



Ontario's Condominium Act Review
Response to Stage Two Solution Report
November 8, 2013

'New Era of 'Openness'

"We need to make information easier to find, understand and use, so that we can design services that deliver better results to the people of Ontario. We must also unlock public data so that you can help us solve problems and find new ways of doing things"

Ontario Premier Kathleen Wynne – Toronto Star
October 21, 2013

All comments and opinions within this response report are regarding both the Finding Report (Stage One) and the Solutions Report (Stage Two) of the Condominium Act Review in conjunction with my November 14, 2012 First Stage Submission (attached herein as Appendix 'B').

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The following submission was written, in part, to provide my comments to the Resident Panel prior to the issuance of their report. It was my understanding that the Resident Panel would be published after the public comment period had closed (ending November 8, 2013), and would consider all of the public's suggestions and feedback. On November 6, 2013, prior to the public comment per end date, the Resident Panel issued their final report. Based on the foregoing, the contents of this submission will not be read by the Resident Panel prior to the Final Report.

I am disappointed that the Final Report was not written with consideration to all of the public's comments and suggestions. With that being said, I am sincerely thankful for the efforts of the volunteers that comprised the Residents Panel. Your contributions are appreciated by all concerned. Thank you very much!



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1.0 THE OPPORTUNITY

At the beginning of the Review Process, I prepared a submission with respect to the First Stage on the Condominium Act Review. In this submission, I stressed how fortunate condominium owners were to be given this unique opportunity for change and mentioned that it will be at least a decade before this opportunity is made available again.

I identified that condominium owners have never taken advantage of the strength and power that they could obtain by becoming a united force. Furthermore, I noted that if the lack of participation by owners within their individual condominium corporation is an indication, the benefit of being a united group will likely go untapped.

Regrettably, the ongoing Condo Act Review Process has yet to acknowledge or take advantage of putting forth a united front. I place blame of this oversight directly on the overbearing participation of condominium industry service providers in the Review process, more specifically, the Second Stage. I remain hopeful that the Residents Panel as well as the Ministry's Officials on their review of the Stage Two Solution Report will observe the many concerns which will be included in the following response.

I have approximated the following four points to illustrate the sheer size, and the potential for power, of condominium owners in Ontario:

- Condominium owners own \$147.5 billion of real estate, which is ten (10) times more than our Canadian Pension Plan (CPP) real estate portfolio and almost equal to the total equity of our CPP of \$165,000,000,000. (590,000 units X \$250,000/unit = \$147,500,000,000)
- Through their condominium corporations, condominium owners purchases \$2.8 billion worth of private goods and services annually from local and provincial businesses. (590,000 units X \$400 monthly common element fees x 12 months = \$2,832,000,000 annually)
- Condominium owners pay approximately \$1.8 billion in property taxes. (590,000 units X \$3,000 annual property taxes = \$1,770,000,000)
- Condominium owners have approximately \$2.5 billion in reserve funds. (According to the Stage Two Solution Report)

These points underscore the strength of this group should condominium owners unite.



2.0 MY INVOLVEMENT IN THE CONDOMINIUM UNIVERSE

After working as a frontline condominium manager from 1984 to 2011, I now focus my expertise on condominium consulting. Over the duration my career to date, I have had direct involvement in over 500 Annual General Meetings, and 2000 Board/Committee meetings. With consideration to my experience and relevant accreditations, I feel I can make valuable recommendations for the overall wellbeing of the condominium ownership experience.

Please refer to **Appendix 'A'** for a copy of my biography.

I am currently working on a draft concept of a *Condominium Operational Program* which may or may not mimic the future condominium Act. This concept is called "Condo-Ology®" and the trademark Condo-Ology® is owned by my firm Thomas William LePage Management Inc.

The current Condo-Ology® draft mission statement is:



"To establish a Condominium Corporation Operational Program that has the flexibility to meet the uniqueness of each Condominium Corporation. The Program must be engaging, understandable, easily implemented, exceed or meet government legislation and must include mandatory and recordable ongoing and annual checks and balances for transparent accountability."

3.0 THE REVIEW PROCESS – THE IMPORTANCE OF THE RESIDENT'S PANEL

I would like to express my sincere appreciation to all of those participating in the review of the Condominium Act of Ontario especially to those on the Residents Panel. In my original submission for Stage One I had expressed a concern that at the end the day, the personal agendas of the selected participants from the various condominium service stakeholders may prevail with little consideration of the condominium public input. Now with the Stage Two Solution Report complete, my concern has grown.

In my Stage One submission I stated that Armand Conant, who heads up the condominium law department for the law firm of Shibley Righton LLP and, also refers to himself a court appointed condominium administrator, could be perceived as a conflict of interest by being



appointed to the Advisory Group to the Ministry. At the time of appointment, Mr. Conant was the Past-President of the Canadian Condominium Institute (Toronto), where he continues to serve on the Board of Directors and is Chair of the Legislative Committee. Under Mr. Conant's leadership the committee submitted an extensive legislative brief to the Ontario government with a recommendation for changes to the Condominium Act. Furthermore, Mr. Conant is also a Co-Chair of the joint ACMO and CCI (Toronto) Government Relations Committee and a member of CCI National's Government Relations Committee.

In addition to the above, I have learned that since the Review began Mr. Conant has also been selected to the Expert Panel; the Team Co-Lead for the Governance Working Group; and a member of the Dispute Resolution Working Group.

The above mention of Mr. Conant as an illustration of perceived conflict of interest is strictly an example because of his overwhelming participation in the review process. I do not know Mr. Conant professionally or personally.

I feel that the following notes on this issue are especially relevant.

- The Advisory Group of 8 has 50% retired or practicing condominium lawyers.
- Out of 68 participants' positions (excluding the Residents Panel) available on the various Panels and Groups, 28% were lawyers.
- Of the 12 participants of the Expert Panel, 75% are either members (or their firms) of either CCI or ACMO; 58% are members of ACMO.
- Zero (0) front line condominium managers were selected to be directly involved in the Review.

Based on the forgoing, it is obvious that the Resident's Panel and the MCS are very important in the public engagement approach of revamping the current condominium legislation. The Resident's Panel and MSC will need to independently, without outside influence, consider the various recommendations from both the Findings and Solution Reports and determine what is best for all condominium owners. All other stakeholders and service providers' interests should remain secondary.

According to information available to me, in the near future the Residents Panel will be meeting for the last time to review and give their comments on the Stage Two Report. After which, government officials will draft an action plan for implementing the recommendations and the public comments. Once the action plan is complete, condominium residents and other



stakeholders will have an opportunity to review.

While I respect the need for a preset timeframe in order to prevent stagnation, in this case, there remain too many unknowns for the Residents Panel to comment on.

It should also be noted that there are items from the Stage One Findings Report that were not addressed in the Stage Two Solution Report. Furthermore, the Stage Two Solution Report included new items that had not identified in the Stage One Findings Report.

The Residents Panel is the only strong voice for the condominium residents and the engagement approach value will be lost if the unknown are determined by others. It is my belief that the Residents Panel should be called upon once more to assist the condo residents in analyzing the draft action plan once completed by the government officials. I believe that their valuable input will greatly assist with the success of the Review.

4.0 CONSUMER PROTECTION

4.1 Reducing Owners Participation in Authorizing Substantial Change

This recommendation was noted under the heading of 'Financial Management' within the Stage Two Report, however it is clear that this recommendation, which was not identified in the Stage One Findings Report, belongs under the heading 'Consumer Protection'.

It is imperative that the Act protects condominium owners and ensures that a condominium corporation's physical structure, amenities, services and financial obligations remain relatively status quo. Rather than lowering the percentage, to ease the substantial change procedure, greater effort or additional recommendations should be made to increase owners' engagement.

The recommended 66.6% approval of either 25% or 33.3% of attendees (persons/proxies) at an owners meeting is a recipe for disaster.

This would mean that a substantial change to a condominium corporation could be approved by a minimum of 17% to 22% of the total owners.

This recommendation is contradictory to one of the most crucial common concerns raised during Stage One of the review process, that being; many condominium owners feel that they have no real power over the decisions and actions of boards and managers. It is also of note that in Stage One the requirement for 66.6% of all owners confirmation for substantial change



was never considered an issue that needed addressing – so why now?

Even if the recommendation was to be 51% of all owners, I would still raise concern because I believe that 51% is not sufficient to make a substantial change to a condominium corporation. The Act must protect what owners originally purchased, anticipated and financially planned for.

The current Act requires 66.6% agreement of all owners, which is both democratic and fair. I acknowledge that this percentage is very difficult to achieve, it takes time and effort, but if the owners (via Board of Directors) want a substantial change to their condominium corporation then they, along with their condominium manager, must educate and engage all owners in order to obtain the 66.6%.

As a condominium owner and as a past front line condo manager, I have always felt the current 66.6% protected all owners. As a manager, once the 66.6% was achieved, I was comfortable with carrying out the various tasks at hand. I also felt confidence when dealing with any disgruntled owners because the majority of owners supported the decision. The change was brought about in a democratic manner, which is the corner stone in an equitable society.

The average size of a condominium corporation in Ontario is 70 units. Assuming the recommendation is incorporated into the new Act, a substantial change for the average condominium corporation could be implemented based on the confirmative votes of 12 to 16 owners, while the current Act would require the approval of 47 owners.

4.2 Standardization of Documents

The Stage Two Report recommendation to standardize various documents is excellent, but I would add additional items that require standardization. It is critical that the adopted standards are prepared by the Condo Office and are easily understood by all. The list of items should be:

- Easy to Read (no references to the Act) Dictionary of Condominium Vocabulary
- Various Bylaws Wordings
- Rules and Regulations Wordings
- Proxies
- Reserve Fund Studies
 - Reserve Fund Methodology
- Status Certificates
- Audits



- Letters of Engagement (owners approval required) including the following:
 - Auditors (existing)
 - Lawyers (new)
 - Reserve Fund Authors (new)
 - Manager (needs to be further investigated)
- Management Agreements

Standardization allows the ability to tie the various aspects of condominium corporations operations into a logical cohesive plan. Without standardization teaching can only be conceptual. The practicality of teaching a specific standard cannot be underestimated.

