
Concerns and Emerging Issues for Condo Owners in Saskatchewan

An Environmental Scan

Prepared by Nicole Hamm,
Legislative Intern
for David Forbes,
MLA Saskatoon Centre
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1. INTRODUCTION

Condominiums comprise a rapidly growing segment of the housing market in Saskatchewan. With the construction of dozens of new condominium complexes in the province, new and different problems have arisen. The following environmental scan defines what a condominium is and gives a brief history of condominiums in Saskatchewan. It then examines the broad trends that are impacting the condominium market in the province, as well as the internal trends specific to condominiums and condominium owners. Finally, a number of major issues for condominium owners are outlined, as well as possible solutions.

2. DEFINITIONS

Under s. 2(i) of *The Condominium Property Act, 1993*, a condominium is defined as “the land included in a condominium plan together with the buildings and units and the common property and common facilities belonging to them.”¹ A unit is defined as “a space that is situated within the building and described as a unit in a condominium plan.”² Many people use the terms ‘condominium’ and ‘unit’ interchangeably.

Each condominium unit is owned by an individual. The common property, such as common areas, parking areas, recreational amenities, and hallways, is also owned by the unit owners. However, ownership of common property is proportional to the unit factor assigned to the individual condominium unit by the condominium plan.³

Condominiums should not be confused with cooperatives or cohousing. Cooperatives are non-profit organizations. The individual cooperative units are owned by the cooperative, not by individuals. As such, when a member moves out, the unit is returned to the cooperative; the member does not have any equity in the unit.⁴ Cohousing consists of neighborhoods where individuals own their own homes but share a common building or ‘common house’ where there are shared amenities such as kitchens, laundry rooms, home offices, etc. However, each individual home is typically self-sufficient in that it has its own kitchen, laundry room, etc. Cohousing offers its members a chance to share resources and to engage in social interaction.⁵

3. HISTORY

Condominiums were developed in the years following World War II in response to the disadvantages of cooperatives, such as not being able to own any equity.⁶

Condominiums came to Canada in the late 1960s. The first condominium in Canada was the Brentwood Village townhouse complex, constructed in Edmonton in 1967.⁷ The first high-rise condominium complex was built in 1969 in Nepean, Ontario.⁸

Early in 1968, the Government of Saskatchewan passed *The Condominium Property Act*.⁹ There was little debate in the Legislative Assembly regarding the Act, which became effective November 1, 1968.¹⁰ Construction on the first condominium in Saskatchewan began in Regina in December

1968.¹¹ The first condominium in Saskatoon was built in the Sutherland area in late 1969.¹² A two bedroom unit was priced at \$11,600, while a three bedroom unit was \$12,850, with a down payment of \$790.¹³

The 1968 legislation was repealed in 1993 and replaced with *The Condominium Property Act, 1993* (hereinafter referred to as the CPA).¹⁴ The new legislation was a complete overhaul of the previous legislation and reflected the concerns of many stakeholders. The new legislation provided consumer protection for condominium sellers and buyers, required developers to provide disclosure packages to buyers, ensured the designation of one parking stall per unit, clarified that a condominium is a corporation, set out minimum standards for condominium bylaws, and outlined means of dispute resolution.¹⁵

4. TRENDS

a. Social

The proliferation of condominiums across Canada, and in Saskatchewan, is tied to the demographics of Canada's population and Saskatchewan's population is growing. In January 2011, the province's population eclipsed 1.05 million people,¹⁶ gaining approximately 50,000 people since 2006.¹⁷ This has significantly increased the demand for housing. There are two age groups that are increasing in size in Saskatchewan, seniors and those aged 20-34, and both have significant implications for the condominium market.

In 2006, 57% of all condominium owners in Canada were aged 50 years and older, and another 16% were aged 75 years and older.¹⁸ As the population continues to age, it is highly likely that the number of condominiums will continue to increase.¹⁹ According to Human Resources and Skills Development Canada, 14.6% of Saskatchewan's population was aged 65 and over in 2010. By 2036, that number is projected to increase to 23.3%.²⁰

Young adults are also drawn to condominiums; 17% of condominium owners are under the age of 35.²¹ However, there is a noticeable increase in the number of owners between the ages of 20 and 34. Since 2006, the number of people in this age range has grown from 19.6% to 21.1% of Saskatchewan's population. The largest population segment in Saskatchewan is those between 20-24 years of age at 7.5%. The number of people between the ages of 15 and 19 is at 7.1%; therefore, the number of young adults in the province will likely increase in the next few years.²²

