

Metropolitan CONDOMINIUM CORPORATION NO.734

(the "Corporation")

**Pursuant to Section 58 of the *Condominium Act, 1998*, as amended
(the "Act")**

NOTICE OF NEW RULE

Please find enclosed a copy of a proposed Updated Tenancy and occupancy of units Rule, in accordance with Section 58 of the Act.

The Board of Directors has proposed that this Rule will become effective on September 21st, 2019.

Unit owners have the right to requisition a meeting to vote on this proposed Rule under section 46 of the Act. The Rule will become effective:

1. If the Board receives a requisition for a meeting of owners under section 46 of the Act within 30 days after the date of this Notice, then the earlier of:
 - a. The time at which a quorum is not present at the first attempt to hold the meeting; and
 - b. The time at which a quorum is present at the first attempt to hold the meeting and the owners do not vote against the rule at the meeting.

OR

2. If the Board does not receive a requisition for a meeting of owners under section 46 of the Act within the 30 days after the date of this Notice, on September 20th, 2019.

We enclose a copy of the text of sections 46 and 58 of the *Condominium Act, 1998* for your reference.

DATED this 22nd day of August 2019.

Section 58 of the Condominium Act, 1998

Rules

58 (1) The board may make, amend or repeal rules under this section respecting the use of the units, the common elements or the assets, if any, of the corporation to,

- (a) promote the safety, security or welfare of the owners and of the property and the assets, if any, of the corporation; or
- (b) prevent unreasonable interference with the use and enjoyment of the units, the common elements or the assets, if any, of the corporation. 2015, c. 28, Sched. 1, s. 54 (1).

Rules to be reasonable

(2) The rules shall be reasonable and consistent with this Act, the declaration and the by-laws. 1998, c. 19, s. 58 (2).

Same, proposed rules

(3) Rules proposed by the declarant before the registration of a declaration and description shall be reasonable and consistent with this Act, the proposed declaration and the proposed by-laws. 1998, c. 19, s. 58 (3).

Inconsistent provisions

(4) If any provision in a rule or a proposed rule is inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the rule or proposed rule, as the case may be, shall be deemed to be amended accordingly. 1998, c. 19, s. 58 (4).

Amendment by owners

(5) The owners may amend or repeal a rule at a meeting of owners duly called for that purpose. 1998, c. 19, s. 58 (5).

Notice of rule

(6) Upon making, amending or repealing a rule, the board shall give a notice of it to the owners that includes,

- (a) a copy of the rule as made, amended or repealed, as the case may be;
- (b) a statement of the date that the board proposes that the rule will become effective;
- (c) a statement that the owners have the right to requisition a meeting under section 46 and the rule becomes effective at the time determined by subsections (7) and (8); and
- (d) a copy of the text of section 46 and this section. 1998, c. 19, s. 58 (6); 2015, c. 28, Sched. 1, s. 54 (2).

When rule effective

(7) Subject to subsection (8), a rule is not effective until the following time:

1. If the board receives a requisition for a meeting of owners under section 46 within 30 days after the board has given notice of the rule to the owners, the earlier of,
 - i. the time at which a quorum is not present at the first attempt to hold the meeting, and
 - ii. the time at which a quorum is present at the first attempt to hold the meeting and the owners do not vote against the rule at the meeting.
2. If the board does not receive a requisition for a meeting of owners under section 46 within the 30 days after the board has given notice of the rule to the owners, the day after that 30th day. 2015, c. 28, Sched. 1, s. 54 (3).

Same

(8) A rule or an amendment to a rule that has substantially the same purpose or effect as a rule that the owners have previously amended or repealed within the preceding two years is not effective until the owners approve it, with or without amendment, at a meeting duly called for that purpose. 1998, c. 19, s. 58 (8).

Same, proposed rule

(9) Despite subsection (7), a rule proposed by the declarant before the registration of the declaration and description shall be effective until it is replaced or confirmed by a rule of the corporation that takes effect in accordance with subsection (7). 1998, c. 19, s. 58 (9).

Compliance

(10) All persons bound by the rules shall comply with them and the rules may be enforced in the same manner as the by-laws. 1998, c. 19, s. 58 (10).

