

# So Many Changes! So Many Questions!

## Q & A with Kim, Constance and Christy



Kimberly Renwick,  
Condominium Manager,  
Condominium  
Management Group



Christy Allen,  
Partner,  
Davidson Houle  
Allen LLP



Constance Hudak,  
Vice President,  
CCI Ottawa Chapter



**In the Summer issue of CondoContact our readers were asked to send us questions they had regarding the *Condominium Act, 1998* amendments. CCI-EO Board Members, Kim Renwick, Condominium Manager, Constance Hudak, Condominium Board Director, and Christy Allen, Condominium Lawyer are here to answer your questions.**

**Q: It seems that we've been talking about the Condominium Act amendments for several years. As a Board Director I am unsure what to think about all of this. How are things going to change for Board Directors? I would like to know what other Board Members are thinking.**

**Constance (Board Director):** I am generally not loath to share my views but in this case, it is not so easy. I just do not know enough yet. In terms of knowledge, as a Board President and someone associated with CCI training for a number of years I have absorbed enough in term of experience and the practice of the old Act that I was "comfortable". My fellow Board members relied on Section 37 by which we acted honestly and in good faith and exercised care, diligence and skill as would reasonably prudent persons. We also benefitted from positive and constructive property management relationships.

I do not mind the practical (my definition of practical) parts of the new Act such as requiring Board Directors to review their Declaration and By-laws – there are many Board Directors who have not yet read theirs' and this is like forced "house cleaning". I support the new disclosure obligations for Directors – a big step up from just being

alive and sane and not bankrupt! I support the mandatory training for Directors and the licensing of Condo Managers. It is the reporting blanket that I am concerned about. By the time this article will be in print, most of us will have been advised by our Condo Managers that this increased reporting (the Periodic Information Certificates, the Information Certificate Updates, the New Owner Information Certificates) and mandatory training will cause our Management fees to increase. Increased workload means increased fees. But I ask if that increased reporting workload will make my condominium better – will problems, renovations and repairs be handled better? I care about the latter not the former.

**Q: Will the CCI Directors course be completely changed this coming year to teach us what is required of Board Directors under the new condo Act?**

**Constance (Board Director):** CCI-EO had adapted its Director Training to reflect the new requirements of the Act and as more amendments come into force over the next two years we will keep pace as well.

The course material is continuously updated to reflect the most relevant condominium matters and has already been adapted and

changed to reflect the changes in the new Condominium Act. Over 140 Board Directors attended the fall Directors' Course held in November and received training and material that reflected all the changes as they are known in areas such as:

- Director requirements and disclosures
- New meeting and voting procedures and requirements
- New reporting requirements such as PIC's (Periodic Information Certificates) and ICU's (Information Certificate Update), NOIC (New Owner Information Certificate)
- Overview of new regulatory bodies such as the CAO (Condominium Authority of Ontario), CAT (Condominium Authority Tribunal) etc.
- Property Management - increased role to support reporting and new licensing requirements
- Financial Management and Reserve Fund cycle

Furthermore, the course attendees were advised of future changes that are expected in the coming year - where such changes are known. Also, CCI-EO's expert presenters were able to highlight those areas where existing by-laws and practices may become obsolete and where Corporations should begin to review their core documentation such as declarations and by-laws and begin to update accordingly.

What has not changed with the new Act is the complexity factor. The knowledge, expertise and judgment that need to be exercised by Directors continues to be very demanding and with increased reporting and disclosure requirements the complexity factor has increased in my opinion. Therefore, adequate and continuous training remains key. While it is a very positive step that Director training is now mandatory, this on-line self-paced training is very minimal. At best it is a set of pointers to subject matter areas that need to be explored in much greater depth. This is CCI-EO's strength. We provide the depth - we unravel the complexity - we support Board Directors to enable them to exercise their fiduciary and management responsibilities to the best of their ability.

**Q: When do we stop using the current Condominium Act from 1998 and begin to use the new one? What should we be doing now in preparation for this?**

**Christy (Condominium Lawyer):** The current *Condominium Act* will not be replaced altogether – it is just undergoing major amendments. The amendments are happening in phases, the first of which came into force on November 1st, 2017. The November 1st amendments include a number of important changes to the way condominiums operate in Ontario, including (but certainly not limited to):

- The obligation to provide regular Information Certificates to all owners;
- New mandatory forms (including Information Certificates, proxy form, request for records, meeting notices etc.)
- A new process for owners' requests for records (which requires the delivery of particular forms, both by the requester, as well as the Board's response); and

- Director disclosure and director training requirements.

In addition, as a result of the amendments to the *Condominium Act*, the Condo Authority Tribunal (the "CAT") is now up and running. Currently, the CAT's jurisdiction is limited to resolving disputes respecting records requests, and these disputes will generally be resolved online.

As noted above, the changes that have come into force are not the end of the changes we can expect. More changes are coming in 2018 and/or 2019, so stay tuned!

