

WORKING GROUP ISSUE FORM Aa (Part 1)

Working Group:	Governance
Issue/Problem Statement:	<p>Access to Records-Retention by Corporation</p> <ul style="list-style-type: none"> - Which records must be kept by corporation? - How long must corporation retain all and/or certain records? - Issues with respect to destruction of records

Stage One Findings (summary):

<p>Page 17 - Transparency and Accountability</p> <ul style="list-style-type: none"> - Owners complained that they have trouble getting key documents - Steps should be taken to ensure such documents are easily accessible in a timely way

Context for Discussion:

Desired Outcome	<ul style="list-style-type: none"> - To remove record availability as a source of disputes between corporations/boards and owners - To clarify retention period for all records of the corporation - Clarifying legislative requirements vs. best practices on the issue of retention and destruction of records
<p>Current Status</p> <p>How is this issue currently addressed (if at all)</p>	<ul style="list-style-type: none"> - Act/Regs set out retention period for some records (eg.10 years for status certificates, 6 years for financial records) - Act/Regs currently sets out which records must be maintained, including all records specified in the by-laws.
<p>Guiding Principles</p> <p>Key objectives and values</p>	<ul style="list-style-type: none"> - See desired outcome - Openness and transparency is still fundamental principle - Balance between transparency/openness and abuse - Promotion of good business practices

Considerations	<ul style="list-style-type: none"> - Considerations of the purposes of retention: tax/ auditing, legal matters, risk management and insurance, maintaining historic record of the property and assets (repair, maintenance etc.), maintaining historic record of governance of corporation, maintaining historic record of matters relating to individual units and owners - Considerations for retention periods are: CRA taxation limitations (6/7 years), statute of limitations (2 years basic or 15 years ultimate period) or forever - Consideration of retention, access, and destruction as separate but related issues
Long-Term Implications	<ul style="list-style-type: none"> - Issue of retention of and access to records is seminal to maintaining harmony and trust within the community - Access to records has been one of the most significant sources of disputes between owners and their boards

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Prescribe through legislation retention periods for categories of records of the corporation (eg. 7, 15 or infinite).	<ol style="list-style-type: none"> 1. Provides clarity particularly where legislation is currently silent. 2. Promotes transparency and openness. 3. Establishes a risk management framework for boards. 4. Should help to reduce disputes related to retention of records of the corporation. 	<ol style="list-style-type: none"> 1. Transition problems from old to new rules. 2. Possibility of inconsistency in standards between old and new corporations. 3. Unintended consequence of implicitly encouraging the destruction of records immediately after the limitation.
2.	Maintain status quo in the Act and regulations.	<ol style="list-style-type: none"> 1. Continue with industry standards. 2. Flexibility for corporations. 3. Unintended consequence of encouraging destruction of most records not 	<ol style="list-style-type: none"> 1. Continued confusion and potential abuse. 2. Lack of clarity on the retention period for many records. 2. Does not sufficiently address the problem/issue

		present.	identified above.
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<p>Recommendation:</p>	<ul style="list-style-type: none"> ● Recommendation for legislative minimum retention periods : see chart attached ● Recommendation for legislative requirement of records to be retained: see chart attached ● Recommend legislative right of a corporation by way of by-law to expand the “records” that must be maintained by the corporation and to set out the retention period for those records only. ● Best practices recommendation to keep records beyond the prescribed times if reasonable, bearing in mind storage cost, etc. ● If a record is held beyond minimum standards, it is subject to accessibility under the Act.
<p>Recommendation Rationale:</p>	<p>Recommendation rationale for retention periods:</p> <ul style="list-style-type: none"> ● 7 years was considered the base minimum because it was tax + 1 CRA basis. ● infinite was chosen for records that defined an historical record of governance, the physical plant, and owners and ownership. ● 15 years was chosen for historical records that were deemed too voluminous for infinite retention. It was also selected because 15 years is the ultimate statute of limitation.
<p>Notes:</p>	<p>Dissenting opinion: that all engineering reports should be maintained indefinitely.</p>

Retention of Condominium Corporation Records by Category and Duration (Years)

Administrative	Duration
Warranties	Infinite
Performance audits	Infinite
Reserve Fund Studies	15
Contracts	Infinite
Turnover documents	Infinite
Engineering reports	15
Drawings	Infinite
Inspection and admin. reports	7
Insurance policies	7
Appraisals	7
Minutes, D-B-Rs	Infinite
Owners List (Mortgagees)	Infinite
Employee records	7
Non-Unit Liens	7

Legal	Duration
Lawsuits	7
Human rights	7

Financial	Duration
Audited Financials	7
Unaudited Financials	7
Resolved insurance claims	7
Investments	7
Loans	7
Mortgages	7
Taxes	7
Expired or cancelled contracts	7
Expired warranties	7

Condo Unit	Duration
Status certificates	7
Maintenance records	7
Correspondence	7
Section 98 changes to common elements	Infinite
Form 5 summaries of lease or renewal	7
Pending issues	7
Unit liens	7
Owner information	7

Table by Governance Working Group

WORKING GROUP ISSUE FORM Aa (Part 2)

Working Group:	Governance
Issue/Problem Statement:	Access to Corporate Records-standardization of request/response forms

Stage One Findings (summary):

Page 17 - Transparency and Accountability

Context for Discussion:

Desired Outcome	<ul style="list-style-type: none"> ● Ensure documents are easily accessible and timely. ● Improve transparency. ● Minimize a key source of dispute between boards and owners. ● Documentation of process.
Current Status How is this issue currently addressed (if at all)	<ul style="list-style-type: none"> ● Request in writing, content unspecified and purpose of the request “...for purposes reasonably related to the purposes of this Act.” ● Certain statutory exemptions.
Guiding Principles Key objectives and values	<ul style="list-style-type: none"> ● Philosophy of Act is transparency and consumer protection (with certain statutory exceptions). ● Minimizing one of the biggest sources of disputes. ● Refer back to retention of records issue form.
Considerations	<ol style="list-style-type: none"> 1. Owners’ right to information about their corporation. 2. Privacy. 3. Confidential information that should not be publicly available.

	4. Balancing fishing expedition (bad owners) vs. a board obstructing valid access.
Long-Term Implications	1. Providing increased clarity. 2. Reduction of disputes.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Prescribed form and process	<ul style="list-style-type: none"> ● certainty ● documentation of process (education) ● evidence of compliance/non-compliance ● promotes compliance ● this is a substantial response to a substantial issue 	<ul style="list-style-type: none"> ● does not guarantee compliance ● paper chase ● may create another basis for dispute - non-provision
2.	Status Quo.	<ul style="list-style-type: none"> ● lack of overkill on prescriptive solutions 	

Recommendation:	<ol style="list-style-type: none"> 1. Legislative requirement that request for access be in a prescribed form. 2. Prescribe form should be standardized for all categories of requestors (owner, purchaser, mortgagee). 3. Form should include a reason for documents other than those set out in a prescribed list of universally available documents. Either pre-set prescribed reasons or status quo i.e. "...reasonably related to the purposes of this Act." 4. Requiring owner to provide standard form affidavit/stat. decl. that request is for proper purposes/not for improper purposes (content to be determined--provisions of <i>Corporations Act/Ontario Not-for-profit Corporations Act</i>) should be considered 5. Legislative requirement for corporation response in a prescribed form, to records request setting out reasons for denial, and other
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	stipulations such as timing of production of record (and/or copy thereof), cost etc.
Recommendation Rationale:	Documentation of the full set of rules and transactions via a standardized form makes the process known, transparent, is more likely to avoid abuse, and provides the basis for adjudicating in dispute resolution.
Notes:	Consequences of not using the form, falsifying, etc. were not determined

WORKING GROUP ISSUE FORM #Ab

Working Group:	Governance
Issue/Problem Statement:	Fee Schedules and Basis of Fees for Access to Corporate Records

Stage One Findings (summary):

Page 17 - Transparency and Accountability

Context for Discussion:

Desired Outcome	<ul style="list-style-type: none"> • Ensure documents are easily accessible and timely • Balancing rights to access with opportunity cost of labour and time to acquire, provide record
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Options and Recommendation:

