

**HUMBER REAL ESTATE EXAMS**

**MiniCram®  
REAL ESTATE  
LICENSE EXAM**

**3**

**STUDY NOTES**

**ADDITIONAL  
RESIDENTIAL TRANSACTIONS**



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## MiniCram® Real Estate Exam Study Notes

### Course 3 – Additional Residential Real Estate Transactions

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## INTRODUCTION

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## 1. INTRODUCTION TO RESIDENTIAL CONDOMINIUMS

### 1.1 Residential Condominiums

#### Condominium Structure

- A condominium corporation is a legal entity that represents the collective interests of its property owners.
- These buildings consist of 'units' and 'common elements'.
- Condominium corporations in Ontario are governed under the *Condominium Act*, which regulates the creation, governance, and bylaws of the condominiums.
- The *Protecting Condominiums Act* amended the *Condominium Act* and the *Ontario New Home Warranties Plan Act*.
- It establishes two delegated authorities, the *Condominium Authority of Ontario (CAO)* and the *Condominium Management Regulatory Authority of Ontario (CMRAO)*.

#### Creation and Governance

- Condominium Creation: A *Condominium* is created after registration of *Declaration* and *Description*.
- Declaration: The Declarant is usually a builder or developer, which includes details about proportionate share of each unit in *Common Elements* and the share of *Common Expenses*.
  - It also includes information about common elements which are for exclusive use of unit owners.
- Description: This document provides the *Diagrammatic Presentation* of the property.
  - It includes series of architectural plans and surveys describing the property and structures of the condominium corporation.
  - Unit boundaries, shape, dimensions, and location of each unit is given in this document.
- Governance: Condominiums are governed by a board of directors, which has the authority to make and enforce bylaws and rules.
  - It is similar to a fourth level of government, which is elected by unit owners.
  - Bylaws are about operational matters of the corporation whereas rules are about safety and security if the unit owners and the condominium property.

#### Types of Condominium Corporations

- Freehold Standard: This is the most common type of residential condominium corporation. Unit owners have exclusive ownership of their unit and common interest (as tenants-in-common) in the common elements.
  - These two interests cannot be separated.
  - They include mid-rise, high-rise, or row townhouses.
  - All unit owners share the maintenance costs of the common elements.
  - This cost is according to their proportionate share based on square footage of the unit.



- Freehold Common Element: This consists only of common elements but has no units.
  - Each owner must have a freehold parcel of land within the same Land Registry Office where the condominium is registered.
  - Each owner has ownership of their house and the land, and they share the ownership and maintenance of common elements.
  - A golf course, a ski hill resort, community centre, or roads are some examples.
  - The registration shows that each owner owns a parcel of land, the building on it, and partial ownership of common elements.
  - Since the property of an owner is permanently 'tied' to common elements, such common elements are called "Parcel of Tied Land (POTL).
  - This means that the property cannot be sold separately from its interest in common elements.
- Freehold Vacant Land: The *unit* is just a parcel of land in this type of condominium.
  - It provides for development and sale of units (*land*) without the necessity of immediately completing any structures.
  - The developer can build the structures and infrastructure, facilities, and services.
  - The buyers of vacant land can build their homes later and their share in corporation is based on the size of land.
- Freehold Phased: It operates as a freehold corporation in which the *builder/developer* may add or create additional successive units/common elements in phases.
  - In a large-scale development project, this provides cost savings and there is no need for separate board of directors.
- Leasehold Condominium: All units and common elements are situated on leased land for which the lease term is from 40 to 99 years.
  - A portion of the common expenses (maintenance fee) is paid to the landowner as rent.
  - Since the corporation does not have to purchase land, this type of condominium offers reduced prices, especially for low-income buyers and retired persons.
- Shared Facility Agreements: These are used in mixed use buildings in urban areas where the residential units are located above retail or commercial units.
  - These agreements are not mandatory under the Condominium Act, but the buyers and their salespersons must be careful if such an agreement exists.
  - The residential unit owners do not pay a proportionate share of maintenance costs, but it may be higher than a standard condominium.

### Condominium Structural Styles

- *Apartments*: High-rise apartment buildings have 5 or more storeys with elevators whereas low-rise buildings have up to 4 storeys.
- *Townhouses*: A complex of several houses, which are either attached or built very close to each other.
- *Detached Houses*: A freestanding house which is not attached to any other house.

