

*REGISTRATION
(STRATA TITLES)
ACT -
DEVELOPERS'
OBLIGATIONS TO
PURCHASERS &
COMMUNITIES*

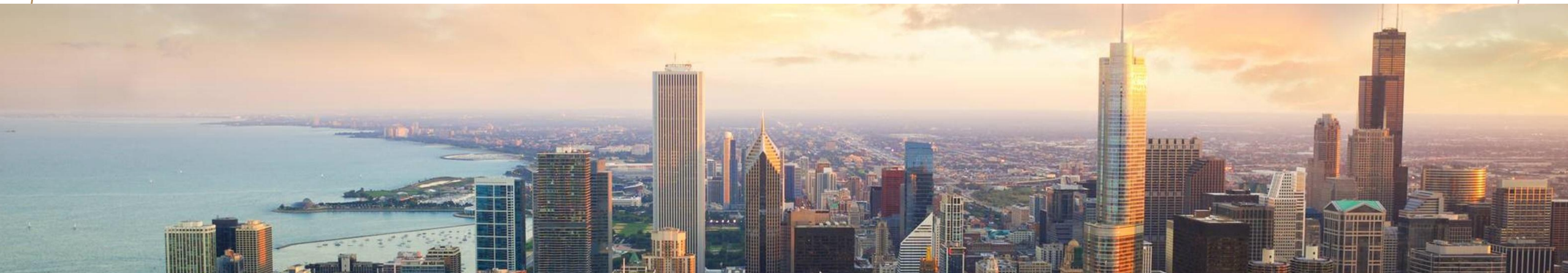
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Submission of strata plan & Subdivision into strata lots

(Section 3)

- Strata plan to be prepared by commissioned land surveyor
- Strata plan must be in keeping with approved plans and designs
- Strata plan must conform with restrictive covenants
- Strata lots should be size advertised or marketed to Purchasers
- Unit entitlement
- Strata plan must be approved by municipal corporation
- Strata plan and application for strata titles are submitted to Titles Office
- Strata lot numbers should correspond to the Apartment numbers assigned to Purchasers



Section 3 provides:

(1) Land under the operation of the Registration of Titles Act may be subdivided into strata lots in accordance with a strata plan registered by the Registrar of Titles in the manner provided by or under this Act.

(2) When a strata plan has been so registered any strata lot included therein may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as land under the operation of the Registration of Titles Act.

(3) A strata plan shall, for the purposes of the Registration of Titles Act, be deemed upon registration to be embodied in the Register Book kept under that Act; and notwithstanding the provisions of that Act the proprietor of each strata lot shall hold such strata lot and

(a) any interests affecting such strata lot or such share; and

(b) any amendments to strata lots or common property,

notified, or shown, as the case may require, on the registered strata plan.

(4) Notwithstanding the provision in subsection (1) that only land under the operation of the Registration of Titles Act may be subdivided into strata lots, a strata plan may be lodged for registration, and acts preparatory to the registration thereof may be done in relation thereto, before the land comprised therein is brought under the operation of the Registration of Titles Act.

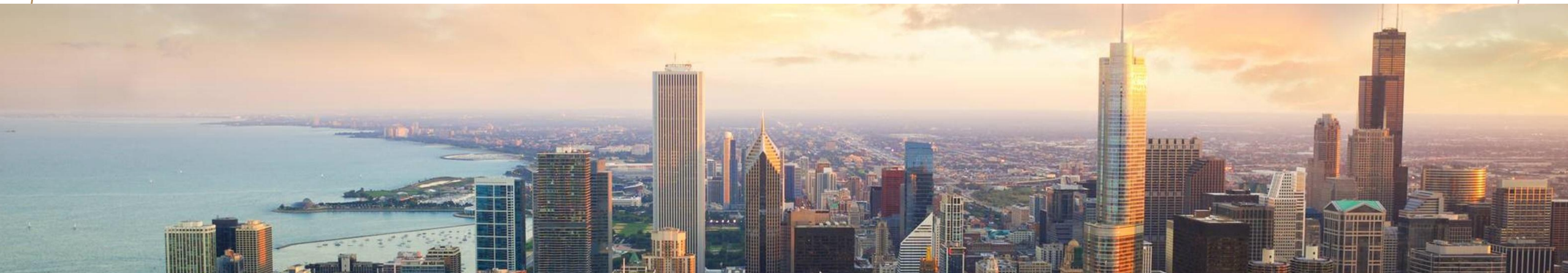
(5) The provisions of any enactment, other than this Act, relating to the subdivision of land for sale or for the purpose of building thereon shall to such extent as may be prescribed regulations under this Act not apply to land comprised in a strata plan.