	Options:	Pros:	Cons:
1.	Blended Payment Model: <ul style="list-style-type: none"> • Requirement for an estimate. • Access to some records is always a basic right, and is therefore free. • Reading access, as well as copying. • Define reasonable charges for labour and copying. 	<ul style="list-style-type: none"> • Balanced rights • Fewer surprises • Flexibility 	<ul style="list-style-type: none"> • Change breeds confusion and creates a necessary adaptation period

2.	<p>Status Quo:</p> <ul style="list-style-type: none"> • No estimate • Payment for all records. • Copy only • “Reasonable” copying charges • Reasonable” labour charges 	<ul style="list-style-type: none"> • System is known 	<ul style="list-style-type: none"> • Current complaints unaddressed
3.	<p>No payment for any record, however accessed</p>	<ul style="list-style-type: none"> • Simplest procedure 	<ul style="list-style-type: none"> • Highest cost/ opportunity cost for staff

<p>Recommendation:</p>	<p>We want the Act to specify the cost for producing records based on ,and subject to, the following criteria:</p> <ul style="list-style-type: none"> • Corporation’s response form should provide a record of the whole transaction • Therefore it must include an estimate of the cost to produce record, which, if accepted, will also spawn an invoice and payment record • There should exist a list of no-cost items relating to those documents which closely align to the education goals identified elsewhere in the working groups recommendations • The form should specify a cost per hour for: <ul style="list-style-type: none"> ○ viewing of records ○ duplication ○ external costs such as lawyer’s time • There should be no cost for redaction, so as to incent boards and management companies to sever records in advance and use of redaction as a stalling tool • Minimum rates should be prescribed by regulation, and amendable by corporate bylaw • Electronic records should be free or low cost
<p>Recommendation Rationale:</p>	<p>Fulfills desired outcome, above</p>

WORKING GROUP ISSUE FORM #Ac

Working Group:	Governance
Issue/Problem Statement:	Electronic Access to Corporate Records

Stage One Findings (summary):

Page 17 - Transparency and Accountability

Context for Discussion:

Desired Outcome	Promote the concept that Corporations would retain records electronically as a best practice to: <ul style="list-style-type: none"> ● better facilitate access, ● improve business operations and governance ● manage positively the costs of retention, storage and retrieval
Current Status How is this issue currently addressed (if at all)	An option, but not widely used
Guiding Principles Key objectives and values	Because of varying size of corporations and their budgets, loathe to make this requirement mandatory Yet, look for ways to nudge corps. in this direction and reward those who do Provide active permission within the Act for the use of electronic means for compliance

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Make electronic retention of and access to records mandatory	<ul style="list-style-type: none"> • Symbolic of modernization of Condominium model • Supports reality of large percentage of international non-residential ownership 	<ul style="list-style-type: none"> • Too expensive for smaller or reluctant corps. • Limits flexibility of corps to deliver records successfully by other traditional means
2.	Make electronic retention of and access to records permitted	<ul style="list-style-type: none"> • Allows for innovation • Allows those who can meet other criteria of compliance without automation to do so • allows for two systems to co-exist 	<ul style="list-style-type: none"> • Two systems may produce unintended consequences
3.	Don't address the issue	<ul style="list-style-type: none"> • Not the most urgent need 	<ul style="list-style-type: none"> • Makes condominium living, the "fourth level of government", strangely out of step with other forms of government which permit, at the very least, both electronic and non-electronic transactions

Recommendation:	<ul style="list-style-type: none"> • The group believes that <u>electronic</u> storage and access should
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	<p>be encouraged, for free and non-free documents.</p> <ul style="list-style-type: none"> • Since many condos are too small to support move to electronic records, these should not be mandatory. • However, timelines for retrieval should be sufficiently short to encourage property management companies to recommend and support electronic filing and access • Further, Act needs to state that electronic form and electronic delivery of documents/records are deemed fully acceptable for compliance with terms of access
<p>Recommendation Rationale:</p>	<p>Permit and promote the practice through this initiative, education and imposition of tight timelines, while allowing for traditional means for those who can comply successfully and would have difficulty adjusting to electronic compliance</p>

WORKING GROUP ISSUE FORM #Ad

Working Group:	Governance
Issue/Problem Statement:	-Timing of production of records -Clarification of exemptions of right to access records

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 17 - “Transparency and Accountability”</p>

Context for Discussion:

Desired Outcome	Balance of reasonable time for production with certainty of availability in a timely fashion.
Current Status How is this issue currently addressed (if at all)	Generally negotiated timelines or avoidance of delivery.
Guiding Principles Key objectives and values	Same as desired outcome, above.
Long-Term Implications	Must be sustainable.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Status Quo	<ul style="list-style-type: none"> • Avoids some risks of inadvertently disclosing personal, private and competitive information 	<ul style="list-style-type: none"> • Current conflicts will continue
2.	Faster, fixed timeframes	<ul style="list-style-type: none"> • Clarifies exemptions • Certainty of delivery • Promotes electronic records • Minimizes disputes 	<ul style="list-style-type: none"> • Transition may be difficult for some condos. Transition rules are key. • Needs supporting advice to contractors on how to avoid disclosure of confidential business information.

Recommendation:	<ul style="list-style-type: none"> • Any record from current fiscal year should be available within 7 calendar days • Any older record must be provided with 14 calendar days • Best practices recommendation: condo corporations should clearly address, in the terms of contracts between condo corporations and third parties, the access by corporation's owners, purchasers, mortgagees to information in or related to those contracts between the condo corporation and a third party (tendering and construction contracts--contract A and contract B, access by owners to summary of all bids after contract is awarded to successful bidder etc.)
Recommendation Rationale:	<p>Property management advisors suggest it is a reasonable goal, and is a current best practice for good corporations</p> <p>The short timelines for production of records are established to:</p>

	<ol style="list-style-type: none">1. Improve customer service2. Minimize disputes regarding reasonableness of timing3. Encourage electronic retention of records
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WORKING GROUP ISSUE FORM #Ae

Working Group:	Governance
Issue/Problem Statement:	Access to Records - Sanctions and Penalties

Stage One Findings (summary):

Page 17 - Transparency and Accountability

Context for Discussion:

Desired Outcome	Address clearly and sustainably the role of penalties and sanctions as part of the tool kit to promote compliance without unintended consequences
Current Status How is this issue currently addressed (if at all)	No penalties for non-production. Redress through the courts is expensive.
Guiding Principles Key objectives and values	This is a dependent variable in the redesign of the system. Since many innovations have been proposed within the access to records category to address what is one of the major problems with the current Act, it seems likely that it is necessary to have some sanctions for failure to comply, to ensure the new system operates effectively.
Considerations	As above.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Significant penalties and sanctions	<ul style="list-style-type: none"> • Commensurate with proposed system • Improved compliance • better access 	<ul style="list-style-type: none"> • Harder to recruit board members • Needs a well-defined dispute resolution system • Need a well-defined trigger mechanism for defining failure and managing the redress
2.	Selective penalties and sanctions	<ul style="list-style-type: none"> • Depending on details, may be easier to sell to everyone • If sufficiently large, may supply adequate balance to the overall new system 	<ul style="list-style-type: none"> • Depending on the details, may be difficult to sell to everyone
3.	No penalties and sanctions	<ul style="list-style-type: none"> • May be unnecessary if other innovations are felt to be self-sustaining 	<ul style="list-style-type: none"> • Rest of system may fail • Little improvement on current criticisms

Recommendation:	<ul style="list-style-type: none"> • Full agreement on the use of a sanction or penalty for not producing records • Penalty should be significant, somewhere in the range of \$1000 to \$5000 • Add the concept of a minimum penalty, with option to award higher • Ministry consider a sliding scale for fines or grounds for the monetary award based on: <ul style="list-style-type: none"> ○ the gravity of the offense or harm, and
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	<ul style="list-style-type: none"> ○ the size of the condo corporation – e.g. # units or budget. (Average size of a condo corp. in Ontario = 67 units. Range is 4 – 1400 units) ○ Send matter to Dispute Resolution Working Group to consider what other decision-making forums or services might be available beyond the current small claims court
<p>Recommendation Rationale:</p>	<p>Fulfills the guiding principles, above.</p>

