1. **Overview**

A plan subdividing volumetric space, other than mines and minerals lying on or under the surface of land, into strata spaces may be registered pursuant to Section 86 of the *Land Titles Act*. However a strata survey does not have the shared asset structure provided for with a condominium corporation.

The *Condominium Property Act* provides for the separate ownership of space located within a building or bare land within a parcel, which is designated as a unit on a condominium plan.

A practitioner should consult the following sections of the Land Titles Procedures Manual for specifications and guidelines regarding strata and condominium surveys and to clarify the differences between the two as clients often use incorrect terminology when ordering a survey.

1. Section Sur-2.1: Examination of Strata Space Plans

2. Section Sur-4: Examination of Condominium Plans

The *Condominium Property Regulation* should also be consulted.

2. **Types of Condominium Surveys**

Different types of Condominium Surveys include:

- Bare Land Condominiums
- Building Condominiums
- Building Conversions
- Condominium Redivisions
- Phased Condominiums
- Barely Blended Condominiums - a combination of a bare land condominium and a condominium redivision, which allows more flexibility than phasing does if a developer wishes to change plans before the end of a project.

3. **Boundaries**

1. Strata space boundaries are independent of physical structures and are determined by planes or curved surfaces having defined geodetic elevations. Generally Strata Lots are fixed by elevations on the top and bottom, but they can extend infinitely up or down.
2. Unit boundaries within a building condominium must be related to the walls, floors and ceilings of the building. Section 9(1) of the *Condominium Property Act* provides the default definition of unit boundaries within a building condominium but allows surveyors and their clients to use other definitions of the unit boundaries. Different types of condominium unit boundaries include:

- Centreline of walls
- Face of drywall
- Back of drywall
- Outside of exterior wall
- Inside of exterior wall
- Vertical planes (for interior unit boundaries where no wall exists)

A note must appear in the legend stating how the unit boundaries are defined.

3. Unit boundaries for Bare Land Condominium Plans are defined by monuments placed in accordance with the *Surveys Act*.

4. **Applications**

Building Condominiums are typically approved by the municipal department responsible for development and building permits as these applications are not considered a change in use just a change in ownership structure.

Bare Land Condominiums are essentially subdivisions with a slightly different ownership structure than typical fee simple parcels. As a result you are required to follow the same subdivision approval process as a conventional subdivision (application to subdivision approving authority).

Phased Condominiums and Strata Surveys both require subdivision approval.

5. **Municipal Government Act**

Section 10(2) of the *Municipal Government Act* lists the different considerations that a municipality is to apply to building condominium applications before and after August 1, 1966. If a building permit was issued on or after August 1, 1966 the municipality shall issue a condominium certificate if the condominium plan satisfies the permits and bylaws. If the building permit was issued before August 1, 1966 the municipality only needs to issue a condominium certificate if it considers it proper to do so. This can still affect your project (i.e. conversions and redivisions). For condominiums prior to 1966 many municipalities have additional requirements such as fire code reports, structural reports, site plans and building profiles.

Condominiums after 1966 have a higher level of certainty. As long as the building can be made to match the existing permits and bylaws the condominium plan will be approved.
6. **Implied Easements**

The *Condominium Property Act* automatically provides for easements between units for structural and utility needs. Despite this mechanism within the Act, some utility companies prefer to register their own agreements with their own clauses and may request registration of a Right of Way Plan over part of the condominium parcel.

Any utility that crosses a condominium parcel to service an adjacent property (outside the condominium corporation) is not covered by the *Condominium Property Act*.

Strata surveys have no implied easements, so easements and/or agreements for access, utilities and structural support must be created.

7. **Residual Unit**

A residual unit is a unit that is owned by the condominium corporation. Other names for Residual Unit include:

- Common Area Unit
- Common Property Unit
- Common Use Area
- Common Use Unit

These are all industry names and do not appear in any of the legislation. Caution should be taken using names containing the word “common” because it may give the appearance that this unit has a different legal status than other units, when this is not the case.

These units are often created in barely blended condominiums where bare land condominium parcels are redivided into building condominium units.

Creating a unit out of common property or changing the unit factors for a unit requires an amendment as specified under the *Condominium Property Regulations*.

Condominium redivisions cannot create common property.

To compensate for the above situations a Residual Unit is created in place of what would normally be common property and ownership for this unit is transferred to the condominium corporation.

It is recommended that a Residual Unit be given unit factors such that it could be redivided in the future.

8. **Common Concerns**

Exclusive use areas can only be created on common property, not on a Residual Unit.
All projections from or onto the parcel must be identified and covered by encroachment agreements or easements before registration.

The Land Titles Office will not allow the 13th floor to be omitted. This creates conflict with building plans, on site labeling, municipal floor labeling, developer requirements, purchaser requirements, etc.

The *Condominium Property Act* requires unit numbering to begin at 1 and continue sequentially. No numbers can be skipped and no numbers can be repeated. Redivision plans cannot reuse the redivided unit number and cannot reuse a number from the original condominium plan or any other redivision. Unit numbers on Condominium Redivision Plans can, however, use the old unit number if followed by a letter (A, B, C, etc.).

Design changes can lead to unit renumbering to meet Land Titles Office requirements. Without proper communication this can lead to transfer documents having incorrect unit numbers.

It is good practice to write the addresses of existing units in the field notes when performing a survey for a conversion or redivision.

Unit civic addresses often do not correspond with unit numbers. It is important to share this information with developers and clients.

Communication with developers, architects, real estate agents, lawyers, etc. is of paramount importance when performing multi-part condominium surveys.

The Land Titles Office will accept a condominium plan that does not contain any common property.

Some municipalities require the creation of common property.

Parking Areas, Storage Areas and Balconies can be:

- Common Property
- Exclusive Use Areas
- Individually Titled Units (Parking & Storage)
- Part Of A Unit

If there are multiple parts to a unit, the total number of parts should be labeled in the largest or primary part of the unit (i.e. - Unit 5 (in 3 parts)).

For building condominiums a statement regarding whether or not there are any post tensioned cables located anywhere on or within the building or the property on which the building is located is required on the face of the plan.
9. **Unit Factors**

   The unit factor for each unit must be a whole number.

   The unit factors assigned to all units within a condominium plan must total 10,000.

   A table containing the unit numbers, unit factors, the basis for determining the unit factor and unit area in square metres is required on the face of the plan.

   Unit factors are often related to unit areas.

   In phased condominiums the unit factors for the first and for all future phases must be assigned upon registration of the initial plan. The unit factors assigned to the units intended to be phased in subsequent plans must be sufficient on their own to be re-allocated to the new units created by the subsequent phase(s). Unit factors assigned to the already completed units cannot be included, amended or altered upon the registration of subsequent phases.

10. **Restrictions (Restrictive Covenants)**

   Notes on the face of the plan can restrict use.

   Examples:

   - “Parking Stalls only for parking motor vehicles.”
   - “Storage Units only for storage of household materials.”