Unit entitlement

(Section 7(1)(h) & Section 5(2)(b))

- Section 7(1): Every strata plan shall -
 - (h) have endorsed upon it a schedule specifying in whole numbers the unit entitlement of each strata lot and a number equal to the aggregate unit entitlement of all the strata lots;
- Developer should discuss unit entitlement with Surveyor to ensure equity
 - Usage - Commercial vs residential
 - Size of units
 - Consider how unit entitlement will affect monthly maintenance contributions and cess charges (section 5(2)(b))



Section 5(2): The powers of the corporation include the following:

(a) to establish a fund for administrative expenses sufficient in the opinion of the corporation for the control, management and administration of the common property, for the payment of any premiums of insurance and for the discharge of any of its other obligations;

(b) to determine from time to time the amounts to be raised for the fund referred to in paragraph (a) and to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective lots.

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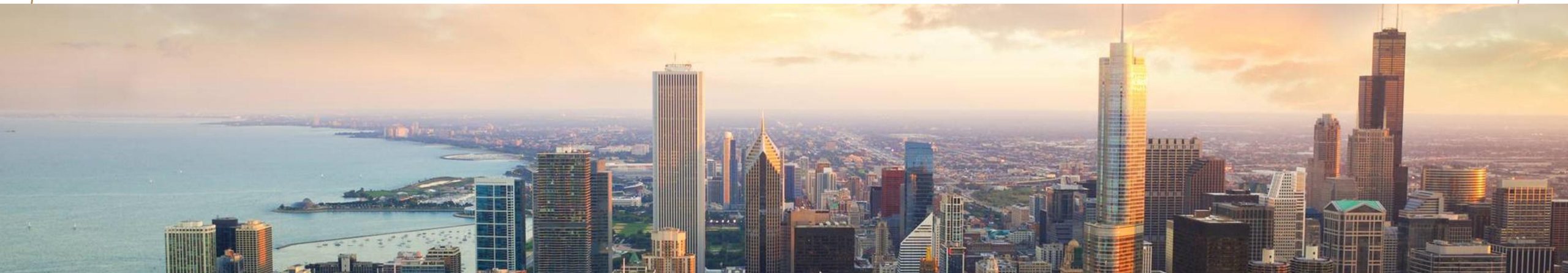
Registration of Strata Corporation, etc.

(Section 4(4))

- Section 4(4):

The corporation shall within ninety days after becoming a body corporate make an application to the Commission for registration under this Act and pay the prescribed fee.

- Developer must register the strata corporation with the Commission of Strata Corporations and pay prescribed fee within ninety (90) days of registration of strata plan with the Registrar of Titles
- Obtain the Certificate of Registration from the Commission of Strata Corporations
- Obtain National Insurance Scheme (NIS) number from the National Insurance Scheme
- Obtain Tax Registration Number (TRN) from Tax Administration Jamaica
- Obtain Seal for the strata corporation bearing Proprietors Strata Plan XXXX



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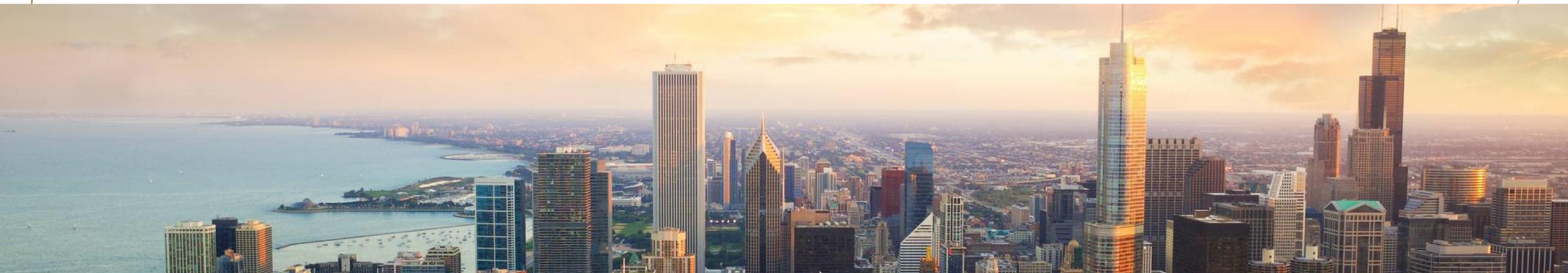
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First General Meeting

