



Province of Alberta
Order in Council

O.C. 169/2020

JUN 01 2020

ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Condominium Property Amendment Regulation set out in the attached Appendix.

CHAIR

FILED UNDER
THE REGULATIONS ACT

as ALBERTA REGULATION 85/2020
ON June 1 2020

REGISTRAR OF REGULATIONS

For Information only

Recommended by: Minister of Service Alberta

Authority: Condominium Property Act
(section 81)

APPENDIX

Condominium Property Act

CONDOMINIUM PROPERTY AMENDMENT REGULATION

1 The *Condominium Property Regulation (AR 168/2000)* is amended by this Regulation.

2 The following is added after section 27:

Use of reserve fund during emergency

27.1(1) Notwithstanding section 27(2), a corporation other than a corporation controlled by an interim board may transfer funds currently in the reserve fund into the operating fund for the purposes of temporarily paying for the control, management and administration of the real and personal property of the corporation, the common property and managed property if the conditions in this section are met.

(2) Before a corporation may transfer funds under this section, the following conditions must be met:

- (a) a declaration of emergency has been proclaimed under the *Emergencies Act (Canada)*, a state of emergency or state of local emergency has been declared under the *Emergency Management Act* or a state of public health emergency or local state of public health emergency has been declared under the *Public Health Act*, and the declaration of emergency, state of emergency, state of local emergency or state of public health emergency or local state of public health emergency remains in effect;
- (b) the corporation has received lower revenue from contributions compared to the revenue expected from contributions levied on owners as a result of
 - (i) the declaration or state of emergency,
 - (ii) events that caused or led to the declaration or state of emergency, or

(iii) events related to the declaration or state of emergency that occurred during the declaration or state of emergency;

(c) as a result of the lower revenue described in clause (b), a shortfall exists between revenue received and expenditures to be paid from the operating fund;

(d) the corporation has no prohibition in the corporation's bylaws on using the reserve fund in this manner.

(3) A corporation may not transfer from the reserve fund to the operating fund an amount that is more than

(a) the difference between the lower revenue received from contributions, as referred to in subsection (2)(b), compared to the revenue expected from contributions levied on owners,

(b) the actual shortfall that exists between revenue received and expenditures to be paid from the operating fund, or,

(c) any limit that may exist in the corporation's bylaws on using the reserve fund in this manner,

whichever is less.

(4) Prior to transferring funds currently in the reserve fund for a purpose identified in subsection (1), the board must

(a) serve a notification to owners consisting of

(i) a statement of the board's intention to transfer reserve funds for a purpose identified in subsection (1),

(ii) notice of the date when the board intends to make a decision,

(iii) a description of any alternative that was considered to transferring reserve funds, and the reason why the alternative was not adopted, and

(iv) a proposed revision to the reserve fund plan that

- (A) identifies the amount of the reserve fund being transferred to the operating fund under this section, and
 - (B) identifies a specific repayment plan that will be used to repay the amount transferred from the reserve fund within 2 years of the date the declaration or state of emergency has ended,
- (b) pass a board resolution with a 75% majority of directors eligible to vote that
- (i) authorizes a transfer from the reserve fund to the operating fund in accordance with this section, and
 - (ii) approves the proposed revision to the reserve fund plan referred to in clause (a)(iv),
- and
- (c) serve a notice to owners confirming that the changes to the reserve fund plan have been adopted and provide the revised reserve fund plan to owners.

(5) Nothing in this section is to be read as relieving, limiting or deferring an owner's obligation to pay any contributions levied by the board.

3 Schedule 3 is amended

(a) by striking out

- (g) A statement setting out any structural deficiencies that the corporation has knowledge of at the time of the request in any of the buildings that are included on the condominium plan (section 20.52(1)(a)(iv) of this Regulation)
- (h) Professional reports, such as engineering reports (section 20.52(1)(m) of this Regulation) Permanent
- (i) Copies of any legal or other professional advice or opinions paid for by the corporation At least 7 years after the date of the report
- (j) Copies of all manuals, schematic drawings, operating instructions, service guides, manufacturers' documentation, records of service and repairs and other similar information or documentation in the possession or control of the developer, the interim board or the corporation respecting the construction, maintenance, repair and servicing of any common property or real or personal property of the corporation (section 16.1 of the Act, section 20.2(1)(d) of this Regulation) At least 7 years after the date the advice or opinion was received

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| (k) | Structural, electrical, mechanical and architectural working drawings and specifications, and as built drawings (sections 8(1)(b) and (e) and 16.1(1)(b)(i) and (ii) of the Act) | 3 years after the property to which the record relates is disposed of |
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and substituting

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| (g) | A statement setting out any structural deficiencies that the corporation has knowledge of at the time of the request in any of the buildings that are included on the condominium plan (section 20.52(1)(a)(iv) of this Regulation) | Permanent |
| (h) | Professional reports, such as engineering reports (section 20.52(1)(m) of this Regulation) | Permanent |
| (i) | Copies of any legal or other professional advice or opinions paid for by the corporation | At least 7 years after the date the advice or opinion was received |
| (j) | Copies of all manuals, schematic drawings, operating instructions, service guides, manufacturers' documentation, records of service and repairs and other similar information or documentation in the possession or control of the developer, the interim board or the corporation respecting the construction, maintenance, repair and servicing of any common property or real or personal property of the corporation (section 16.1 of the Act, section 20.2(1)(d) of this Regulation) | 3 years after the property to which the records relate is disposed of |
| (k) | Structural, electrical, mechanical and architectural working drawings and specifications, and as built drawings (sections 8(1)(b) and (e) and 16.1(1)(b)(i) and (ii) of the Act) | Permanent |

(b) by striking out

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| 7 | Documents and information consisting of | 3 years after end of agreement |
| (a) | A copy of any subsisting or prior management agreement (section 20.52(1)(b) of this Regulation) | 3 years after end of agreement |
| (b) | A copy of any subsisting recreational agreement (section 20.52(1)(c) of this Regulation) | 3 years after end of agreement |
| (c) | A copy of any lease agreement or exclusive use agreement, or bylaw, lease, licence or other instrument granting an owner the right to exercise exclusive possession with respect to the possession of a portion of the common property, including a parking stall or storage unit (section 20.52(1)(j) of this Regulation) | 3 years after end of agreement |
| (d) | Every lease, licence or agreement for the common property or real property of the corporation | 3 years after end of rental agreement |

and substituting

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| 7 | Documents and information consisting of | |
| (a) | A copy of any subsisting or prior management agreement (section 20.52(1)(b) of this Regulation) | 3 years after end of agreement |
| (b) | A copy of any subsisting recreational agreement (section 20.52(1)(c) of this Regulation) | 3 years after end of agreement |
| (c) | A copy of any lease agreement or exclusive use agreement, or bylaw, lease, licence or other instrument granting an owner the right to exercise exclusive possession with respect to the possession of a portion of the common property, including a parking stall or storage unit (section 20.52(1)(j) of this Regulation) | 3 years after end of agreement or instrument |

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| (d) | Every lease, licence or agreement for the common property or real property of the corporation | 3 years after end of lease, licence or agreement |
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(c) by striking out

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| 12 | Documents and information consisting of | 3 years after the rule ceases to be in effect or is amended or repealed |
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and substituting

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| 12 | Documents and information consisting of | |
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