In terms of preparation, the best thing that owners and directors can do is to educate themselves on the changes that have now taken place, and those that are yet to come. Education can take a variety of forms. First and foremost, where a condominium has the benefit of a professional Condo Manager, your manager will be a great resource on the changes to the *Condominium Act*. In addition, CCI-EO offers a variety of educational resources, including this newsletter, as well as free seminars that cover the changes that have, or will, come into force. The new legislative authority, the Condo Authority of Ontario ("CAO"), also offers a variety of free resources, available online (at [www.condoauthorityontario.ca](http://www.condoauthorityontario.ca)), designed to educate condominium community members on the changes. Likewise, a number of community participants have and continue to publish articles, blogs and seminars outlining the changes to the Act, and how the changes will affect condominiums. Where the issues are more complex, your condominium's legal counsel will be a great resource to assist you in navigating through the changes.

One thing condominium boards may want to consider now is having their condominium's declaration, bylaws and rules reviewed by their condominium lawyer to confirm compliance with the changes to the *Act*, and to assess where those governing documents may be strengthened in light of those changes.

Finally, don't forget to register your condominium with the CAO (and to pay your initial "dues") by December 31, 2017!

**Q: If the majority of the current Act has been revised, then what parts of it have remained? Knowing this will save us time in consulting the new Act on a day-to-day basis.**

**Christy (Condominium Lawyer):** The vast majority of the *Condominium Act* as it existed prior to November 1st, 2017 continues to exist, with some modifications. So, the provisions of the Act that so many people have become familiar with over the last 16 years continue to exist – they are just, in some cases, modified. Some of the changes are more significant than others, but the most significant changes are the addition of Part 1.1 "Administration of this Act" and Part 1.2 "Condominium Authority Tribunal". These new Parts, together with new regulations passed pursuant to these Parts, result in the creation of the CAO and the CAT, which together create a new framework of regulation of condominiums in Ontario.

In addition to the foregoing, there are various revisions to the Act and related new regulations, which contain additional detail on a number

of new processes that condominiums must follow (including, for example, the process governing requests for records, providing information certificates, filing of returns with the CAO, new meeting notice requirements, new disclosure obligations for Director candidates, etc...).

Given the foregoing, condominium owners and directors will most likely find themselves consulting the regulations connected to the *Act* almost as frequently as they consult the *Act* itself.

**Q: When will a reference guide be available that we can use on a daily basis or are we obliged to refer directly to the new *Act* for everything?**

**Christy (Condominium Lawyer):** Unfortunately, because of how significant the changes are, there are no easy ways to learn about all of the changes to the *Condominium Act*. The safest approach when assessing what the requirements of the *Act* are in any given scenario will be to consult the *Act* (and regulations) itself and to speak with your Condominium Manager and/or lawyer as may be required.

That said, you will find more helpful information at the CAO website – [www.condoauthorityontario.ca](http://www.condoauthorityontario.ca) – so that is an excellent starting place for most inquiries.

There will no doubt be a learning curve, but eventually, owners and directors will become as familiar with the new amended version of the *Act* as they were with the previous version. This said, as noted above, there are a variety of resources available that outline in general terms the major changes and the impact on condominium operations, which will undoubtedly provide great support as owners and directors make their way through the changes.

**Q: What should happen to our current management agreement with all the changes that have been enacted? Do we need a new contract?**

**Kim (Condominium Manager):** Your property management firm should be providing you with either a new management agreement or an addendum to your existing agreement. If you have not yet received it, it is coming! Bear in mind that it does take time to draft the new agreement or addendum to ensure all mandates required by the new *Act* are included.

One of the most important responsibilities from the Board's perspective is reviewing the amended management agreement. Once received, it is imperative that the Board review the changes in order to have a clear understanding of what is changing and what is required of them and their condominium manager.

**Q: What might be some of the changes Corporation's might see in a new or amended management agreement?**

**Kim (Condominium Manager):** You can expect changes to largely be focused on the additional work that a licenced condominium manager will be required to perform that was not in their list of services in the management agreement, including dates for sending all owners extensive information packages, mandated reporting guidelines to the Condo Authority of Ontario, standard forms to be used, Condominium and owner information storage requirements and new software required to accomplish the storage.

The main questions Boards should ask and discuss are:

- Is there an increase in the management fee?
- Is there an increased requirement for on-site time?
- Will additional staff be required to assist with the additional workload?
- Are there services that are not included in the management agreement that could be billed in addition to the fee?

