

# **The Ontario Residents' Panel to Review the Condominium Act**

## **An initiative in support of the Ontario Ministry of Consumer Services' Condominium Act Review**



### **Final Report**

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# Introduction

Ontario is at the centre of North America's condominium boom. Encouraged by demographic changes, densification policies, and global capital's search for safe investments, condominiums are now approximately half of new homes built in the province. One in ten Ontario residents calls a condominium home. Condominiums are an increasingly important source of new rental stock and are the go-to housing option for Ontario's first-time buyers and retirees. What was only recently a niche form of ownership is playing an increasingly important role in the dynamics of Ontario's communities and the quality of life of Ontario residents.

They say high fences make good neighbours. Yet condominiums are set up to defy this homespun wisdom. Residents are placed close together, and owners are made collectively responsible for governing their shared spaces and maintaining the condominium's common elements. Ontario's condominium sector has seen a variety of outcomes. Many of Ontario's condominiums are clear successes: well governed, well managed, and well maintained, they meet the housing needs of their residents without undue hassles or expenses. Yet some condominiums have become seriously dysfunctional.

Owners who were attracted by affordability may encounter unexpected costs. Some condominium boards struggle to fill their positions with qualified volunteers. Uninvolved owners mean certain annual general meetings fail to meet quorum. Some boards of directors have become swamped by conflicting owner requests, and owners sometimes find boards unresponsive to their concerns or overly forceful in their enforcement of by-laws. Certain disputes go unresolved or are only solved at exorbitant cost. Some condominium managers have taken advantage of unsuspecting clients. And certain condominiums have been hit by not just one but several of these challenges at once.

The Government of Ontario understands that the issues affecting condominiums have become much more complex since the current Condominium Act (henceforth the Condominium Act) came into force in 2001. This is why it is undertaking a comprehensive review of the Condominium Act – the provincial legislation that governs the rights and responsibilities of condominium developers, owners, corporations, and boards of directors and establishes a number of protections for condominium buyers and owners.

This legislative review could have occurred behind closed doors and engaged only the traditional policy experts. But the Ministry of Consumer Services, when tasked to undertake this review, recognized that a traditional approach might fall short of meeting the current and future

needs of Ontario. Such an approach might miss critical information concerning how condominiums operate today; the sheer diversity of Ontario's condominiums, to say nothing of the diversity of experiences in each of those condominiums, makes it difficult to be clear about current challenges and confident about particular solutions. What is the day-to-day experience of condominium residents in Ontario? What type of condominium environments do Ontarians want? How would a particular proposal work in a townhouse in Thunder Bay, a mid-rise in Ottawa, or a high-rise in Markham? By engaging the voices of residents, owners, and landlords who live and invest in Ontario's condominiums, as well as the stakeholders who build, manage, and support condominiums, the Ministry of Consumer Services believes it will arrive at better-informed answers to these important questions.

In order to engage more productively with condominium residents and owners, condominium stakeholders, and the public at large, the Ministry of Consumer Services is reviewing the Condominium Act through a collaborative public engagement process. Working with experts in the field – Canada's Public Policy Forum and MASS LBP – the Ministry developed a three-stage process for the Condominium Act Review. The Residents' Panel to Review the Condominium Act is one important component of this three-stage process.

Stage one asked the public to bring issues and ideas to the table. It includes the first three meetings of the Residents' Panel, which culminated in this report, as well as Stakeholder Roundtable Meetings, the Minister's Public Information Sessions, and the collection of submissions by email and mail. Stage one has now been completed, and the resulting issues and ideas have been combined into the Findings Report.

In stage two, a panel of experts in condominium issues will review and flesh out the findings from stage one and bring forward detailed recommendations to the government for modernizing the Condominium Act. The experts' Options and Recommendations Report is expected to be available for public comment by the end of summer 2013.

In stage three, the Residents' Panel will meet for a full weekend in fall 2013 for a final session. This meeting gives panellists an opportunity to see whether their suggestions have been taken into account by the experts' panel and how their suggestions have been developed in the Options and Recommendations Report. In this final meeting, the Residents' Panel will review the Options and Recommendations Report and provide advice and commentary for the development of the Action Plan. As part of stage three, condominium residents and other stakeholders will have the opportunity to review and validate the Action Plan in fall 2013 before it is presented to the government and the condominium sector. The Action Plan will contain recommended actions not only for the government but also for the condominium sector and industry.

The Residents' Panel to Review the Condominium Act is based on the Reference Panel model – a tool developed by MASS LBP that decision

makers use to involve citizens in complex public policy discussions. The Residents' Panel to Review the Condominium Act is a body of 36 impartial Ontario residents randomly selected through a lottery who are broadly representative of the province's condominium population. The panel operates much like a jury, with randomly selected members coming together to learn, work on behalf of others, and offer direction to public authorities.

A Reference Panel has a number of advantages over more traditional forms of public consultation, including polls, focus groups and public meetings because the Reference Panel draws on the capacity of all people to reason on behalf of their communities.

A Reference Panel gathers a representative group of citizens who commit to spending several weekends over a period of two to three months learning about and discussing a policy issue from many different angles. More than merely testing top-of-mind public opinion, a Reference Panel is asked to deliberate on behalf of a broader community and reach a high degree of consensus before tabling its recommendations. In this way, a Reference Panel offers its members the insights and tools to translate their opinions and ideas into credible advice that decision makers can use to inform their choices. The process encourages its members to speak to their shared interests and not just to their personal experience.

A comprehensive evaluation of Ontario's Condominium Act requires more than three Saturdays. Nevertheless, the work of the Residents' Panel helps to demonstrate the overwhelming interest and ability of members of the public to play a more constructive role in the development and review of public policy. The panellists took their task seriously, gave generously of their time and did not receive compensation. Where they could not agree, they did help to clearly describe the outcomes they would like to see and the first steps they believe would move Ontario forward. Where they did agree, they clearly proposed recommended directions that would have significant implications for how Ontario's condominium sector operates.

While it's true that few people welcome dramatic change, the careful work undertaken by this small group of Ontario residents demonstrates that citizens will accept trade-offs and choices when they are well explained and well explored. The public deserves to be a full partner in any discussion concerning the future of our communities, and their voice is an essential one in the Condominium Act Review.



# What policy makers should know

The Residents' Panel members are proud homeowners and community members. They strongly believe that the province's condominium owners are capable of governing their condominium corporations effectively. Panellists understand that condominiums are playing an increasingly large role in meeting Ontario's housing needs and that condominiums continue to diversify, and they are confident that Ontarians can manage the challenges these changes entail.

Yet panel members believe this Condominium Act Review is overdue. They are worried that their quality of life at home and, for many, a significant monetary investment are precariously situated in a regulatory environment that currently lacks the necessary protections and safeguards. They believe that when things work well in condominiums, they work very well – and that what residents need, in large part, is the preventive measures that align resident expectations with reality, improve accountability, and help establish healthy, well-functioning condominium communities from the start. That said, panellists are also well aware that when things go wrong in the current system, things can quickly spiral out of control, with few places to turn for satisfactory remedies. They believe that, on certain issues, Ontario's condominiums need stronger limitations and more muscular interventions, and they look forward to the outcomes of the three-stage Condominium Act Review of which they are a part.

## **RESIDENT RESPONSIBILITY**

Panellists did not shy away from taking on responsibility as owners and residents. They were frustrated by the fact that some buyers are purchasing condominiums with the assumption that condominiums are a hassle-free way to own a home, and believe buyers need to understand not only the rights but also the responsibilities involved in condominium ownership. Still, they strongly believe that the expectations placed on owners and residents need to be reasonable and that owners need to be prepared from the start to play productive roles in their condominiums. In their view, the idea of local, participatory, democratic control is one of the strengths of the condominium model. The issue in Ontario is that the current system sometimes fails to equip people with the necessary tools to participate effectively in their communities.

## **INFORMATION FOR NEW BUYERS, RESALE BUYERS AND RESIDENTS**

Readers might be surprised to discover that even a group of involved and committed condominium residents – residents willing to give up several Saturdays to review condominium legislation – felt that when faced with a challenge in their condominium, they often did not know where to turn for the information they needed to address it. It is true that answers to many of the panellists' questions are available either publically or for a modest fee. Yet the experiences of these panellists suggest that for many condominium residents, finding their way to this information is far from straightforward. In fact, many were motivated to participate in the Residents' Panel partly because they saw it as a rare opportunity to learn and to develop the knowledge required to serve their communities more effectively.

Not surprisingly then, many of the panel's recommended directions focus on getting people important information in an accessible and understandable format. They do not necessarily want government to provide all the information, but they do believe government has a role to play in making sure the information available is comprehensive, unbiased, and useful for the average resident.

They believe clear and understandable financial information will help prospective buyers decide whether they are capable of meeting the financial commitments condominium ownership entails. They also believe prospective buyers in both the new and resale condominium market need to receive the necessary orientation to governance obligations and other aspects of responsible condominium living so that owners know what is entailed by their purchase. As one member put it: "Condos aren't the right choice for some people. In fact, I might be one of those people, and I wish I'd known what I know now before I bought." Panellists are confident that these relatively modest measures can go a long way toward putting corporations on a strong footing and preventing the development of dysfunctional condominiums.

## **SUPPORTING BOARD MEMBERS**

Panellists believe that board members, as volunteers taking on what are sometimes multimillion-dollar operations, deserve greater support. Panellists did not go so far as to recommend placing further requirements on board members, fearful that this would make it even more difficult to recruit new directors. Accessible (likely online) training modules, on the other hand, were seen as a way to begin training board members, to orient them to available resources, and to attract new directors with the promise of support.

## **BETTER COMMUNICATION FOR FINANCIAL AND GOVERNANCE ISSUES**

Panel members believe that ineffective and inadequate communication is at the heart of many of the financial and governance issues faced by troubled condominiums in Ontario. They are strong proponents of mechanisms that improve two-way communication between the board of directors and owners while still being concerned about placing undue burden on boards of directors. In order to strengthen communication in condominiums both large and small, they would like to see improvements to the quality and clarity of financial and operational information provided to owners and also improved mechanisms by which owners can request information and raise concerns with the board of directors.

## **STRONG MEASURES ON CONSUMER PROTECTION FOR BUYERS, CONDOMINIUM MANAGERS AND DISPUTE RESOLUTION**

Panellists acknowledge that preventive measures such as those listed above will only go so far. Many panellists expressed that when faced with a tough problem in their condominium, they felt powerless and insecure. Their experience was that condominiums could be unpredictable and precarious, that it was too easy to be taken advantage of or intimidated, and that what might first appear as a small problem could develop into a major catastrophe. These feelings of insecurity help explain their strong demands for greater transparency and greater clarity about roles and responsibilities. These feelings may also help to give context to the recommended directions that call for stronger limitations and more muscular interventions.

Panellists want to be sure that someone is looking out for residents and owners. They want to know that new condominiums are on sound financial footing from the start and that owners will not be hit with unexpected and sometimes unmanageable added fees after the first year.

Most want to see some form of regulation or licensing for condominium managers so that they can be confident that these managers, who play absolutely integral roles in the day-to-day functioning of many of Ontario's condominiums, have the necessary skills and knowledge.

And, importantly, they want to be sure that there will be tenable solutions if their condominium was ever to become seriously dysfunctional. They are looking for a robust dispute resolution mechanism that is not only functional but also affordable; the cost of going to court has, in their view, given boards of directors in particular a considerable power under the current system of dispute resolution. Though they are in large part open to different models of dispute resolution and funding, they stress the importance of dispute monitoring, provision of information, and the existence of a third party with the power to intervene when things go seriously wrong.

## **THE IMPORTANCE OF STRONG COMMUNITIES**

Finally, the panel offers a message that has not been highlighted in many other discussions concerning condominiums in Ontario – the importance of social capital. They are acutely aware from their own experiences that social bonds support functional condominiums. Their feedback suggests that when people know one another in their building, it can help boost participation, diffuse and resolve conflicts, spread information, and uncover creative solutions. They do not want the government involved in legislating tea parties and social hours, but they want to make sure this issue is on the radar of policy makers and other stakeholders and that those who set out to build social capital in their buildings are encouraged and supported.

# Who are the members of the Residents' Panel to Review the Condominium Act?

The members of the Residents' Panel to Review the Condominium Act broadly match the composition of Ontario's condominium population. On the following pages you can read about each of them, in their own words.

