

Summary of recommendations

Chapter 1 — Approval process

Recommendation No. 1:

The new approval process:

If an approved zoning by-law is in place, and the site is on a block of land described on a registered plan of subdivision, then:

- A. The builder-developer discloses his intention to the municipality to develop a condominium project.
- B. The builder-developer applies to the municipality for a site plan agreement under Section 35a of the Planning Act, and a building permit.
- C. The municipality processes the site plan application to ensure that all municipal standards and policies are adhered to.
- D. The municipality enters into a development agreement with the builder-developer setting out the conditions and standards of development. Levies should be determined at this stage, if they have not already been determined at the plan of subdivision stage.
- E. The builder-developer submits documentation for a disclosure statement to the Registrar of condominiums.
- F. Prior to the issuance of the building permit, the purchaser may only enter into a non-binding reservation agreement which the purchaser can terminate at any time up to 10 days after he receives his copy of the documents as approved by the Registrar.
- G. After the site plan agreement is finalized and notice of approval received from the Registrar of condominiums, the municipality issues the building permit. The building permit becomes the draft approval.
- H. The builder-developer starts construction.
- I. The builder-developer submits his proposed declaration and description to the Ministry of Consumer and Commercial Relations for a review as to the registerability of the documents.
- J. The municipality receives the "J" form from the Ministry of Consumer and Commercial Relations and any other clearances necessary as a result of conditions imposed in the development agreement.
- K. The municipality, once satisfied that all the terms of the agreement have been carried out and after a detailed inspection of the site, endorses the final plans for registration. Upon completion to the satisfaction of the Ministry of Consumer and Commercial Relations and the local government, registration can take place.
- L. The actual registration of the condominium will be effected by filing the declaration and description in the local land registry office and the Registrar of condominiums.

Recommendation No. 2:

Section 29 of The Planning Act be amended:

- A. To require that where no municipal structure exists, the Minister of Housing be the approval authority.
- B. To require that where a municipality has no official plan and cannot use Section 35a of The Planning Act, the project be part of a registered plan of subdivision approved under Section 33 of The Planning Act.

Recommendation No. 3:

Section 35a of The Planning Act be amended:

- A. To define "development" in subsection (1), and amend the definition of "redevelopment" to provide that conversion-to-condominium applications be covered.
- B. To empower the municipality to impose such conditions as the Minister of Housing may impose under Section 33(5), subject to the appeal provisions of Section 33(7).
- C. To empower the municipality to require that an application for first registration in the land titles system, or for certification of title, be commenced prior to issuance of a building permit.
- D. To clarify that the municipality has the authority to impose standards of width and construction material on all internal roads.
- E. To remove the 25-unit minimum in the municipality's authority to require architectural drawings.
- F. To enable the municipality to establish planning, engineering and construction standards which will minimize long-term maintenance and operation costs.

Recommendation No. 4:

Section 24 of The Condominium Act be amended to reflect the new system.

Chapter 2 — Construction

Recommendation No. 5:

The Ontario Building Code be reviewed for the purpose of:

- A. Establishing a standard of design and workmanship desirable for a building retained to the public, as distinguished from the minimum requirements necessary for the safety of occupants.
- B. Establishing standards on the lifetime costs of maintenance and repair.
- C. Establishing standards on sound-proofing.
- D. Ensuring energy-efficient design, including increased insulation.
- E. Establishing the Building Code as a minimum construction standard, with the municipality being given the power to establish higher standards.

Recommendation No. 6:

The Province of Ontario establish training standards for municipal inspectors and provide municipalities with funds or educational programs which would allow the municipalities to meet those standards.

Recommendation No. 7:

The builder acquire warranties, where possible, in a form capable of transfer to the condominium corporation and, on the election of a board of directors by the unit owners, turn the warranties over to the condominium corporation.

Recommendation No. 8:

The Ontario New Home Warranties Plan be amended:

A. To empower the warranty corporation to act as a trustee to borrow money from a lender who has unadvanced mortgage funds on a condominium project. Such a loan to take priority over claimants whose claims are registered subsequent to the registration of the mortgage.

B. To empower the warranty corporation to use such money for the completion of units or common elements not covered by the warranty and any remainder of such money for full or partial satisfaction of warranty completion and repair costs.

Recommendation No. 9:

The warranties on the common elements take effect from the date the builder has ceased to have control of the condominium board of directors.

Recommendation No. 10:

The Government of Ontario guarantee loans through private lending institutions to condominium corporations not covered by the HUDAC New Home Warranty Program for the correction of construction deficiencies.

