



MONTSERRAT

## **CHAPTER 8.13**

# **CONDOMINIUM ACT**

### **Revised Edition**

showing the law at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### **CONDOMINIUM ACT**

Act 1 of 1973 .. in force 1 January 1981 (S.R.O. 55/1980)

Amended by Acts: 15 of 1976

9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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**CHAPTER 8.13**

**CONDOMINIUM ACT**

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## CHAPTER 8.13

### CONDOMINIUM ACT

*(Acts 1 of 1973, 15 of 1976 and 9 of 2011)*

AN ACT TO FACILITATE THE SUBDIVISION OF LAND INTO CONDOMINIUM LOTS AND THE DISPOSITION OF TITLES THERETO, AND FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

#### Commencement

*[1 January 1981]*

#### Short title

1. This Act may be cited as the Condominium Act.

#### Interpretation

2. In this Act, unless the context otherwise requires—

“**building**” means the building or buildings shown in a condominium plan;

“**common property**” means, in relation to any condominium plan, so much of the land to which such plan relates as is for the time being not included in any condominium lot contained in such plan, and includes lobbies, halls, stairs, roofs, walls, floors, ceilings, basements, swimming-pools and any other property or facility used or enjoyed by the proprietors in common and not owned exclusively by any one proprietor;

“**condominium**” means that system of ownership of individual units in a multiple unit structure or in a multiple unit development project, in either case the unit proprietors holding the common property as tenants in common;

“**condominium lot**” means a portion of the land comprised in a condominium plan, and shown in that plan as a condominium lot;

“**condominium plan**” means the plan referred to in section 7;

“**corporation**” means, in relation to any condominium plan, the body incorporated under section 4;

“**Court**” means the Eastern Caribbean Supreme Court;

“**executive committee**” means the executive committee of the corporation constituted under the First Schedule to this Act;

“**parcel**” means land subdivided in accordance with a condominium plan approved pursuant to section 3;

“**prescribed**” means prescribed by regulation made under this Act;

**“proprietor”** means the registered proprietor for the time being of a condominium lot;

**“unanimous resolution”** means a resolution unanimously passed at a duly convened meeting of the corporation at which all persons entitled to exercise the power of voting conferred by or under this Act are present personally or by proxy at the time of the motion;

**“unit entitlement”** means, in relation to any condominium lot, the number specified in accordance with section 7(1)(h).

*(Amended by Act 15 of 1976)*

### **Subdivision into condominium lots**

**3. (1)** Land under the operation of the Registered Land Act may be subdivided into condominium lots in accordance with a condominium plan approved by the Registrar of Titles and attached to the Certificate of Title in the manner provided by or under this Act.

**(2)** When a condominium plan has been so approved and attached, any condominium lot included therein may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as land under the operation of the Registered Land Act.

**(3)** A condominium plan shall for the purposes of the Registered Land Act, be deemed upon approval by the Registrar of Titles to be embodied in the register kept under that Act; and notwithstanding the provisions of that Act the proprietor of each condominium lot shall hold such condominium lot and his share in the common property subject to—

*(a)* any interests affecting such condominium lot or such share;  
and

*(b)* any amendments to condominium lots or common property;

notified, or shown, as the case may require, on the approved condominium plan.

**(4)** Notwithstanding the provision in subsection (1) that only land under the operation of the Registered Land Act may be subdivided into condominium lots, a condominium plan may be lodged for approval and acts preparatory to the approval thereof may be done in relation thereto, before the land comprised therein is brought under the operation of the Registered Land Act.

**(5)** The provisions of any enactment, other than this Act, relating to the subdivision of land for sale or for the purpose of building thereon shall to such extent as may be prescribed by regulations under this Act not apply to land comprised in a condominium plan.

*(Amended by Act 15 of 1976, and by implication by Act 4 of 1978)*



### **The corporation**

4. (1) The proprietors of all the condominium lots contained in any condominium plan shall, upon approval of the condominium plan, become a body corporate (hereinafter referred to as “the corporation”) under the name —

“**The Proprietors, Condominium Plan No. ....**” (with the appropriate number of the condominium plans inserted in the blank space).

