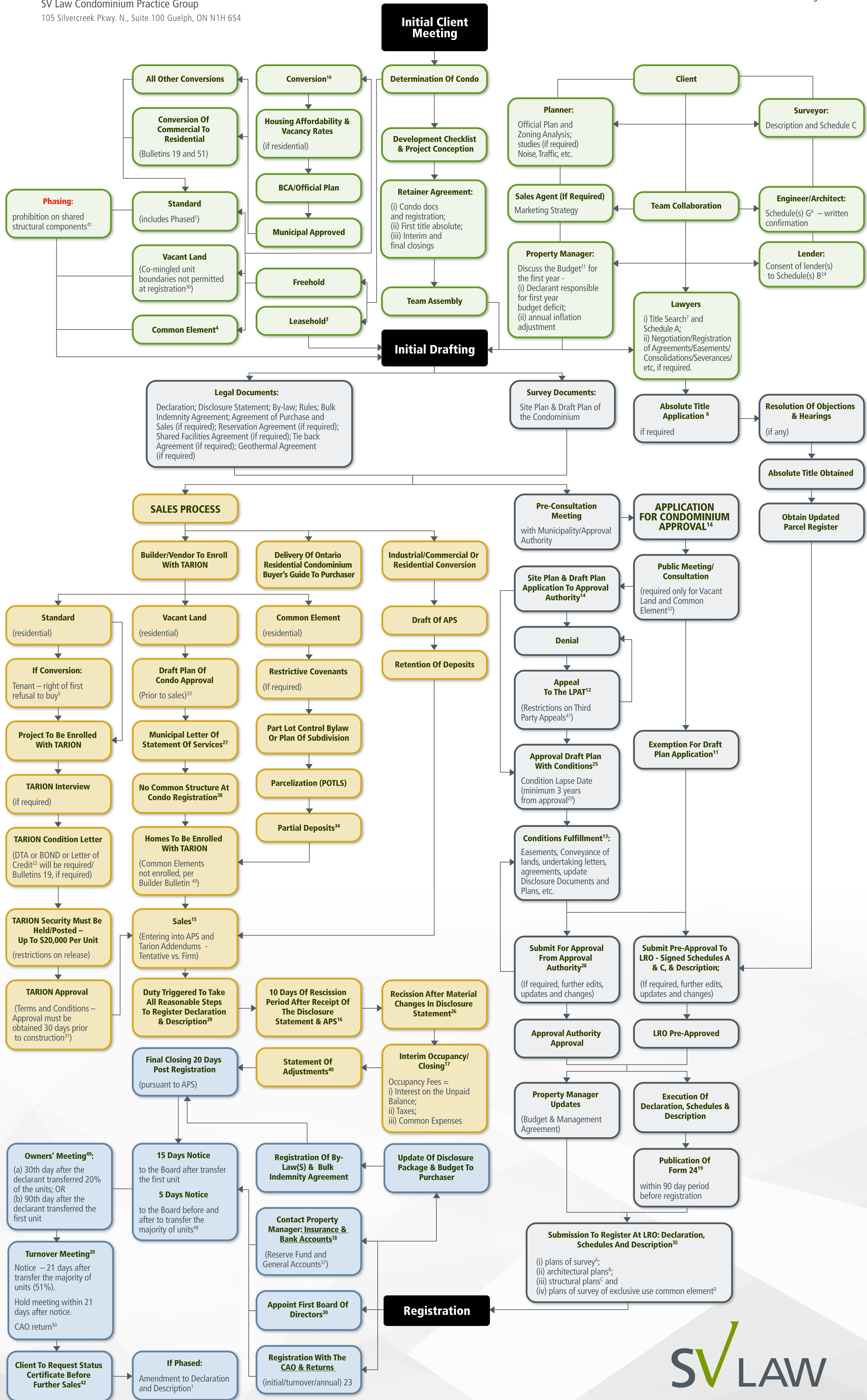


# Condominium Development Guide

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| Standard   | Phased  | Vacant Land   | Common Element  |
|--|---|---|---|
| <p><b>General Characteristics</b></p> <ul style="list-style-type: none"> <li>Freehold condominium corporation <sup>Act, s. 6</sup></li> <li>Property must have Absolute Title<sup>8</sup></li> <li>Declarant must be registered owner of property (eg. same name on all parcel registers) <sup>Act, s.2(1)-2</sup></li> <li>Must contain common elements and units; <sup>Act, s. 8(3)(a)</sup></li> <li>Each residential unit must include at least a building or be included within a building <sup>Act, s. 8(3)(b)</sup></li> <li>Each owner is entitled to exclusive ownership and use of the owner's unit; <sup>Act, s. 11 (1)</sup></li> <li>The owners are tenants in common of the common elements with an undivided interest in the common elements appurtenant to each owners' unit; <sup>Act, s. 11 (2)</sup></li> <li>The ownership of a unit shall not be separated from the ownership of the common interest. <sup>Act, s. 11 (4)</sup></li> </ul>  | <ul style="list-style-type: none"> <li>Currently, only for standard, freehold condos (will expand to leasehold and common elements condos) <sup>Act, s.145(1)</sup></li> <li>All phases must be completed within 10 years of initial registration <sup>O.Reg 48/01, s.51(h)</sup></li> <li>At least 60 days between phases <sup>O.Reg 48/01,s.51(f)</sup></li> <li>At least 60 days</li> <li>Consent of owners is NOT required to register Amendments creating a phase <sup>Act, s.146(7)</sup></li> <li>No shared structures: the units and common elements of the phase cannot be part of an existing building<sup>41</sup></li> </ul>  | <ul style="list-style-type: none"> <li>Allows for registration of vacant lots, without need for construction prior to registration, if no units are above or below another<sup>38</sup></li> <li>Mandatory public consultation<sup>32</sup></li> <li>No shared structures at registration<sup>36, 38</sup></li> <li>All buildings/services on common elements MUST be completed, or a bond or other security provided in lieu <sup>Act, s.158(1)</sup></li> <li>If a bond is provided, an Amendment to Declaration must be registered after completing the common elements <sup>O.Reg 48/01, s.58(1,2)</sup></li> </ul> | <ul style="list-style-type: none"> <li>No units, only common elements <sup>Act, s.138(1)</sup></li> <li>Has POTLs instead of units <sup>Act, s.138(1-4)</sup></li> <li>Share of common interest cannot be terminated, even by sale or transfer <sup>Act, s.139(4)</sup></li> <li>An existing POTL cannot be subdivided without an Amendment <sup>O.Reg 48/01, s.43(2)</sup></li> </ul>  |