Recommendation No. 11:

The municipality require "as built" plans to be filed with the municipality on completion of construction. All such plans be made accessible to representatives of the condominium corporation in question.

Chapter 3 -- Municipal policy and standards

Recommendation No. 12:

A. Municipalities provide a clear definition of "single-family" in their zoning by-laws and enforce the provision. In the absence of a definition of "single-family" in a condominium declaration, a condominium corporation should be allowed to import a definition under the municipality's maintenance and occupancy by-law.

B. As an alternative, municipalities provide restrictions on the maximum number of persons per bedroom or per floor space under their powers to pass maintenance and occupancy by-laws.

Recommendation No. 13:

Municipalities enforce their site plan agreements according to Section 35a of The Planning Act.

Recommendation No. 14:

Municipalities adopt consistent standards relating to width and construction of internal roads, internal services and other facilities required for condominium developments. Water and sewer easements follow the road wherever possible.

Recommendation No. 15:

Municipalities have formal guidelines dealing with matters such as parking requirements, service facilities and design criteria.

Recommendation No. 16:

Municipalities develop policies and guidelines for condominiums and adopt them as an amendment to their official plans. These policies address all matters listed under subsection (2) of Section 35a of The Planning Act and consider the following:

A. The size and complexity of condominium corporations; apartment and townhouse condominiums to be treated differently.

B. Parking, both in the number of spaces per unit and guidelines for the location of visitor parking areas.

C. Whether or not internal streets in new and existing condominium projects should be public streets.

D. The services the municipality intends to provide and whether or not they will be provided on a charge-back system.

E. Design standards for condominiums if different from rental accommodation.

F. Designs that treat the issue of private spaces with more sensitivity.

G. Encouraging garbage storage areas adjacent to public roads so that they are accessible to municipal trucks.

Recommendation No. 17:

Municipalities adopt an amendment to their official plan to provide policies on condominium conversion, including the following considerations:

A. Conversions have the same standards as new condominiums.

B. The issues of:

i) The overall mix of rental and freehold accommodation in the municipality.

ii) The availability of rental accommodation similar to that proposed for conversion, in the general neighbourhood, for those existing tenants who wish to remain in rental accommodation.

iii) The vacancy rate for rental accommodation in the municipality.

C. The process that conversion applications should go through; e.g. that the developer be required to indicate the quality of the building and its life expectancy.

D. Detailed inspection before recommending draft approval.

Recommendation No. 18:

The Ministry of Housing have its appropriate officials organize a series of workshops for municipalities across the province to discuss the new approval procedure and the methods available to administer it.

Chapter 4 -- Municipal services

Recommendation No. 19:

The Municipal Act be amended:

A. To define a condominium road.

B. To enable municipalities to provide road maintenance, including snowplowing, on condominium road.

C. To enable municipalities to levy fees for that purpose, if necessary.

Recommendation No. 20:

A. Municipalities consider the possibility of assuming as public roads the roads internal to condominiums when a development is first considered.

B. The Ministry of Housing grant approval of municipal status for roads of less than 66 feet that are on condominium property, wherever feasible.

Recommendation No. 21:

Government-guaranteed loans be made available to condominium corporations for the purpose of bringing roads up to municipal standards.

Recommendation No. 22:

Section 354(1) 112 of The Municipal Act be amended to specify that, in the case of a condominium, the "owner" is a person delegated by the board to act for the purpose of this section notwithstanding that the car owner is a unit owner in the condominium project.

Recommendation No. 23:

A. A condominium corporation experiencing policing difficulties contact its local police department to set up a meeting to discuss mutual concerns.

B. The Ministry of the Solicitor General, with the assistance of the Registrar of condominiums, provide material on condominiums to boards of police commissioners.

Recommendation No. 24:

Municipalities exercise greater development control over private condominium roads, and give consideration to the problem of waste collection at the design stage.

Recommendation No. 25:

The Municipal Act be amended to enable municipalities to levy fees, if necessary to condominium corporations for special garbage collection.

Recommendation No. 26:

All legislation regarding municipal services on condominium roads exculpate the municipality from any action on the part of the condominium corporation for damage to private property.

Recommendation No. 27:

Municipalities ensure that maintenance and repair are facilitated by insisting that pipes follow the road.

Recommendation No. 28:

Legislation be amended to enable municipalities or their public utilities commissions to maintain and repair water and sewer pipes on condominium property and charge a fee, if necessary.

