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# The Ontario Residential Condominium Study Group



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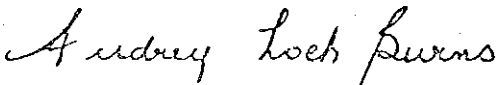
The Honourable Larry Grossman  
Minister of Consumer and Commercial Relations  
Queen's Park, Ontario

Dear Mr. Grossman:

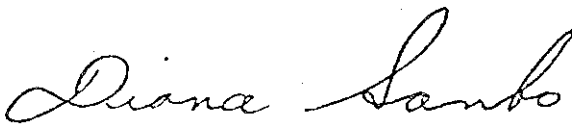
We, the members of the Ontario Residential Condominium Study Group, appointed to investigate and make recommendations with respect to residential condominiums in Ontario, are pleased to submit our report.



Darwin Kealey  
Chairman



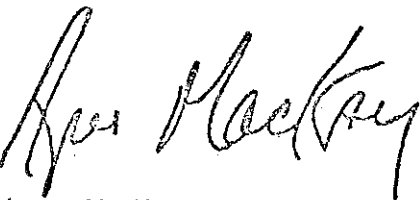
Audrey Loeb Burns  
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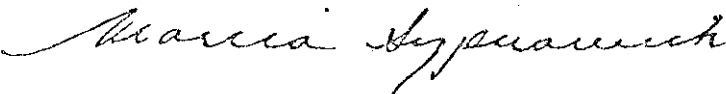
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## Acknowledgement

The Study Group could not have completed its task without the co-operation and contribution of condominium owners and boards of directors, of developers, of municipal representatives, of management firms and all other individuals and groups concerned with the state of condominiums in Ontario. We are particularly grateful to all those who presented submissions at our hearings.

On several occasions we asked those who made submissions to provide us with additional material or to expand on their comments. We want to acknowledge their special efforts on our behalf.

We especially appreciate the assistance of Edward Furlong, C.A.

We also wish to recognize those provincial employees in the Ministry of Housing, the Ministry of Consumer and Commercial Relations and in the regional offices of the Ministry of Revenue and the Ministry of Treasury, Economics and Intergovernmental Affairs who gathered data for our research. All too often lack of data inhibits the work of an investigating group and in our case the data inevitably had to be extracted from administrative records not intended as research documents.

We are especially indebted to Brad McLelland for legal research and to Mrs. Helen Vecchiola for her unstinting efforts in providing the Study Group with efficient administrative services.

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## Introduction to the report

Condominium: is the future already here?

Home ownership in Ontario is undergoing a basic change. The traditional single-family house and lot is losing its predominance. There are several factors producing this change. Families are having fewer children; more single people have money to spend; and increased longevity has resulted in parents, whose children have moved away from home, remaining in the housing market. These factors have decreased the demand for suburban child-oriented dwellings and increased the demand for housing in urban settings, close to urban amenities. There is also an increase in the desire for leisure activity and the freedom from the burden of maintenance responsibility. Perhaps most important, economic forces are putting the price of single-family dwellings rapidly beyond the reach of a large segment of the population.

In response to such social and economic forces, more and more new housing has been built in developments or buildings involving the shared use or ownership of certain property where savings in the cost of land or the cost of recreational facilities can be achieved. Condominiums represent the most significant form of such an alternate method of housing people.

The condominium concept of property ownership is a relatively new one in Ontario. The major difference between condominium ownership and ownership of a single-family dwelling is that condominium owners, in addition to holding title to a particular unit within the development, also have a share of common property. For example, where a single-family house dweller owns his house and the municipality owns the parks and sewers, the condominium unit owner owns his unit and also shares ownership of the recreational and utility facilities with other owners. Closely tied to this concept of joint ownership and joint responsibility is the presence of an administrative framework, through a condominium corporation, enabling the unit owners to manage the property.

Condominium property can resemble rental accommodation, in that both may be high-density forms of housing. The similarity ends there. Misunderstanding on the part of the buying public frequently arises from the misconception that buying a condominium is basically like renting an apartment. The effect of such an attitude is that some owners show little responsibility for the appearance of the property and fail to cooperate with their neighbours. Unlike renting, condominium ownership requires shared responsibilities and offers the potential for building of the equity attendant with owning any real property.

