



This publication is intended to provide general information only and is not a substitute for legal advice.

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## Purchasing a Condominium

This publication is intended to provide general information only and is not a substitute for legal advice.

The *Condominium Property Act* and regulations affect condominium buyers, sellers and developers. This publication provides an overview of the key information that you need to be aware of when purchasing a new or converted condominium from a developer or purchasing a previously owned unit from its current owner. This publication does not cover all the special circumstances or unique situations that can arise.

This publication reflects amendments to the *Condominium Property Act* and its regulations that come into force January 1, 2018. Additional changes affecting developers and purchasers of new condominium units will come into force April 1, 2018. An updated publication will be available at that time.

### INFORMATION ABOUT THE LEGISLATION

The *Condominium Property Act* and regulations establish the framework for the development, sale and operation of condominiums in Alberta.

The legislation addressing the sale and purchase of condominiums includes:

- Definitions of types of units and types of property in the condominium complex
- Requirements for developers to register a condominium plan and related documents
- Disclosure documents that must be provided to purchasers of newly built condominiums and conversions
- Protection of purchasers' deposits
- Developers' documents that must be turned over to the elected board

The legislation also addresses the rights and responsibilities of a unit owner, and the powers and duties of a condominium corporation. For further information, please refer to the publication "Owning a Condominium" which is available through the link to "Condominiums" on the Service Alberta website at <http://www.servicealberta.gov.ab.ca/housing-property-utilities.cfm>

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For complete information please refer to the *Condominium Property Act* and regulations. These documents are posted on the Alberta Queen's Printer website: <http://www.qp.alberta.ca/>. Please see the RESOURCE AND REFERRAL INFORMATION section of this publication for additional contact information.

## WHAT IS A CONDOMINIUM?

A condominium is a form of real property ownership that has two distinct parts: you own your condominium unit to which you get a title, and you also jointly own common property with the other unit owners in your complex.

Purchasing a condominium is not the same as renting an apartment where all the duties and responsibilities of running the building are handled by the building owner and caretaker. In a condominium complex, ownership responsibilities belong to you and all the other unit owners in your condominium corporation.

Some examples of residential condominium units are apartment-style suites within a low-rise, mid-rise or high-rise building. Other complexes may contain detached, semi-attached (duplex) or townhouse dwellings in a bare land condominium complex, or a mixture of housing styles.

Non-residential condominiums may be commercial or industrial outlets, resorts, marinas and other recreational spaces.

Mixed-use condominium complexes combine units that have more than one function. Many are built in the apartment style and may have retail or commercial units on the ground level or lower levels, with residential units on the upper floors. Other complexes, such as business parks, may include a variety of non-residential units.

## Condominium unit

The exact boundaries of each condominium unit are identified in the condominium plan. The developer is required to provide each purchaser with a copy of the condominium plan when a new unit is purchased.

In a conventional residential unit, the space is usually bound by the walls, floors, and ceilings. You are responsible for the maintenance, repair and remodeling of your unit unless the bylaws of the corporation say otherwise. However, you may need the board's permission to remodel your unit if the changes impact the common property.

## Bare land units

In a bare land unit, you buy the actual land and anything built on it. Usually the exterior walls, the roof, the foundation, driveway and at least part of the landscaping are part of the condominium unit and must be repaired and maintained by the individual unit owner. However, the repair and maintenance obligations of the individual bare land unit owners may be transferred to the condominium corporation through the registration of properly worded bylaws.

## Conversions

A condominium conversion is a condominium plan that applies to an existing building that was previously occupied or used for another purpose. For example, the units in the building may have been occupied entirely by renters, or the building may have been used for commercial purposes, such as warehousing or manufacturing.

Disclosure requirements for sale of units in a conversion are described in the PURCHASING FROM A DEVELOPER section of this document.

## Common property

The common property in a condominium complex is everything that is not within a unit identified in the condominium plan. It usually includes the space and facilities outside the condominium units, such as hallways, elevators, heating and electrical systems, laundry rooms, recreation rooms, and landscaped areas. In the case of a bare land condominium this would include such things as roads. Your share of the costs for the maintenance and repair of the common property is determined by your unit factor.

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## Managed property

The managed property is defined in the amended legislation as any unit or part of a unit that a corporation is required by bylaw to maintain, repair, and replace.

This concept is already applied in some bare land corporations, where the corporation may be responsible by bylaw to upkeep the exterior components of the individual units.

The corporation will be able to make bylaws respecting the control, management, and administration of managed property, and will be responsible for its upkeep.

## Unit factor

The unit factor identifies your portion of the joint ownership of the common property. The developer assigns a unit factor to every condominium unit when registering the condominium plan. The sum total of the unit factors for all the units in a condominium plan is 10,000. Developers must disclose how they set the unit factor on a schedule attached to the condominium plan, and as part of the disclosure for a new condominium. It is important to know the unit factor assigned to your unit because it will affect your condominium contributions and your voting rights.