Recommendation No. 29:

Legislation be amended to require, in the interest of public safety, municipalities or their public utilities commissions to maintain condominium fire hydrants, and to allow them to charge a fee for such service, if necessary.

Recommendation No. 30:

A. Municipalities and public utilities commissions insist on individual metering for all new condominiums.

B. Municipalities and the province consider assisting condominiums to convert from bulk to individual metering.

Recommendation No. 31:

Municipalities draw up a service agreement with each condominium corporation, to be renewed annually. This agreement to outline exactly what services the municipality would provide and what, if anything, the condominium corporation might pay for these services.

Chapter 5 — Lending institutions

Recommendation No. 32:

No liability be placed by legislation on lenders for the quality of design or construction.

Recommendation No. 33:

Lenders include 50 per cent of the estimated annual common expenses in the gross debt service ratio of principal, interest and taxes in determining a purchaser's eligibility for financing, or other percentage the lender deems appropriate given the nature of the proposed common expenses.

Recommendation No. 34:

Lenders distribute advances on the construction mortgage among the unit mortgages on registration.

Chapter 6 — Condominium Insurance

Recommendation No. 35:

The Insurance Act be amended to give the condominium corporation an insurable interest in the property.

Recommendation No. 36:

The Mortgages Act be amended to deem the mortgagee of a condominium unit to have waived its right to have insurance proceeds applied to the mortgage unless the unit owners vote against repair. Such a provision be retroactive and all mortgages which might be invalid, by reason of a lack of waiver, be validated subject to this amendment.

Recommendation No. 37:

The Insurance Act be amended to ensure statutory conditions for condominium insurance policies providing:

A. The insured as the condominium corporation and the unit owners from time to time.

B. The exclusive right to the condominium corporation to adjust or amend.

C. The condominium policy be primary insurance not to be brought into contribution with unit owners' insurance policies on their units.

D. The insurer's right to repair be waived in the event of damage leading to the termination of the condominium corporation.

E. A breach of any condition in the policy not disentitle the insured to collect in the event the property must be repaired.

F. Cancellation be on 60 days notice to the condominium corporation and insurance trustee, if any.

G. Such other conditions as the superintendent of insurance deems advisable.

Recommendation No. 38:

Condominium corporations obtain all risk, stated amount replacement cost insurance, including replacement to any increased construction standard required by law.

Recommendation No. 39:

All condominium insurance policies be reviewed in the light of the discussions in the chapter on Insurance

Chapter 7 -- Purchasing a condominium

Recommendation No. 40:

The Ontario government provide assistance to consumer groups and the development industry in formulating courses to educate both sales personnel and consumers in the field of condominiums.

Recommendation No. 41:

The Registrar of the Commercial Registration Appeal Tribunal take more vigorous action in enforcing the provisions of The Real Estate and Business Brokers Act.

Recommendation No. 42:

The Condominium Act be amended to provide that:

- A. Budget statements supplied to purchasers be dated so that purchasers will know that the costs shown are estimated as of a particular date. Budget statements must also include the type, frequency and level of service to be provided.
- B. Increases in hydro, heating fuel and other utilities, not including cable TV, not be required to be guaranteed by developers for the first year after registration, as these are costs over which the developer has no control.
- C. A corporation be provided with a civil cause of action where a budget statement supplied by a developer proves to be unrealistic.

Recommendation No. 43:

The Condominium Act be amended to provide that in any transaction where the purchaser does not receive prescribed security under the Act, all cash paid via deposit or downpayment towards the purchase price of a unit not be payable to the developer. The Act should provide that these monies are to be made payable to the developer's solicitor to be held in trust.

Recommendation No. 44:

The Condominium Act be amended to provide that the agreement of purchase and sale include a provision that, where it is necessary for the vendor to reduce the mortgage committed to a unit, the purchaser need not deliver to the vendor that portion of the downpayment attributable to such reduction until the purchaser has received evidence of the reduction.

Recommendation No. 45:

The Condominium Act be amended to provide that the money paid by a purchaser on account of the purchase price of a condominium unit (excluding occupancy payments and money for which the prescribed security has been given) be held in trust until a deed in registerable form has been given to the purchaser in accordance with the agreement of purchase and sale.

Recommendation No. 46:

The Condominium Act be amended to include a general provision that the Act will apply, notwithstanding any agreement or waiver to the contrary.