Community life is an integral part of condominium living. Since the condominium concept is based on common property ownership, it involves owners in the problems as well as the rewards inherent in community life. This point cannot be over-emphasized, for many of the disappointments of condominium owners stem from a fundamental lack of understanding of this concept. In other words, those who do not want the responsibilities associated with community living should think very carefully before purchasing a condominium.

The condominium concept itself is not a new one. Similar forms of property ownership existed in Babylon and Rome before the birth of Christ. Fifty years ago in Brazil, a law was passed permitting the selling of condominiums, known there as "horizontal property", with similar laws being passed in the 1950's in Venezuela and Puerto Rico. Several European countries also have long experience in dealing with condominiums. It was not until the mid 1960's that condominiums came on the scene in Canada, with 1967 marking the year that Ontario's first condominium was registered. Some developers predict that by the year 2000, as many as half of all people in Ontario living in non-rental dwellings will be living in condominiums.

In Ontario, the concept has grown in popularity since the first condominium corporation was registered. Today, there are approximately 1,000 registered condominium corporations in Ontario, or some 100,000 units in existence. Ontario has the largest number of condominiums in Canada and has among the most of any North American jurisdiction. British Columbia and Alberta are the provinces with the next highest number of registered condominiums in Canada.

### The pros and cons

There are many advantages of condominium ownership for those attracted to the lifestyle it offers. Perhaps the most important benefit is that condominium housing is generally less expensive than single-family housing because municipalities have permitted densities and the consequent efficient use of high cost land that they would otherwise only permit rental projects. This economic advantage also allows individuals the opportunity of enjoying recreational amenities that they might not normally be able to afford or have easy access to as owners of single-family dwellings.

The rapid growth of this form of housing, not surprisingly, has given rise to numerous problems and misunderstandings. These problems relate to a number of areas, including questionable sales techniques, unrealistically low estimates of upkeep costs, unnecessarily complex legal documents, deficiencies in municipal service, poor quality construction, lack of knowledge on the part of some lawyers and real estate agents, prolonged renting periods, delays in granting development approval, contracts that are not in the best interest of future owners, difficulties in condominium corporations assuming management responsibilities, and widespread owner apathy.

The problems can be solved

It is the Study Group's intention that this report serve as a practical reference document on condominiums, as well as a guideline for change. Therefore, the report is not restricted to recommendations for legislative change.

The report examines, not just current problems, but also problems that could occur unless preventative action is taken.

Government intervention alone will not solve all the problems related to condominium living, nor can government be expected to intervene in every dispute between residents and the industry, although it has the responsibility of ensuring that laws relating to condominiums are obeyed. Individuals and groups, both on the development and the owners' side, must work together with government to improve the standards of condominium life. Based upon the generally forward-looking attitude and high degree of motivation present in people connected with the condominium field, the Study Group is confident that, in time, the goals of improvement will be reached.

Much of the present difficulty lies in the fact that Ontario's condominium legislation was originally designed, not as a consumer protection statute, but as a method of property registration. Legislation has proven inadequate in the condominium field. To help overcome the obstacles that are currently preventing the full potential of condominiums from being realized, the Honourable Sidney Handleman, then Minister of Consumer and Commercial Relations, established the Ontario Residential Condominium Study Group in November 1976.

#### Terms of reference

The Ontario Residential Condominium Study Group was established to examine all aspects of condominium home ownership, to identify the main problem areas, to suggest feasible alternate courses of action to help solve the problems, and to make recommendations to the provincial government for changes in existing legislation, industry practices and consumer awareness. As indicated in its name, the Study Group was charged with examining only residential, not commercial or industrial, condominiums.

#### Methodology

The Study Group held eleven public hearings in nine cities in Ontario and received briefs from all interested groups and individuals who wished to make oral or written submissions. A separate hearing was held for special interest groups who had lengthier and more technical briefs to present. To complete public participation, the Study Group sponsored the Ontario Condominium Conference 1977, the first province-wide conference for condominium corporations, management firms, lenders, developers and associations. To promote attendance, all public hearings were heavily publicized and thousands of direct letters of invitation to submit briefs were distributed. Associations representing condominium corporations were especially effective in spreading the word among their members.

Approximately 280 briefs were received by the Study Group, of which 234 were written submissions. These briefs represented the views of every conceivable group of people involved in condominiums, including condominium corporations, purchasers in unregistered projects, owners living in conversion dwellings, lending institutions, insurance firms, the legal profession, property management companies, developers, construction companies, architects, real estate agents, professional engineers, and federal, provincial and municipal government representatives.