(2) The corporation shall have perpetual succession and a common seal and be capable of suing and being sued in its corporate name.

(3) The provisions of the Companies Act, or of any other enactment providing for the incorporation regulation and winding-up of companies, shall not apply to the corporation.

(4) Until a seal is provided in accordance with the provisions of this section, a rubber stamp bearing the title of the corporation and authenticated in the same manner as the common seal may be used in place of such seal.

### **Duties and powers of the corporation**

5. (1) The duties of the corporation shall include the following—

- (a) to insure and keep insured the buildings to the replacement value thereof against fire, earthquake, hurricane and such other risks as may be prescribed, unless the proprietors by unanimous resolution otherwise determine;
- (b) to effect such insurance as it may be required by law to effect;
- (c) to insure against such risks other than those referred to elsewhere in this subsection as the proprietors may from time to time by unanimous resolution determine;
- (d) subject to the provisions of section 14, and to such conditions as may be prescribed, to apply insurance monies received by it in respect of damage to the buildings in rebuilding and reinstating the buildings so far as it may be lawful to do so;
- (e) to pay premiums on any policies of insurance effected by it;
- (f) to keep the common property in a state of good and serviceable repair;
- (g) to comply with notices or orders by any competent Government Department or officer thereof or of any statutory body lawfully entitled to issue such notices or orders, requiring repairs to, or work to be done in respect of, the parcel;
- (h) to comply with any reasonable request for the names and addresses of the members of the executive committee.

- (2) The powers of the corporation shall include the following—
- (a) to establish a fund for administrative expenses sufficient in the opinion of the corporation for the control, management and administration of the common property, for the payment of any premiums of insurance, and for the discharge of any of its other obligations;
  - (b) to determine from time to time the amounts to be raised for the fund referred to in paragraph (a) hereof and to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective lots;
  - (c) to recover from any proprietor, by an action for debt in any court of competent jurisdiction, any sum of money expended by the corporation for repairs to or work done by it or at its direction in complying with any notice or order by a competent Government Department or officer thereof or of any statutory body lawfully entitled to issue such notice or order, in respect of that building or portion of a building which constitutes or includes the condominium lot of that proprietor;
  - (d) to enter any condominium lot and effect repairs or carry out work pursuant to its duty under subsection (1)(g).

(3) Subject to the provisions of subsection (5), any contribution levied pursuant to subsection (2) shall be due and payable on the passing of a resolution to that effect by the proprietors and in accordance with the terms of such resolution, and may be recovered as a debt by the corporation in an action in any court of competent jurisdiction from the proprietor entitled at the time when such resolution was passed and from the proprietor entitled at the time when such action was instituted, both jointly and severally.

(4) In addition to the charges or liens in favour of the Government of Montserrat created by section 35 of the Title by Registration Act and section 77 of the Income and Corporation Tax Act, or by any enactment replacing them or either of them, any contribution properly levied by the corporation on a proprietor pursuant to subsection (2) shall be a charge on the condominium lot and such charge shall take precedence immediately after any mortgage charge or other encumbrance on the condominium lot created and registered before the date of notification of the proprietor by the corporation of the fact and amount of such contribution.

(5) The executive committee shall, on the application of a proprietor or any person authorised in writing by him, certify—

- (a) the amount of any contribution determined as the contribution of that proprietor;
- (b) the manner in which such contribution is payable;

(c) the extent to which such contribution has been paid by that proprietor,

and, in favour of any person dealing with that proprietor, such certificate shall be conclusive evidence of the matters certified therein.

(6) A policy of insurance authorised by this section and in respect of any building shall not be liable to be brought into contribution with any other policy of insurance save another policy authorised by this section in respect of the same building.

### **Service of documents on the corporation**

6. (1) The corporation shall cause to be kept, at a conspicuous place at or near the front of the land to which the relevant condominium plan relates, a receptacle suitable for purposes of postal delivery, with the name of the corporation clearly shown thereon.

(2) Any summons, notice, order or other document may be served on the corporation at the address shown on the condominium plan, or by placing it in the receptacle referred to in subsection (1).

