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INTRODUCTION TO THE CONDO DEVELOPMENT PROCESS



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MODERATOR

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STAGE 1 – PROJECT DESIGN + PRE-DEVELOPMENT



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STAGE 1 – PROJECT DESIGN + PRE-DEVELOPMENT

CARLOS ANTUNES

Architect's Perspective

1. Site analysis and preliminary design.
2. Project team recommendations.

Planner's Perspective

1. Political and community project support.
2. Site-specific planning assessment, including required municipal and provincial applications.
3. Planning/political support for new condominium types (common element, vacant land).
4. OPA, rezoning, committee of adjustments, section 37 agreements, parkland dedication.

TASSO ERACLES

Property Manager's Perspective

1. Preliminary budget and maintenance fee discussions.
2. Current trends in market place.
3. What people use in existing projects.
4. Reserve fund contribution.
5. Utilities budgeting.
6. Operational design review to ensure efficiencies; e.g. washrooms near front desk, storage capabilities of front desk for deliveries, slop sink with hot water, storage for supplies, etc.

ANTHONY ROMANELLI

Lawyer's Perspective

1. Preliminary condominium consultation.
2. Land optioning, agreements and acquisition.

TAMMY A. EVANS

Master-Planned & Mixed-Use Communities: Developer's Best Practices

1. Know your land.
2. Assemble a qualified, experienced team early.
3. Create preliminary concept drawings/site plan drawings.
4. Personally present your vision to planning department.
5. Build a realistic budget for soft costs.
6. Register with Tarion, where applicable.

Surveyor's Perspective

1. Create base survey — prepare accurate plan which details man-made and natural site features; facilitates development planning and design.
2. Confirm boundaries and easements — confirm legal site limits and encumbrances including title certification through statutory land titles absolute application.
3. Consider site-specific impacts — collect additional site details for consultants and government applications.

Engineer's Perspective

1. Economic impact of consultant selection on cost of construction and performance audit responses.
2. Tarion Bulletin-19 documentation.
3. Tarion projects under part 9 of Ontario Building Code.
4. Sustainable and LEED design program for residential construction.

Cost Consultant's Perspective

1. Pre-Land Acquisition Project Pro-Forma preparation.
2. Visit prospective site to familiarize oneself with all site specifics.
3. Research comparable sales to assess revenue capability.
4. In-depth analysis with developer, architect, municipal lawyer on likely zoning and density approval.
5. Assess parking requirements and grid efficiency layout.
6. Bike Lockers.
7. Mechanical/Electrical Support Space.

Cost Consultant's Perspective

8. Prepare realistic project schedule.
9. Agree Project Statistics to be used for Pro Forma.
10. Prepare Project Pro Forma.
11. Assess Source of Funding required to finance project.
12. Calculate IRR (internal rate of return).
13. Advice on Investor availability.



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STAGE 2 – MARKETING + SALES

CARLOS ANTUNES

Architect's Perspective

1. Advance design development.
2. Design coordination with consultants.
3. Prepare statistical information.
4. Prepare marketing black-line drawings.
5. Condominium documents meeting.
6. Municipal process requirements.
7. Identify shared facilities for multi-party agreements (items, costs and budget impact).

LEONA SAVOIE

Planner's Perspective

1. Municipal approvals and OMB resolution.
2. Planning/zoning changes to project including additional density, units and floors, reductions in visitor parking, etc.

TASSO ERACLES

Property Manager's Perspective

1. Disclosure budget research, preparation and revisions.
2. Maintenance fee cost consultation and market assessment.
3. Schedule D calculations - percentage allocation of common interest and common expenses.
4. Budget schedule - monthly and yearly maintenance fees.
5. Condominium corporation rules.
6. Equipment and chattels leasing for common elements (in-suite HVAC, garbage disposals, tractors).
7. Guest and superintendent's suite costing for future sale to the condominium corporation, and disclosure budgeting.
8. "What if" scenarios to cost out maintenance fees.

ANTHONY ROMANELLI

Lawyer's Perspective

1. Production meeting chairman.
2. Production meeting overview (timing, attendees, intent, importance).
3. Unit closings within 30 days (plus or minus) following condominium registration (10 working days for registry office PIN creation; title review by purchaser's lawyer).
4. Condominium disclosure preparation and release for marketing and sales.
5. Sales staff instruction on project-specific purchase and sales agreements and condominium disclosure documentation.
6. Purchaser lawyer enquiries.
7. Tarion application submissions.
8. Deposit trust agreements or bond issuance for purchaser's deposit release/usage.