The hearings were held in the following locations:

Thunder Bay	- December 15, 1976
Windsor	- January 12, 1977
London	- January 13, 1977
Brampton/Mississauga	- January 20, 1977
Metropolitan Toronto	- January 26 and February 10, 1977
Hamilton/St. Catharines	- January 28, 1977
Ottawa	- February 3, 1977
Kingston	- February 4, 1977
Kitchener/Waterloo/Guelph	- February 9, 1977

The special interest group and association hearing was held at Queen's Park on February 17, 1977 and the provincial conference in the City of Toronto on February 18 and 19, 1977.

#### Observations on the hearings

The Study Group was impressed by the quality of presentations made at the hearings and particularly by those persons who spoke with great concern about the future of condominiums, not just short-term considerations affecting them personally. On the whole, the Study Group found encouraging support for the condominium concept, as demonstrated by the excellent turnout and active participation at the public hearings, the number of briefs received and the media interest shown in the Study Group's activities. Both the satisfactions and the frustrations of condominium living were bluntly expressed.

As might be expected, the views stated at the public hearings differed in the level of comprehension of condominium living and in attitudes toward the priority of problems and various methods of solving them. Basically, this divergence of opinion and awareness was related to the roles played by the various interest groups involved with condominium living.

The one common theme heard throughout the hearings was that, despite the problems, condominiums were considered by most people to be a housing choice that was here to stay. Most owners' comments were marked by a definite pride in condominium ownership and a sense of obligation to future generations of owners.

#### Form of the report

Recommendations are interspersed in the chapters rather than being located at the end of each chapter. This has, on occasion interrupted the flow of discussion. Readers are advised, in those cases, to continue reading as if the recommendations were not there.

Some recommendations could appropriately appear in several different places. In those cases, the recommendations were placed in those chapters where the discussion best fit.

For economy of style, references to sections of The Condominium Act refer only to the section number. References to other Acts include the name of the Acts

# Chapter 1

## Approval process

### The existing system

One of the most common issues raised during the course of the Study Group's hearings was the length of time it takes to register a condominium corporation. It is important to note that this complaint was raised by both the development industry and the condominium owners.

The developers' concern was that they were required to finance projects over long periods of time and were therefore unable to put economical units on the market.

The purchasers' concern rested on the fact that they were required to take occupancy of their units before they had title to them. Thus, they were living in units which they had ostensibly bought yet were paying rent for anywhere from three months to two years.

The process through which a condominium proposal must go before the condominium can be registered as a corporation is an involved and complex one. To aid in illustrating the process, two charts have been prepared. Chart 1 is an overview of the applications which must be made by the developer. Chart 2 highlights the critical path of the planning approval process, and incorporates some portions of Chart 1 so that reference may be made to time and sequence.

The following is a simplified explanation of the present system:

#### 1) Project initiation

Approximately 90% of all condominium applications in the province are for a piece of land that is a block described on a registered plan of subdivision approved under Section 33 of The Planning Act. The municipality and numerous government agencies have scrutinized the plan of subdivision thoroughly, the developer has paid levies to the municipality, and the Ministry of Housing or a delegated regional municipality has, after evaluating all factors and concerns, issued its final approval.

As part of this process, the site is often zoned for some form of multi-family residential use. Since the majority of condominium proposals are on existing registered plans of subdivision, the discussion will proceed on that assumption.

The developer evaluates present market conditions to decide what form of multiple housing should be built.

#### 2) Preliminary discussion with municipality

The developer approaches the municipality to determine its general condominium policy (if one exists), its attitude towards highrise versus townhouse, any special requirements or problems associated with the specific site, specific requirements of the zoning by-law, and lot levies. At this time he may or may not advise the municipality that he intends to build condominiums.

#### 3) Site plan

The developer has the site assessed in relation to soil factors, drainage, topographic features, and other environmental concerns. He then has the site plan and architectural drawings professionally prepared.

#### 4) Application to municipality for building permit

Most urban municipalities require that site plan approval under Section 35a of The Planning Act be obtained prior to the issuance of a building permit. Municipalities such as Mississauga require the developer to give a declaration of intent to develop either a condominium or a rental complex.

Section 35a of The Planning Act gives wide powers of development control to a municipality which has an official plan. The municipality may, through by-law, prohibit the issuance of a building permit until all requirements and standards of the municipality have either been complied with or agreed to in a signed agreement (Section 35a(4) of The Planning Act).

