

Lash / Condo Law

COVID-19 and Condos: State of the Union as of April 1, 2020

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April 1, 2020

Before we delve into the next post, we wanted to take a moment to recognize the tremendous effort by boards, managers, cleaning staff, concierge, and other condo service providers over the last few weeks. You have been working around the clock to ensure your communities are safe, managed, maintained, and cared for during these difficult times. It is no small feat – you should be proud of the tremendous work you have been doing for your communities. The effort during these challenging times can quite literally help save lives.

Over the past couple of weeks, Canadians have been inundated with information regarding COVID-19 as the pandemic's epicentre reaches North America.

Most recent government updates:

At the Federal level, the Canadian Government issued an Emergency Order under the *Quarantine Act* on March 25, 2020 that “requires any person entering Canada by air, sea or land to self-isolate (quarantine) for 14 days whether or not they have symptoms of COVID-19.”

At the Provincial level, Doug Ford declared a state of emergency for Ontario on March 17, which was extended on March 30 for another two weeks, with the possibility for further extensions. This past weekend, Ford announced that gatherings of more than five people are prohibited. As of March 30, communal or shared, public or private (including condo), outdoor recreational amenities in Ontario are now required to be closed. Starting March 31, people charged with an offence under the Emergency Management and Civil Protection Act will be required to identify themselves if asked by a provincial offences officer (including police officers and municipal by-law officers).

Lastly, at the Municipal level, Toronto Mayor John Tory declared a municipal emergency in the City of Toronto on March 23, 2020, increasing access to necessary resources to adequately fight COVID-19. On March 25, all City owned parks, sports fields, basketball and tennis courts, and other outdoor amenities were closed.

The City of Toronto has released helpful one-page information sheets: Physical Distancing on Elevators, Guidance for Workplaces, Businesses, and Employers (remember, condominiums are workplaces for all of your service providers), and Practicing Physical Distancing.

All Canadians are encouraged to routinely wash their hands, practice physical distancing, including only leaving your home for essential trips, such as to work and the grocery store, and to quarantine if there is a risk that you have been exposed to someone who has tested positive for COVID-19.

So, what does this mean for condos?

Confirmed COVID-19 Cases

Some condos have been notified that residents have tested positive for COVID-19. If a resident has notified the corporation that they have tested positive for COVID-19, the corporation should notify residents informing them that a resident (keep the name and unit number anonymous) has tested positive for COVID-19, is isolating, and that any areas of the common elements that the infected individual may have come into contact with, such as elevator buttons and door handles, have been thoroughly cleaned.

Quarantine Following Travel

Anyone returning from international travel is required to quarantine inside of their units for 14 days, and should not be accessing the common elements. The purpose of quarantining is to avoid contact with others; contact with others (whether through direct contact or potential transmission on surfaces) is inevitable when accessing the common elements. If there is concern that an individual has returned from international travel and is not quarantining as required by the Federal Emergency Order, corporations should contact public health for assistance, contact and educate the owner about the importance and requirement to quarantine, and may seek advice from legal counsel regarding the possible enforcement mechanisms available.

Gatherings

All amenities (interior and exterior) should be closed. Residents should not congregate in the common elements.

Residents should be encouraged not to have any non-essential visitors in the building, not to undertake renovations, and not to roam the hallways or common elements except for the purpose of necessary entry/exit from the building.

The restriction of five person gatherings precludes the ability of condo corps to hold in-person AGMs. In our view, where possible, corporations should postpone their AGMs and other in-person owner's meetings, even if it means falling outside the statutory 6-month timeframe.

Corporations who need to host a meeting – for example, if the Board has lost quorum and cannot perform its obligations – should consult with legal counsel for further guidance on how to hold the meeting.

Physical Distancing

Corporations should consider what steps they can take to mitigate risks to their service providers, employees, and residents, such as blocking off a 6-foot wide area in front of the concierge or installing a plexiglass screen to enforce physical distancing, providing staff with masks and gloves, and setting up hand sanitizer stations throughout the common elements.

Some corporations have sectioned off elevators with masking tape on the floor, creating a guide for residents and other individuals to stand in the elevators.

Now is the time to consider what types of protocols can be implemented with respect to the use and access to the common elements. There is no one-size fits all approach, as each corporation is unique. However, corporations should be considering the types of protocols to implement relating to deliveries (i.e. delivery permitted to unit door, to concierge, front vestibule, etc.), mailroom access, real estate showings, owner's volunteer groups, etc. Get creative and brainstorm ideas that work best for your community.

As always, we will continue to update our blog as new information comes to light, and what that means for condominiums.

In the words of Toronto Public Health, **"it's time to step up, not out."**