- *Semi-Detached Houses*: One house is attached by a common party wall to the next house.
- *Row Townhouses*: Three or more houses attached side by side by a party wall.
- *Duplexes and Triplexes*: It is a single building, which is divided into two or three dwelling units, each has its own separate entrance and is treated as a condominium unit.

### Units and Common Elements

- Unit: A *Unit* is the space defined by boundaries within a condominium building.
  - The unit owner has exclusive ownership of the unit and is has proportionate ownership of the *Common Elements* as *Tenant-in-Common*.
- Common Elements: All property within the condominium corporation *except units* is considered *Common Elements*.
  - These are held by unit owners as *Tenants-in-Common* (undivided interest).
  - The cost of maintenance of common elements is paid for by the unit owners.
  - No unit owner has exclusive claim to any part of the common elements.
- Exclusive Use Common Elements: In some condominiums, the unit owners may have the right to exclusively use a part of the common elements as per the Declaration.
  - The cost of maintenance of such common elements is the responsibility of the unit owner.
  - Some examples are shared fences, patios, balconies, etc.

### Parking and Storage

- Freehold: The space is owned by the unit owner. The title may be within the unit title or it may be a separate title.
  - If the title is separate, the owner may sell that space to another unit owner.
- Leasehold: The corporation owns the space and leases it to unit owners.
- Exclusive Use: The corporation owns the space but grants rights as per *Declaration*.
- Allocated/Assigned: The corporation owns the space and assigns it to unit owners on discretionary basis.

## 1.2 Condominium Lifestyles and Niche Market

### Living Appeal in Condominiums

- Specific Lifestyles: Several newer condominiums are customized for needs of specific lifestyle groups.
  - These include bungalows and two storey freehold townhouses for adults or seniors, high-rise developments for millennials, etc.
- Freedom from Maintenance: Condominiums provide maintenance-free living as compared to home owners because common elements are maintained by the corporation.



- The cost is part of the monthly maintenance fees.
- Additionally, the cost of major repairs and renovations are also included in maintenance fees.
- Security: Enhanced security features in the building appealing to buyers who are concerned about personal safety.
  - These include security cameras, entrance gates and security system, monitoring alarms, key fob entry system, front desk security person, etc.
- Amenities: Buyers find a condominium attractive if there are many amenities and they are included in common expenses, or they can be used at reasonable fees.
  - Some examples include gym, rooftop terrace, party room, swimming pool, visitor parking, etc.
- Corporation and Unit Insurance: Condominium unit insurance is typically less expensive than other houses due to lesser risk for the insurer.
  - The condominium corporations usually have a master insurance policy, which is paid for by unit owners as part of maintenance fee, but the buyers cannot assume this coverage.
  - Any changes or damage to unit must be covered by unit owner's own policy.

### **Obligations and Limitations**

- Condominium Fees: Under the *Condominium Act*, the maintenance fees are mandatory and non-negotiable.
  - They must be paid even if the unit owner has abandoned the right to use any common element, is making a claim against the corporation, or is restricted from using any common element.
  - If a unit owner defaults in payment of common expenses, a lien can be registered against the unit and the unit owner may lose voting rights.
  - The corporation may have the right to sell the unit to recover unpaid common expenses.
- Personal Liability: Unit owners are personally liable for the debts of the condominium corporation.
  - If there is any deficiency in the *Reserve Fund*, there may be a special assessment, and the cost of ownership for the unit owners are increased.
  - Buyers should be encouraged to have their lawyer review the reserve fund status before making a firm offer.
- Disagreements with the Management: The unit owners may not agree other unit owners, the management, or the board of directors.
  - This may create disharmonious situations, especially when the board makes certain changes without input from unit owners.
  - These changes may increase the operating budget or may necessitate a special assessment.

- Impact of Rules and Bylaws: Rules and bylaws may affect the use and enjoyment of the property by unit owners.
  - They may prevent the unit owner from short-term rentals, prohibit pets, etc.
  - The board of directors is authorized to make, amend, and enforce rules and bylaws of the corporation.
  - Unit owners are notified, and within 30 days, can request a meeting. At least 15% unit owners must request for any such meeting.
  - Rules become effective when a majority of unit owners vote in favour.
  - If no meeting is requested, the rules become effective automatically.
- Making Changes: Unit owners cannot make changes to their units or to exclusive use common elements.
  - Any changes to balconies, plumbing, or parking spots (except cosmetic changes) needs approval of the board.
  - Unit owners may have to sign an agreement to obtain insurance if there is any damage.
  - This agreement is registered on title and is a part of *Status Certificate*. Insurance coverage ensures that no unit owner becomes liable for the acts of other unit owner

### Condominium Niche Market

- Niche markets for condominiums are defined by buyers or by type of properties. They provide potential buyers an opportunity to invest in housing.
- Geography: The condominium lifestyle of a specific location is a deciding factor for buying a condo, which may be in urban core, on the beach, or near a ski hill.
- Demographics: Developers can design the amenities in a condominium to attract first-time buyers, singles, young professionals, retirees, or a combination of these groups.
- Style: The style or structure of the building such as high-rise apartments or townhouses provides specific benefits to buyers.

