



## Municipality of the District of Lunenburg

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January 24, 2023

### Via Email

The Honourable Tim Houston, M.L.A.      [PREMIER@novascotia.ca](mailto:PREMIER@novascotia.ca)  
Premier of Nova Scotia  
PO Box 726  
Halifax NS B3J 2T3

and

The Honourable Colton LeBlanc, M.L.A.      [MIN\\_SNSIS@novascotia.ca](mailto:MIN_SNSIS@novascotia.ca)  
Minister of Service Nova Scotia & Internal Services  
PO Box 216  
Halifax NS B3J 3K5

Dear Premier and Minister

### Re:    **Condominium Act**

We would like to bring to your attention a significant deficiency that we have identified with respect to the Condominium Act and, in particular, the provisions related to the phased-development (bare land) condominiums.

As you are aware, municipal units have the authority to adopt Subdivision Bylaws to regulate the creation of lots within the municipality. A Subdivision Bylaw is a detailed, regulatory scheme that establishes all of the requirements related to the subdivision of land including, but not limited to:

- Lot size (incl minimum size for lots not serviced by central sewer);
- Road frontage;
- Lot shapes;
- Road design standards (public and private roads);
- Water supply;

- Sewage disposal; and
- Public open space (2% cash requirement)

The Condominium Act provides that a phased-development condominium is exempt from the subdivision approval requirements of the Municipal Government Act if the phased-development condominium meets the requirements, if any, provided by the Regulations (section 8(1)).

The Act goes on to state that the acceptance of registration of a phase of a phased-development condominium constitutes a subdivision of land and creates a lot as described in the description of that phase (s. 8(2)) and that upon acceptance for registration of each subsequent phase of a phased-development condominium, the subsequent phase is consolidated into one lot with all phases of the phased-development condominium previously accepted for registration (s. 8(3)).

The issue, from a municipal perspective, is that the 'subdivision' and 'consolidation' of land in a phased-development condominium as permitted under the Condominium Act takes place outside of the subdivision approval process as established by the Municipality in the Subdivision Bylaw and permits developers to avoid all of the requirements contained in the Subdivision Bylaw.

For instance, our subdivision bylaw provides minimum design standards for private roads which ensure, among other things, that private roads are accessible by emergency vehicles. A phased-development bare land condominium is not required to adhere to the private road standards as it is exempt from the Subdivision Bylaw and, consequently, we have no way to ensure that the 'road' or 'driveway' into the development is suitable for emergency vehicles.

Similarly, while our Subdivision Bylaw provides minimum lot sizes for lots not serviced by central sewer services, no such requirement exists for lots created as part of a phased-development bare land condominium and we have no way to enforce our minimum lot sizes.

We would also point out that, unlike a traditional subdivision developer who is required to provide a 2% cash requirement for public space, there is no provision for the 2% cash requirement for phased-development bare land condominiums.

We are concerned that developers are able to avoid the requirements of the Subdivision Bylaw (which have been purposely adopted by Municipal Council) by choosing to create phased-development bare land condominium. In particular, we find it problematic that developers can avoid our private road design standards by opting for a phased-development bare land condominium with a 'driveway' that is not required to meet any design standard whatsoever.

While we agree that the Province should be responsible for the governance and management of condominium corporations, where the Condominium Act purports to engage in the creation and consolidation of lots (as it does with the phased-development bare land condominiums) regard should be given to the local subdivision requirements to ensure that developers of phased-

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development bare land condominiums are held to the same standards as traditional land developers that create subdivisions.

By way of a solution, we are requesting that the Province amend the Condominium Act to either: (a) remove the exemption from the subdivision approval requirements (as stated in section 8(1)) or (b) incorporate local municipal subdivision requirements in the Regulations (as contemplated in section 8(1)).

We look forward to hearing from you on this very important matter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Carolyn', with a stylized flourish at the end.

Carolyn Bolivar-Getson, E.C.N.S.

Mayor

cc: Nova Scotia Cabinet Ministers (via email)