Recommendation No. 47:

The Condominium Act be amended to provide that:

- A. The purchaser of a residential unit have the right to rescind a purchase agreement, without incurring any liability for breach thereof within 10 days from the later of the date the purchase agreement is executed or from his receipt of all the documents which the developer is required to provide.
- B. A purchaser not have the right to rescind the purchase agreement if 10 clear days prior to the execution of the agreement he received all the documents the developer is required to provide.

Recommendation No. 48:

The Condominium Act be amended to provide that the portion of the adjustments to cover reserve funds or common expenses be payable directly to the corporation.

Recommendation No. 49:

The Condominium Act be amended to delete the requirement that the agreement of purchase and sale specify that rent money not be credited to the purchase price and the matter be left to the disclosure statement.

Recommendation No. 50:

- A. Purchasers in possession under an interim occupancy arrangement remain as tenants under The Landlord and Tenant Act, but that certain changes be made in their rights.
- B. The Condominium Act be amended to provide that notwithstanding the status as tenants of purchasers in possession:
 - a. The builder be required to provide only those services that the condominium corporation is to provide in accordance with the documents the builder must provide purchasers.
 - b. The responsibility of the builder for repair and maintenance of the building be that of the future condominium corporation.
 - c. The builder have the same right of entry as the future condominium corporation.
 - d. The builder be allowed to withhold consent to an assignment of the interim occupancy agreement or to a subletting where this would interrupt the flow of mortgage advances.

Recommendation No. 51:

The Condominium Act be amended to provide that the purchaser and the developer abide by rules and regulations proposed for the corporation and that such rules be enforceable by the purchaser against other building occupants just as if the rules were rules of a registered condominium corporation.

Recommendation No. 52:

Condominium purchasers in a particular project join together to create an interim association. This association should then select an individual whom the developer could include on his board of directors immediately upon registration. The developer should include at least one purchaser-occupier on the board of directors as soon as possible after the registration of the corporation.

Recommendation No. 53:

The Condominium Act be amended to provide that a notice of intent to register a condominium be registered when the building permit is issued and such notice be signed by all existing encumbrancers. These and all subsequent encumbrancers must be deemed to have consented to the registration of a condominium, conforming with the information filed with the Registrar of condominiums.

Chapter 8 — Property management

Recommendation No. 54:

The Registrar of Condominiums assist the condominium property management industry in determining the proper content and duration for a prescribed course or choice of courses in the field of condominium property management.

Recommendation No. 55:

- A. A code of ethics be established by representatives from the property management industry and condominium associations in conjunction with the Registrar of condominiums.
- B. Such guidelines apply to all firms offering commercial condominium management services in the Province of Ontario.

Recommendation No. 56:

Representatives of the property management industry in conjunction with the Registrar of condominiums work to prepare legislation to enable the property management industry to become a self-regulated and self-disciplining body.

Recommendation No. 57:

In the absence of action taken by the property management industry towards self-regulation, The Condominium Act be amended to require that all individuals and companies engaged in condominium property management for a fee be registered with the Registrar of condominiums.

Chapter 9 — Property taxation

Recommendation No. 58:

Property tax rebates or tax credits not be given retroactively to the owners of condominium units who did not have appeals outstanding in December, 1975.

Chapter 10 — The condominium corporation

Recommendation No. 59:

The Condominium Act be amended to require that a developer or his representatives provide the following items at the turnover meeting of the corporation referred to in Section 9b:

- A. Warranties and guarantees on all "equipment" for the common elements or any other item for which the corporation is required to provide maintenance or repair.
- B. As-built architectural, structural, engineering, electrical, mechanical and plumbing plans, plus underground site services, site grading, drainage, cable television and landscaping, which are part of the condominium property and for which the board has responsibility of repair and maintenance.

C. Copies of all contracts and agreements entered into by the developer which affect the corporation, including service contracts, management contract, site plan agreement, insurance agreements and easements or licenses.

D. A financial statement prepared no earlier than 30 days prior to turnover for the period from registration to not less than 30 days prior to the date of the statement. The statement should include the depreciation period of capital equipment for the common elements, budget, balance sheet of income and expense, and all financial records necessary to prepare the financial statements.

E. A table showing the maintenance responsibilities as a schedule.

F. Bills of sale or transfers for all furnishings, equipment, etc. which are not part of the common elements.

G. Current documentation — declaration, description, by-laws, rules and regulations.

H. Minute books of corporation and corporate seal.

Recommendation No. 60:

The Condominium Act be amended to define the word "records" to include items in Recommendation No. 59, but not limit the definition to those items. In addition to items in Recommendation No. 59, the definition of "records" should include any financial reports supplied by the corporation's manager, minutes of annual meetings and board meetings, any amendments to documentation passed by the corporation, and all notices of meetings.

