



**Meeting with owners
February 2010**



What is a condominium?

A form of ownership

Private ownership

Normally is defined by the exterior part of the gyprock when standing inside and from the top of the subfloor to the exterior part of the ceiling. Includes inside wiring, plumbing, flooring, partitions, kitchen cabinets etc...

Common ownership

All the lands, exterior walls, corridor and dividing walls, load bearing walls, wiring, plumbing, windows and exterior doors, roof and all assets of the Corporation.

Building styles

Single duplex



Warehouse



Single buildings



Commercial

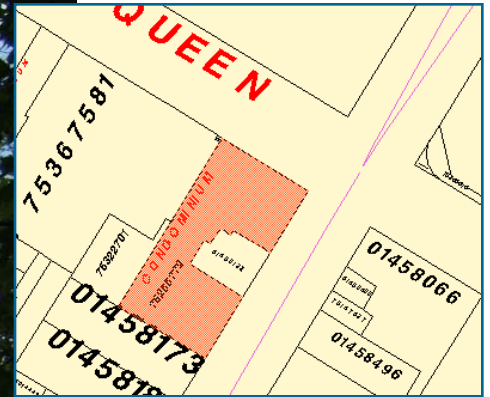
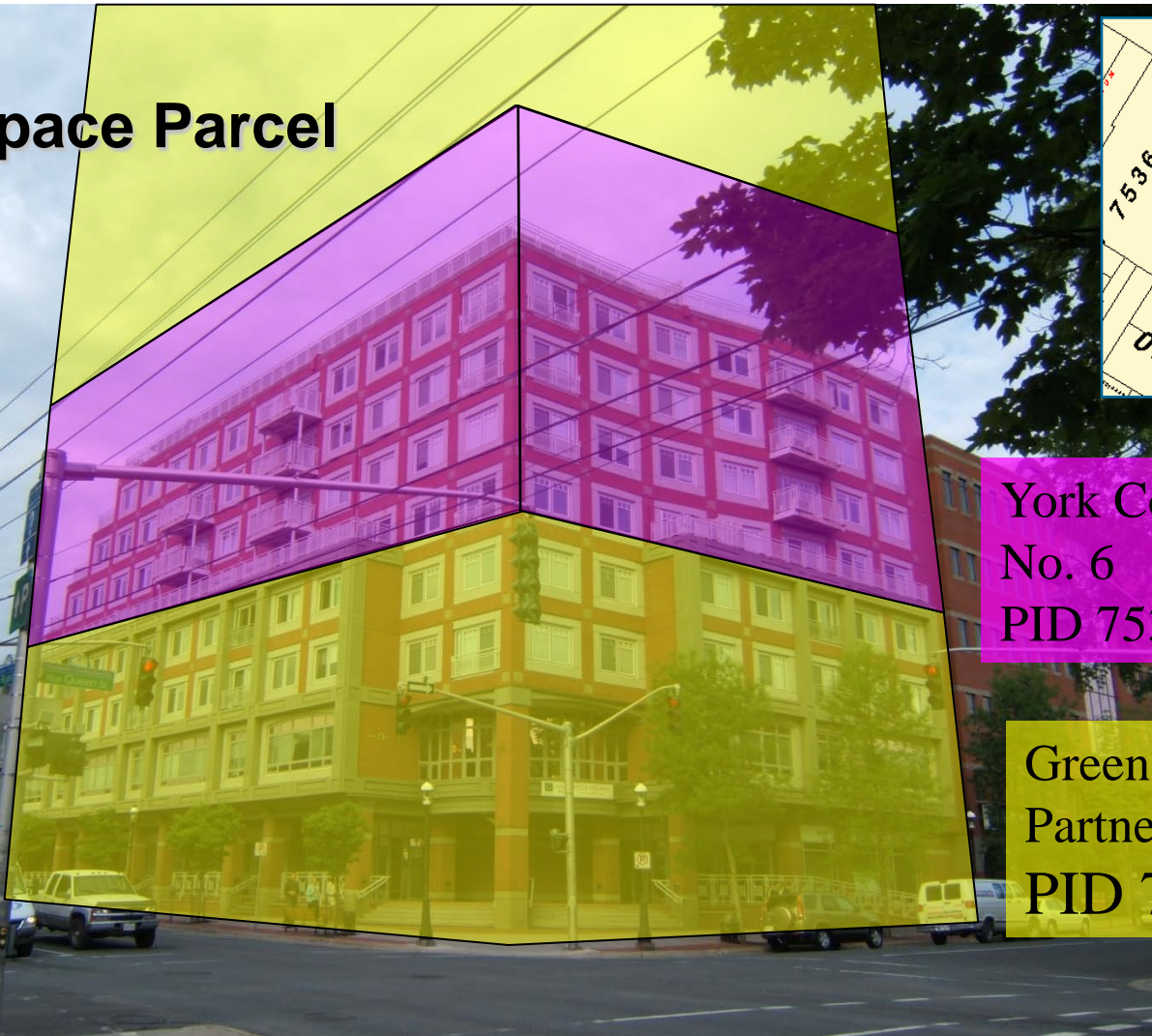
Conversions



