

Management Definition

In the context of our Work Group, we have developed a broad-based and preliminary definition of management, as follows:

“MANAGEMENT– the act of handling or overseeing the collection or distribution of funds on behalf of a condominium corporation and / or performance of any of the administrative duties assigned to the condominium corporation or the Board of Directors by the Act.”

A clear definition is needed to capture generally what management means (for all “flavours” of management- third party, in-house and self-management), and thus what the licensing regime will regulate. This is very preliminary and will need to be refined in preparation for regulation. The DAA will be responsible for drafting the definition of management.

Acronyms

Delegated Administrative Authority = DAA.

Certificate of Authorization = C of A.

Issue/Problem Statement:	Licensing Regime? Yes or no?
---------------------------------	------------------------------

Stage One Findings (summary):

<p>Should there be a licensing regime for condominium managers based on a set of standards and conditions to be developed?</p> <p>From the Findings Report: “Regulating and Licensing the Industry <i>Licensing is a process by which government (or other regulatory organization) regulates a profession by requiring that certain standards must be met before a person/firm is allowed to work in the field. Such standards would likely include some level of certification/accreditation to ensure that the licensee has the competencies required for the job. Where licensing is required, it is illegal to practice without a license. By the same token, a license can be revoked if the rules are not respected.”</i> [pp. 33-34]</p> <ol style="list-style-type: none">1. What type of licensing regime (e.g., government regulated, delegated administrative authority, self-regulated etc.)?2. What are some key components in terms of management accountability, regulation of management performance?
--

Context for Discussion:

Desired Outcome	A large enough pool of competent and experienced condominium managers to meet the needs of condominium corporations throughout Ontario. Achieving this objective will significantly help to achieve many
------------------------	--

Condominium Management Working Group Issue Form

	of the desired outcomes set out in the Stage One Findings Report.
Current Status	There is currently no licensing regime related to condominium management in Ontario.
Guiding Principles	Condominium manager licensing should be standardized across the province to ensure that there are trained and qualified condominium managers in urban and rural areas to meet the diverse needs of the condominium sector. Barriers to access to the industry should not be placed in the way of those looking to enter the profession, nor those who meet, or are seeking training and experience to meet, basic standards. Regulation should not be a way to reduce the supply of trained managers, but rather should instead be a tool to attract professionals to enter a growing, established industry.
Considerations	There are condominiums in all regions of the province but in some regions they are too few and/or too small to attract professional condominium managers, or to provide some of the infrastructure needed to support the profession through continuing education and access to other professional contacts.
Long-Term Implications	Improved consumer protection for unit owners and Boards of Directors including protection of personal health and safety, and security of property and asset value. Licensing will help to “weed out” those who should not be managing condominiums and improve overall understanding of condominium management. It will assist Boards of Directors to make appropriate selections in hiring a condominium manager for their particular circumstances. The basic requirements for obtaining and retaining a license – including personal attributes, education and training requirements – will establish a minimum professional standard across the province.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	<p>Create a new Delegated Administrative Authority (DAA) to implement and oversee a two-stage licensing program.</p> <p>The recommended Stage 1 condominium manager license will require the candidate to:</p> <ul style="list-style-type: none"> • have reached the age of majority; 	<p>This standardized definition of the criteria to obtain and maintain a condominium manager license will ensure that there is a higher level of</p>	<p>This scheme will be highly difficult to track and monitor. This scheme will be expensive and the licensing</p>

Condominium Management Working Group Issue Form

	<ul style="list-style-type: none"> ● pay the required fee to the DAA; ● be a high school graduate or equivalent; ● pay fee; ● pass a test or exam on the Condominium Act; ● not be undischarged bankrupt; ● subject to Police check report submitted to the DAA; ● complete the Stage 1 license requirements. <p>The recommended Stage 2 condominium manager license will require the candidate to:</p> <ul style="list-style-type: none"> ● complete requirements for Stage 2 license within 4 years of obtaining the Stage 1 license; ● complete educational courses in Condominium Law, Physical Asset Management, Administrations and Human Resources, Financial Management for Condominiums, and Customer Service (curricula to be developed); ● pass a final exam based on the education program; ● have a minimum of two years of condominium management experience as a condominium manager; ● comply with a Code of Ethics and Professionalism; ● adhere to the continuing education requirements of the DAA; ● maintain compliance with the Stage 1 criteria (see above). 	<p>scrutiny on anyone who contemplates managing condominium corporations. This regime will protect the boards and owners from unknowingly hiring unqualified and, unfortunately, unscrupulous condominium managers to manage their corporation.</p>	<p>expenses will be passed onto condominium corporations, which will increase management fees. The requirements may eliminate some of the good managers currently in the industry and may make it harder to attract managers to the profession with stringent entry and maintenance criteria.</p>
2.	<p>Entrust an existing organization (e.g. an industry association, etc.) to be the DAA to implement and oversee a two-stage licensing program.</p> <p>Stage 1 licensing will require a condominium manager to:</p> <ul style="list-style-type: none"> ● have reached the age of majority; ● pay the required fee to the DAA; ● be a high school graduate or equivalent; ● pass a test or exam on the Condominium Act; ● not be an undischarged bankrupt; ● provide a criminal record check that is acceptable to the DAA; ● complete the Stage 1 license requirements. 	<p>Working co-operatively with an association that already exists makes it easier for the organization to adapt to becoming a DAA. Infrastructure, staffing, courses, instructors and exams currently exist and are delivered on a voluntary basis</p>	<p>Perception in the industry is that existing organizations may not be ready to act in the DAA role as well as that of trade association and education provider, all in one entity.</p>

Condominium Management Working Group Issue Form

<p>The recommended Stage 2 condominium manager candidate will require the candidate to:</p> <ul style="list-style-type: none"> ● receive the Stage 2 license within 4 years; ● complete educational courses in condominium law, physical asset management, administrations and human resources, financial management for condominiums, and customer service ; ● pass a final exam based on the education program; ● have a minimum of two years of condominium management experience as a condominium manager; ● comply with a <i>Code of Ethics and Professionalism</i>; ● adhere to the continuing education requirements of the DAA; ● maintain compliance with the Stage 1 criteria (see above). 	<p>through various organizations across Ontario such as ACMO and CCI. The ACMO requirements to gain the RCM designation are somewhat similar to the proposed requirements. Many RCMs currently in the field would thus meet the proposed condominium manager qualifications, with minimal additional requirements set upon them. ACMO and the RCM 'brand' are becoming known within the industry.</p>	
---	---	--

<p>Recommendation:</p>	<p>Option 1.</p> <p>The creation of a new DAA to oversee the implementation of a two-stage licensing program.</p> <p>The recommended Stage 1 condominium manager license will require the candidate to:</p> <ul style="list-style-type: none"> ● have reached the age of majority; ● pay the required fee to the DAA; ● be a high school graduate or equivalent; ● pay fee; ● pass a test or exam on the Condominium Act; ● not be an undischarged bankrupt; ● subject to Police check report submitted to the DAA; ● complete the Stage 1 license requirements. <p>The recommended Stage 2 condominium manager license will require the candidate to:</p>
-------------------------------	--

Condominium Management Working Group Issue Form

	<ul style="list-style-type: none">● receive the Stage 2 license within 4 years (or less) of achieving the Stage 1 license;● complete educational courses in Condominium Law, Physical Asset Management, Administrations and Human Resources, Financial Management for Condominiums, and Customer Service (curriculum to be finalized);● pass a final exam based on the education program;● have a minimum of two years of condominium management experience as a condominium manager;● comply with a <i>Code of Ethics and Professionalism</i> (content TBD);● adhere to the continuing education requirements of the DAA;● maintain compliance with the Stage 1 criteria (see above).
Recommendation Rationale:	<p>An independent body to oversee licensing regulation to avoid conflict of interest and industry interference in regulating condo management.</p> <p>This model is self-financing. Options to finance the DAA could be achieved through licensing fees, fines and penalties and a small annual fee applied to all condo units.</p>
Notes:	<p>This view was not a majority view.</p>

Condominium Management Working Group Issue Form

Issue/Problem Statement:

Condominium Manager Requirements

Stage One Findings (summary):

Licensing is a process by which government (or other regulatory organization) regulates a profession by requiring that certain standards must be met before a person/firm is allowed to work in the field. Such standards would likely include some level of certification/accreditation to ensure that the licensee has the competencies required for the job.