Recommendation No. 61:

The Condominium Act be amended to require that every condominium corporation have a corporate seal.

Recommendation No. 62:

The Condominium Act be amended to provide that no contract entered into by the developer's board be for longer than 18 months from registration unless ratified by a board elected by purchasers. This, however, should not replace the owner's right to terminate a management contract pursuant to Section 15(a).

Recommendation No. 63:

The Condominium Act be amended to provide that board members be excused for any act done in good faith in the carrying out of their duties as specified in the declaration and by-laws.

Recommendation No. 64:

The Condominium Act be amended to provide that the condominium corporation may act as a representative of the unit owners with respect to the common elements, the corporation's assets and two or more of the units in the corporation, notwithstanding that the corporation was not a party to the contract against which the action is brought.

Recommendation No. 65:

The Condominium Act be amended to provide that the condominium corporation may be sued as representative of the unit owners as a class.

Recommendation No. 66:

The Condominium Act be amended to provide that a judgement against a condominium corporation is deemed to be a judgement against the owners at the time of judgement.

Recommendation No. 67:

The Condominium Act be amended to permit a board of directors to give notice to owners by delivery of the notice to the unit. The requirement of service by prepaid mail or personally would apply only when service is being effected on a mortgagee or owner who has notified the corporation of his address and is not in occupancy.

Recommendation No. 68:

The corporation provide with the notice of meeting any background information regarding decisions being put to the owners for approval or a vote.

Recommendation No. 69:

The Condominium Act be amended to clarify that:
A. Where a member of the board of directors is removed pursuant to Section 9 (7a) that this not be considered a vacancy in the board under subsection (7).
B. When a board member is removed in accordance with this section 9(7a), the new member be voted into office by the owners in compliance with the corporation by-laws dealing with election of directors.

Recommendation No. 70:

The Condominium Act be amended to use only the term "owners" and not "members" in specifying rights and obligations.

Recommendation No. 71:

The Condominium Act be amended to provide that the board of directors of a condominium corporation may determine what constitutes a "substantial" change in common elements or assets.

Recommendation No. 72:

The Condominium Act be amended to provide that:
A. Voting be on the basis of one vote per unit, rather than on the total of percentage interests.
B. Where there is more than one owner of a unit, only one owner can vote.

Recommendation No. 73:

The Condominium Act be amended to require notice to encumbrancers of an application to amend the declaration or description because of a manifest error or inconsistency.

Recommendation No. 74:

The Condominium Act be amended to eliminate the inclusion in the declaration of those items which would be better dealt with in the Act or the by-laws.

Recommendation No. 75:

The Condominium Act be amended to provide that the voting majority to amend by-laws be reduced to a vote in favour of the by-laws or amendments thereto of more than 50 per cent of the owners of all the units.

Recommendation No. 76:

The Condominium Act be amended:
A. To remove the requirement that a provision regarding the enacting of rules and regulations be included in the by-law.
B. To provide that all corporations have the power to pass rules and regulations which are reasonable and consistent with the Act, declaration and by-laws of the corporation.

Recommendation No. 77:

The Condominium Act be amended:
A. To eliminate Section 10(1)(B), regarding by-laws governing the use of units for the purpose of interference with the use and enjoyment of common elements and the units.
B. To allow rules "respecting the use of the units and common elements for the purpose of preventing unreasonable interference with the enjoyment of the units and common elements".

Recommendation No. 78:

The Condominium Act be amended:
A. To permit the board of directors to make rules and regulations.
B. To eliminate the requirement that 50 per cent of the owners vote in favour of a rule or regulation.
C. To require the board to notify unit owners 30 days in advance of a rule or regulation becoming effective and, where necessary, to explain the effect of the rule or regulation.

Recommendation No. 79:

The Condominium Act be amended to reduce the percentage required to call a meeting of owners for any purpose to 15 per cent of unit owners.

Recommendation No. 80:

The Condominium Act be amended to require a vote of more than 50 per cent of the owners of all the units to overturn a decision of the board of directors concerning rules and regulations.

Recommendation No. 81:

The Condominium Act be amended so that the signing officers of the corporation can certify as to the authorization by the required majority of a sale of part of the common elements and sign the deed or transfer resulting from this.

Recommendation No. 82:

A unit owner's right to lease his unit should remain intact.

