



GUIDE TO RESPONDING TO RECORD REQUESTS

Section 55 of the *Condominium Act, 1998* (“the Act”) establishes the basic obligations of condos with respect to records. The Act requires that certain records must be kept and made accessible to owners and purchasers. The following is a guide for the circumstance where a party wishes to request access to records from the condo. All of the forms mentioned below may be found at: https://www.ontario.ca/search/land-registration?sort=desc&field_forms_act_tid=condominium.

HOW IS THE REQUEST MADE?

The request must be made:

- (1) in writing;
- (2) on a standard form; and

the request should:

- (1) indicate which records are being sought; and
- (2) and how the requester wishes to access the records (i.e. hard copy or electronic format or an examination in person.)

NOTE: While the request for records must be solely related to the requester’s interest as owner, purchaser or mortgagee, the requester does not need to provide the condo with the purpose of the request.

WHEN CAN A CONDO DENY ACCESS TO A RECORD?

The condo is not required to provide access to the following records:

- records relating to the condo’s employees except for employment contracts;
- records relating to actual or pending litigation or insurance investigations;
- records relating to a specific unit other than the records relating to the unit that the requester owns, is purchasing or mortgaging;
- the e-mail addresses of owners and mortgagees unless they have given written consent to provide access;
- reports or opinions and related communications from lawyers and licensed paralegals with respect to specific units, owners, purchasers or mortgagees; and
- any portion of a ballot or proxy that identifies specific units or owners unless the condo’s by-laws provide otherwise.

CORE VERSUS NON-CORE RECORDS

The Act classifies certain condo documents as core records or non-core records, and sets out different processes for accessing each type of record.

A core record includes:

- Declaration, by-laws, rules, current budget;
- Latest financial statements, audit report, reserve fund plan;
- Shared facilities agreement;
- Record of owners and mortgagees;
- Periodic information certificates from the last 12 months;
- Minutes for owner or board meetings (from the last 12 months) held after Nov. 1, 2017; and
- Any other record specified by by-law as a core record.

Any record that is not a core record is considered a non-core record.

HOW DOES A CONDO RESPOND TO A REQUEST?

After receiving a request for records corporations have 30 days to respond. Condos are required to use the Board's "Response to Request for Records Form" to send their response, which includes:

- (1) A description of each record requested;
- (2) An indication of if it is a core record of the condo;
- (3) A decision on if they will provide the requester with access to, or copies of, each record requested;
- (4) If the requester is not allowed to access a record, the specific provision of the Act that the condo thinks allows them to refuse access; and
- (5) A location where the record can be accessed if no copies were requested.

WHAT ARE THE ACCESS FEES, IF ANY?

The fee to access the records must be a reasonable fee to reimburse the condo for the actual labour and delivery costs that the condo incurs in making the record available for examination or for delivering a copy. Photocopy/printing charges must not exceed 20 cents per page. However, if the request is for a core record, the condo may not charge any fee if it delivers a copy in electronic form. If a paper copy of a core record is requested and provided, the condo can only charge a printing charge. If the requester asks to examine core records in person, the condo can only charge labour costs for the examination and printing costs. The fee payable for the request will vary depending on a number of factors:

- whether the record requested is a core record;
- whether the condo keeps the requested record in electronic or paper form;
- whether the request is to examine a copy of the record or to obtain a copy;
- whether the condo is required to redact any portions of the requested record; and
- the time that the Board estimates spending on the request.

If the actual cost the condo incurs to provide access to or a copy of records is less than the estimated amount, the condo is required to reimburse the difference to the requester. If the actual cost is more than the estimated amount, the requester is obligated to pay the difference up to 10% above the estimate.

WHEN MUST THE RECORDS BE PROVIDED BY THE CONDO?

Where the requester requests or agrees to obtain copies of core records in electronic form the condo is required to deliver the records within 30 days of receiving the request for records (i.e. the same time as the Board's response). Paper copies and an in-person examination of core records need to be provided within 7 days of the condo receiving the requester's response along with payment of the estimated fee. Access to non-core records need to be provided within 30 days of the requester's response and payment.

WHAT IS THE PENALTY FOR NOT PROVIDING A RECORD?

A condo that without reasonable excuse fails to comply with its obligation to permit access to its records in accordance with the legislation would be subject to a penalty of up to \$5,000 which can be recovered by an action in Small Claims Court.