4.3 First Years Reserve Fund Contributions

The current recommendation from the Report is incomplete. I am assuming this is because of the complications in determining an accurate percentage as a result of the various physical attributes of condominiums.

I do not believe the Review should be bogged down with the more complicated requirements and I do believe that the future legislation should be straight forward.

I would suggest that developers use 40% of the first year operating budget as the annual contribution, unless the developer prepares a reserve fund study (which becomes part of the condominium documents) that specifically states the first year reserve fund contribution. Better still, the Act should make it mandatory that all developers provide a comprehensive reserve fund study to determine the first year's contributions.

4.4 Status Certificates

I am pleased with the recommendations to make the Status Certificate more relevant and easier to understand. I continue to have issues with the following.

4.4.1 Ten Day Time Frame

A condominium, for the average individual, represents their largest investment and to delay the process in purchasing, selling and mortgaging for a condominium for 10 days is not warranted and represents poor customer service.

4.4.2 On-Line Delivery

Technology has made the preparation and delivery of online status certificates efficient and is



a great tool for many situations and the industry, as a whole, is fully supportive of this technology. Unfortunately, this practice is contrary to what I recommend to those seeking to purchase a condominium. I strongly advise that not only should the purchaser pick up their own hard copy status certificate, they should also do their own ordering. This is the only opportunity a purchaser may have to engage and evaluate the manager/management company service prior to buying.

4.4.3 Costs

Regardless of the cost of \$100.00 or \$125.00 in most cases the Status Certificate is the first cost applicable to a future condo owner. Many management firms are now charging more than the clearly stated amount of \$100.00 and this has to stop. Some companies will charge \$100.00 but have an additional (20% to 40%) premium dependent of the urgency. The new Act must stipulate the exact costs including electronic delivery.

The funds received for the status certificates should be paid to the party (management firm or condominium corporation) who signs the certificate, as they should be taking on 100% of the liability of the accuracy of the certificate.

4.4.4 Realtor Relations

Who better to promote and to enhance a manager and their Corporation(s) reputation than Ontario's 50,000 local Realtors.

Realtors played a very important role in my successful career as a manager. The local Realtors knew the neighborhood condominium market, the current trends and were always willing to share their knowledge so I could adapt and keep the directors apprised of the real estate market etc.

I freely shared information and had an open door policy for any Realtor and their prospects seeking answers. This time spent not only assisted the local Realtors, future owners and existing owners, it also assured that I would soon have well informed new owners.

I think it is very important that when a Realtor calls for the confirmations of monthly condo fees for a particular unit management should also provide an electronic version of the following documents:

- Rules and Regulations
- Corporations most recent Audited Statement
- A Full Reserve Fund Study



Obviously this would not be necessary if the corporation has a public web site with this information available.

These documents will assist with general education as well as save valuable time for all parties involved.

5.0 FINANCIAL MANAGEMENT

5.1 Financial Accountability

The most important aspect for successful condominium operations are prompted, accurate and easily understood monthly financial statements with comparisons to an approved budget.

There were various recommendations which I found to be unnecessarily confusing, specifically, the introduction of a financial term which I am not familiar with: 'off-budget spending'. I have tried to research the definition of this term with little success. One of the main concerns in Stage One was the complexities of terms used and the last thing the condo public needs is the introduction of newly created terms.

5.1.1 Management by Numbers

Financial statements are the mandatory monthly reporting of the manager.

It is extremely important that all directors (not just the treasurer) understand the information contained within the financial statements. It is the manager's job to teach those directors, or owners, who feel they are lacking in accounting skills. This will require patience. If this task is difficult, I would conclude the financial software is not sufficient and that a replacement should be investigated, even if it means changing management.

The financial statements are not just beneficial to the directors and owners, the statements are the most valuable tool for the manager. Not only do they assist with monthly monitoring of performance they are a protection against any allegations of misuse of the corporation's funds.

Over my career, any owner requesting a copy of the monthly financial statement would be given one with no objection or hesitation. Once electronic versions were possible a monthly copy would be delivered automatically at the same time the Board was sent theirs.



Financial accountability is extremely important; therefore, financial statements should be shared with owners who have an interest in their corporation's financial health.

5.2 Substantial Change without Owners Approval

The various recommendations under this section seem unnecessarily confusing especially since the objective should be to engage all owners to participate. I would suggest any additions, alterations or improvements to the common elements under 3% of the condominium corporation's typical annual budget be approved at the corporation's annual general meeting or an owner's special meeting by a simple majority.

The cost of the initiative must be budgeted or it cannot proceed.

In the case where the change is required under law i.e. wheelchair ramp, the condominium corporation has no choice but to proceed without notice and if necessary, due to time restraints, the reserve funds can be used.

5.3 One Reserve Fund Methodology

Many participants of the Review may not realize that in Ontario many individual engineering firms' methodology for the preparation of reserve fund studies varies from the Real Estate Institute of Canada standard (CPR - Certified Reserve Planner). The CRP program is simply education specific to reserve fund studies. Outside of this education, there is no meaningful standard education related to reserve fund studies in Canada. The Association of Professional Engineers of Ontario is currently working on their own acceptable methodology but it will not apply to non-engineers.

It is my understanding that the key variances between the methodologies is a result of the difference between the sinking fund analysis method vs. cash flow basis (adequate) fund analysis method in determining requirements for annual contributions. The explanation of these variances is best left to those that have the expertise.

In the best interest of the condominium owners, there should be one standard of reserve fund studies including, the required calculation methodology.

I would recommend that the new legislation adopt one methodology and that the logical choice would be the national standard supported by the Real Estate Institute of Canada (REIC) for several reasons:

- The methodology has been standardized across the country through REIC.



- Engineers can embrace the methodology and many across Canada, including Ontario, have done so.
- As far as I know, the engineering community has not finished their own standard and once completed it will only apply to engineers.

The Real Estate Institute of Canada has courses and designations educating both the professional reserve fund planner (CRP) and those seeking additional knowledge (ARP).

5.4 Using Reserve Funds for Energy Technology

Both ACMO and CCI have been pushing this idea, even before the official starting date of the review, and I have yet to understand why. It has been acknowledged by almost all participants of the Review that reserve fund funding and planning are critical to the financial well-being of a condominium corporation and at the same time it is being suggested that spending reserve funds for energy technology is acceptable.

Unfortunately, poorly managed reserves are the root of all financial evils of condominium ownership. Operational annual expenses are important, but they are the easiest to correct. In my opinion, the number one reason condominium corporations falter is a result of poor management of the reserve fund obligations.

My concerns with the above recommendation are outlined in the following discussion.

- The additional authority will be given to boards (while excluding owners) to use reserve funds for installing renewable energy technologies and other energy technologies without owners' approval.
- The suggested change is counterproductive to the Stage One Findings Report concern regarding inadequate reserve fund balances. Any funds removed from the reserve fund balance, which have not been contemplated, will immediately cause a financial shortfall for the replacements of existing components of the common elements.
- The other aspect to consider, the installed equipment must be immediately classified as a new component of the condominium common elements, so that funds can be set aside for eventual replacement.



Renewable energy technologies and other energy technologies can be extremely beneficial, not only for condominium owners, but for society in general. However, it is the manner in which the funds are raised that should be of concern.

There are currently numerous ways of raising funds for condominium corporations seriously considering the introduction of renewable energy technology for their communities.

Suggested funding for such an initiative would include:

- Special assessment - this would not be the number one choice but if there is a return on investment it is a viable option.
- Borrowing - if the borrowing costs can be covered by the savings generated.
- Contractor/installer participates - by accepting payments from the savings generated.
- Saving - save until you have the desired funds available.

5.6 Legislate Annual Reserve Fund Budgets

It is an unnecessary recommendation for boards to produce an annual reserve fund budget when every condominium in Ontario already has one – the recommendations within the Corporation's Reserve Fund Study. Boards should never deviate (some guidelines apply) from the recommendations according to the approved Reserve Fund Study, if it is necessary to deviate then a programmed update is necessary. This is the only way for all owners, directors, managers, study's author and auditors to monitor the corporations reserve fund requirements.

Suggesting that corporations wait until the annual audit reports that the reserve fund balance is 50% less than that the reserve fund study projections before involving the study's author is not a good idea for two extremely important reasons.

- The 50% can easily represent hundreds of thousands of dollars. A short fall of this magnitude will place the corporation in a huge deficit and could take years to recover from.
- The 50% guideline could be achieved in 18 months prior to the owners' receipt of the auditors reporting a deviation. By the time the reporting has occurred, it could be financially devastating.

The corporation's monthly financial statements must reflect reserve fund recommendations vs. actuals, no different than the financial monitoring/reporting of operating expenses.



I am assuming that the suggestion recommending budgets be included in the corporation's annual general package is in addition to the budgets being sent with the notice to the owners of new annual condominium fees.

Corporations should email all owners full budgets with commentary and mail a hard copy to those who have made the arrangements.

5.7 Annual Reserve Updates

I am adamant about the importance of third party annual reserve fund updates. Planning in advance for 10, 20 and 30 years can be an overwhelming task. Complicating things further, studies must be supported by an upwards of 60 plus directors and hundreds, if not thousands, of condominium owners in a given 30 year period.

In the event that the new Act does not legislate annual updates (timed with the preparation of corporations annual operating budget), it is my opinion that the future Act or the Regulations must incorporate the necessary wording for those condominiums that have or may commit themselves to annual updates.

Furthermore, I believe that the author of the study should play a larger role in the management of the condominium corporation reserves. I would go as far as to say that they should have the legislative duty to report irregularities.

Additional benefits of the annual update are:

- The update will educate the board, owners and the manager annually, and keep fresh the status and importance of the reserve fund study.
- The annual reserve fund update recommendations will become the annual reserve fund budget so any argument stating a reserve fund study is only a recommendation is eliminated.
- Once updating reserve fund studies annually is imbedded in the corporations procedural operations, the new board member's worst nightmare - finding out the reserve fund is totally inadequate - is eliminated.
- With this kind of current information, all owners can follow the management of the reserve fund on a continuous basis with the knowledge that an independent third party is monitoring.



