



Condominium Act, 2015
Regulations Consultation
Bare land Condominiums

Draft Regulatory Summary for Public Engagement



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NOTICE:

This is a detailed summary of proposed key elements of the regulations required in implement the Condominium Act, 2015. This summary is intended to facilitate dialogue about the proposed regulations and is not a definitive statement about the content of those regulations.

INTRODUCTION

What is a condominium?

A condominium is a type of ownership of land in which a corporation is created to facilitate that ownership. A condominium consists of:

- two or more units which have individual owners; and
- common property in which all of the unit owners have an ownership interest.

The condominium corporation and the unit owners have defined rights, authorities and responsibilities in respect of the units and the common property.



In conventional condominiums, a building is constructed on a parcel of land and the building comprises a number of units defined by boundaries established in relation to the floors, walls and ceilings of the building. The common property of the condominium usually includes the land and the parts of the building that are not part of an

individual unit. In bare land condominiums, the unit is actually defined by boundaries established in relation to the land itself and a detached building or a row house may be built on that unit. Row housing is a type of condominium development in which the individual dwelling units are houses attached to each other.

A phased condominium is one in which a conventional or bare land condominium is developed in a sequential manner in distinct phases. A leasehold condominium is developed on lands for which the developer or leasehold unit owner possesses only a leasehold interest in title. Leasehold condominiums can be developed only on land owned by public authorities such as the Government of Yukon, Yukon First Nations and municipalities, and only on land that is registered in the Yukon Land Titles Office.

A mixed-use condominium is a development that can have both residential and non-residential units.

How is a condominium created?

Both the condominium itself and the corporation for the condominium are created when a developer makes an application to create the condominium and registers the required



documents in the Land Titles Office. Those documents are identified in the *Condominium Act, 2015*, s.3, as a “condominium plan, a “declaration”, a “notice of bylaws”, a “notice of first directors”, a “notice of address for service” and “any other document or information required by the regulations”. It is likely that the type of additional information or documents required would differ depending upon the specialized type of condominium that is being created.

How do we know what property constitutes a condominium?

As part of the application to create a condominium, the developer will register a “condominium plan” in the Land Titles Office. The condominium plan is a plan of survey that shows the parcel of land being developed as a condominium and how it is divided into private units and common property. The condominium plan is also a subdivision plan for the purposes of the *Subdivision Act*.

How are units owned in a corporation?

When a person purchases a unit in a condominium, they own their unit and are shown as owner on a Condominium Certificate of Title in the Land Titles Office. Like regular land, condominium units may be mortgaged or sold. In the case of a leasehold condominium, it is the leasehold interest that is mortgaged or sold.

How are the rules for condominiums established?

In addition to following the relevant statutes and regulations, each condominium corporation must also follow the rules set out in the documents that must be registered with its originating application. Rules are usually set out in the declaration and the bylaws as well as in the documents required to be registered for specialized types of condominiums.

How are condominiums governed?

A condominium corporation is governed by a board of directors elected by its members. The members are the unit owners. The directors are responsible for ensuring the corporation complies with its legal obligations, ensuring its obligations for ongoing maintenance of the common property are performed to the standard required and paid for by the members and for making both short term and long term decisions about the management of the corporation as a going concern. The board of directors is also responsible for enforcing condominium bylaws and rules that create private law obligations.

Condominium legislation in Yukon

The new *Condominium Act, 2015*, was passed unanimously by the Yukon Legislature in May 2015, and received assent later that month. Like the *Land Titles Act, 2015*, it was developed

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with the participation of stakeholders including representatives of the real estate bar, Canada Lands Surveyors, the business community, condominium owners, the federal Surveyor General Branch and the Government of Yukon. Public engagement made a major contribution to the Act and strengthened the consumer protection components. Stakeholders were also publicly supportive of the new Act.

Stakeholders feel very strongly about modernizing the legislation. They have worked closely with department staff — and have generously donated their time — to help develop the policies to support the new regulations. Accordingly, the Government of Yukon wants them to be involved in the regulation development process.

The Government of Yukon is in the process of developing the first draft regulations to support the implementation of the *Condominium Act, 2015*. The following detailed proposals based on work with stakeholders, forms the basis of our public engagement.

Overview of Engagement

This engagement seeks to solicit feedback on the Yukon government's proposed approach to regulations to be created under the *Condominium Act, 2015*. The regulations will be used to govern important matters related to condominiums within Yukon. The Government of Yukon is undertaking discussions with First Nation governments and municipalities, stakeholders and the general public and will also be holding public meetings where officials will be available to present information and answer questions. The Government of Yukon welcomes comments from all Yukoners on this proposed approach. Please send any comments or feedback by January 25, 2019 to:

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BARE LAND CONDOMINIUMS

A bare land condominium development may look very similar to a conventional subdivision except the privately owned units of a bare land condominium are defined by boundaries established in relation to the land itself rather than in respect of a building or buildings. A series of detached buildings that form a condominium can be developed as either a conventional condominium, or a bare

land condominium. Row housing can be constructed as conventional condominium units, either on bare land units, or on fee simple land (with adjoining properties separated by party walls). All types of row housing are sometimes described as ‘town houses’ and it is important that owners and prospective owners of row housing be aware of the circumstances of their particular row house.

The proposed regulations could require a developer of a bare land condominium development to:

- identify the development as a bare land condominium; and
- ensure that, in the case of row housing, building positioning conforms to unit boundaries.

And require a condominium corporation to:

- control, manage, repair and replace managed property and cover these expenses as if it were common property; and
- obtain insurance for the bare land development’s managed property.

1. Identification of bare land unit condominiums

The Government of Yukon proposes that a condominium declaration in respect of a condominium development containing bare land units specify whether all of the units are bare land, or whether some are bare land and some are conventional units. It is also proposed that the declaration identify whether attached row houses are to be built on bare land condominium units.

2. Managed Property

If row housing is being built on bare land condominium units, the declaration would provide that some of the property that is legally part of a unit shall be managed by the condominium corporation as if it was common property for the good of all unit owners. For example, the

single roof of a row housing development that spans several bare land units could be defined as “managed property” by the condominium corporation, allowing it to manage it as common property of the corporation as opposed to each unit owner managing their small portion of the roof. Managed property would normally include:

- the roof and exterior finishing of the building;
- exterior doors and windows;
- any structures and non-structural improvements overlapping more than one bare land unit; and
- all areas within any easements for utilities or services.

3. Insurance for a bare land development

Regulations would provide that the corporation has the legal ability to insure any managed property as if it were common property.

4. Conformity of attached building with bare land units

When row housing is built on bare land units, the Government of Yukon proposes that the regulations require that the developer provide evidence satisfactory to the registrar that the individual row house has been constructed on its respective bare land unit shown on the registered plan before a transfer of that unit will be registered.

If it were determined that a row house had not been constructed so that the positioning of the dwelling was in conformity with the boundaries of the unit, the developer/owner of the unit would have to file an amended plan of survey bringing the boundaries of the unit into conformance before a transfer of the unit was permitted. That way, the first purchaser from the developer and subsequent purchasers would be assured that the boundaries of their row house coincided with the boundaries of the unit they had purchased.

Discussion Questions

1. Do you agree with the proposed content of the Bare-Land Condominium Regulations?
 - Yes
 - No
 - Unsure

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2. Are there additional provisions that you feel should be included in the regulations?

Implementation Question

What is an appropriate date for the new Condominium Act, 2015 and regulations to come into force?

General Closing Question

Do you have any further comments or questions regarding the new Condominium Regulations that you would like to share with us?