TAMMY A. EVANS

Master-Planned & Mixed-Use Communities: Developer's Best Practices

1. Pay particular attention to the need for any cross phasing elements.
2. Keep project team informed.
3. Establish and maintain a good working relationship with municipal planning staff.
4. Identify potential development applications/agreements to be negotiated.
5. Consider preliminary feedback from municipality prior to market launch.
6. Comply with Tarion, where applicable (unit enrollment).

Surveyor's Perspective

1. Optimize legal development structure — determine ideal planning and legal strategy for creation of condominium phases.
2. Perform Tarion suite area compliance review — review residential suite areas for regulatory compliance and maintenance fee percentage contribution.
3. Establish numbering — establish municipal and legal numbering of residences.
4. Prepare condominium disclosure package — submit prerequisite condominium disclosure plans and schedules for marketing and sales campaign.

Engineer's Perspective

1. Performance audit fees for property manager's disclosure budget.
2. Reserve fund allocation approval for property manager's disclosure budget.
3. Constructability confirmation through reviewing feature's list and marketing plans.

Cost Consultant's Perspective

1. Report on desired expectations from sales.
2. Prepare Sensitivity Analyses.
3. On-going monitoring of construction market conditions.
4. Monitor individual trade availability.
5. Advice on use of pre-fabricated materials.
6. Engage early with preferred trade contractors.
7. Constant monitoring of City/Region related charges.
8. Advising developer on all major consultant soft cost awards.

Cost Consultant's Perspective

9. Advising on purchaser deposit structure.
10. Reporting to deposit insurer on any early release of deposits to fund pre-development costs.
11. Reporting to pre-development lender, if applicable including certification of monthly costs for loan advances.
12. Preparing detailed pro forma submissions for construction lenders and meeting with lenders to discuss project.
13. Working with developer where required to appoint suitable construction manager.



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STAGE 3 – URBAN CONSTRUCTION

Architect's Perspective

1. Advance design development.
2. Production of architectural construction documents and specifications/co-ordination with consultants.
3. Building permit application process and timing.
4. Building permit submission.
5. Project budget pricing/tendering.
6. Consultant co-ordination/issue drawings for construction.
7. As-built architectural drawings/specifications.

Planner's Perspective

1. On-going site approvals including additional units and floors, variances, etc.
2. Municipal agreements and implementation problems.
3. Section 37 agreements/approvals, requirements and signature timing.
4. Building permit applications and follow-up.
5. Severance for multi-institutional financing.

TASSO ERACLES

Property Manager's Perspective

1. Condominium document revisions for additional units and levels, combined/split units, budget changes, percentages, etc.
2. Input to system designs for security/access, waste removal, front desk, green loan application/approval, etc.

ANTHONY ROMANELLI

Lawyer's Perspective

1. Construction financing assistance.
2. Deposit funds release to declarant - Tarion insured and Excess Condominium Deposit Insurance (ECDI).
3. Condominium disclosure and document revisions corresponding to project changes.
4. Project title document preparation including transfers, easements and agreements, as required.
5. On-going purchaser lawyer issues.
6. Conversion to land titles absolute finalized and registered, if applicable.

TAMMY A. EVANS

Master-Planned & Mixed-Use Communities: Developer's Best Practices

1. Keep your project team informed of any construction/ design changes.
2. Apply for draft plan of condominium approval (DPA) as early as possible.
3. Keep your lawyer informed as to construction progress/ delays - to allow preparation for legal notices, amendments to disclosure, registration and closings.

Surveyor's Perspective

1. Integrate design information — conduct site survey and integrate design information into construction site coordinate network system.
2. Assess construction layout — calculate design data and integrate working drawings into the construction site coordinate network system.
3. Produce field layouts — create field layouts for underground garage and superstructure focusing on the site and the impact of construction on neighbouring structures.
4. Confirm as-built compliance — confirm municipal zoning bylaw compliance of as-built underground and superstructure.

Engineer's Perspective

1. Monthly inspections and reports for Tarion bulletin 19 (suggest similar approach for non-bulletin 19 buildings).
2. Architectural specifications review for performance audit issues.
3. Changes and revisions to documentation during construction.
4. Construction method selection: in-house/general contractor/construction management.

Cost Consultant's Perspective

1. Preparation of detailed construction budget on a trade by trade basis as well as detailed site overheads.
2. Value management of design.
3. Comparing, reconciling and agreeing construction budget with construction manager.
4. Agreeing site overheads with construction manager.
5. Review and approval of list of tendering trade contractors.
6. Advise on any bonding requirements.
7. Preparation of sum insured for All Risks Insurance for both construction and re-incurable soft costs.