- It forces the board, manager and the author of the study to work hand-in-hand to achieve ongoing reserve fund management accountability.
- The current interest and inflation rates would be adjusted annually and thereby eliminating the guesswork for these rates.

5.8 Investing / Borrowing

I agree with the current legislation requirements with regards to investments (for example, must be guaranteed, etc) and the recommendation to comingle funds with other condo corporations is just too complicated at this time. On the other hand, the new Act should include legislation pertaining to the quality of the financial institution/company from which condominium corporations may borrow funds. In my opinion, this is particularly relevant as some of these loans are exceeding millions of dollars and will affect the financial stability of the condominium corporations for decades to come.

I have had some experience in regards to condominium borrowing funds rather than raising funds through a special assessment. I continue to have a real problem with this practice. For the condominiums that do borrow funds, it could just be the tip of the iceberg. I assume that this option can be a necessary evil but borrowing should always be the last resort.

Borrowing millions of dollars is not something to take lightly. How many condominium managers or directors have any experience in dealing with such an important transaction?

The repercussions of making a mistake of this magnitude would be astronomical. I don't have any suggestions at this time, but I do think this is serious enough issue that it should be investigated.

5.8.1 Owners Option

According to the current Act, the repayment and interest of any funds borrowed by the condominium corporations paid by the owners is in accordance to the units' allocated percentage of the common elements.

Individual owners should be given a legislated opportunity to opt out of the Corporations loan obligations and be allowed to pay their unit's share up front.

There are many owners, especially retirees, who may have the funds available to cover their unit's percentage of the loan. It makes no sense to force an owner to pay for a loan, with a



non-deductible high interest rate on funds, which they do not require.

I know that condominium accounting software can deal with these situations.

6.0 DISPUTE RESOLUTION

6.1 Condo Office

I agree that the establishment of a Condo Office is necessary for the wellbeing of condominium ownership. With this, responsible oversight is needed to ensure that the Condo Office does not become an overly bureaucratic and costly organization. Furthermore, the Condo Office needs to be professionally controlled by condominium owners or a third-party organization that represents the best interest of condominium owners, and not by the dependent companies/industries that service condominium corporations. In addition, it must be clearly recognized that the condo owners will be funding a significant majority, and possibly all of operating costs, of the Condo Office.

6.1.1 Annual Operating Cost

The statement "modest levy on each condo unit" in the recommendation for funding should not be taken lightly. The average (70 unit) corporation in Ontario will be paying anywhere from \$840.00 to \$2,520.00 annually. It seems expensive especially when consider the majority of condominium corporation members are pleased with their condo unit and in the manner in which it is being managed. For this kind of money the Condo Office should have in-house lawyers to defend outlandish claims, continually make recommendations, investigate new technology etc.

6.1.2 Administration

The recommendation cited examples such as the Canadian Condominium Institute or the Association of Condominium Managers of Ontario as a basis for governance of the Condo Office. Given their dependent relationship with condominium owners, these two organizations have conflicts of interest that should negate their involvement as the custodian of the new Condo Office.

Similar to the organizational structure found in other Provinces and States, the Condo Office (or its equivalent) should fall under the jurisdiction of an independent regulatory body that oversees a large percentage of the real estate industry. In Ontario, the appropriate regulatory body would be the Real Estate Council of Ontario (RECO); if they will accept the challenge.



RECO is the logical choice for several reasons.

- Firstly, RECO is an established non-profit corporation that is experienced in administering regulations on behalf the Ministry of Consumers Services.
- Currently, RECO monitors and records the activities of 50,000 plus realtors and transparently reports complaints, and enforces compliance and discipline of all members.
- Lastly, RECO has experience in working with other associations and has an established qualified and professional in-house staff.

RECO is such a natural choice vs. CCI, ACMO, or the creation of a completely new organization. CCI or ACMO would be a questionable and confrontational choice.

As far as the internal Licensing Office, all noted responsibilities within the various recommendations for the License Office should be the responsibility of the Condo Office to determine how the best way to achieve the objectives of the recommendations.

6.2 Appointments of Court Appointed Condominium Administrators

In extreme situations of poorly managed condominium corporations, the provincial government has the authority to appoint a Court Appointed Administrator to act with the same authority as a board of directors.

The Court Appointed Administrator has a tremendous amount of responsibility. It is prudent to point out the following considerations with respect to the appointee:

- There are no prerequisites or qualification guidelines as to who would be a suitable candidate.
- Standardization of guidelines and objectives must be established.
- There is no list of pre-approved candidates that the courts or a board of directors can choose from.
- My best understanding is that the board of directors' legal representative will choose a candidate or personally take on the role themselves and then ask the court to approve the appointment.



The lack of proper vetting of qualified appointed administrators is not just a condominium industry responsibility, but that of the government as well.

The Condo Office is the appropriate choice to determine the qualifications for the Court Appointed Condominium Administrator and should provide the Courts a list of approved candidates. The lawyer on record (Condominium Corporation) should be prohibited from being the court appointed condominium administrator.

6.3 Mediation and Arbitration – Avoidance

Since the Review process began many condominium law offices have added mediation and arbitration to their list of services, as a result the goal to reduce the cost of such services has become more difficult. My best suggestion is 'Avoidance'.

There was a public Condo Town Hall hosted by MPP Dipika on October 23, 2013 (Mr. Armand Contant was present) and during the meeting (according to a summary by CondoMandness) the cost of mediation and arbitration are:

- Mediation - \$6,000 to the owner
- \$8,000 to the corporation
- Arbitration - \$12,000 to the owner
- \$21,000 to the corporation

My experience has been positive regarding the compliance of various restrictions/obligations. In my career I was never in the position where the Board of Directors and I were contemplating professional (third party) mediation or arbitration. I believe my experience would be similar to other managers who have experienced longevity with their clients.

Mediation is the foundation of quality condominium corporation operations. Condominium ownership and lifestyle is all about compromise - it has to be in a communal living situation.

7.0 GOVERNANCE

7.1 Owners Right to Information – What is Everyone Hiding?

There is something intrinsically wrong that this basic right of every owner needs to be addressed when the current Act is very clear on what documents cannot be distributed. All owners (unless the owner has been deemed a nuisance) must have easy access to all of the



corporations' records.

As far as cost I would suggest a manager could charge if the information was:

- Prior to the current management contract
- Over three years old

All costs should be calculated on a nonprofit basis.

7.2 Legislate Owners Mandatory Participation “The Community Contract”

The below excerpts are from the Stage One Findings Report.

- “The need for good rules, good tools and good directors, but good governance also requires something else. It requires good owners.”
- “Owners need to be prepared from the start to play productive roles in their condominiums.” We previously called this the community contract”

Make voting mandatory for all owners. This was recently done in Australia for general elections and turnouts have soared to 91% as a result. This idea was put forward by an attendee in Session One in Toronto.

This is the best idea I have heard since the review process began. It is an out of the box suggestion and it solved the concerns with respect to owners' apathy and it will continue to solve issues that have been raised during the review process.

I do not agree with Boards having the authority to fine owners, however, in the situation of mandatory voting a fine must be imposed on those not complying.

I have added a compromise that will eliminate any arguments for this suggested initiative.

Any owner who believes this suggestion is not fair can opt out however, opting out would result in their unit not having a vote or counted towards total number of units for voting outcomes.

What would this agreement be called? “The Community Contract”



7.3 Directors Education – Directors Direct, Managers Manage

Directors are to direct (via board of directors) and managers are to manage.

This is a Partnership.

I am not currently aware of a long term successfully run condominium corporation based on the sole efforts of a manager, management company or a Board of Directors. Long term success is only possible when both the manager and Board are offering mutual support working towards the benefit of all community members.

Every owner can be an efficient director given the right support from fellow owners, directors, condominium manager, reserve fund study author, corporation's lawyers and auditors. Along with the support, every director should be provided with the proper tools which would be the objective of a Condo Office.

There are many obstructions that can arise when trying to find suitable directors such as, unrealistic or undefined expectations that may have been created by past Boards of Directors and owners.

The more involvement and direct day to day responsibilities that the director is expected to do will result in a lower number of suitable owner volunteers and increase the chances of conflict with the managers role

My original concern with the introduction of mandatory education for directors was, depending on the requirements, that it could immediately eliminate qualified owners (desperately needed – Ontario needs approximately 25,000 director volunteers annually) who may wish to assist with the affairs of their condominium corporation.

The number one issue for individuals not volunteering, according to the 'Canada Survey of Giving, Volunteering and Participating', is lack of time (76%), and secondly, the inability to make a long term commitment (52%).

I have worked with over a thousand directors from all walks of life. Most front line condominium managers will agree that the best directors are those who are busy and most likely volunteering for other community organizations who feel an obligation to eventually take a turn as being a director. The condominium communities need individuals that know how to delegate, work with others, and create solid evaluations by listening to experts. We must be cautious to not to add unnecessary time requirements on these much needed volunteers or it could end up being counterproductive.



I believe a three hour on-line offering is preferable. Below are comments regarding the director's course:

- Condo Office would set the goals and define the curriculum
- Available on-line and (if requested) hard copy both free
- Encourage all owners to take the course
- Focus on fundamentals
 - role and responsibilities of owners, directors, auditor, condo office, management and various service providers
 - understand how to access information and assistance
 - in-depth understanding of 'directors direct and managers manage'
 - use of basic technology
 - the importance of monitoring operations through financials reports from the operating and reserve fund budget to monthly financial statements to the corporations' annual audit

I have concerns with the following recommendations:

- Taught by accredited agents outside of government
(Issue – multiple agents: Should be only one agent to assure consistency and should not be taught by organizations representing various industries providing and promoting condominium services)
- Must be completed within six months of being elected
(Issue – six months: the requirement proposed is not overly intrusive and I would suggest that all those wishing to run as a director should complete the course prior to putting their names forth or an individual that has been elected will not be officially a director until the course is completed.)

7.4 Reducing Owners Participation in Bylaw Passing

The comments from above (4.1) are just as relevant for the recommendation to reduce the threshold for passing bylaws.