Condominiums appeal to those over the age of 50 and those under 35 because of their "maintenance-free lifestyle."²³ Condominium owners are not responsible for shoveling the sidewalks, caring for the lawn and other common property. They also share the costs of major repairs.

b. Economic

The Saskatchewan economy is booming. RBC Economics forecast that Saskatchewan's GDP would grow by 4.5% in 2010 and 4.9% in 2011.²⁴ As of May 2011, Saskatchewan's unemployment rate was 5.0%, significantly lower than the Canadian average unemployment rate of 7.4%.²⁵

In terms of housing, so far there are more housing starts and more homes under construction in Saskatchewan in 2011 than in 2010. According to Canada Mortgage and Housing Corporation (CMHC), there were 31.7% more houses under construction and 47.1% more housing starts in the first quarter of 2011 when compared to the same time last year.²⁶ CMHC attributes the jump in construction rates to builders and developers anticipating more demand.²⁷ Housing sales are also slightly up compared to last year.²⁸ Housing prices have also increased, with the average price of a home in Saskatoon climbing to \$277,000.²⁹ Saskatoon offers the least affordable housing of any Prairie city.³⁰

In Canada, rates of condominium ownership have expanded rapidly in the past 25 years. From 1981-2006, the number of condominiums in Canada increased from 171,000 to 916,000.³¹ From 2001-2006, the number of condominiums in Saskatoon and Regina grew by over 50%.³² In 2006, condominiums comprised just fewer than 15% of all home ownership in Saskatoon, while the share in Regina was just under 10%.³³

The difference in the share of the market between Saskatoon and Regina has continued to grow over the past number of years. As of October 2010, Saskatoon had a total of 8169 condominium units,³⁴ while Regina only had 2904 units.³⁵ The drastic difference in numbers between the two cities could be partly explained by the moratorium Regina has had on condominium conversions since 2008.

In regards to condominiums, there were 249 condominium starts in the first quarter of 2011, compared to 213 starts in the first quarter of 2010.³⁶ This is an increase of approximately 15%.

CMHC Rental Market Surveys from October 2009 and October 2010 show that in 2009, 1053 (14%) out of 7413 condominiums were being rented out, representing 4% of the rental market. In 2010, the number of condominiums being rented jumped to 6% of the rental market (1590 out of 8169 condominiums, or 16%). The situation is much different in Regina. In 2009, 240 out of 2662 condominiums were rented out (16%), representing only 2% of the rental market; this number did not change in 2010. Interestingly, the equivalent to almost all of Saskatoon's new condominiums built between 2009 and 2010 were rented out.

Vacancy rates in Saskatchewan increased slightly over the past year, climbing from 2.4% in April 2010 to 2.5% in April 2011. The vacancy rate in Regina remained dropped a bit from 0.8% to 0.7%, while vacancy rates increased in Saskatoon (from 2.1% in April 2010 to 3.4% in April 2011). The communities of Lloydminster, moose Jaw, Prince Albert and North Battleford also saw a decline in vacancy rates, with the most dramatic drop in Lloydminster due to increased oil production and an influx of workers (8.8% in April 2010 to 2.7% in April 2011).³⁷

The price of rent continues to increase. The average rental price of a two-bedroom apartment in Saskatchewan increased 4.2% between April 2010 and April 2011, from \$857 to \$883 per month. Regina and Saskatoon saw monthly rent increases of 5.4% (\$858 to \$897) and 3.3% (\$923 to \$936), respectively. The highest rent increases were in North Battleford, up 11% since April 2010, while Estevan continues to have the highest average rental rate for a two-bedroom apartment at \$956 (up from \$942 in April 2010). The lowest average rental rate is in Swift Current, at \$668; this rate is up from \$663 in April 2010.³⁸

c. Political

Housing has become a hot political topic in Saskatchewan as the price of housing increases and supply is diminished.

In response, the government released *The Saskatchewan Advantage Housing Plan* in March 2011, which includes a “Five Point Action Plan.” ‘Headstart on a Home’ is one of the five points of *The Saskatchewan Advantage Housing Plan*. Under this program, the government hopes to create 1000 new housing units.³⁹ The program gives developers access to low-interest government loans for projects approved by municipalities, including condominium projects. However, such projects must increase the supply of housing and not decrease the number of units available for rent; therefore, condominium conversion projects cannot be funded through this program.⁴⁰ The money allocated to ‘Headstart on a Home’ for loan guarantees is close to \$200 million over the next five years.⁴¹

The Saskatchewan government is currently reviewing the *CPA*. Since its enactment in 1993, the *Act* has been amended 8 times, with the last amendment occurring in 2010. Under the *Act* are corresponding regulations. *The Condominium Property Regulations, 2001* were last amended in 2010 to allow for titled parking, the creation of sectors (sub-corporations to govern individual sectors in a multi-use development), and the titling of common property. It should also be noted that the government is also in the midst of creating a long-term housing strategy.⁴² (The province released its strategy in August 2011 with no further specific attention to the Condo universe and the Ministry of Justice is not involved.)