WORKING GROUP ISSUE FORM #Ba

Working Group:	Governance
Issue/Problem Statement:	Owner's Meetings: Proxies

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 17 - "Proxies"</p>

Context for Discussion:

Desired Outcome	<p>The Working Group agreed that it was important to retain proxies so that owners can have a voice even if not present.</p> <p>Proxies should now be in a prescribed form - by Regulation in new Act. New Act should allow (not require) filling and access to proxies in electronic or automated form.</p>
<p>Current Status</p> <p>How is this issue currently addressed (if at all)</p>	<p>Proxies process currently subject to abuse and potential fraud.</p>
<p>Guiding Principles</p> <p>Key objectives and values</p>	<p>Proxies are a valid expression of an owner's voting rights - but currently are subject to abuse of process and there is great potential for fraud.</p> <p>Design a proxy process to deter or eliminate proxy abuse.</p> <p>Provide for greater uniformity of proxy process.</p>
Considerations	<p>Legitimate use of proxies allows owners to have a voice.</p>

	<p>Owners who do not feel knowledgeable about issues can place reliance on someone who they feel is better qualified to vote on their behalf.</p> <p>Potential for abuse of proxies diminishes if the form is standardized and pre-printed.</p> <p>Potential for abuse of proxies may be diminished if it is mandated that proxies must be submitted a day in advance.</p>
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Recommendation:	<ul style="list-style-type: none"> a. On the binary issue, WG does not recommend elimination of proxies. This is a (perhaps, the) seminal expression of democracy in a communal setting. b. The proxy should be in a form prescribed in the Act/Regs c. The legislation should permit, but not require, automation of the access to and filing of proxies. d. For AGMs, special meetings of members, and turnover meetings, the Group recommends the following process: <ul style="list-style-type: none"> i. Make mandatory in the Act that a Directors Call Notice (possibly renamed) be issued at least 35 days ahead of the event, specifying: <ul style="list-style-type: none"> 1. Number and term of open director positions to be voted on 2. A call for nominations for these vacancies 3. A call for agenda items, see B.(d) below ii. The official Notice of Meeting must be sent out at least 15 days in advance of the event and include: <ul style="list-style-type: none"> 1. The date and time 2. Agenda 3. List of candidates that have been nominated, imbedded in the proxy form 4. The annual audit iii. To avoid tampering and misinformation, the Group supported the concept of voting by proxy be done by signatures adjacent to each candidate selected, whether preprinted or added by the owner. This differs from a general signature on the proxy which would qualify for quorum purposes only. e. Destruction of proxies/ballots: Recommend that
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	<p>proxies/ballots shall be retained for 90 days after which they may be destroyed, UNLESS a dispute is REGISTERED within 90 days with a dispute mechanism or mechanisms suggested by the DR Group, they must be retained until the date of RESOLUTION of the dispute. For both trigger and resolution purposes, this means that a mechanism must exist to flag this category of dispute as time sensitive, requiring a faster track within the DR protocols.</p>
<p>Recommendation Rationale:</p>	<p>The group identified numerous abuses that need to be addressed, for example:</p> <ul style="list-style-type: none"> -The proxy holder who shows up at the AGM with numerous forms “timed” at 5 minutes before the meeting -The proxy form that has 2 different pen colours - one for signature and one for content.. <p>Proxy issues that affect election results are ones that were identified as needing a “quick decision maker” and therefore referred to DR for inclusion in this category.</p>

WORKING GROUP ISSUE FORM #Bb

Working Group:	Governance
Issue/Problem Statement:	Owner's Meetings: Quorum

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 18 - "Owner Disengagement"</p>

Context for Discussion:

Desired Outcome	Participation of a maximum of owners, in recognition of the growing trend of owner/investors and off-shore condo ownership.
Current Status How is this issue currently addressed (if at all)	Some buildings report difficulty in establishing quorum, thereby making it difficult to attend to the 'business' of the condo corporation.
Guiding Principles Key objectives and values	To allow greater and maximum participation by unit owners, while recognizing that owners don't necessarily live in the condo building. To allow the business of the corporation to proceed.
Considerations	Consideration to recommend 'attendance' at meetings by electronic form in real time. This may assist with the involvement of the unit owner who is not present in the building but wishes to participate him/herself rather than by proxy.

<p>Recommendation:</p>	<ul style="list-style-type: none"> a. There was some concern expressed with an owner having multiple votes by virtue of owning multiple units, but no agreement in the Group to change the current basis. b. The use of Directors Call Notice more aggressively should help this. c. There was debate without resolution of how to deal with inability to gain quorum. A proposal was made to have 25% threshold for a first meeting, a second meeting within no more than 60 days with a 20% threshold, and a mandatory third try within no more than 60 days with a threshold of either those present and represented by proxy OR 15% of the whole.
<p>Recommendation Rationale:</p>	<p>Allowing electronic/web attendance in real time may assist with issue of quorum but may add greatly to costs of meeting.</p> <p>There was discussion as to whether 2 attempts was sufficient to try to obtain quorum, or if three should be required.</p> <p>The Working Group wanted to give the maximum allowable 'reasonable' number of attempts to meet quorum for reasons of inclusivity.</p> <p>(Note: If owner education through "rights and responsibilities guide" and newsletter/ quarterly updates become more prevalent than meeting quorum may cease to be an issue).</p>

WORKING GROUP ISSUE FORM #Bc

Working Group:	Governance
Issue/Problem Statement:	Owner's Meetings: Requisition Meetings

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 17-18 - "Requisition Meetings"</p>

Context for Discussion:

Desired Outcome	<p>Standardization of requisition forms, with standardized enumerated "boxes" for the reason for calling the meeting.</p> <p>A timely process for the denial or acceptance of the requisition. This form should also be standardized with 'boxes' outlining the reasons the requisition could be denied.</p> <p>An opportunity to remedy the requisition form, such that there is no need to start the process from the beginning.</p>
<p>Current Status</p> <p>How is this issue currently addressed (if at all)</p>	<p>Often requisitions are denied and reasons for the denial are suspicious, or bogus. Even when the denial is legitimate it is often produced at the last minute, leaving no time for owners to remedy the requisition.</p>
<p>Guiding Principles</p> <p>Key objectives</p>	<p>Recognizing the rights of owners to congregate, meet and discuss issues that are relevant to the building/corporation.</p> <p>Designing a more standardized, sustainable, transparent and user-friendly</p>

and values	process for owners to hold a requisition meeting.
Considerations	Balancing the rights of owners to meet and discuss legitimate issues of concern in a formalized manner, while also protecting the integrity of the administration of the condo building by ensuring that meetings are not abused by owners who are ‘dissatisfied.’

Recommendation:	<ol style="list-style-type: none"> a. After considerable debate, the Group recommends retaining the current 15% threshold for the predominant form of requisitioned meetings – changing the Board. b. The Group debated the problem of dealing with removal of Boards where the board members represent ownership of more than 50%, without solution. c. The Group recommends a limit of 35 days to call and hold a properly requisitioned meeting d. To help in defining a proper process, including managing abuse on all sides, the group recommends: <ol style="list-style-type: none"> i. A requisition form be prescribed by legislation ii. The prescribed form should include reasons for the requisition iii. The form reminds the ownership that signatures need to be verifiable as the owner’s(s’) iv. The legislation should provide that Boards cannot unreasonably deny a valid requisition, and provide for a penalty v. Assuming that the Dispute Resolution Group are considering some form of administrative adjudication such as a condo office which the Governance Group favours, the Group also believes that an operations service, euphemistically called the “Condo Police” be available to gather information for adjudication of confrontational cases, and be available to enforce the orders of the adjudicator, e.g. to hold a requisitioned special meeting forthwith vi. The requisition request must be accepted or denied with reasons, within 10 days. The common reasons for denial should be imbedded in the form, for
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	<p>selection and explanation</p> <p>vii. If denied, the process permits another 10 days for remediation and resubmission, such as for signature problems with requisitions</p> <p>viii. A final decision must be communicated at this stage, ideally using the same form that has been used to apply and communicate reasons for denial</p> <p>ix. The 35-day clock is not restarted for any reason during this process, but the clock would be suspended for the second 10 day remediation period.</p> <p>e. On the matter of improving communication with owners and the contact information for them, the Group promotes that email and fax numbers be sought from owners as a best practice to support the current provision to communicate with owners by any means for which they give permission. The Group noted and supported that the existing provision in the Act assigns responsibility to the owner for the provision of correct information to the corporation, though there could not be penalties to the owner for not complying. However, to facilitate official communication, the Group recommends that the Act explicitly address this issue by specifying that if the corporation has not been provided with an address for/by an owner, the corporation may serve prescribed documents on the occupant of the unit, and prove it has done so.</p> <p>f. In discussing the effect of arrears on the eligibility of owners to vote and the ability of the board and management to disclose arrears as a reason for denial of a requisition request, the Group noted that specific information on those in arrears could not be released, but numbers of ineligible votes could be. In this regard, the Group supported the precept that the board and management should abide by the principle that what can be released as information in explaining its decisions should be disclosed. Owners' names should be released to requisitioners.</p>
<p>Recommendation Rationale:</p>	<p>There is a recognition that it isn't easy to collect names for a requisition meeting.</p> <p>The recommendations are designed to ease the process for owners</p>