### **Requirements of a condominium plan**

7. (1) Every condominium plan shall—

- (a) have a title or heading in which it is described as a condominium plan;
- (b) show the whole or any part of the land comprised therein as being divided into two or more parcels whether or not any of such parcels is divided into two or more condominium lots;
- (c) delineate the external surface boundaries of the parcels and the location of the building in relation thereof;
- (d) bear a statement containing such particulars as may be necessary to identify the title to each parcel;
- (e) include a drawing illustrating the condominium lots and distinguishing such condominium lots by numbers or other symbols;
- (f) define the boundaries of each condominium lot, and, in cases where there are more than one condominium lot in any building, such boundaries shall be by reference to floors, walls and ceilings;
- (g) show the approximate floor area of each condominium lot;
- (h) have endorsed upon it a schedule specifying in whole numbers the unit entitlement of each condominium lot and a number equal to the aggregate unit entitlement of all the condominium lots;

- (i) have endorsed upon it the address at which documents may be served on the corporation;
- (j) contain such other particulars as may be prescribed.

(2) A condominium plan which is lodged for approval shall be accompanied by such certificate and other documents as may be prescribed.

(3) The common boundary of any two condominium lots or of a condominium lot and common property shall, unless otherwise specified in the relevant condominium plan, be the centre of the floor, wall or ceiling between such condominium lots or between such condominium lot and common property, as the case may be.

(4) The unit entitlement of each condominium lot shall, as respects the proprietor of such condominium lot, determine—

- (a) the quantum of his undivided share in the common property; and
- (b) the proportion payable by him of contributions levied pursuant to section 5(2).

## Easements

8. (1) In respect of every condominium lot there shall be implied—

- (a) in favour of the proprietor thereof, and as appurtenant thereto—
  - (i) an easement for the subjacent vertical and lateral support thereof, by the common property and by every other condominium lot capable of affording support thereto;
  - (ii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, and other services (including telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing in or on the land relates, to the extent to which such pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of such condominium lot;
- (b) as against the proprietor thereof and to which it shall be subject—
  - (i) an easement for the subjacent vertical and lateral support of the common property and of every other condominium lot capable of enjoying support from such condominium lot;
  - (ii) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, and other services (including

telephone, radio and television services) through or by means of any pipes, wires, cables or ducts for the time being existing within such condominium lot, as appurtenant to the common property and to every other condominium lot capable of enjoying such easements.

(2) The proprietor of a condominium lot within a multiple unit structure shall be entitled to have his condominium lot sheltered by all such parts of the building as are capable of affording shelter thereto.

(3) The right created by subsection (2) shall be an easement to which the aforesaid parts of the building shall be subject and such easement shall entitle the proprietor of the dominant tenement to enter upon the servient tenement to replace, renew or restore any shelter.

(4) All ancillary rights and obligations reasonably necessary to make easements effective shall apply in relation to easements implied or created by this section.

*(Amended by Act 15 of 1976)*

### **By-laws**

9. (1) Subject to the provisions of this Act, the control, management, administration, use and enjoyment of the condominium lots and the common property contained in every approved condominium plan shall be regulated by by-laws.

(2) The by-laws shall include—

- (a) the by-laws set out in the First Schedule to this Act, which shall not be amended or varied except by unanimous resolution of the proprietors;
- (b) the by-laws set out in the Second Schedule, which may be amended or varied by the corporation.

(3) Until by-laws are made by the corporation in that behalf, the by-laws set out in the First and Second Schedules to this Act shall as and from the approval of the condominium plan, be in force for all purposes in relation to the parcel and the condominium lots and common property therein.

(4) No by-laws shall operate to prohibit or restrict the devolution of condominium lots or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any easement implied or created by this Act:

Provided, however, that in the case of any sale of a condominium lot by its proprietor the corporation shall be entitled to the first option to purchase such condominium lot.

(5) No amendment or variation of any by-law shall have effect until the corporation has lodged with the Registrar of Titles a notification thereof in such form as may be prescribed and until the Registrar of Titles notifies

the corporation that he has made reference thereto on the relevant condominium plan.

