

To Condominium Corporations' directors

RE: Requirements under the new *Condominium Property Act* of New Brunswick

Dear Director/Officer:

As most of you know, the new *Condominium Property Act* took effect on January 1, 2010. It seems that many are not sure of what is exactly required from them. Three or four documents are required depending on the size of your 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 your Declaration or By-Laws because of this new legislation. The Act would overrule them if the case arises.

Listed below are four (4) topics of the new legislative requirements under the Act that I would like to bring to your attention. These are documents you will have to submit to the Director annually.

1. A copy of your financial statement
2. A proof of insurance of the common element
3. A list of your 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 Regulations 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.

If you have already had your annual meeting in 2010, please provide the Director with your latest financial statements. Otherwise, please provide the Director with your financial statements at least 10 days before your next annual owners' meeting later this year.

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, to the Director each year in accordance with the Regulations.

- a) For all new Corporations beginning in 2010, under *section 28* of the Regulations, the proof of insurance in question shall be submitted to the Director **on the anniversary date of the registration** of the declaration and description, if the declaration and description was registered in 2010.
- b) If a condominium corporation was in existence before this Act, the proof of insurance shall be submitted to the Director **on the date the policy is renewed or expires**. For each subsequent year, the proof of insurance in question shall be submitted on the anniversary date, each year, of the initial submission to the Director.

The content of the proof of insurance is outlined at *subsection 28(5)* of the Regulations. Even though your policy is accepted under the subsection, insurance companies normally have a brief certificate which will contain the required information. This is not the individual owner's insurance but the master policy for the building and common property.

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.

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

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. Even if there have been no recent changes to the directors of your condominium corporation, we strongly encourage you to provide a list of your current directors by forwarding **Form 9** to my attention.

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.

As directors or officers of your condominium corporation, we appreciate your assistance and cooperation in the fulfillment of the legislative requirements under the new *Condominium Property Act* of New Brunswick.

If you have already complied, this year, with the requirements above, we thank you for your cooperation and compliance with the Act and we will be looking forward to your continued Cooperation in the future.

Yours truly

Léo-Guy LeBlanc

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Link for the *Condominium Property Act* C16.05

Link to Regulations 2009-169

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<http://www.gnb.ca/0062/PDF-acts/c-16-05.pdf>

<http://www.gnb.ca/0062/PDF-regs/2009-169.pdf>