

CHECK LIST FOR LEASEHOLD CONDOMINIUMS (REGISTRY AND LAND TITLES)

- The lessor is the registered owner of the property (which includes the appurtenant interests) with an absolute title under the *Land Titles Act* and the declarant is the registered owner of a leasehold parcel of land that consists of or includes the property or the lessor holds a certificate of title to the property (which includes the appurtenant interests) issued under the *Certification of Titles Act* within ten years before registration of the condominium. O.Reg. 48/01 s.59(c)

DECLARATION

BODY OF DECLARATION

- Statement of intention by the declarant that the land and interest appurtenant to the land in the description and Schedule A of the declaration be governed by the Act. (Usually on 1st page of declaration, if not ask client where it is.) *Condo. Act, 1998* s. 7(2)(a)
- The first page contains a statement that the declaration will create a Leasehold Condominium Corporation and that the buildings and improvements form part of the property. *Condo. Act, 1998* s. 6(3) & (4) & O.Reg. 48/01 s. 60(1)(b)
- The first page contains a statement that no person shall terminate the leasehold interest in the units and their appurtenant interests except in accordance with the Act. O.Reg. 48/01 s. 60(1)(d) & Bulletin 2001-1
- Address for service and mailing address for the corporation. Check that it exists. *Condo. Act, 1998* s. 7(2)(e)
- Declaration is signed and dated by the declarant and the lessor. *Condo. Act, 1998* s. 7(1) & O.Reg. 48/01 s.5(1)(a) & 60(1)(a)

SCHEDULES

- Verify that the description in Schedule **A** is consistent with the PARCEL / PIN / CTA Certificate O.Reg. 48/01 s. 5(2)(a)
- If servient easements are created by the declaration, they are through the common elements and benefit other lands of the declarant. If appurtenant easements are created by the declaration, they are over lands owned by the declarant and benefit the condominium lands. *Condo. Act, 1998* s. 20(2), O.Reg. 48/01s. 5(2)(a)
- Easements may be created in the declaration if required as a condition of *Planning Act* approval. When such easements are included in Schedule A, a note identifying them as such must be included together with a reference to the location within the declaration where the statement of planning conditions is set out. *Condo. Act, 1998* s. 7(2)(g) & s. 20(2) & Bulletin 2001-1

Note that all easements created in Schedule A to the declaration must be properly described. Acceptable descriptions are: 1) over all of the Common Elements; 2) parts on a reference plan; and 3) a description for part of the common elements, approved by the examiner of surveys, in accordance with s.45(5), O.Reg. 49/01.

- Any easements created in the declaration must be certified under the *Certification of Titles Act* or registered with absolute title under the *Land Titles Act*. O.Reg. 48/01 s.59(c)
- Schedule **A** must be signed by the solicitor and certify that the legal description is correct, the easements will exist in law upon registration of the declaration and description and the declarant is the registered owner of the land and appurtenant easements. O.Reg. 48/01 s. 5(2)(b)
- Consent in Schedule **B** being, Form 1, O.Reg. 48/01, of every person having a registered mortgage against the condominium lands or a registered mortgage against an interest appurtenant to the condominium lands. Verify that the consents have been obtained for mortgages on the condominium lands only. *Condo. Act, 1998* s.7(2)(b) & O.Reg. 48/01 s. 5(3)
- Statement in Schedule **C** to specify and describe the boundaries of each unit and to include a statement of an O.L.S. certifying that the description accurately corresponds with the diagrams shown on the plan of survey. It must be signed and dated. O.Reg. 48/01 s. 5(4)(a)(b) & (c)
- Statement in Schedule **D** of the proportions of common interests and of the common expenses allocated to each unit expressed in percentages. Each must indicate a total of 100%. Confirm that common interests add up to 100%. *Condo. Act, 1998* s. 7(2)(c) & (d) & O.Reg. 48/01 s. 5(5)(a) & (b)
- Statement of common expenses in Schedule **E** (may be left blank but not omitted). *Condo. Act, 1998* s. 7(4)(a) & O.Reg. 48/01 s. 5(6)
- A specification in Schedule **F** of exclusive use areas assigned for the use of the owners of one or more units or stating there are none. Ensure that it exists. Do not review the statement of allocation. *Condo. Act, 1998* s. 7(2)(f) & O.Reg. 48/01 s. 5(7)
- A certificate(s) in Schedule **G** being in Form 2, O.Reg. 48/01 by an Architect, and/or one or more Engineers certifying that all buildings have been constructed in accordance with the Act. O.Reg. 48/01 s. 5(8)

There may be several certificates. Ensure that together they certify all the matters set out in Form 2.