7.5 Rules and Regulations to be Approved at Owners General Meetings

Various rules and regulations can be game changers in the usage of a unit and common elements. To increase owners' engagement I would suggest all changes to the corporations'



rules and regulations be approved at an owners meeting.

7.6 Nuisance Owners

A nuisance owner is a delicate issue but a very important issue which needs to be addressed. The courts have properly dealt with some extreme situations with extreme solutions at a considerable cost to individual corporations. These owners of unique destructive qualities can cause entire condominiums (owners, directors, managers, even contractors) a tremendous amount of unwarranted living hell. The newly formed Condo Office should not only have the authority but also the obligation to deal with these individuals. The nuisance owner could possibly be addressed in the "The Community Contract".

7.7 Technology

One of the Report's recommendations is for the new Act to allow online tools such as Skype for board meetings. In addition to this recommendation, the Act must include legislation for the acceptance of other technologies to assist with the affairs of a condo corporation. At the rate technology is changing it will not be long before there is general acceptance for electronic voting. To wait another ten years for new legislation to incorporate technology would not be prudent.

7.8 Information/Data Collection

In addition to collecting information on managers, management companies and service/product providers our industry should, eventually, consider the collection of operational data of condominium corporations. There is currently no place to find information on the various operations of other condominium corporations which can be a very valuable tool. I believe that the standardization of various documents is an excellent start to achieve this goal.

8.0 CONDOMINIUM MANAGEMENT

8.1 Standard Management Contract

At a bare minimum the standard management contract should include the recommendations as outlined for the Certificate of Authority and the Management Agreement in the solutions Report.

A standard and provincially approved management agreement would be an incredible step in solving many concerns. Management agreements should not be designed to only address



obligations and responsibilities of the manager; it must also include obligations and responsibilities of the Board of Directors and owners. Various aspects of the standard management contract would be included in the "The Community Contract".

Complete management contracts must be included in the Status Certificate package and immediately available to those that ask.

8.2 Licensing Requirement for Condominium Managers

I am professionally disappointed and personally embarrassed with the recommendations.

We should ask ourselves why the bar has been set so low, especially when you consider this is a recommendation of ACMO who is supposed to represent the managers. Where would the industry be if ACMO continued to support the two year property management diploma at George Brown College as they did in the early eighties?

Three statements by a Director of ACMO may be the answer to why the bar has been set so low:

- "But people forget it is not the management company executives who don't want to pay the money to the managers but the condominium unit owners themselves."
- "We CEO's know what we can pay the managers based on the budgets set by the Boards of Directors."
- "The market drives the price. The price dictates service and salaries."

My reply to these statements was:

- "If all a CEO does is accept a budget figure from the Board of Directors, makes sure overhead costs are covered, calculates the margins for profit, then what is left over is considered to be the market and adequate salary for the manager – how can the front line condominium manager even be considered a profession?"

This Review has a tremendous opportunity to improve the profession by enhancing the qualifications of the front-line condominium manager.

The condominium management industry is in an enviable position to take advantage of a number of extremely well educated youth in Ontario desperately looking for a quality profession.



Condominium management not only has similar duties as other property management but they must also become the deputy minister of the condominium government.

Below are sections of a letter sent into the Condo Information Centre:

“...I took a course to become a RCM in Toronto and truth be told I was humiliated by the low caliber of many of my peers. How could they manage a building? I wonder how they even manage to pass the tests...I already had a B.Sc. and I wanted to be a professional in this field. I recently switched to commercial property management where the standards are much higher...”

The condominium management industry needs individuals similar to the above. Managers are responsible for the preparation and monitoring of budgets, which could be millions annually, they must deal with other professionals such as engineers, architects, accountants, lawyers, bank personnel, contractors, and investment managers, and have a complete grasp of customer service.

In addition to the above the concerns there remain many unknowns – below is a partial list:

- Will individual condominium management firms continue to teach the necessary courses?
- How many hours of education for stage one? Previously ACMO suggest 8 hours, then 20 and the last I heard it was the same as a security guard at 40 hours.
- When would an individual be in the position to call themselves a licensed condominium manager?

Being a licensed condominium manager should be no different than any licensed profession. Once educational and experience license requirements are met, criminal checks are completed and individual insurance is confirmed, then and only then, should the individual begin practicing condominium management. I believe all current RCMs should be granted their condominium license assuming there are no issues with a mandatory requirement of a clean criminal check.

8.3 Conflicts of Interests

In Stage One, the issue of accusations of corruption, conflicts and ACMO's relationship with



corporations' service providers seems to have been neglected and will remain an issue unless properly addressed.

The condominium management industry must take the lead to clear up the perception of conflict of interest they have with those providing services to condominium corporations. Professional relationships are important and I can understand the need for service providers to market their services but these relationships should be professional and transparent.

9.0 SUMMARY

My front page included a lofty goal of a 'New Era of Openness' for our province as stated by our Premier and, she should be praised for such an admirable and ambitious task. Unfortunately with our 13.5 million Ontarians this goal seems almost impossible but for close 10% of us this goal is extremely possible thanks to this ongoing review.

Due to the size of the individual condominium corporations (2 to 1200; average 70 units) there is no doubt that with the continued support of the ministry officials new and innovative legislation can be created and passed to assure the 9,000 Ontario's condominium corporations governments have the necessary tools to achieve their 'New Era of Openness'.



APPENDIX 'A' – TOM LEPAGE BIOGRAPHY



TOM LEPAGE BIOGRAPHY

I actually chose condominium management as a profession and enrolled into a full time two-year property management course at George Brown College from 1982 to 1984. Prior to that, I held a real estate agent's license, as well as a Broker's License.

During the two years of study at George Brown, I finished up the necessary night school courses at Ryerson Polytechnical Institute, Toronto, to receive the designation of Fellow of the Real Estate Institute (FRI) from Real Estate Institute of Canada. Simultaneously, I began taking courses to fulfill the requirements necessary for the designation of Certified Property Manager (CPM).

In 1984, I received my FRI and in 1988 I became a CPM.

Upon graduating in 1984, I immediately secured a management portfolio of condominiums and a small office building.

In 1986, with two years of experience and a passing grade on the Registered Condominium Manager exam; I became a RCM through the Association of Condominium Managers of Ontario.

After three excellent years with the same company, in 1987, I jumped at a career opportunity and move to Collingwood, ON; in 1989 LePage Management Inc was incorporated.

In 2000, I earned the designation of an Associate Reserve Planner.

In 2004, LePage Management hired its first and only additional condominium manager. This hiring had been a four-year pursuit, underscoring my personal high expectation for front line condominium managers.

In 2010, I enrolled in a week long Alternative Dispute Resolution workshop. The process of mediate dispute resolution was the main focus. It quickly became very apparent to me; informal mediation had, and continues to be, an intrinsic part of a successful condominium manager.

With a portfolio of 33 condominium corporations, and a number of Shared Facilities and a marina under contract, I gave my two-year notice to all clients and staff that my front line condominium manager career was coming to an end. By June 2011, I was no longer a front line condominium manager nor was my firm responsible for one single unit.



APPENDIX 'B':
Ontario's Condominium Act Review Submission – First Stage
(November 14, 2012)

**APPENDIX 'B' – ONTARIO'S ACT REVIEW
SUBMISSION - FIRST STAGE (NOVEMBER 14, 2012)**

Ontario's Condominium Act Review Submission – First Stage

November 14, 2012

***This review exercise of the Province of Ontario's Condominium Act
is a democratic privilege and it is an
honour to have the opportunity to voice change.***

All comments and opinions within this submission are that of the submitter as of
November 14, 2012 – subject to change.

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Appendix

Tom LePage Biography	A
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1.0 THE OPPORTUNITY

I cannot stress enough how fortunate condominium owners are to be given this unique opportunity for change; it will be at least a decade before this opportunity is made available again.

Condominium owners have never taken advantage of the strength and power they could obtain by becoming a united force. If the lack of participation by owners within their individual condominium corporation is any indication, the tremendous benefit of being a united group will likely go untapped.

I have approximated the three points listed below in an effort to provide insight into the magnitude of the condominium owners in Ontario:

- Own **\$147,500,000,000 of real estate**, which is ten (10) times more than our Canadian Pension Plan (CPP) real estate portfolio and almost equal to the total equity of our CPP of \$165,000,000,000.

(590,000 units X \$250,000/unit = \$147,500,000,000)

- Through their condominium corporations condominium owners purchases **\$2,800,000,000 worth of private goods and services annually** from local and provincial businesses.

(590,000 units X \$400 monthly common element fees x 12 months = \$2,832,000,000 annually)

- Condominium owners pay approximately **\$1,800,000,000 in property taxes**.

(590,000 units X \$3,000 annual property taxes = \$1,770,000,000)

These points underscore the strength of this group should condominium owners unite.

2.0 MY INVOLVEMENT IN THE CONDOMINIUM UNIVERSE

After working as a frontline condominium manager since 1984, I am now focusing my expertise on condominium consulting (2011). Over the duration my career to date, I have had direct involvement in over 500 Annual General Meetings, and 2000 Board/Committee meetings. With consideration to my experience and relevant accreditations, I feel I can make valuable contributions to the Province of Ontario's Condominium Act Review.



Please refer to **Appendix 'A'** for a copy of my biography.

It should be noted that I did offer my services to the Ontario Government with respect to the Province of Ontario's Condominium Act Review. I was instructed that consultants were not to be engaged at this time. Given this, I have prepared this submission to outline some of my thoughts with respect to the condominium industry as a whole and items relevant to the Condominium Act.

I am currently creating a parallel draft concept of condominium management principles, which may or may not mimic the future condominium act. This concept is called "Condo-Ology™". The trademark Condo-Ology™ is owned by my firm Thomas William LePage Management Inc.

The Condo-Ology™ draft mission statement is:

"To establish a universal standard for the operations of a condominium corporation with the re-introduction and mandatory use of 'Common Sense'."

3.0 THE REVIEW PROCESS

I would like to express my sincere appreciation to all of those who are participating in the review of the Condominium Act of Ontario. I would like to particularly recognize the ministry's staff and independent professionals in this exercise. I have difficulty in grasping this monumental task - to attempt to obtain agreement of 590,000 condominium owners and numerous stakeholders, all with their own opinions and agendas.

