

Condominium Fundamentals in Depth

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Condominiums

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CONDOMINIUM FUNDAMENTALS IN DEPTH

INTRODUCTION

General Introduction

The popularity of condominium projects in Alberta is very well known and if the number of advertisements for new projects in the newspapers are any indication, demand appears to show little sign of abating. This is due in no small part to the fact that condominium is a very flexible way to structure real estate developments. This flexibility has led to the creation of several different types of condominium plans. These have become increasingly complex and it is important for solicitors to identify plan types and to understand what information a plan can be expected to contain. The purpose of this paper is, first, to outline the legislative framework and requirements for condominium plans with view to highlighting what information the plan contains, and second, to identify various types of condominium plans currently in use in Alberta.

What is a Condominium?

It may be useful to first explain what is meant in this paper by the term "condominium". Strictly speaking, a condominium is land in respect of which a plan has been registered at the Alberta Land Titles Office pursuant to the Condominium Property Act, RSA 200, c. C-22 (the "Condominium Act"). Another way of saying this is that a condominium is a method of providing separate title to parcels of land called units as described on a condominium plan. An apartment may be a condominium and so may what is otherwise indistinguishable from a typical suburban lot. Offices, warehouses, shops, parkades and even roads may be condominiumized. The many varieties of condominium makes it impossible to identify one without searching the Land Titles Office for a condominium plan.

In 1966 when Alberta's first condominium legislation was enacted a condominium was virtually synonymous with an apartment (despite the fact that Alberta's, and Canada's, first condominium project consisted of townhomes), but since then many types have emerged.¹ Provision was made in 1978 for bare land condominiums in order to allow of titling of RV lots. It was then discovered that by redividing bare land condominium units a condominium project could be phased, even prior to the enactment of specific provisions for phasing in 2000. It is increasingly common for condominium plans to be stacked onto one another or onto strata titles to create hybrid ownership structures. This

¹ Alberta's first condominium project was Brentwood Village in Edmonton, Condominium Plan CDE100.

meets the need for complex mixed use projects, facilitates phasing, allows for apportionment of control over various components of a project while retaining economies of scale.

Despite the complexity of certain projects they all are based on a few fundamental concepts. All condominiums in Alberta are formed by filing a condominium plan at the Alberta Land Titles Office. Upon filing the condominium plan, titles are created for individual units in the plan, which are then capable of being transferred independently of one another. The owners of units are members of a condominium corporation which springs into existence upon registration of the plan. Its purpose is to control, manage and administer the common property (if any) and its other property and it has the power to raise contributions from the unit owners for such purpose as well as various additional powers conferred by the Condominium Act and the by-laws of each corporation.

Legislative Framework

The primary legal framework for condominium in Alberta can be found in the Condominium Property Act, RSA 2000, c. C-22 (the "Condominium Act"). As alluded to above, Alberta's first condominium legislation was passed in 1966. Significant amendments were passed in 1978 and 2000. The Condominium Property Regulation, Alta. Reg. 168/2000 (the "Condominium Regulation") is made pursuant to the Act and especially since 2000 it has assumed an importance almost as great as the Act itself. Other relevant statutes include the Land Titles Act, RSA 2000, c. L-4 (the "LTA"), pursuant to which condominium plans and the resulting units are registered and the Municipal Government Act, RSA 2000, c. M-26 (the "MGA"), which governs the development of land in Alberta including condominium projects.

REQUIREMENTS FOR CONDOMINIUM PLANS

Basic Requirements

The Condominium Act provides that a building or land may be designated as a unit or part of a unit or divided into 2 or more units by registration of a condominium plan.² The Condominium Regulation provides that the Registrar of the Alberta Land Titles Office must keep a register of condominium plans and is to record in the register particulars of all such plans.³ A condominium plan is a plan of

² Condominium Act, Section 4(1).

³ Condominium Regulation, Section 2.