Apartments



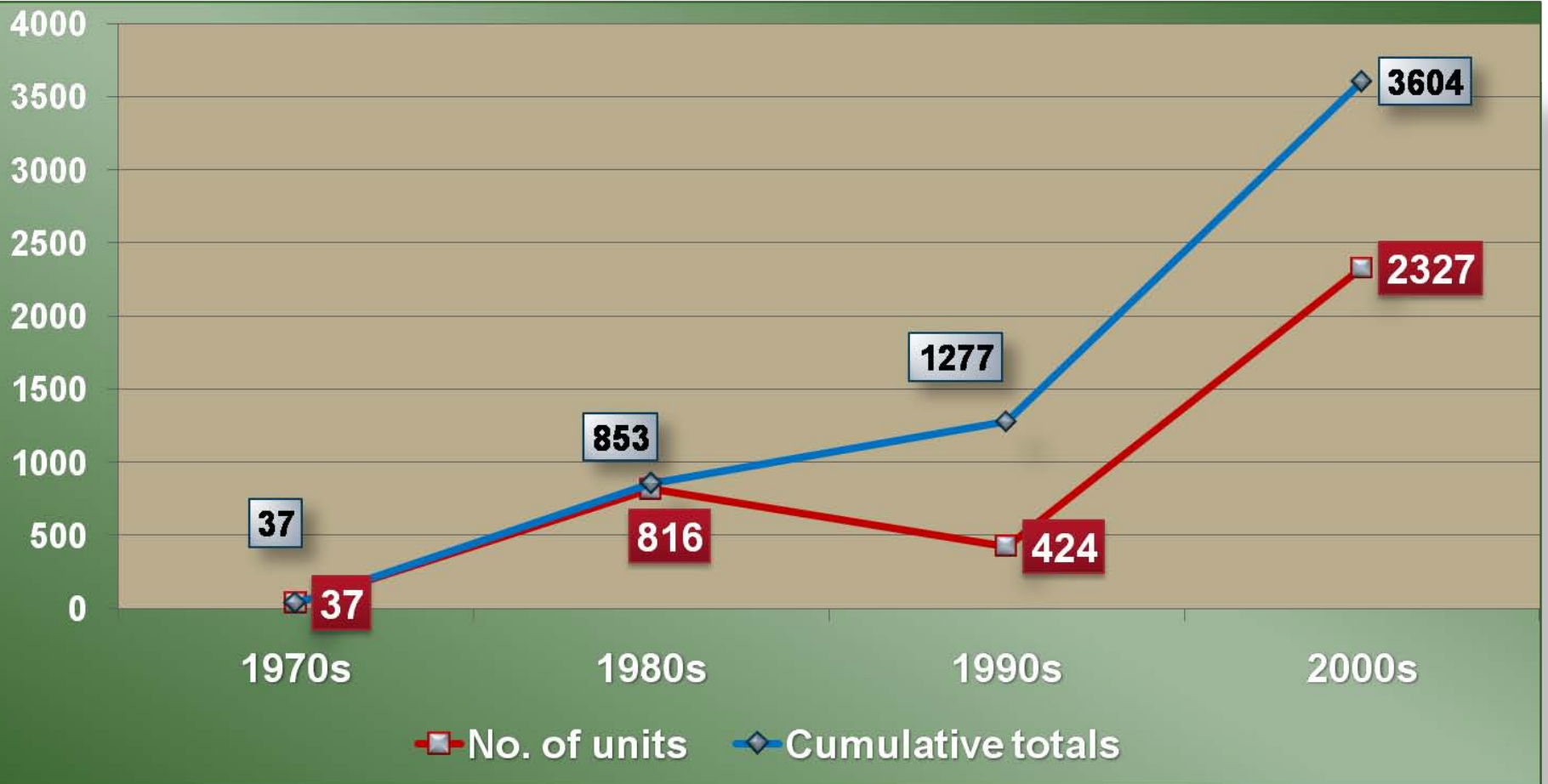
Air Space Parcel



York County Condo Corp
No. 6
PID 75327593

Greenarm Development
Partners Inc.
PID 75288779

Growth



Condominium Property Act C-16.05

Proclaimed January 1, 2010

Regulations 2009-169



CHAPTER C-16.05

CHAPITRE C-16.05

Condominium Property Act

Loi sur la propriété condominiaie

Assented to June 19, 2009

Sanctionnée le 19 juin 2009

Chapter Outline

Sommaire

**NEW BRUNSWICK
REGULATION 2009-169**

**RÈGLEMENT DU
NOUVEAU-BRUNSWICK 2009-169**

under the

pris en vertu de la

**CONDOMINIUM PROPERTY ACT
(O.C. 2009-558)**

**LOI SUR LA PROPRIÉTÉ CONDOMINIALE
(D.C. 2009-558)**

Filed December 18, 2009

Déposé le 18 décembre 2009

General

| Topic | Act |
|--|---------------|
| <p>New position</p> <p>Service New Brunswick will appoint a Director of Condominiums (DOC)</p> | <p>2(2)</p> |
| <p>Condominium Classification</p> <ol style="list-style-type: none">1. commercial2. residential3. bare-land4. mixed-use5. phased-development | <p>4(a-e)</p> |

Approval and Registration

| Topic | Act |
|--|-------------------|
| Condo Corp's name issued by DOC Condominium Corporation No. 123456 | 9(1)(a) 11(1)R |
| All documents will need approval and will be registered by the DOC | 9(1)(2) |
| Documents submitted to the Director for registration with the registrar of land titles shall be accompanied by the fees prescribed | 9(4) |

The Corporation

| Topic | Act |
|--|-------|
| The <i>Companies Act</i> and the <i>Business Corporations Act</i> do not apply to a corporation created under this Act | 19(2) |
| A corporation shall keep all financial records for at least 6 years after the last fiscal period | 21(2) |
| The owners of 30% of the common elements constitute a quorum for an owners' meeting. | 26(1) |

Amalgamations

| Topic | Act |
|---|---------------|
| Condo Corporation can amalgamate | 13 |