My personal observation of my municipal town council and their attempts to solicit genuine public input has been disappointing. The current consumer approach to public input meeting prior to major decision making seems to be a "token show of democracy" by those we (the public) have elected. In my opinion, at the end the day, the personal agenda of the so-called power brokers on council prevails with little consideration of the public input.

The introduction by our provincial government to introduce the public engagement approach for the Condo Act Review has created a great deal of personal enthusiasm and optimism for the re-vamping of the next Condominium Act.

I think it would be helpful to all involved, especially for those individuals that have been chosen to sit on the Residents' Panel, to read Don Lenihan book 'Rescuing Policy – The



case for public engagement'. The 'Public Engagement Approach' will be paramount in determining whether this review of the act is successful or not.

3.1 Public Engagement without the Public

I accept the fact that the Public Engagement Approach cannot be negotiated with all of the 590,000 condominium owners or the approximate million plus condominium dwellers and I am also beginning to understand the importance of the role of the Residents' Panel. However, I do not understand why government funds are not available for public relations or advertising to ensure all condominium owners are aware that the review process is occurring.

I believe there is still time to aggressively publicize the importance of this ongoing review.

3.2 Greater Transparency and Additional Information

To date, the government has not explained the role the Residents' Panel in sufficient detail. The information available has been general and has lacked the specificity required.

In the first two public sessions about the review process, the government stated that no stakeholders have been chosen to sit along side the panelists in a roundtable setting. In contrast to these statements, a number of associations publicly announced, on their websites, that they had received invitations to be a stakeholder. This contradiction of information is a major concern for me.

As I monitor Ontario's Condominium Act Review, a number of events are a cause of concern. The following events are listed below:

- A few weeks ago, I became aware of an organization that will be partnering with Canada's Public Policy Forum known as MASS LBP. MASS LBP will be responsible for the designing and organizing the Residents' Panel.
- On October 30, 2012, I reviewed an Ontario condominium law blog of Chris Jaglowitz of the law firm Gardiner Miller Arnold LLP which reported that Mr. Jaglowitz had been chosen, along with two others to speak as 'Experts' to the existing Residents' Panel with regard to consumer protection for condominium buyers.
- On November 12, 2012, I received a Bulletin from the Ministry of Consumer Services where the ministry have created an Advisory Group that is made up of



'Experts' to help the Ministry fully understand the issues that are raised during the review and advise on the process. During these meetings the individual members view points are kept confidential.

In my opinion, the contents of these meetings and the processes by which experts are selected should be made public. Beyond the public's right to government transparency, I would think it would be beneficial for the contents of these meetings be available in an effort to educate the public.

I am appreciative of the fact that the ministry did include the names of the members of those appointed to the Advisory Group. I can only hope that the public engagement approach values transparency and information sharing with the public as one of its most important objectives.

3.3 The Resident's Panel

The Resident's panel is a key difference between Public Engagement Approach and the Consumer Approach.

In session one in Toronto, the fact that the 10,000 civic lottery letters were sent randomly to condominium dwellers in order to choose the 36 member Residents' Panel concerned many in attendance for two main reasons:

- 1) The Residents' Panel will include tenants. Personally, I can understand if a tenants' association wished to be involved, they should be considered as a stakeholder; however, tenants representing the condominium owners through the Residents' Panel, was a definite concern.
- 2) The 36 government selected individuals ('the Residents' Panel') is a representation of .000061011694% of the condominium owners in Ontario (one panelists per 16,389 condos) or less than half, if the Residents' Panel is considered to be representing all condominium dwellers.

My concern is that by mailing to only condominium dwellers, the selection process failed to consider non-resident condominium owners. One of the main concerns being raised is from the perspective of the non-resident owner; therefore, I believe their involvement is important for the success of the review. I do believe this concern was raised, but so far the solution has not been communicated.

In the MASSLBP Bulletin, the process of panelist selection was described as:



"The 36 members of the Panel will be randomly selected from across the Ontario. Ten thousand Civic Lottery letters were mailed across the province in September and the response cards we have received clearly show that many Ontarians are keen to participate. Panel members will be selected through a Civic Lottery process, which in this case will balance for age, gender, geography, type of residence and renter/resident/owner status."

The Bulletin then states:

"The Panel will meet three times this fall and once again next year to learn about this important piece of provincial legislation and agree on priorities for changing it. The Panel will provide advice on issues such as consumer protection for buyers, condo board governance, and dispute resolution mechanisms."

The statements above are vague, and provide minimal context and specific detail. The public should be made aware of who will be teaching the panelists about the importance of the Condominium Act of Ontario.

4.0 THE BIG PICTURE – WHAT ARE WE DEALING WITH?

In my opinion, the various problematic condominium communities' issues are much more deep rooted than most are acknowledging or realizing. I have read on a few occasions, where "experts" have mentioned that the Condominium Act only needs tweaking. I have also read where a condominium lawyer stated that the current legislation worked so well that one can quite accurately state that the reserve fund problem has disappeared in 99 percent of condominium corporate governance.

My personal observation is that the farther away a stakeholder is from the hands-on operations of a condominium corporation, the less they feel there is a need for change.

Obtaining mortgage financing for a condominium is becoming increasingly difficult and often the second tier mortgage financing is the only option. It is my opinion that the Canada Mortgage and Housing Corporation (CMHC) should be invited to sit as either an expert or stakeholder.

4.1 What is Good Management?

I believe the Residents' Panel and those in charge of the review process must define 'good management' before proceeding.



The problem with this type of review such is that we only hear about the problems.

I hope the panelists will be able to sit down with several successfully run condominium corporations' board of directors, along with a few owners and their front-line condominium managers and hear directly why their operations are successful. These conversations would provide great insight for the Residents' Panelists to learn what the real goals are!

In my opinion, for long-term success, both the board of directors and the condominium manager must have a tremendous amount of respect for each other and mutually work towards the common good of all the owners. I am unaware of any condominium corporation that was deemed a success exclusively through the efforts of the board of directors or the condominium manager in isolation.

Directors are to direct (via board of directors) and managers are to manage. This is a partnership.

4.2 Is a Board of Directors a form of Government?

I believe it is extremely important that the Residents' Panel and those in charge of the review, fully comprehend the scope of the challenges they are dealing with. I have been involved in hundreds of elections and one of the most frequent comments made by a nominated individual is: "Running a condominium corporation is no different than running a business". With all due respect, I wish this was the case.

A condominium corporation is a human settlement within the confines of a municipality, operated under provincial legislation. The directors are elected representatives, not that different than a minister in government. Using this analogy, the condominium manager's role is that of the 'deputy minister'. The condominium manager is the professional civil servant whose responsibility is to run the day-to-day activities, no matter who has been elected to the board of directors. Directors are elected by owners and all are legislated to pay common element fee (equivalent to 'the taxes').

Deputy Ministers (condominium managers) serve at the pleasure of the government (board of directors), and can sometimes lose their positions as a result of a change in the party (directors) in power, particularly if they are seen as too closely identified with the policies of the previous government (board of directors).

For condominium owners, does the board of directors constitute a fourth level of government in Canada?



I believe so, and I believe that those in charge of this review and all parties involved should keep this in mind when discussing various issues.

5.0 DIRECT DEMOCRACY

In Canada, the first three levels of government, for practical reasoning and for this submission, are very close to a Representative Democracy - meaning, the whole body of citizens remain the sovereign power, but political power is exercised indirectly through elected representatives.

Condominium owners cannot afford a fourth level of government similar to the first three.

Condominium corporations are fortunate when compared with other democratic societies as:

- A) They are an extremely small society; and,
- B) They are less diverse.

Condominium owners of a specific condominium corporation share commonalities: location, neighborhood and value. Additionally, it may not be a stretch to assume other similarities (for example: income bracket, life style, etc.). These similarities make compromising and communal involvement a reachable goal.

I suggest that the government of a condominium corporation take the form of a 'Direct Democracy', in which people vote on policy initiatives directly - as opposed to our first three levels of democracy in which people vote for representatives, who then in turn vote on policy initiatives.

With today's technology, having electronic polling/surveying available to the board of directors is a huge benefit for both the owners and more importantly the board of directors.

"Many forms of Government have been tried, and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time." - Sir Winston Churchill (1874 - 1965), Hansard, November 11, 1947.



5.1 Every Individual Condominium Corporation needs Public Engagement

I would also strongly suggest that the review process take full advantage of the expertise of Public Policy Forum led by Don Lenihan and the firm MASSLBP. These companies have assisted countries/provinces with 'Public Engagement'. I believe it should be relatively straightforward for these organizations to create a mini model of Public Engagement to be incorporated into the new Condominium Act.

6.0 THE ISSUES AND POSSIBLE SOLUTIONS

6.1 Provincial Legislation is the Minimum Standard

Government Acts and Regulations, through provincial legislation legally, establish the minimum required standard in the eyes of the government. All condominium corporations have unique situations, and if the minimum is not sufficient, then more must be done. In my opinion, this is a critical Condo-Ology concept.

As an example, I am currently working for three small condominium corporations and we (owners, boards, manager and I) are attempting to amalgamate. I am very fortunate to be working with individuals that quickly concluded that in order to have true transparency, governance and financial accountability within the newly created condominium corporation; we had to go beyond the minimum legislated standard.

There are several initiatives we have undertaken which will be mentioned herein and will be identified as 'Condo-Ology™ Concepts'.

6.2 Governance – Keep it Simple and Understandable

The general concept I wish to convey in this section is that governance should be kept simple and understandable. Additionally, the following discussion addresses absentee owners' impact on governance and the lack of properly prepared directors.

6.2.1 Governance

Governance is the process of decision-making and is the process by which decisions are implemented (or not implemented). Good governance is developed by those being governed and remains consistent and transparent.



My Condo-Ology™ concept has created a new condominium document with the help of owners. This document was given its title by a committee member, and will be known as 'Operation Policies, Practices and Procedures' (PPP). This document was developed by assembling the various activities of the condominium manager, annual requirements of the board of directors and owners into one cohesive document. Change can happen by vote of the owners at any one of their two general meeting of owners.