Condominium conversions have become a hot-button issue in the province and, in particular, the two largest cities, Saskatoon and Regina. Stories from Saskatoon in 2007 suggested that some landlords had been evicting tenants with the minimum notice required under *The Residential Tenancies Act* prior to making an application to the city under *The Condominium Property Act, 1993* to have the premises converted to a condominium. By doing so, these landlords were attempting to circumvent the two year notice period required by the city for conversion of rental premises to condominiums, by advising the city that there were not tenants at the time the application was made. At the time, the vacancy rate in Saskatoon was less than 1%.⁴³

In October 2007, the provincial government approved changes to *The Condominium Property Regulations, 2001*⁴⁴ regarding the intent of the legislation that deals with condominium conversions and to further protect tenants who reside in rental units. The changes included definitions for ‘conversion’ and ‘division’ to clarify that renovating a building to demolishing a building that involves evicting tenants falls under the intent of the legislation dealing with condominium conversions. Such amendments to the regulations force developers to make applications for condominium conversions earlier on, before tenants can be given eviction notices. The amendments also compel municipalities to examine the effects of a conversion on the tenants.⁴⁵

Saskatoon City Council enacted a new policy in 2008 which states that when the vacancy rate in the city is below 1.5%, condominium conversions will not take place unless (i) the building has been vacant for 12 months; (ii) the building is in need of serious repair and the owner is prepared to fix it; (iii) or the owner obtains the approval of 75% of the tenants.⁴⁶

Regina has placed a moratorium on condominium conversions until a policy review is complete.⁴⁷ Prior to the moratorium, Regina’s policies regarding condominium conversions were the same as those that Saskatoon enacted in 2008.⁴⁸

5. MAJOR ISSUES

a. Non-resident owners and condominium corporation boards

Non-resident owners present a major problem for condominium boards. Non-resident owners are those owners who own a condominium unit but do not reside in the unit; instead, they rent the unit out.

These types of owners are problematic because they often have little interest in the maintenance of the common property and the running of the condominium corporation. This leaves the work to a few volunteers and makes it difficult to make major decisions.

One solution is to restrict the amount of non-resident owners in a condominium by allowing the condominium corporations, through their bylaws, to set a percentage of the number of units that can be rented out. These types of bylaws can be passed in other jurisdictions, such as Vancouver. This would require s. 44(2) of the CPA to be amended, as it currently restricts setting such a limit.

Another possible solution is to restrict the number of condominium units a person can own. Again, the CPA would have to be amended.

b. Age limits

More condominium corporations would like to pass bylaws restricting the sale or lease of condominium units to persons aged 55 and over. As the law currently stands, these types of restrictions cannot be made, as they violate s. 44(2) of the CPA.

This problem appears to have been dealt with, as amendments to the CPA will give condominium corporations the authority to pass bylaws regarding aged 55 and over restrictions. Such amendments would not contravene *The Saskatchewan Human Rights Code*,⁴⁹ as s. 11(4) of the *Code* allows such an age restriction for housing exclusively reserved for persons aged 55 and over.

c. Insurance

According to s. 65(1) of the CPA, condominium corporations are required to maintain insurance both for themselves and on behalf of the condominium owners. This insurance must cover the condominium units, the common property and any other common facilities. However, this insurance does not cover any improvements to the unit made by its owners.

As for individual condominium unit owners, s. 67 states that owners “may” take out insurance, but they are not required to do so. These owners are often either incorrectly informed about their insurance coverage or assume the corporation’s insurance coverage extends to their personal belongings, improvements made, or any unintentional damage or injury to other units caused by themselves.

The preferred solution would be to require all condominium owners to acquire personal insurance and provide proof of insurance to the condominium corporation. While this would be an extra cost for owners, it would mitigate much any confusion surrounding insurance.

d. Reserve fund study

Under s. 58.1 of the CPA, condominium corporations are required to complete a reserve fund study. A reserve fund is a fund established by the condominium corporation that contains reserve fund fees paid by condominium owners and determined by the condominium corporation (s. 55). The reserve fund is used to pay for unforeseen expenses and major expenditures, such as roof replacement.