Context for Discussion:

Desired Outcome	Establish entry-level or Stage 1 licensing requirements for the profession which will also preclude those who don't meet the minimum standards from the profession. The criteria and process to enter condominium management provide the consumer with some level of certainty that their manager or management firm will have met the minimum licensing requirements, thus providing a minimum level of consumer protection and oversight.
Current Status	No requirements in place.
Guiding Principles	Provide consumer protection by preventing entry to those who do not meet the required minimum standards.
Considerations	Minimum requirements will ensure that those entering the profession attain a minimal level of knowledge to effectively begin managing condominiums, and will encourage well-suited new entrants to the profession. These requirements will also discourage some from entering the profession and disqualify others who should not be operating as condominium managers.
Long-Term Implications	Improve consumer protection including personal safety, security of property and asset value.

Options and Recommendation:

	Options:	Pros:	Cons:
1	<p>Minimum Requirements:</p> <ul style="list-style-type: none"> ● Age of majority; ● Not undischarged bankrupt; ● Not incapable of managing property (Substitute Decisions Act); ● Police check report submitted to the DAA; ● High school graduate or equivalent; ● Pay fee; ● Write and pass an exam/test to demonstrate basic knowledge of the legislation governing condominiums. <p>DAA establishes and ensures compliance with the minimum standards; administers entry-level exam/test; determines whether applicants meet all requirements; and decides if candidates will be accepted for an entry-level or Stage I license. Applications will be dealt with on a case-by-case basis.</p>	<p>Establishes standard entry-level requirements for any condominium manager entering the profession. Will eliminate some candidates from entry, who are not eligible and will provide confidence in the marketplace.</p>	<p>Will potentially increase management fees and restrict some individuals from entering/remaining in the profession.</p>
2.	<p>Same as above, but the DAA will qualify and license third-party providers to deliver an optional preparatory course to teach applicants “core curriculum” so that they are prepared to pass the exam/test.</p>	<p>Will provide those who need additional support to pass the test/exam.</p>	<p>Additional cost to enter the profession. DAA will need to dedicate resources to qualifying, monitoring and tracking third-party providers.</p>
3.	<p>Require pre-entry courses and/or evidence of relevant qualifications prior receiving any level license to act as a condominium manager. This was a dissenting view in the WG. However, it could be reconsidered after the proposed initial transitional licensing period has passed.</p>	<p>Ensures higher level of knowledge before qualifying as a condominium manager.</p>	<p>Additional cost to those who would like to enter the profession. May limit the number of entrants due to the increased educational requirements.</p>

Condominium Management Working Group Issue Form

Recommendation:	Option 1. Minimum Requirements: <ul style="list-style-type: none">● Age of majority;● Not undischarged bankrupt;● Not found incapable of managing property;● Police check report submitted to the DAA;● High school graduate or equivalent;● Pay fee;● Write and pass an exam/test to demonstrate basic knowledge of the <i>Condominium Act</i>. DAA administers these minimum standards and establishes and maintains entry-level exam/test, as well as assessing if applicants will be accepted based on their criminal history (dealt with on a case-by-case basis).
Recommendation Rationale:	Some of these requirements (minimum 18, not undischarged bankrupt) are equal to those required of condominium directors. The rest of these requirements recognize that the manager stands in a fiduciary role and exercises considerable judgment and skill that can potentially cause serious harm to the condominium corporation client. These standards are not so onerous as to prevent entry by young people, new Canadians and persons retraining from another occupation.
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Method of Payment / User Pay
---------------------------------	-------------------------------------

Stage One Findings (summary):

The funding model should not impose large financial responsibilities on taxpayers.

From the Report:
“A solution to the training issue must be based on the principle that costs will be borne by management firms and the rest of the condominium community.” [p. 35]

Context for Discussion:

Desired Outcome	Improve consumer protection and improve accountability and transparency of condominium managers in the marketplace without placing financial responsibility on the Province or the Ministry of Consumer Services (MCS).
Current Status	Our recommendations would require start-up funding but do not require on-going government funding. Professional dues would be paid in the form of licensing fees by Condominium Managers and Companies to cover the on-going costs.
Guiding Principles	The condominium management industry proposes a self-funded professional oversight body in keeping with the Province’s current approach to regulating professions and providing a minimum level of consumer protection. The independent self-funded entity can provide an appropriate level of consumer protection and accountability.
Considerations	<p>The number of condominium managers across the province is unknown due to a lack of reporting requirement. A business case and business plan would need to be undertaken before the cost of operating such a condominium management governing body could be accurately projected. Current industry estimates place the number of condominium managers in the area of 3,000 province-wide. The costs of surveying the profession and initial start-up estimates have not been discussed nor have recommendations been considered by the Working Group.</p> <p>Once a review of similar oversight bodies – such as for motor vehicles licensing and real estate broker licensing – has been completed, start-up costs can be determined. It has been recognized that start-up costs would require Provincial funding. If the Government selects the option of authorizing an existing organization to function as the DAA, at least some of the costs should be borne by that organization.</p>

Condominium Management Working Group Issue Form

Long-Term Implications	<p>The long term impact on taxpayers will be minimized by allowing the industry to regulate or license its members.</p> <p>This model is self-financing. Options to finance the DAA could be achieved through licensing fees, fines and penalties and a small annual fee applied to all condo units. The ideal outcome would be to balance the impact of the cost across the sector (e.g. managers, management firms, owners, and condo corporations).</p>
-------------------------------	--

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Setting up a new Delegated Administrative Authority (DAA) will require initial funding for the creation of the DAA. It will also require drafting and implementation of an operational infrastructure, levels of governance, consumer complaint process, discipline model, and staffing.	Will provide independence from current industry associations, improve transparency and accountability; reduced time to “learn the industry.”	Start-up and ongoing costs; time required to set up and implement; industry reluctance to being independently regulated.
2.	Adding Condominium Managers to an existing DAA’s portfolio, including responsibility for licensing, oversight, and additional “expert” appointments.	Avoid full start-up; leverage the existing infrastructure, DAA experience and processes already in place within the existing DAA; reduced time to set up infrastructure	No DAA currently has condominium management experience or expertise; additional “learn the industry” time may be required. As an “add-on,” the licensing/oversight of condominium managers could be minimized or dominated by the DAA’s existing responsibilities.