| a) The owners of at least 60% of the common elements of each corporation vote in favor | 13(2) |
| b) Restriction: The Corporations i. occupy adjoining parcels of land, and ii. comply with the requirements of this section and the regulations. | 13(2) |
| The Director may assign the existing name of one of the amalgamating corporations to the amalgamated corporation. | 11(2) R |
| FORM 1 & 2 will have to be submitted | 5(a) 5(b)R |

Board of Directors 1

| Topic | Act |
|--|----------------------|
| <ol style="list-style-type: none">1. There shall be a minimum numbers<ul style="list-style-type: none">• 2 directors for 2-3 Units• 3 directors when more then 3 units2. If a Declarant owns at least one unit, he or she shall appoint to the board the proportion of the total number of directors that the number of units he or she owns bears and the other owners shall elect the remaining directors. | 27(1&2) 27(5) |
| Despite subsection 27(5), a Declarant shall not appoint directors to a board if, at the owners' meeting at which the board is chosen, the owners of at least 60% of the common elements vote to pass a resolution that the entire board be elected by the owners. | 27(7) |

Board of Directors 2

| Topic | Act |
|--|---------------|
| <p>Subject to the by-laws, the directors :</p> <p>(a) shall elect a president from among themselves, (b) shall appoint or elect a secretary, and (c) may appoint or elect other officers</p> | 28(2) |
| <p>A director shall be an owner and shall have attained the age of majority unless the director was appointed by the Declarant</p> | 29(1) &(2) |
| <p>Names of board members (Effective January 1,2010) Within 15 days after the appointment or election of a director to a board, the corporation shall submit, in a form prescribed by regulation, the name and address of the director to the Director. FORM 9 will have to be submitted</p> | 27.1(1) |

