

# Demystifying Vacant Land Condominium Development

**MINISTRY OF MUNICIPAL AFFAIRS AND  
HOUSING  
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# Demystifying Vacant Land Condominium Development

**Bruce Curtis, Manager, Community  
Planning and Development  
Municipal Services Office Southwest  
Ministry of Municipal Affairs and  
Housing**

## Presentation Outline

In a tight timeframe, we will look at:

- What is a condominium?
- Condominium types
- Similarities/differences to subdivisions
- Municipal considerations
- Key steps leading to registration
- Tips and Pitfalls

## Importance of the Process

- Condominium approval process carries with it responsibilities for thoroughness and diligence, just like subdivisions
- Liability concerns go with the approval if things go wrong with the development during the building or habitation stages

# Condominium

## WHAT IS A CONDOMINIUM?

- A form of ownership in which title to a unit is held together with a share in the rest of the property which is common to all of the owners

## Two Key Elements

1. Exclusive use areas
  - individually owned units
  - e.g., interior of unit, outdoor area, parking space, storage areas
2. Common elements
  - collectively owned
  - e.g., corridors, roads, parking areas, open space, golf course, marina, tennis courts.

## Condominium Act

- Administered by Ministry of Government Services (formerly MCBS)
- Used to register condo corporations
- Establishes legal framework
- Basic rules of operation established
- Condominium Act Section 9 links to Planning Act Section 51 approval

## New Forms of Condominium

- Vacant land condominium
- Common elements condominium
- Phased Condominium
- Leasehold condominium

## Vacant Land Condominium

- **WHAT IS IT?** A plan of condominium in which common elements and units are created, but no buildings or structures have been constructed at the time of registration of the condo plan. (Units usually detached.)
- Cannot apply where any unit is located above or below any other unit.
- Provides flexibility for unit purchasers to choose their own building design, while still benefiting from common services/facilities.

## Common Elements Condominium

- **WHAT IS IT?** A condominium corporation with common elements only and not units. Owners of freehold properties will have common interests in the common elements.
- Common interest runs with the land, not the owner.
- For example, lots in a standard subdivision may hold common interest in a private golf course, health club, natural area, parking facilities etc.

## Phased Condominium

- **WHAT IS IT?** Additional phases of a condominium may be added to the initial registered plan of condominium, resulting in one condominium corporation rather than several small ones.
- Assists developers with completion of sales of units while other areas of the development are still under construction.

## Leasehold Condominium

- **WHAT IS IT?** A condominium corp. where the land is leased to the Declarant for 40 to 99 years and divided into units and common elements.
- Could be used for crown or gov't lands that are not to be sold but can be developed by another party on long term basis.

## Vacant Land Condominium

### **SIMILARITIES TO SUBDIVISION**

- Approved under Section 51 of the Planning Act
- Still involves creation of title for ownership
- Most similar matters to subdivision still need to be considered for approval

## Vacant Land Condominium

### **DIFFERENCE FROM SUBDIVISION**

- Combination of some singular and some common ownership areas
- Roads, parks, etc. in private ownership
- Services (e.g., water, sewer) may be in private ownership by the corporation

## Vacant Land Condominium

### **WHY VACANT LAND CONDOMINIUM?**

- Provides for development on private roads where appropriate
- Provides for common private amenities such as golf courses, clubhouses, beaches, parks, tennis courts

## Vacant Land Condominium

### **Provides permanent attachment to multiple properties of:**

- Joint ownership of property assets
- Responsibility to pay costs associated with common assets
- Statutorily required corporate structure to manage common assets

## Vacant Land Condominium

- In essence it is a plan of subdivision with private streets and common areas
- Previous methods used to create these types of developments were legally unsound, subject to failure, and a risk to municipalities

## Vacant Land Condominium

### **Process Comparable to Plan of Subdivision review and approval**

- Application and registration process occurs prior to construction in most cases
- Services and roads will not be public property (installation is comparable to site plan and development agreement process)

## Vacant Land Condominium

### **Municipal Considerations**

- A vacant land condominium cannot be registered until common elements buildings, structures, and facilities have been completed, installed, and provided in accordance with the regulations made under the Act, unless...

## Vacant Land Condominium

### **Municipal Considerations**

- ... a bond or security that is acceptable to the municipality or the Minister (as the case may be) and is sufficient to ensure these buildings, structures or facilities are installed or provided.  
(Condominium Act, 1998 Sec. 158)

## Vacant Land Condominium

### **Municipal Considerations**

- Utility and municipal easements may still be required to ensure that both the subject development and adjacent lands may be adequately serviced.
- No unit in a vacant land condominium can be above or below another unit.

## Vacant Land Condominium

### **Municipal Considerations**

- Water and sewage services may be privately owned, but MOE may require a municipal responsibility agreement
- Condominium corporation may restrict size, location, materials, appearance, and maintenance of buildings

## KEY STEPS

- **Draft Approval**
  - Consider many of the same planning matters as per plan of subdivision
  - Issue Draft Approval with Conditions (may have fewer conditions)

## KEY STEPS Cont'd

- **Final Approval**
  - Final approval issued and registration after satisfying draft approval conditions
  - Completion of common elements building, structure, facilities, or a bond
  - Specific legal and title requirements to be met prior to registration

## Registration of Plans

- Registry Act Regulation 898 Sec. 32
  - 1 Original Mylar (retained by registrar)
  - 3 Duplicate Mylars
    - 1 to Mun., 2 to Regional Assessment
  - 5 Paper prints
    - 1 to registrar, 2 to regional assessment, 1 to AOLS (with sticker) and 1 to Municipality

## Tips to Help

- Encourage pre-consultation
- Comprehensive circulation package
- Consider same issues as subdivision
- Address concerns and negotiate issues prior to making decision (draft approval)
- Make conditions clear & understandable
- Ensure all conditions satisfied prior to Final Approval and Registration

## Pitfalls to Watch

- Inadequate/incorrect information on application or the face of the plan
- Improper numbering of units on plan
- Changes to plan after Draft Approval and prior to Final Approval (Count units)
- Ambiguous conditions of Draft Approval
- Unclear letter of clearance

## Vacant Land Condominiums, The Last Word!

- On a condominium, the details count!
- Check twice, approve once!
- If you have questions, ask someone!
- Good Luck on your review and processing.
- Thank you.