Condominium Management Working Group Issue Form

Recommendation:	Option 1. Setting up a new DAA which will be self-funding through member fees once the new governing entity is fully operational and established.
Recommendation Rationale:	It was generally acknowledged within the WG that the most effective method to limit government costs would be the use of an existing DAA or association to regulate the profession, with the costs involved in restructuring and setting up the condo management component to be shared by the Ministry and the profession. In the opinion of the Working Group, the costs associated with restructuring an existing DAA would not be prohibitive, but would require the province to provide some funding.
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Insurance & Bonding
---------------------------------	---------------------

Stage One Findings (summary):

From the Report:

“Implementation: Deciding which option is the right one for Ontario will require a careful discussion of a range of practical questions around implementation, such as: What kind of insurance needs would this create?” [p. 35]

Context for Discussion:

Desired Outcome	The desired outcome is increased protection for condominium corporations and owners from fraud, theft, misconduct and other risks due to the actions or inactions of their condominium managers and/or management firm.
Current Status	While professional management companies and their managers are generally insured, there is no requirement that they be insured, that the insurance be adequate or even measured, and there is no oversight in place to verify the existence or adequacy of any coverage that is based on the size of the management company's portfolio.
Guiding Principles	That the professional management company should be responsible for carrying the appropriate amount of insurance to protect condominium communities that they service from liability or exposure to misconduct by representatives of the management company or by the manager(s) personally.
Considerations	The formula to determine adequacy can become complicated due to the variations in exposure from large to small management companies and the values of assets held in their trust. In addition, there are considerations based on the management model (i.e., in-house management where the condominium manager is a direct employee of the corporation), or the existence of a contract with an independent third-party management company. For example, in whose name should the insurance be carried; how to identify the protection provided to the condominium corporation; and how should this information be disclosed (e.g. on the Status Certificate)? Based on the estimated number of management firms and individual condo managers who will be licensed, what is the premium structure going to look like?

Condominium Management Working Group Issue Form

Long-Term Implications	Consistent insurance protection provided to condominium corporations by management companies. This will provide a “level playing field” of protection for condominium corporations when selecting a management company/condominium manager.
-------------------------------	---

Options and Recommendation:

Options:	Pros:	Cons:
<p>The Working Group has unanimously agreed that insurance should be in place both for any company entering into a contract to manage a condominium corporation in Ontario and for any individual managing a condominium corporation. This insurance may be put in place by the condominium corporation, by a management company under contract, or by an individual manager. The Working Group believes that proof of this insurance coverage should be required by the DAA as part of the licensing requirements.</p> <p>The formula for “adequate” insurance coverage will be determined by the DAA with input from insurers.</p>	<p>Consistent protection to condominium corporations no matter where they are located or their size. The amount and level of insurance coverage will be defined by the DAA so that corporations are assured that the management company or manager they hire has the minimum mandated insurance coverage.</p>	<p>This requirement may increase costs and management fees that may be passed on to condominium corporations and unit owners.</p>

Recommendation:	<p>The Working Group has unanimously agreed that insurance should be required both for any company entering into a contract to manage a condominium in Ontario and for any individual managing a condominium. This insurance may be put in place by the condominium corporation (when the manager is an employee of the corporation), by a management company under contract, or by an individual manager. The Working Group believes that proof of this insurance coverage should be required by the DAA as part of the licensing requirements imposed on condominium managers (and for “Certificates of Authorization” to be issued to management firms– see <i>Manager vs. Firm Requirements Issue Form</i> below, starting on page 36). The formula for “adequate” insurance coverage will be determined by the DAA with input from insurers.</p>
Recommendation Rationale:	<p>It is a principal tenet of consumer protection that funds being managed by others are insured.</p>

Condominium Management Working Group Issue Form

Notes:

Working Group members had questions about the ability of the DAA or another industry association to provide blanket coverage as part of the services provided to its membership (similar to RECO model where E&O and professional liability is available), or, in the case of the DAA, included in the licensing fees.

The inability to get insurance will prevent those with questionable performance records from managing condominium corporations in Ontario.

The DAA could consider establishing a compensatory fund raised from penalties, education and other revenue sources to protect the consumer from the “rogue manager” (e.g., unlicensed or previously “disbarred” manager or management firm). The intent is to provide some level of consumer protection.

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Rising Management Fees
---------------------------------	------------------------

Stage One Findings (summary):

From the Report:

“RISING MANAGEMENT COSTS: In larger corporations, one participant noted, full-time managers can already cost \$120-130,000 per year. Would raising the standards shrink the pool of managers and therefore raise the cost, he wondered? Most participants felt the market would take care of itself. For one thing, new talent will be drawn in by higher wages, thus replenishing the stock. Further, the bidding process will keep costs under control, as long as everyone is on the same playing field with respect to requirements.” [pp. 34-35]

Context for Discussion:

Desired Outcome	A large enough pool of competent, qualified and licensed condominium managers throughout the province to meet the needs of condominium corporations at reasonable rates.
Current Status	The profession is unregulated. Competitive forces influence prices but without the benefit of even minimum standards or consumer protection.
Guiding Principles	The professionalization of condominium managers may serve to attract new entrants into the profession to increase the pool of qualified condominium managers and offset the loss of experienced condominium managers who may leave the profession due to licensing. There will be additional costs for mandatory education, insurance, and regulation of the profession. These costs should be offset by an increase in the number of qualified condominium managers, increased service delivery, a more even playing field which will increase consumer protection and improved service standards.
Considerations	The introduction of mandatory licensing could be counterproductive and in fact reduce the pool of qualified managers, driving up the costs of management services. Will the costs likely be passed on to unit owners? What impact will this have on consumers generally? Any other considerations?
Long-Term Implications	The short-term increased costs of establishing the licensing/governing body will be offset by attracting more managers to the profession, improving qualifications of managers, and raising the profile and respect of the profession in the public’s eye, thereby making it a more attractive

Condominium Management Working Group Issue Form

	career choice.
--	----------------

Options and Recommendation:

Options:	Pros:	Cons:
The Working Group believes that the increase in management costs will be minimized in an increasingly competitive marketplace, and will be offset by greater consumer confidence and a larger pool of well-trained, regulated professional managers. Unit owners will gain confidence in a regulated profession with its added protections.	Increased consumer confidence due to improved protections, safeguards, etc.	Initially, increased costs to obtain a qualified manager or management company.

Recommendation:	The members of the Working Group believe that the increases will be minimized in the competitive market place, and will be offset by greater consumer confidence and protection. A greater pool of professional qualified candidates will also help to ensure competition in the marketplace.
Recommendation Rationale:	
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Training Requirements
---------------------------------	-----------------------

Stage One Findings (summary):

The Working Group was asked to consider the appropriate level of training and evaluation in providing mandatory qualifications for condominium managers – including Continuing Education (CE).