**Adam Stork, Toronto:** Born in Toronto, Ontario, in 1975, I earned a Bachelor of Arts in history from the University of Toronto and the CompTia A+ computer certification. I currently work in the IT industry and have lived in a 634 sq. ft condominium for the past 14 years. History, computers, and technology continue to be my interests.

**Asif Khan, Etobicoke:** Though I earned my Master of Science in chemistry from Pakistan, I have been in Canada for more than 13 years, accumulating both Canadian education and experience. I worked at Royal Group Technologies for about seven years until I was laid off during the 2009 recession. I am currently working as a security guard and continue to look for full-time nice employment. I live with my wife and two kids: a daughter and a son. I want to be a useful part of society for myself and my family and am proud to be a Canadian of Pakistani origin.

**Atul Prakash, Mississauga:** I am a financial guide and navigator working in Mississauga, Ontario. My focus is on enabling hardworking families to improve their financial position substantially. This is done by converting their mortgage into an all-in-one A/C (One A/C) in which cash flow into debt and credit is under the control of the family, instead of the bank, which controls their mortgage. This creates a rich and prosperous family without any change in the way they budget. I have found spectacular success and have very happy clients in my practice.

**Beverly Capstick, Ottawa:** I have just retired from the federal civil service after 35 years of service. I have owned several condominiums over the past 30 years and have seen first-hand both how good they can be and how bad they can get (both financially and emotionally) when boards, owners, and/or condominium management companies lack the skills required for the condominiums to operator properly. I've travelled extensively throughout Europe and Canada, and in my retirement will continue to urge my MPP and the provincial and federal governments to address issues such as long-term care facilities for seniors and bullying-in-the-workplace legislation.

**Bina Mistry, Toronto:** Born and raised in the suburbs of the GTA, I graduated from the University of Toronto in 2003 with a Bachelor of Science in computer science. Since graduating, I have worked at IBM Canada in several different roles, most recently as a business consultant. In 2007 I became a condominium owner in downtown Toronto and have been a great proponent for city living and going local! I love to travel, read and tweet about topics that are of interest to me. Follow me @binamistry79.

**Bob Adams, Barrie:** Born and raised in Northern Ontario, I moved south to Barrie after university. After five years in retail and ten years consulting, I obtained the CGA designation and have since (for approximately 20 years) been working in the private manufacturing sector, half that time in precision machining and half in industrial manufacturing.

**Calin Serbu, North York:** Born in 1981, I have been a Toronto resident since 1994. I have a computer science degree from York University, and I have worked as a software developer in Toronto since 2006. Together with my spouse, we have owned an 850 sq. ft. unit in an uptown high-rise since 2011. As a millennial working in the local private sector, I am experiencing a monumental divergence between the economic reality of Toronto's labour market and the condominium real-estate market. I am particularly concerned because characteristics such as green space, infrastructure, comfort and quality of construction are no longer the most important determining factors of a residential property's value. I would like to see changes in city planning that will make the residential market serve the interests of Torontonians first and foremost with livable spaces at prices in sync with the local economy, 21st-century transportation, and many more walkable communities.

**Carol Grandison, Scarborough:** A mature Canadian citizen, I work and live in Toronto. I have owned my condominium since 1994. An active resident in Toronto, apart from my regular day job I volunteer for other organizations and was previously a board member at my condominium for more than seven years. I am a graduate of Ryerson University and work in the health care field. My volunteer work takes me all over the province and involves a tremendous variety of working activities. I am very involved with my family and take care of daily needs. I am extremely health-conscious and reserve at least four days a week for exercise and relaxation. I eat well, am environmentally friendly, and enjoy nature. I help and spend time with children and elders when needed. Outspoken, friendly, kind, reserved, I like my space and taking the best care of me.

**Cesar Kupfer Jarman, Toronto:** I graduated from York University in 2005 with a double major in political science and law & society. I wasn't even out of university when I was hired at RBC as an account manager. I spent five years with the banks, three with RBC and two with TD, employed as a finan-

cial advisor. I started my real estate consulting and investing company in 2009 and have been building it ever since.

**Cheryl Peters, Hamilton:** I am a 63-year-old retired registered nurse who worked in a general hospital setting for 37 years. I have a grown family. My husband passed away five years ago after a long battle with kidney disease. We spent our child-raising years in a house in the country, and when our kids were in college we moved to a high-rise condominium. My husband was on the board there for 12 years, and we enjoyed living there and participating in that community. After my husband passed away, I moved to a small townhouse condominium complex. I have been on the board of directors here for three years. I hope to contribute everything I can to the panel.

**Claire Grant, North York:** I have lived in Toronto for 42 years and have one son. I am from a large family, and most of them live in Toronto. I work for a bank and enjoy my job. I teach English as a Second Language (ESL) and am a Sunday school teacher.

**Doris Servais, Toronto:** I have been retired for many years. My professional background is secretarial and travel-related. My husband and I have lived in the same condominium for 40 years. It was one of the first built in Toronto and is one of the largest corporations. I have been on the board for 18 months and have taken two Canadian Condominium Institute (CCI) courses. As for hobbies, I have travelled a lot and spent many years sailing on Lake Ontario. After retirement, and until a few years ago, we continued to travel and sail. My latest interest is art and art classes.

**Elinor Knight, Guelph:** I have lived in Guelph for 30 years and in my condominium for six. I presently serve on the board of directors, beginning my second three-year term, and am board president. I have been involved in not-for-profit organizations at the local, provincial, and national levels both here in Canada and in the United States for about 50 years. My building was built in 1976 and has 142 units. Until August 2011 it was self-managed, with a board of seven directors and an office manager. In July when the office manager resigned, we chose a management firm. It has been quite a year! I am a widow, a retired school librarian, a mother of five adult children, and a Luddite.

**Gerald Bottos, Amherstburg:** My name is Gerald L. Bottos. I usually go by Jerry. I am married to my lovely wife of 33 years. We have four children and four grandchildren. I am a retired sheet metal worker originally from Thunder Bay, Ontario. We relocated to Amherstburg in 1994 because of the slow-down in construction jobs. We have lived in our condominium since May 2005 and enjoy the freedom to be able to lock our door and go without the worry or concern of homeownership.

**Joe Abboud, Vanier:** I immigrated to Canada in 1987 after the civil war





in Lebanon and have lived here ever since; I still visit my folks back home every year or two. I possess a variety of Canadian work experience: I started out at the Bank of Montreal as a teller before moving on to sales in a food distribution company while studying graphic design. This eventually landed me a job at the Ottawa Board of Education. While there, I found my calling in the IT industry, so I took a few courses and moved on to start my new career at Bell Canada in 2001. In early 2007, I moved to Dell Canada as a supervisor for 20 agents, working with stats and providing technical solutions as well as coaching. Dell closed down in mid-2009. In August of that year, I started with Industry Canada's Chief Informatics Office as a technical support analyst and am still there. I purchased my condominium unit in November 2005, on the advice of a friend who lived in one. I had no prior knowledge nor had I done any research on condominiums, but I was lucky to land in such a properly managed corporation. However, opportunities for improvement are always presented but never implemented. Therefore, my participation in this panel is to share my insights and ideas with others in hope of making condominiums a better place to own and live in.

**Joe Mele, Mississauga:** I was born in Italy. My whole family immigrated to Canada in the early 1950s. I got married in 1961 and we raised a family of three children. I worked for the City of Toronto for almost 30 years. Some of those years were spent as a union rep for Local 43 (which later became Local 416). I dealt with employee's grievances, arbitration cases, contract bargaining, strike issues, and all-around problem solving. I was in various elected union positions, the longest as a business agent. In 1990 I resigned from the City of Toronto and started working for the Canadian Union of Public Employees (CUPE). I retired from the workforce in 2004. We bought our first condominium in 1974, and I have been a condominium board member for about 12 years. In 1998 we bought another condominium, where I was elected president of the board and so far have served for four terms.

**Kathleen Stephenson, Ottawa:** I am a recently retired (I think) former consultant in private practice and former overseas worker with the United Church of Canada. At the end of July 2012, I took possession of a two-bedroom condominium on the seventh floor of a seven-storey building in Ottawa. I have owned two other residences – both single-family homes – living in one of them for 16 years and the second for 25 years, from 1987 to 2012. I was also a condominium tenant while living in Salvador, Brazil, from 2008 to 2012. During that period I worked as a full-time senior staff member in an ecumenical human rights organization. Prior to this, I consulted on organizational development and capacity-building for numerous Canadian and international NGOs – United Way Centraide Canada, YMCA-YWCA, Consumers Association of Canada, Family Service Canada among others – on such issues as strategic planning and evaluation, board governance, fundraising, communications, and project management. One of my responsibilities when I served as policy director for the Consumers' Association

of Canada was to participate in and advocate for meaningful public participation in legislative and regulatory reform in Canada to ensure that the consumer perspective was represented in deliberations. I trust that this current process to review and strengthen the Condominium Act in Ontario will prove meaningful and satisfying and that together we will provide a clear voice for condominium residents.

**Mahassen Mahmoud, East York:** Though I work as a program manager currently, my background is in human resources, the legal field, and not-for-profit corporations. I was the vice-president of my condominium corporation and have experience in process development.

**Michael Frankfort, Richmond Hill:** I have lived my entire life as a resident of the town of Richmond Hill. I am an active participant on a number of committees both locally and across the province. I am an educator, a musician, a graduate student, an environmentalist, a fundraiser, a science-fiction fanatic, a political activist and an artist. I currently sit as president of the board of directors of my condominium which provides me the opportunity to initiate and participate in many enthusiastic discussions related to the well-being of this community residence. It has been a pleasure to have been selected for this very unique opportunity to join other Ontario residents in updating the Condominium Act.

**Michael Gager, Ottawa:** My wife and I are recent renters of our condominium in Ottawa. I volunteered to be part of the Residents' Panel because I wanted to help shape the new Condominium Act. We are also looking to buy our first home or condominium in the near future, and I thought that serving on the panel would provide an excellent opportunity to learn first-hand from experts and the community about condominiums. I was born and raised in Surrey, British Columbia. I moved to Ottawa in 2007 to join the federal public service, where I work as an economist/advisor. I have a Bachelor of Arts and Master of Arts in economics from Simon Fraser University, and I love coffee, movies, fishing, and hikes in Gatineau Park.

**Monica Caliste, Toronto:** I was born in Trinidad and Tobago in the West Indies. I came to Canada in 1961 and later became a Canadian citizen. I got married in 1994 to Larry Mansfield Robbins and became a widow July 30, 2012. I am a graduate of York University with a degree in business administration and went on to attain level three CGA. I retired from Public Works and Government Services Canada, where I had held the positions of financial planning officer, management accountant, and chief, expenditure accounting. I enjoy travelling, designing, decorating, and fitness. My reason for being on the Residents' Panel is to learn more about the Condominium Act and at the same time make a contribution to the review of the Condominium Act.

**Monica Lloyd, Scarborough:** I am a Canadian citizen and came to Canada in 1968. I worked until 2005. I am an owner of a condominium where I have lived since 1983 and served on the board of directors for a few years.

**Myron Taylor, North Bay:** I am 70 years old and a retired business owner. I have made a condominium my home for 23 years in three separate condominium complexes, at two of which I have served as a director and president. I have been president of my condominium now for nine years. When I moved into the 28-unit condominium in 2003, I soon discovered that the property and building had been seriously neglected for many of 29 years. To make the situation even worse, the corporation was effectively bankrupt. Since many of our residents were retired on fixed incomes, raising condominium fees or applying a special assessment was not a good option to pay for the major repairs necessary. Our board decided instead to create two new one-bedroom condominiums in underused space on the lower level. We sold the two condominiums for \$400,000, using a portion of the funds to upgrade the lower level. The remaining funds were then applied to repairing the major building components. Owners are now required to obtain the necessary written permission to renovate and if necessary provide engineering and architectural drawings. I'm very proud to have the opportunity to work with the people who have helped make our homes a better place to live.

**Nancy Chan, North York:** I came from Hong Kong in 1974 and obtained my Bachelor degree from the University of Regina in 1978. I moved to Ontario in 1984. After years of part-time studies with full-time jobs, I obtained my accounting designation in 1996. I have been a condominium owner for three years and enjoy condominium living. I like hiking, reading, movies, and travelling. I am excited for this opportunity to understand the Condominium Act in detail and to share ideas in bringing the legislation more up to date with other stakeholders.

