



Twenty-Eight (28)

Alberta Condo Act Team Improvement Ideas

to address

Alberta Condominium Property Act and the

Alberta Condominium Property Amendment Act, 2014

Shortcomings, Loopholes, and Condo Act Lack of Accountability

Document created by

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PLEASE NOTE:

Delete all previous copies of our “Improvement Ideas”

as this June 2018 updated document replaces them.



Alberta Condominium Legislation Shortcomings and Loopholes

SHORTCOMING DEFINITION: a fault or failure to meet a certain standard, typically in a person's character, a plan, or a system. *synonyms:* defect · fault · flaw · imperfection · deficiency · limitation · failing · drawback · weakness · weak point · foible · frailty · vice

LOOPHOLE DEFINITION: an ambiguity or inadequacy in the law or a set of rules. *synonyms:* means of evasion · means of avoidance

CONDO OWNER DEFINITION: a person(s) who simply owns an Alberta condominium

CONDO BOARD MEMBER DEFINITION: owners, and non-owners, who due to their condo board position enjoy more power, knowledge, influence, contacts, and control than condo owners

CONDO INDUSTRY INSIDER DEFINITION: individuals, groups and/or associations such as condo boards, condo managers, condo lawyers, condo developers, condo builders, condo document review representatives, condo insurance companies, condo maintenance service providers, who provide products and/or services to condo owners.

Note: a condominium board member, condo manager, lawyer, developer, builder, document reviewer, insurance provider might own a condo while holding their position of power. However, in our context they would not be considered a “condo owner” stakeholder. They would be identified in their specific stakeholder group called condominium board member, condo manager, lawyer, developer, builder, etc.

To begin ... an overriding, far-reaching, often undiscussed deficiency in Alberta’s condominium legislation is that there are no penalties, fines, or accountability expectations identified and/or enforced in our condominium legislation. This flaw results in condominium legislation being empty, unenforceable, and ineffective.

Our goal is to change that.

BACKGROUND:

Service Alberta has consistently resisted the idea that condominium owners are their own separate stakeholder group and that they need to be recognized, consistently included, and respected for their contribution to Alberta's condominium industry successes.

Their belief, as stated to me by a former Service Alberta Director is that condo board members, condo managers, condo lawyers, and other condo industry insiders who, in addition to their condo related position, also own a condo ... speak for and represent condo owners. We vehemently disagree with that position.

Our concern over that position, and our overall, consistent exclusion on condominium revision activities, resulted in our Alberta Condo Act Team (ACAT) of grassroots, non-conflicted, Alberta condo owners being created. Our team consists of condominium owners from throughout Alberta.

The following illustrates the consistent involvement of condominium industry insiders in the evolution of current condominium legislation.

Service Alberta provided the following names of those who were on the 2009 Working Committee. Individual names have been left out to protect privacy but many of the same organizational names are represented on the recent 2018 "key stakeholder group" list.

This list indicates that many of the individuals involved have had a consistent, long term pattern of influence with Service Alberta.

The 2009 organizational names are:

1. Glendhill Laroque
2. Acclaim Condominium Managers
3. McLeod and Company LLP
4. Canadian Condominium Institute – South Chapter
5. Christenson Developments
6. A person listed as a "condo owner" when we understand he was involved in Edmonton real estate
7. High Clouds Incorporated
8. Condominium Consultants Canada Inc.
9. Biamonte, Cairo & Shortreed
10. Scott Hall LLP
11. Reynolds, Mirth, Richards & Farmer, LLP
12. Assn of Condominium Managers of Alberta
13. Canadian Homebuilders Association – Alberta
14. Szaszkiewicz Law
15. Canadian Condominium Institute – North Chapter
16. Condo Check

17. Witten LLP

18. Alberta Real Estate board – vacant at the time

Of the seventeen (17) condo industry insiders, the largest represented group were lawyers, with again NO representation from non-conflicted, ordinary, everyday Alberta condo owners.

To continue the trend of condo owner exclusion, when Service Alberta engaged with the Real Estate Council of Alberta (RECA) to address the task of licensing, regulating, and educating condominium managers, history repeated itself.