| <p><b>Declaration</b></p> <ul style="list-style-type: none"> <li>First page must state "will create a freehold standard condominium corporation" <sup>O.Reg 48/01, s.5(1)(c)</sup></li> <li>Executed by Declarant and meets all requirements of s. 7 of the Act, stating: lands are subject to the Act; the consent of all registered encumbrancers; the Schedule D percentages; the mailing address, municipal address and address for service; the designation of any exclusive use common elements; any conditions required by the approval authority <sup>Act, s.7</sup></li> <li>Contains Schedules A, B, C, D, E, F and G <sup>O.Reg 48/01, s.5(1)(d)</sup>: <ul style="list-style-type: none"> <li>Schedule A – Description of the Property</li> <li>Schedule B – Consent of Mortgagees</li> <li>Schedule C – Unit Boundary Description</li> <li>Schedule D – Portion of common interests and the contributions to common expenses</li> <li>Schedule E – Statement of Common Expenses</li> <li>Schedule F – Exclusive Use Common Elements</li> <li>Schedule G – Certificate of Architect or Engineer</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>First page must state "will create a phased condominium corporation" <sup>Act, s.145(1)(c)</sup></li> </ul>  | <ul style="list-style-type: none"> <li>First page must state "will create a vacant land condominium corporation" <sup>O.Reg 48/01, s.56(1)(b)</sup></li> <li>Schedule G may be omitted if there are no buildings, structures, facilities or services included in the common elements <sup>O.Reg 48/01, s.56(5)</sup></li> <li>New Schedule H: lists the buildings, structures, facilities or services <sup>O.Reg 48/01, s.5(1)(d)</sup></li> </ul>  | <ul style="list-style-type: none"> <li>First page must state "will create a common elements condominium corporation" <sup>46</sup></li> <li>Statement on first page that a POTL may not be divided into two or more parcels unless an amendment is registered <sup>O.Reg 48/01, s.42(3)</sup></li> <li>Include a statement that the common elements are intended for the use and enjoyment of the owners <sup>Act, s.141(a)</sup></li> <li>The legal description of the POTLs <sup>Act, s.141(b)</sup></li> <li>Schedule C: inapplicable <sup>O.Reg 48/01, s.40(4)</sup></li> <li>Schedule G: not required if common elements have no buildings, structures, facilities or services [NOTE: if they are included, they MUST be complete prior to registration] <sup>O.Reg 48/01, s.40(9)</sup></li> <li>NEW Schedule H: a list of all buildings, structures, facilities or services <sup>O.Reg 48/01, s.40(15)</sup></li> <li>NEW Schedules I and J: A certificate and prescribed notice signed by each of the owners of a common interest in the corporation <sup>O.Reg 48/01, s.40(17-18)</sup></li> </ul> |