Reserve fund studies are to be completed every 10 years.⁵⁰ The reserve fund study is meant to give the condominium corporation an analysis of the major expenditures the condominium corporation will face in the coming years and whether or not the fund can realistically cover those expenses.⁵¹

There are questions as to whether the condominium board has a duty to follow the recommendations outlined in the reserve fund study. Requiring condominium boards to implement recommendations would remove the authority of the board to manage the reserve fund. However, boards should be held responsible for refusing to follow important recommendations that jeopardize the health of the reserve fund. A possible solution is placing a duty on condominium boards to implement recommendations that, if not followed, would have significant consequences not only for the reserve fund, but for the structural integrity of the condominium. This would be difficult to define, but there should be some duty, as the consequences of not following through on recommendations could be devastating.

e. Other issues

There are a number of other issues that condominium owners face. The following is not an exhaustive list:

- Condominium unit owners are not eligible for energy saving programs and grants because the heating, cooling and ventilation systems are common property/elements
- Some developers are not turning over the required documents to the condominium board in a timely fashion
- Corporate governance
- The sufficiency of the bylaw-making powers of the condominium board
- How bylaws should be enforced and the resolution of disputes
- Condominium bonds and security
- Parking stalls
- Disclosure requirements for developers⁵²

6. Synopsis

In sum, there are many issues facing condominium owners and their respective boards. *The Condominium Property Act, 1993* is certainly in need of updating, as the increasing number of condominiums in Saskatchewan has brought new issues to the forefront. The number of condominiums will likely continue to grow in the coming years. With the current housing boom, hopefully the concerns of condominium owners will be heard.

¹ *The Condominium Property Act, 1993*, SS 1993, c. C-26.1.

² *Ibid.*, s. 2(i).

³ Justice and Attorney General – Government of Saskatchewan, “*The Condominium Property Act, 1993*.” Available online: <<http://www.justice.gov.sk.ca/Condominium-Property-Act-1993>> (17 May 2011).

⁴ The Co-operative Housing Federation of Canada, “What is a housing co-op?” Available online: <http://www.chfcanada.coop/eng/pages2007/about_1.asp> (17 May 2011).

⁵ Canadian Cohousing Network, “What is cohousing?” Available online: <<http://www.cohousing.ca/whatis.htm>> (17 May 2011).

⁶ “History of Condominiums,” *The Beatt: Business, Education and The Trades*

⁷ Rob Thomas, “Highrise condo a Canadian first,” *Ottawa Sun*, 11 August 2009. Available online: <<http://www.ottawasun.com/news/ottawa/2009/08/10/10419716.html>> (18 May 2011).

⁸ *Ibid.*

⁹ *The Condominium Property Act*, RSS 1968, c. 14.

¹⁰ “Start expected in 10 days on condominium project,” *The Regina Leader-Post*, 4 December 1968, page 3.

¹¹ *Ibid.*

¹² “Condominium housing in works,” *The Saskatoon Star-Phoenix*, 19 July 1969, page 3.

¹³ *Ibid.*

¹⁴ *Ibid.*, note 1.

¹⁵ Hon. Robert Mitchell (Saskatoon Fairview), “Bill No. 60 – An Act respecting Condominiums,” Saskatchewan Legislature, *Debates and Proceedings – Legislative Assembly of Saskatchewan (Hansard)*, 36:51A (May 10, 1993) p. 1556-1558.

¹⁶ “Bureau of Statistics – Government of Saskatchewan – Quick Facts.” Available online: <<http://www.stats.gov.sk.ca/>> (25 May 2011).

¹⁷ Government of Saskatchewan, Ministry of Finance, Bureau of Statistics, “Monthly Statistical Review,” volume 37, no. 5, May 2011, page 1. Available online: <<http://www.stats.gov.sk.ca/stats/May11.pdf>> (25 May 2011).

¹⁸ Canada Mortgage and Housing Corporation, *2010 Canadian Housing Observer*, page 60.

¹⁹ *Ibid.*

²⁰ Government of Canada, Human Resources and Skills Development Canada, “Aging Population/Canadians in Context/Indicators of Well-being in Canada.” Available online: <<http://www4.hrsdc.gc.ca/.3ndic.1t.4r@-eng.jsp?iid=33>> (27 May 2011).