It is clearly written, very easy to understand, and is customized to the condominium corporation's specific needs. All owners were involved in the drafting of the document. Topic covered within this document include: the handling of late payments, the identification of exact dates (i.e. third Saturday of a particular month) on which owner meetings are to take place, an outline of non-compliance procedures, the number of communications etc.

The bottom line is that the PPP document reduces politics by enhancing transparency and owners' involvement. Furthermore, the corporations' policies, practices and procedures remain consistent as they are not changed when a new board of directors is formed.

6.2.2 Absentee Owners' Impact on Governance

There exists a problem when the participation of owners cannot support an initiative of the board of directors which requires more than a majority of those present at an owners' general meeting. Many of the current legislated vote requirements are worded in a way that identifies a certain percentage (51%, 66.2/3%, 80% or 90%) of the total units in the condominium corporation must vote in favour of a voting item. In such situations, a unit owner who does not vote at all is counted as a no vote.

The requirement for 51% or 66 2/3% is routinely a challenge and can be extremely difficult, but can be overcome by hard work. However, the 80% or 90% requirements are practically impossible to meet.

I have identified the following possible solutions to this problem:

- Make voting mandatory. This was recently done in Australia and turnouts have soared to 91% as a result. This idea was put forward by an attendee in Session One in Toronto.
- Allow owners who knowingly recognize they will not take part in the required voting to opt out of any voting, and be eliminated altogether in the total of the number of units.



6.2.3 Directors Not Well Equipped for Role

The main reason why Directors are not well equipped for their role as a Director is because of the owners who voted for the directors were not knowledgeable with regard to the appropriate requirements for the position (or worse, were not present for the vote) and voted for an individual that was not suitable.

I am a strong believer that every owner can be an efficient director given the right support from fellow owners, directors, condominium manager, reserve fund study author and auditor. Along with the support, every director should be provided with the proper tools. These tools include clear and concise condominium documents including the PPP (as previously described) and standardized operational reports.

There are many problems that can arise when trying to find suitable directors. Unrealistic or undefined expectations may have been created by past board of directors and owners for the new potential directors. The more involvement and direct day to day responsibilities that the director is expected to do, the more daunting the role and less likely to attract more suitable owners to volunteer.

6.3 Transparency

I have identified three main components of transparency:

- 1) It is the board of directors' responsibility to keep the owners apprised of the on-goings of the condominium corporation at all times. There should be no secrets; the more open the board is, the greater likelihood unsettling rumors and mistruths will disappear.
- 2) Allowing all owners to have easy access to all pertinent records of the condominium corporation. It is the full right of an owner to inspect and review whatever relevant documentation they wish; after all it is every owner's personal funds that funds the operations of their condominium corporation.

There are exceptions which are clearly defined in the current Condominium Act. If there is a concern that confidential information obtained by an owner could be used for inappropriate intentions, a simple agreement or waiver could be signed by the owner requesting information.

- 3) The information obtained must be understandable to all owners.



6.4 Reserve Funding and Reserve Fund Management

The following discussion pertains to reserve funding and reserved fund management with a specific focus on: the standardization and the methodology of reserve fund studies, the need for annual updates, and using reserve fund studies for installing energy technologies.

6.4.1 Standard Reserve Fund Studies

In my opinion, it is imperative that all reserve fund studies should be standardized throughout the industry. It is very important that all (owners, board members, condominium managers, realtors and all future prospects etc) can easily understand a reserve fund study. Currently, it is extremely difficult to understand various reserve fund studies, because the format and content vary from report to report. Furthermore, it is my opinion that this lack of consistency leads to inaccurate reporting.

The main benefit of a standard reserve fund study is the ability to educate all involved with these studies. Without standardization, the teaching of reserve fund studies can only be conceptual. The practicality of teaching a specific standard can not be underestimated.

A practical and easily understood reserve fund study standard is critical.

6.4.2 Methodology Clarification

Recently through the Condo-Ology™ Network on LinkedIn I discovered that in Ontario individual engineering firms' methodology for the preparation of reserve fund studies varies from the Real Estate Institute of Canada standard (CPR - Certified Reserve Planner). The CRP program is merely education specific to reserve fund studies. Outside of this education, there is no meaningful standard education related to reserve fund studies in Canada. The Association of Professional Engineers of Ontario is currently working on their own standard of methodology but will not apply to non-engineers.

It is my understanding that the key variances between the methodologies is a result of the difference between the sinking fund analysis method vs. cash flow basis (adequate) fund analysis method in determining requirement for annual contributions. The explanation of these variances is best to be left in to those that have the expertise.

In the best interest of the condominium owners, there should be only one standard method of reserve fund studies to be followed by all parties who are legislated to perform reserve fund studies. I stress this standardization of the reserve fund study is such crucial component of the financial stability of the operations of a condominium corporation.



6.4.3 Need for Annual Updates

I strongly believe that a third party annual update is necessary.

I am currently working with a very patient and helpful engineering firm, condominium manager and the board of directors who have committed to annual updates (Condo-Ology™ Concept). For the time being, my goal is to reduce engineers' committed time to less than two hours per update. To achieve this goal, the data required from the condominium manager to the engineer must be presented accurately.

I am adamant about the importance of annual reserve fund updates. Planning out 10, 20 and 30 years can be an overwhelming task. Complicating things further, studies must be supported by an upwards of 60 plus directors and hundreds upon hundreds condominium owners in a given 30 year period.

In the event that the new Act does not legislate annual updates, it is my opinion that the Act or Regulations must incorporate the necessary wording for those condominiums that have or may commit themselves to annual updates.

Furthermore, I believe that the author of the study should play a larger role in the management of the condominium corporation reserves. I would go as far as to say that they should have the legislative duty to report irregularities.

An additional benefit of the annual update is the update will educate the board and owners annually, and keep fresh the status and importance of the reserve fund study.

Eventually the recommendations outlined in the reserve fund study will become budgeted items, so any argument stating a reserve fund study as only a recommendation is eliminated.

Once updating reserve fund studies annually is imbedded in the corporations procedural operations, the board member's worse nightmare - finding out the reserve fund is totally inadequate, is eliminated.

With this kind of current information, all owners can then follow the management of the reserve fund on a continuous basis with the knowledge that an independent third party is monitoring.

Additionally, the annual update forces the board, manager and the author of the study to work hand-in-hand to achieve ongoing reserve fund management accountability. To further



reinforce this shared responsibility, I suggest that the annual update must be signed by the board, manager and the author.

The annual update will use the current interest and inflation rates and thereby eliminating the guesswork for these rates.

It is important to note that many or most engineers still use the averaging of the last five years for both the inflation and interest rate as the current rate in their studies. Unless some economist can prove to me that this practice of averaging is an accurate way of determining what the future has in store for us, I would suggest all studies use the current rate and eliminate this practice of averaging altogether.

A good reserve fund study acts as an excellent capital improvement planning guide.

6.4.4 Using Reserves Funds for Installing Energy Technologies

Using reserve funds for installing energy technologies is an idea that has been submitted by ACMO and CCI in their legislations brief.

Unfortunately, poorly managed reserves are the root of all financial evils of condominium ownership. Operational annual expenses are important, but they are the easiest to correct. In my opinion, one of the top reasons condominium corporations falter is poor management of the reserve fund obligations.

My concerns with the above recommendation are outlined in the following discussion.

The additional authority that will be given to boards to use reserve funds for installing renewable energy technologies and other energy technologies without owners' approval.

The suggested change is counter productive. Any funds removed from the reserve fund balance, which have not been contemplated in the corporations reserve fund study, will immediately cause a financial shortfall for the replacements of existing components of the common elements.

The other aspect to consider is that the newly installed equipment must be immediately classified as a new component of the condominium common elements, so that funds can be set aside for eventual replacement

Allowing this suggested change, will negatively affect the reserve fund objectives by:



- 1) Reducing the balance of the reserves for an non-budgeted component; and,
- 2) New and additional increases of future reserve funding for eventual replacement.

Renewable energy technologies and other energy technologies can be extremely beneficial, not only for condominium owners, but for society in general. However, it is the manner in which the funds are raised that should be of concern.

Currently, there are a numerous ways of raising funds for condominium corporations seriously contemplating the introduction of renewable energy technologies and other energy technologies for their communities.

Suggested funding for such an initiative would include:

- 1) Special assessment - certainly would not be the number one choice but if there is a return on investment it is a very viable option.
- 2) Borrowing - only if the borrowing costs can be covered by the savings generated.
- 3) Contractor/installer participates - by accepting payments from the savings generated.
- 4) Finally the old fashion way - save until you have the desire funds available.

6.5 Conflicts of Interest

Perception is real and is something that must be dealt with in a frank manner. The following discussion pertains to conflicts of interest with a specific focus on Board Members, Management Companies, Condominium Managers, Condominium Organizations and the new Advisory Group to the Ministry.

6.5.1 Board Members

All board members have conflicts of interest; it is the nature of the beast. Simply put – by residing in one particular building in a multi-building condominium development will give rise to the appearance of conflict of interest.

These unavoidable conflicts can be greatly reduced by sticking to the basic philosophy - “Directors (via board of directors) are to direct and managers are to manage.” In addition, corporation’s’ governance should be clearly defined.



To avoid the perception of conflict, neither directors, nor Shared Facilities Committee members (if applicable), nor any of their immediate family, should provide paid services or products to the corporation or Shared Facilities, nor should any person be in a position for personal financial gain through volunteerism.

Specifically, a director or a Shared Facilities Committee member should not be able to work directly or indirectly for his or her own condominium corporation or for the condominium corporation's management company.

Are these provisions restrictive? Absolutely not - individuals without conflicts are more than capable of filling the role of directors.

Declaring a conflict of interest does nothing to eliminate the perception of conflict.

6.5.2 Management Companies

It is my position that, management companies should not employ board members of condominium corporations of those they manage.

Conglomerates now own management companies, as well as related condominium industry service or product providers. I believe it should be mandatory that all management companies clearly specify their ownership, partnerships and arrangements with various services or product providers.

Many management companies today advertise a preferred list of contractor and service providers for their clients and state that due to volume, these companies will provide discounted prices.