Once again there were no condominium owners on the RECA Advisory Committee even though condominium owners will end up paying the bills for this program as once condo managers are required to pay the RECA licensing and educational fees, those fees will be passed on to our condominium corporations and then to us as owners.

The individual names of the RECA Advisory Committee as published in RECA on-line documents are below. One can easily learn more about their condominium and political connections by doing an on-line and/or LinkedIn search.

RECA lists the original Advisory Committee members as:

1. Christine Zwozdesky, Chair (not disclosed is Ms. Zwozdesky's property management involvement)
2. Deborah Howes, Vice Chair (not disclosed is Ms. Howes condo related legal practice)
3. Alan Whyte, Canadian Condominium Institute – North
4. Crystal Deley, Alberta Condominium Managers Association
5. Sandra Robertson, Condominium Manager
6. Michel Stiebritz, Condominium Manager
7. Bernice Winter, Condominium Manager
8. Garth Cambry, Real Estate Council of British Columbia
9. Allan Bleiken, Condominium Owner (which is an incorrect label. Mr. Bleiken was/ is a condo board member).
10. Junaid Malik, Condominium Owner (another incorrect label as Mr. Malik was/is a condo board member).

While the Service Alberta/RECA condo manager licensing plan was evolving, former Service Alberta Minister Doug Griffiths was in his ministerial position. An individual named Chad Griffiths was Chair Elect, eventually becoming Chair, of RECA's Real Estate Council of Alberta.

As late as January 2018 Service Alberta continued the trend of excluding our Alberta Condo Act Team (ACAT) group of condominium owners while assembling condo industry insiders to consult with them on our condominium legislation.

The names of the “key stakeholder groups” who met in seven (7) meetings, of three (3) hours in length, held in January 2018 are:

1. Alberta Real Estate Association
2. Appraisal Institute of Canada
3. Association of Condominium Managers of Alberta
4. BFL Canada
5. BILD Alberta
6. Condo Check
7. Condo Owners Society of Alberta*
8. CondoPapers
9. Canadian Condominium Institute – North
10. Canadian Condominium Institute – South
11. Insurance Bureau of Canada
12. McLeod Law
13. Real Estate Council of Alberta (RECA)
14. Real Estate Institute of Canada
15. Reliance Asset Consulting
16. Reynolds Mirth Richards & Farmer LLP
17. RJC Engineering
18. Scott Venturo Rudakoff LLP
19. Strathcona County Condominium Association*

The cronyism pattern is clear as similar names exist on the 2018 “key stakeholder list” as were on the 2013/14/15 RECA Advisory Committee list and the 2009 Service Alberta Working Committee list.

Once again, while excluding our truly represented condo owner ACAT advocacy group, Service Alberta claims condominium owners **WERE** represented in the 2018 group. Again, we challenge that claim.

The two organizations (*) Service Alberta claims to have represented Alberta condominium owners have multiple industry connections, long-term condo association involvement, and dual interests. It cannot truthfully be said that either organization specifically, and only, advocates for, and supports, Alberta condominium owners.

As an aside, Service Alberta will claim we were included in the 2018 meetings. We did attend a meeting with four (4) Service Alberta staff only after I pressed Minister Stephanie McLean, via Tara Ward, to arrange a meeting for us.

Sadly, after we met with Service Alberta on February 13, 2018 at the end of February I received documents that had me realize our meeting had been a sham.

Once again, we had been set up, misled, blindsided, and betrayed because it became clear our “Improvement Ideas” had been discredited, dismissed, and discarded by Service Alberta staff in the summer of 2015.

The problem with that Service Alberta action was that bureaucrats forgot to tell me that had happened and so since then all our phone calls, emails, letters, open houses (paid for on our dime), appeals to Service Alberta have meant nothing.

It came as a further shock to learn that under Minister Stephanie McLean’s watch, our Improvement Ideas were integrated, without notice or consultation with me, with the ideas from the nineteen (19) condo industry insiders in a document Service Alberta called the “What We Heard” report.

By integrating our ideas with the condo industry insider ideas, our ideas were diluted and lost in their meaning. It also gives the public the false impression we were included in the seven (7), three (3) hour, insider meetings. We were not!