(First Schedule of RSTA)

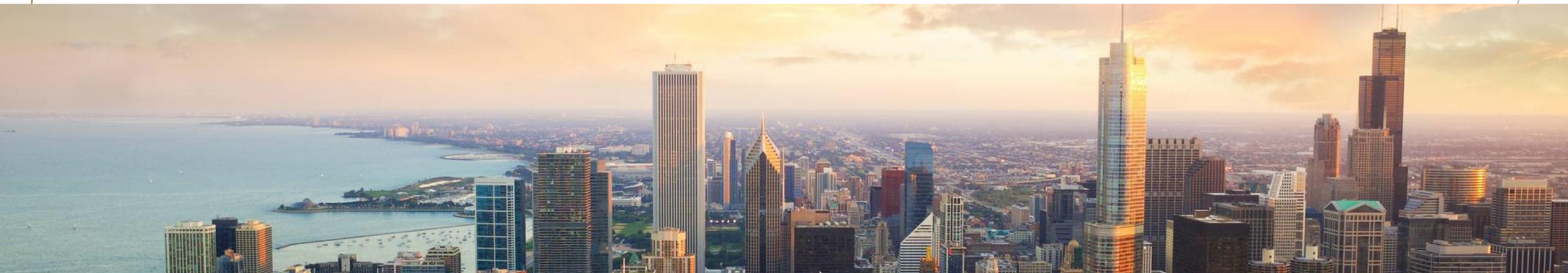
- Developer to convene first general meeting within three (3) months of registration of strata plan (By-law 4 in First Schedule of the Act)
- Budget
- Maintenance contributions
- Setting up bank account for strata corporation
- Transfer of utilities into strata corporation's name
- Service contracts for pool, gardening, security, insurance, generator, elevator, etc.



First General Meeting (cont'd)

(First Schedule of RSTA)

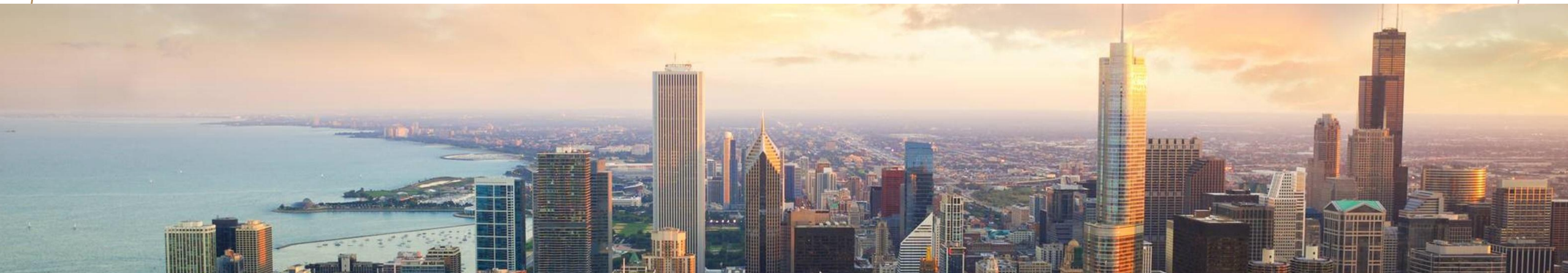
- Amendment to by-laws
- Leases of common property
- Easements
- Restrictive covenants
- Insurance
- Parking
- Setting date for next general meeting (EGM or AGM) when it is anticipated all or majority have been transferred to Purchasers



By-laws

(Section 9 & First & Second Schedules to RSTA)

- By-laws to be drafted and draft by-laws to be included in the Agreement for Sale
- By-laws should set the tone for the community
- By-laws should be in keeping with Section 9 of the Act
- Amended by-laws should not deviate materially from the drafted by-laws provided to Purchasers
- Amended by-laws should be registered after resolution passed
- Registered by-laws should be provided to the Purchasers upon completion



Section 9 provides:

(1) Subject to the provisions of this Act the control, management, administration use and enjoyment of the strata lots and the common property contained in every registered strata plan shall be regulated by by-laws.

(2) The by-laws shall include-

(a) the by-laws set forth in the First Schedule, which shall not be amended or varied except by a resolution passed by at least seventy-five percent of the proprietors;

(b) the by-laws set fourth in the Second Schedule, which may be amended or varied by the corporation.

(3) Until by-laws are made by the corporation in that behalf the by-laws set forth in the First Schedule and the Second Schedule shall as and from the registration of a strata plan be in force for all purposes in relation to the parcel and the strata lots and common property therein.