	<p>There is also a recognition that there are privacy issues and concerns respecting the distribution of owners' info, and that only information in the public domain should be distributed unless the owner consents to provide more info.</p>
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WORKING GROUP ISSUE FORM #Bd

Working Group:	Governance
Issue/Problem Statement:	Owner's Meetings: "Give Owners More Voice"

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 19 - "Give Owners More Voice"</p>
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Context for Discussion:

Desired Outcome	<p>Successful condo buildings and communities report satisfaction when there is a flow of information between owners, between the Board and owners, and from management.</p> <p>Condos have the potential to be harmonious communities or fractious environments.</p> <p>The objective of providing 'owners with more voice' is to allow greater participation by owners within their community. This would not only relate to decision making, but also to activities in a communal building.</p>
<p>Current Status</p> <p>How is this issue currently addressed (if at all)</p>	Ad hoc participation, varying from building to building.
Guiding Principles	Information is the key to owner satisfaction and involvement.

<p>Key objectives and values</p>	<p>Information about condo “rights and responsibilities” (as identified elsewhere) would inform owners about the importance of meetings and AGMs. Information about the status of administration in the building (as communicated at intervals throughout the year rather than from AGM to AGM) would make for more efficient meetings at the AGM.</p>
<p>Considerations</p>	<p>In allowing owners’ input into agendas at meetings, there will always be a balancing act. The need to be efficient with time and the need to be participatory may conflict.</p> <p>Providing owners with other platforms to discuss their issues - or share their events - such as bulletin boards (virtual or physical), newsletters (electronic or hardcopy), or individual condo websites may provide owners with the ‘voice’ they desire.</p>

<p>Recommendation:</p>	<p>a. The Group discussed means to broaden involvement and recommend:</p> <p>i. Specify in the Act that the Directors Call Notice also include a call for agenda items, with explanation of purpose. The means of filing such items should be specified, and a deadline specified. In this regard, electronic means should be acceptable and encouraged.</p>
<p>Recommendation Rationale:</p>	<p>Providing owners with an option to include agenda items may go a long way to satisfy owners and provide them with an option ‘to be heard.’</p> <p>Conversely, owners who submit agenda items and are then not given time on the agenda - or owners who will not limit their agenda items to time allotted – may present unintended consequences and grievances.</p> <p>Question as to whether this should be part of the Act or a recommendation to Boards as part of Board training - and then set out in condo by-laws.</p>

WORKING GROUP ISSUE FORM #Be

Working Group:	Governance
Issue/Problem Statement:	Owner's Meetings: Communication with Owners

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 19 - "Ensure Effective Communications"</p>

Context for Discussion:

Desired Outcome	<p>To give owners a voice.</p> <p>To engage owners in community living.</p> <p>Transparency of process and decision making.</p>
<p>Current Status</p> <p>How is this issue currently addressed (if at all)</p>	<p>1. There is currently no requirement for mandatory communication beyond the AGM.</p> <p>2. There is no requirement under the Act for notice prior to a special assessment.</p>
<p>Guiding Principles</p> <p>Key objectives and values</p>	<p>To provide avenues for owners to be engaged.</p> <p>To provide current information to owners.</p>
Considerations	Rationale for additional mandatory disclosure to owners (by regulation):

	<p>owners have a right to be advised in timely fashion of decisions or issues regarding:</p> <ol style="list-style-type: none"> 1. Cost Issues 2. Time Sensitive Issues 3. Health and Safety Issues 4. Legal Disputes <ul style="list-style-type: none"> ● Proposed regulation in the new Act that would require the board to communicate with owners regarding certain issues as outlined (e.g. information that would be placed in a status certificate). <ul style="list-style-type: none"> ○ Purpose: to provide owners with the same level of disclosure/communication as a prospective buyer would receive in a current Status Certificate ○ Frequency: quarterly basis (rather than monthly) ○ Events triggering notification to owners: <ul style="list-style-type: none"> ■ 1. Special Assessment ■ 2. Major Event (e.g. flood, renovation, etc.) ■ 3. Audited financial statements ● Include communication best practices in the director training ● Need to be aware of potential privacy issues ● Will there be consequences if either Board or manager fails to communicate?
<p>Long-Term Implications</p>	<ol style="list-style-type: none"> 1. Will there be additional costs for more frequent communications? <ul style="list-style-type: none"> - Benefits can outweigh the costs - Costs could be defrayed by advertising 2. Implementation: Incorporate best practices of communication in the board training.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Include mandatory communication requirements under the Act.		<ul style="list-style-type: none"> ● Potential abuse of the methods of communication without a means of controlling

			what is communicated (e.g. online forum).
2.	Encourage best practices for communication.		

Recommendation:	<p>Mandatory</p> <p>1. Obligation for corporations to communicate with owners in the Act:</p> <p style="padding-left: 40px;">A. Status Certificate information would be provided on a quarterly basis relevant to the corporation (e.g. legal dispute)</p> <p style="padding-left: 40px;">B. Information provided in a timely fashion, as prescribed by regulation (e.g. deviance from the reserve fund). (Note: these issues may be a crosswalk with the Finance Working Group.)</p> <p>Best Practices</p> <p>The Working Group agrees that the following recommendations should not be mandated in the Act, but encouraged to foster strong communication between the corporation and owners:</p> <p>1. Encourage corporations to increase transparency by establishing a corporate website by x date.</p> <p>2. Information that encourages community spirit.</p> <ul style="list-style-type: none"> ● Periodic notice to owners of community events in whatever platform is most appropriate for the individual corporation. This information would be accessible only to owners or determined by the board due to privacy concerns. <ul style="list-style-type: none"> ○ Newsletters ○ Email Blast ○ Bulletin Board ○ Chat Lines/Forums ○ Owner’s information meetings ○ Social Media ○ Corporation’s Website <p>3. Provide Owners with the opportunity to use the platforms to</p>
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	<p>communicate with each other/the board.</p> <p>4. Incorporating best practices of communication in board/owner training.</p>
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WORKING GROUP ISSUE FORM #Ca

Working Group:	Governance
Issue/Problem Statement:	Directors and Officers: Training

Stage One Findings (summary):

<p>Stage 1 Findings Report - 16 - "inexperienced Directors"</p>

Context for Discussion:

Desired Outcome	Recognizing that Directors are volunteers and have varying levels of skill, it is seen as ideal to have first time Directors receive training.
Current Status How is this issue currently addressed (if at all)	Ad hoc basis. Training is available, not mandatory. Not-for-profit organizations offer training for Directors, and CCI has various courses suited for Directors.
Guiding Principles Key objectives and values	Directors are volunteers. As such, they have different levels of professional experience. Some Directors are drawn to the position because it mirrors something they do or have done (such as accounting) in a professional environment; others become involved because they have never served on a Board and are recently retired. There is also everything in between. Decisions facing Boards are multifaceted and consequently the Working Group recommends that first time Directors be required to complete a 3-hour course, akin to the CCI level 101.