It’s clear: Service Alberta only met with us because I pressed them to do so and now they can say: “We met with June Donaldson and her ACAT group”. Meeting with us and genuinely including us are two different things.

Should our Improvement Ideas, related to the current legislation shortcomings and loopholes, be incorporated into existing legislation, **ALL** organizations represented on the Working Committee, the RECA Advisory Committee, and the 2018 Key Stakeholder Groups will:

- have less **POWER** over condo owners in the future because owners will have increased condo-related knowledge, a stronger presence, and more voice and visibility than in the past
- experience less **PRIVACY** in conducting backroom “deals” and mutually beneficial “arrangements”, because they will be legally required to be more open, transparent, and accountable
- realize less **PROFITABILITY** because the current run-away culture of downloading their expenses, costs of doing business, errors and negligence, and miscellaneous fees to condominium corporations and their owners will be less predominant and more open to public scrutiny.

Team the existing imbalance of power with most condominium owners not knowing what they don’t know about how vulnerable they are in their condominium ownership and it creates a perfect storm of conflict, upheaval, and uncertainty in the future, all of which benefits the billable hours of condominium managers, lawyers, condo consultants, advisors, to name just a few.

Proclaimed legislation must address existing shortcomings and loopholes that will only escalate if Service Alberta does not demonstrate responsible leadership, and forward thinking, to deal with current costly and stressful condo ownership and living realities AND provide direction to:

lessen the imbalance of power currently existing between condo industry insiders (and that includes condo boards) against condominium owners AND make our legislation more inclusive, complete, fair, and balanced.

In closing, it is unfortunate that we have not had the benefit of hearing industry insider views on our Improvement Ideas as it is possible that some of our Improvement Ideas require discussion, or in some cases, compromise to find middle ground. That opportunity was never afforded to us.

We predict, if current legislation is proclaimed in its current form in the years ahead Alberta condominium corporations/complexes will face an avalanche of:

- **condominium board abandonment**
- **condominium corporation/complex bankruptcies and**
- **condominium corporations/complexes becoming the new Alberta slums.**

We want to put the years of being set up, misled, blindsided, and betrayed by Service Alberta behind us.

It is time I, as someone with no connections of any kind to the condominium industry AND one who receives no financial benefit for my condo owner advocacy work AND one who has worked for approximately seven (7) years to right the many wrongs of this condominium legislation, and my ACAT team, are taken seriously and included, as any condo industry insider group would be included, by Service Alberta in any of their condominium related discussions.

The following section provides detail on the seven (7) Service Alberta categories currently being addressed and our related shortcomings and loopholes that fit into each Service Alberta category. The last section addresses topics not addressed by Service Alberta but that need to be addressed in any proclaimed legislation.

My disclaimer below applies to this, and all my other condominium work, and it is as follows:

I am a non-conflicted, unpaid, VOLUNTEER Alberta condo owner advocate and I am not a lawyer. All information provided on this site or in any other of my Alberta Condo Network documents or activities is based on my personal opinions, experiences, observations, and current knowledge that comes from nearly 40 years of condo ownership, condo living, condo landlady, condo board member and condo board president experiences.

My information is for information purposes only and it is not to be considered as legal, or any other kind of advice. I do not claim to be a lawyer OR condominium law expert OR to act for all condo owners OR to identify all topics of concern to condo owners. I am not responsible for how my work or opinions are interpreted or acted upon by others. Obscene, offensive, or threatening communications will be either ignored or reported. Participants may unsubscribe from my website, email list or work at any time.

I welcome your thoughts on this document. Please contact me through info@albertacondominiums.ca and we can arrange a discussion time. It would be my pleasure to speak with anyone who sincerely wants to work with us to find middle ground on any of our Improvement Ideas that link to existing Alberta condominium legislation shortcomings and loopholes.