**Natasha Wilson, Toronto:** I own a condominium unit in a high-rise building in downtown Toronto. I purchased my unit directly from the construction developer in 2006 and moved into it in 2008. I am interested in issues concerning consumer protection and training for condominium board members.

**Patricia Dunham, Mississauga:** I have lived in Ottawa, Regina, Winnipeg, Kingston, Moose Factory, Toronto, and Mississauga. I am a graduate of Queen's University, where I earned a Bachelor of Arts (sociology) and a Bachelor of Education (primary/junior) from the concurrent education program. I have lived in Toronto since 1987, where I have been employed by various companies in the mutual fund industry. For the last 15 years I have worked for the Bank of Montreal as a business analyst supporting BMO's mutual fund and term investment lines of business. I have lived in three condominiums, participating on the boards of directors of two of them. I enjoy travelling, reading, baking, and socializing.

**Patrick Klug, Thunder Bay:** I'm from Thunder Bay. My wife and I have five children and two granddaughters (so far). I retired from teaching two years ago. I spend time doing volunteer work, house and yard projects, and maintaining the two rental units we own. At one time, we owned and rented out three condominiums. We have one condominium now.

**Philip Lau, Thornhill:** I am currently an elected member of my condominium board and have served on this board since 2011. After receiving my Bachelor degree from the University of Toronto, I have been working in one of the largest energy firms with offices across the United States and Canada. I oversee operation activities and performance management for them. On this panel, I hope to work with all members to achieve a quality lifestyle for all unit owners and residents; a highly secure, comfortable, and friendly environment; and a healthy cash flow and strong balance sheet for condominiums across Ontario.

**Po Wang Chow, Toronto:** I graduated from the University of Toronto as a mechanical engineer in 2002. I work as an insurance risk consultant, assessing properties and evaluating replacement costs. I lived in Markham until July 2012, when I moved into a condominium near High Park.

**Ravie Singh, Toronto:** I live in a condominium. I am married and have two children. I am a teacher and teach grade 5 students. I love my job, my family, and friends. I will be moving to Brampton in late 2012.

**Shervin Erfani, Windsor:** I was born and raised in Tehran, Iran (b. March 28, 1948). I moved to the USA in 1982, becoming a citizen and resident of New Jersey in 2000. I moved to Canada in 2002, becoming a citizen in 2011. I have been a resident and owner of my condominium in Windsor, Ontario, since 2003. Since 2002, I have been a professor of electrical and computer engineering at the University of Windsor, at times serving as department head. I earned my Ph.D. in the field at the Southern Methodist University in Dallas, Texas, in 1976. I worked for and retired from Bell Telephone Labs (formerly part of AT&T) from 1985 to 2001. I married my wife, a citizen and resident of Dallas, Texas, in 1983.

**Shirley Ting, Markham:** I have lived in an apartment/hotel in Hong Kong, and apartments in Manila, New York, and Rome. I attended the University of Notre Dame and settled in a house in Toronto in 2001. Career demands in the art and design field necessitated a lifestyle change and so we moved to a one-year-old condominium in 2009. My neighbours and I faced a surprising issue in my condominium community that came about due to a lack of transparent communication between residents, our condominium management, and our board of directors, resulting in a misinterpretation of the purpose of the Condominium Act so as to effectively silence our concerns

regarding the issue/matter. The request to volunteer as part of the Residents' Panel was a welcome opportunity to help represent fellow condominium residents who are like myself – busy and hoping to live in a well-run community. I am looking forward to the panel meetings to help discuss suggestions to the Condominium Act that will assist in shaping communities in Ontario and create better discourse and interaction among residents and those we trust to help run the community we invested in or planned to invest in.

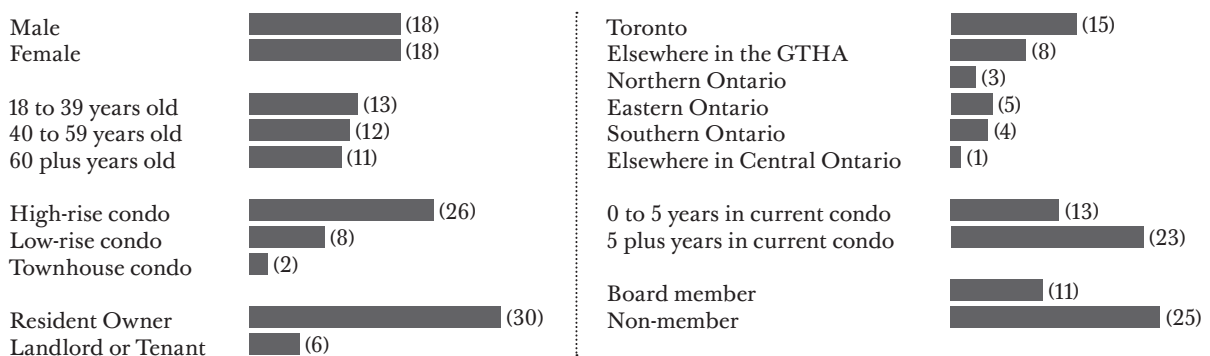
**Stacy Dodds, Kitchener:** I have been an owner-resident in a townhouse condominium for the past five years and a member of the board for about four years. I work in the financial services industry and volunteer, spend time at the gym and enjoy the outdoors with friends and family in my spare time.

**Susan Wright, Thunder Bay:** I have lived in a condominium for five years and last year I was elected to the board. I am a registered nurse and I worked 26 years in the neonatal intensive care unit before recently retiring. I do volunteer work with young mothers and love spending time with my granddaughters. I enjoy condominium living and the condominium community.

**Tony Shin, Woodbridge:** Biography unavailable.

**Ximena Suarez, Ottawa:** Born and raised in Ottawa, I am a young professional and federal public servant in contracting services. I received my Honours Bachelor of Arts in law from Carleton University and am an avid backpacker who enjoys the tastes and creations of food and beverages from around the world. I support leadership through collaboration, innovation, change, and demonstrated action. A nature and animal lover, I am happiest when life is challenging yet balanced.

## THE MEMBERS OF THE RESIDENTS' PANEL



# In their own words:

## The Report of the Ontario Residents' Panel to Review the Condominium Act

What follows is the Report of the Residents' Panel to Review the Condominium Act. The report was drafted in point form by the panel members and edited by MASS LBP staff. The entire report was sent to each panel member for comment and further revision before being released to the public. In this way, it has been vetted and authorized by panel members as an accurate account of the findings, intentions and recommended directions they would like to put forward to inform stage two of the Condominium Act Review and ultimately the Ministry of Consumer Services' final legislative proposals. Panel members may not necessarily agree that each of these recommended directions reflect their own personal positions, but they believe that their role on the panel is to do their best to represent the needs and interests of all condominium residents and owners and to work on their behalf. Thus, they have all agreed that this report accurately reflects the work accomplished by the panel over the three days spent working together and expresses the voice of the Residents' Panel as a whole.

### **WHO ARE WE AND WHY DID WE VOLUNTEER?**

We are 36 condominium owners and renters from across Ontario. In September, we each received a letter in the mail from the Honourable Margaret Best, Ontario's Minister of Consumer Services, asking for our help representing the condominium owners and renters of Ontario. We agreed.

Ten thousand condominium units in Ontario were randomly selected to receive this letter, which invited condominium owners and renters to step forward as volunteers for the Residents' Panel to Review the Condominium Act. More than 550 Ontarians responded, and from those volunteers, a representative panel was randomly chosen.

We represent a cross-section of Ontario's condominium population, based on gender, age, geography, condominium type, and renter/resident/owner status. We are board members and landlords, renters and owner-residents, people who have lived in condominiums for decades and

people who have just moved in.

We became residents of condominiums for different reasons: lifestyle, affordability, community, location, and many others. Some of our condominiums lived up to the promise, and some of them did not. Some of us are from healthy, well-functioning condominiums where the biggest problem is parking. Others among us live in condominiums that are struggling to solve difficult issues. We came together to build on these strengths and address these deficits.

We spent three full Saturdays in fall 2012 in Toronto, working together to learn about Ontario's condominiums and to provide recommended directions to inform stage two of the Condominium Act Review and ultimately the Ministry of Consumer Services' legislative proposals.

We volunteered to participate in this collaborative process for many reasons. We wanted to:

- educate ourselves regarding the Condominium Act;
- empower ourselves and others concerning the Act and its impacts on our homes;
- help others make informed lifestyle choices;
- participate in an innovative public consultation process;
- find ways to resolve issues we have faced as condominium residents;
- share our experiences – good and bad – with the Ministry of Consumer Services and the other participants in the Condominium Act Review; and
- help prepare our province for the future.
- Some of us came initially with highly personal reasons, but as we learned and worked together, we realized we had a much greater responsibility, not just to ourselves but to all those current and future owners and residents across the province.

We worked hard – not only for the (long!) Saturdays spent in Toronto but also in the weeks between each of our meetings. We read research, talked to others in our families and in our buildings, and brought their concerns with us when we came back to Toronto. For many of us, this was on top of long weeks in jobs or in school – and we are very proud of what we've been able to accomplish in the time we had together.

## **WHAT HAVE WE LEARNED?**

Many experts came to speak with us: lawyers, real estate professionals, regulators, policy analysts, developers, mediators, representatives of owner associations, and condominium managers, to name just a few. We learned from them how complicated it is to write the laws that govern the purchase and ownership of condominiums, about what was in the cur-

rent Condominium Act, and about how the Act has become insufficient to meet the needs of the current and future situation. We learned that the current Condominium Act had actually tried to solve many of the problems we had seen and experienced, but that changes in the number, size, and diversity of Ontario's condominiums, as well as the way they are developed and operated, had overwhelmed some of these attempted solutions. We heard that industry and owner associations both recognize the need for change, and that building sustainable solutions is a challenging task for everyone.

We learned about alternative dispute resolution, enforcement, cooling-off periods, status certificates and material change rules. We learned about quorum and special requisition meetings and proxy voting. We learned about disclosure requirements (and how hard it often is to understand information in the form and language in which it is presented to owners and residents), and about the importance of good communication. We learned about the economics of the condominium industry, reserve funds, maintenance fees and special assessments. We found out that there are already ways to solve some of our concerns, if only we had known where to access the necessary information in the first place.

We didn't always agree with everything the speakers said – they each had a somewhat different view and perspective. But we got many of our questions answered, learned a great deal about how the current Condominium Act works (or doesn't) and heard about different ways to try to solve the challenges we are facing.

We also learned a great deal from one another. The experience of a panel member who lives in a 700-unit high-rise in downtown Toronto is very different from that of panellists living in a mid-rise in Thunder Bay or a low-rise in Windsor. We heard how some condominiums are dysfunctional but also how many are healthy and well functioning. Yet certain overarching issues and concerns exist for all of us. Our own struggles and successes gave us examples to work from, and so each of us brought to the panel our knowledge about how condominiums actually run here in Ontario.

Many issues need to be addressed by a modernized Condominium Act – in fact, we believe this Condominium Act Review is overdue. Yet we are encouraged by this collaborative review process and hope that it will find strong solutions. Further, we hope the government will monitor changes to Ontario's condominium landscape going forward in order to ensure that, as new issues arise, solutions can be developed and deployed.

## **OUR TASK**

We understood from our invitation letter that our task was “To learn about Ontario's condominiums and the diverse concerns of residents and other stakeholders, to understand the collective challenges we face in condos and consider the choices ahead, and to offer guidance and propose priorities for

amending the Condominium Act to the Government of Ontario.”

We understand this work is feeding into a broader, three-stage public engagement process – we very much look forward to seeing the input offered by the Stakeholder Roundtable Meetings and other parts of stage one and eagerly await the results of stage two, where our recommended directions will be considered and developed by condominium sector experts.

We acknowledge that different condominiums require different roles and that our recommended directions would need to be applied in ways that are appropriate to the size and nature of different condominiums.

We hope readers of this report will agree that, given the time available and the magnitude and diversity of the issues facing Ontario’s condominiums, we have largely accomplished our task and have offered a useful public perspective into Ontario’s Condominium Act Review.

# Our Values

We reached agreement on seven values that we believe should be strengthened in a modernized Condominium Act. In the Our Recommendations Directions section, we highlight which values should be strengthened to address each of our concerns. These seven values are presented in no particular order.

## **WELL-BEING**

The Act should facilitate the well-being of the condominium community within the broader community. This includes the well-being of residents, owners, and the neighbourhood. This includes protecting and enhancing the health, safety, security, and accessibility of all residents and owners.