## Exclusive-use common property

You may also lease or have the right to use defined areas of the common property called exclusive-use areas with private access to and use of the area, (for example, the carport, parking stall or balcony next to the unit). These areas may be identified on the condominium plan or defined in the corporation's bylaws. The corporation retains the control of these areas, but you may have some responsibilities for their maintenance.

After January 1, 2018, corporations may grant exclusive possession rights for areas of the common property by bylaw, licence, or other instrument, in addition to using a lease. Rights to exclusive use may be withdrawn according to the terms of the instrument used to grant the rights.

## CONDOMINIUM CORPORATION

A condominium corporation is created when the developer registers the condominium plan with Alberta's Land Titles Office. The condominium corporation consists of the owners of all the units identified in the condominium plan.

As a legal entity the corporation can sue for damages to the common property and it can be sued regarding any matter for which the owners are jointly liable. An agent or employee of the corporation can act on behalf of the corporation.

Bylaws regulate the corporation. They provide for the control, management and administration of the units, the common property, the managed property, and any other real and personal property owned by the corporation. Make sure you know what bylaws govern the condominium you are considering for purchase, as the bylaw provisions may affect aspects of your lifestyle such as pet ownership, or whether persons under the age of 55 are permitted to live there.

For additional information about bylaws, please refer to the the publication "Owning a Condominium" which is available on the Service Alberta website at <http://www.servicealberta.gov.ab.ca/housing-property-utilities.cfm>

## Interim board

Within 30 days after registering the condominium plan, a developer must appoint an interim board for the condominium corporation. If the condominium plan was registered before January 1, 2018, the developer must appoint the interim board by April 1, 2018. The names and addresses of the members of the interim board must be filed with the Land Titles Office.

The interim board has the same duties to act in the best interest of the corporation as an elected condominium board, including control, management and administration of the corporation's property, the common property and managed property. The interim board must also make reasonable efforts to pursue any remedies or claims under warranties or insurance policies covering these properties. Resolutions adopted

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by the interim board must be recorded.

The interim board holds office until the first board is elected by the owners. The interim board remains in place until the turnover meeting where the first board is elected. Please see the section titled “Election of first owner’s board” for additional information.

## PURCHASING A CONDOMINIUM

When considering the purchase of a condominium you need to examine all of the documents available to you in order to make an informed decision. Understand what you will own before you make an offer to purchase a specific unit and what is considered to be common property that you will own jointly with other unit owners.

A condominium unit is financed the same way you would finance any other property purchase. You will probably get a mortgage through a financial institution and make a monthly payment of principal plus interest.

## PURCHASING FROM A DEVELOPER

If you are buying a new condominium from a developer, you need to find out if there is a “blanket mortgage” on the development. If there is a “blanket mortgage”, you should consider seeking legal advice for a complete explanation of a blanket mortgage and how it might affect you as an owner.

The developer has a duty to deal fairly with you at all stages of the purchase arrangement, and as a purchaser, you have a duty to deal fairly in return.

Developers often put new condominiums up for sale before their construction has been completed or even begun. If you are purchasing a condominium unit at this early stage of its development, ensure you know:

- What work remains to be done on the condominium development?
- What method or methods will the developer use to notify you of any changes?

## Documents and information

Before agreeing to sell a unit or a proposed unit,

a developer must provide you with the following documents and information:

- the purchase agreement
- the bylaws or proposed bylaws
- any management agreement or proposed management agreement
- any recreational agreement or proposed recreational agreement
- the lease, if the land on which the unit is located is leased
- any mortgage or proposed mortgage that may affect the title of the unit
- the condominium plan or proposed condominium plan
- the phased development disclosure statement if the unit is in a phased development
- reserve fund information if the development is a conversion

Additional disclosure requirements will come into effect April 1, 2018. This publication will be updated at that time to reflect those changes.

## Purchase agreements

You should consult with your lawyer before you sign a purchase agreement with the developer.

A purchase agreement must contain:

- A notification of the purchaser’s cancellation rights on the front or first page of the purchase agreement,
- The amount or estimated amount of unit contributions, based on a reasonable economic basis, and
- The unit factor of the unit and the method of determining unit factors for all units in the condominium plan.

If the unit or the common property is not completed when the purchase agreement is made, the agreement must also include a description, drawing, or photograph of:

- The interior finishing and all major improvements to the common property in a building and to all property of the corporation;
- The exterior finishing of the building;

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- The landscaping;
- Any significant utility installations, major easement areas, retaining walls, and similar significant features;
- Recreational facilities, equipment, and other amenities;
- Maintenance equipment for common property, and
- The location of roadways, walkways, fences, parking areas, and recreational facilities.

