

From the Administrator: We are always grateful for information shared by our members, especially at this time when there are questions and concerns in the community and the country. Some of your questions may be answered in this bulletin.

The following notice was received today (March 17th, 2020) from the law firm, Cohen Highley LLP. We share it with you. COVID-19 is creating anxiety among our communities. The content herein will assist boards and managers to be aware that there is help out there. Please consult with condominium legal counsel as issues come up. You may also contact the writers below for assistance.



Cohen Highley^{LLP}
L A W Y E R S

COVID-19 and Condominiums

As with every other company and industry at the moment, we know that our condominium clients have concerns about how they should be addressing the COVID-19 (coronavirus) pandemic. This bulletin will provide some basic information and recommendations as to how to deal with this situation.

First, make sure that you have the correct and most up-to-date information. The Canadian Government has set up a webpage with all relevant information, and it is being updated regularly. You can find that website here:

<https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/prevention-risks.html>

As to what Boards and managers can be doing for their own condominium, here are some general tips:

- Keep common areas, and particularly frequently touched items (e.g. door handles, elevator buttons) clean and disinfected;
- Encourage any employees (e.g. superintendents) not to come to work- or to self-quarantine if they live onsite- if they are feeling sick, if they have or someone close to them has been diagnosed, or if they are a high-risk individual. Remember that, as an employer, you have an obligation to any employees under the *Occupational Health and Safety Act*. If you have questions about how to do this properly, please get legal advice- we'd be happy to help guide you;
- Install hand sanitizers in common areas, and particularly by doors and elevators;
- Post a notice to owners/occupants with the following requests:
 - To not use common areas/amenities if they are feeling sick or have been diagnosed, if they have been around someone sick/diagnosed, or if they have recently come back from travelling;
 - That they advise the Board/management if they have been diagnosed;
 - That contact with the Board/management be through electronic means (telephone, email, online portal if available) rather than in person.

Most of these will apply primarily to high-rise condominiums, but some may be useful for other types of condominium complexes as well. It is important to remember that while the Board/management can request that owners/occupants take these steps, you do not have the authority to force them to do so.

It is also important to remember that the obligation not to disclose owner-specific information is still in place. So if you do receive information that an owner or occupant has been diagnosed, you can share that fact with the residents (e.g. in a notice) but you should not share any identifying information. The unit number of the individual of course should not be shared, but you should also not provide information about the floor, area of the complex, etc. where the person resides. Simply advise that there is an individual who resides in the condominium who has been diagnosed, and that everyone should take precautions as applicable.

One big question for Boards and managers is going to be how to deal with the AGM, especially as the coming months are 'AGM season' in the condo world. How the AGM should be dealt with is going to be different for every condominium, depending on demographics of the residents, whether there is an electronic voting bylaw in place, the number of units in the condo, and other factors. We would strongly urge you to contact us about how to deal with the AGM in your building, to make sure that you are complying with the *Condominium Act, 1998* as much as possible while also acting responsibly to protect the safety of the owners, occupants, management, tenants, and visitors of your condominium. **Regardless of your condominium's situation, we recommend that in-person meetings DO NOT OCCUR at this time.**

Another issue that might arise is that there may be an increase in unpaid common element fees as people's incomes are disrupted. Consider taking a balanced approach to this situation: contact the owners to discuss the situation and respond with empathy and flexibility, while also keeping in mind the condominium's lien right. Lien rights will expire after 3 months if a lien is not registered, regardless of the reason for non-payment. If owners are unable to pay, you might consider registering the lien to avoid the expiry of the lien right, but not proceeding with further action (i.e. power of sale) if it is a situation caused by income disruption due to this pandemic.

As more and more people are working from home, and with schools closed for at least the 2 weeks after March break, people will be spending a lot more time in their units and around the condominium. This will likely lead to increases in noise complaints and other 'people-related' issues. A letter to owners and occupants reminding them that this is a difficult situation for everyone and asking people to be especially tolerant and respectful of each other during this time could go a long way to avoiding the escalation of problems.

There will be additional legal issues that come up as time progresses, and we will be sending out updates as issues arise. If you have questions about this bulletin or about how to deal with COVID-19 in your condominium, you can contact Stephanie Sutherland (ssutherland@cohenhighley.com), Laura Glithero (glithero@cohenhighley.com), or Joe Hoffer (hoffer@cohenhighley.com).

Laura Glithero is a partner in our London Office. Stephanie Sutherland is a lawyer in our Kitchener Office. Cohen Highley LLP has offices in London, Kitchener, Chatham, Sarnia, Stratford and Strathroy. Laura and Stephanie provide risk management and regulatory compliance advice to condominium corporations, unit owners, and property management companies.