²¹ *Ibid.*

²² Statistics Canada Demograph Division, “Table 6: Saskatchewan Population by 5 Year Age Groups, 2000 to 2010.” Available online: <<http://www.stats.gov.sk.ca/stats/population/saskpopbyage.pdf>> (9 June 2011).

²³ Denise Deveau, “Homeowners making shift to condo life,” *Regina Leader-Post*, 30 March 2011, page 6.

²⁴ RBC Economics, “Provincial Outlook,” March 2011, page 4. Available online: <<http://www.rbc.com/economics/market/pdf/provfcst.pdf>> (25 May 2011).

²⁵ Statistics Canada, “Latest release from the Labour Force Survey,” 10 June 2011. Available online: <<http://www.statcan.gc.ca/subjects-sujets/labour-travail/lfs-epa/lfs-epa-eng.pdf>> (5 July 2011).

²⁶ Canada Mortgage and Housing Corporation, “Housing Now – Prairie Region,” 2011, page 8. Available online: <http://publications.gc.ca/collections/collection_2011/schl-cmhc/nh12-217/NH12-217-2011-1-eng.pdf> (26 May 2011).

²⁷ *Ibid.*, page 2.

²⁸ *Ibid.*, page 3.

²⁹ Frontier Center for Public Policy, *7th Annual Demographia International Housing Affordability Survey*, 2011, page 29. Available online: <<http://www.fcpc.org/files/1/dhif-20110124.pdf>> (27 May 2011).

³⁰ Sean Trembath, “Hard to buy a home; Housing affordability in city worst on Prairies,” *Saskatoon Star-Phoenix*, 26 January 2011, page 1.

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- ³¹ Canada Mortgage and Housing Corporation, *2010 Canadian Housing Observer*, Chapter 5 – “Demographic and Socio-economic Influences on Housing Demand,” page 59. Available online: <http://www.cmhc-schl.gc.ca/en/corp/about/cahoob/upload/F_chapter_5_EN_2010_links.pdf> (30 May 2011).
- ³² *Ibid.*, page 61.
- ³³ *Ibid.*
- ³⁴ Canada Mortgage and Housing Corporation Housing Outlook Conference, Saskatchewan, “Looking Forward: Saskatchewan’s Housing,” 9 February 2011, page 117.
- ³⁵ *Ibid.*, page 132.
- ³⁶ *Ibid.*, page 8.
- ³⁷ Canada Mortgage and Housing Corporation, “Rental Market Report – Saskatchewan Highlights,” Spring 2011, page 2. Available online: <http://www.cmhc-schl.gc.ca/odpub/esub/64519/64519_2011_B01.pdf?fr=1309896503640> (5 July 2011).
- ³⁸ *Ibid.*
- ³⁹ *The Saskatchewan Advantage Housing Plan*, page 6.
- ⁴⁰ *Ibid.*, page 7.
- ⁴¹ *Ibid.*
- ⁴² Government of Saskatchewan, “Saskatchewan Housing Strategy Consultations,” 3 February 2011. Available online: <<http://www.socialservices.gov.sk.ca/housing-strategy-consultations>> (26 May 2011).
- ⁴³ “Saskatoon council moves ahead on condo conversion policy,” *CBCNews.ca*, 6 May 2008. Available online: <<http://www.cbc.ca/news/canada/saskatchewan/story/2008/05/06/saskatoon-condos.html?ref=rss>> (31 May 2011).
- ⁴⁴ *The Condominium Property Regulations, 2001*, S Reg, Chapter c-26.1 Reg 2.
- ⁴⁵ Government of Saskatchewan, Ministry of Justice, “Changes to Condominium Regulations Provide Clarification,” 10 October 2007. Available online: <<http://www.gov.sk.ca/news?newsId=18061127-0f26-431a-b3db-c075594de11c>> (9 June 2011).
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- ⁴⁷ City of Regina, “Convert apartments into condos.” Available online: <<http://www.regina.ca/Page967.aspx>> (31 May 2011).
- ⁴⁸ *Ibid.*
- ⁴⁹ *The Saskatchewan Human Rights Code*, SS 1979, c.S-24.1.
- ⁵⁰ *The Condominium Property Regulations*, s. 51.2.
- ⁵¹ *Ibid.*, 51.3.
- ⁵² The listed issues were found in the following document: “Update on Condominium Legislation in Saskatchewan,” Presentation made to the South Saskatchewan Chapter of the Canadian Condominium Institute, 16 October 2010. Available online: <www.cci.ca/ssc/NEWS-EVENTS/PDF/Update-Condo-Legislation-Sask.ppt> (2 June 2011).