From the Report:
“LEVEL OF ACHIEVEMENT: While there was no clear view on the appropriate institutional level for training—university, schools of management, colleges and associations were all mentioned—there was agreement that training should be substantive, comprehensive and ongoing. Continuing education, said one participant, is now a widely accepted standard in most professions. It was noted that the Association of Condominium Managers of Ontario (ACMO) requires 15 hours of upgrading per year.” [p. 34]

Context for Discussion:

Desired Outcome	To set a standardized, minimum curriculum with a consistent level of educational and experience requirements for condominium managers. Training must be accessible, affordable and graduated.
Current Status	No education is currently required for entry into the profession, despite the fact that condominium management is complex and requires specialized knowledge. Specific training and associated testing is currently available in core competencies through voluntary industry associations and associated college programs.
Guiding Principles	In setting minimum standards for individuals managing condominiums, a standardized curriculum will provide the public with a level of confidence and protection By making the educational requirements mandatory, colleges will have enough registrants to offer the courses regularly and ensure a pool of professional managers in markets across the province.
Considerations	Need to determine: the required curriculum and which course(s) need to be developed and/or selected as the standard minimum courses required for licensing managers; approval process for institutions to be permitted or accredited to teach/offer the courses; delivery methods (online and instructor-led); standardized teaching and evaluation methods; instructor qualifications. Other considerations include: what entity will be responsible to control the use and ongoing development of the materials?

Condominium Management Working Group Issue Form

	Where will trainers with sufficient knowledge of the profession come from? Training for trainers may be required.
Long-Term Implications	Courses (and materials) developed by the industry to be delivered across a variety of educational delivery models (private and/or public), and available online as well as by a roster of authorized instructors around the province.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	The DAA to be fully involved in defining educational requirements of the condominium management license education regime (e.g., curricula, standards), approving content, service delivery providers, and the outsourcing of education to authorized/approved educational providers. The DAA will focus on all aspects of education related to licensing and regulating the profession, rather than best practices and industry knowledge (continuing education discussed below).	Ensures that the education related to the ability of a condo manager to obtain and retain his/her license is “up to the standards” as set out by the DAA. Provides options for the marketplace to deliver standard curriculum across the province to make education accessible and affordable.	This requires that the DAA take on the burden of evaluating and monitoring all third-party education providers to ensure that they provide consistent and quality education that meets the standards as set out by the DAA.
2.	The DAA to be involved in the regulatory scheme (e.g., approving applicants and instructors, etc.) and be directly responsible for all aspects of educational development, delivery, continuing education tracking, etc.	Ensures centralized control of standardized curriculum and course delivery.	May not provide diverse delivery and accessibility to courses. Could result in higher costs of education. DAA would require more resources and funding to accredit and monitor education providers and instructors.

Condominium Management Working Group Issue Form

Recommendation:	Option 1. DAA to be involved in a supervisory capacity regarding educational requirements. The DAA to outsource education service delivery; DAA to manage accreditation/approval of educational service providers and instructors.
Recommendation Rationale:	The goal is to enable the private sector to become certified to train condo managers, making education accessible, affordable and meeting the required standards. The Real Estate Council of Ontario approves all courses related to licensing sales representatives/brokers, and issues an RFP for providers to develop, teach and assess student performance. This includes course evaluation, tracking, and the complaints process.
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Continuing Education
---------------------------------	----------------------

Stage One Findings (summary):

Need for mandated education standards with ongoing educational requirement that individual managers will need to obtain or maintain their license.

From the Report:
“MANDATORY TRAINING: Although a few participants thought Option 1 or 2 above were adequate, most were convinced that training and education should be required. Voluntary participation, they insisted, doesn’t work. The Residents’ Panel was particularly clear about this, saying that they expect “the core competencies of condominium managers are well defined and well suited to condominiums in Ontario...” [p. 34]

Context for Discussion:

Desired Outcome	Condominium managers, through mandatory professional development, will continually be exposed to and learn relevant information about the industry (e.g., new or changed regulations, best practices, etc.) to enhance their ability to manage condominiums. Professional development (or continuing education) will be tracked and without this component met, condominium managers may be at risk of losing their license.
Current Status	No continuing education requirements.
Guiding Principles	Due to the ever-increasing complexity of condominium developments, increased statutory requirements and other demands upon the condo corporation, management will need to stay up-to-date on both technical and financial requirements/best practices (e.g., health & safety, elevators, fire safety, back-up power/generators, etc.). Managers will potentially be at risk of disciplinary measures, up to and including losing their condo management license, if the continuing education component is not met.
Considerations	Access to this required education needs to be consistent across the province and could be offered online. Affordability needs to be addressed, as does how much professional development is enough or adequate to keep updated. What type of time commitment will be imposed on each manager, and what will the requirements be for a management company, if different from those of the individual manager?

Condominium Management Working Group Issue Form

Long-Term Implications	Knowledgeable and up-to-date managers who are better prepared to deal with the ever-changing needs of the profession. Unit owners have assurance that the licensed manager and/or management firm they select will be required to learn on an ongoing basis in order to retain his/her license.
-------------------------------	---

Options and Recommendation:

	Options:	Pros:	Cons:
1.	DAA fully responsible and in charge of the continuing education program, including tracking, ongoing development, evaluation and updating, potential discipline, etc.	This will ensure that the professional development program will be of the highest quality due to it being controlled by an independent licensing authority. It would be easy for the DAA to monitor and track required attendance. Self-reporting online can also be set up.	Requires the DAA to have the infrastructure to provide CE opportunities to all managers. This may increase licensing fees, which may be passed on to condominium corporations and unit owners through management fees.
2.	DAA approves/accredits third parties to deliver continuing education. The parameters of this arrangement will be struck by the DAA.	Provides greater accessibility, availability and flexibility in methodology to meet the diverse needs of condominium managers across the province.	It will be an administrative burden for the DAA to ensure that there is consistency in the quality of education (as provided by third-party companies) and handle complaints regarding poor education and/or evaluation methods.
3.	DAA and approved third-party providers can both provide professional development. The authority would rest with the DAA to approve education providers.	More options available for the condominium manager to obtain required professional development. Due to the many options, the cost for professional development would likely be more affordable.	Difficult for the DAA to track and monitor professional development if there are many service providers. DAA would compete with the marketplace on delivery of courses. Could create duplication of effort and affect licensing costs, which will likely be passed onto the condominium corporations by way of

Condominium Management Working Group Issue Form

			increased management fees.
--	--	--	----------------------------

Recommendation:	<p>Option 2.</p> <p>DAA licenses or accredits third parties to be in a position to deliver continuing education to the management community (i.e., firms and managers). The parameters of this arrangement will be struck by the DAA,</p>
Recommendation Rationale:	<p>The DAA will oversee, in the same way as for standard training/education, the standards and curricula for continuing education to ensure that they focus on ongoing regulatory and licensing requirements. Any professional development outside of the regulatory regime overseen by the DAA will be available in the market place for managers who want to excel and improve their knowledge and service capabilities (e.g., conferences, trade shows, etc.).</p> <p>Accrediting third parties to provide educational courses would allow the DAA to focus on its core regulatory and licensing mandates, rather than devising and delivering educational programs.</p>
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Continuing Education – Management Firms
---------------------------------	---

Stage One Findings (summary):

Need for mandated education with ongoing educational requirements that management firms and individual managers will need to complete to maintain their license.

Context for Discussion:

Desired Outcome	System to place onus on management companies to keep track of the continuing education of individual managers and ensure that the company follows the guidelines as set out by the regulator (DAA) regarding the continuing education of managers.
Current Status	No required continuing education requirements.
Guiding Principles	Mechanism in place to ensure that management firms have managers who are improving their skills and knowledge on an ongoing basis so that they are better equipped to service their condominium clients.
Considerations	Is it the management company's responsibility, in addition to the individual manager's responsibility, to pursue the required continuing education to maintain licensure?
Long-Term Implications	Knowledgeable and up-to-date managers working for management firms that are better prepared to deal with the ever-changing needs of the condominium sector.