| <p><b>Disclosure Statement &amp; Table of Contents</b></p> <ul style="list-style-type: none"> <li>Include all information required from s.72: name and address of developer, general description of property, units intended to be marketed to investors, a budget, the proposed amenities, fees/charges paid to the developer, copies of proposed declaration and agreements, and the date the disclosure statement is made <sup>Act, s. 72, O.Reg. 48/01, s. 17, Loeb's check list No. 20</sup></li> </ul>   | <ul style="list-style-type: none"> <li>State it is a Phased Condo Corporation <sup>Act s.72(3)(b)(iii)</sup></li> <li>Disclose intent to create more phases, that Declarant is not required to create additional phases, and the projected year of registration for each phase <sup>Act, s.147(1)</sup></li> <li>For each phase, list the approximate number of units, approximate locations, the intended Schedule D percentages, and list any facilities or services owners will share <sup>Act, s.147(2)</sup></li> <li>A change in the number of units is NOT a material change <sup>Act, s.147(2)</sup></li> <li>Include statement that "no phase will be registered after 10 years" <sup>O.Reg 48/01, s.55</sup></li> </ul> | <ul style="list-style-type: none"> <li>Before delivering the first disclosure statement, the declarant shall request the Municipal Letter of Service Statement<sup>27</sup>;</li> <li>The disclosure statement shall include whatever statement has been provided by the municipality; if no statement is received within 30 days, disclose that no response has yet been received. <sup>Act, s.161(1-3)</sup></li> </ul>   | <ul style="list-style-type: none"> <li>Must include a statement that "the common interest attaches to the owner's parcel of land described in the declaration of the corporation and cannot be severed from the parcel upon the sale of the parcel or the enforcement of an encumbrance registered against the parcel." <sup>Act, s.143</sup></li> </ul>  |
| <p><b>Other Legal Documents</b></p> <ul style="list-style-type: none"> <li>Normal required documents: By-laws (including general governance by-law) <sup>Act, s.56, Rules s.58, Bulk Indemnity Agreement<sup>98</sup>, Shared Facility Agreements<sup>99</sup>, APS<sup>113</sup>, APS</sup></li> <li>Additional documents may include Tie-Back Agreements, Geothermal Agreements, Condominium Agreements, Deposit Trust Agreements</li> </ul>   | <ul style="list-style-type: none"> <li>Each phase is created through an Amendment <sup>Act 146(3)</sup></li> <li>New Municipal Schedule G, stating all facilities and services are provided <sup>O.Reg 48/01, s.52(5)</sup></li> <li>New Schedule K, a statement of any conditions from approval authority <sup>O.Reg 48/01, s.52(8)</sup></li> </ul>   | <ul style="list-style-type: none"> <li>No specific additional requirements</li> </ul>   | <ul style="list-style-type: none"> <li>At registration, each POTL must be capable of being individually conveyed, or otherwise dealt with, without contravening s.50 of the Planning Act <sup>O.Reg, s.39(1)</sup></li> <li>This presupposes part-lot control, parcellation and/or a plan of subdivision</li> </ul>   |