(6) The corporation shall, on the application of a proprietor, or any person authorised in writing by him, make available for inspection the by-laws for the time being in force.

(7) The by-laws for the time being in force shall bind the corporation and the proprietors to the same extent as if such by-laws had respectively been signed and sealed by the corporation and each proprietor and contained covenants on the part of the corporation with each proprietor and on the part of each proprietor with every other proprietor and with the corporation to observe and perform all the provisions of the by-laws.

### **Ownership of common property**

**10. (1)** The common property shall be held by the proprietors as tenants in common in shares proportional to the unit entitlement of their respective condominium lots.

(2) The Registrar of Titles shall, in making out a certificate of title for any condominium lot, certify therein the proprietor's share in the common property.

(3) Save as is provided in this Act, no share in the common property shall be disposed of except as appurtenant to a condominium lot and any conveyance of a condominium lot shall operate to convey the share of the disposing party in the common property without express reference thereto.

### **Disposition of common property**

**11. (1)** The proprietors may by unanimous resolution direct the corporation to transfer or lease the common property or any part thereof.

(2) If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel, have consented in writing to the release of those interests in the land comprised in the proposed transfer or lease or, in the case of a lease, have approved in writing of the execution of the lease, the corporation shall execute the appropriate transfer or lease and such transfer or lease shall be valid and effective without execution by any person having an interest in the common property, and the receipt of the corporation for the purchase money, rent or other money payable to the corporation under the terms of the transfer or lease shall be a sufficient discharge and shall exonerate all persons taking under the transfer, or the lease, as the case may be, from any responsibility for the application of the monies expressed to have been received.

(3) Every such transfer or lease lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed, that the transfer or lease conforms with the terms thereof and that all necessary consents were given and such certificate shall, in favour of

purchasers of the common property and in favour of the Registrar of Titles, be conclusive evidence of the facts stated therein.

### **Creation of easements and covenants**

**12. (1)** The proprietors may by unanimous resolution direct the corporation—

- (a) to execute on their behalf a grant of easement of a restrictive covenant burdening the parcel;
- (b) to accept on their behalf a grant of easement of a restrictive covenant benefiting the parcel.

**(2)** If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, the corporation shall execute the appropriate transfer or covenant, and the transfer or covenant shall be valid and effective without execution by any person having an interest in the parcel, and the receipt of the corporation for any money payable to it under the terms of the transfer shall be a sufficient discharge and shall exonerate all persons taking under the transfer from any responsibility for the application of the monies expressed to have been so received.

**(3)** Every such transfer or covenant lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed and that all necessary consents were given, and such certificate shall, in favour of persons dealing with the corporation pursuant to this section and in favour of the Registrar of Titles, be conclusive evidence of the facts stated therein.

*(Amended by Act 15 of 1976)*

### **Administration**

**13. (1)** The corporation or any person having an interest in a condominium lot may apply to the Court for the appointment of an administrator.

**(2)** The Court may in its discretion on cause shown appoint an administrator for an indefinite period or for a fixed period on such terms and conditions as to remuneration or otherwise as it thinks fit. The remuneration and expenses of the administrator shall be an administration expense within the meaning of this Act.

**(3)** The administrator shall, to the exclusion of the corporation, have the duties and powers of the corporation or such of those duties and powers as the Court shall order.

**(4)** The administrator may delegate any of the powers vested in him by virtue of subsection (3).

(5) The Court may in its discretion on the application of the administrator or any person referred to in subsection (1) remove or replace the administrator.

(6) On any application made under this section the Court may make such order for the payment of costs as it thinks fit.

### **Destruction of a building**

**14. (1)** Where a building containing two or more condominium lots is destroyed—

- (a) the corporation shall forthwith lodge with the Registrar of Titles, in such form as may be prescribed, an entry thereof on the condominium plan; and thereafter;
- (b) the proprietors of all condominium lots contained in such building shall be entitled to the parcel as tenants in common in shares proportional to the unit entitlement of their respective condominium lots and the provisions of sections 11 and 12 shall where applicable, apply in relation to the transfer or lease of the parcel and to the creation of any easement or restrictive covenant burdening or benefiting it.