## Documents for conversion units

The requirements for disclosure to purchasers before a sale, deposit and trust account requirements, and cancellation rights, apply to conversion units in the same way as any other unit.

Residential condominium conversions must have a reserve fund study, reserve fund study report and a reserve fund plan in place before the developer sells the first unit. In addition to the other disclosure documents that developers must provide to a purchaser, the reserve fund report and plan must be available for inspection by any person purchasing a unit in the condominium plan.

Additional disclosure requirements related to conversion units will come into effect April 1, 2018. This publication will be updated at that time to reflect those changes.

## Cancelling your purchase agreement

If you are buying a new unit from a developer, the *Condominium Property Act* allows you to cancel your purchase agreement within 10 days from the date you signed it, if you did not receive all the required documents at least 10 days before you signed the contract. You are entitled to a full refund within 10 days after the developer has received your written notice to cancel.

New requirements related to cancellation of purchase agreements will come into effect April 1, 2018. This publication will be updated at that time to reflect those changes.

## Protection of purchasers' deposits

When you purchase a unit in a condominium complex not yet completed, the developer must hold your funds in trust until construction of the unit and common property is substantially completed. You must receive the title to your property before the money is taken out of the trust fund.

Additional requirements related to trust accounts will come into effect April 1, 2018. This publication will be updated at that time to reflect those changes.

If the condominium development is covered by a purchaser's protection program, other rules may apply. For more information contact the warranty program provider. A list of approved programs is provided in the RESOURCE AND REFERRAL INFORMATION section of this publication.

## Occupancy permits

When a municipal authority issues an occupancy permit under the *Safety Codes Act*, the developer must provide you with a copy of the occupancy permit before you take possession of the unit, or at the actual time you take possession.

## Security deposit

If you have purchased a residential unit, and you decide to rent that unit from the developer before receiving title to the unit, the developer may charge a security deposit. The security deposit must not be greater than the amount of one month's rent.

## Occupancy fees

After the title of the unit is transferred to you and you take occupancy of the unit, a developer may charge occupancy fees until the first monthly contribution becomes payable. The amount of occupancy fees must not exceed the amount disclosed at the time the purchase agreement was signed.

## Election of first owners' board

A developer must convene a general meeting to elect the first owners' board within 90 days of the day that certificates of title to units representing 50% of the unit

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factors have been transferred to purchasers. If the developer does not convene this meeting within the required time, any owner can convene the meeting.

Once the board is elected, the developer and the interim board are required to provide specific documents to the board, to smooth the assumption of governance of the corporation by the owners. Some examples of the documents to be given to the elected board are:

- Structural, electrical, mechanical, architectural, and as built drawings that exist for the common property
- A copy of the condominium plan and any rules made by the board
- Lists of interim board members, owners, and tenants
- Any legal or other professional advice paid for by the corporation
- The original or copies of all records and documents of the interim board, including all resolutions, minutes, and financial statements.

## Information about phased developments

Sometimes condominiums are developed in phases. If you are buying a unit that is in a phased project you should obtain a copy of the phased development disclosure statement that is registered as part of the condominium plan.

The disclosure statement will include

- a statement that the building or land is to be developed in phases;
- the maximum and minimum number of units in the entire project;
- a description of the units and common property included in the initial phase and subsequent phases;
- a description of the proposed physical appearance of each phase and its compatibility with other phases;
- the extent to which the developer will contribute to the common expenses during the development of each phase and the entire project;
- the method that will be used to determine the allocation of administrative costs in each phase and

for the entire project;

- the basis for allocating unit factors; and
- the effect on the owners' contributions for administrative expenses and the corporation's budget if future phases are not completed.

If you purchase a unit in a phased project, keep a copy of the phased development disclosure statement that was registered as part of the condominium plan. The developer cannot change the phased development disclosure statement without the consent of 2/3 of the owners who are entitled to vote under the Act. However developers can make changes necessary to meet zoning and municipal development requirements.

## Inspection and enforcement capabilities

January 1, 2018 will bring new options for the Government of Alberta to ensure developers are complying with the *Condominium Property Act* and the Regulation.

Government will be able to conduct inspections of developers' business practices to ensure they are complying with the Act and Regulation. This includes the ability for inspectors to enter the business premises of a developer to conduct an inspection, review documents, and speak to persons involved with the business.

These inspections would help confirm, for example, if the developer is providing proper disclosure information to purchasers, and if developers are handling trust money correctly. This will enhance government's ability to take action when a violation occurs.

## BUYING A PREVIOUSLY-OWNED CONDOMINIUM

When you buy a previously-owned condominium, you are not protected by the disclosure and trust provisions of the *Condominium Property Act*. It is your responsibility to obtain the necessary documents and information.