| <p><b>Tarion</b></p> <ul style="list-style-type: none"> <li>Builder, vendor and project to be approved by Tarion <sup>Ontario New Home Warranties Plan Act, s.6</sup></li> <li>Interviews required for Type D condos</li> </ul>  | <ul style="list-style-type: none"> <li>No additional requirements in relation to phasing</li> </ul>   | <ul style="list-style-type: none"> <li>Tarion inapplicable to the condo, but would apply to the home on the unit <sup>Builder Bulletin 49</sup></li> </ul>  | <ul style="list-style-type: none"> <li>Tarion does not apply to CECC <sup>43</sup></li> </ul>   |
| <p><b>Sales</b></p> <ul style="list-style-type: none"> <li>Requires Tarion approval 30 days prior to marketing or construction <sup>Builder Bulletin 27R</sup></li> <li>10-day rescission period <sup>16</sup></li> <li>A material change can re-trigger the rescission period <sup>26</sup></li> </ul>  | <ul style="list-style-type: none"> <li>No additional requirements in relation to phasing</li> </ul>   | <ul style="list-style-type: none"> <li>Section 52 of the Planning Act applies in respect of a description of a vacant land condominium corporation but does not apply in respect of a description of any other corporation: No sales prior to Draft Condo approval. <sup>9</sup></li> </ul>   | <ul style="list-style-type: none"> <li>Deposits for Condo need not be held in trust <sup>O.Reg 48/01, s.45(1)</sup></li> <li>(Retention 100% suggested)</li> </ul>  |
| <p><b>Post-Registration</b></p> <ul style="list-style-type: none"> <li>Open bank accounts, place insurance<sup>18, 37</sup></li> <li>Appoint first Board within 10 days<sup>30</sup></li> <li>Register Bylaw(s), Bulk Indemnity Agreement</li> <li>Call Turnover Meeting after selling 51% of units; meeting held within 42 days<sup>20</sup></li> <li>CAO registration and returns<sup>50</sup></li> </ul>  | <ul style="list-style-type: none"> <li>Begin drafting Amendment for next phase</li> <li>Must give corporation copy of proposed Amendment 60 days before registration<sup>44</sup></li> <li>After each phase, Declarant give copy of Amendment and Disclosure Package to the corporation and unit owners<sup>45</sup></li> </ul>   | <ul style="list-style-type: none"> <li>No additional requirements</li> </ul>  | <ul style="list-style-type: none"> <li>No additional requirements</li> </ul>  |

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| <ol style="list-style-type: none"> <li>Condo. Act., 1998 s.145-154 &amp; O.Reg. 48/01 s.47-55</li> <li>Condo. Act., 1998 s.155-163 &amp; O.Reg. 48/01 s.56-58</li> <li>Condo. Act., 1998 s.164-175 &amp; O.Reg. 48/01 s.59-62</li> <li>Condo. Act., 1998 s.138-144 &amp; O.Reg. 48/01 s.39-46</li> <li>Residential Tenancies Act s.51 (5)</li> <li>O.Reg. 48/01 s.5(1)(d)(8)(9) &amp; s.6</li> <li>O.Reg. 48/01 s.4(a)(b) &amp; Condo. Act., 1998 s.2(1)</li> <li>Land Titles Act, R.S.O. 1990 s.46(2) &amp; O.Reg. 48/01 s.4(a)</li> <li>Condo. Act., 1998 s.9(12) &amp; Planning Act s.52</li> <li>Condo. Act., 