

Game of Drones: Are Drones Allowed on Condominium Property?



Melinda Andrews
Davidson Houle Allen LLP
Condominium Law



If you are keeping up with current advances in technology you will know that drones are becoming increasingly popular. But with this popularity comes questions about how drones are used. In the condominium context you may be surprised to know that drone usage is becoming a hotly contested issue.

The term “drone” is the common name for an unmanned aerial vehicle. A drone is, essentially, an aircraft without a human pilot on board, and they are used both recreationally and commercially. Typically, the pilot operates the drone by using controls from the ground. Depending on the model, drones can have a flight range of several hundred kilometers at various altitudes. They often have additional technology added to them to provide certain functions.

How do Drones relate to Condominiums?

While it may seem futuristic, drones wind up on condominium property more than you would expect. For example:

- Drones with high-resolution cameras offer surveillance of condominiums, particularly in high-rise buildings;
- Real estate agents are now using drones to take aerial photos of condominium units and the surrounding property when they list the unit;
- Certain types of contractors also rely on drones to cost effectively locate exterior building defects in difficult to reach locations, often

identified using heat sensor technology to detect heat escaping through cracks or windows. Other types of drones contain technology to identify water penetration; and

- Some drone experts are suggesting that commercial drones are a viable option to be used by Canada Post to expedite postal delivery to isolated areas. In fact, the online retailer Amazon announced years ago that it is developing drones to deliver customer’s packages faster than mail delivery...even in Canada!

But with this increased use of drones on condominium property comes safety and privacy concerns. Last year, a story circulated of a “rogue” drone that flew into a high-rise condominium in Florida risking injury to people and damage to property. And having a drone buzzing outside your balcony is not only a noise and nuisance concern, but also likely an invasion of privacy.

How are Drones Regulated?

Not surprisingly, Transport Canada now closely regulates drone operation. The regulations for commercial drones (for work or research) are fairly stringent. However, the regulations respecting recreational drone use amongst hobbyists are not as clearly defined yet. Under the new regulations recreational users risk penalties of up to \$3,000 if they fly:

- Higher than 90 metres (300 feet) above the ground;

- At a distance of more than 500 metres (1,640 feet) from the operator;
- Within 75 metres (246 feet) of vehicles; or
- Near an airport or in a way that interferes with police of first responders.

While both Transport Canada’s commercial and recreational regulations would apply to drone use on condominium property, they do not necessarily address a condominium’s safety and privacy concerns.

So What Does this Mean for Condominiums?

The purpose of section 58 of the *Condominium Act* is to ensure that condominiums create rules to promote the safety, security, and welfare of owners and their property, and to prevent unreasonable interference with the condominium residents’ use and enjoyment of the property.

With this purpose in mind, condominiums that are experiencing drone activity on their property are well within the purpose of section 58 to pass a rule respecting drone use.

It is up to each condominium to consider the nature and extent to which drone use may be regulated and to draft rules accordingly.

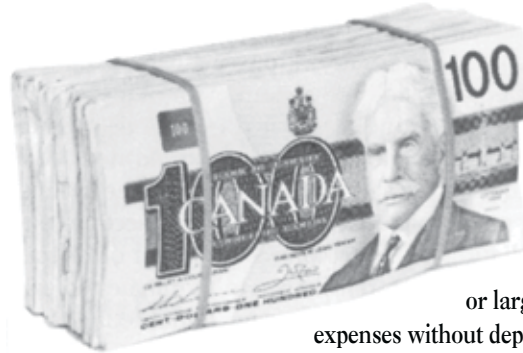
If drones are currently being used and are going to be permitted, the condominium will have to take the appropriate precautions to protect owners; for example, by restricting the time and location of drone use. Or the condominium may consider a complete prohibition.

Of course, there is plenty of “middle ground” to restrict drone use only in certain circumstances that would assist the condominium in carrying out its objects and duties; for example, by restricting use only to certain types of contractors (i.e. to inspect for defects).

Ultimately, whether drones will be allowed on condominium property is a context-specific decision for each condominium to consider. But in our view, rules regulating or prohibiting drone use are valid under section 58 of the *Condominium Act*. ■

*Melinda Andrews, Lawyer,
Davidson Houle Allen LLP Condominium Law*

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