Condominium Management Working Group Issue Form

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Management companies and third-party providers could provide continuing education after qualifying and being authorized by the DAA to do so. This would require the DAA to regularly verify that the CE is being delivered and meets a minimum standard of quality, perhaps through mandatory reporting.	Ability for management companies to conveniently deliver education to their managers. This would provide a low-cost alternative to having to seek out formal continuing education which may conflict with service responsibilities.	Gives an advantage to larger firms that would have this in-house capability, leaving smaller companies without a comparable solution. Could require additional expertise and resources for the DAA.
2.	Only the DAA can provide CE courses to licenses managers or management companies.	Standards easily maintained, more consistent delivery and easier to monitor.	Administrative burden on DAA to take on this additional task, which is outside its “core function” of licensing managers and management firms.

Recommendation:	Option 1. DAA establishes continuing education requirements for both management companies and third-party education providers. This would allow management firms to provide in-house education after being authorized by the DAA.
Recommendation Rationale:	This authorization format will allow managers to obtain continuing education points and meet the CE licensing requirements via a number of delivery methods, including webinars and professional associations.
Notes:	

Issue/Problem Statement:	Transitional Issues
---------------------------------	---------------------

Stage One Findings (summary):

There is the question of how rapidly a new regulatory regime could be designed and implemented, as well as how long the phase-in period would be. Stage Two will need to carefully weigh questions around the ability of the sector to build the capacity needed to support the new standards.

Context for Discussion:

Desired Outcome	Develop and implement the licensing program to accommodate both the experienced managers and management firms who have pursued voluntary designations offered by the industry, as well as those who have worked long-term within the industry without having pursued any courses or professional development.
Current Status	No licensing system in place.
Guiding Principles	Design an equitable system that will recognize work experience, educational achievement, and competency within a certain time period for those with extensive experience within the industry. Qualified individuals could potentially be exempt from taking the required courses before they write the competency exam.
Considerations	Need to determine which of the condominium management designations to recognize; length of service which would exempt managers from taking required courses; length of time for those who have not taken required courses (or exams) to achieve Stage 2 licensing (discussed below).
Long-Term Implications	Ensure that experienced condo managers (both those with an industry designation and those without) meet the new licensing requirements so that all managers are similarly licensed and under the same “licensing umbrella.”

Options and Recommendation:

Options:	Pros:	Cons:
The Working Group recommends that those with 10 years’ experience who have demonstrated the necessary competencies and acceptable performance as a condominium	Ensure that experienced condominium managers are recognized for their years in the industry. Avoid losing managers who don’t want to	Some experienced managers may not have the required knowledge and may then be ineligible for

Condominium Management Working Group Issue Form

<p>manager be exempt from mandatory education requirements required for Stage 2 licensing. The experienced managers will still need to meet the criteria of the Stage 1 license (i.e. the requirement to take and pass competency test/exam on the governing legislation).</p>	<p>be forced to take courses when they have been successful in the “real world” for some time.</p>	<p>licensing without taking the mandatory courses.</p>
--	--	--

<p>Recommendation:</p>	<p>The Working Group recommended that those with 10 years’ experience as a condominium manager be exempt from the education requirements required for Stage 2 licensing. Those experienced managers will still need to meet the criteria of the Stage 1 license and pass the competency exam.</p>
<p>Recommendation Rationale:</p>	<p>This exemption would prevent the loss of successful, qualified and experienced managers from the marketplace after licensing is made mandatory.</p>
<p>Notes:</p>	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Mandatory Compliance & Participation
---------------------------------	--------------------------------------

Stage One Findings (summary):

Should participation in the condominium manager licensing regime be mandatory?

Context for Discussion:

Desired Outcome	To ensure that any regulatory regime delivers the desired outcomes to the public. The purposes of a regulated profession remain to be “increased public confidence and protection in those that play a principal role in protecting the value of the investments in community and property of the condominium unit owners.”
Current Status	While professional designations exist and serve a variety of admirable purposes, they do not provide the universal protections that most condominium owners seek because participation and adherence to the standards of those designations is not mandatory.
Guiding Principles	Voluntary compliance with best practices and professional standards does not provide protection to owners. Not complying may lead to competitive advantage in addition to eliminating some avenues for recourse in the event of mismanagement.
Considerations	Making any regulatory program mandatory means that some costs are passed on to the consumer. These costs result from increased membership, professional dues required to oversee and administer the designation, and from the costs associated with the educational programs and continuing education requirements imposed on the profession.
Long-Term Implications	The implementation of universal standards will assist Boards of Directors in selecting a qualified condominium manager or management firm that, and will protect condominium corporations from condominium managers who do not adhere to accepted professional practices.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	<p>The imposition of a mandatory set of criteria and codes that set minimum standards and enforce compliance. This would effectively minimize the risk to condominium owners and assist Boards of Directors in exercising the due diligence expected of them in making a decision as fundamental as the selection of a condominium manager.</p>	<p>In a regulated industry, unlicensed managers and those who do not have the necessary competencies and qualifications can be eliminated from the profession. Those who are unqualified and otherwise unsuitable will not be able to enter the profession. Boards will only be able to select qualified managers if they choose to hire a third party manager or management firm.</p>	<p>This may result in increased management fees with some condominium corporations opting to self-manage to avoid the additional costs and inflexibility of management.</p>
2.	<p>The creation of a voluntary best practices set of standards that encourage Boards to select condominium managers with the educational and professional backgrounds to best protect the assets of the condominium corporation. This option places the responsibility for the selection of a condominium manager on the Board without creating minimum standards or enabling the removal of individuals from the profession should they breach ethical or professional codes of conduct or behaviour.</p>	<p>Provides the current freedoms of the marketplace to continue with more choice available to Boards to select anyone they want to manage their corporation.</p>	<p>Continuation of the status quo, which has proven costly for many corporations and paints all managers with the same “negative brush.”</p>

Condominium Management Working Group Issue Form

Recommendation:	Option 1. The imposition of a mandatory set of criteria and codes that set minimum standards and enforce compliance. This would effectively minimize the risk to condominium owners whose Boards do not exercise the due diligence that many would expect from those charged with vital decision-making powers.
Recommendation Rationale:	Voluntary standards exist now– designations such as the RCM have gained a foothold in the industry. Mandatory requirements are necessary to ensure basic consumer protection needs are met.
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Code of Ethics / Integrity
---------------------------------	----------------------------

Stage One Findings (summary):

The creation of, and compliance with, standards of conduct -- which honour the position of trust that condominium managers are given in the execution of their duties and during their actions on behalf of the condominium Boards and owners that they represent – is foundational to maintaining the confidence of the sector in the condominium management profession.