By-Laws and Rules

| Topic | Act |
|--|-------|
| A corporation shall have by-laws | 32(2) |
| By-Law changes – requires a 60% minimum vote of the owners of the common elements, or a greater percentage if specified in the declaration | 32(3) |
| If a declaration divides the units into classes, the corporation may make more than one set of by-laws and limit the application to one or more of the classes. | 32(4) |
| A corporation shall submit for approval a copy of a by-law together with a certificate and the Director shall approve for registration the by-law and certificate. | 32(7) |

FORM 10

Financial Statements

| Topic | Act |
|---|---------------------|
| <ul style="list-style-type: none">• At least 10 days before the annual owners' meeting, a corporation shall do the following:<ul style="list-style-type: none">a) file a copy of the financial statements with the Director; andb) mail or deliver a copy of the financial statements to each owner.• IF >10 units has to be reviewed by a professional | 34(2)(a&b) 36(2) |
| <p>What professional can do the revision?</p> <ol style="list-style-type: none">1. Certified General Accountants (CGA);2. Certified Management Accountants (CMA);3. Chartered Accountants (CA). | 36(4) |

Funds held by a Corporation

| Topic | Act |
|---|-------|
| Operating Fund (Mandatory) | 37(1) |
| Reserve Fund (Mandatory) | 38(2) |
| a. <u>A Corporation >10 units</u> shall maintain a reserve fund in an amount that meets the minimum amount recommended in the reserve fund study | 40(4) |
| b. <u>A Corporation <10 units</u> the amount in the reserve fund for the corporation shall be equal to 100% of the annual operating budget of the corporation, or a greater percentage if specified in the by-laws | 39(1) |
| Contingency Fund (Optional) | 41 |

Reserve Fund Study 1

| Topic | Act |
|---|-------|
| If a condominium property consists of more than 10 units, the corporation shall complete a reserve fund study every 10 years and shall submit it to the Director no later than 30 days after it is completed. | 40(1) |
| A corporation shall complete an update of a reserve fund study every 3 years or any time there is a significant change in the assets of the corporation | 40(2) |
| A reserve fund status certificate, prescribed by regulation, shall be completed by the person who prepares the reserve fund study. | 40(3) |

Reserve Fund Study 2

| Topic | Act |
|--|--------|
| <p>The form and contents of a reserve fund study and the persons authorized to prepare it shall be prescribed by regulation.</p> | 40(6) |
| <p>A reserve fund study shall consist of a physical analysis and a financial analysis.</p> | 23(1)R |
| <p>The physical analysis shall consist of the following information:</p> <ul style="list-style-type: none">a) an inventory of each item of the common elements and assets of the corporation that requires, or is expected to require within 30 years after the date of the study, substantial repair or replacement, if the cost of replacement is \$500 or more; and | 23(2)R |

Reserve Fund Study 3

| Topic | Act |
|--|---------|
| b) an assessment that provides the following information for each item in the inventory: <ul style="list-style-type: none">i. the actual or approximate year of acquisition of the item;ii. the actual or estimated age of the item;iii. the normal life expectancy of the item;iv. the remaining life expectancy of the item;v. the estimated year of the substantial repair or the replacement of the item;vi. the estimated cost of the substantial repair or the replacement of the item as of the date of the study; and | 23 (2)R |

Reserve Fund Study 4

| Topic | Act |
|---|------------|
| vii. the percentage of the cost of the substantial repair or the replacement of the item available to be covered by the reserve fund, and the adjusted cost resulting from the application of that percentage. | 23 (2)R |
| Persons authorized to prepare: <ul style="list-style-type: none">a) members of the Appraisal Institute of Canada holding the designation of Accredited Appraiser Canadian Institute (AACI);b) persons who hold certificates of practice under the Architects Act;c) engineers who are licensed to practice engineering under the Engineering and Geoscience Professions Act; | 24(1) R |

| Topic | Act |
|---|--------------------|
| <ul style="list-style-type: none"> d) members of the New Brunswick Society of Certified Engineering Technicians and Technologists who are registered as certified engineering technologists under the Engineering Technology Act; and e) members of the Real Estate Institute of Canada holding the designation of Certified Reserve Planner (CRP). | <p>24(1) R</p> |
| <p>Shall not prepare a reserve fund study if he or she is:</p> <ul style="list-style-type: none"> a) The declarant, an owner, director, officer, employee or manager of the corporation b) a partner, employer or employee of the declarant, of an owner, director, officer, employee or manager of the corporation; or c) has an interest in a contract to which the corporation is a party. | <p>24(2) R</p> |