Considerations	<p>The Working Group acknowledged that there may be some resistance to mandating a course for Directors. This issue may dovetail into Directors' insurance, such that there would be a discount for Boards whose Directors have proof of attendance at the Director' introductory level course.</p> <p>The Working Group wanted to make the course affordable and not too onerous in terms of time.</p> <p>The Working Group suggested that the course materials be consistent, regardless who is actually doing the training, and that a certificate of attendance be handed out as proof for Directors' insurance purposes.</p> <p>The Working Group suggested a 6 month window to complete the course.</p> <p>The Working Group looked at the issue of mandating all first time Directors and considered an option for excluding certain professionals from taking the 3-hour course, but ultimately decided against any exemptions.</p> <p>The Working Group also considered how to integrate Board members who are already serving on the Board into the new training requirement. The group concluded that when the new Act is announced all Board members should participate in a one hour training session on the features of the new Act. This could possibly be an on-line course developed by the Ministry.</p>
Long-Term Implications	Boards that are better aware of their duties and the Condo Act can provide leadership to their buildings, and can be more responsive to the needs of their neighbours, fellow owners and management.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	3 hour course for first time Board Members, to be completed within 6 months of being elected		
2.	One hour on-line course for all Directors when new Act comes		

	into force.		
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<p>Recommendation:</p>	<ul style="list-style-type: none"> a. The Group supports a requirement for minimum mandatory training for first-time directors b. Preferred requirements include: <ul style="list-style-type: none"> i. Electronic self-study or classroom format ii. Ministry should prescribe learning outcomes or curriculum iii. The upshot is likely a three hour course. Longer is prohibitive. Shorter is too superficial. Existing “Condo 101” courses are of this magnitude. iv. Market should be free to deliver the material, subject to accreditation of the delivery agent and approval of the course by the Ministry v. No size of condominium should be exempt vi. Individuals have six months to complete the course successfully vii. Failure to do so is grounds for disqualification viii. “Successful completion” needs to be verifiable, especially for self-study/online modalities. The group did not favour examinations, but a demonstration of full exposure to the material. It was noted that modularity in online courses are routinely designed with comprehension quizzes for each module, successful completion of which is necessary to permit access to subsequent modules. Sign-in and sign-out can define exposure in classroom settings. ix. Candidates for boards should be required to commit in advance of elections to their willingness and intention to take training x. The Ministry should consider authoring/sourcing/hosting the online version xi. The Group felt that an individual need take the course only once over their governance career. However, the Group supports the Ministry
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	<p>determining some requirement for continuing education as a best practice</p> <p>xii. The group did not specify extra requirements for officers.</p>
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WORKING GROUP ISSUE FORM #Cb

Working Group:	Governance
Issue/Problem Statement:	Directors and Officers: Qualifications and Disqualifications

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 16 - "Inexperienced Directors"</p>

Context for Discussion:

Desired Outcome	Increased qualifications of Directors would ensure greater ability to guide the Corporation, as well as provide better safeguards and protection for owners and the community from bad Directors and Officers.
Current Status How is this issue currently addressed (if at all)	<p>Minimum standards set out in sec. 29:</p> <ul style="list-style-type: none"> • Over 18 • Not an undischarged bankrupt • Not incapable of managing property within the meaning of the <i>Substitute Decisions Act, 1992</i> <p>Subsection 56(a) of present Act states that Corporation can, by means of a by-law, have additional qualifications of directors.</p>
Guiding Principles Key objectives and values	Openness and transparency regarding who is serving as the corporation's Directors and Officers, and greater protection for owners, but also the recognition that it can be difficult to find volunteers to be Directors and Officers
Considerations	- Pride of the community, building, and units will protect market value of owners' investments and make the community a better place to live

	<ul style="list-style-type: none"> - Corporations can have large sums of money accessible (e.g. reserve funds), and thus the temptation for misuse and theft - Present difficulty in finding volunteers to run for the Board or be an officer means that we do not want to institute unnecessary obstacles
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Options and Recommendation:

	Options:	Pros:	Cons:
1.	Mandatory criminal record/police check ("bad character" offences, e.g. fraud, theft, breach of trust, etc.)	Should be known to all potential candidates and/or a restriction regarding those who wish to be condo directors and officers. This will hopefully deter some "bad" characters" from being elected	<ul style="list-style-type: none"> - Privacy issues - Which criminal offences should be included and should there be a time limit (e.g. crimes within last 5 - 10 years, etc.)? - difficult to enforce/police - Will keep people from running for Board. Even honest people who may have had minor criminal offences in the past may not be prepared to run for fear that these minor offences will be disclosed to the Board or owners in the course of the criminal record check; - Even if enforcement/policing of this is done by DAA or Condo Office this will be expensive and onerous to enforce (estimated that there are about 40,000 Directors in Ontario)
2.	If not a disqualification to be a Director, then mandatory obligation to disclose certain criminal convictions to owners before or at meeting		

	where election is taking place and let owners decide		
3.	Fidelity Bonding of Directors and/or Officers		
4.	If a professional (lawyer, engineer, accountant) found in breach of their professional standards and lost licence to practice, then cannot be director and automatic disqualification if a sitting Director		
5.	Restricting qualifications that a Corporation can pass and implement in a by-law under subsection 56(a) of present Act		
6.	Mandatory requirement that must be a unit owner (or partner, family member, etc.) and/or owner who lives in building to be a Director		
7.	One (1) director per unit qualification or disqualification requirement; or leave for by-law	Stop a Board or majority of Board (thus control) being comprised of members of same family from same unit.	If left to a by-law, it will not be possible or it be difficult for the by-law to be passed, especially since the by-law has to first be “made” by the Board and Board which consists of 2 or more directors from the same unit may not be willing or able to pass Board resolution to “make” the by-law before it sent to owners for confirmation.

8.	Qualification/ disqualification that director cannot be a party to a “legal proceeding” (see note below re this) involving the corporation	Directors/party could get access to records and information involving the “legal proceeding” even if Board holds <i>in camera</i> meetings etc. excluding the director	Imposes another restriction limiting number of potential directors; potential for abuse i.e. “bad” Boards commencing legal proceedings through corporation against director
9.	Mandatory <u>disclosure</u> by director (candidate) if a party to “legal proceedings” involving the corporation (in legislation or regulations)		Difficult to define “legal proceeding”.
10.	Mandate that Director disqualified if loses a “legal proceeding” against the corporation		Very difficult to enforce and too prone to abuse.
11.	Define “legal proceeding” more clearly	Gives clarity and certainty and avoids creative interpretations (e.g. letter threatening to sue but no proceedings actually commenced - could be used by Rogue Board)	
12.	Introduce qualifications and disqualifications of Officers or leave status quo (i.e. Officers elected or appointed by Board and can be changed by Board at any time)		
13.	Change one vote per unit provision for developer owned units	Reduce voting power and sometimes control by developer who still owns many units (even if not a majority)	Denial of democratic right to vote. Since developer, as with any unit owner, has a significant investment in its units, then should it be denied the right to an equal vote as with any owner, for example one owner that owns 3 unit