Cost Consultant's Perspective

8. Client advice on project procurement; tender documentation preparation, analysis and management, contractual documentation preparation, review and management.
9. Assisting, participating in trade interviews pre-contract award.
10. Agreeing Schedule of Values for agreed contract price.
11. Approving monthly payment invoices from trades as well as site overheads and all soft costs.
12. Site visits at month-end to establish work completed.
13. On-going proactive advice on project pro forma maintenance.



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STAGE 4 – PLANNING + LEGAL COMPLIANCE

CARLOS ANTUNES

Architect's Perspective

1. On-going contract administration to construction completion.
2. Confirm allocation of building areas for proposed ownership components.
3. Confirm storage locker shop drawings.
4. Zoning confirmation for parking spaces (minimum sizes).

Planner's Perspective

1. Committee of adjustment consents and variances (parking, 3rd party easements).
2. Draft plan of condominium application, submission and follow-up.
3. Draft plan of condominium conditions review and resolution.
4. Multi-component severance applications.

TASSO ERACLES

Property Manager's Perspective

1. Shared-use determination for multiple component mixed-use buildings.

ANTHONY ROMANELLI

Lawyer's Perspective

1. Transfer of easements for utilities and servicing, as required.
2. Transfer of street and lane widenings and 0.30 metre reserves lifting, if required.

TAMMY A. EVANS

Master-Planned & Mixed-Use Communities: Developer's Best Practices

1. Engage your project team to help clear site plan/DPA conditions.
2. Finalize shared areas in project team, walkthrough.
3. Municipal conveyances (park, street).

Surveyor's Perspective

1. Design legal and planning strategies — formulate legally-compliant development strategy governing future phases and ownership components.
2. Create draft plan of condominium — prepare plan in approved form for municipal planning approval, showing proposed units and common elements.
3. Generate a 3-D strata separation — create component coloured sketches and stratified 3-D reference plan to facilitate multiple legal ownerships and easements.
4. Provide legal descriptions and easements — prepare comprehensive legal descriptions and easements for municipal planning and registration authority approval.

Engineer's Perspective

1. Tarion Bulletin 19 on-going (if applicable).

Cost Consultant's Perspective

1. On-going monitoring of sales including approving all pre-sales.
2. Loan monitoring on behalf of construction lender (1st mortgagee) & deposit insurer (2nd mortgagee) including (i) preliminary report preparation; (ii) monthly progress reports; (iii) sales & leasing review; (iv) margin loan advance calculation; (iv) cash flow monitoring and maintenance.
3. Change notice review and recommendation, where required.
4. Anticipation of and assessment of contractor claims and giving advice on avoidance, resolution and settlement of disputes, including negotiating with interested parties.
5. Reporting to co-owners & investors as required.



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STAGE 5 – CONDOMINIUM PRE-REGISTRATION + OCCUPANCY

CARLOS ANTUNES

Architect's Perspective

1. On-going contract administration to construction completion.
2. Assistance with draft plan of condominium and site plan conditions and certifications.
3. Confirm shared facilities for multi-party agreements.
4. Issuance of occupancy clearances.
5. Signs and sign band drawings.
6. Record drawings preparation.

Planner's Perspective

1. Site plan conditions resolution.
2. Draft plan of condominium conditions resolution.
3. Parking and locker purchaser allocations.
4. Coordination of all relevant consultants as built plans – compliance checks.

TASSO ERACLES

Property Manager's Perspective

1. Budget review and client approval of inflation bump-up and utility cost increases.
2. Combined units and split units confirmation.
3. Co-ordination with declarant, surveyor and lawyer to finalize schedule D for final condominium declaration.
4. Interim occupancy closing assistance to declarant.
5. Building start-up for services.
6. Purchaser meeting prior to PDI.
7. Buffer and liaison with purchasers.
8. Investor rental program to ensure insurance compliance by investor, tenant, investor HST rebate/compliance, asset protection by not eroding rental rates and thereby unit values/inventory, better tenant screening, etc.

ANTHONY ROMANELLI

Lawyer's Perspective

1. Condominium declaration schedule A (legal description) review and updating.
2. Condominium declaration preparation, updating and submission to surveyor for condominium pre-approval to local land titles office.
3. Condominium declaration pre-approval submission to local municipality legal/planning department.
4. Purchaser occupancy closings.
5. Lawyer's condominium draft plan condition clearance of mutual servicing easements and right-of-way easements creation (multi-phase projects).