Section 46 of the Condominium Act, 1998

46 (1) A requisition for a meeting of owners may be made by those owners who at the time the board receives the requisition, own at least 15 per cent of the units, are listed in the record maintained by the corporation under subsection 47 (2) and are entitled to vote. 1998, c. 19, s. 46 (1).

Form of requisition

(2) The requisition shall,

- (a) be in writing and be signed by the requisitionists;
- (b) state the nature of the business to be presented at the meeting; and
- (c) be delivered personally or by registered mail to the president or secretary of the board or deposited at the address for service of the corporation. 1998, c. 19, s. 46 (2).

Same, removal of directors

(3) If the nature of the business to be presented at the meeting includes the removal of one or more of the directors, the requisition shall state, for each director who is proposed to be removed, the name of the director, the reasons for the removal and whether the director occupies a position on the board that under subsection 51 (6) is reserved for voting by owners of owner-occupied units. 1998, c. 19, s. 46 (3).

Duty of board

(4) Upon receiving a requisition mentioned in subsection (1), the board shall,

- (a) if the requisitionists so request in the requisition or consent in writing, add the business to be presented at the meeting to the agenda of items for the next annual general meeting; or
- (b) otherwise call and hold a meeting of owners within 35 days. 1998, c. 19, s. 46 (4).

Non-compliance

(5) If the board does not comply with subsection (4), a requisitionist may call a meeting of owners which shall be held within 45 days of the day on which the meeting is called. 1998, c. 19, s. 46 (5).

Reimbursement of cost

(6) Upon request, the corporation shall reimburse a requisitionist who calls a meeting under subsection (5) for the reasonable costs incurred in calling the meeting. 1998, c. 19, s. 46 (6).

NOTICE

Update to Rules Regarding In-Suite Flooring – August 2019

To All Unit Owners and
Tenants

In December 2017, the Polo 1 board hired an acoustical engineering firm to test the acoustical performance of the floor slabs at Polo 1 and make recommendation for any improvements to the existing Flooring Rule which could help reduce impact noise transmission between units and to help ensure all Polo 1 residents have quiet enjoyment of their units.

As a result of this review, while the majority of the Rule remains unchanged, rating for floor assemblies with underlay and area carpets has been updated as well as materials that may be used in the assemblies that could meet these ratings.

Our Declaration provides that no unit shall be occupied or used by anyone in such a manner as is likely to unreasonably interfere with the use or enjoyment by other unit owners of the common elements or the other units.

To deal with this matter proactively, and in an effort to avoid circumstances where the use and enjoyment of your suite is interfered with as a result of noise transmission, the Board passed a Rule regarding in-suite flooring in September, 2006 and updated it in 2011. The intent of the Rule is to deal proactively with the potential conflict that exists as a result of possible noise transmission within the high-rise communal living arrangement by balancing the interest of an individual unit owner in wishing to change flooring from time to time against the interest of a neighboring unit owner desiring the quiet enjoyment of his/her unit. The Rule set a minimum standard for the sound transmission rating of hard flooring underlay, required a minimum of 70% area carpet coverage on hard flooring installations including all traffic areas, and identified remedies where noise transmission related to flooring installation issues persisted. On July 26, 2011, the Board passed an Amendment to the Rule regarding In-suite flooring identifying better (newer) materials and standards to continue to address the noise transfer issue. In Jan 2017, the Board sent all owners drawings of units to clarify what the minimum requirement of 70% minimum area carpeting on wood floors meant in practice and these are posted on the Polo One website. In December 2017, the Board retained an acoustical engineering firm to do an on-site "tapping test" of the floor slabs in Polo 1 to identify the rate of sound transmission impact between floors and make recommendations on newer materials and installation practices. As a result of the acoustical testing and the recommendations of the acoustical engineer, the Board has further updated the Rule to attempt to minimize transfer of impact sound between units.