<p>Recommendation:</p>	<p>(1) Focus of Phase 1 was on qualifications issues. Disqualification parameters should also form part of the scheme.</p> <p>(2) Group supported the creation of a higher standard to be or remain a board member than currently exists</p> <p>(3) There was an extensive debate within the Group on this issue and ultimately the consensus was that the Act should not mandate any criminal record check as a qualification or as a disclosure requirement, but it should be optional and available for condo corporations to pass in a by-law. (Note: 1 group member dissented and wants it to be in legislated as a qualification or disclosure item as protection to owners);</p> <p>(4) There should be mandatory fidelity bonding of Directors (and maybe Officers). Group does not know if insurance companies will offer such insurance nor the cost of same, so recommendation would be qualified is “reasonably available” similar to that provided in sec. 39 of the Act for Directors and Officers insurance. Finance Group is working on this issue and it still needs to be determined whether corporations will be able to qualify for this type of insurance.</p> <p>(5) Do <u>not</u> recommend legislation dealing with a candidate, sitting director, or officer who is a professional and has been found in breach of professional standard.</p> <p>(6) After considering the topic at some length, the group came to the consensus that unit owner or unit owner-occupant qualification for directors should <u>not</u> be legislated but rather left for by-laws. Concern was expressed that these mandatory restrictions would impact on ability of corporations to attract directors.</p> <p>(7) One director per unit qualification should be in the legislation. (This was a majority decision with 2 members dissenting who felt it should be left to by-laws). Majority felt that if left to a by-law it will not be possible or it be difficult for the by-law to be passed, especially since the by-law has to first be “made” by the Board, and Board which consists of 2 or more directors from the same unit may not be willing or able to pass Board resolution to “make” the by-law</p>
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	<p>before it sent to owners for confirmation.</p> <p>(8) Qualification/disqualification should not be in the legislation, should be left for by-laws. (Majority decision with 1 member dissenting who felt should not even be allowed in the by-laws as still too great a potential for abuse).</p> <p>(9) Disclosure by director if party to “legal proceeding” involving the corporation:</p> <ul style="list-style-type: none">(i) Majority decision that should be mandated but in the Regulations and <u>not</u> legislation, so it can be amended if necessary.(ii) Regulation should be subject to amendment by corporation’s by-law;(iii) Disclosure only required at time person is running for election or re-election, and <u>not</u> required if a director is carrying out his/her term and becomes party to “legal proceeding” involving the corporation. <p>(10) Disqualify director who loses or is unsuccessful in a “legal proceeding” involving the corporation. Group decided this should <u>not</u> be a disqualification as it is too difficult to enforce and too prone to abuse.</p> <p>(11) Term “commencement of dispute” should be used instead of “legal proceeding” and this new term should be whatever the Dispute Resolution working group recommends is the “commencement of a dispute” (including mediation).</p> <p>(12) In regards to officers, the groups recommends to maintain the status quo, i.e. leave provisions of the Act as is, no need to fix any problem or make any change.</p> <p>(13) One vote per owner if developer-owned units. Group discussed this option and generally felt that there should be no change to the status quo, but if any consideration is given then it would be only for developer-owned units and not investor-owned units. Group believes that this issue should be dealt with by the Consumer Protection Working Group.</p>
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<p>Recommendation Rationale:</p>	<p>See discussion under Options and also in the Recommendations section.</p>
<p>Notes:</p>	<p>Working Group ultimately felt that there should not be many legislated qualifications or disqualifications for Directors (with some exceptions, as discussed above), and that it is best to leave each corporation to decide within their community, by means of a by-law.</p> <p>There were some dissenting views in the Group for some of the discussed qualifications.</p> <p><u>Need to reduce threshold for passing by-laws:</u></p> <p>Group recognizes that the present standard or voting requirement to pass by-laws is high and onerous, and thus it is difficult for even the best Boards and corporations to pass very good by-laws for their community (due to owner apathy, disengagement, etc.). Thus the Group recommends that there be consideration given to lowering the voting requirement for by-laws (whether just for certain types of by-laws or all by-laws) so that corporations could pursue higher standards than the prescribed minimums, in the spirit of best practices.</p> <p>However, the Group also recognizes that in considering changes to the threshold that there is a potential for abuse by rogue Boards or rogue groups of owners if the threshold is reduced too much.</p>

WORKING GROUP ISSUE FORM #Cc

Working Group:	Governance
Issue/Problem Statement:	Directors and Officers: Terms

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 16 - "Inexperienced Directors"</p>

Context for Discussion:

Desired Outcome	Have corporations run by qualified, dedicated directors.
Current Status How is this issue currently addressed (if at all)	<p>Sec. 31 of the Act provides that except directors appointed to the first board of directors under subsection 42(1), a director is elected for a term of three years or such lesser period as the by-laws may provide.</p> <p>Typically the by-laws set up staggered terms for the first elected Board (e.g. one for 3 years, one for 2 years, and one for 1 year, etc.) and then as each term expires the subsequent elected position is for 3 years, thus ensuring a staggered replacement and avoiding a whole board of novice, first-time directors being elected. Some corporations have set lower terms in their by-laws (e.g. 2 year terms and not 3), but this is less common</p> <p>Corporation can pass a by-law under subsection 56(a) to deal with terms of directors.</p>
Guiding Principles Key objectives and values	Continuity and good governance of the corporation.

Considerations	<p>Is it important to prevent a Director sitting for many years (there are some cases where the same person had been a sitting Director, and even President, for 20 - 25 years).</p> <p>Long term continuity of governance, effective transitioning, and the transfer of knowledge and history of governance of the corporation versus abuse by Directors who manipulate the election process to stay in power (for whatever reason).</p>
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Options and Recommendation:

	Options:	Pros:	Cons:
1.	Reduce or increase minimum number of years for a Director's term		
2.	Restrict maximum number of years or terms that a Director can sit (e.g. American Presidential two-term maximum)		
3.	Mandate a cooling-off period or time during which a director cannot be elected again (e.g. after X number of years as director, cannot be re-elected for Y years/terms), but not a prohibition from ever running again		
4.	Leave status quo which would still allow for by-law		
5.	Mandate minimum terms for Officers		

Recommendation:	<p>No change - leave status quo.</p> <p>Group discussed at length and decided that status quo should be maintained. Provisions of the Act should be left as is, no need to fix</p>
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	any problem or make any change
Recommendation Rationale:	<p>Generally believed that this is not a large enough issue to warrant a legislative change, and thus should be left to individual corporations to deal with by means of a by-law.</p> <p>Group felt that since Officers are appointed/elected by the Board, and thus could be removed by the Board (not owners), then it was not necessary to mandate any restrictions or conditions on the terms of Officers (i.e. not an issue).</p>

WORKING GROUP ISSUE FORM #Cd

Working Group:	Governance
Issue/Problem Statement:	Directors: Owner-Occupied Elected Position

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 16 - "Inexperienced Directors"</p>

Context for Discussion:

Desired Outcome	Reduce confusion over this position, and reduce complexity and problems of administrating the election of this position.
Current Status How is this issue currently addressed (if at all)	<p>Subsection 51(6) of the Act provides that if at least 15 percent of the units are owner-occupied, then no persons other than the owners of the owner-occupied units may elect a person to or remove a person from one of the positions on the Board.</p> <p>"Owner-occupied unit" means an owner who is entitled to vote at a meeting where the unit in question is used for residential purposes, and the owner has not leased the unit within the 60 days before notice of the meeting is given.</p> <p>This is the most misunderstood section of the Act, as most owners misinterpret it to mean that it refers to the qualification to be a director and not to those who can vote for one position in the Board.</p> <p>This leads to increased and more complicated administrative and election processes, including proxies, because at some meetings two elections will be held.</p>

Guiding Principles Key objectives and values	To ensure that owners have proper and adequate representation on the Board.
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Options and Recommendation:

	Options:	Pros:	Cons:
1.	Eliminate the owner-occupied elected position	Simplify the election of directors	None that can be determined, as perceived problem that the position was designed to protect against does not exist in the industry
2.	Status quo	None that can be determined as perceived problem that the position was designed to protect against does not exist in the industry	Too confusing, as people think it refers to the candidate, not the owner. This position has not solved any problems and creates administrative ones at meetings; does not seem to be necessary

Recommendation:	Eliminate the owner-occupied elected position provisions. Excellent discussion with Group. After clarifying the common misconception of the meaning of this provision (see Current Status above), unanimous agreement was reached that this requirement should be abolished.
Recommendation Rationale:	Was either: (a) The wrong intention of legislative drafters in the 1990s for the provision (i.e. what government meant to do was to make it a

	<p>qualification of being a director that you, or at least one candidate, had to be an owner-occupier);</p> <p>(b) Or the provisions were introduced to prevent or stop a perceived problem (developers controlling a Board after turnover).</p> <p>But 14 years later, experience has shown that this problem has not arisen or at least so rarely that it does not warrant the need for this provision (i.e. the increased confusion and complexity of director elections, including proxies).</p>
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WORKING GROUP ISSUE FORM #Ce

Working Group:	Governance
Issue/Problem Statement:	Directors and Officers: Director’s Code of Ethics

