

The Ontario government has declared an emergency, enacting the *Emergency Management and Civil Protection Act*. While every aspect of this Act can affect all Ontarians, a number of provisions in this Act can affect condominiums particularly, and also provide some object lesson types of direction for what condominiums ought to do.

**First**, note that every municipality is to formulate an emergency plan that governs the provisions of necessary services. Every condominium board should be sure it knows what the plan is for its municipality, and how its services may be affected.

Keeping in mind that condominiums are sometimes referred to as the “fourth level of government,” and since not every essential service to a condominium is necessarily provided by its municipality, every condominium board should probably have its own emergency plan in place, coordinating with management and various contractors to ensure every essential service is somehow covered. (If you have professional condominium management, this is probably already done.)

A part of that planning should involve not merely ensuring services are in place, but an assessment of the hazards and risks to safety that exist in your condominium. Got a swimming pool? Consider closing it. Door handles and elevator buttons? Consider keeping them continually cleaned and disinfected. Do your staff have protective clothing? What mechanical items need to be maintained and serviced to ensure they are working well (like those that help ensure water and air are clean and well circulated)?

Consider, as well, the particular hazards and risks that individual owners have. Do you have elderly or disabled residents? People with mobility issues? Individuals on oxygen? What rules might need to be put in place to help support the effort for physical distancing?

**Second**, note that amongst the powers granted under the Act, is the power for the government to trigger evacuations, closures of public or private spaces. Be attentive to when and whether such orders are made affecting your property.

Some restrictions are already in place. The government has prohibited “all organized public events of over fifty people are ... including parades and events and communal services within places of worship.” This will likely affect almost any condominium owners’ meeting. (See an earlier edition of *Good Advice* for suggestions about that.) Also, “All facilities providing indoor recreational programs,” bars, restaurants, theatres and concert venues have been ordered to be closed until March 31, 2020. Expect this order to be extended.

Also note that the condominium board also has authority, not under this Act but generally, to implement rules respecting the common areas, such as to restrict gatherings and other activities that might jeopardize the health and safety of individuals on the property. Don’t hesitate to seek the advice of competent counsel to learn what you can or should do in this regard.

**Third**, the Act permits the Cabinet, on the recommendation of the Attorney General and in certain conditions, to order a temporary suspension (for a maximum of 90 days at a time) of the operation of any provisions of any statute, regulation, rule, by-law or other government order. Amongst the kinds of statutory provisions that can be affected are limitation periods or the periods of time within which a step must be taken in a proceedings. Such an order was already made suspending the standard limitation periods (e.g., the 2-year deadline for filing court proceedings against another person) and deadlines for procedural steps in proceedings (such as the times by which a defense needs to be filed). The order applies retroactively to March 16, 2020.

Does this affect deadlines in the Condominium Act, 1998? No. The time periods for notices, including notices of meetings (those you can still hold, that is) and notices of liens, remain in place. So does the 3-month time frame for registering a certificate of lien. Does this therefore mean that, as a condominium, you must slavishly enforce every deadline without consideration of the unique circumstances in which the condominium, its board and owners are found? The answer is both yes and no.

While you can’t simply ignore the Condominium Act, 1998, very often there are available powers of discretion, optional waivers, and other tools that might help you find a way to care for the condo well, without creating unnecessary hardship for its owners, residents and others. While you will need to obtain advice directly from your own legal counsel for any particular situation, the requirements for condominium boards to act in good faith, applying ordinary care, diligence and skill, impose on the board an obligation to be neither simplistically technocratic nor aggressively “knee-jerk” in the application of laws, rules and policies. In every circumstance, seek the best way forward.