

# Living in a Condominium

A Guide for Ontario Tenants



## About us

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The Canadian Centre for Housing Rights (CCHR) is Canada's leading non-profit organization working to advance the right to housing. Founded in 1987, CCHR has worked tirelessly for 35 years at the intersection of human rights and housing. We advance the right to housing by serving renters to help them stay housed, providing education and training about housing rights, and advancing rights-based housing policy through research, policy development, advocacy and strategic litigation.

## Acknowledgements

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# Table of Contents

- Introduction ..... 4
- What is a Condominium? ..... 5
- The Legal Framework ..... 5
- Beginning a Tenancy in a Condominium ..... 6
  - Condo by-laws, rules, and declaration ..... 6
- Living in a Condominium as a Tenant ..... 6
  - Prohibition on discrimination and harassment..... 6
  - Pets..... 7
  - Repairs and maintenance ..... 8
  - Common Areas ..... 8
  - Units..... 8
- Termination of a Tenancy..... 9
  - Conversion of a property into a condo ..... 9
  - Agreements to purchase units ..... 9
- Dispute Resolution ..... 9
  - Landlord and Tenant Board ..... 9
  - Human Rights Tribunal of Ontario..... 10
  - Superior Court of Justice..... 10
  - Condominium Authority Tribunal..... 10
- Resources for Tenants in Condominiums ..... 11
  - Tenant and Human Rights Resources ..... 11
  - Condo Resources ..... 11

# Introduction

This guide provides tenants in condominiums with information on the unique issues they may face.

If you rent a condominium unit, your condominium's governing documents, as well as the Condominium Act, Residential Tenancies Act and the Human Rights Code interact to create the legal landscape in which you live.

Landlords and condominiums corporations both have certain obligations and duties that they owe to tenants. This guide will help you identify what legal rights you are entitled to and provide a brief overview of the laws governing your tenancy.

# What is a Condominium?

This guide will refer to condominiums as condos. While there are many types of condos, you likely live in a standard freehold condo. These usually are large buildings with apartment units that are sold by the condo corporation to individual owners who elect the condo corporation's Board of Directors, which governs the condo corporation.

Inside a condo, the common areas – such as the lobby, elevators, and hallways – are maintained by the condo corporation, while the units are maintained by their owners. The owners share the common areas of the condo and contribute to the cost of maintaining these areas.

An individual owner may decide to rent out their unit. When they do so, they become a landlord, and this creates unique obligations on the part of landlords and the condo corporation. This guide aims to highlight the main obligations owed by landlords and condo corporations to tenants.

## The Legal Framework

The laws that most impact tenants living in condos are:

- the *Residential Tenancies Act, 2006* (the “RTA”)
- the *Condominium Act, 1998*
- the *Human Rights Code* (the “Code”)

The RTA governs landlord and tenant relationships in Ontario, including those in condos. The *Condominium Act* governs the creation and operation of condos in Ontario, including some of the obligations that condo corporations and owners owe to tenants who live in condos. Finally, the *Code* protects tenants against discrimination in the context of housing. Both landlords and condo corporations are bound by it in their relationships with tenants.

The *Code* has primacy over both the RTA and the *Condominium Act* – meaning it applies even if the RTA or the *Condominium Act* conflict with it. If a conflict arises between the RTA and the *Condominium Act*, the RTA applies, except in some very narrow circumstances that are not relevant to freehold condos.

The full versions of these Acts can be found through the Ontario e-Laws website, <https://www.ontario.ca/laws>.

# Beginning a Tenancy in a Condominium

## Condo by-laws, rules, and declaration

If you rent a condo, you become part of the condo community and must follow the condo's rules, by-laws, and declaration. Landlords and condo corporations are also bound by these governing documents. A declaration is the "constitution" of the condo. The by-laws state how the condo corporation will be governed, and the rules determine what people on the property can and cannot do. All rules must be reasonable and consistent with the *Condominium Act* and the condo's declaration and by-laws.

Your landlord must give you a copy of the condo's declaration, by-laws, and rules and notify the corporation of your name and contact information when you move in. If you believe that your landlord, another unit owner, or the condo corporation itself, has breached the declaration, a by-law, or a rule, you can contact the Board of Directors. They have to enforce the governing documents and take all reasonable steps to ensure that people comply with the governing documents. Similarly, if another tenant in the condo is not following the governing documents, you can speak to them or their landlord. All landlords must take reasonable steps to ensure their tenants comply with the governing documents. If the other tenant's landlord does not intervene, the Board of Directors may be able to do so.

# Living in a Condominium as a Tenant

## Prohibition on discrimination and harassment

Sections Section 2 of the *Code* protects you from discrimination and harassment from your landlord, condo corporation and other tenants because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance.

## Duty to accommodate

Sections 11 and 17 of the *Code* require housing providers, like landlords and condo corporations, to accommodate tenants up to the point of undue hardship. This duty to accommodate takes many forms. It could require allowing a tenant to do something they would otherwise not be able to do in the condo, like smoke medical cannabis. In other cases, it could require the condo to install an automatic door or adopt a new accessibility policy.

If you require an accommodation, it's good to notify your landlord or condo about your restrictions and requested accommodation in writing. Once your landlord or condo has received your request, they must get information about your restrictions and consider how to accommodate you, centering your dignity and involvement in the process. Your landlord or condo is obligated to accommodate you up to the point of undue hardship. Undue hardship can occur where the accommodation will cost so much that it seriously impacts the housing provider's business or creates a health and safety problem.

During this process, you will need to provide information about your restrictions, work in good faith with the housing provider, and accept reasonable accommodations if they overcome your restriction. You should not have to pay for accommodations, or for information the housing provider requires to determine what it can do to satisfy your request.