These recommendations need to be further flushed out.

- Discount prices as compared to what?
- Is there a fee involved (directly or indirectly) for those contractors or service providers to have their names included on the list?
- Are their clients forced to use these companies etc?

These unknowns must be declared.



6.5.3 Condominium Managers

Throughout my management career in the industry, I have been fighting the perception that I, along with my fellow condominium managers, receive kickbacks in a number of ways. I wish I could speak to the integrity all condominium managers, but I cannot. To assume the condominium industry does not have its fair share of thievery would be naive.

As a condominium manager, I have been extremely vigilant in my deals with service/product providers. Unfortunately, the perception that dishonest transactions are commonplace remains, and will continue to remain unless dealings are more transparent.

Required action:

In the PPP document (Condo-Ology™ Concept), the condominium manager is required to identify all companies or individuals that will be utilized during the fiscal year in their annual budget presentation. If during the year a service/product provider is added to the list, the condominium manager must inform the board and provide an explanation.

All personal usage of companies on the corporation's trade list shall be avoided or immediately reported to the board in writing.

Tender documents received must be: sealed, the date of receipt recorded, and must be opened in the presence of the manager and board or in the presence of one board member, with the board's permission.

6.5.4 Condominium Organizations

As mentioned above, I have been fighting this perceived conflict of interest throughout my entire career. Unfortunately, some condominium organizations have done nothing to address this public perception and if anything they have fueled the fire. The practice of industry organizations organizing frequent social events for management staff including individual condo managers and service/product providers is very disconcerting; it creates the appearance of impropriety.

At both Public Information Sessions I attended, the perceived notion is that there is a cozy relationship between contractors (Associate Members) and management companies' employees including managers was seen as unacceptable - this practice must stop.

6.5.5 Advisory Group Appointed by the Ministry



I understand that the ministry will need assistance to fully understand the issues that are raised during the review and that the appointment of an Advisory Group is necessary. As noted in the recent ministry bulletin, all Advisory Group Members have agreed to balance all interests that are at stake when giving their advice and recommendations. However, I see a problem with the perceived conflict of interest of at least one of the members.

Armand Conant is the Past-President of the Canadian Condominium Institute (Toronto), where he continues to serve on the Board of Directors and is Chair of the Legislative Committee. Under Mr. Conant leadership the committee submitted an extensive legislative brief to the Ontario government with recommendation for changes to the Condominium Act. Additionally, Mr. Conant is also Co-Chair of the joint ACMO and CCI (Toronto) Government Relations Committee and a member of CCI National's Government Relations Committee.

It is my opinion that his appointment presents a significant perception of a clear conflict of interest. I do not understand how the public is supposed to accept that Mr. Conant will be in the position to balance his interest as he advises the ministry.

6.6 Licensing

I think there is universal agreement in the condominium communities and the condominium management industry, that licensing for management companies and individual managers is absolutely necessary.

The issue: What requirement would be necessary to meet licensing qualification and who would the licensor be?

Being a licensed condominium manager should be no different than any licensed profession; once received, the educational requirement will be sufficient to begin the practice of condominium management. I believe all current RCMs should be grandfathered in and receive their condominium manager license. The future license requirements for a condominium manager at minimum should be similar to that of a Residential Real Estate License if proven achievable. Anything less would be disrespectful to those currently in the industry.

6.6.1 Association of Condominium Managers of Ontario (ACMO) as Licensor for the Condominium Manager

In a recent ACMO report, ACMO stated that they would opt out from seeking to be named a governing body for condominium managers, but would like to set regulations for RCMs and management companies. Additionally, during a recent ACMO luncheon, the moderator



stated that ACMO's intention is to be in charge of licensing all condominium managers.

In my opinion there is a substantial flaw in logic in these two intentions - How can one opt out of the role of governing body, and yet oversee all licensing?

In 1984, my first year as a property manager, my starting salary was \$28,000.00. I called the ACMO office earlier this year, and was surprised to discover that the Association of Condominium Managers of Ontario did not know the average salary of today's condominium manager.

This information should be instrumental to monitor advancement in the profession. My best estimate, not including the career positions of area or regional supervisors, the average condominium management company salaried front line condominium manager is well under \$50,000.00

ACMO has had the benefit of 30 years to define the front line condominium manager as a proper professional. It might be time to investigate other organizations to move the profession forward. Other notable organizations which may garner investigations include (but are not limited to):

- Real Estate Council of Ontario – RECO
- Real Estate Institute of Canada – REIC
- Ontario Real Estate Association – OREA
- Canadian Society of Association Executives – CSA
- Building Owners and Managers Association - BOMA

6.7 Education

The following discussion pertains to education with a specific focus on Court Appointed Administrators, Condominium Managers, Directors, Realtors and Owners.

6.7.1 Court Appointed Administrators

In extreme situations of poorly managed condominium corporations, the provincial government has the authority to appoint a Court Appointed Administrator to act with the same authority as a board of directors.

The Court Appointed Administrator has a tremendous amount of responsibility. I feel this is prudent to point out the following considerations with respect to the appointee:



- There are no prerequisites or qualifications guidelines as to who would be a suitable candidate.
- There is no list of pre-approved candidates that a judge or a board of directors can choose from.
- My best understanding is that the board of directors' legal representative will choose a candidate or personally take on the task themselves and then ask the court to approve the appointment.

The lack of proper vetting of qualified appointed administrators is not just a condominium industry responsibility, but that of the government as well.

6.7.2 Condominium Managers

Presently, I am unaware of any full-time post-secondary courses being offered for condominium managers. Select colleges are offering part-time required courses which are required before writing the RCM exam, but these colleges are competing with large ACMO appointed condominium management companies who are providing the same courses in-house.

As of the week of September 14th, 2012 there were 747 Registered Condominium Managers (RCM). More than 300 of the 747 RCMs work for management companies that have been given the authority by ACMO to provide in-house courses.

This does not sit well with me and I wonder what could have been, if the industry remained pro-active as they were in the 80's in the encouragement and support of full time property management studies at our publicly funded colleges.

I am not familiar with the current courses required for ACMO's designation Registered Condominium Manager RCM but as a comparison the review should investigate the designation requirements of the Certified Property Manager CPM from the Real Estate Institute of Canada. An advantage of the CPM is the fact that the Real Estate Institute of Canada has two complimentary designations to the CPM which is the Certified Reserve Planner CRP and the Associate Reserve Planner ARP a significant step in the professionalism of condominium managers.

6.7.3 Directors

Condominium directors should be encouraged to:



- 1) Become increasingly comfortable with current technologies;
- 2) Develop an understanding of budgets/financial statements;
- 3) Take the time to understand the logic and the necessity of a proper reserve funds and the importance of the reserve fund study; and,
- 4) Understand the value of a competent professional condominium manager.

Both the Association of Condominium Managers of Ontario (ACMO) and the Canadian Condominium Institute (CCI) indicated in their legislative brief that all newly elected directors should be mandated to attend an introductory director's course.

On first glance this may seem very logical and beneficial, but I am suggesting this implementation will immediately eliminate qualified owners (desperately needed – Ontario needs approximately 25,000 director volunteers annually) who may wish to assist with the affairs of their condominium corporation.

The number one issue for individuals not volunteering, according to the 'Canada Survey of Giving, Volunteering and Participating', is lack of time (76%), and secondly, the inability to make a long term commitment (52%).

I have worked with over a thousand directors from all walks of life. Most front line condominium managers will agree that the best directors are those who are busy and most likely volunteering for other community organizations and feel an obligation to eventually take a turn as being a director. These individuals know how to delegate, work with others, and create solid evaluations by listening to experts – decision making based on common sense and what would be best of the long term for all. The condominium communities and the industry need individuals such as these which I have had the good fortune to work with.

Any additional time requirements placed on these volunteers will be counterproductive. In my opinion, the opposite - a reduction in time requirements for the position of director, will serve to attract more owners willing to take their turn.

6.7.4 Realtors

With the Condo-Ology™ Concept, realtors will play a major role in the educating of the public before a potential buyer considers purchasing a condominium. I would like to suggest



the Real Estate Council of Ontario (RECO) add a third real estate license – a condominium specific real estate license.

The best place to start to educate condominium owners is by educating those who sell condominium units. I believe this initiative is achievable and would receive support from realtors if the mandatory annual education credits needed to maintain their current license could be used towards earning their condominium real estate sales license. Realtors with their condominium real estate license should be allowed to advertise this as a value added service.

6.7.5 Owners

It is my experience that far too many current owners are ignorant of various restrictions they must live by as put forth under the guidelines in their condominium corporation's documentation. The bottom line is that some owners (and even directors) are ill suited for a condominium lifestyle.

Regulators set regulations to ensure that the consumer or client is adequately apprised of the various risks and obligations before making a commitment. For example, under regulations set by the Investment Industry Regulatory Organization of Canada, before accepting the funds, the financial money manager must review a form known as 'Knowing Your Client' with the client. This document spells out the various obligations, pitfalls and possible risks etc. Once completed, the form must be signed by both the money manager and the client, acknowledging this review process has been completed.

With condominium purchases, there are no regulations to force the new purchaser to understand their responsibilities and possible repercussion of condominium ownership. There are no mandatory forms signed by the purchaser acknowledging their understanding of condominium ownership.

Who should take the role of the money manager in the condominium setting?

I believe most good real estate lawyers are already doing this as part of their review of the condominium documents with the new purchasers, but I think ultimately it should be the responsibility of the condominium manager. A professional condominium manager is closer to the situation, and therefore should have local (specific) knowledge of the condominium corporation which the lawyer may be unaware of. But even more importantly, the purchaser will meet face to face with their future manager, similar to a trusting relationship they might have with their money manager.