Although there are a lot of changes your Condominium Manager is there to facilitate them on behalf of the Board. An abundance of

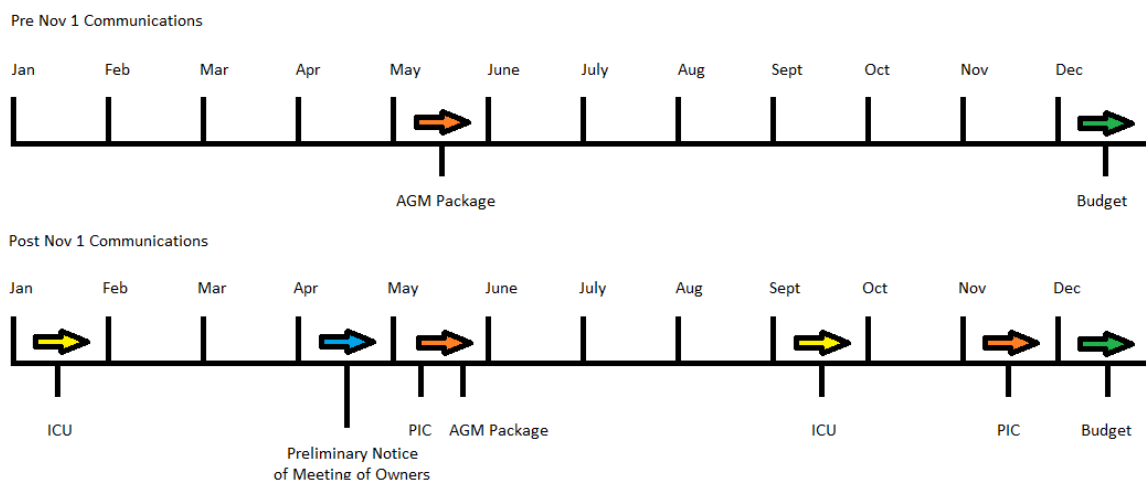


Table provided by Meritus Group Management Inc.



change is happening at once, or so it seems, but soon enough it will become regular day to day management of all condominiums.

**Q: The requirement to provide owners with additional information is a little overwhelming. This will drastically increase mailing costs for Corporations. Any tips?**

**Kim (Condominium Manager):** The new requirement for the various information certificates is certainly unfamiliar but will soon become second nature. Below you will find a flow chart which demonstrates the timelines for issuing the various certificates within a calendar year. Keep in mind that these dates are for Corporations with a fiscal year that runs from January 1st to December 31st.

Keep in mind that it's recommended that each Corporation request authorization from unit owners to start a blind copy e-mail distribution list. This will allow your Condominium Manager to email the detailed

packages to your owners which will keep printing and postage costs low, saving the Corporations a great deal of money.

We want to hear from you our readers. Keep your questions coming, send them to [info@cci-easternontario.ca](mailto:info@cci-easternontario.ca). Your question may be included in the next issue of CondoContact. ■

*Kimberly Renwick is a full time Condominium Manager with Condominium Management Group which she joined 12 years ago. Her condominium management experience ranges from townhomes, low-rises, high-rises, shared facilities and new construction. In 2016 she was elected to the CCIEO board of directors and is learning more every day.*

*Christy is one of the founding partners of Davidson Houle Allen LLP. She provides a full range of corporate and litigation services to condominium directors, managers, owners, and insurers. She also represents co-tenancy associations, and gives advice with respect to co-tenancies' governing documents.*

*Constance Hudak, Vice President of CCI Ottawa Chapter became active and interested in condominium issues upon the purchase of her first condo town home property ten years ago in Ottawa. Within CCI-Eastern Ontario she has served as President, and currently while Vice President she is also the Chapter's representative to the National Governing Body of CCI Canada. She is also Chairs the Chapter's Education Committee which is responsible for the development of all chapter training curriculum and material. She has held many senior executive positions and has provided direction and leadership to multi-million dollar projects involving business re-engineering, systems implementation and change management.*

*Constance's view is that "A condominium may be the place where you live and your private island, but put all the islands together, and then you have a major port city and business to manage."*

## Contributing to CCI **CONDOCONTACT** EDITOR'S CONTACT INFORMATION

A benefit of CCI membership is the opportunity to share perspectives with one another by contributing and reading articles in CCI Eastern Ontario's quarterly newsletter *CondoContact*.

If you are a condominium director, owner or manager, and have a unique tale to tell or advice to relay to other condominium boards, let us know! If you are a professional or represent a trade company offering services or product to condominiums and have relevant articles, let us know!

The subject matter should be current, concise and helpful. Topics should relate to management and operations of condominiums and not be of a commercial nature.

### Articles may be forwarded to:

Canadian Condominium Institute  
Eastern Ontario Chapter  
P.O. Box 32001, 1386 Richmond Road  
Ottawa, Ontario, K2B 1A1  
Email: [info@cci-easternontario.ca](mailto:info@cci-easternontario.ca)



**? Did your corporation undertake any important projects recently?**

**? Do you have a success story?**

**? Did you learn lessons the hard way?**

Whether you are a director or a property manager, please do share these valuable stories. Feel free to contact me and I will assist you in writing your article.

By sharing your experience we learn from the past and improve our collective futures.

[info@cci-easternontario.ca](mailto:info@cci-easternontario.ca)