Usually the seller or the seller's real estate agent arranges to provide a copy of the condominium documents for examination. Alternatively, you could

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make your offer to purchase subject to obtaining the documents and the purchaser being satisfied with their contents. It is best to consult with your lawyer regarding the contents and completeness of the documents.

When you buy your condominium from the owner of the unit, you should obtain and examine the following documents before you make your offer to purchase:

- the condominium plan plus any additional sheets attached to the plan
- the certificate of title for the unit
- information about any restrictive covenants (agreements), and
- the condominium bylaws

If the seller has not provided copies of the documents, you may be able to access the bylaws and the condominium plan through the Alberta Land Titles Spatial Information System (SPIN2). You will need to know the condominium plan number (usually found on correspondence from the corporation) to obtain these documents. Contact information for SPIN2 is available in the RESOURCE AND REFERRAL INFORMATION section at the end of this publication.

The condominium corporation must provide purchasers with the following information within 10 days of your written request:

- an estoppel certificate (described in the next section)
- the particulars of any legal action or claim against the corporation
- details of any written demand made upon the corporation for \$5,000 or more
- a copy of the corporation's current budget
- a copy of the most recent financial statement and year-end statement
- a copy of the latest minutes of general meetings of the corporation and of the board
- details of any management, recreational and lease agreements
- a copy of the approved capital reserve fund plan and annual report, including a statement identifying the amount of the capital reserve fund

- a statement setting forth the unit factors and the criteria used to determine the unit factor
- the particulars of any post tensioned cables that are located on the property
- information on any structural deficiencies that the corporation has knowledge of at the time of the request in any of the buildings on the condominium plan, and
- a copy of any lease agreement or exclusive use agreement with respect to the possession of a portion of the common property, including a parking stall or storage unit.

The corporation or condominium manager may charge a reasonable fee for these documents.

## **Estoppel certificate**

An estoppel certificate is a signed statement from the condominium corporation that certifies the information provided is correct. The estoppel certificate tells you:

- the current condominium contribution assessed to the unit
- the schedule for paying the condominium contribution (e.g. monthly, yearly)
- whether the previous owner has paid his/her share of the contributions and what remains unpaid, and
- the amount of any interest owing on any unpaid condominium contributions.

The corporation may charge a fee for the certificate.

As with the purchase of any building, it would be wise to have a building-inspection report on the unit, if available, or you can make your offer to purchase conditional on obtaining a satisfactory report.

You may also ask for the corporation's most recent newsletter, if any, a copy of the corporation's certificate of insurance, showing the amount of insurance on the complex, and any governing policies of the condominium, as well as the names of the corporation's current board of directors and manager, along with contact information.

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## RESOURCE AND REFERRAL INFORMATION

### Consumer Contact Centre

Edmonton: 780-427-4088

Toll free in Alberta: 1-877-427-4088

[www.servicealberta.ca](http://www.servicealberta.ca)

### Alberta Land Titles Spatial Information System (SPIN2)

<https://alta.registries.gov.ab.ca/spinii/logon.aspx>

780-427-2742 (Edmonton)

403-297-6511 (Calgary)

8:15 am - 4:00 pm (Monday to Friday,

closed statutory holidays)

### Building Industry and Land Development (BILD) Alberta

(formerly Canadian Home Builders Association)

1-800-661-3348

<http://www.chbaalberta.ca/bild-alberta>

### Canada Mortgage and Housing Corporation

1-800-668-2642

<https://www.cmhc-schl.gc.ca/>

Consumers - Buying a Home

### Real Estate Council of Alberta

1-888-425-2754

<https://www.reca.ca/>

### Alberta Queen's Printer

You may purchase Acts and regulations from the website or from Queen's Printer Bookstore:

10611 - 98 Avenue, Edmonton, Alberta T5K 2P7

Edmonton: (780) 427-4952

Toll-free in Alberta: 310-0000 then 780-427-4952

The legislation is also free for you to download

in the "pdf" or "html" formats or purchase online at

<http://www.qp.alberta.ca/>

## APPROVED PURCHASER PROTECTION PROGRAMS

### Alberta New Home Warranty Program

1-800-352-8240

[www.anhwp.com](http://www.anhwp.com)

### Aviva Insurance Company of Canada

1-800-363-6330

<https://www.aviva.ca/en/>

### The Guarantee Company of North America

1-800-268-6617

[www.theguarantee.com](http://www.theguarantee.com)

### Travelers Insurance Company of Canada

1-800-555-9431

[www.travelerscanada.ca](http://www.travelerscanada.ca)

### Trisura Guarantee Insurance Company

(416) 214-2555

[www.trisura.com](http://www.trisura.com)

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