Recommendation No. 83:

The Condominium Act be amended:
A. To provide that an owner who rents his unit give notice of the rental to the board of the condominium corporation.
B. An owner's failure to notify the board of his intention to lease his unit be the subject of a penalty under Section 24e of The Condominium Act.
C. The common expense fees for leased units be increased by 10 per cent.

Recommendation No. 84:

The Condominium Act be amended to permit the assessment of leased common elements for business tax.

Recommendation No. 85:

The Condominium Act be amended to clarify that division within units is subject to Section 29 of The Planning Act.

Recommendation No. 86:

The Condominium Act be amended to clarify that payments towards a reserve fund constitute an asset of the corporation and, as such, cannot be distributed to owners except on termination of the condominium corporation.

Chapter 11 — Financial administration

Recommendation No. 87:

The Condominium Act be amended to provide:

- A. That financial statements be provided to all owners prior to annual meetings.
- B. By regulation, the minimum content of the statements.

Recommendation No. 88:

Condominium boards consider appointing audit committees to assist the board in managing the financial affairs of the corporation.

Recommendation No. 89:

The Condominium Act be amended to require:

- A. That all corporations have a reserve fund for the replacement of major capital items, the money to be deposited with a chartered bank or trust company in a trust account separate from the corporation operating accounts.
- B. The developer establish the account in the corporation's name with an initial deposit equal to three months common expenses and transfer the account to the board of directors at the first annual meeting.
- C. The annual contributions to the reserve fund be based on the cost and life expectancy of major capital items as disclosed by the developer or as modified by a subsequent appraisal.

Recommendation No. 90:

The Condominium Act be amended to provide for the appointment of an auditor for each corporation of more than nine units. The auditor should have the authority and responsibility provided for auditors appointed under The Business Corporations Act.

Recommendation No. 91:

The Condominium Act be amended to allow the corporation to assess the cost of repairs, carried out by the corporation to a unit, as common expenses chargeable to the unit and collectable by way of lien.

Recommendation No. 92:

The Condominium Act be amended to ensure that the trust accounts created in accordance with Section 15b(4) are in the name of the condominium corporation.

Recommendation No. 93:

All cheques drawn on the corporation's trust account be co-signed by at least one officer of the corporation.

Recommendation No. 94:

The Condominium Act be amended:

- A. To define income other than income received from common expenses.
- B. To provide that these monies be applied against either future common expense payments or reserve funds, but not be distributed to the owners unless there is termination of the condominium.

Recommendation No. 95:

The Condominium Act be amended to provide that a lien for unpaid common expenses has priority over all encumbrances except municipal taxes.

Recommendation No. 96:

The Condominium Act be amended to provide that where a tenant occupies a unit in a condominium, and that unit is in arrears of common expense payments, the corporation shall have the right to collect the common expense payments from the tenant, who will be entitled to deduct the amount paid to the corporation from the rent he pays the owner.

Recommendation No. 97:

- The Condominium Act be amended to provide:
- A. That interest may be charged on arrears and the cost of recovering common expense arrears be included, as a common expense attributable to that unit.
 - B. By regulation, the rate of interest on common expense arrears be 12 per cent per annum.

Recommendation No. 98:

The law associations consider establishing a suggested maximum fee to be charged for the registration of a common expense arrears lien.

Recommendation No. 99:

The Condominium Act be amended to give statutory authority to Form 10 of Regulation 98 which allows the lien to secure future defaults.

Recommendation No. 100:

The Condominium Act be amended to state that the procedural steps to enforce the common expense lien are those set out in the Mortgage Act.

Recommendation No. 101:

The Condominium Act be amended to provide that the proceeds received as a result of an expropriation be paid to the unit owners in accordance with their percentage of ownership of the common elements as set out in the declaration.

Recommendation No. 102:

The Condominium Act be amended to provide that either an owner or a purchaser may request a certificate and once the certificate is supplied or is not supplied within the time limits in the Act, the corporation will be estopped from claiming against the purchaser, where the purchaser has relied on insufficient or inaccurate information.

Recommendation No. 103:

- The Condominium Act be amended to prescribe:
- A. A maximum fee of \$25.00 for the provision of the estoppel certificate and accompanying documents.
 - B. An expanded certificate.

Recommendation No. 104:

The time period for rescission on a purchase from a developer apply to a resale.

Chapter 12 — The Registrar

Recommendation No. 105:

The Ontario Securities Commission treat the sale of interest in property where the attempt is to circumvent condominium or co-operatives legislation as a security interest; and require the developer to issue a prospectus.