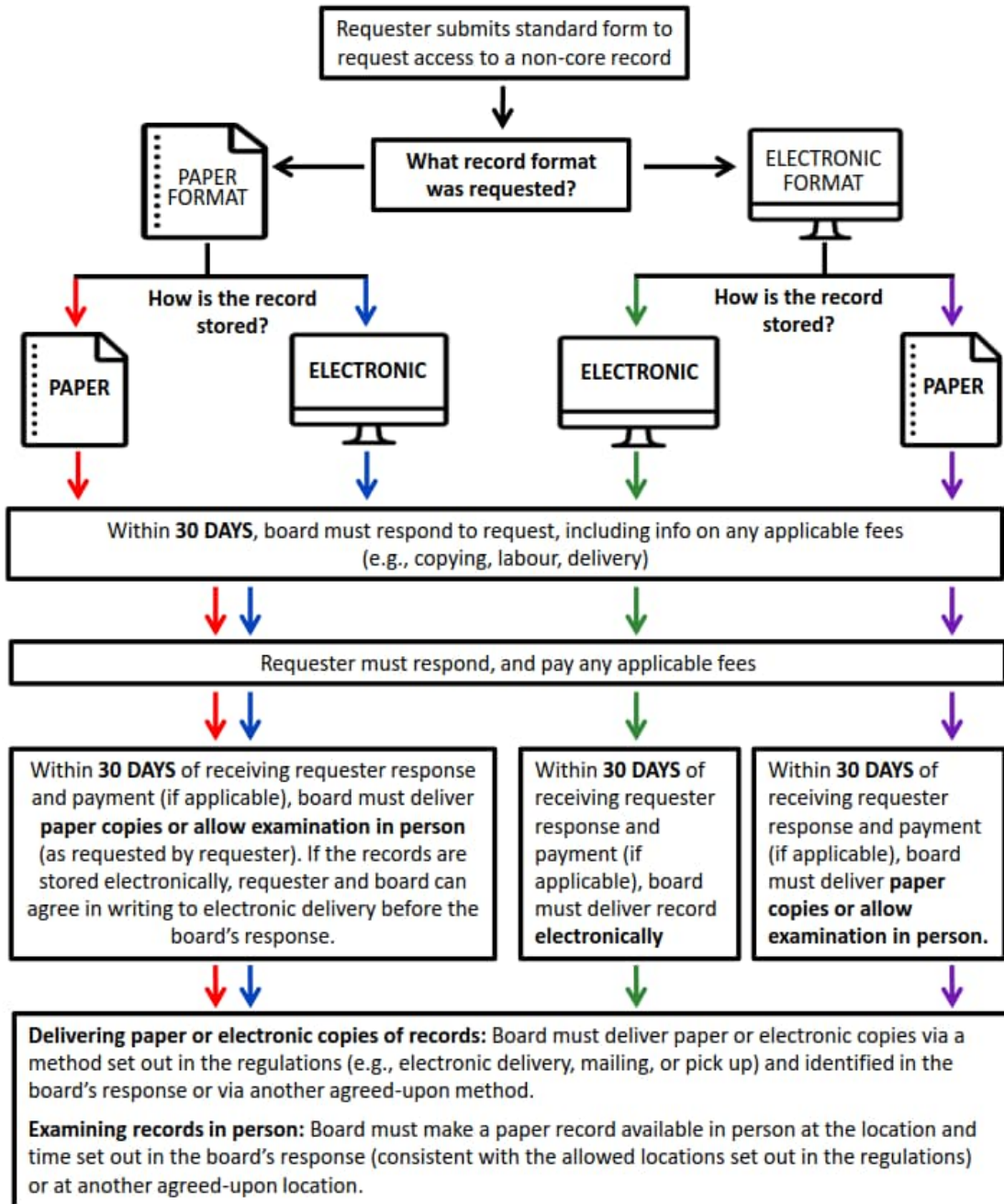
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REQUEST PROCESS FOR A NON-CORE RECORD (VIA THE CONDOMINIUM AUTHORITY OF ONTARIO)



REQUEST PROCESS FOR A CORE RECORD (VIA THE CONDOMINIUM AUTHORITY OF ONTARIO)