Note: A matter certified with respect to buildings applies to all buildings on the property.

- Schedule **L** shall set out the provisions of the leasehold interests, state that they are binding on the Corporation, the property and the owners, state the term of the leasehold interest of the owners, include a schedule of rents for at least 5 years and include a formula to determine rents for the remainder of the term. *Condo Act, 1998 s. 166(2) & O.Reg. 48/01 s. 60(3)*

- Schedule **M** is a statement signed by solicitor stating that the lessor is the registered owner of the freehold estate and appurtenant interests, the declarant is the registered owner of the leasehold estate and appurtenant interests, the lease is a valid and subsisting lease and the term of the lease is stated. O.Reg. 48/01 s. 60(4)

DESCRIPTION

The Plans of Survey consisting of the perimeter plan sheets showing the Condominium Lands and the plan sheets defining the units, will be Part I. The plan sheets showing Exclusive Use areas will be Part II. Architectural drawings and/or Structural drawings will be Parts III and IV respectively.

Schedule A of the declaration must have been checked before proceeding.

The maximum size for all plan sheets is limited to 915mm x 1500mm.

PERIMETER PLAN SHEET SHOWING THE CONDOMINIUM LANDS

1. MANDATORY FORMS AND NOTES

- Registration Certificate in Form 4, O.Reg. 48/01 in the upper right hand corner. The name of the condominium must include the type – Leasehold. O.Reg. 48/01 s. 10(1) & O.Reg. 49/01 s.11(1)(a)

- Surveyor's Certificate in Form 5 , O.Reg. 48/01 immediately below the registration certificate. O.Reg. 48/01 s. 10(2) & O.Reg. 49/01 s.11(1)(c)

- The notation: "Declaration registered as Number _____" immediately below the surveyor's certificate. O.Reg. 49/01 s.11(1)(d)

- Notation required: Bulletin 2001-1
 - This plan comprises of ...
 - "All of Parcel/PIN/Certificate of Title" ... or
 - "Part of Parcel/PIN/Certificate of Title" ... or
 - "Remainder of Certificate of Title/All of PIN"

- All easements to which the condominium lands will be subject to upon registration of the declaration and description must be set out in the schedule of appurtenant and servient interests in Form 3, O.Reg. 48/01. Check for consistency with Schedule A of the Declaration. *Condo. Act, 1998 s. 8(1)(g), O.Reg. 48/01 s. 9(5) & O.Reg. 49/01 s. 11(2)*

- All easements that will be appurtenant to the condominium lands upon registration of the declaration and description must be set out in the schedule of appurtenant and servient interests in Form 3, O.Reg. 48/01. Check for consistency with Schedule A of the Declaration. *Condo. Act, 1998 s. 8(1)(g), O.Reg. 48/01 s. 9(5) & O.Reg. 49/01 s. 11(2)*