## **FAIRNESS**

The Condominium Act should balance competing interests and should apply to all, regardless of role or position. All members of condominium communities should have access to the necessary information, resources and supports to obtain the benefits described by the Act.

## **INFORMED COMMUNITY MEMBERS AND STAKEHOLDERS**

Community members and stakeholders (including residents, board members, lawyers, realtors, and condominium managers) should actively and consistently acquire the knowledge and develop the skills needed to effectively fulfill their respective roles. The Condominium Act should help ensure that condominium residents are provided with access to resources that equip them to be active and informed community members and to protect and enhance their quality of life in condominiums. Board members as well as condominium managers should remain current on best practices for condominium governance and management.

## **RESPONSIVENESS**

All condominium stakeholders should be committed to addressing expressed and identified needs in a timely and effective manner. The Condominium Act should help ensure that all concerns raised are dealt with promptly, with deliverables completed within agreed-upon timeframes. The decision-making process should encourage responsiveness by being inclusive, transparent, informative, and legitimate while still allowing decision makers to exercise stewardship and take necessary actions for the health of the community.

## **STRONG COMMUNITIES**

The Condominium Act should support the creation of condominium communities formed of stakeholders, including developers, owners, residents, condominium board members and condominium managers on equal footing who have accepted the terms and conditions of joining the community and who are participating and cooperating toward the common good.

## **FINANCIAL SUSTAINABILITY**

The Condominium Act should help to ensure financially sound management of condominiums using recognized standard accounting practices for predictably calculating future expenditures – including the costs of day-to-day maintenance and major structural renovation needs that will arise in the future.

## **EFFECTIVE COMMUNICATION**

The Condominium Act should support timely, concise, clear, open dialogue among community stakeholders (including management). When questions or concerns are raised, responses should be prompt. Government also has a responsibility to communicate regularly to stakeholders and promote awareness about important issues and changes concerning Ontario's condominiums.

# Our Recommended Directions for the Review

## **A. FINANCIAL MANAGEMENT:**

### **Establishing and Maintaining Adequate Reserve Funds**

**Premise:** Reserve funds are critically important to healthy condominiums, and yet the reserve funds of condominiums are often undercapitalized, with insufficient funds to cover necessary future repairs, replacements and renovations. New buildings frequently have undercapitalized reserve funds from the start. The current Condominium Act does not sufficiently specify minimum requirements for reserve fund contributions, which is one of the reasons that some older buildings develop undercapitalized reserve funds and owners face special assessments.

**Values:** Financial Sustainability

**Recommended Directions:** We recommend that the Ministry of Consumer Services take a leadership role in collaborating with industry and owner associations in order to determine and implement a more realistic requirement for the initial funding of the reserve funds of new buildings;

We recommend that the Ministry of Consumer Services revise and strengthen the section of the Act that requires reserve funds to be “adequate” so that “adequate” has more specific criteria and so that new and old condominiums maintain sufficient reserves.

**Desired Outcome:** Reserve funds will be sufficient to meet the costs of structural repairs and replacement in condominium buildings on an ongoing basis, thus helping to protect owner investments, preserve the value of the condominium, and maintain resident well-being.

### **Communicating Financial Information to Owners:**

#### ***Obtaining Financial Information***

**Premise:** Boards of directors have responsibilities to provide financial information to owners, including non-resident owners. Many condominium owners are unaware of these rights to access information, and the procedures for obtaining information from boards of directors are not clearly identified to owners.

**Values:** Informed Community Members and Stakeholders, Responsiveness

**Recommended Directions:** The board of directors should be expected to disclose the following financial and procedural information in a welcome package to all new owners within the first month of the new owner taking possession:

- updates on current projects and upcoming/planned projects, including actual or estimated costs and related financial implications;
- information explaining the responsibilities of the board of directors, the owner's right to access the condominium's financial information (including the reserve fund study and other financial documents) and the procedures for owners to access this information;
- a general guide to special assessments and maintenance fees (likely best prepared by an outside party) and clear details about the current maintenance fees and special assessments for their condominium corporation; and
- information about whom owners should contact with financial questions.

**Desired Outcomes:** Owners – resident and non-resident – are empowered with financial and procedural information. Owners find it straightforward to maintain a clear, up-to-date, and ongoing understanding of the financial status of their condominium corporation.

#### **Communicating Financial Information to Owners:**

##### ***Understanding Financial Data***

**Premise:** It is difficult for many owners to understand and interpret the financial data of their condominiums as it is typically reported to them.

**Values:** Informed Community Members and Stakeholders

**Recommended Directions:** We recommend that the Ministry of Consumer Services take a leadership role in collaborating with stakeholders to address this issue. We believe solutions should include:

- a request to auditors that they include notes to financial statements that will help owners to better understand the corporation's financial performance;
- the expectation that auditors will present and explain to owners the portion of the audit that compares the current year's activity with that of previous years; and
- the production of a toolkit by the Ministry of Consumer Services, in cooperation with other stakeholders, that helps condominium owners understand the financial statements of their condominium corporation and to assess the financial health and sustainability of the building.

**Desired Outcomes:** Owners and other stakeholders understand the financial data about condominiums that is provided to them.

Owners —resident and non-resident— are knowledgeable about their condominium corporation's financial management, financial status and the sustainability of the buildings and facilities.

### **Communicating Financial Information to Owners:**

#### ***Understanding Reserve Fund Studies***

**Premise:** Despite regulations that guide the creation of reserve fund studies and the presentation of their findings to condominium owners, many owners do not understand the results and implications of reserve fund studies for their condominium corporation, buildings, and their unit.

**Values:** Informed Community Members and Stakeholders, Financial Sustainability

**Recommended Directions:** We recommend that the Ministry of Consumer Services take a leadership role in collaborating with other stakeholders to address this issue. We believe that:

- boards of directors should invite the professionals who conducted the reserve fund study to make a comprehensive and understandable presentation to owners about their findings;
- boards of directors should update owners at each annual general meeting and otherwise as necessary or prudent regarding any changes to the reserve fund and to anticipated costs; and
- boards of directors and condominium managers should be encouraged to create a forum for all owners to register and discuss concerns or questions regarding the reserve fund study and its findings. The forum should be appropriate to each building's size – a bulletin board may be appropriate for some, an intranet site may be appropriate for others.

**Desired Outcome:** Reserve fund studies consistently and accurately reflect the anticipated financial requirements to maintain the condominium's value, and information provided in the reserve fund study is made accessible and clear to all owners, including non-resident owners.

### **Determining Condominium Fees**

**Premise:** Condominium fees seem to increase often with insufficient notice, justification, and/or opportunity to ask questions and/or express concerns. In general, many owners often do not clearly understand what their fees are paying for.

**Values:** Informed Community Members and Stakeholders, Financial Sustainability, Fairness

**Recommended Directions:** We recommend that the Ministry of Consumer Services take a leadership role in working with other stakeholders to address this issue. We believe that:

- boards of directors should be expected to disclose thorough and evidence-based justifications of changes to condominium fees prior to implementing changes;
- boards of directors and condominium managers should be encouraged to create a forum for owners to register concerns or questions regarding proposed condominium fee changes (the forum should be appropriate to each building's size: a bulletin board may be appropriate for some, an intranet site may be appropriate for others); and
- in addition to the auditors' report, boards of directors and condominium managers should be encouraged to provide owners at the annual general meeting with a comprehensive annual report that makes owners aware of how their fees have been and will be established, how they have been spent, and how owners can help reduce operating costs.

**Desired Outcomes:** All owners — resident and non-resident— are better informed about the structure of condominium fees and the reasons for fee changes.

All owners receive an explanation and justification and have an opportunity to ask questions and express concerns prior to fee increases.

All owners will be able to make constructive recommendations for cost-effective management and maintenance of condominium assets.

## **B. CONDOMINIUM GOVERNANCE:**

### **Fulfilling Roles and Responsibilities**

**Premise:** There is currently insufficient information and understanding in condominium communities about the roles, responsibilities, and obligations of corporation owners, residents, board of directors, and employees of the condominium corporation.

**Values:** Informed Community Members and Stakeholders

**Recommended Directions:** We recommend that the Ministry of Consumer Services work with relevant associations in the development of training modules for board members. We believe these educational programs would be most reasonably implemented through online modules, and should cover, at the least, condominium legislation, finances and

reserve funds, privacy issues, and resources available to help boards of directors in their work.

We believe condominium board members and owners should be made aware of and have access to toolkits outlining the roles, responsibilities, and obligations of owners, directors, condominium managers and other employees of condominium corporations under the Condominium Act.

The failure to meet quorum requirements sometimes prevents boards of directors from fulfilling their roles and responsibilities. The Ministry of Consumer Services, in partnership with relevant owner and condominium associations, should explore solutions for ensuring that by-law changes and other important business are not unduly delayed by a lack of quorum.

**Desired Outcomes:** Owners understand their responsibility to attend annual general meetings, follow corporation rules and by-laws, and participate in other relevant processes that contribute to the smooth functioning of the corporation.

Boards of directors understand their roles and responsibilities, including recognition that they represent and act on behalf of owners.

Boards of directors will be aware of provincial regulations regarding essential records, record storage and access to information.

Directors are aware of and have ready access to the full range of resources and supports available to them through the Ministry of Consumer Services, owner associations, and other stakeholder associations.

### **Ensuring Effective Communication**

**Premise:** Annual general meetings are not adequate mechanisms to effectively communicate condominium business between condominium owners and directors.

**Values:** Informed Community Members and Stakeholders, Responsiveness

**Recommended Directions:** The Condominium Act should emphasize the importance of effective and open communication.

All condominium corporations should be required to develop and maintain open, transparent, frequent and timely communication strategies.

Condominium corporations should use multiple communication platforms and tools to undertake these strategies in order to communicate effectively with different owners. The appropriate methods will be in part determined by the size and composition of each condominium community.

Each condominium corporation should establish an independent “office” or designated volunteer role that is dedicated to communicating resident concerns (anonymous and not) with the board of directors.

**Desired Outcomes:** All owners are aware of major condominium issues that

affect them as the equity holders of the corporation, including issues related to finances, the corporation's legal representation, legal matters except those that must remain confidential, and changes in major service providers.

All boards of directors are aware of the major issues and concerns of owners, including non-resident owners.

### **Taking Steps to Ensure Ontario Residents' Housing Needs are Adequately Represented by the Condominium Market**

**Premise:** Uncertainty exists about the effect of global and institutional investment on Ontario's housing stock. The condominium real estate market is potentially skewed by global and institutional investments whose interests may at times be incompatible with the long-term interests of Ontario residents.

**Values:** Well-Being, Community

**Recommended Directions:** We recommend that the Ministry of Consumer Services or other relevant public body establish a qualified, multidisciplinary taskforce to investigate the real effect of global and institutional investment on the local residential condominium market. Specifically, this taskforce should evaluate:

- the impact of large numbers of renter-occupied units on the finances, governance, and general health of condominiums;
- whether limitations on the proportion of owner-occupied to renter units in each condominium are appropriate for Ontario; and
- whether policies should help certain demographic groups access the local residential condominium market more than other groups.

**Desired Outcomes:** Developers face incentives that encourage them to address the housing needs of Ontario's population, including comfort, quality of construction, and affordability.

Condominium communities are formed of people who can work together effectively to maintain a healthy condominium environment.

Urban development makes appropriate use of purpose-built rental-only buildings.

## **C. CONDOMINIUM MANAGER QUALIFICATIONS:**

### **Defining the Role of Condominium Managers**

**Premise:** Many individuals in condominium communities do not understand the roles and responsibilities of condominium managers in relation to other stakeholders. That said, the role of condominium managers and the skills and

experience required does vary depending on factors including but not limited to the size, age, and nature of the condominium corporation.

**Values:** Informed Community Members and Stakeholders, Communication

**Recommended Directions:** We recommend that the Condominium Act clearly define the possible roles and responsibilities of condominium managers without unduly restricting the ability of condominium boards to choose the responsibilities it would like to contract to the condominium manager. The Act should emphasize the importance of boards of directors having clear job definitions for the condominium managers they hire.

We expect the Ministry of Consumer Services to clearly communicate information about condominium manager roles and responsibilities to stakeholders through websites, printed materials, and other communication mechanisms.

**Desired Outcome:** Anybody who desires information about the roles and responsibilities of condominium managers has access to clear and understandable information on the subject.

### **Condominium Manager Skills**

**Premise:** The skills and qualifications required to be a condominium manager in Ontario are not defined, standardized, or regulated.

