

Section 34 of the *Act* states that at least 10 days before the annual owners' meeting, a Condominium Corporation shall:

- i. Have financial statements prepared, in accordance with generally accepted accounting principles showing its assets and liabilities, its income and expenses and any other information prescribed by regulation. *Subsection 21* of the Regulation enumerates the minimum content of the statement.
- ii. Deliver a copy of the financial statements to each owner.
- iii. File a copy of the financial statements with the Director
- iv. The financial statements shall be approved by the board, as evidenced by the signature at the foot of the balance sheet by 2 of the directors duly authorized to sign.

b. **If a condominium property consists of more than 10 units,**

Section 36 of the *Act*, requires that a review of the financial statements shall be attached to the financial statements submitted to the Director. *Subsection 36(6)* outlines **who cannot be appointed** to review the financial statements, mainly if this person is an owner or a director, officer, employee or manager of the corporation

Section 22 of the *Regulations* outlines the classes of **persons qualified to review** the financial statements of a condominium corporation.

- i. A certified general accountants as defined in the *Certified General Accountants Act (CGA)*;
- ii. A registered members of the Society of Management Accountants of New Brunswick (CMA); and
- iii. A persons authorized to undertake the practice of a chartered accountant under the *Chartered Accountants Act 1998 (CA)*.

2. Proof of insurance (All Corporations)

Under *section 50* of the *Act*, the condominium corporation shall submit proof of insurance, to repair the units and common elements, proof of insurance each year in accordance with the *Regulations*.

Under *section 28* of the *Regulation*, the corporation shall submit proof of insurance to the Director **on the anniversary date of their insurance policy.**

The information that the proof of insurance must state is described in paragraph 28(5) of the *Regulation*. Proof of insurance shall be in either of the following forms:

- a) an insurance certificate indicating the name of the corporation, a coverage period of at least 12 months, a description of the coverage and the amount of coverage.

or

- b) a copy of the entire insurance policy.

This is not the individual owner's insurance but the master policy for the units and common elements.

3. List of Directors (all Condominium Corporations)

Under *section 27.1* of the *Act*, within 15 days after the appointment or election of a director to the Board, the condominium corporation shall submit, in a form prescribed by regulation, the name and address of the director to the Director of condominiums.

Subsection 35(3) of the *Regulations* state that the notice of directors or notice of change of directors shall be in **Form 9** of the *Regulations*.

Note: It *absolutely has to be on FORM 9 and signed by the person preparing it.*

4. Reserve fund study

ONLY Condominium properties with more than 10 units

Under *section 40* of the *Act*, if a condominium corporation consists of **more than 10** units, the corporation shall complete a reserve fund study every 10 years and shall submit the study in question to the Director no later than 30 days after it is completed.

Section 70 of the *Act* states that an existing condominium corporation shall have 5 years to prepare and file a reserve fund study after from January 1, 2010. For a new condominium corporation happening after that date the study is a requirement for approval of the project by the Director.

Section 23 of the *Regulations* outlines what the reserve fund study shall consist of and *section 25* of the *Regulations* list persons who can prepare and sign the reserve fund study.

André Benoit
Director of Condominiums
Land Registry
Service New-Brunswick

985 College Hill Road
Fredericton, NB
E3B 4J7

Tel : 1-888-621-9789

condo@snb.ca