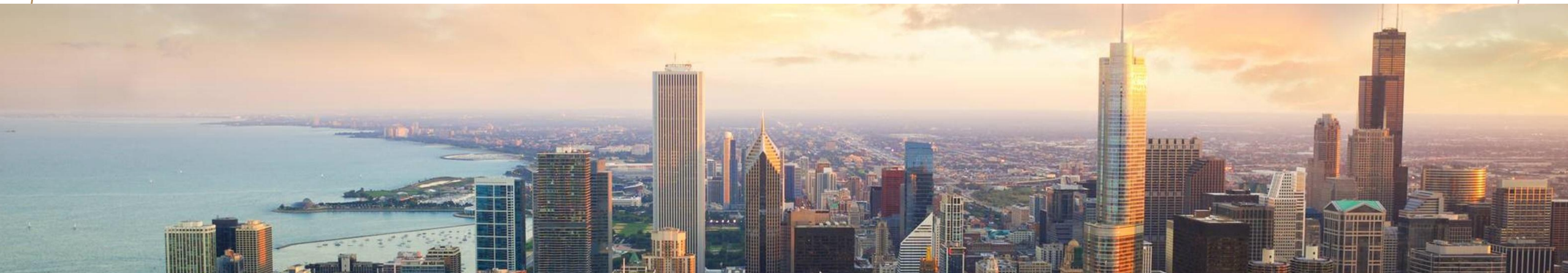
(4) No by-law shall operate to prohibit or restrict the devolution of strata lots or any transfer, lease, mortgage or other dealing therewith or to destroy or modify any easement implied or created by this Act.

(5) No amendment or variation of any by-law shall have effect until the corporation has lodged with the Registrar of Titles a notification thereof in such form as may be prescribed and until the Registrar of Titles notifies the corporation that he has made reference thereto on the relevant registered strata plan.



Common property

- Registering leases of common property (if applicable) (section 11)
- Registering easements and/or restrictive covenants (section 12)
- Mailbox to be affixed to front of property (section 6)
- Any other amenities promised to Purchasers such as pool, playground, tennis court etc. to be installed (and rules relating to the use of those established)
- Parking diagram to be done setting out the owners' parking spaces and visitors' spaces



Section 11 states:

(1) The proprietors may by unanimous resolution direct the corporation to transfer or lease the common property or any part thereof.

(2) If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel have consented in writing to the release of those interests in the land comprised in the proposed transfer or lease or, in the case of a lease, have approved in writing of the execution of the lease, the corporation shall execute the appropriate transfer or lease and such transfer or lease shall be valid and effective without execution by any person having an interest in the common property, and the receipt of the corporation for the purchase money, rent or other money payable to the corporation under the terms of the transfer or lease shall be a sufficient discharge and shall exonerate all persons taking under the transfer, or the lease, as the case may be, from any responsibility for the application of the moneys expressed to have been received.

(3) Every such transfer or lease lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed, that the transfer or lease conforms with the terms thereof and that all necessary consents were given and such certificate shall, in favour of purchasers of the common property and in favour of the Registrar of Titles, be conclusive evidence of the facts stated therein.



Section 12 states:

(1) The proprietors may by unanimous resolution direct the corporation-

(a) to execute on their behalf a grant of easement or a restrictive covenant burdening the parcel;

(b) to accept on their behalf a grant of easement or a restrictive covenant benefiting the parcel.

(2) If the corporation is satisfied that the resolution was duly passed and that all persons having interests, of which the corporation has notice, in the parcel have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition the corporation shall execute the appropriate transfer or covenant, and the transfer or covenant shall be valid and effective without execution by any person having an interest in the parcel, and the receipt of the corporation for any money payable to it under the terms of the transfer shall be a sufficient discharge and shall exonerate all persons taking under the transfer from any responsibility for the application of the moneys expressed to have been so received.

(3) Every such transfer or covenant lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed and that all necessary consents were given, and such certificate shall, in favour of persons dealing with the corporation pursuant to this section and in favour of the Registrar of Titles, be conclusive evidence of the facts stated therein.



Section 6 provides:

(1) The corporation shall cause to be kept at a conspicuous place at or near the front of the land to which the relevant strata plan relates a receptacle suitable for purposes of postal delivery, with the name of the corporation clearly shown thereon.