**Values:** Informed Community Members and Stakeholders, Well-Being, Financial Sustainability

**Recommended Directions:** We urge the Ministry of Consumer Services and condominium manager associations to ensure that the core competencies of condominium managers are well defined and well suited to condominiums in Ontario and that processes are developed to ensure that condominium managers have those core competencies.

We expect the revised Condominium Act to legislate a mandatory licensing or regulatory framework for condominium managers that will ensure the quality and ongoing education of condominium managers. This system should be administered by a single third-party agency that would be responsible for ensuring condominium managers meet requirements. These requirements should include criminal reference checks and bondability of condominium managers.

**Desired Outcomes:** Condominium managers can be relied upon to be well trained and capable of meeting their defined roles and responsibilities. Boards of directors benefit from a regulatory system that supports them in their hiring and selection process.

### **Condominium Manager Accountability**

**Premise:** It is too easy for some condominium managers to hide poor performance. Though mechanisms exist for assessing whether a condominium manager will provide good services or for addressing poor performance after the fact, these mechanisms are inadequate for volunteer boards of directors who are managing certain sizes and types of condominiums.

**Values:** Responsive, Informed Community Members and Stakeholders, Fairness

**Recommended Directions:** We recommend that the Ministry of Consumer Services investigate and implement with other stakeholders the most effective mechanisms of gathering and disseminating information about the performance of individual condominium management companies in Ontario as a way to aid boards of directors and owners in assessing condominium manager performance.

We recommend that the Ministry of Consumer Services work with other stakeholders to provide resources to boards of directors, condominium owners, and condominium managers so that they can better address condominium manager performance issues. We recommend that this include the provision of sample templates for condominium manager contracts. These templates should include expectations for performance and methods to address performance deficits.

**Desired Outcomes:** A mechanism exists for condominium corporations to provide regular feedback on condominium manager performance. This information is made available to stakeholders through fair and appropriate mechanisms. Boards are able to effectively address condominium manager performance deficits.

## **D. CONSUMER PROTECTION FOR BUYERS:**

### **Informing Consumers Before Purchase**

**Premise:** Buying a condominium may not be the right choice for all homeowners. Prospective condominium buyers are not always provided with and/or are unaware that information relevant to their potential purchase is available. This information includes the financial implications of ownership, as well as the responsibilities buyers will share with other owners in their condominium.

**Values:** Informed Community Members and Stakeholders, Communication

**Recommended Directions:** We recommend that the Ministry of Consumer Services produce a booklet or pamphlet specifically for prospective buyers explaining the implications of condominium ownership and guiding potential buyers to other relevant sources of information about condominium ownership.

We recommend that the Ministry of Consumer Services find ways to make

this booklet available to potential buyers via condominium sales offices, real estate agents, and any other mechanisms.

**Desired Outcome:** Potential buyers have relevant information, are able to make informed choices, and can better direct further questions.

### **Informing Consumers at the Time of Purchase**

**Premise:** Buyers are not always provided information with sufficient clarity, depth, and accuracy at the time of purchase, meaning buyers are not always equipped to make well-informed decisions about purchasing and owning this complicated type of property.

**Values:** Communication, Informed Community Members and Stakeholders, Financial Sustainability

**Recommended Directions:** We recommend that the Ministry of Consumer Services develop, within 18 months of the Condominium Act Review, a standard template for pertinent information to be included in an executive summary for status certificates and disclosure statements.

We recommend that the Ministry of Consumer Services require sellers to provide the completed executive summary to buyers with the status certificate or disclosure statement.

We recommend that the Ministry of Consumer Services require developers to provide to all buyers accurate projections of maintenance fees and reserve funds for at least one year after handover of the corporation from the developer to the elected board of directors.

We recommend that the Ministry of Consumer Services work with others to review the definition of material change and continue to require that developers communicate any material changes to buyers.

**Desired Outcome:** Consumers are able to understand all key information related to the condominium they are purchasing and any expected changes in the near future. They understand what the condominium will cost them going forward. The information is provided in a standardized format, in plain English.

### **Protecting Buyers After Purchase**

**Premise:** Buyers, especially buyers of new condominiums, are not always provided with sufficient after-purchase protection.

**Values:** Fairness, Financial Sustainability

**Recommended Directions:** We recommend that the Ministry of Consumer Services or the relevant government body require developers to provide a warranty for all new condominium sales, including retrofits.

We recommend that the Ministry of Consumer Services review Tarion

Warranty coverage limits (i.e., the one-year, two-year, and seven-year protections) to ensure time limits are long enough to meet the specific needs of mid- and high-rise condominiums.

We recommend that the Ministry of Consumer Services review the current length of the ten-day post-purchase cooling-off period and evaluate the appropriateness of lengthening it.

**Desired Outcomes:** Buyers have enough time after purchase to adequately review the documentation that is provided before making a final decision and are adequately protected from unexpected and/or hidden construction defects that arise after condominiums come into full usage by occupants.

## **E. DISPUTE RESOLUTION:**

### **Addressing Imbalances of Power**

**Premise:** A power imbalance exists between owners and boards of directors. Boards of directors are protected by incorporation, director's liability insurance, and the fact that their legal representation is provided for through condominium fees. Owners, on the other hand, must pay out of pocket and are often taking a greater risk to enter into formal disputes.

**Values:** Fairness, Responsiveness

**Recommended Directions:** We recommend that the Ministry of Consumer Services explore the proposed British Columbia tribunal model and other best practices in dispute resolution and then apply a similar approach in Ontario. The third-party body will be knowledgeable and impartial and will inform and advise the parties, as well as resolve disputes.

We strongly urge the Ministry of Consumer Services to consider the creation of an ombudsperson for condominiums.

**Desired Outcomes:** A dispute resolution process exists in Ontario that:

- helps reduce the cost of disputes, enabling more people to find resolution to their disputes without undue financial burden;
- speeds up the process of resolving disputes;
- increases access to information; and
- reduces bitterness in condominium communities.

### **Increasing Knowledge of Dispute Resolution Processes**

**Premise:** Many condominium residents do not know how to initiate dispute resolution processes or where to access information about their rights and responsibilities. They are reliant on boards of directors – with which they may be in conflict – to inform them about the dispute resolu-

tion processes. This can lead to frustration and allows problems to fester.

**Values:** Responsiveness, Communication

**Recommended Directions:** We recommend that a division be established within the Ministry of Consumer Services, another relevant public agency, or within whatever dispute resolution body is created to host a toll-free number and a website where substantive answers are provided to condominium residents about the Act and dispute resolution options.

**Desired Outcomes:** All condominium residents will have access to a similar level of information and so are equally empowered in dispute resolution processes.

Disputes are more easily resolved and result in less bitterness in condominium communities.

### **Resolving Disputes In-House**

**Premise:** If a dispute is not resolved internally and/or informally, legal action may be required. Some owners cannot enforce their rights because of language barriers, lack of knowledge, and other accessibility gaps. Financial limitations make legal action impossible for some.

**Values:** Informed Community Members and Stakeholders, Community

**Recommended Directions:** We urge the Ministry of Consumer Services to work with alternative dispute resolution (ADR) organizations to develop a toolkit in condominium dispute resolution. This kit would offer guidance and how-to's concerning the conduct of informal dispute resolution processes. This kit would be disseminated to condominiums for use by owners, residents, and boards of directors.

We believe the expanded use of community-based ADR to condominiums should be encouraged. This option should be emphasized in official communications concerning dispute resolution such as the toll-free number, the toolkit, and the tribunal.

**Desired Outcomes:** Parties to disputes are better educated about their rights and about dispute resolution options.

Fewer disputes require legal action.

Bitterness in condominium communities due to disputes is reduced.

### **Speeding Up the Dispute Resolution Process**

**Premise:** There is currently no official monitoring of the length of time a dispute takes to be resolved, and therefore there is sometimes little incentive for a party to the dispute to shorten the current process or come to a resolution in a reasonable amount of time.

**Values:** Responsiveness, Communication

**Recommended Directions:** We recommend the creation of a dispute resolution/information officer to monitor disputes before they escalate to formal processes (i.e., mediation and arbitration).

This officer would be an independent party at the regional or provincial level who can track how quickly the dispute resolution process is progressing and follow up with parties if they are not responding in a timely manner. It may be sensible to make this a part of whatever dispute resolution body is created.

**Desired Outcomes:** Disputes are dealt with in a timely manner.

The escalation of disputes is prevented where possible.

Bitterness in condominium communities due to disputes is reduced.

### **Healing the Building**

**Premise:** Serious disputes can infiltrate the politics and social cohesion of the building. Owners and boards of directors lack resources to help them diminish animosity and unify the community.

**Values:** Community, Well-Being, Fairness

**Recommended Directions:** We encourage the development of best practices that guide owners and boards of directors in reconciliation efforts that help people understand and accept the terms of the resolution.

We believe that when people know one another personally, disagreements are less likely to escalate.

We believe regular community activities and social events should be encouraged in order to help neighbours meet socially.

**Desired Outcomes:** There is greater respect and understanding among neighbours.

Each member of the condominium community feels valued.

Less bitterness exists in condominium communities.

## **F. OTHER RECOMMENDED DIRECTIONS:**

### **Building Strong Condominium Communities**

**Premise:** Buyers don't always understand they are buying into a communal undertaking and not simply buying an apartment. Residents and stakeholders in the condominium community are not sufficiently aware that good relationships lead to well-functioning condominiums. We acknowledge that people should not be forced to get along, but members of condominium communities do not always have sufficient tools and information to help strengthen the interpersonal relationships in

their condominiums.

**Values:** Community

**Recommended Directions:** We recommend that the Ministry of Consumer Services cooperate with other stakeholders to:

- raise awareness with respect to the issue described above.
- Develop and provide tools that help interested members of condominium communities build stronger interpersonal relationships in condominiums for residents and investors; and
- improve pre-existing mechanisms for creating awareness and disseminating such tools to include the Ministry of Consumer Services website section entitled “Living in Condos” and the publications, workshops, and conferences created by ACO, CCI, and other stakeholders.

**Desired Outcome:** Condominiums have:

- fewer disputes;
- more participation;
- better communication; and
- an atmosphere of respect, tolerance, understanding.



# Understanding the Residents' Panel Process

The Residents' Panel to Review the Condominium Act is a body of 36 impartial, randomly selected condominium residents and owners from all across Ontario. Over three Saturdays in October and November 2012, the panel met to accomplish its stated task, which was to *“learn about Ontario’s condominiums and the diverse concerns of residents and other stakeholders, to understand the collective challenges we face in condos and consider the choices ahead, and to offer guidance and propose priorities for amending the Condominium Act to the Government of Ontario”*.

This is no easy task. Time was extremely short, and panellists quickly realized they had a great deal to learn and discuss if they were to reach agreement on recommended directions for the Condominium Act Review.

Over the course of three Saturdays, the panel worked through three distinct phases. A learning phase was designed to ensure that each panellist had the opportunity to become better informed about the concerns of condominium residents and owners and to become familiar with the current legislation. Thirteen of Canada’s most experienced condominium experts agreed to participate as guests and offered panellists a wealth of insight into the issues faced by condominiums in Ontario – how the current situation in the province developed, how to understand the current challenges faced by condominiums in Ontario, and how one can evaluate the options available going forward. The second phase of the process asked panellists to identify the issues they felt were most pressing, the values they believe should guide potential solutions, and potential responses that could help address these issues. A final deliberation phase required panellists to explore in detail what these potential responses would entail, to describe the outcome they hoped these responses would lead to, and to work together to find common ground in order to arrive at a series of recommended directions to which the panel could agree.

## THE CIVIC LOTTERY

The 36 members of the Residents' Panel to Review the Condominium Act were selected by civic lottery. Ten thousand invitations were sent to randomly selected condominium residences across Ontario early in September 2012. The invitations were transferable to anyone over the age of 18



who lives or owns in that same condominium corporation. Each region of the province received a number of invitations roughly proportionate to its population. The letter invited residents and owners of condominiums to volunteer three full Saturdays of their time to learn about the Condominium Act, share their perspective and experience as a condominium owner or resident, and work with others in order to develop a set of shared priorities for changing the Act. Condominium developers and managers, currently elected political representatives, and employees of the Ministry of Consumer Services were ineligible to participate.