TAMMY A. EVANS

Master-Planned & Mixed-Use Communities: Developer's Best Practices

1. Clear up any outstanding permit site plan matters (security release).
2. Update Tarion of registration and closings (for security release).
3. Identify outstanding items for completion and release/ reduction of municipal security.
4. Transfer any easements/lands/insurance/contracts to appropriate party per development staging strategy.

Surveyor's Perspective

1. Verify as-built unit compliance — ensure substantial compliance of as-built units and structures with on-site field confirmation.
2. Assess and confirm occupancy documentation — review occupancy documents for parking/locker numbering, legal/ municipal suite numbering, common expense fee schedules.
3. Resolve draft/site plan conditions and certifications — consult with client, consultants and municipality on condominium draft plan conditions and site plan agreement items.
4. Confirm shared facilities for multi-party agreements — provide guidance in developing Reciprocal Easement Operating Agreements (REOA) for shared facilities with multi-ownership developments.

Engineer's Perspective

1. Tarion Bulletin 19 on-going (if applicable).
2. Review of “as-built” drawings and specifications prior to turnover.
3. Pre-performance audit undertaking and merits for developer (optional).

Cost Consultant's Perspective

1. Cost consultant, in capacity of payment certifier, determines when the project has been substantially performed for the purposes of releasing the holdback, generally coinciding with the issuance of occupancy clearances.
2. Reconciles project costs for construction financing in preparation for registration and pending loan closeout.
3. Provide input in the development of the interim occupancy costs for the unit.



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STAGE 6 – CONDOMINIUM REGISTRATION

CARLOS ANTUNES

Architect's Perspective

1. Record drawings completion, labelling and indexing.
2. Schedule G building completion certificate for declaration.

Planner's Perspective

1. Condominium draft plan conditions resolution confirmation.
2. Working with your surveyor and condominium lawyer ensuring all supporting documentation is in order.

TASSO ERACLES

Property Manager's Perspective

1. Common expense increases and condominium budget finalizing, for title closings.
2. Final closing assistance.
3. Transition to home owner board control.
4. Liaison with new board of directors.
5. Condo admin set up and get insurance certificate for closings, set up bank accounts, financial statements, prepare and call turn over meeting, prepare for turn over financial audit, set up accounts for utilities, contracts, etc.

ANTHONY ROMANELLI

Lawyer's Perspective

1. Schedule A legal description to declaration, review and execution.
2. Land titles office correspondence for condominium registration.
3. Executed schedule B to declaration (mortgagees' consent) obtained from mortgagees.
4. Condominium declaration and schedules executed.
5. Executed schedule C to declaration and schedule F to declaration obtained from surveyor.
6. Schedule D to declaration obtained from property manager (approved by declarant).

ANTHONY ROMANELLI

Lawyer's Perspective

7. Executed schedule G to declaration obtained from architect and/or engineer.
8. Pre-approved and executed final version of condominium declaration to local land titles office for registration.
9. Construction Lien Act notification guidance to declarant.

TAMMY A. EVANS

Master-Planned & Mixed-Use Communities: Developer's Best Practices

1. Transition issues/construction phasing.
2. Refresh with approval authority for next stage of development.

Surveyor's Perspective

1. Prepare condominium plan and schedules — confirm that as-built structure and condominium limits substantially conform to the condominium plan and schedules.
2. Obtain record drawings and building certifications sign-off — coordinate architectural/structural record drawings and building completion certificates (Schedule G).
3. Finalize plan's pre-approval and condominium declaration — obtain municipal and land registry office pre-approval of condominium plans and legal condominium declaration.
4. Expedite final package submission and registration — deliver the condominium submission to municipality and land registry office for registration.

Engineer's Perspective

1. Tarion Bulletin 19 on-going (if applicable).
2. Reserve fund study for turnover meeting (RF annual contribution for year 1 should match disclosure budget).

Cost Consultant's Perspective

1. Construction trade claims mitigation and settlement.
2. Advise on resolution of liens for compliance with construction lien act provisions.
3. Input in the preparation of business plans for raising financing for commercial components.



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STAGE 7 – CONDOMINIUM POST-REGISTRATION

CARLOS ANTUNES

Architect's Perspective

1. Architectural record drawing copies to declarant for turnover meeting.

Planner's Perspective

1. Registered condominium declaration and plans to local municipality legal/planning department.

TASSO ERACLES

Property Manager's Perspective

1. Preliminary building maintenance and service contracts – reaffirmation by the condominium corporation required.
2. Turnover meeting attendance maximum 42 days following 50% + 1 title transfer of units to purchasers.
3. Condominium as-built drawings and warranties for turnover meeting (architectural, structural, mechanical/electrical, landscape, etc.).
4. Liaise/buffer with new homeowner board.