1998 s.2(1), 4 and 9(4) &amp; Residential Tenancies Act s.51</li> <li>Condo. Act., 1998 s.9(3)(b) and 9(6) &amp; Planning Act s.17(9)</li> <li>Planning Act s.51(34)-(57) &amp; Condo. Act., 1998 s.9(6)(7)(8)</li> <li>Planning Act s.51(25) &amp; Condo. Act., 1998 s.9(5)</li> <li>Planning Act s.50 - 51 &amp; Condo. Act., 1998 s.9</li> <li>Condo. Act., 1998 s.71.1 -83</li> <li>Condo. Act., 1998 s.73</li> <li>Condo. Act., 1998 s.80</li> <li>Condo. Act., 1998 s.99-106</li> <li>Construction Act s.33.1</li> <li>Condo. Act., 1998 s.43 and 51</li> <li>Condo. Act., 1998 s. 72(6), 75(1)(5) and 82(1)</li> <li>Tarion Bulletins 28L &amp; 28H</li> <li>O.Reg. 377/17 s.3-6 &amp; Condo. Act., 1998 s.9.1 and s.9.2(1)</li> </ol> | <ol style="list-style-type: none"> <li>Condo. Act., 1998 s.7(2)(b)</li> <li>Planning Act s.51(25) &amp; Condo. Act., 1998 s.9(5)</li> <li>Condo. Act., 1998 s.74 (1)(6)</li> <li>Condo. Act., 1998 s.161 (1)</li> <li>Planning Act s.51</li> <li>Planning Act s.51 (32)</li> <li>Condo. Act., 1998 s.42(1)</li> <li>Tarion Builder Bulletin 27R - Enrolment Warranty Fee Structure</li> <li>Planning Act s.17 (15)(19)</li> <li>Condo. Act., 1998 s.9 (12) &amp; Planning Act s.52</li> <li>O.Reg. 48/01 s.45</li> <li>O.Reg 49/01, s.2 and s.3</li> <li>O.Reg 49/01, s.2 and s.13</li> <li>O.Reg 49/01, s.2 and s.13</li> <li>O.Reg 49/01 s.2 and 11(3)</li> <li>O. Reg. 48/01 s.56(1)(a)</li> <li>Condo. Act., 1998 s.115 (2)</li> <li>Condo. Act., 1998 s. 155(1)</li> <li>Condo. Act., 1998 s.79</li> <li>Condo. Act., 1998 s.82(1)</li> <li>O. Reg 48/01, s. 51(e)</li> <li>Condo. Act., 1998 s. 76</li> <li>Ontario New Home Warranties Plan Act, s.15(c)</li> </ol> | <ol style="list-style-type: none"> <li>Condo. Act, 1998 s.149(1)</li> <li>Condo. Act, 1998 s.147(5) &amp; 150(1)</li> <li>O.Reg 48/01, s.40(1)</li> <li>Planning Act s.17(40), 51(39) &amp; 51(48.3) and Condo Act s. 9(2)</li> <li>O. Reg 48/01, s. 6.1(1)</li> <li>Condo. Act, 1998 s.42(6)(7)(8)(9)</li> <li>Condo. Act., 1998 s.9.1 and s.9.2(1)</li> <li>Tarion Builder Bulletin: <ul style="list-style-type: none"> <li>47R - Condominium Delayed Occupancy Warranty</li> <li>51 - Residential Condominium Conversion Projects</li> <li>49 - Claims Process – Condominium Common Elements</li> <li>48 - POTLs – Delayed Occupancy Warranty</li> <li>38 - Low-Rise Condominium Inspection Program</li> <li>35 - Registration and Enrolment of Hi-Rise and Low-Rise condominium projects</li> <li>28 - Program Requirements for Receipt and Release of Security</li> <li>27R - Enrolment Warranty Fee Structure</li> <li>25R - Delayed Closing and Delayed Condominium Occupancy</li> <li>22 - Floor Area Calculations</li> <li>19R - Condominium Projects Design and Field Review Reporting</li> <li>14R - Addendum to Agreements of Purchase and Sale</li> <li>Tarion – Common Elements Guide</li> </ul> </li> </ol> |
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