Recommendation No. 106:

The Condominium Act be amended to prescribe certain sections of declarations and by-laws.

Recommendation No. 107:

The Condominium Act be amended to establish a central organization called The Office of the Registrar of Condominiums.

Recommendation No. 108:

The Registrar of Condominiums approve all condominium documents which a developer is required to provide to a purchaser under Section 24b.

Recommendation No. 109:

The Condominium Act be amended to provide for:
A. A fine of \$50,000 for misrepresentation in material provided the Registrar.
B. A specific right to unit owners and the condominium corporation to sue the developer for misrepresentation.

Recommendation No. 110:

The Condominium Act be amended:
A. To provide a developer from entering into a binding agreement of purchase and sale or any agreement in which he is entitled to retain a prospective purchaser's deposit, until the Registrar's approval has been issued.
B. To require the developer to notify purchasers that they have the right to terminate their agreements with the developer if the developer's documents do not receive approval.

Recommendation No. 111:

The Condominium Act be amended to provide that a developer who fails to comply with the Act be subject to a fine.

Recommendation No. 112:

The Condominium Act be amended to provide that a condominium corporation's failure to file information with the Registrar will make it subject to a penalty of up to a maximum of \$2,000.

Recommendation No. 113:

The Condominium Act be amended to provide that for the purpose of changing the provisions of an existing declaration to the standard provisions in the Act, a special vote of 70 per cent of the owners be allowed, and for the by-laws 50 per cent of the owners be allowed.

Recommendation No. 114:

The Condominium Act be amended to provide that the Registrar must approve these amendments to declarations and by-laws.

Recommendation No. 115:

A. The Condominium Act be amended to provide a system of dispute resolution structured as a two-tiered system composed of local Hearing Officers and a Tribunal.
B. The administrative responsibility for the system should rest with the Registrar of Condominiums.
C. The jurisdiction of the Hearing Officers and the Tribunal encompass the right to make decisions with respect to the collection of common expenses, the enforcement of the Act, declaration, by-laws and rules and regulations, damage to the common elements and the right to award costs.
D. Decisions of the Hearing Officers and the Tribunal be enforceable in the same manner as a decision of the courts.

Recommendation No. 116:

Before the legislation creating the Office of the Registrar comes into effect, an administrative office be established that will eventually become the Registrar's office.

Recommendation No. 117:

The Registrar's office be located in the Ministry of Consumer and Commercial Relations and that, in its establishment, the Ministry look to its other consumer protection bodies and the Ontario Securities Commission for guidelines and assistance.

Chapter 13 — Termination

Recommendation No. 118:

The province request the federal government to clarify the situation with regard to the distribution of assets of an insolvent condominium corporation.

Recommendation No. 119:

The Condominium Act be amended:
A. To repeal the provisions in the Act for automatic termination of the condominium corporation in the event of a failure to vote for repair after substantial damage.
B. To require the condominium corporation to repair unless there is a vote by 80 per cent of the owners to terminate the condominium corporation.

Recommendation No. 120:

The Condominium Act be amended to provide that upon a vote to terminate:
A. The board of directors be liquidators of the condominium corporation.
B. The board as liquidators continue to be subject to the existing requirements for removal or election of directors.
C. The liquidators be empowered to cancel or renegotiate all existing contracts relating to the corporation or units, including leasing of units, paying all debts and entering into requisite arrangements with the municipality for the conversion of the property to a rental project or as necessary.

D. The liquidators be granted a power of attorney, on behalf of the unit owners and all persons with claims against units, to dispose of the unit owners' interests and to consent to substantial changes in the common assets of the corporation.

E. Notice of the liquidators' appointment be registered in the common elements index and property parcel register.

F. Other condominium corporations engaged in the use of joint recreation or other facilities, with the corporation being terminated where such facilities require a financial contribution from the condominium being terminated, be permitted to apply to the court for an order governing the disposal or other use of such facilities.

G. The condominium be terminated on registration of a notice that all creditors had been paid, obligations settled and all assets of the corporation had been disposed of.

Recommendation No. 121:

The Condominium Act be amended to provide that:

A. The liquidators appointed under the "winding-up" arrangements be empowered to apply to the court for an order permitting them to amend the declaration and by-laws so as to vary the number of units in the condominium and their appurtenant common interests.

B. The court may deem insurance money or money paid by the liquidators to unit owners as full satisfaction of any claims or rights of such unit owners.

