



***Condominium Act, 2015***  
**Regulations Consultation**  
**Condominium Conversions**

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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## CONDOMINIUM CONVERSIONS



Condominium conversions occur when an existing non-condominium building such as an apartment becomes a condominium. Such conversions are presently taking place in Yukon without the benefit of any regulations.

The regulations in respect of condominium conversions in Yukon should match best practices in other Canadian jurisdictions by setting out requirements for a conversion such as:

- obtaining a building assessment report;
- ensuring that the building meets national building code standards;
- ensuring that the developer provides a special disclosure statement to a purchaser;
- ensuring special reserve fund requirements are met; and
- protecting existing tenants' rights.
- identify the development as a bare land condominium; and
- ensure that, in the case of row housing, building positioning conforms to unit boundaries.

### 1. Building assessment report for a converted building

The Government of Yukon suggests that the regulations state that an approving officer for a public authority may require the developer to obtain a building assessment report. The report would be prepared by a professional engineer, a licensed or registered architect, or another person specified by the approving authority.

The proposed regulations could also require that the individual preparing the report inspect the property, prepare an outline for the proposed report, and submit it to the approving officer. The approving officer would then give direction on the timing, nature and scope of the report. Subsection 6(1) of the *Subdivision Act* gives the approving officer the authority to impose conditions from the report that they consider reasonable when they approve a condominium plan.

### 2. Special disclosure statement requirements for a converted building

The regulations would also provide that the developer must supply, in addition to the disclosure documents required by s. 54 of the *Condominium Act, 2015*, a disclosure statement to a

purchaser of a unit in a converted building. The disclosure statement would state that it is a converted building, include a copy of the building assessment report and include a list of any matters of concern identified in the assessment report that were not addressed during the conversion.

### 3. Reserve fund contributions for a converted building

A reserve fund study has to be obtained for a converted condominium by the developer and in many cases, the amount identified as required for the reserve fund would be higher than for a new building. As with any condominium, the developer would obtain a reserve fund study for a converted building and contribute to the reserve fund the amount recommended in the reserve fund study at the time the first unit is transferred to an owner.

### 4. Tenants' rights when a building is to be converted

In line with best practices in other Canadian jurisdictions, the proposed regulations would require that the developer inform the tenant that they intend to convert the building into a condominium at least six (6) months before the developer submits an application to create the converted condominium. The Government of Yukon proposes that the regulations also require that the developer offer to sell the tenant the converted unit at the same price and on the same terms that it would be offered to a purchaser who is not the tenant. The offer would remain open for at least thirty (30) days after the condominium comes into existence.

The proposed regulations would also require that the developer include in their application a statement confirming that the developer has fulfilled the requirement to give notice to tenants and offer to sell to them. That statement could also say that no tenancy was terminated by the landlord within the previous 12-month period for any reason other than a breach of a tenant's obligations under the *Residential Landlord and Tenant Act* or the tenancy agreement.

### Discussion Questions

1. Do you agree with the proposed content of the Condominium Conversion 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?