6.8 Regulating/Regulator

There is no doubt that there is confusion about self regulation and many believe that the condominium industry is presently self-regulated. The industry is not self regulated. I wrote to the government, hoping for an explanation of the current set up. Their reply was posted on their Facebook page. See below:

- Condominium refers to a type of property ownership, and condominiums vary in size and type.
- Condominiums are run collectively by condo unit owners through an elected board of directors.
- The Condominium Act, 1998 is a framework Act that, together with its Regulations operates in conjunction with a condominium's declaration, by-laws and rules.
- The Act contains almost 200 sections and has two regulations. The Act provides for things such as: the sale and lease of units; the rights, powers and duties of condominium corporations and owners; by-laws and rules; finances; and formal dispute resolution through mediation and arbitration.
- The Act provides for the registration and creation of condominiums and sets out certain rights and protections for condominium buyers and owners. It gives unit owners the tools to run their condominium corporations with minimal government involvement. These tools include: Requirements to hold meetings; Documents for owners; Procedure to change by-laws/rules; Procedure to appoint/remove board members; Repair and maintenance of condominium; financial management and reserve funds; Responsibility of owners for common elements.

It appears that the condominium industry and communities will require some sort of regulator. Once the particulars of the regulator are decided, I believe the effectiveness of this review will increase substantially.

6.9 Dispute Resolution

This section pertains to dispute resolution of interest with a specific focus on non-compliance, and the failings both of mediation and arbitration.

6.9.1 Non-Compliance

The review process of The Act must take a hard look at dispute resolution. My personal experience has been very positive in regard to compliance of various restrictions/obligations



within the condominium corporations' documentations and The Act. I have not found myself in a position where the board of directors and I were contemplating professional (third party) mediation or arbitration. I would guess that in 95% (or higher) of my non-compliance situations were solved by proper communications, at times a face-to-face discussion of all parties was required. In the remaining 5%, a lawyer's letter was sent, but never did issues result in mediation, arbitration or the courts.

6.9.2 Professional Mediation Can Be Inefficient

Mediation has been the foundation of quality condominium corporation operations (owners/directors/managers) since the beginning of the introduction of condominium ownership. Condominium ownership and lifestyle is all about compromise - it has to be in a communal living situation. If internal mediations have not worked; then to speed up the process, I believe that the parties should go directly to arbitration.

6.9.3 Arbitration is Costly and Time Consuming

The following is my "out of the box" thinking without consideration to any specific legality.

Assuming some kind of condominium regulatory body has been established, conflicting parties would submit their argument in a report that would be shared with the opposing party. A rebuttal report would be allowed.

The two reports and two rebuttals would go to a 10-member panel (all condominium owner volunteers working from home, but monitored by a qualified arbitrator) who would make their decision independently of each other. The conflict is settled by a majority of votes.

If the regulator body has the authority, then the decision is final. Alternatively, if the regulator has not been given this authority, there would be an appeal process. If an appeal process is deemed necessary, the regulator body would be responsible to defend (all costs) the ten member panel decision.

6.10 Consumer Protection for Buyers

The following discussion pertains to consumer protection for buyers with a specific focus on Tarion warrantee protection, developers retaining or leasing common elements, artificially low common elements fees, and a review of condominium documents and agreements of purchase and sale.

6.10.1 Lack of Tarion Warrantee Protection for Conversions



I believe that conversions should be added to Tarion. I do not have a full understanding of why conversions are not currently covered. I assume that this has more to do with the internal workings of Tarion, since its mandate is to warrantee new construction.

6.10.2 Developers Retaining or Leasing Traditional Common Elements

I was not aware of this practice until I became involved with this review. This practice should never have been permitted. I find it hard to believe the municipalities allowed this to occur.

6.10.3 Artificially Low Common Elements Fees in the First Year

As far as artificially low maintenance fees are concerned, I believe these are caused by three (3) fundamental reasons:

- 1) Like anything new, there is normally a warrantee for a time period. Therefore, when an issue arises within the warrantee period, it is the responsibility of the company that supplied the product or performed the work to make the necessary corrections at no cost to the condominium corporation. After the warrantee has expired, these costs become that of the condominium corporation – I am not sure if anything can be done to change this situation - like owning a new car, normally there are no repair costs for a certain time period.
- 2) Currently, the Act allows developers to only use 10% of operating budget as the first year reserve fund annual contribution, and I believe that the general consensus is that this is not enough. I have heard that perhaps 20% or 25% might be more suitable.

I would suggest that developers must use 40% of the first year operating budget as the annual contribution, UNLESS the developer prepares a reserve fund study (which becomes part of the condominium documents) that specifically states the first year reserve fund contribution; or better still, it should be mandatory that all developers provide a comprehensive reserve fund study to determine the required contributions.

- 3) I understand that a few developers intentionally reflect reduced expenses thereby resulting in artificial low maintenance fees to entice more sales. I have worked for several developers and not once did the developer ask me to artificially reduce annual operational costs. On the other hand, I have only experienced one developer that agreed to double the first year mandatory reserves requirement of 10% of



operations.

6.10.4 Condominium Documents and Purchase and Sale are Opaque

I suggest that the condominium industry learn from the various real estate boards and use approved standardized condominium documents and Agreements of Purchase and Sale for new condominium units.

Related condominium documents are an entirely different issue, mainly because of uniqueness of the various condominium developments. Depending on the quality of the documents, some documents will cause a tremendous amount of cost year after year, as well as conflict and continuing confusion. The use of standard clauses and clearly defined legislated would be a great first step.

Declarations and shared facilities documents can be very complicated in large phased in, or multiple condominium corporations' developments because of the developer's long term involvement. Changing a declaration or a shared facility agreement once the project is completed, can be quite the challenge and at times basically impossible.

To alleviate this issue, I am suggesting that one of the two following options be undertaken:

- A) The developer could be responsible to provide two sets of documents - one during the developer's involvement and one after the developer involvement; or
- B) Legislate the ability to change the condominium documents wording (only once) as long as the intent does not change, without seeking the necessary impossible percentages required for owners approval.

6.11 Investing/Borrowing

I agree with the current legislation requirements with regard to investments (for example, must be guaranteed, etc), but should the legislation not include provision pertaining to the quality of the financial institution/company from whom condominium corporations may borrow funds? In my opinion, this is particularly relevant as some of these loans are exceeding five million dollars and could easily affect the financial stability of the condominium corporations for years to come.

I have had some experience in regards to condominium borrowing funds rather than raising funds through a special assessment. I continue to have a real problem with this practice. For



those condominiums that do borrow funds, it could just be the tip of the iceberg. As an example, just look at what borrowing has done for the other levels of government. I assume that this option can be a necessary evil but borrowing should always be the last resort.

Borrowing millions of dollars is not something to take lightly. How many condominium managers or directors have any experience in dealing with such an important transaction?

The repercussions of making a mistake of this magnitude would be astronomical. I don't have any suggestions at this time, but I do think this is serious enough issue that it should be reviewed during the ongoing review process.

6.11.1 Mandatory Option: Owners May Pay Portion of Condominium Corporation Loans

Technically, according the current Act, the repayment and interest of any funds borrowed by the condominium corporations is paid by the owners is in accordance to the units' allocated percentage of the common elements.

Individual owners should be given a legislated opportunity to opt out of the loan and be allowed to pay their share up front.

There are many owners, especially retirees that may have the cash available to cover their unit's percentage of the loan. It makes no sense to force an owner to pay for a loan with a non-deductible high interest rate on funds they do not require.

I know for a fact that condominium accounting software can deal with these situations.

6.12 Standardization/Clarity

For long-term successful condominium ownership outcomes, standardization and clarity is paramount.

Assuming all reserve funds studies had one standard model: same look, charts, and definitions; with this in hand the instructor will not only be able to teach and discuss the objectives of the reserve fund study, they can accurately teach the standard as well.

Even simple standard items, like a clear set of condominium definitions, within the new legislation would go a long way assisting all of us.

Standards should be written in plain English and at a level of comprehension that all owners can understand.



The future new Act should be written in a way that all owners can easily understand. Boards of directors should not have to always seek legal opinions for various clauses within the Act. If a particular clause requires complicated legalese, then a footnote should be included in layperson terms explaining the intention of the clause.

6.13 Data/Information

Our industry does not have access to industry wide data that can assist or monitor condominium communities' performance. Without this data, analyses in many capacities are impossible.

Collected data would be very useful in monitoring the professional practices of management companies, as well as those of individual managers. Boards of Directors have nowhere to obtain past history to assist with their search for suitable management.

Examples of where this performance history may be useful include:

- I have witnessed two condominium corporations (in very close proximity to each other) fired their management company and then proceeded to hire each other's past management company.
- I am also aware of two management companies who each fired an individual property manager and shortly after hire each other fired manager. Both were fired again!

Reliable data can only prove beneficial.



APPENDIX 'A' – TOM LEPAGE BIOGRAPHY



TOM LEPAGE BIOGRAPHY

I actually chose condominium management as a profession and enrolled into a full time two-year property management course at George Brown College from 1982 to 1984. Prior to that, I held a real estate agent's license, as well as a Broker's License.

During the two years of study at George Brown, I finished up the necessary night school courses at Ryerson Polytechnical Institute, Toronto, to receive the designation of Fellow of the Real Estate Institute (FRI) from Real Estate Institute of Canada. Simultaneously, I began taking courses to fulfill the requirements necessary for the designation of Certified Property Manager (CPM).

In 1984, I received my FRI and in 1988 I became a CPM.

Upon graduating in 1984, I immediately secured a management portfolio of condominiums and a small office building.

In 1986, with two years of experience and a passing grade on the Registered Condominium Manager exam; I became a RCM through the Association of Condominium Managers of Ontario.

After three excellent years with the same company, in 1987, I jumped at a career opportunity and move to Collingwood, ON; in 1989 LePage Management Inc was incorporated.

In 2000, I earned the designation of an Associate Reserve Planner.

In 2004, LePage Management hired its first and only additional condominium manager. This hiring had been a four-year pursuit, underscoring my personal high expectation for front line condominium managers.

In 2010, I enrolled in a week long Alternative Dispute Resolution workshop. The process of mediate dispute resolution was the main focus. It quickly became very apparent to me; informal mediation had, and continues to be, an intrinsic part of a successful condominium manager.

With a portfolio of 33 condominium corporations, and a number of Shared Facilities and a marina under contract, I gave my two-year notice to all clients and staff that my front line condominium manager career was coming to an end. By June 2011, I was no longer a front line condominium manager nor was my firm responsible for one single unit.