Panellists also agreed to meet for a full weekend in fall 2013 for a final session. This meeting gives panel members an opportunity to see whether their suggestions have been taken into account and how their suggestions have been acted on. At this final meeting, the panel will review the proposed recommendations that have been produced in the second stage of the Condominium Act Review and then provide advice and commentary before the final recommendations are presented to the government.

More than 500 people responded to the invitation, either volunteering to be part of the panel or regretting their inability to participate but requesting to be kept informed about the process. From among the pool of 278 volunteers, 36 panellists were randomly selected in a blind draw that balanced for five criteria. The selection guaranteed gender parity, matched the age profile of Ontario's population, and mirrored the geographic distribution, the type of condominium residence, and renter/resident/owner status of Ontario's condominium population. Special selection was not made for ethnicity, income, educational attainment or other attributes. These supplemental characteristics have been found to emerge proportionately within the pool of lottery respondents and are carried forward to the membership of the panel. In short, the panel was composed in such a way as to deliver good demographic diversity and to ensure that it was broadly representative of the residents, owners and renters who live or invest in condominiums in Ontario.

## **THE PANEL PROCESS:**

### **DAY 1: OCTOBER 27, 2012**

The first panellists arrived early at the Li Ka Shing Knowledge Institute in downtown Toronto just as coffee and breakfast was brought in. One panellist had walked a mere two blocks from his condominium, while others had left home the day before, flying in from as far as Thunder Bay in order to stay overnight in Toronto. Welcomed by the panel coordinators, panel members had an opportunity to meet informally and share condominium stories as others arrived. It was clear that many were very curious about what this Residents' Panel would entail, and several panellists expressed how unusual it was to be invited to participate in such an intensive discussion of important public issues. Each was given a binder with background

readings from experts and journalists and was asked to hand in their signed and witnessed Public Service Pledge, a one-page document attesting to his or her commitment to work diligently throughout the process and in the interest of all Ontario's condominium owners and residents.

Once everyone had arrived, the Honourable Margaret Best, Minister of Consumer Services, opened the Resident's Panel by welcoming members, thanking them for their considerable dedication, and reiterating her personal commitment to see that the results of the review's public consultations are taken seriously inside the government.

Then Peter MacLeod, principal of MASS LBP and the panel's moderator, briefed everyone on their task and about what to expect over the coming Saturdays. He introduced the team of facilitators who would be working closely with panellists to help guide the discussion and capture the panel's feedback and took several questions from panellists.

Next, facilitators invited panellists to spread out across the lobby, as if it were a large map of the province, and stand in the approximate location of their hometown. As expected, panellists came from every corner of the province. Panel members took turns introducing themselves and sharing why they had volunteered. Many panellists expressed that the main reason for participating was their desire to become more knowledgeable about condominiums in order to be more effective members of their condominium communities. A significant number also expressed an interest in giving back to the province. There was a considerable group who had had unhappy experiences with their boards of directors, other condominium residents, developers, or condominium managers, and these members had volunteered because they wanted to help create solutions that would mean others would avoid facing similar challenges.

After refilling their coffee cups, panellists embarked on a thorough orientation to condominiums in Ontario. The curriculum was designed to build progressively toward the panel's task, with each presentation providing important context for the next. The panel's first presentation, not surprisingly, was about the current Condominium Act. Phil Simeon, manager of the Condominium Modernization Project at the Ministry of Consumer Services, provided a comprehensive overview of the Act, describing what the Act says, how it works, and how it complements other laws to create the legislative framework in which condominiums operate. Panellists engaged right from the beginning and took the opportunity to ask Phil for further information about a number of issues they wanted to address in their work over the coming days.

Next, Mark Salerno, corporate representative for the national management team at Canada Mortgage and Housing Corporation, helped panellists put condominiums in a larger public context. He explained the demographic shifts and policy decisions that help explain how we arrived at the current situation, the role condominiums play in Ontario's current housing landscape, and the projected housing needs that Ontario will face – housing needs that will be met in part by condominium development.

In the final timeslot before lunch, Joe Vaccaro, the chief operating officer of the Ontario Home Builders' Association, provided a clear and succinct overview of the planning, development, approval, and building process involved in putting up different types of condominiums.

Following lunch, panellists were introduced to their first small-group activity. Panel members in groups of seven or eight worked with a facilitator to begin developing the values they as a panel would like to see used as guides for modernizing the Condominium Act. They began by brainstorming characteristics that describe a healthy, well-functioning condominium building. They worked together to decide on four or five characteristics that they then proposed to the whole panel as values that should be embedded in a modernized Condominium Act. The facilitation team recorded these values for future reference. Panellists consistently settled on a similar constellation of values. One panellist observed that "I'm really encouraged to see how much we're on the same page. We generally agree with each other on these basic values. They seem obvious to us, but it's nice to see we all generally agree about what we're working for."

The remainder of the afternoon was taken up by two "Conversations" – each on a particular issue area that had been previously identified by condominium owners and stakeholders to the Ministry of Consumer Services as being of concern to the Condominium Act Review. These conversations were led by two or three experts, who engaged in discussion with one another and panel members.

The first conversation focused on consumer protection for condominium buyers and was led by three condominium lawyers: Chris Jaglowitz from Gardiner Miller Arnold LLP, who in his spare time publishes the award-winning Ontario Condominium Law Blog; Audrey Loeb, associate counsel at Miller Thompson and professor emeritus of law at Ryerson University's School of Business Management; and Tammy Evans, partner at Blaney McMurtry LLP, who has also been a successful land development consultant as well as a government lawyer who helped draft the current Condominium Act in the late 1990s. Chris, Audrey, and Tammy engaged in a lively discussion with one another and the panellists, disagreeing as often as they agreed, as they discussed disclosure requirements, deposit protection and Tarion Warranties, the ten-day cooling-off period, material changes, and status certificates. They reinforced the message that the Act was designed to provide the sector with a set of minimum specifications, intended to guide self-governance, and urged the panel to think carefully about not only the benefits of further regulation but also the downsides of an over-regulated marketplace.

The topic of the day's last conversation was condominium manager qualifications. The panel was joined by Dean McCabe, president of the Association of Condominium Managers of Ontario (ACMO), and Tom Wright, president/CEO of the Real Estate Council of Ontario (RECO). Dean shared his expertise by describing the different management needs of different types of condominiums. He also noted that many condomini-

um managers view themselves as being an industry ready to be professionalized. Tom, as the head of an organization that oversees the regulation of a different professional group, helped panellists to understand that there are different models for professionalization and/or regulation. He explained that each contains a different combination of key elements such as minimum entry standards, ongoing training, and complaints and discipline programs. He also explained the costs to setting up a regulatory body that may fall on the consumer and why it is important to avoid creating ineffective or unproductive regulation that can damage public trust and set back professionalization efforts in an industry.

After a very full day, the Residents' Panel adjourned at 5 p.m. for a two-week break. In the interim, each panellist was given homework: they were asked to talk to five friends, family members, or neighbours about the weekend's discussion and about what others thought should be priorities for change in a modernized Condominium Act. They were also asked to review a second package of background readings that provided greater detail on topics discussed throughout Day 1 and introduced issues to be discussed on Day 2.

## **DAY 2: NOVEMBER 10, 2012**

Though panellists returned to Toronto on a grey November day, they did not let the weather dampen their enthusiasm for the task ahead. Panellists greeted one another warmly over coffee and breakfast, eager to discuss insights and reflections that had occurred to them over the course of their two weeks apart.

The panel welcomed back host Peter MacLeod and the team of facilitators, who began Day 2 by checking in with panellists about their homework. Panel members surpassed expectations by taking it upon themselves to consult with a total of 314 other condominium residents, almost double the number with which they had been asked to speak. Clearly members had taken to heart the importance of their collective undertaking. They shared anecdotes and thoughts and discussed the challenges of trying to speak and work on behalf of others.

In the first activity of the day, panellists returned to the guiding values they had suggested on Day 1. Together, they selected seven key values they want to see embedded in a modernized Condominium Act and worked in small groups to develop draft definitions of each of these values.

The Residents' Panel then concluded the learning phase of the process with two more "Conversations" with guest experts. The first conversation focused on condominium governance and financial management. Three speakers joined the panel: Armand Conant, partner at Shibley Righton LLP, past president and board of directors member of the Canadian Condominium Institute's Toronto chapter; Linda Pinizzotto, founder and

president/CEO of the Condo Owners Association; and Sally Thompson, executive vice-president of Halsall Associates, a national engineering firm where she oversees the assessment of condominium reserve funds across the country. These three experts unpacked the ramifications of condominiums as not-for-profit corporations and reiterated the different responsibilities of condominium managers, board members, and owners. They illustrated some of the challenges of managing reserve funds for established condominiums and also discussed how certain new condominiums had creative fee structures that sometimes led to unexpected new costs for owners. They engaged in a thorough discussion with panellists about the difficulties of proxy voting and quorum rules and discussed some of the communication challenges faced in certain condominiums.

After lunch, the panel held its last conversation with experts – this time about dispute resolution. The panel was joined by Colm Brannigan, an experienced mediator and arbitrator at [mediate.ca](http://mediate.ca) Dispute Resolution Services who has almost two decades of experience using alternative dispute resolution (ADR) tools to help resolve condominium disputes in Ontario. They were also joined by David Maxwell, senior policy analyst with the Housing Policy Branch of the Office of Housing and Construction Standards in the Government of British Columbia. David has been intimately involved in bringing into force amendments to British Columbia's version of the Condominium Act, with a particular focus on the deployment of the proposed new dispute resolution process for B.C.'s condominium owners and residents.

Colm and David introduced the current process of ADR for condominiums in Ontario and discussed the subtleties and differences between negotiation, mediation, and arbitration. They suggested that one important goal of the panel should be to “not make the situation worse” but instead to strive for simple, affordable, adaptable solutions in the area of dispute resolution. David introduced the proposed tribunal system in British Columbia, helping the panel to understand what this system would entail for British Columbia and explaining that this was one among many options available to Ontario.

With the learning phase of the panel now complete, members were asked to work in small groups to literally “get all the issues out on the table.” Each group worked with a facilitator to write down on small issue cards all the issues and concerns that had caught their attention over the course of the learning phase – from speakers and background readings – as well as issues they had experienced themselves or heard about from their neighbours and friends. Groups then sorted these cards into six categories: Consumer Protection for Buyers, Condominium Manager Qualifications, Condominium Governance, Financial Management, Dispute Resolution, and an Other category for those issues that did not fit neatly anywhere else.

After refilling their coffee cups, panellists organized themselves into six issue-area working groups. Panel members chose the issue areas that they

wanted to work on most, and the group distributed itself fairly evenly among the six tables. Each group collected the issue cards for one of the six issue areas described above.

In their last session of the day, the working groups were each responsible for taking the cards for their issue area and organizing them into a list of discrete issues. For the remainder of the afternoon, each group began to craft the first version of what would become a chapter of the Residents' Panel Report. It was a first opportunity to begin organizing and discussing what they would like to say as a panel, and the members took to the work with passion. By the end of the day, working groups had each formulated first drafts of their recommended directions. There was plenty of work ahead, but panellists left for another two-week break satisfied and excited for the next steps.

### **DAY 3: NOVEMBER 24, 2012**

After Day 2, panellists were provided with a typed-up version of all the panel's work – the values with their definitions and the first draft of their recommended directions. Each panellist was instructed to carefully examine the draft, noting down issues that were missing, gaps that needed to be filled, ambiguities that needed to be clarified, and contentious issues that needed to be discussed. Each member returned on Day 3 armed with their copy of the draft, full of notes, additions, and comments.

At the start of the day, host Peter MacLeod presented the panel with a series of large paper templates. Day 3 would be spent entirely focused on filling in these templates, which would form the scaffolding of the Panel's Report. As Peter explained what was to be accomplished over the course of the day and how it would be done, panellists were somewhat anxious about how far they still had to go but were also energized to begin.

Returning to their working groups, panellists were instructed to spend the better part of the morning in intensive deliberations, working together and with the facilitators to fill in several template sheets. Each sheet would cover a distinct issue, and the several sheets completed by each working group would form the chapter on their issue area. In order to complete each template, the group had to give each issue a title; a premise statement that captured their understanding of the current situation; a values statement that identified which of the panel's guiding values needed to be strengthened in order to address the current situation; a recommended directions section that offered suggestions about what should be done; and a desired outcome statement that described what success would look like for the individual resident and for condominiums in Ontario.

Before lunch, each working group had an opportunity to present their work back to the whole panel. After presenting what they had accomplished in their issue area, the panel offered extensive comments and suggestions to the working group. Each group received constructive feedback

about the wording of certain recommendations and made careful notes where they found important disagreements.