Sincerely

June A. Donaldson

June A. Donaldson (MBA, EdD, Mediator, Arbitrator, Founder: Alberta Condo Act Team)



SHORTCOMING AND LOOPHOLE ALBERTA CONDOMINIUM LEGISLATION SUMMARY

Service Alberta Meeting 1 – Proxies and Voting

1. Ban of proxies and/or limit numbers
2. Ban of show of hands voting

Service Alberta Meeting 2 – Insurance

Service Alberta Meeting 3 – Meeting Notices, Rules, and Condominium Board Accountability

3. Condo Board Member Code of Conduct and Ethics
4. Condo owner responses to General and Sale/Lease/Rental requests
5. AGM Notice and condo manager/lawyer/consultant involvement
6. Pets
7. Tenants on condo boards
8. Board generated “Rules” and “Fines”

Service Alberta Meeting 4 – Reserve Funds

Service Alberta Meeting 5 – Condominium Documents

9. Condominium bylaws
10. Condominium board (and other) meeting minutes
11. Inspection Reports
12. Privacy Act clarification
13. English or French
14. Electronic transfer of condo documents to condo owners
15. Condo document costs
16. Condo manager screening of condo owner to board correspondence
17. Third party sale of condo corporation documents including copyright claims
18. Redaction of condominium corporation events, issues, actions, and decisions

Service Alberta Meeting 6 – Sale of Condominium Parcel following termination

Service Alberta Meeting 7 – Arrears and Sanctions, Borrowing, and Rental Deposits

19. Owner deposits for tenant behaviour

Our additional Miscellaneous Requirements to identify shortcomings and loopholes

20. Condo Manager “Preferred Supplier” Fees, Commissions, Upcharges
21. Condo Manager downloading of their “Errors and Negligence” to condo corporations
22. “Problem Owner” branding
23. Real Estate Council of Alberta (RECA) condo manager licensing, regulating, and educating of condominium managers
24. Government imposed penalties for breaking condominium legislation
25. Government notice re future condo legislation changes or update
26. Proposed Alberta Conflict Tribunal
27. Conflict Tribunal condo board hiring of external representation for their behaviour
28. Condo Act lack of Penalties, Fines, and Enforcements



Service Alberta Meeting 1, Proxies and Voting

1. PROXIES

Ideally, we want proxies banned. Proxy voting undermines the voice of those in attendance at the actual meeting because the owners who relinquished their vote, via their proxy, are not in attendance to hear the discussion and participate in the vote.

Further, proxy voting is in contradiction to the essential characteristics of democracy, one of which is deliberate assembly to collaboratively obtain mutually beneficial outcomes.

This proxy shortcoming, where people can arrive at a condominium meeting with multiple proxies that have often been aggressively, or insidiously, solicited feeds condo owner apathy, entitlement, fear, manipulation, and abuse.

Further, proxies enable unscrupulous condo board members, or other self-serving individuals, to encourage and/or facilitate owners abdicating their democratic condo ownership rights.

Last, by Service Alberta enabling individuals to “shop” the condominium complex for proxies results in them indirectly endorsing condo owners abdicating their democratic and condominium ownership rights.

If proxies cannot be banned – then we want **ALL** people, **with no exceptions**, restricted to presenting only two (2) proxies at any type of a condominium meeting.

Mandate that all individuals attending any type of a condominium meeting are:

- limited to the presentation of only two (2) proxies (and we are non-negotiable on this number)
- the proxy document must indicate how the owner wants the proxy holder to vote on the matter under discussion
- the proxy itself is only applicable at the meeting or a postponed meeting
- the proxies must be submitted to the condo board and/or condo manager during a period of time prior to the actual meeting
- and all people who assign a proxy to another person must be identified, by name, along with the name of the proxy holder, in the resulting minutes.

This idea reinforces and encourages condo owners to claim and exercise their democratic rights and related condo owner responsibilities. It holds condo owners to account on issues that affect their property values,

health and wellness, quality of life, and overall financial stability. It also prevents self-serving individuals from establishing and maintaining power and control over the elderly, ill, language, age, or culturally challenged individuals.

It has been said that “Voting is the language of democracy” * and Service Alberta cannot be seen to remove that right and language from Albertans. (*Eric Holder, former US Attorney General)

2. CONDO OWNER VOTING

We want “show of hands” voting banned. This current loophole violates one’s privacy and subjects owners to potential gossip, bullying, intimidation, and fear of condo board/neighbour/manager/lawyer retaliation.