## 1.3 Condominium Legal Framework and Governance

### The Condominium Act

- The *Condominium Act* governs the creation and governance of condominiums in Ontario.
- It defines the roles and responsibilities of the board of directors, the number of directors, their election process, and qualification criteria.
- Disclosure Statement: Buyers of new condominium units must receive a disclosure statement and their deposit must be held in trust account by the developer.
  - Buyers have the right to terminate the agreement of purchase and sale within 10 days (cooling off period) of receiving the disclosure statement and the deposit is refunded without penalty.
  - They can also terminate the agreement if there is any '*material*' change to disclosure statement.

- However, the developer can terminate the agreement only with buyer's consent or a court order.
- Condominium Authority of Ontario (CAO): The CAO is an independent administrative authority that maintains a register of condominium corporations in Ontario.
  - It provides information to public and unit owners, mandatory training for condominium directors, and online dispute resolution service through Condominium Authority Tribunal.
- Condominium Authority Tribunal: This tribunal helps resolve disputes by case management, mediation, and adjudication.
  - The nature of disputes may include enforcement of declarations, bylaws, rules, procurement procedures, access to records, procedures for requesting meetings, etc.
  - The tribunal's decisions are enforceable as court orders.

### **Impact of the Condominium Act on Ownership**

- Right of Entry: The Act authorizes corporation's authorized person to enter the unit upon reasonable notice. No notice is required in emergency situations.
- Loss of Owner's Right to Vote: A unit owner loses the right to vote if their common expenses are in arrears for 30 days or more.
- Changes Made by Owner: Owners can make changes to exclusive use common elements only after approval from board.
  - They must also sign an agreement with board to obtain liability insurance.
- Lien on Unit: If a unit owner fails to pay common expenses, a lien can be registered against the unit.
- Meetings: The Act includes guidance on meetings of owners, special meetings, and annual general meetings.
  - A meeting must be called if owners of at least 15% units may request.
- Common Expenses: The Act defines unit owner's obligation to pay their proportionate share of common expenses as given in the *Declaration*.
  - These are payable even if a unit owner elects not to use any common elements.
- Bylaws and Rules: The board can make amend, or repeal bylaws that govern the corporation.

### **Turn Over Meeting**

- The purpose of the *Turn Over Meeting* is to deliver documents by *Declarant* to the unit owners or Board of Directors and elect a new board of directors.
- The documents transferred include corporate documents including corporation seal, minute books, declaration, bylaws, current rule, etc. are transferred to the board.
- Related documents such as all existing management contracts, deeds, leases, licenses, easements, insurance policies, etc. are transferred.

- Delivered Within 30 days: These documents include architectural plans, electrical/mechanical service plans, documents related to Ontario New Home Warranty, financial records, reserve fund, disclosure statement, etc.
- Delivered Within 60 Days: Audited financial statements as of last day of the month of meeting.

### **Board of Directors**

- The first board with minimum 3 members must be appointed by the Declarant, who stay as directors until the *Turn Over Meeting*.
- This meeting is called within 30 days of transfer of 20% units, or within 90 days of transfer of first unit, whichever is later.
- Unit owners may elect 2 more directors in this meeting.
- Directors are appointed for a maximum term of 3 year.
- Director must be at least 18 years of age, mentally competent, not be a bankrupt, and there must not be a lien on their unit.
- Directors are not liable if they are in breach of a duty occurs as a result of their relying in good faith on reports of experts such as accountants, engineers, or lawyers.
- Duties of the Board of Directors:
  - Arrange and attend regular meetings.
  - Creating, amending, and enforcing rules and bylaws.
  - Maintenance of property.
  - Tracking financial performance of the corporation.
  - Regular communication with unit owners regarding finances.
  - Make required personal disclosures about any legal proceedings, which disqualifies them.

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