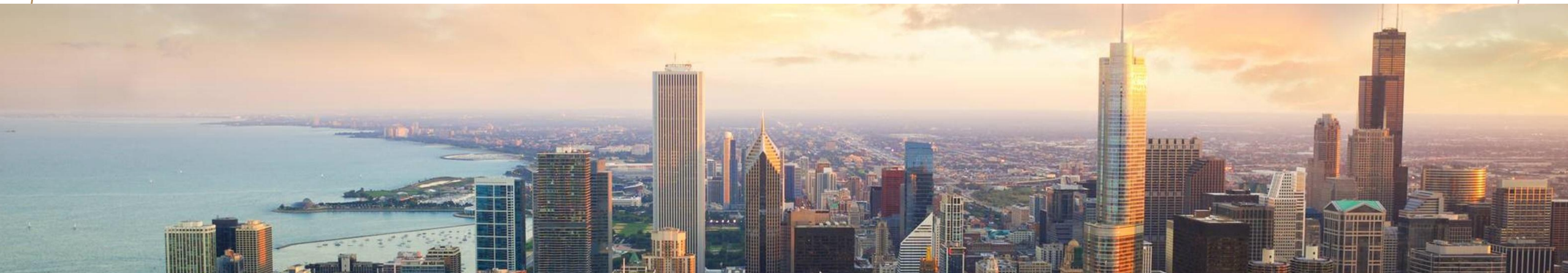
(2) Any summons, notice, order or other document may be served on the corporation by post in a prepaid letter addressed to the corporation at the address shown on the strata plan, or by placing it in the receptacle referred to in subsection (1).



Annual returns and fees

(Section 4(5) & (7))

- The Developer is responsible to file annual returns and fees until the responsibilities are handed over to the new executive committee of the strata corporation
- If the Developer does not transfer any of the units for the reporting year, the Developer can apply to the Commission of Strata Corporations for a waiver of the requirement to file annual returns but must still pay the fee



Section 4(5) provides:

A corporation shall in each year pay to the Commission a prescribed annual fee and in default of such payment, such fee shall be recoverable by the corporation as a civil debt by action in a court of competent jurisdiction.

Section 4(7) provides:

The corporation shall file with the Commission within one hundred and twenty days after the end of the current year –

(a) audited financial statements or subject to the approval of the Commission, a copy of the accounts, prepared in accordance with general accepted accounting principles, signed by the chairman and at least one other member of the executive committee relating to –

(i) in the case of a new corporation, the period commencing on the date of its incorporation and ending at the close of the first financial year; or

(ii) in any other case, the whole of that financial year; and

(b) a report of its activities during the financial year including –

(i) meetings held by the corporation;

(ii) the appointment of the executive committee;

(iii) the passing of resolutions adopting a budget; and

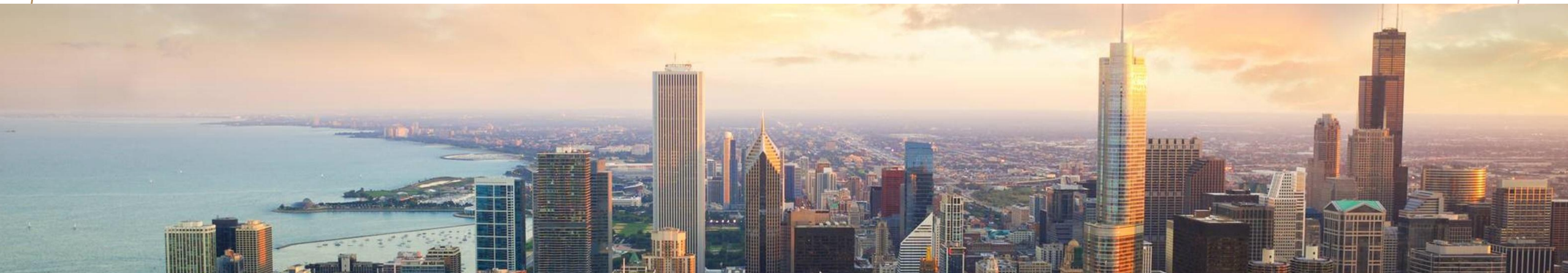
(c) a copy of the certificate of insurance for the current year,

and the filing shall be accompanied by the prescribed fee.



Developer's obligations to Purchasers under Real Estate Dealers and Developers Act

- The Developer must maintain a trust account with an authorized financial institution for the Purchaser's deposits (Section 29)
- The Developer, if using the Purchaser's funds towards the development, must register the Real Estate Board's charge on the parent title or strata titles (if those have been obtained) (Section 31)
- The Developer must provide copies of prepayment contracts to the Real Estate Board within fourteen (14) days (Section 28)





THANK YOU!