After lunch, each group took the panel's suggestions and spent several hours working carefully to incorporate feedback and arrive at a final version that would receive the approval of the whole panel. Some panellists moved from one group to another, helping to clarify and revise sections that had faced disagreements in the feedback session. They understood that the point-form descriptions they chose would be used by the panel organizers to develop the Panel Report in the days to follow and so panellists chose their words carefully.

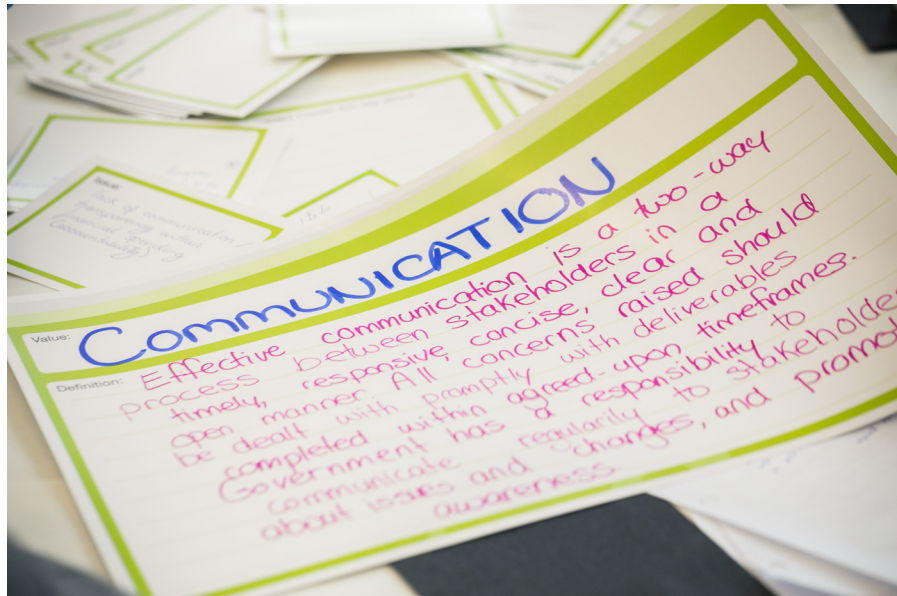
And, before too long, time was nearly up. The tables worked furiously to put their final touches on their template sheets. The sheets were collected and bound together into an oversized book with a title page that declared it the "Draft Report of the Residents' Panel to Review the Condominium Act." A representative from each group took the podium to read their section out loud. As each chapter was read, many nodded as they noticed the improvements and appreciated the work of their fellow panellists. Each chapter reading was followed by a warm round of applause.

Day 3 ended with remarks from Giles Gherson, Deputy Minister of Consumer Services. After hearing the draft report read out loud, the Deputy Minister expressed how impressed he was with the panel's work and stressed how important their contribution would be. He looked forward to the continued contributions of the Residents' Panel as the Condominium Act Review progressed, including the results of the Residents' Panel's next meeting in fall 2013.

Peter MacLeod closed the session by describing how the Condominium Act Review would progress. Panellists were reminded that their report would be taken to the second stage of the review process, where experts would work together to formulate policy responses to the concerns and suggestions raised by the panel, the Stakeholder Roundtable Meetings, and through online and mailed-in submissions. In fall 2013, at the Residents' Panel's final meeting, panellists would have the opportunity to review and provide feedback on the proposed options and recommendations that had been developed before reforms were presented to the government.

Feeling both exhausted and proud, panellists said their farewells and began their trips home – some around the corner and some across the province – satisfied with their efforts and pleased with the report they had produced.







# Appendix

## MINORITY REPORTS

This section is reserved for those panel members who endorsed the findings of the report but would also like to include their own commentary. Their recommendations and opinions, including any inaccuracies, are their own and do not represent the views of the panel. This space is provided to affirm the importance that all perspectives in the discussion are welcome and should be voiced.

**A.** I respectfully disagree with the recommended direction under Condominium Manager Accountability that reads, “We recommend that the Ministry of Consumer Services investigate and implement with other stakeholders the most effective mechanisms of gathering and disseminating information about the performance of individual condominium management companies in Ontario as a way to aid boards of directors and owners in assessing condominium manager performance.”

Instead, I believe that the Ministry of Consumer Services should compel property management companies to provide a list of all current and past condominiums managed, along with contact information to prospective condominium boards. This would allow those boards to choose at random names they might contact as references. Perhaps the list could include only those properties managed over the past five years to limit the information required.

In my opinion creating a “database” of property management company performance is a needless waste of scarce resources, not to mention a duplication of other databases such as Better Business Bureau information or perhaps those of the Ministry of Consumer Services themselves. While I understand the discomfort of my fellow panellists with perhaps finding out after a hiring decision is made that a company they’ve hired has a poor track record, if they had potential reference information before the hiring decision is made those situations might be avoided.

I believe that my recommended direction, along with the panel’s recommendation in the same section that involves providing template contracts with performance expectations and remedies to address shortfalls, would then cover both the contract initiation phase and remedies for poor performance.

**– Bob Adams**

**B.** I was privileged to be a member of the Residents’ Panel for the review of the Condominium Act of Ontario. I was amazed and pleased with the efforts and results we achieved and with the excellent work by the coordinators to complete the document being submitted.

My reason for submitting this report is not to disagree with any part of the report

but more to request more stringent measures regarding enforcement of the Act. Although dispute resolution is an essential and recommended component of this report, I believe that the province must enforce the Act. In my view, if a board or member of a board is found to have willfully violated the Act, that person should be removed from the board.

Currently the owners are entitled to call a meeting to remove the board by special meeting, but often when a situation gets so out of hand that owners are forced to consider such action it is due to the fact that the board is already engaging in practices that are marginalizing owners, making requesting a special meeting nearly, if not completely, impossible. These actions can include refusing to call AGM's or special meetings, refusing to provide owners lists in order to petition registered owners for a special meeting, or harassing and/or intimidating owners and manipulating or misusing proxies. Due to the current "self-governed" model, owners have no recourse because the province will not even provide an interpretation on sections of the Act.

It is important for me to clarify that in my experience the majority of board members are hardworking volunteers doing the best they can with the resources available, but like any Act, it required not to micro-manage with the vast majority of boards who adhere to the Act but provide owners with some protection from the minority of boards or individual board members who abuse their position.

I sincerely hope that this is something that is within the province to introduce.

**– Beverly Capstick**

**C.** While agreeing with the desired outcomes that developers try to address the needs of Ontario's population and that healthy condominium communities are important, not all members agree with the recommendation that a taskforce should be established to examine the impact of renter-occupied units on condominium corporations or whether restrictive policies on the proportion of renter occupants should be examined at this time. These recommendations were developed near the end of the panel process and were not discussed before the entire panel, nor was this topic directly discussed during any of the presentations or reading material. The lack of discussion on these recommendations and the necessary background research materials on which to base them is, in the respectful opinion of this panel member, the reason that they should not be included in the panel's recommended directions.

Recognizing that a majority of condominium managers already meet the desired outcome that condominium managers can be relied upon to be well trained and capable of meeting their defined roles and responsibilities, a mandatory licensing regime should be postponed until other recommendations have had time to be implemented. Furthermore, any proposed licensing system should first apply to new managers and exempt existing ones who have condominium board approval. Mandatory licensing should be reserved as a final resort since it is ultimately the residents through their condominium fees who would pay for such a system.

**– Michael Gager**

**D.** I respectfully disagree with my panel colleagues with regard to the recommendation that the Condominium Act should legislate a mandatory licensing or regulatory framework for condominium managers.

The panel's premise is valid: the skills and qualifications required to be a condominium manager in Ontario are not defined, standardized, or regulated. It is also true that the skills and qualifications will vary depending on the size and nature of a particular condominium and the funds available to pay a condominium manager.

In recognition of these premises, I recommend that owner associations assume the responsibility, in collaboration with appropriate professionals and other stakeholders, to define the basic competencies and experience required of condominium managers in Ontario as set out in the panel's recommendation. I agree that the requirements should include criminal reference checks and the bonding of condominium managers. The Ministry of Consumer Services can and should assist in disseminating this information.

It is the appropriate role of the board of directors to define the role of the condominium manager for their particular condominium, to select a qualified company or individual, and to enter into an employment contract. Further, it is the role of the board of directors to direct, supervise and evaluate the performance of the condominium manager and determine whether the contract should be terminated for cause or not renewed for any reason in keeping with labour laws and practices in Ontario.

I recommend that, in clarifying the role of boards of directors, the revised Condominium Act should identify this specific responsibility. As indicated elsewhere by the panel, the Ministry of Consumer Services has an essential role to play in developing and/or disseminating a range of resources and materials from various sources to support and strengthen condominium management across the province Ontario.

**– Kathleen Stephenson**

**E.** I am generally very pleased with our work as the Residents' Panel. I would like to add a few further recommended directions that were not included in our report.

I believe that any and all appointments by the condominium corporation should be voted on by the owners to help eliminate favouritism. This would include the hiring of staff and outside contractors.

I believe that condominium managers should never be an owner in the condominium they manage.

I believe that the proxy voting system should be standardized. I think once proxies are collected, they should then be given to a third party, possibly the condominium's auditor, in order to help eliminate the possibility of forgery.

I believe that during any voting by owners requiring scrutineers, the auditor should oversee the counting of the votes to help eliminate any issues with the process.

I feel very strongly that boards should be fined for deliberately disregarding the Act or acting in ways that are in serious contravention of the Act. This of course would also help to keep boards honest in the running of the condominium.

**– Gerald Bottos**

## **PROJECT PARTNERS:**

### **About Canada's Public Policy Forum**

The Public Policy Forum is an independent, not-for-profit organization dedicated to improving the quality of government in Canada through enhanced dialogue among the public, private and voluntary sectors. The Forum's members, drawn from business, federal, provincial and territorial governments, the voluntary sector and organized labour, share a belief that an efficient and effective public service is important in ensuring Canada's competitiveness abroad and quality of life at home.

Established in 1987, the Forum has earned a reputation as a trusted, nonpartisan facilitator, capable of bringing together a wide range of stakeholders in productive dialogue. Its research program provides a neutral base to inform collective decision making. By promoting information sharing and greater links between governments and other sectors, the Forum helps ensure public policy in our country is dynamic, coordinated and responsive to future challenges and opportunities.

### **About MASS LBP**

MASS LBP is a new kind of advisory firm that works with visionary governments and corporations to make better decisions while deepening and improving their efforts to engage and consult with citizens. Fundamentally we believe in people. Given the opportunity to participate in a thorough, fair and inclusive process, citizens are ready to provide constructive advice, offering officials the intelligence, perspective and sensitivity that difficult public issues require.

Since 2007, MASS LBP has led some of Canada's most original and ambitious efforts to engage citizens in tackling tough policy options while pioneering the use of Civic Lotteries and Citizens' Reference Panels on behalf of a wide array of clients.

Our work goes far beyond polling and focus groups. From conception to execution to evaluation, MASS LBP designs and delivers highly innovative engagement strategies that increase public understanding, legitimacy and support for complex decisions and policy choices.

MASS LBP is based in Toronto and works with partners across Canada and the United Kingdom. Find MASS at [masslbp.com](http://masslbp.com).

### **About the Ministry of Consumer Services**

Every day, the work of the Ministry of Consumer Services benefits the lives of all Ontarians. That's because consumers and businesses purchase and sell millions of products – including motor vehicles, travel services, new homes, electrical products, funeral services, stuffed toys and Ontario wines.

In addition, the Ministry, through the Ontario Film Review Board, classifies movies, videos, DVDs, VCDs and video games before screening or distribution in Ontario.

The Ministry is here to educate, protect and serve Ontario consumers by ensuring a fair, safe and informed marketplace. We are dedicated to providing modern information services, as well as regulatory practices that serve the interests of Ontarians while contributing to a competitive economy.

## **PRESENTERS**

### **The Honourable Margaret Best Minister of Consumer Services**

Lawyer, advocate and dedicated community volunteer, Margaret Best is the MPP for Scarborough-Guildwood, and serves as the Minister of Consumer Services for the Province of Ontario. Best was first elected to the Ontario Legislature on October 10, 2007, was re-elected on October 6, 2011. She previously served as the Minister of Health Promotion and Sport. An alumnus of the University of Toronto at Scarborough, and Osgoode Hall Law School, Best also holds a Mutual Funds Certificate from the Investment Funds Institute of Canada. Best is a mother of three adult children, an avid gardener who loves the arts and she has a passion for writing.