The acoustical report included the following observations:

- Polo 1 concrete floor slabs (without a suspended drywall ceiling) are estimated to have an Impact Isolation Class (IIC) of 28. **Impact insulation class** (or **IIC**) is an integer-number rating of how well a building floor attenuates impact sounds, such as footsteps and other impacts. A larger number means more attenuation.
- The use of broadloom and good quality underlay (originally in all Polo 1 units) can result in an IIC of 80-85 which significantly reduces the transmission of impact sound to suites below (note this is the current requirement for all bedrooms and designated sleeping areas (bachelor units) at Polo1.
- The addition of engineered hardwood with a general resilient underlay is estimated at IIC 45 to IIC 50 - up to IIC 55 with higher performance acoustic underlayment.
- A Polo 1 floor with IIC of 55 is poor at attenuating impact sounds.
- Area carpeting can significantly improve the acoustical performance of wood floors. As indicated in the testing at Polo 1, thick area carpeting on the wood floor are significantly more effective than thin carpets.
- Contiguous thick (1/4 inch) area carpets on properly installed laminate wood with good quality properly installed underlay is expected to yield an IIC rating in the range of IIC 70-IIC 75. This makes it less likely to hear impact noise transfer.
- The type and thickness of the wood and proper installation can have a significant impact on the overall acoustic performance of the floor.
- The advertised ratings of various products do not necessarily reflect their true performance and are generally not applicable to Polo 1 flooring conditions.
- Regardless of underlay used and their advertised ratings, the performance of the wood finished floor can never be as high or even close to a broadloom with an proper underlay assembly which can provide an IIC of 80-85+.

As a result of the acoustical testing and the recommendations of the engineer, the Board has further updated the Rule to attempt to minimize transfer of impact sound between units. The intent of Rule is to deal proactively with the potential conflict that exists as a result of possible noise transmission within the high-rise communal living arrangement by balancing the interest of an individual unit owner in wishing to change flooring from time to time against the interest of a neighboring unit owner desiring the quiet enjoyment of his/her unit.

The Board of Directors and Property Manager of the Corporation are committed to maintaining the Corporation as a desirable place to live on Bay Street. More importantly, it is in the interest of all unit owners to ensure that noises are not transmitted from one unit to another.

METROPOLITAN TORONTO CONDOMINIUM CORPORATION No. 734 per:

Dated this 22nd day of August 2019.

PURSUANT TO Section 58 of the Condominium Act, S.O. 1998 c. 19 (the "Act")

WHEREAS:

- a. Section 20 of the Declaration provides that no unit shall be occupied or used by anyone in such a manner as is likely to unreasonably interfere with use or enjoyment by other unit owners of the common elements or the other units;
- b. Section 17(3) of the Act requires that the Corporation take all reasonable steps to ensure that owners comply with the Act, as well as the Corporation's Declaration, By-laws and Rules;
- c. The Board of Directors has the authority to pass rules governing the use and occupation of units, consistent with the Declaration, in order to promote the safety, security and welfare of the owners and of the property or for the purpose of preventing unreasonable interference with the use and enjoyment of common elements and other units;
- d. The units within the Corporation were originally constructed with a builder's finish "good quality" broadloom and re-bond underlay on a concrete slab in all areas of the units with the exception of the kitchens, bathrooms and some foyers. The broadloom and underlay flooring served to reduce noise transmission between units; and,
- e. The increasing tendency among unit owners to replace the original broadloom and underlay flooring with hard flooring surfaces continues to increase the possibility of nuisance noise transmission between units;

NOW THEREFORE BE IT ENACTED AS RULES, AS FOLLOWS

In-Suite Flooring Rules

1. Definitions:

In these Rules,

- (a) "Owner" shall mean "Owner" as defined in the Act for the purpose of compliance with the Act, Declaration, By-laws and Rules and includes owners, occupants, and/or tenants or licensees, their families, visitors, guests and employees or agents or any of the above;
- (b) "Property Management " shall mean the individual or company appointed by the Corporation to manage the property and assets of the Corporation, or any agent or employee thereof;
- (c) The terms used herein shall have the same meaning as the terms of the Act; and
- (d) "Designated Sleeping Area" shall mean a room ordinarily understood to be used as bedroom. Bachelor units, excluding the bathrooms, are considered Designated Sleeping Areas.

2. These In-Suite Flooring Rules supersede and replace all previous rules concerning In-Suite Flooring.

3. Delivery of Request and Approval Process

Prior to the commencement of any in-suite flooring renovations or modifications, a "Renovation Request Form" must be completed in its entirety and delivered to the Management Office to be forwarded to the Board of Directors for approval within a reasonable period. No renovations or modifications shall take place until the Board of Directors, by resolution, have approved same.

