CONDO ADVISER WEBINAR
(EPISODE 29)

MODIFIED STEP-2 MEASURES

January 12, 2022

CondoAdviser.ca

LEADING THE INDUSTRY

GOWLING WLG

CONDO ADVISER CREW

Speakers	Firm
Nadia Freedman	Capital Integral
Rod Escayola (Lawyer)	Gowling WLG
Murray Johnson	Crossbridge
Graeme Macpherson (Lawyer)	Gowling WLG
Josh Milgrom (Lawyer)	Lash Condo Law
David Plotkin (Lawyer)	Gowling WLG

COVID UPDATE

Rod

Modified Step 2

- Jan 5: Ontario rolled back to Modified Step-2 measures
- Expected to last for 21 days (or until Jan. 26, unless extended)
- Applies to all 34 Public Health Units
- Press Release
- New Modified Step 2 Regulation
- Condo Adviser COVID Tool

NEW STEP-2 MEASURES

David

General obligations for businesses or organizations

- *Reopening Ontario Act*
- Comply with *Occupational Health and Safety Act*
- Comply with advice, recommendations and instructions of public health officials
- Comply with advice, recommendations and instructions of Chief Medical Officer of Health
- This includes complying with advice pertainining to:
  - Physical distancing
  - Cleaning / disinfecting
  - Screening

NEW STEP-2 MEASURES

Graeme

Gathering limits

- Social gathering limits:
  - 5 people indoors
  - 10 people outdoors
- Organized public events:
  - 5 people indoors
- Expressly applies to private dwellings, including condominmium buildings
- Exceptions for single household

NEW STEP-2 MEASURES

Josh

Face Masks (not new)

- Mask covering mouth, nose and chin
- Required for any person in indoor area of premises of business or organization
- Applies to premises used as dwelling unless corporation can ensure 2m distance
- Comply with municipal by-laws if they exist
- Recommendation that mask policies be adopted
- Usual exemptions applicable to age, health, medical conditions, *Human Rights* Code and *Accessibilility for Ontarians with Disabilities*.
- Not necessary for person to present evidence they are entitled to exception
- Courts have limited movement of those exempt (direct access to unit by direct route)

NEW STEP-2 MEASURES

David

Screening at entrance (not new)

- Business or organization shall comply with advice
- Posting signs at entrances visible to the public informing how to screen before entering
- Actively screening everyone who works at business or organization before entering
- Example of Screening sign
- Example of online screening form
- Check advice from your Public Health Unit
- When/if recreational amenities open: screening may be required

NEW STEP-2 MEASURES

Graeme

Other

- **Employees** must work remotely unless the nature of their work requires them to be on site
- Indoor rented **meeting or event space** must be closed
- **Short-term rental** must be limited to people in need of accommodations without access to indoor recreational facilities including fitness, pools, saunas, steam rooms…
- **Elevators**:
  - Not regulated under *Reopening Ontario Act*
  - Many public health unit issued advice/recommenations
    - Reduced occupancy (2m)
    - Post notices
    - Decals on floor where to stand
    - Provide sanitizers

INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

Rod

Step 2 Regulation: O. Reg. 263/20

- Indoor Sports and Recreational fitness facilities must be **closed** unless…
  - Professional, semi-professional, elite athletes
  - Facility provides prescribed child care and early years
  - Mental Health and additinoal support service
  - Social services
- Indoor recreational amenities must be **closed**

INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

Rod

Step 2 Regulation: O. Reg. 263/20

- Regulation applies to **businesses**, **places**, **organizations**
- Each person responsible for a business or place … that is required to be closed by Schedule 2 shall ensure that the business or place … is closed in accordance with that Schedule. (s. 1 Sch.1)
- Section 19 (Sch. 2) applies to « **Facilities** for indoor sports and recreation fitness activities »
- Facilities is not defined, but ordinarily:

  a place, amenity or piece of equipment provided for a particular use.

- No reference to public vs. Private;
- No reference to patrons or members of the public
- No reference to size or capacity

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INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

Condo Authority Ontario (Jan 5)

- CAO Summary of Step 2 measures
  - Indoor sports and fitness facilities (e.g., pools, gyms, etc.) **must be closed**, limited exceptions.
  - Indoor recreational amenities must close.

CMRAO (undated)

- COVID resource page referring to exernal links

CAI Canada

- Confirms that interior recreational amenities must be closed. Here's their statement.

INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

ACMO (Jan 7): Refers to CAO

CCI Toronto Legislative Brief (Jan. 6)

> There is **currently an open debate** as to whether this Modified Step 2 requires all indoor condominium gyms and fitness facilities to close**. Condominiums should consult with their legal counsel about whether an amenity must be fully closed or may remain open with conditions**, absent explicit guidance from the provincial government or municipal authorities; there are likely a variety of factors that each condominium community should consider in deciding what is most appropriate for their specific circumstances, in compliance with the law.

CCI Eastern-Ontario: Nothing yet

Condo Directors Group: Close indoor sports and recreational amenities; COVID Resources

INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

Toronto Public Health (Jan 10) Guidance commercial & residential buildings

- Indoor/outdoor recrational fitness facilities must comply with the Reopening Ontario Act
- Reg. does not apply in condominiums that are not public settings and are intended for private use
- Toronto Public Health **strongly recommends** that all condominiums **close non-essential common areas such as gyms, pools, spas** (whirlpool, hot tubs), playrooms and other high-traffic areas.
- In addition to any regulatory requirements, **condos can enact additional safety measures and restrictions** to meet the health and safety goals specific to their facility.
- Scheduling system; reduced capacity; more time between users; floor markings; keep doors and windows open

INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

Ottawa Public Health

Last revised on January 6, 2022

We are currently updating information about reporting and managing COVID cases in workplaces and other organizations. Thank you for your patience.

Please visit our **Public Health Orders and Instructions** webpage for Instructions for Sports, Recreation and Fitness Sector.

INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

- **Ottawa By-Laws** (Jan. 5)

  Persons responsible for condominiums and rental units ought to align their practices and policies with respect to party rooms and indoor recreational areas accordingly. The regulation currently requires that subject to limited exceptions, indoor sport and recreational fitness facilities including gyms, be closed and social gathering limits are limited to five people indoors and 10 people outdoors in addition to adhering to capacity limits, physical distancing, and cleaning/disinfection requirements.

  ...you may also wish to seek independent legal advice with respect to the applicability of the regulations to your specific context …

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NEXT WEBINAR

- **Next webinar :**

  Wednesday, February 2

- **Info will posted on CondoAdviser.ca**
- **You will need to register again.**

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SEE YOU NEXT MONTH!

Wednesday, February 2, 2022

QUESTIONS?

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INDOOR FITNESS ROOMS AND RECREATIONAL AMENITIES

Debate amongst lawyers:

Must close	Likely must be closed	May remain open
Gowling Condo Adviser	Davidson Houle Allen	Shibley Righton
Lash Condo Law		
Elia Associates		

The above is limited to those who issued public statements.