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| <input type="checkbox"/> If units are either subject to or together with any easements, the unit(s) must be identified in the "Notes" column of the schedule of appurtenant and servient interests or directly below the schedule with an appropriate notation in the "Notes" column of the schedule. | O.Reg. 48/01 Form 3 |
| <input type="checkbox"/> Index of plan sheets. | O.Reg. 49/01 s. 2(2) & (3) |
| <input type="checkbox"/> Plan part and sheet numbers adjacent to registration certificate. | O.Reg. 49/01 s. 2(3)(4) & (5) |
| <input type="checkbox"/> Certificate of Declarant in Form 6, O.Reg. 48/01 endorsed by each owner with corporate seal or the binding statement, if required. | O.Reg. 48/01 s. 10(3) & O.Reg. 49/01 s. 11(1)(e) |
| <input type="checkbox"/> Certificate of <i>Planning Act</i> approval or exemption. | <i>Condo. Act, 1998</i> , s. 9(3) |
2. FACE OF PLAN
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| <input type="checkbox"/> Geographic fabric, underlying plans, instrument/parcel numbers and PINs illustrated in broken outline. | O.Reg. 42/96 s. 17 under the <i>Surveyors Act</i> |
| <input type="checkbox"/> All easements affecting the condominium lands (servient and appurtenant*) must be illustrated on the plan in broken outline, and labelled. Check for consistency between the schedule of appurtenant and servient interests and the face of the plan.

*Appurtenant easements do not have to be illustrated if they are described in reference to whole lots/blocks/parts etc. on previously registered/deposited plans. | O.Reg. 49/01 s. 10 |
| <input type="checkbox"/> Line weight – boundaries of condominium lands must be significantly heavier than the underlying information. | O.Reg. 42/96 s. 18 under the <i>Surveyors Act</i> |
| <input type="checkbox"/> Perimeter of buildings on property illustrated. | <i>Condo. Act, 1998</i> s. 8(1)(a) |
| <input type="checkbox"/> Suitable tie to reference property to lot limits. | O.Reg. 42/96 s. 17(1)(b) under the <i>Surveyors Act</i> |
| <input type="checkbox"/> Boundary confirmation under the <i>Boundaries Act</i> , if shown on PARCEL / PIN / CTA Certificate. | O.Reg. 42/96 s. 23 under the <i>Surveyors Act</i> |
| <input type="checkbox"/> By-law or other instrument if plan shows a street as closed. | O.Reg. 42/96 s. 22 under the <i>Surveyors Act</i> |
3. TITLE BLOCK
- | | |
|--|---|
| <input type="checkbox"/> Geographic Fabric (Lot & Con/Lot & Plan) and Township (as applicable). | O.Reg. 42/96 s. 24(1)(a) & (c) under the <i>Surveyors Act</i> |
| <input type="checkbox"/> Municipality and County/District/Regional Municipality (as applicable). | O.Reg. 42/96 s. 24(1)(d) under the <i>Surveyors Act</i> |

PLAN SHEET(S) DEFINING THE UNIT BOUNDARIES

Note that the plan sheet(s) showing the condominium lands may also illustrate unit boundaries.

1. MANDATORY FORMS AND NOTES

- Registration Certificate in Form 4, O.Reg. 48/01 in the upper right hand corner. The name of the condominium must include the type – Leasehold. O.Reg. 48/01 s. 10(1) & O.Reg. 49/01 s. 11(1)(a)
- Surveyor's Certificate in Form 5, O.Reg. 48/01 immediately below the registration certificate. O.Reg. 48/01 s. 10(2) & O.Reg. 49/01 s. 11(1)(c)
- The notation: "Declaration registered as Number _____" immediately below the surveyor's certificate. O.Reg. 49/01 s. 11(1)(d)
- Plan part and sheet numbers adjacent to registration certificate. O.Reg. 49/01 s. 2(3)(4)&(5)
- Certificate of Declarant in Form 6, O.Reg. 48/01 endorsed by each owner with corporate seal or the binding statement, if required. O.Reg. 48/01 s. 10(3) & O.Reg. 49/01 s. 11(1)(e)

2. UNIT LABELLING

- Units to be designated with prefix "UNIT" and numbered consecutively on each level beginning with number 1. O.Reg. 49/01 s. 8(1) & (2)
Note that no more than one unit to be designated with the same number on each level.
- Levels to be numbered consecutively in ascending order, beginning with the number 1. If there are levels below Level 1, they shall be lettered in descending order in alphabetic sequence beginning with the letter A. O.Reg. 49/01 s. 7(1)
- Each unit shown on the plan must also be listed in Schedule D and be allocated a common interest. *Condo. Act, 1998* s. 7(2)(c) & O.Reg. 48/01 s. 5(5)(a)
- Section or perspective drawings to portray the vertical relationship of all levels. O.Reg. 49/01 s. 5(7)