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 16 - “Inexperienced Directors”</p>

Context for Discussion:

Desired Outcome	<p>Increase accountability of Directors.</p> <p>Directors to have better education and awareness of the basic standards and conduct expected of them.</p>
<p>Current Status</p> <p>How is this issue currently addressed (if at all)</p>	<p>There is no “Code of Ethics.”</p> <p>Act provides for conflicts of interest situations (see section 40).</p> <p>Section 37 of the Act stipulates the “standard of care” for Director, the breach of which could, unless they relied on professional advice, make them liable (e.g. negligence). Basic standard of care is: (a) to act honestly and in good faith; and (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Also enlarged by courts to include acting “in the best interests of the corporation.”</p> <p>There is no provision or standard dealing with such matters as breach of privacy, confidentiality, attending meetings, etc.</p>
Guiding Principles	<p>Ensure Directors participate in the Board, and act in accordance with a basic standard of civility, professionalism; adhere to certain principles of honesty,</p>

Key objectives and values	confidentiality, privacy; serve with the best interests of corporation in mind, etc.
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Options and Recommendation:

	Options:	Pros:	Cons:
1.	Mandate minimum standards for a Code of ethics, whether in the statute or in the Regulations. Breach would thus be a ground for disqualification		If grounds for disqualification, it will be too prone to abuse
2.	Encourage/mandate as “best practices” and not as a legislated Code		Not strong enough to assist innocent/good Directors or owners against rogue Directors or rogue Boards
3.	Add to the listed categories of “Standard of Care” in section 37 of Act		
4.	Status quo		Some Directors, Officers, and Boards abuse their positions, act improperly, and work against best interests of corporation, and it is very hard for good Directors or owners to take any action to discipline or remove the bad Director or bad Board

Recommendation:	<p>Directors and Officers</p> <p>(1) There should be a Code of Ethics, which must be clear, simple and unequivocal.</p> <p>(2) Form and wording of the Code should be prescribed under the Regulations (this will show that it has been independently prepared and decided upon, and also make it easier to change in the future) and thus not attributable to a source (stakeholder group, etc.).</p>
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	<p>(2) Code should be <u>added</u> to the Standard of Care provision for directors and officers, in the Act (presently section 37), and not enshrined in Act as a standalone requirement/obligation or a grounds for disqualification.</p> <p>(3) The prescribed wording of the Code of Ethics cannot be altered in a by-law, etc. of the Corporation</p>
<p>Recommendation Rationale:</p>	<p>There should be a minimum standard. This should be simple, or otherwise could lead to abuse.</p> <p>Interpretation issues: needs to be <u>clear and simple</u>; concern that it may not be practical.</p> <p>If required/allowed, must include a confidentiality requirement, which is a pro for having it as well. There is also the downside that if such a requirement is grounds for disqualification it will be too prone to abuse.</p> <p>A very clear, simple and unequivocal Code that has been prepared and implemented by an independent third party (i.e. government), which cannot be altered by a corporation through a by-law, will set a good standard for Directors. They will have to have read it, sign it, and thus have knowledge of the bare minimum that will be required of them (e.g. confidentiality, privacy, etc.). Directors will also be aware that the breach of a provision of the Code will be grounds for a civil claim against them (and in certain cases might even result in them not having coverage under the Corporation's Directors and Officers insurance policy).</p>

WORKING GROUP ISSUE FORM #Cf

Working Group:	Governance
Issue/Problem Statement:	Directors and Officers: Mandatory Attendance of Industry Professional at Board Meetings

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 16 - "Inexperienced Directors"</p>

Context for Discussion:

Desired Outcome	Highest and best quality decisions being made by a Board, all in the best interests of the owners and corporation.
Current Status How is this issue currently addressed (if at all)	No such requirement. Under subsection 27(1), it is the Board that shall manage the affairs of the corporation. Subsection 27(2) states that the board shall consist of at least 3 persons or such great number as the by-laws may provide.
Guiding Principles Key objectives and values	See desired outcome.
Considerations	Directors are volunteers and usually unpaid (in most cases, nor do most receive honorariums). On the whole, they are dedicated, hard-working and caring, working in the best interests of the corporation and all owners (recognizing, of course, that there are also some bad or rogue directors).

	However, although well-meaning, often these individuals lack any specific skill sets for managing a condominium corporation, which in many cases has millions of dollars in assets, operating budgets, and reserve funds.
Long-Term Implications	Who would provide this service? Who pays for it? Liability of the professional director?

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Mandate attendance by an industry professional at all, or some, Board meetings	<p>Second set of “eyes” for decisions.</p> <p>Help guide inexperienced boards and boards where the directors do not have sufficient knowledge or skills to manage the corporation, and thus avoid problems and pitfalls in future.</p>	<p>How to define who is an “industry professional? How to limit their liability? Could be both costly and onerous.</p>
2.	Status quo - Leave for Corporations to deal with in their by-laws		

Recommendation:	<p>Group agreed that this should <u>not</u> be mandatory in the legislation and should be left for the corporation’s by-laws, as mandating would be too costly and too onerous, especially for those corporations that may not need it.</p> <p>However, group did feel that this should be reconsidered under issue form #C (self-managed corporations).</p>
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WORKING GROUP ISSUE FORM #Cg

Working Group:	Governance
Issue/Problem Statement:	Directors and Officers: Self-Managed Condos

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 16 - "Inexperienced Directors"</p>

Context for Discussion:

Desired Outcome	That the option exists for condo building to become or remain self-managed (without the need for professional management).
Current Status How is this issue currently addressed (if at all)	Dealt with on an ad hoc basis. Some buildings are self-managed and are run very well.
Guiding Principles Key objectives and values	Issues are similar to those identified under other categories dealing with Directors. However, for the self-managed building there are added administrative duties that would otherwise be carried out by a manager. Recognition that Directors may receive an honorarium, but not payment/income/salary, as this would place them in the category of manager, which would require them to be licensed under the new Act.
Considerations	Insurance premium for Directors of self-managed buildings may be higher than those of buildings administered by property managers, but this is something that the insurance agents and marketplace should determine.

	The Working Group debated whether Directors of self-managed buildings should be required to bring in other professionals to assist in their tasks and duties. The group determined that this should not be made a mandatory requirement, but could be “discussed in detail” as part of the training of these Directors.
Long-Term Implications	There should be an option for condos to remain or become self-managed. There may be a need for Directors of self-managed buildings to obtain more training than the minimum 3-hour training identified for other condo Directors.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Possible additional training for Directors of self-managed buildings	Highlight and describe/delineate the administrative and other duties that would fall to the Board, by virtue of not having a professional condo manager	

Recommendation:	Possible additional training (beyond the 3 hours that was identified for first-time Directors of condo buildings, and one-hour training for all current Directors under the new Act).
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WORKING GROUP ISSUE FORM #D

Working Group:	Governance
Issue/Problem Statement:	Owner's Rights and Responsibilities/Charter: Yes/No/Content

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 19 - "Define a Statement of Rights and Responsibilities"</p> <p>Owners are increasingly disengaged. Solutions need to be found to help owners, residents and tenants get re-engaged. This would improve the condo community. Could include information about governance of the corporation, the importance and role of the condo Board, the purpose of an AGM, the role of management, the obligations of an owner, etc.</p>

Context for Discussion:

Desired Outcome	<ul style="list-style-type: none"> ● Find measures to assist with owners, tenants and residents becoming re-engaged in all aspects of the condominium community. ● To re-build trust between the corporation and residents. ● Reduce the "us vs. them" mentality between the board and owners/residents. ● Improve transparency of governance.
Current Status How is this issue currently addressed (if at all)	<p>Owners, tenants and residents do not understand that in living in a condominium community, the quality of life they enjoy comes with certain restrictions and obligations.</p> <p>The Act currently provides no specific means or obligation to empower or educate residents of these rights, obligations and restrictions.</p>
Guiding Principles Key objectives and values	<ol style="list-style-type: none"> 1. Education of Residents and Boards. 2. Establishing a harmonious community through such solutions as: <ul style="list-style-type: none"> ● define a statement of rights and responsibilities ● give owners more voice ● cultivate the right governance culture ● support stronger social relationships

Considerations	<ol style="list-style-type: none"> 1. Who would draft and pay for any form of charter or document? 2. Simple language, preferably no more than one-page. 3. Should the document break new ground, or have content which is not otherwise in the Act, regulations or corporation's documents? 4. Should the document contain generic content and/or specific elements related to that particular project? 5. Education to purchasers and existing owners. 6. Should the charter be legislated or a best practice? 7. This issue is a crosswalk with consumer protection education to purchasers.
Long-Term Implications	If a successful document, it will assist in increasing the awareness and knowledge of condominium purchasers, owners, residents and boards of directors which ultimately could result in a reduction in disputes and a harmonious community.