ANTHONY ROMANELLI

Lawyer's Perspective

1. Unit closings within 3-6 weeks following condominium registration (10 working days for registry office PIN creation; title review by purchaser's lawyer).
2. Encumbrance payouts and purchaser unit closings.
3. Profit (if any) to declarant.
4. Attend and chair turnover meeting.
5. General issue negotiations with new condominium corporation on developer's behalf.

TAMMY A. EVANS

Master-Planned & Mixed-Use Communities: Developer's Best Practices

1. Post-registration transfers (shared units).
2. Shared facilities agreement registration.
3. Tarion/deficiencies clean up.
4. Fulfillment of deferred construction phasing requirements.
5. Customer service with residential owners/new boards.

Surveyor's Perspective

1. Distribute registered condominium plan — provide official registered condominium plan for closings and eventual turnover to newly created condominium corporation board.
2. Define and confirm legal condominium limits for reserve fund — define legal condominium limits and common elements for legislatively-mandated reserve fund audit.
3. Review the shared facilities agreement — provide long-term professional consulting to ensure equitable interpretation of ongoing multi-party obligations.

Engineer's Perspective

1. Final Tarion bulletin 19 report to declarant and condominium corporation immediately following condominium registration.
2. Review condominium corporation's performance audit, (fees should match disclosure budget).
3. Construction deficiency claims advice to declarant.
4. Performance audit tracking summary – performance audit response preparation (Tarion Builder Bulletin 49).
5. Performance audit issues resolution and recognizing Tarion's role (Tarion's Construction Performance Guidelines).

Cost Consultant's Perspective

1. Expert testimony on behalf of developer and builder for assessment, mitigation and settlement of lien claims.
2. Reserve fund study consultation on building and facilities.
3. Waterfall - reporting on distribution of sales proceeds to co-owners based on agreed waterfall including:
 - full payment of construction loan;
 - retention of cash security in condominium lawyer deposit trust account for Tarion warranty requirements;
 - retention of funds to cover cost-to complete items;
 - payment of equity, including identifying any preferred equity;
 - payment of any preferred interest to equity investors;
 - payment of residual profit split.



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CONDOMINIUM LAW REFORM: HIGHLIGHTS OF THE PROPOSED CHANGES

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CONDOMINIUM LAW REFORM

HARRY HERSKOWITZ

Highlights of the Proposed Changes

1. Introduction

HARRY HERSKOWITZ

Highlights of the Proposed Changes

2. Consumer Protection

- Improved Disclosure
- Prohibition on Selling or Leasing Amenity-type Units and/or Standard Equipment to the Condominium
- Prohibition on the Declarant Deferring Costs
- Avoiding the Subsidization of Costs Generated by Commercial Operations
- Status Certificates
- Augmenting the Definition of Material Change
- The Creation of a Standardized Declaration
- The Minimum Contribution to the Reserve Fund
- Revising the Definition of “Maintenance”, and Ancillary Proposals
- Recognizing a Unit Owner’s Rights to Quiet Enjoyment

HARRY HERSKOWITZ

Highlights of the Proposed Changes

3. Financial Management

- Communication and Education on Finances
- Reserve Funds
- Operating Budgets
- Reserve Fund Investments
- Fraud Prevention - A Sealed-Bid Process

HARRY HERSKOWITZ

Highlights of the Proposed Changes

4. Governance

- Access to Records & Information
- Meetings
- Directors & Officers
- Fine & Charge-backs
- The Rights and Responsibilities of Owners & Directors

HARRY HERSKOWITZ

Highlights of the Proposed Changes

5. Dispute Resolution

- The Condo Office
- Disputes between the Condominium & the Declarant
- Disputes Involving Shared Facilities
- Disputes with the Condominium's Manager
- Expediting the Mediation & Arbitration Process
- Disputes with Tenants of Condominium Units
- Indemnity for Costs Incurred

HARRY HERSKOWITZ

Highlights of the Proposed Changes

6. Condominium Management

- New Two-Stage Licencing Program
- The Certificate of Authorization for Management Firms
- Educational Requirements
- Grand-fathering Existing Condominium Managers
- Code of Ethics
- Mandatory Insurance
- Self-Managed Condominiums
- Mandatory Contents of Management Contracts



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