10 MINUTE BREAK!

INTRODUCE

Canadian
Condominium
Institute **CCI** Institut
canadien des
condominiums
the voice of condominium



Operation 1

| Topic | Act |
|---|--------------------------------|
| <p>Modifications to common elements: By a vote of the owners of at least 60% of the common elements, or a greater percentage if specified in the declaration</p> <p>a) make a substantial addition, alteration or improvement to or renovation of the common elements; and/or make substantial change in the assets of the corporation</p> | 42(1) |
| <p>Amend the Declaration and/or Description Once registered, a declaration may only be amended with the consent of the owners of at least 60% of the common elements, or a greater percentage if specified in the declaration. Some exception applies for a phase development project</p> | 43(1) & 44(1) 44.1(1) |

Operation 2

| Topic | Act |
|---|-------|
| <u>Consolidation of Units:</u> Two 2 or more adjacent units may be consolidated despite being separated by a common element. | 45(1) |
| The following applies to a consolidated unit: ex. 2 units a) 2x the percentage of the common interests b) 2x the common expense c) 2x the number of voting rights in the corporation | 45(4) |
| FORM 3 will have to be submitted | 6(b)R |

Operation 2

| Topic | Act |
|---|-------|
| <p><u>Power of lien</u> If an owner defaults in his or her obligation to pay to a corporation the corporation has a lien against the unit for the unpaid amount together with the interest owing and the reasonable legal costs and reasonable expenses incurred</p> | 46(1) |
| <p>A lien under subsection 46(1) <u>is not a charge</u> against the unit until it is registered</p> | 46(3) |
| <p>Subject to any other Act, a lien <u>is payable in priority</u> to a registered or unregistered encumbrance in respect of the unit</p> | 46(4) |

Sale of part of the common element

| Topic | Act |
|---|-------|
| <p>a) Must be authorized by a vote of the owners of at least 60% of the common elements.</p> <p>b) the consent of any non-owners who would be affected by the sale and who have registered encumbrances that were created after the approval for registration of the declaration and description.</p> | 47(1) |
| <p>Following documents shall be submitted to the Director:</p> <p>a) a deed or transfer executed by the officers of the corporation; and</p> <p>b) a release or discharge given by all the persons referred to in paragraph (1)(b).</p> | 47(2) |
| <p>A deed or transfer referred to in paragraph (2)(a) has the same effect as if it were granted by all the owners of the common elements to which the deed or transfer relates.</p> | 47(3) |

Insurance

| Topic | Act |
|--|-------|
| <p>A corporation shall insure its liability to repair the units and common elements after damage resulting from fire and such other risks as may be specified by the declaration or the by-laws to the extent required by the declaration or by-laws and, for that purpose, the corporation has an insurable interest to the replacement value of the units and common elements.</p> | 50(1) |
| <p>Submit Proof of Insurance for the common element to DOC yearly and after every phase</p> | 50(2) |
| <p>Despite subsection 50(1), the Insurance Act and any other law relating to insurance, an owner may insure his or her unit in respect of any damage in an amount equal to the amount owing on a mortgage of the owner's unit at the date of any loss referred to in the policy</p> | 50(3) |

Proof of Insurance 1

| Topic | Act |
|---|---------------|
| <p>a) For existing Corporations:</p> <ul style="list-style-type: none">i. if the corporation holds a valid insurance policy acquired in accordance with section 15 of the Condominium Property Act, C-16, on the date the policy is renewed or expires, orii. if the corporation does not hold a valid insurance policy, on the date the corporation is continued under the Act; and | 28(3)(a) R |
| <p>b) for each subsequent year, on the anniversary date of the submission in subparagraph (a)(i) or (ii), as the case may be.</p> | 28(3)(b) R |