(2) For the purposes of this Act the building referred to in subsection (1) is destroyed—

- (a) when the proprietors by unanimous resolution so resolve; or
- (b) when the Court is satisfied that having regard to the rights and interests of the proprietors as a whole it is just and equitable that such building shall be deemed to have been destroyed and makes a declaration to that effect.

(3) In any case where a declaration has been made pursuant to subsection (2)(b), the Court may by order impose such conditions and give such directions (including directions for the payment of money) as it thinks fit for the purpose of adjusting, as between the corporation and the proprietors and as amongst the proprietors themselves, the effect of the declaration.

(4) An application for a declaration under subsection (2)(b) may be made to the Court by the corporation or by a proprietor or by a registered mortgagee of a condominium lot.

(5) On an application to the Court for a declaration under subsection (2)(b), any insurer who has effected insurance on the building or on any part thereof (being insurance against destruction of a condominium lot or damage to the building) shall have the right to appear in person or by counsel.

(6) The Court may, on the application of the corporation or any member thereof or the administrator, by order make provision for the winding-up of the affairs of the corporation and may, by the same or a



subsequent order, declare the corporation dissolved as on and from a date specified in the order.

(7) On any application under this section the Court may make such order for the payment of costs as it thinks fit.

(8) The Court may from time to time vary any order made by it under subsection (7).

### **Voting rights**

**15. (1)** Any powers of voting conferred by or under this Act may be exercised—

- (a) in the case of a proprietor who is an infant by his guardian;
- (b) in the case of a proprietor who is for any other reason unable to control his property, by the person who for the time being is authorised by law to control that property.

(2) Where the Court, upon the application of the corporation or of any proprietor, is satisfied that there is no person able to vote in respect of a condominium lot the Court—

- (a) shall, in cases where a unanimous resolution is required by this Act; and
- (b) may in its discretion in any other case,

appoint some fit and proper person for the purpose of exercising such powers of voting under this Act as the Court shall determine, and the Court may in making such appointment make such order as it thinks necessary or expedient to give effect to such appointment, including an order as to the payment of costs of the application and may vary any order so made.

(3) The Court may order service of notice of the application referred to in subsection (2) on such person as it thinks fit or may dispense with service of such notice.

### **Regulations**

**16. (1)** The Governor acting on the advice of Cabinet may make regulations generally for the proper carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, make regulations—

- (a) as to the manner and form of approving condominium plans;
- (b) providing for the amendment of approved condominium plans;
- (c) prescribing the manner of registering transfers and leases of common property;
- (d) providing for cases where a building is damaged but is not destroyed;

- (e) providing for the voting rights of mortgages of condominium lots;
- (f) prescribing the fees to be paid for anything required or permitted to be done under this Act;
- (g) prescribing any other matter or thing which may be or is required by this Act to be prescribed.

*(Amended by Act 9 of 2011)*

(2) Regulations made under this section may prescribe, for any infringement thereof or failure to comply therewith, a fine not exceeding \$500 on summary conviction therefor.

### **Rules of Court**

17. Provision may be made by Rules of Court as to the practice and procedure to be followed in relation to applications which may be made to the Court under this Act.

### **Rates and taxes, etc.**

18. For the avoidance of doubt, and notwithstanding anything to the contrary contained in any by-laws made under this Act, every proprietor shall be primarily responsible for the payment of all rates, taxes, charges, outgoings and assessments that may be payable in respect of his condominium lot.

### **Offences and penalties**

19. If there is failure to comply with any notice, order or request referred to in section 5(1)(g) or (h), the corporation and every member thereof who is knowingly a party to such failure shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of \$500.