4. Requirements for non-Designated Sleeping Areas

All flooring, except in Designated Sleeping Areas, must meet a minimum IIC of 70.

5. Requirements for Designated Sleeping Areas.

All flooring in Designated Sleeping Areas (includes complete Bachelor units) must meet a minimum IIC of 80. Broadloom in these areas must be residential minimum 35-ounce with minimum re-bond padding of 11 mm and an 8-lb. density to meet a minimum IIC of 80.

6. Underlayment

Underlayment must be installed to achieve a minimum IIC rating or seventy (70) or greater, as applicable, as provided for herein. Cork is not an acceptable underlay.

- (a) In the case of tile or stone flooring, such as but not limited to ceramic, porcelain and marble in kitchens or entrances (where permitted), Regupol® Sonus, 3/16" (5mm) underlayment sound attenuation is required. In Washrooms underlayment sound attenuation product such as DITRA must be used.
- (b) All approved wood flooring installations require a minimum of 70% of the flooring area including all traffic areas covered with ¼ thick contiguous area carpets. Sample floor plans indicating percentage of coverage are available on the Polo 1 website or from property management.

7. No Exposed Concrete

No occupied unit is permitted to have any exposed concrete floor, notwithstanding that the same may be covered by area carpets. Any type of flooring, including sub-flooring, attached to the concrete floor by glue, nails or screws is not permitted.

8. Renovation Request Form Specifications

Owners submitting a Renovation Request Form for hard surface flooring must provide to the Corporation complete details of the proposed modifications and renovations, including the square footage of the area to be renovated and a detailed material list including the manufacturer's specifications and a sample of the materials.

9. Underlay Meeting the Rule Sound Transmission Specification

From time to time, the Corporation may identify specific underlay materials that may help meet the sound transmission specifications of the Rule. However, the Corporation does not endorse any particular underlay material as guaranteeing the elimination of noise transmission that would unreasonably interfere with the use and enjoyment of other units.

It is the Owner's responsibility to ensure that an appropriate sound attenuation barrier is used beneath the finished flooring, and to install contiguous area carpets that are thick enough to reduce sound transmission, where required.

10. No Representation

Notwithstanding the Board's approval to the installation of hard surface or other flooring, and the Owner's compliance with these In-Suite Flooring Rules, the Corporation makes no representation that the installation of in-suite flooring will not cause noise, nuisance and/or disturbances to other residents in the Corporation or cause any other problems or breaches of the Act or the Corporation's declaration, by-laws and/or rules. It is the Owner's responsibility to ensure compliance with the Act and the Corporation's declaration, by-laws and rules. In the event that there are any reasonable complaints of noise, nuisance or other disturbances from any resident subsequent to the installation of in-suite flooring, it is the Owner's responsibility to take all necessary steps, at the Owner's sole cost and expense, to eliminate the noise, nuisance and/or other disturbance, which may include, without limitation, the installation of further sound attenuating material beneath the flooring surface or replacement of the flooring

with broadloom and underlay. In addition, the Corporation may require that a minimum of 70% of the hard surface flooring installed, including all hallways and traffic areas, be covered by contiguous area carpets of sufficient thickness in an attempt to eliminate the noise, nuisance and/or other disturbance, without any representation or guarantee that it will resolve the noise, nuisance and/or other disturbance and the Owner may be required to take additional steps, at the Owner's sole cost and expense, to eliminate the noise, nuisance and/or other disturbance.

11. Material Insulation Misrepresentation

It shall be the sole responsibility of the Owner to ensure that the proposed and approved materials listed on the "Renovation Request Form" are the actual products installed. The Corporation's approval is based solely on the information provided on the "Renovation Request Form". Any misrepresentation as to the scope of work and products installed will be considered a breach of these Rules.

12. Suite Inspection to Confirm Installations Comply with Rule

The Owner (or the Owner's contractor) shall notify Building Management when underlay has been installed and at least two full business days prior to the hard flooring installation for purposes of a possible inspection by the Corporation. The Corporation reserves the right, but is under no obligation, to inspect an installation during or after the installation to confirm compliance with these rules.

13. Denial of Approval

The Board of Directors may, in its sole discretion, deny approval of any flooring renovation which does not meet the requirements set out in these rules and/or there have been previous noise complaints emanating from the applicant Owner's unit and/or there have been previous noise complaints about sound emanating from another unit that has installed the same or similar flooring materials.