Context for Discussion:

Desired Outcome	To build public confidence in the talent pool of condominium managers, and in the ability and professionalism of those practicing condominium management In addition, to maintain an atmosphere of confidence in the condominium market
Current Status	None currently exists.
Guiding Principles	Actions must have consequences and standards must be universally enforced if they are to raise the level of conduct of condominium managers and the expectations of condominium owners.
Considerations	A successful implementation would include the drafting of a Code of Ethics and Professionalism for the profession, as well as the creation of an enforcement mechanism. The standard is to be enforced by the DAA, and all stakeholders should have confidence that the standards are real and that actions contrary to those standards will have consequences. While transparency is important to ensure that consumer protection is a major principle considered when enforcing the set standards, the profession should ultimately be responsible for the disciplinary measures imposed on condominium managers.
Long-Term Implications	The industry must prepare itself for the eventuality that actions contrary to the Code of Ethics and Professionalism will lead the DAA to deny, suspend or terminate the license, and ultimately remove the ability of an individual to earn a livelihood as a condominium manager.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	The DAA should develop the Code(s) of Ethics for both managers and management firms.	This would provide for an unbiased organization built from the “ground up” to act as the governing body for condominium management. Clearly defined Code(s) of Ethics will provide improved consumer protection, boundaries for the profession and objective criteria for management. Easier to manage and adapt, as necessary.	N/A
2.	A third party should develop the Code(s) of Ethics for both managers and management firms.	Code(s) of Ethics could be more quickly defined or implemented prior to the establishment of the DAA.	Would diminish from the credibility and enforcement capability of the DAA. Difficult to manage and adapt, as necessary.

Recommendation:	Option 1. The DAA should develop the Code(s) of Ethics for both managers and management firms.
Recommendation Rationale:	In order to ensure effective oversight and compliance, the DAA must be directly involved and responsible for the development of and ongoing changes made to the professional Code(s) of Ethics.
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Self-Managed Condominium Corporations
---------------------------------	---------------------------------------

Stage One Findings (summary):

Concerns were raised both from stakeholders and from within the Working Group about the ability and wisdom of condominiums to choose the self-management option. As all of the administrative tasks are assigned by the current Act to the Board of Directors, many condominium corporations, including smaller ones, where the financial burden of professional management would significantly impact costs, have chosen to self-manage their affairs. It should be noted that self-management means that the Board manages the affairs of the corporation. In-house management is the term given when a condominium corporation hires a direct employee to manage the affairs of the corporation on behalf of the Board.

Context for Discussion:

Desired Outcome	<p>If the accepted recommendation of a mandatory licensing regime is adopted, the Working Group discussed several subsequent concerns regarding self-management, including the right of unit owners to make a decision regarding management.</p> <p>It was the majority opinion of the Working Group that any individual who is paid to manage a condominium corporation must conform with the recommended licensing requirements of condominium managers. Under the current Act, a By-law may be enacted to compensate members of a Board of Directors for their services, including management services.</p> <p>This raised the question as to whether, and to what extent, self-management by condominium directors should be subject to mandatory licensure and regulation, as is management by professional condo managers. .</p>
Current Status	<p>Condominium corporations may be self-managed, managed in-house by an employee or managed under contract to any individual. This is the freedom of the marketplace, enabled by the current statutory regime. Boards can manage the affairs of the condominium and a director could, in principle, be hired to perform the duties of a manager, which in effect are many of the duties assigned to the Board under the current statutory regime.</p>

Condominium Management Working Group Issue Form

Guiding Principles	It is difficult to define the term “management” when many of the tasks, projects and assignments of a condominium manager are the contractual assignment of responsibilities given to the Board. In addition, the existence of a management contract does not absolve the Board of their statutory responsibilities– it merely allows the Board to delegate certain tasks. Ultimate responsibility of “managing the affairs of the corporation” and fiduciary duty to the unit owners still rests with the Board despite any provisions within a management contract, and the statutory provisions prevail.
Considerations	<p>The Working Group discussed possible definitions for management. A difficult task given the variations in size and type of condominium corporations, the variety of management structures (some in-house, some self-managed and some contractually assigning different responsibilities to an appointed manager). The Working Group proposed a broad-based (preliminary) definition of management, as follows:</p> <p align="center"><i>“MANAGEMENT– the act of handling or overseeing the collection or distribution of funds on behalf of a condominium corporation and / or performance of any of the administrative duties assigned to the condominium corporation or the Board of Directors by the Act.”</i></p>
Long-Term Implications	With a standard definition as to what functions, assignments, duties and projects a condominium manager is ‘typically’ hired to perform, this will ensure Boards and owners will understand the minimum expectations of a licensed condominium manager.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Any individual, including a Board member, or company who is remunerated for managing a condominium must be licensed, as set out by the DAA options above.	Allows self-managed condominiums to continue operating as they have been, without requiring these corporations to contract with a third-party management firm, which may keep management costs down. Protects smaller corporations from losing protection	Boards may still be able to manage the affairs of the corporation without the advice of a professional manager to guide them.

Condominium Management Working Group Issue Form

		provided by licensing requirements of the DAA.	
2.	Permit condominium owners to agree through by-law to pay unlicensed, elected board members for the management of the condominium corporation. To avoid undermining the intent of a mandatory regulated profession, would require by-law to be passed periodically for a condominium to be self-managed, thereby ensuring that owners recognized that they are opting out of a condominium management licensing program designed to provide protection to condominium owners-	Provides freedom of choice to the Board to decide how they want to have their condo community managed.	No protection from DAA. Not a “level playing field.” Poor choices may be made by the Board to the detriment of the building.
3.	Maintain the status quo, imposing no restriction on the ability of boards to select an individual to manage the affairs of the condominium and to remunerate that condominium manager directly. This manager would not have to comply with the licensing regime criteria, as they are working for the condominium corporation directly and not a management company, which must comply.	This provides ultimate flexibility to the board to select anyone to manage their corporation.	Unless required to hire a licensed manager, some boards will save money by hiring in-house or “employee” managers. This could potentially result in some of the same problems that licensing is trying to prevent (i.e. poor consumer protection for owners).

Recommendation:	Option 1 Accept that self-management is an option and that, for some
------------------------	---

Condominium Management Working Group Issue Form

	<p>condominium corporations, is may be an appropriate option – provided that there is no payment to directors for the delegated act of providing condominium management services. The requirements of a mandatory regulated environment could be upheld by stipulating that any individual or company who is remunerated for managing a condominium must be licensed, as set out by the DAA options above.</p>
<p>Recommendation Rationale:</p>	<p>The Working Group wants to protect the rights of condominium owners to allow self-management, without creating a “loophole” that will enable in-house or “employee” condominium managers to practice outside of the control of the DAA.</p> <p>Under this proposal, directors could still be paid under a by-law authorizing payment to directors (more as an honourarium, up to say \$2,000 per annum). Please note that this is distinct from being paid as a condominium manager.</p>
<p>Notes:</p>	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Should there be any different requirements or considerations for condominium management firms versus individual condominium managers? If so, what are they?
---------------------------------	---

Stage One Findings (summary):

Condo management firms come in many “shapes and sizes,” ranging from small one or two-person operations, to large organizations with specialized staff, an accounting department (rather than one book-keeper or accounting clerk to handle accounts payable, accounts receivable, budgets, etc.), management oversight and support of the front-line condominium managers. In addition, some condominiums are self-managed or managed by a single individual who does not belong to a firm. While many of these managers are well-trained professionals of high integrity, others are not. In Ontario, there are no requirements or prerequisites to establish a condominium management firm, so anyone can start up a business.