Chapter 14 — Housing choice and government programs

Recommendation No. 122:

The AHOP program be amended:

A. So that subsidies are available from the time of occupancy.

B. To include common expense payments in the eligibility requirement calculation.

Recommendation No. 123:

The Condominium Act be amended to remove the section permitting condominiums on leased land.

Recommendation No. 124:

Federal and provincial programs such as AHOP-HOME, be directed towards encouraging alternate forms of housing, such as zero lot line or on-street townhousing, and that municipalities be more receptive to innovative housing forms.

Recommendation No. 125:

Municipalities endorse the "Urban Development Standards" report published by the Ministry of Housing to assist in the reduction of housing costs, thereby increasing the scope of housing choice.

Recommendation No. 126:

Legislation be amended to provide a legislative basis for all-adult buildings.

Glossary of terms

Board of directors

The directors of the condominium corporation are the elected representatives of the unit owners and assume the responsibility for the management of the condominium property and its business affairs.

By-laws

The documents which supplement many of the matters contained in the Declaration. They deal with the daily operational aspects of the condominium corporation and the duties and responsibilities of the board of directors.

Common elements

Those parts of the property that are shared and jointly owned by the unit owners (halls and passageways, swimming pool, etc.). Areas designated as common elements are outlined in detail in the declaration of the condominium corporation. No two declarations are necessarily the same. (See also **Exclusive use common elements**).

Common expenses

Expenses incurred by the condominium corporation in maintaining the common elements of the property and in carrying out the duties and responsibilities specified in the condominium documents and The Condominium Act.

Common interest

The proportionate interest in the common elements belonging to a unit.

Condominium

The term applied to a specific type of property ownership rather than to any distinct style of building. In condominium ownership the owner owns his own unit and shares ownership in the remainder of the property with the other unit owners.

Condominium corporation

A legal entity created on registration of the declaration and description in the appropriate land registry office of the Ministry of Consumer and Commercial Relations.

Declaration

The document which acts as the constitution of the condominium corporation. Its major significance is that it establishes the boundaries of units, common elements, and exclusive use common elements as well as each unit's proportionate ownership interest in the common elements and its percentage of contribution to the common expense payments. It also specifies voting majorities where The Condominium Act so provides.

Description

A detailed plan of the layout and location of the development, its units, common elements and exclusive use common elements. It includes a survey of the land, building outlines and structural plans. The description thus clearly shows those parts of the condominium development that are to be privately owned and those areas that are to be owned in common by the owners.

Developer

Term used to designate the initial owner of the project who invokes the Act by registering the appropriate documents.

Easements

A legal grant of rights to a person or persons which allows a person to pass over property not owned by that person.

Encumbrance

A burden or claim on property such as a mortgage or lien.

Estoppel certificate

A certificate which a condominium corporation is required to give upon the request of a purchaser of a condominium unit. Its purpose is to advise a new purchaser of any arrears in common expenses owing on the unit as well as an indication of any increased expenses which the condominium corporation may be anticipating.

Exclusive use common elements

Those common elements whose use is restricted to the owners of one or more units; conversely, those which are not available for use by all unit owners. (e.g. balconies, individual parking spaces, lockers, etc.)

Insurance trust agreement

An agreement whereby a trustee distributes the proceeds from an insurance policy, on behalf of the condominium corporation, the unit owners, and encumbrances.

Lien

A claim for the payment of money against a unit or a condominium corporation. The right to a lien can only be created by legislation. The enforcement of a lien is by way of sale of the property.

Management contract

The agreement entered into by the condominium corporation with a management company to employ that company for a fee to carry out the day to day responsibilities of maintaining the property, such as janitorial and landscaping services or effecting repairs. The contract may call for only one service or for several areas of service to be provided.

Offer to purchase

A term used to describe the document which sets forth all the terms and conditions under which a purchaser offers to purchase a unit. This offer, when accepted by the seller, becomes a binding agreement of purchase and sale.

Project documents

The term used in this text to refer to the documents other than The Condominium Act which govern condominium living, including the declaration, description, by-laws, rules and regulations.

Proxy

A document used to authorize an individual, other than the person entitled, to vote at meetings on that person's behalf.

Registration

Used in the condominium context to indicate the final step to invoke the Act by registering the declaration and description in the land registry office.

Rules and regulations

The rules respecting the use of common elements by which the owners, their families and guests are expected to abide.

Termination

An act the effect of which is that the condominium corporation ceases to be governed by The Condominium Act.

Unit

Term used to denote those parts of the project which are individually owned.

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