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One Day, One Legislative Change at a Time

If there is one thing that has been consistent over the past year in the condominium industry, it is legislative change. It has permeated almost every aspect of how we build, work with and live in condominiums.

The legislative changes affecting condominiums are far more reaching than those addressed in the amendments to the *Condominium Act*, 1998. Despite this, many are still focused on trying to understand these significant amendments on a practical and manageable level.

This is clear from the number of self-managed condominiums who are overwhelmed and are looking for professional assistance for the first time, from the large amount of directors who have yet to take their mandatory training with the Condominium Authority of Ontario (CAO), from the number of questions that arise when using the new mandatory forms, and from the number

of property managers who have not yet renewed their licenses with the Condominium Managers Regulatory Authority of Ontario (CMRAO).

It has not been an easy transition for anyone and yet, the legislative roller coaster ride has continued, sometimes with changes taking place on an almost daily basis as was evident in the weeks leading up to the legalization of recreational cannabis on October 17, 2018.

With the June provincial election in Ontario resulting in a majority Progressive Conservative government, many of the legislative changes proposed by the previous Liberal government that impacted condominiums have been significantly revised, put on hold or scrapped altogether.

None are as important as the outstanding reforms to the *Condominium Act*, 1998, the fate of which remain unknown. With the current government

not yet advising of their position on the provisions that have yet to be proclaimed into force, they could proceed in essentially one of three ways: continue with the remainder of the changes as planned, re-evaluate the course of the changes, or do nothing. Regardless of which choice the government takes, it will, in all likelihood, result in even more upheaval for the condominium industry.

Further to the federal government taking steps to legalize recreational marijuana, the new Ontario government also made substantial changes to the cannabis legislation proposed by the previous government at the provincial level. This legislation ultimately came into force on October 17, 2018 as part of the modified *Smoke-Free Ontario Act*, 2017. Originally due to come into force on July 1, 2018 but put on hold by the government, this Act regulates the sale, supply, use, display and promotion of



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tobacco, cannabis and vapour products (i.e., e-cigarettes) and the smoking and vaping of medical cannabis.

The impact of this pending legislation on the condominium community was clear throughout the past several months as lawyers, managers and boards struggled to maintain a grasp on the evolving nature of the proposed laws while at the same time attempting to draft rules that reflected the requests of condo owners to adopt rules that restricted the consumption and growing of cannabis in their corporations.

Notably, other changes affecting condos were included in the *Smoke-Free Ontario Act*, 2017, and are only now being processed by those in the condominium industry, such as the prohibition of smoking in only “indoor common areas” in a condominium. Only time will tell as to their impact.

The new government was not done however. Just as many in the condominium industry were grappling with the looming cannabis legislation and as they were also taking the time to develop an understanding of changes made to the *Condominium Act*, 1998 Regulations with respect to electric vehicles, the Electric and Hydrogen Vehicle Incentive Program and the Electric Vehicle Charging Incentive Program were both cancelled as of July 11, 2018. As such, government incentives for the purchase of electric and hydrogen vehicles and electric vehicle charging stations are coming to an end.

Despite this, condominium managers are still left to determine how best

to address those residents who have purchased electric vehicles and the need to charge them. This includes the new processes mandated by the government in relation to the installation of electric vehicle charging stations in condominium buildings at the request of the corporation or an owner, as well as changes to the prescribed forms which require disclosure of proposed electric vehicle installations.

In order to understand these numerous legislative changes impacting condominiums and how best to implement them, managers are having to take it upon themselves to ensure they are educated and stay as up-to-date as possible. According to Victoria Phillips of HighPoint Property Management in London, they have found that one of the best ways to do this is to bring in professionals for “lunch and learns”. These give their managers and staff the opportunity for timely updates in a setting that promotes questions and discussion and does not impose a large time commitment on what are increasingly more demanding workdays.

Attending the numerous conferences available through ACO as well as those put on by the various CCI Chapters is also a great way for all of those working in or living in condominiums to stay informed on the latest legislative changes affecting condominiums, including changes that many may not even have heard of.

When this is not available and an issue on a new and/or changing piece of legislation comes up, many find that the best thing to do is to “hit things head-on” and

turn to their fellow property managers and lawyers working in the field to work through the issue. This is what Nancey Charron of Cambri Property Management in London finds is the best way to deal with issues she knows will come up and needs to have a good grasp right away, such as the legalization of recreational marijuana.

Going forward, as well over 11,000 condominiums have now been registered in Ontario, I do not imagine that the number and speed with which we are facing legislative changes impacting condominiums will change. That being said, if we continue to work together to educate ourselves and our fellow professionals, condominium managers, directors and owners, we will all be in a position to both influence and manage these changes with great success. ■

Kristi Sargeant-Kerr joined Scott Petrie LLP as a partner in 2017 after 15 years in a litigation-focused practice. She specializes in all aspects of condominium and real estate law, including development, administration and litigation. Kristi made this transition after years of personal interest in the condominium field and her extensive involvement and interest in mediation and arbitration at numerous administrative Boards and Tribunal. Kristi enhances Scott Petrie LLP's ability to address the complexity of recurring and emerging issues in condominium law throughout Southwestern Ontario.
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