Options and Recommendation:

	Options:	Pros:	Cons:
1.	Legislated statement of rights and responsibilities.	<ol style="list-style-type: none"> 1. Forced training of the guiding principles set out above. 2. A more formal sanctioning of the content. 3. Owners would interpret the statement as arms-length. 	<ol style="list-style-type: none"> 1. Potential for lip service. 2. Might be difficult to create a generic statement of rights and responsibilities for all corporations.
2.	Best Practices statement of rights and responsibilities.	<ol style="list-style-type: none"> 1. Potential for higher real acceptance of the principles. 2. Might be more tailored for individual corporations. 	<ol style="list-style-type: none"> 1. Might be interpreted as being too biased toward the board.
3.	Status Quo.		Continued disengagement of owners, mistrust of boards, and continued disputes concerning of owners' rights and obligations.

<p>Recommendation:</p>	<p>Owners' Rights and Responsibilities/Charter</p> <p>1. Owner's statement of rights and responsibilities recommended by group.</p> <ul style="list-style-type: none"> ● Simple, one-page document reinforcing that the condominium community is governed by an implied community contract of rights and responsibilities. ● Not to cover anything that is inconsistent with the corporation's documents, the Act, regulations, or declaration. ● A generic statement, not project specific (motherhood statement). This document might contain references to the Act and corporation's documents to encourage individuals to acquaint themselves with these documents (e.g. owners have certain obligations of maintenance and repair). ● This statement of rights and responsibilities should be legislated, and not just a sector best practice. ● Can mandate a number of delivery mechanisms, including combinations such as: 1. posting in foyers; 2. disclosure statement or addendum to the Agreement of Purchase and Sale; 3. status certificates; 4. AGM package; 5. corporation's website (if exists); 6. and ministry website. ● Consideration that statement be a signed copy by the Minister. <p>2. Statement of rights and responsibilities for directors and officers.</p> <ul style="list-style-type: none"> ● If possible, combined with an owners' statement of rights and responsibilities, i.e. a single, shared document.
<p>Recommendation Rationale:</p>	<p>We believe this recommendation would be a useful tool in achieving the desired outcome set out above for the reasons set out in the recommendation.</p>
<p>Notes:</p>	<ul style="list-style-type: none"> ● One dissent that there should be such a statement and two participants indicated it could not hurt to have a statement. ● Dissenting view that such a document could be dangerous and subject to abuse. ● Dissenting view that it should only be on ministry website and not part of legislation.

WORKING GROUP ISSUE FORM #Ea

Working Group:	Governance
Issue/Problem Statement:	Fines: Owners/Occupants

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 17 - “Fines to Enhance Accountability”</p> <p>Allowing for fines to enhance accountability of a breach by owner or resident.</p>

Context for Discussion:

Desired Outcome	<ul style="list-style-type: none"> ● Enhancing compliance of community members with the community contract ● Giving the Act more “teeth”
Current Status How is this issue currently addressed (if at all)	<ul style="list-style-type: none"> ● Act is silent on ability to impose fines/penalties. ● Distinction is difficult between legitimate chargebacks of costs versus penalties/fines for breach. ● Some corporations impose penalties/fines (not chargebacks) via rules or by-laws.
Guiding Principles Key objectives and values	<ol style="list-style-type: none"> 1. A mechanism to enhance compliance with the community contract, but must be above reproach, fair, and equitable. 2. Other owners of the community should not bear the problems of a breaching owner/resident.
Considerations	<ol style="list-style-type: none"> 1. Must be reasonable, fair and equitable. 2. Subject to abuse, so checks and balances must be in place. 3. Favouritism/retribution by boards is possible. 4. Chargebacks are dealt with by the Finance Working Group.

Long-Term Implications	<ul style="list-style-type: none"> ● Aggregate effect was seen as too negative in terms of maintaining community contract vs. individual enforcement ● Serious concerns expressed about the long-term negative repercussions (see pros/cons above)
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Options and Recommendation:

	Options:	Pros:	Cons:
1.	Fines/Penalties (not chargebacks) legislated in the Act and corporation’s documents.	See guiding principles above.	<ol style="list-style-type: none"> 1. Too great a risk of abuse (see considerations above). 2. Divisive and contrary to the community concept.
2.	Legislatively prohibit fines/penalties (not chargeback).	Increased clarity, which will prevent rogue boards from doing indirectly that which they can’t do directly.	<ol style="list-style-type: none"> 1. Ties the hands of good corporations, as it does not provide boards enough flexibility with enforcement tools. 2. If not clearly defined, there may be interpretation issues.
3.	Legislatively permit chargebacks and/or user fee for exceptional services (e.g. extra garbage). This is also a Finance Working Group crosswalk in their issue guide.	<ol style="list-style-type: none"> 1. Ensures innocent owners are not paying the cost. 2. Helps clarify collective vs. individual responsibilities. 3. Clarify and provide certainty to an existing practice. 4. Most closely matches the balance within the envisioned roles and responsibilities of the community contract. 5. Gives Act more “teeth” at a defensible level. 	Unless clearly defined, could be subject to abuse.

<p>Recommendation:</p>	<ul style="list-style-type: none"> ● Not to legislate fines/penalties (as opposed to chargebacks). ● Although not decided formally, given the strong opposition to fines/penalties, consideration should be given to prohibition of fines/penalties. ● **Should legislate the right of the corporation to chargeback to owners a cost for future exceptional services (i.e. a form of user pay). ● Group recognizes that defining exceptional services will be critical. ● **Legislate to clarify right of corporation to chargeback to owners costs incurred.
<p>Recommendation Rationale:</p>	<p>See pros and cons above.</p>

WORKING GROUP ISSUE FORM #Eb

Working Group:	Governance
Issue/Problem Statement:	Fines: Directors/Officers

Stage One Findings (summary):

<p>Stage 1 Findings Report - pg. 19 - "Fine to Enhance Accountability"</p> <ul style="list-style-type: none"> - Same as Owner/Occupant Fines Issue Form
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Context for Discussion:

Desired Outcome	- Mechanism for ensuring accountability of directors for breach of their duties
Current Status How is this issue currently addressed (if at all)	- Act is silent on fines/penalties against directors/officers personally - Act does provide accountability for breach of standard of care, e.g. liability, damages, etc.
Guiding Principles Key objectives and values	- Solution has to be a workable one, and not subject to abuse - Must be able to apply an objective standard (as opposed to subjective)
Considerations	- Same as items 1 and 2 under Owner/Occupant Fines Considerations box - For internal application, issue of who decides if there has been a breach and then imposes fine/penalty, i.e. who makes it happen? - Impact on obtaining volunteers to act as directors/officers - Should it be an internal or external system?

Long-Term Implications	- Same as Owner/Occupant Fines issue form
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Options and Recommendation:

	Options:	Pros:	Cons:
1.	- See item 1 in Owner/occupant Fine issue form for options and pros and cons		
2.	- See item 2 in Owner/occupant Fines Issue Form for options and pros and cons		

Recommendation:	<ul style="list-style-type: none"> - No legislated fines or penalties for directors/officers - Need for a mechanism to hold directors/officers accountable for certain acts/omissions, by an external authority (e.g. court, condo office, etc.) - Personal liability of Directors should be added to a statement of rights and responsibilities/Charter of Directors/Officers.
Recommendation Rationale:	<ul style="list-style-type: none"> - Much discussion on hornet's nest of issue concerning possibility of internal mechanisms to fine directors and officers. - Same as Owners/occupants issue fines form