A by-law under Section 35a may require agreement with the developer on the following site plan requirements:

- Widening of highways that abut the land being developed or redeveloped.
- Subject to The Public Transportation and Highway Improvement Act, facilities to provide access to and from the land, such as access ramps and curbsings, including the number, location and size of such facilities and the direction of traffic on them.
- Off-street vehicle parking and loading areas and access driveways, including the surfacing of such areas and driveways.
- Walkways and all other means of pedestrian access.
- Removal of snow from access ramps, driveways, parking areas and walkways.
- Grading or change in elevation or contour of the land and the disposal of storm, surface and waste water from the land and from any buildings or structures on it.
- Conveyance to the municipality, without cost, of easements required for the construction, maintenance or improvement of any existing or newly-required watercourses, ditches, land drainage works and sanitary sewage facilities on the land.
- Floodlighting of the land or of any building or structures on it.
- Walls, fences, hedges, trees, shrubs, or other suitable ground cover to provide adequate landscaping of the land or protection to adjoining lands.
- Vaults, central storage and collection areas and other facilities and enclosures as may be required for storing garbage and other waste material.
- Plans showing the location of all buildings and structures to be erected on the land and the location of the other facilities required by the by-law.

Chart 1 - Overview of applications which must be made by developer

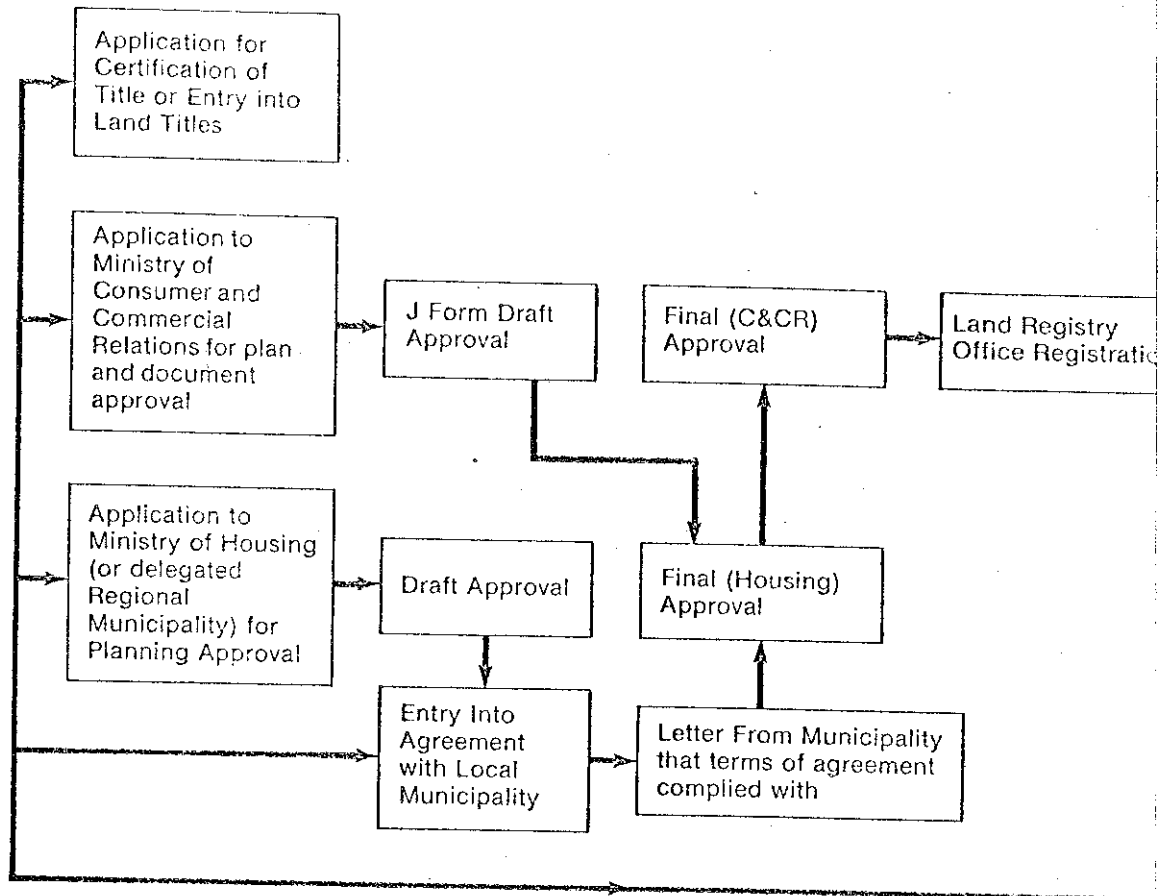
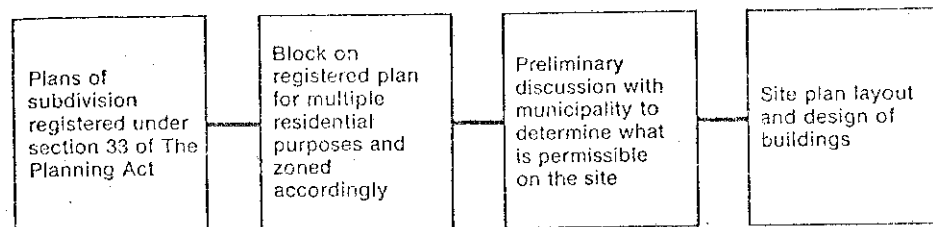
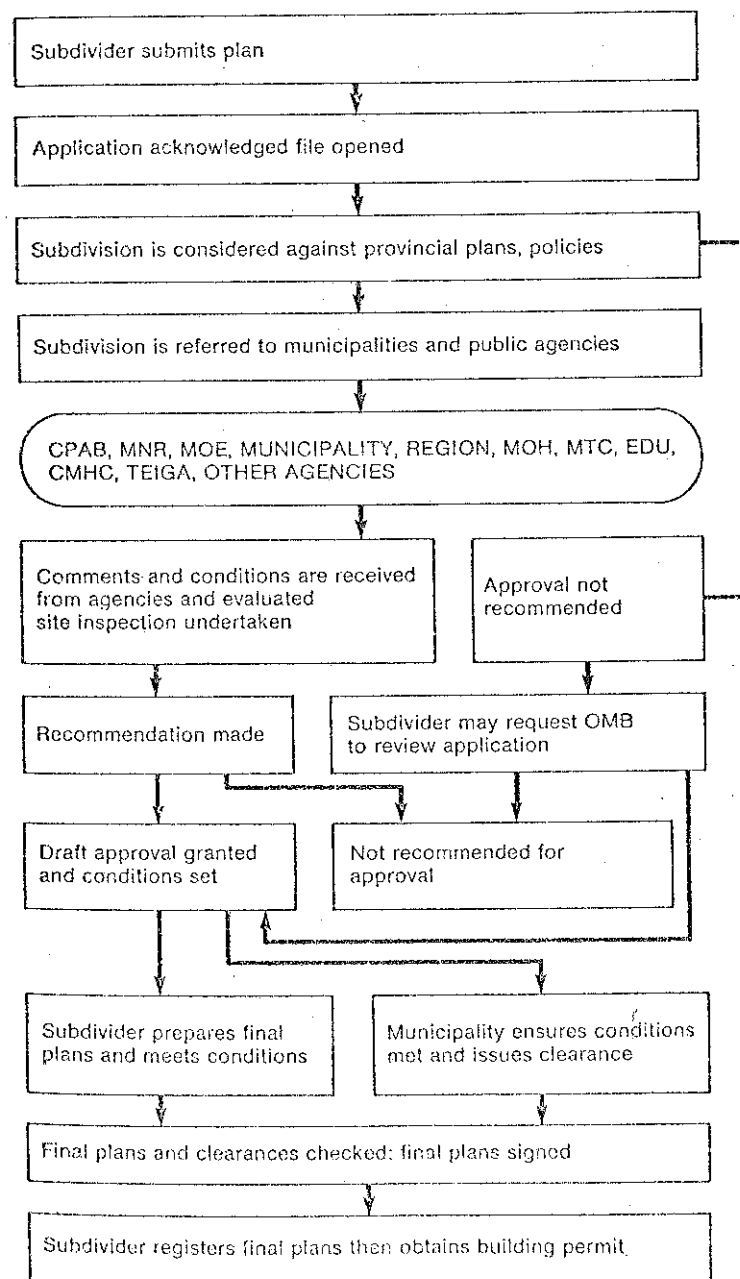


Chart 2 - The existing planning approval process



SUBDIVISION APPROVAL PROCESS



Continued

SITE PLAN PROCESSING WITH MUNICIPALITY