From the Report:

“Like the buildings they manage, condominium property management firms come in many shapes and sizes. Lots of different responsibilities fall under the term “property management”, and the firms who perform them vary greatly, ranging from small one or two-person operations, to large organizations with specialized staff. In addition, some condominiums are self-managed or managed by a single individual who does not belong to a firm.

While many of these managers are well-trained professionals of high integrity, others are not. In Ontario, there are no requirements to become a property manager, so anyone can start up a business. Although a variety of organizations offer training and educational programs to improve quality, such training is voluntary and the uptake is low.” [p. 33]

Context for Discussion:

Desired Outcomes	<ul style="list-style-type: none">● Greater protection for condominium corporations and their unit owners from unscrupulous and uninsured/under-insured managers;● Enhance professionalism, accountability and transparency of management firms.● Facilitate earlier detection and prosecution of unauthorized/unlicensed condo management practitioners in the context of a closed, regulated environment;● Create greater transparency as to the principals behind management firms, and require those firms to designate fully-licensed condominium managers to be “responsible persons” to oversee the firm’s handling of clients’ affairs and assets;● Establish a registry of management firms within the DAA, allowing the
-------------------------	---

Condominium Management Working Group Issue Form

	<p>public to determine whether a firm meets certain minimum requirements before entering into a management agreement;</p> <ul style="list-style-type: none"> ● Allow the DAA to suspend or revoke the ability of a firm to practice condominium management when that firm has been found be in breach of the licensing standards regulated by the DAA (with due process available); ● Independence for condominium managers from the consequences of firm mismanagement, who should not be adversely affected if their management firm is found be in breach of the licensing standards regulated by the DAA (with due process available); ● The DAA will have to develop the tools and mechanisms for disciplinary actions, appeals, suspensions, re-entry criteria, etc.
--	---

Current Status	<ul style="list-style-type: none"> ● Condominium corporations typically do business with a management “firm,” be it a sole proprietor, partnership or corporation. While some condominium corporations directly employ an individual manager as an employee, they typically do not enter into a services agreement with an individual. ● There is presently no legal requirement for any condo management firm (or an individual manager) to carry any type of insurance. ● Even if those managers or firms carry insurance, it is not possible to determine whether they carry or maintain sufficient insurance for the size of their managed portfolio (or, more importantly, the number of condominiums under their management or the aggregate value of their assets). ● Other than to comply with basic corporate law and business name requirements, no registration or licensing or reporting of condominium management firms is required. ● It is possible that undesirable or unqualified individuals are directly responsible for overseeing the affairs and physical and financial assets of condominium corporations or, worse, that there is insufficient or no oversight of the firm’s services and the assets and affairs of the firm’s clients.
Guiding Principles	<ul style="list-style-type: none"> ● Protect the public, first and foremost. ● Avoid creating needless red tape, regulation or costs that might harm entrepreneurship and job creation. ● Avoid high fees for both individual managers and management firms, which will be passed onto condominium corporations by way of higher management fees.
Considerations	<ul style="list-style-type: none"> ● Must be demonstrably beneficial to the public interest. ● Must have buy-in from the condominium management industry as enhancing their reputation, professionalism, trustworthiness and value.

Condominium Management Working Group Issue Form

	<ul style="list-style-type: none"> • Must enhance the DAA’s profile as a protector of the public interest and in fulfilling its mandate to regulate the condo management profession. • Process must be self-funding through the DAA.
Long-Term Implications	Provide protection to condominium owners and condominium Boards by ensuring that management firms and individual managers have adequate coverage and training, that they meet minimum requirements, and that there are effective complaint and discipline mechanisms, delivered by the DAA.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Maintain Status quo	The marketplace will continue to respond to the needs and demands of condominium communities. Boards have flexibility and choice to hire who they prefer without having to find a licensed manager. They can choose a company that has implemented “best practices,” or they can choose an individual or company that has never managed a condominium corporation.	Offers no public protection. A “rogue” manager can continually change the names of his company by establishing a new management firm and continue to harm the public without any oversight, supervision or repercussions. Leaves a gap in the proposed licensing/regulatory model. It is not sufficient to regulate individual managers alone.
2.	Require management firms to obtain and maintain a <i>Certificate of Authorization</i> (“CA”) in order to enter into management services agreements with any condominium corporation. The standardized form of CA would be issued by the DAA only after the firm: <ul style="list-style-type: none"> • Provides particulars of the 	Provides Boards with the ability to perform additional due diligence when selecting a management firm. Owners would also have the ability to verify the status of the management firm selected through the DAA. Allows DAA to shut out	May be seen as “extra paperwork” or a money grab. Vexatious, unmeritorious complaints / allegations by unit owners may be made to the DAA, giving rise to extra administrative costs (but public interest demands it).

Condominium Management Working Group Issue Form

<p>firm’s legal status;</p> <ul style="list-style-type: none"> ● Supplies its address for service and names of the company principals; ● Designates and identifies individual members (full licensees, no discipline history, and with minimum required experience) to be responsible for the firm’s compliance with the applicable laws and by-laws; ● Provides the name of who assumes responsibility for the services provided by the firm; ● Supplies the name of who will supervise the provision or delivery of the management services, including the firm’s personnel; ● Certifies that the firm carries sufficient insurance (as set by a specific formula with sliding scale to take into account the number of condominium corporation clients managed, assets, billings or other criteria); <p>Note If firms do not carry sufficient insurance, they may still obtain a CA provided they agree to clearly disclose to their clients that they do not carry the prescribed insurance.</p> <ul style="list-style-type: none"> ● Pays the prescribed application/renewal fee(s); ● Remains solvent (a firm that becomes insolvent or bankrupt would instantly 	<p>“bad apple” condominium management firms, where public interest is served.</p> <p>Rounds out the regulatory circle by providing oversight of condominium management firms as well as individual managers.</p> <p>Helps ensure proper oversight of the firm’s operations.</p> <p>Promotes transparency and trust in marketplace.</p> <p>Allows the public (both boards and owners) the chance to make complaints about management firms.</p>	
--	--	--

Condominium Management Working Group Issue Form

<p>lose its CA).</p> <ul style="list-style-type: none"> • Agrees to carry on its business with integrity and in accordance with the codes prescribed by the DAA. <p>The DAA would create and maintain a database of firms holding valid or invalid (expired, de-listed, etc.) <i>Certificate of Authorization</i>, which would be accessible to the public.</p>		
--	--	--

<p>Recommendation:</p>	<p>Option 2</p> <p>Require management firms to obtain and maintain a <i>Certificate of Authorization</i> (“CA”) in order to enter into management services agreements with any condominium corporation.</p>
<p>Recommendation Rationale:</p>	<p>The <i>Certificate of Authorization</i> model described above is currently utilized by the <i>Professional Engineers Ontario</i> (PEO) and is set out in Regulation 941 (s.47).</p> <p>The requirement for condominium management firms to carry a specified level and type insurance protects the public because many condominium boards do not verify the insurance carried by a prospective management firm and, indeed, the public cannot verify the sufficiency of the insurance carried without knowing intimate details of the firm’s business, managed portfolio and operations (other clients).</p> <p>The public can be assured that certain named individuals with certain qualifications and a certain level of experience are responsible for the firm’s services to clients and for the acts and omissions of its personnel. This breeds greater accountability and professionalism within the firm itself and instills a culture of best practices and suitable oversight.</p> <p>A “bad apple” licensee cannot harm the public a second time merely by setting up a new firm. Firms with multiple findings of improprieties may be refused a <i>C of A</i>.</p> <p>This regime recognizes the reality that condominium corporations enter</p>

Condominium Management Working Group Issue Form

	<p>into a management agreement with a firm, and not individual managers who are employees of the management firm. The entire concept of licensing individual managers is wasted unless there is balanced accountability imposed upon the entity that enters into the contract with the condominium corporation.</p> <p>Given that the firm (being the party with a contractual relationship with the condo corporation) is ultimately accountable to the condominium corporation for the acts of the firm's employees, there must be oversight of the firm and recourse against specific individuals if the firm causes or permits a serious loss to their clients.</p>
Notes:	

Condominium Management Working Group Issue Form

Issue/Problem Statement:	Minimum requirements in Management Contracts.
---------------------------------	---

Stage One Findings (summary):

The Stage 1 Findings Report did not raise address this issue, but the Working Group identified it as an area of concern.