Form of Proof of Insurance

| Topic | Act |
|---|--------|
| a) an insurance certificate indicating the following information: <ul style="list-style-type: none">i. the name of the corporation as the named insured;ii. a coverage period of at least 12 months from the applicable dateiii. a description of the coverage and the amount of coverage; or | 28(5)R |
| b) a copy of the insurance policy held by the corporation in force for a period of at least 12 months from the applicable date in subsection (1), (2) or (3), as the case may be | 28(5)R |

Estoppel Certificate

| Topic | Act |
|---|-----------------|
| <ul style="list-style-type: none">• Subsection of the Act has a list of what it must contain. An estoppel certificate shall be in Form 14. This is a legal document. | 51(2) 35(8)r |
| <ul style="list-style-type: none">• A corporation shall issue an estoppel certificate within 10 days after receiving an application or the payment of the fee | 51(5) |
| <ul style="list-style-type: none">• If an estoppel certificate omits material information that it is required to contain, it shall be deemed to include a statement that there is no such information | 51(6) |
| <ul style="list-style-type: none">• If a corporation does not issue an estoppel certificate within the required time, it shall be deemed to have issued a certificate | 51(7) (a-c) |

Lease 1

| Topic | Act |
|--|-------|
| The Residential Tenancies Act applies to a tenancy agreement between an owner and an occupant | 53(2) |
| A <u>standard form of Lease</u> (<i>not an obligation</i>) prescribed by regulation of this Act and shall include a schedule to section 10 of the Lease containing the by-laws and rules of the corporation. | 53(3) |

Lease 2

| Topic | Act |
|---|-------|
| <p><u>If you chose not to have a lease agreement:</u> despite any agreement, waiver, declaration or statement to the contrary, an agreement <u>is deemed to include a covenant</u> that the occupant shall comply with this Act, the regulations, the declaration, the by-laws and the rules of the corporation.</p> | 53(4) |
| <p>If an owner fails to comply with his or her obligations, the corporation may serve notice on the owner of the that the corporation intends to submit the dispute to arbitration.</p> | 53(6) |

Arbitration

| Topic | Act |
|--|---------------|
| A party to a dispute may give notice to the other party and to the Director that the party giving notice intends to have the dispute arbitrated by a single arbitrator appointed by the Director and, when notice is given, the parties are deemed for the purposes of the Arbitration Act to have entered into an arbitration agreement | 59(1) |
| To solve dispute between owners/corporation/owners/managers | 59(2) |
| Fees for arbitration: (i) a maximum fee of \$1,000 per day or \$500 per ½ day for the hearing, plus \$150 per hour for writing the decision | 30(1) (b)R |

Enforcement

| Topic | Act |
|--|-------|
| <p>- Administrative penalties (See 31(1) of the Regulations)</p> <p>A corporation shall be liable to pay an administrative penalty of not less than \$1,000 and not more than \$10,000, if within 30 days after receiving a notice from the Director requiring it to comply, the corporation fails to:</p> <ul style="list-style-type: none">a) file a financial statementb) submit a reserve fund studyc) submit proof of insurance | 61(1) |
| <p>A corporation that receives a notice may request that the President review the Director's decision to issue the notice by applying to the resident within 10 days after receiving the notice.</p> | 62(2) |

Transition 1

| Topic | Act |
|--|----------------------|
| 1. A corporation created under the old Act continues under this Act. | 66 |
| 2. Liens under the old Act stays a lien | 68 |
| 3. Reserve Fund and Reserve Fund Study <ol style="list-style-type: none">Existing Condo Corp <10 units have 5 yrs to build a reserve fundExisting Condo Corp >10 units have 5 yrs to produce a Reserve Fund & Study | 69 70(1) 70(2) |

Transition 2

| Topic | Act |
|--|-------|
| 4. Subsections 53(3) and (4) do not apply to a tenancy agreement between an owner and an occupant entered into on or before the commencement of those subsections. | 73(1) |
| 5. If a tenancy agreement is renewed after the commencement of subsections 53(3) and (4), those subsections apply to the agreement. | 73(2) |

Benefits of the new act!

- Improved consumer protection
- Better tools for managing the Corporations
- Transparent approval process
- Clearly defined roles and responsibilities for the entire framework

New Website

*Changes to the
Condo Act in
New Brunswick*

English

*Changements de la Loi sur
les propriétés condominiales
au Nouveau-Brunswick*

Français

 **Service**
New
Nouveau Brunswick



www.snb.ca/condo

 **Service**
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Nouveau Brunswick

Questions



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