## Pets

Although the RTA stops landlords from banning pets from their units, you may be prohibited from keeping a pet if your condo's declaration, by-laws, or rules ban them. However, if you require a service or support animal as a disability accommodation, the condo may have to allow you to keep the animal.

# Repairs and maintenance

## Common Areas

The condo corporation needs to maintain and repair the common elements of the condo. Condo corporations are legally responsible to unit owners (landlords) for the repairs and maintenance of the common areas; however, they have no legal relationship with tenants when it comes to repairs and maintenance because the tenant entered a contract with the landlord and not the condo corporation.

## Units

Your landlord is responsible for maintaining and repairing your unit and must “act diligently” once they know about a maintenance problem. They are not automatically responsible as soon as a service is interrupted. However, if a landlord does not take reasonable steps to maintain the unit, they may be more likely to be in breach of their obligations.

Unique to condos, a landlord must maintain and repair their units even if a tenant is living in the unit during the landlord’s interim occupancy period. An interim occupancy period in a condominium unit is a period during which the landlord does not yet legally own the unit but is still allowed to physically possess it.

When a problem in a unit goes beyond regular maintenance, the responsibility shifts to the condo corporation. However, since landlords are responsible for repairs under the RTA, they have to make sure that the condo corporation does repair the unit. In other words, condo corporations are *legally* responsible to the landlord for conducting repairs in the units and are *physically* responsible for carrying them out, but landlords are still *legally* responsible to their tenants for those repairs.

When a repair must be done in the unit, the landlord has to take all “reasonable steps” to get the condo corporation to do the necessary repairs. If a repair is not conducted properly or in a timely manner, tenants have legal recourse against their landlord only and landlords have legal recourse against the condo corporation.

The requirement that condominium corporations maintain and repair the common areas and repair the units can be altered by a condominium corporation’s declaration, which may shift these responsibilities to owners.

# Termination of a Tenancy

## Conversion of a property into a condo

Sections 48 and 49 of the RTA let landlords terminate a tenancy if the landlord “in good faith requires possession of the rental unit for the purpose of residential occupation” or “has entered into an agreement of purchase and sale of the unit” and “the purchaser in good faith requires possession of the unit for the purpose of residential occupation.”

This may not apply to older condos that were previously rental apartments. Section 51 of the RTA prohibits landlords from serving a notice of termination under section 48 or 49 to tenants that were occupying the rental unit when it was converted from a rental apartment building into a condo. However, there is an exception to this rule and tenants should get legal advice if they think they are in this situation.

## Agreements to purchase units

Under the Condominium Act, you have a right of first refusal to purchase the unit in which you live if the landlord receives an offer to purchase the unit.

If you have become a condo tenant as part of an agreement to buy the unit from the landlord one day, the landlord may terminate the tenancy if the agreement to buy the unit is terminated. However, if the tenant can prove that the landlord either, (1) did not give the notice of termination of the tenancy within the correct notice period or (2) did not create the tenancy in good faith because of an agreement to buy the unit that has since ended, the tenant may be able to successfully fight the eviction. corporation’s declaration, which may shift these responsibilities to owners.

# Dispute Resolution

## Landlord and Tenant Board

If you believe that your landlord has failed to comply with the RTA, you can bring an application against them at the Landlord and Tenant Board (LTB). The cost, for a tenant, of filing an application with the LTB is approximately \$50, although a fee waiver is available for low income tenants. If your landlord wants to evict you, they must first

get an order from the LTB. It is rare for one party to be charged with the fees of the other party at the LTB.

## Human Rights Tribunal of Ontario

If your landlord or condo corporation has violated your rights under the Code, you can bring an application with the Human Rights Tribunal of Ontario (HRTO). It is free to bring an application with the HRTO and tenants can contact the Centre for Equality Rights in Accommodation or the Human Rights Legal Support Centre for information or assistance with your applications. The Ontario Human Rights Commission is also a good resource for information about human rights claims. Their website provides detailed information on the Code. The Landlord and Tenant Board can also consider human rights issues in their rulings.

## Superior Court of Justice

If you believe that your landlord or condo corporation has violated the *Condominium Act*, the declaration, the by-laws, or the rules, you can make an application to the Superior Court of Justice under section 134 of the *Condominium Act* for an order enforcing compliance. Landlords and condo corporations can also make applications under this provision but must attempt to resolve the issue through mediation first.

## Condominium Authority Tribunal

Landlords and condo corporations can bring applications to the Condominium Authority Tribunal (the “CAT”), an online tribunal that resolves condo issues. Tenants cannot bring applications to the CAT, but applications can be brought against them. While the jurisdiction of the CAT was recently expanded to include a broad range of landlord-tenant disputes, the CAT cannot order the eviction of a tenant.

The CAT has lower filing fees than the LTB; however, the CAT is more likely than the LTB to make an order charging the losing party with the other party’s legal fees.

# Resources for Tenants in Condominiums

## Tenant and Human Rights Resources

- [Canadian Centre for Housing Rights](#) (CCHR) is a non-profit organization that works to advance the right to housing through service, education and policy advocacy.
- [Steps to Justice](#) provides clear answers to common legal questions on a wide range of topics.
- [Human Right Commission of Ontario](#) produces reports and guidance to challenge and end systems of discrimination.
- [Human Rights Legal Support Centre](#) provides legal services to people who have experienced discrimination.

## Condo Resources

- [Condominium Authority of Ontario](#) (CAO) provides services and resources for condo boards, owners, and tenants. The CAO produced a [Guide for Residential Condominium Tenants](#).
- [Condominium Management Regulatory Authority of Ontario](#) (CMRAO) licenses and regulates condominium managers and management service providers. Tenants can file a narrow range of complaints against their condominium managers or condominium management service providers with the CMRAO.



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