3. UNIT BOUNDARIES

- Line weight – boundaries of units must be significantly heavier than the underlying information. O.Reg. 49/01 s. 8(5)
- Unit boundaries are to be illustrated in plan views and cross sections. O.Reg. 49/01 s. 5(4)
- Plan sheets that designate units shall refer to Schedule C of the declaration. O.Reg. 49/01 s. 5(3)
- Underlying easements must be illustrated and labelled unless they affect the entire property. Where an easement affects part of a unit, the part so affected will be illustrated and defined by measurements or described as a PART on a reference plan. Bulletin 2001-1

PLAN SHEET(S) OF EXCLUSIVE USE PORTIONS

1. MANDATORY FORMS AND NOTES

- Plan part and sheet numbers. O.Reg. 49/01 s.2(3) & (4)
- Identification of the Condominium Plan (Including type – Leasehold). O.Reg. 49/01 s.11(3)(a)
- Certificate of Surveyor in Form 7, O.Reg. 48/01. O.Reg. 48/01 s. 10(4) & O.Reg. 49/01 s. 11(3)(b)

2. FACE OF PLAN

- Exclusive use portions shall be designated by numbers or letters or by numbers and letters. O.Reg. 49/01 s.8(3) & (4)
- Section or perspective drawings to portray the vertical relationship of all levels. O.Reg. 49/01 s. 5(7)
- Underlying easements must be illustrated and labelled unless they affect the entire property. Where an easement affects part of an exclusive use portion, the part so affected will be illustrated and defined by measurements or described as a PART on a reference plan. Bulletin 2001-1

ARCHITECTURAL/STRUCTURAL PLANS

- Architectural (or drawings sufficient to enable construction of the buildings if Architectural drawings are unavailable or not required by the *Building Code Act, 1992*) and/or Structural Plans of the Buildings(s) are required. O.Reg. 49/01 s. 12, 13 & 14
- Architectural Plans are to be Part III, Structural Plans are to be Part IV O.Reg. 49/01 s. 2(1) (c) & (d)
- All architectural and/or structural plans to have the following registration detail: O.Reg. 49/01 s. 2(4), 13(3) & 14(3) & Bulletin 2001-1
_____ Leasehold Condominium Plan No. _____
Part (III or IV), Sheet _____ of _____ Sheets
- The number of sheets is consistent with the index on the perimeter plan sheet.
- Architectural and/or Structural plan sheets shall contain no notes, words or symbols that restrict the right to make copies. O.Reg. 49/01 s. 15
- Only white print (not mylar) copies of Architectural/Structural drawings required. O.Reg. 49/01 s. 17(1) (c) & (d)

SCHEDULE 'L'

Schedule L shall set out all provisions of the leasehold interests that affect the property, the corporation and the owners and that are binding on them, and shall include,

- (a) a statement that the provisions of the leasehold interests set out in the Schedule are binding on the property, the corporation and the owners;
- (b) a statement of the term of the leasehold interests of the owners;
(Note: this term must be between 40 and 99 years and less than or equal to the remaining term of the lease)
- (c) a schedule setting out the amount of rent for the property payable by the corporation on behalf of the owners to the lessor and the times at which the rent is payable for at least the first five years immediately following the registration of the declaration and description; and
- (d) a formula to determine the amount of rent for the property payable by the corporation on behalf of the owners to the lessor and the times at which the rent is payable during the remainder of the term of the owners' leasehold interests following the time for which the schedule described in clause (c) states the amount of rent payable.

SCHEDULE 'M'

In my opinion, based on the parcel register and the plans and documents recorded in them, the lessor is the registered owner of the freehold estate in the land and appurtenant interests, the declarant is the registered owner of the leasehold estate in the land and appurtenant interests and the lease of the declarant in the land and appurtenant interests is a valid and subsisting lease for a term of 60 years.

Dated

J. Lawyer