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**FIRST SCHEDULE**

*(Sections 2 and 9)*

PROPRIETORS

**1.** A proprietor shall—

- (a) permit the corporation and its agents, at all reasonable times on notice (except in case of emergency when no notice shall be required), to enter his condominium lot for the purpose of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the condominium lot and capable of being used in connection with the enjoyment of any other condominium lot or common property, or for the purpose of ensuring that the by-laws are being observed;
- (b) pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his condominium lot;
- (c) repair and maintain his condominium lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted;
- (d) use and enjoy the common property in such manner as not unreasonable to interfere with the use and enjoyment thereof by other proprietors or their families or visitors;
- (e) not use his condominium lot or permit it to be used in such manner or for such purpose as shall cause a nuisance or hazard to the occupier of any other condominium lot (whether a proprietor or not) or the family of such occupier;
- (f) grant a first refusal to the corporation to purchase his condominium lot and in any case notify the corporation forthwith upon any change of ownership or of any mortgage or other dealing in connection with his condominium lot.

THE CORPORATION

**2.** The corporation shall—

- (a) control, manage and administer the common property for the benefit of all proprietors;
- (b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings (including elevators used in connection with the common property);
- (c) where practicable establish and maintain suitable lawns and gardens on the common property;
- (d) maintain and repair (including renewal where reasonably necessary) pipes, wires, cables and ducts for the time being existing in the parcel

and capable of being used in connection with the enjoyment of more than one condominium lot or the common property;

- (e) on the written request of the proprietor, or registered mortgagee of a condominium lot, produce to such proprietor or mortgagee, or any person authorised in writing by such proprietor or mortgagee, the policy or policies of insurance effected by the corporation, and the receipt or receipts for the last premiums in respect thereof;
- (f) in case of default by any proprietor in making any necessary repairs to his condominium lot, repair and maintain such condominium lot and keep it in a state of good repair and recover the costs of such repairs and maintenance from such proprietor.

**3.** The corporation may—

- (a) purchase, hire or otherwise acquire personal property for use by proprietors in connection with their enjoyment of common property;
- (b) borrow moneys required by it in the performance of its duties or the exercise of its powers;
- (c) secure the repayment of moneys borrowed by it, and the payment of interest thereon, by negotiable instrument, or mortgage of unpaid contribution (whether levied or not), or mortgage of any property vested in it, or by a combination of those means;
- (d) invest as it may determine any moneys in the fund for administrative expenses;
- (e) make an agreement with the proprietor or occupier of any condominium lot for the provision of amenities or services by it to such condominium lot or to the proprietor or occupier thereof;
- (f) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common property.

#### GENERAL MEETINGS

**4.** A general meeting of proprietors shall be held within three months after approval of the condominium plan.

**5.** Subsequent general meetings (hereafter referred to as annual general meetings) shall be held once in each year:

Provided that, not more than fifteen months shall elapse between the date of one annual general meeting and that of the next.

**6.** All general meetings other than the annual general meetings shall be called extraordinary general meetings.

**7.** The corporation may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to 25% of the total unit entitlement of the condominium lots convene an extraordinary general meeting.

**8.** Seven days' notice of every general meeting specifying the place, the date and the hour of meeting and, in case of special business the general nature of such business, shall be given to all proprietors and registered first mortgages who have notified their interests to the corporation but accidental omission to give such notice to any proprietor or to any registered first mortgagee or non-receipt of such notice by any proprietor shall not invalidate any proceedings at any such meeting.

**9.** All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts, or at an extraordinary general meeting.

**10.** Save as is in these by-laws otherwise provided, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business. One-half of the persons entitled to vote present in person or by proxy shall constitute a quorum.

**11.** If within half an hour from the time appointed for a general meeting a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the persons entitled to vote present shall be a quorum.

**12.** At the commencement of a general meeting, a chairman of the meeting shall be elected.

#### THE EXECUTIVE COMMITTEE

**13.** There shall be an executive committee of the corporation which shall, subject to any restriction imposed or direction given at a general meeting, exercise the powers and perform the duties of the corporation.

**14.** The executive committee shall consist of not less than three nor more than nine proprietors and shall be elected at the first general meeting of the corporation and thereafter at each annual general meeting:

Provided that, where there are not more than three proprietors the executive committee shall consist of all the proprietors.