14. Right to Refuse Entry

It is the responsibility of the Owner to provide his/her contractor with a copy of the approved Renovation Request Form and to direct the Contractor to present the form to the concierge and/or Property Manager when access to Corporation property is necessary. In circumstances where the approved Renovation Request Form is not presented by either the Owner or Owner's contractor, the contractor shall be denied access to the building.

15. Materials

All materials and products used for in-suite renovations or modifications must be considered to be of a "good quality material".

Property Management and/or the Board of Directors may from time to time suggest materials to be used by the Owner, however, such suggestions shall not constitute an endorsement of any such materials and/or manufacturer. It is understood that the Board of Directors and/or Property Management have no financial interest and/or any other interests in any products suggested. It is entirely the Owner's responsibility to carry out his/her own due diligence on products to be installed and presented to the Board of Directors for approval.

16. Material Removal

The Owner, at his/her cost, shall be responsible for the immediate (at least daily) removal of any and all construction waste and debris from, and for the repair of damage caused to the property of the Corporation. All construction waste is to be removed off-site and shall not be disposed of within the Corporation's residential waste containers. The Corporation may immediately affect the removal of any waste and/or debris left upon, and/or repair any damage caused to, the common elements. All costs incurred by the Corporation shall be charged back to the Owner's unit and added to the common expenses payable for the Owner's unit.

17. Application of Rule

- (a) These In-Suite Flooring Rules apply to all in-suite flooring installations except, any Owner of a unit, who had flooring installed on or before the date that these In-Suite Flooring Rules come into effect, and:
 - (i) was in compliance with the flooring rule passed in 2006 and updated in 2011, which is hereby repealed (the "2006 Flooring Rule"); or
 - (ii) whose unit was grandfathered pursuant to the 2006 Flooring Rule; and

which flooring and/or its installation does not comply with these In-Suite Flooring Rules, shall not, but for the fact that these In-Suite Flooring Rules have been enacted, be required by these rules to remove, replace or cover the existing flooring in the Owner's unit ("Grandfathered Unit").

Pursuant to the 2006 Flooring Rule, it was the responsibility of an owner who had installed flooring prior to the 2006 Flooring Rule, to provide documentation to illustrate that the flooring in his/her unit was in place prior to the 2006 Flooring Rule.

- (b) It is recommended to Owners of Grandfathered Units that a minimum of 70% of the hard-surfaced floors, including all high traffic areas, be covered with contiguous areas carpets to help reduce noise transmission.
- (c) Notwithstanding the status as a Grandfathered Unit, should the Corporation receive complaints of noise, nuisance or other disturbance from other residents, it is the Owner's responsibility to take all necessary steps, at the Owner's sole cost and expense, to eliminate the noise, nuisance and/or other disturbance and the provisions of paragraph 10 shall apply to the Grandfathered Units with necessary modifications.
- (d) Where the flooring of a Grandfathered Unit is to be replaced for any reason, including as a result of fire or flood, the unit shall no longer be a Grandfathered Unit to the extent of the replaced flooring, and the Owner shall be required to comply with these rules in relation to the replacement of any in-suite flooring.
- (e) Where a Grandfathered Unit is sold, the provisions of this Paragraph 16 shall continue to apply with respect to the flooring installed prior to the coming into force of these rules.

18. Time length of Renovation

Renovations should be completed with 4 weeks so as to limit disturbance to surrounding residents. Owners are required to indicate the timeframe for their renovation when applying to the corporation for renovation approval. Renovations that will take longer than 4 weeks require Board approval. Owners are also required to indicate on the renovation form any periods of intense noise such as concrete removal or drilling so property management can advise adjacent tenants.

19. Remedy

In circumstances where efforts to obtain the voluntary compliance of the Owner and/or resident with these In-Suite Flooring Rules are unsuccessful, in addition to any other rights or means of enforcement available to the Corporation, the Corporation, with the assistance of legal counsel, may enforce these rules by legal means.

Updated Dated at Toronto this 22nd day of August 2019.

Metropolitan Toronto Condominium Corporation No. 734
Per:

Name: _____, President

Name: _____, Secretary

I/We have the authority to bind the Corporation