Context for Discussion:

Desired Outcomes	<ul style="list-style-type: none"> • To establish minimum requirements for an agreement between a condominium corporation and a condominium manager; • To set key terms of the relationship between condominium corporations and their managers; • To clarify that it is not acceptable for condominium managers to exercise a possessory lien over the condominium corporation’s records and property; to abolish the concept that a management agreement cannot be terminated except “for cause.”
Current Status	<p>While most professional condominium managers enter into written contracts that specify in detail the role of the manager and the scope, duties and limitations of the manager’s authority, some management relationships begin with no written contract or with a very poor agreement containing vague or unclear provisions on critical items (like ownership of records and delivery of records on termination).</p> <p>There is presently no requirement for a condominium corporation wishing to engage a manager to draft a written contract or contemplate even the most basic terms as part of their agreement. While some condominium boards seek the help of their condominium corporation’s lawyer to review these contracts, many do not.</p> <p>Some management firms have been observed to exercise possessory liens over condo corporation’s property and records, which places the condominium in a precarious, vulnerable position when changing managers. This is widely considered to be an unfair practice. Some management firm service contracts specify that the relationship can be terminated only “for cause”, making it extremely difficult for a condominium board to change management firms. This is widely considered to be an unfair practice.</p>

Guiding Principles	To direct condominium boards to consider the scope of the contractual relationship with the condominium manager and to establish key terms of
---------------------------	---

Condominium Management Working Group Issue Form

	the relationship, so as to protect the corporation and its owners, support best practices by management firms.
Considerations	A condominium Board’s decision <u>not</u> to obtain advice may result in a poor quality management agreement that does not protect the unit owners, or gives rise to misunderstandings or disputes with the manager over roles, responsibilities, and termination.
Long-Term Implications	To ensure that condominium boards enter into a clear contract with a condominium manager for the protection of the corporation and its owners from harm due to disputes or misunderstandings, and to prevent unlawful “hostage-taking” of the corporation’s records.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	<p>Amend the <i>Condominium Act</i> to require that condo corporations wishing to engage a condominium manager (either as a service provider or as an employee) enter into a written agreement that sets out, at a minimum, the following provisions:</p> <ol style="list-style-type: none"> a. Notes the term of the agreement; b. Specifies the fee to be paid; c. Outlines the specific tasks to be performed, including who collects common expenses; d. Establishes whether the manager shall carry fidelity and/or other insurance and, if so, how much and who bears the cost; e. Establishes the maximum dollar amount that the manager may spend without specific board approval, and the circumstances where such authority/discretion may be used; f. Establishes the manager’s signing authority and clarifies that funds be handled in accordance with the Condominium Act; g. Specifies the way in which the corporation’s records and property be promptly returned on termination of the relationship (and specifies no liens 	<ul style="list-style-type: none"> ● Causes boards to pause and carefully consider the scope of the manager’s authority and the tasks they delegate; ● Creates a clear record as to the parties’ respective expectations and duties; ● Will clarify management’s obligation to return the corporation’s records upon termination; ● May encourage boards to obtain legal advice to vet such an important contract; ● Item (i) eliminates the obstacle of requiring “cause” to terminate a manager even if the management contract states that “cause” is the only reason for termination; 	<p>May be seen as “extra paperwork” and more work for the corporation’s lawyer.</p>

Condominium Management Working Group Issue Form

	<p>on the condominium corporation's records);</p> <p>h. Acknowledges that the manager is obliged to comply with the applicable codes of ethics and other laws and regulations, including the <i>Condominium Act</i>.</p> <p>i. Provides that a services contract may be terminated for any reason on giving notice of at least 60 days or such longer period as the parties may select.</p> <p>And that such terms be included as part of the code that governs management firms.</p> <p>[Section 111: Termination- Management Agreements; Section 132: Mediation/Arbitration]</p>	<ul style="list-style-type: none"> ● Clarifying the way in which records are to be returned may permit management firms to protect proprietary information. This will also protect the corporation during the transition period by allowing the corporation to continue to operate without risk due to lack of records; ● Item (i) eliminates the prospect of the manager being "unfireable." 	
2.	Maintain status quo.	Honours the right of unit owners and their elected Boards of Directors to manage their own affairs. However, it may not provide sufficient guidance for the protection of any of the parties, including managers and management companies.	<ul style="list-style-type: none"> ● Perpetuates problems where contract is insufficient, unclear or not made in writing. ● Offers no protection for unit owners. ● Allows unethical management companies to continue to operate unchecked and to hold condominium corporations hostage by withholding turnover of records upon termination.

Condominium Management Working Group Issue Form

Recommendation:	Option 1
Recommendation Rationale:	<ul style="list-style-type: none"> • This requirement would create a basic minimum standard for establishing the important relationship between a management company and the condominium corporation. • The items proposed to be included in the agreement are already customarily contained in professional management companies' standard contracts. • This requirement will increase professionalism among management companies; add clarity to the relationship between the parties; and reduce the chance of disputes arising from absent or vague terms or diverging from these standard terms. • Clarifies that the condominium manager is required to obey the applicable laws and codes, and to uphold the <i>Condominium Act</i>, which will allow diligent managers to point to a specific provision of their agreement as support for a decision to belay an unlawful directive by the Board. • Allowing Boards to fire managers without cause would be a positive development. Some managers include provisions in their services agreement that the relationship may only be terminated "for cause," which causes confusion with the employment law setting and which basically makes the agreement "un-breakable," a concept that is repugnant and is often contrary to the best interests of the unit owners and the industry at large. That said, a minimum termination notice is important, so as to allow the management firm a reasonable opportunity to re-deploy its people and to recover fees for pre-committed fixed expenses (usually staff salaries).
Notes:	<p>Notes to GOVERNANCE Working Group</p> <ol style="list-style-type: none"> 1. <i>It may be useful to specify under Section 55 of the Act that a condominium's records are not subject to a lien and "may not be pledged or hypothecated." Such a concept would more effectively eliminate the "lien-ability" of a condominium's records and would work better under Section 55 than under this proposed new section.</i> 2. <i>It may be worth creating a section that closely mirrors s.114 that specifies that, despite any management agreement or by-law (including those entered into by post-turnover board), a management agreement is terminable on giving notice of at least 60 days or such longer period (up to, say, 6 months) as the parties may by agreement determine.</i>