**15.** Except where the executive committee consists of all the proprietors, the corporation may by resolution at an extraordinary general meeting remove any member of the executive committee before the expiration of his term of office and appoint another proprietor in his place to hold office until the next annual general meeting.

**16.** Any casual vacancy on the executive committee may be filled by the remaining members thereof.

**17.** The quorum of the executive committee shall be such number as the committee may fix from time to time, being not less than one-half the number of members thereof.

**18.** At the commencement of each meeting the executive committee shall elect a chairman for the meeting, and if any chairman so elected vacates the chair during the meeting the executive committee shall elect in his stead another chairman.

**19.** At meetings of the executive committee all matters shall be determined by simple majority vote and the chairman shall, in addition to an original vote, have a casting vote in any case in which the voting is equal.

**20.** Subject to the provisions of these by-laws the executive committee shall have power to regulate its own procedure.

**21.** The executive committee may—

- (a) employ for and on behalf of the corporation such agents and servants as it thinks fit in connection with the control, management and administration of the common property and the exercise and performance of the powers and duties of the corporation;
- (b) subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and may at any time revoke such delegation.

**22.** The executive committee shall—

- (a) keep minutes of its meetings;
- (b) cause proper books of account to be kept in respect of all moneys received and spent by it;
- (c) prepare proper accounts relating to all moneys of the corporation, and the income and expenditure thereof, for each annual general meeting;
- (d) on the application of a proprietor or a mortgagee, or any person authorised in writing by either of them, make the books of accounts available for inspection at all reasonable times.

**23.** The validity of the proceedings of the executive committee shall not be affected by any vacancy amongst the member thereof or by any defect in the appointment of a member thereof.

#### VOTING

**24.** At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy. Unless a poll is so demanded a declaration by the chairman that a resolution has on the show of hands been carried shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn.

**25.** A poll if demanded shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

**26.** In the case of equality in the votes whether on a show of hands or on a poll the chairman of the meeting shall be entitled to a casting vote in addition to his original vote.

**27.** On a show of hands each proprietor shall have one vote; on a poll the votes of proprietors shall correspond with the unit entitlement of their respective condominium lots.

**28.** On a show of hands or on a poll, votes may be given either personally or by proxy.

**29.** An instrument appointing a proxy shall be in writing under the hand of the proprietor or his attorney, and may be either general or for a particular meeting. A proxy need not be a proprietor.

**30.** Except in cases where by or under the Act a unanimous resolution is required, no proprietor shall be entitled to vote at any general meeting unless all contributions payable in respect of his condominium lot have been duly paid.

**31.** Co-proprietors may vote by proxy jointly appointed by them and in the absence of such proxy shall not be entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act; but any one co-proprietor may demand a poll. On any poll such co-proprietor shall be entitled to such part of the vote applicable to a condominium lot as is proportionate to his interest in the condominium lot. The joint proxy (if any) on a poll shall have a vote proportionate to the interests in the condominium lot of such of the joint proprietors as do not vote personally or by individual proxy.

**32.** Where proprietors are entitled to successive interests in a condominium lot, the proprietor entitled to the first interest shall alone be entitled to vote, whether on a show of hands or a poll; and this by-law shall be applicable whether by the Act the unanimous resolution of proprietors is required or not.

**33.** Where a proprietor holds his condominium lot as a trustee he shall exercise the voting rights in respect of the condominium lot to the exclusion of persons beneficially interested in the trust, and such persons shall not vote.

#### USE OF COMMON SEAL

**34.** The corporation shall at the first general meeting held after registration of the condominium plan, and may from time to time, at subsequent general meetings, determine how the common seal of the corporation shall be used.

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**SECOND SCHEDULE***(Section 9)*

1. A proprietor shall not—

- (a) use his condominium lot for any purpose which may be illegal or injurious to the reputation of the building; or
- (b) make undue noise in or about any condominium lot or common property; or
- (c) keep any animals on his condominium lot or the common property after notice in that behalf from the executive committee.

2. When the purpose for which a condominium lot is intended to be used is shown expressly or by necessary implication on or by the approved condominium plan the proprietor of such condominium lot shall not use it or permit it to be used for any other purpose.

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