### **Phil Simeon Manager, Condominium Modernization Project, Ministry of Consumer Services**

Phil is currently the manager of the Condominium Modernization Project at the Ministry of Consumer Services and has worked in the Ontario public service for the past 12 years in policy and program development. In his previous roles he led policy changes in the government's approach to innovation investment, children's benefits, physician payment, and primary care models. Phil sits on the board of directors for Halton Food For Thought. He has a master's degree in public administration from Queen's University and a Bachelor of Arts from the University of Prince Edward Island.

### **Mark Salerno Corporate Representative, National Management Team at Canada Mortgage and Housing Corporation (CMHC)**

An employee of Canada Mortgage and Housing Corporation for 15 years, Mark has had a diverse range of appointments including manager of CMHC International, national sales team leader of the Municipal Infrastructure Lending Program, and senior research consultant-B.C./Yukon, where he was engaged in multi-stakeholder relations related to the highly contentious leaky condominium issue in Vancouver. Prior to joining CMHC, Mark was a building science professor at Toronto's Seneca College and served ten years as president of SDC Consultants, where he provided design, consulting and project management services for sustainable building design projects. Today, he writes a weekly article for the Sun Media Chain dealing with housing topics from renovation to maintenance to finance. Mark possesses a Master of Architecture degree and a Bachelor of Technology degree, is a member of the Royal Architectural Institute of Canada, and a contributor to countless boards and committees. Mark is one of 250 Canadians personally trained by former U.S. Vice-President Al Gore to present the live version of An Inconvenient Truth as part of the Climate Reality Project Canada Initiative.

### **Joe Vaccaro Chief Operating Officer, Ontario Home Builders' Association**

In January 2011, Joe returned to serve the Ontario Home Builders' Association as the chief operating of-

ficer after a stint as the vice-president of policy and government relations at the Building Industry and Land Development Association. Prior to working with industry associations, he served as a senior advisor and assistant to the Ministers of Economic Development and Trade, the Chair of the Management Board, and the Minister of Government Services. A graduate of York University, Joe's understanding and appreciation for the social, economic, and environmental impact of the building and land development industry and related public policy decisions was shaped by summers spent working in the family residential framing and new construction business.

#### **Chris Jaglowitz**

##### **Gardiner Miller Arnold LLP**

Chris Jaglowitz practises condominium law and dispute resolution at Gardiner Miller Arnold LLP in Toronto and acts for several hundred condominium corporations in Southern Ontario. He is a member of the Association of Condominium Managers of Ontario (ACMO) Certification and Standards Committee and is a past member of the ACMO Associates Executive Committee. He is chair of the Condominium Management Standards Council, which oversees the ACMO 2000 certification program, and of the Civil Litigation Section of the Ontario Bar Association. In addition to publishing the award-winning Ontario Condominium Law Blog, Chris writes and lectures on condominium law and litigation topics at seminars, conferences, and courses for legal professionals, property managers, and condominium directors and owners.

#### **Audrey Loeb**

##### **Associate Counsel (Condominium Law) Miller Thompson; Professor Emeritus of Law at Ryerson University, School of Business Management**

Audrey Loeb practises law in Toronto. She carries on a focused practice in conveyancing and condominium law. She advises buyers and sellers on conveyancing matters, developers on condominium development, and condominium corporations on issues of corporate governance and operations. She is a member of the Canadian Condominium Institute. In 2008 she was awarded the Law Society Medal for her significant contributions to the profession and to the community and the Ontario Bar Association's Real Property Section Award of Excellence. She has been recognized as a leading practitioner in her field by both Lexpert and Best Lawyers in Canada for several years. Audrey is a frequent lecturer for the Toronto Real Estate Board, the Law Society of Upper Canada and the Ontario Bar Association. She is a professor emeritus of law at Ryerson University, School of Business Management. She is also a former board of directors member of Bridgepoint Health and of the Princess Margaret Hospital where she founded the "Weekend to End Breast Cancer." In 2010 she headed the condominium law portion of the LLM in real estate law for Osgoode Hall Law School of York University.

#### **Tammy Evans**

##### **Blaney McMurtry LLP**

Tammy Evans is a partner at Blaney McMurtry with a practice focused on all aspects of mixed use and condo-

minium development and construction contract law. She serves a broad range of clients, from land owners, developers, landlords, and sureties to institutional and private lenders. Prior to private practice, Tammy acted as legal counsel to the Ministry of Government Services, providing legal advice to land registry offices across Ontario as well as to the Ministry's various program areas. While at the Ministry, Tammy was appointed Deputy Director of Titles to adjudicate disputes between land owners as well as applications for compensation from the Land Titles Assurance Fund. She also played an integral role in soliciting and reviewing stakeholder comments, drafting legislation and briefing the Minister's office on the Condominium Act, 1998 and its regulations. Prior to being called to the Ontario Bar, Tammy owned and operated a successful land development consulting and project management business assisting many developers across Ontario in achieving their development and construction objectives.

**Tom Wright**  
**President/CEO, Real Estate Council of Ontario (RECO)**

Tom Wright joined the Real Estate Council of Ontario (RECO) as a registrar in 1997 and became the president/CEO in January 2002. Prior to joining RECO, Tom was the Information and Privacy Commissioner for the Province of Ontario from 1991 to 1997, heading the office responsible for ensuring that ministries and government agencies of the provincial government comply with Ontario's freedom of information and privacy laws. A graduate of Queen's Law School, Tom was called to the Ontario Bar in 1975 and prac-

tised law for ten years prior to joining the Ontario Public Service in 1985, where he held various legal positions.

**Dean McCabe**  
**President, Association of Condominium Managers of Ontario (ACMO)**

Dean is the vice-president of operations of Wilson Blanchard Management and the president of the Association of Condominium Managers of Ontario (ACMO). He has taught the Condominium Law course and the Condominium Administration and Human Relations course at both Humber College and Mohawk College, as well as through ACMO-accredited in-house training. Dean has been a speaker at the ACMO/CCI conferences in both Toronto and Hamilton and at PM EXPO and has contributed articles to CM Magazine, Condo Voice, and Condo Business Magazine. As a member of the Government Relations and Communications Committee for ACMO, Dean is a spokesperson for the condominium sector and an advocate for greater regulation in the condominium management industry.

**Linda Pinizzotto**  
**Founder and President/CEO, Condo Owners Association**

Linda is a condominium owner and founder of the Condo Owners Association (COA), a non-profit association representing and advocating for the benefit of condominium owners across the province. She has 16 years of experience as the president of two condominium boards of directors and is a 33-year award-winning veteran realtor in the top 1% of Sutton Group nationally. Linda is a longstanding government relations

chair and honorary director of the Real Estate Board. As the political action chair, she works with the Canadian and Ontario Real Estate Associations to advocate benefits for all homeowners to our local government. Linda is a well-known speaker, past chair of Toronto's Youth Day, and recipient of several volunteerism awards. She has three sons: two are professional hockey players and one is a detective with the Toronto Police Service. Her youngest son plays for the Vancouver Canucks in the NHL.

#### **Sally Thompson**

##### **Executive Vice-President, Halsall Associates**

Sally is an executive vice-president with Halsall Associates, a 350-person national engineering firm. She is responsible for maintaining and advancing Halsall's knowledge, processes, and industry reputation for reserve fund study and performance audit services. Over the course of her career, Sally has participated in the preparation of reserve fund studies, performance audits, and other capital planning reports for more than 1,500 buildings across Canada. She is a director of CCI Toronto and also sat on the Tarion committee that developed the recently launched Construction Practice Guidelines for Condominium Common Elements. She is often invited to speak at industry events and has authored many articles pertaining to condominiums. Sally earned her master's degree in structural engineering from Queen's University and is a licensed professional engineer in Ontario, Alberta, and British Columbia.

#### **Armand Conant**

##### **Partner, Shibley Righton LLP, Past President and Board of Directors Member of the Canadian Condominium Institute (Toronto)**

Armand heads up the condominium law department of Shibley Righton LLP, representing numerous condominium corporations across central Ontario. Bilingual in English and French, Armand received his Bachelor of Engineering from Royal Military College, his Bachelor of Laws from McGill, and his Master of Laws from Sorbonne (France). The past president of the Canadian Condominium Institute (Toronto), Armand continues to serve on its board of directors and is chair of the legislative committee. Under his leadership the committee has completed and submitted an extensive legislative brief to the Ontario government with recommendations for changes to the Condominium Act, 1998. Armand also serves as co-chair of the joint Government Relations Committee for CCI(T) and the Association of Condominium Managers of Ontario (ACMO) and on the Discipline Committee for ACMO. He lectures at CCI(T)'s Directors' courses, at Humber College on various aspects of condominium law, and has contributed to the popular discussion of condominium issues through appearances at conferences, the Toronto Condo Show, television, and radio shows as well as authoring numerous articles. Armand is the first lawyer in Ontario to be appointed by the Superior Court as an administrator to take over the duties of the board of directors and run a troubled condominium corporation. He is presently the administrator of two of the fourteen condominium corporations in

Ontario under admin)

**Colm Brannigan**

**Mediator and Arbitrator, [mediate.ca](http://mediate.ca)  
Dispute Resolution Services**

Colm has been both a condominium owner and board member. He is a chartered mediator and chartered arbitrator through the Alternative Dispute Resolution Institute of Canada, Inc. and is based in Brampton with an Ontario-wide practice focused on condominium and commercial disputes. A director of the ADR Institute of Ontario Inc., Colm is one of the first Canadian mediators certified by the International Mediation Institute in the Netherlands. With a Bachelor of Arts from the University of Toronto and Master of Arts from McMaster University, Colm received Bachelor of Laws from Queen's University in 1981. He began his ADR career in the mid-1990s and since 1999 has been a full-time mediator and arbitrator. Colm also earned a Master of Laws in ADR from Osgoode Hall Law School in 2003. In addition to his extensive writing on ADR topics, Colm has participated in numerous professional development and educational programs in ADR. He is also a part-time lecturer in law/ADR at the Business School at Humber College.

**David Maxwell**

**Senior Policy Analyst, Housing  
Policy Branch, Office of Housing  
and Construction Standards,  
Government of British Columbia**

David has worked for the Government of British Columbia for 35 years and has held a variety of positions. After finishing his master's degree in social work, he joined the public service as a front-line social worker in rural British Columbia. After five years,

and a one-year break to teach at a community college, David moved to Victoria, where he held a number of positions concerned with program development and implementation. Most recently he has been involved with federal and provincial relations concerning homelessness and social housing. In 2009 B.C.'s Strata Property Act was transferred from the Ministry of Finance to the Office of Housing Construction Standards. With that transfer came the responsibility to bring into force amendments to the act. These amendments included changes to the dispute management process. The dispute resolution file landed on David's desk and has consumed him ever since.

**Giles Gherson**

**Deputy Minister of Consumer  
Services**

On November 30, 2011, Giles Gherson was appointed Deputy Minister for the Ministry of Consumer Services. This appointment is his third deputy minister role since joining the Government of Ontario in 2007. Following a career in journalism spanning more than 20 years, Deputy Gherson's first appointment was Deputy Minister of Communications and Associate Secretary of Cabinet. In this capacity he led the modernization of government communications that resulted in an overhaul of how government communicates with the media and in the establishment of the corporate Cabinet Office Newsroom. Giles was also a leading force in getting approval for the use of social media in government communications. In July 2008, he was appointed Deputy Minister of Policy and Delivery, Associate Secretary of the Cabinet. In this role he oversaw

major policy initiatives ranging from early childhood education and a reform of the health care system to energy conservation. Prior to joining the Ontario government, he was editor-in-chief of the Toronto Star, editor of the Globe and Mail's Report on Business, editor-in-chief of the Edmonton Journal, and editor-in-chief of the Southam News Service. His journalism career also included being a political editor at the National Post and a national political columnist for Southam's newspaper chain, the Globe and Mail, the Financial Times of Canada, and being the Washington bureau chief for the Financial Post. During the mid-1990s, Gherson took a two-year sabbatical from journalism to serve as principal secretary for social security reform in the federal Department of Human Resources Development.

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**The Ontario Residents' Panel to Review  
the Condominium Act**  
An initiative in support of the Ontario Ministry  
of Consumer Services' Condominium Act Review

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Final Report

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