Mandate paper and/or electronic vote protocols

Mandate that vote copies are retained for twelve (12) months from the date of vote

Mandate written disclosure to owners, within ten (10) days of the vote, of the YES, NO, and NO VOTE/ABSTAINED responses along with the final decision/outcome (a tellers’ report)

These ideas protect one’s privacy and lessen the potential for condo owners to be subjected to the abuses identified above. They also ensure vote outcomes and final decisions are disclosed to all owners, at the same time, in a timely manner.

Service Alberta Meeting 2, Insurance

Service Alberta Meeting 3, Meeting Notice, Rules, and Condominium Board Accountability.

3. CONDO BOARD MEMBER TRAINING, CODE OF ETHICS AND CONDUCT

We recognize there are “good” condominium boards where board members work hard, with positive, ethical intentions to create a condominium culture of inclusion, openness, transparency, and respect. Unfortunately, rules are not made for the “good guys”. They are made to manage the attitudes, actions, and statements of those who do not fit the above description.

A current shortcoming is that anyone who wants to, regardless of their background, skills, or training, and without a criminal record check, can be on an Alberta condominium board.

They can collect, and spend, our condo owner fees while profoundly influencing the maintenance, property repairs, financial and administrative management of our multimillion dollar condominium complexes, known as “condominium corporations”.

These unlicensed, unregulated, untrained in condo board governance, sometimes (unfortunately) ill-informed, self-serving, and unethical individuals have an excessive amount of power and control over our property values, quality of condominium ownership and living, and financial stability.

The imbalance of power between condo boards, and their managers, against condo owners is often disproportionate, financially devastating, and emotionally punishing, and the imbalance of power must be adjusted to a field of fairness.

Mandate that all condo board members sign off, within 30 days of being appointed to a condo board, that they agree to adhere to a Government of Alberta Province wide Code of Conduct and Ethics.

Mandate that all condo board members complete an on-line training program that includes their signature to agree to Government of Alberta established condo board governance standards, protocols, and expectations.

These ideas would reinforce the fact that being on a condominium board is a significant legal and moral responsibility and that certain ethical standards, condominium governance knowledge, demonstrations of accountable, fair, and transparent performance, and respectful behaviour towards each other, and to owners, are required in the position.

These expectations must be entrenched in Alberta's forthcoming condominium legislation culture to lessen the many instances of corporation mismanagement and various forms of abuses of power against Alberta condo owners.

4. CONDO BOARD RESPONSES TO CONDO OWNER GENERAL and SALE/LEASE/RENTAL REQUESTS

The shortcoming and loophole of not having a requirement for a condo board to respond to a **GENERAL** condo owner request is unacceptable and it is clear a “General Request” or a “Sale/Lease/Rental Request” are not specifically addressed in Section 16.1 in the forthcoming legislation. They must be!

At present, the condo board only has to respond if the owner requests specific documents such as the board meeting minutes, the AGM minutes, the financial documents, the insurance certificate, etc. Even at that, if the condo board ignores the owner request for these documents, there is no penalty for doing so.

GENERAL requests are real life questions such as:

“where’s the missing \$40,000 term deposit that was on last year’s financials but not on this years?”

OR “why was the condo board president hired to be our security, handyman and landscaper and how much are we paying him/her?”

OR “how much did we pay owner of unit 123 for their third flood damage claim and did the condo board obtain a release so we don’t have to pay a fourth flood claim?”

OR “who did we pay \$100,000.00 to for ‘paving and cement work’ as I haven’t seen any repair work being done and I’ve been here all year?”

OR “my basement has flooded X times in the past year, so when will the condo board fix the downspouts and exterior of the building to prevent this from happening again?”

EQUALLY, IF NOT MORE, UNSETTLING IS that there is no requirement for a condo board to respond to a **SALE, LEASE OR RENTAL** request; requests that are often time sensitive, and where the owner is heavily dependent on receiving rapid written condo board approval should a pet, parking, storage, etc., issue be foundational to a successful transaction.

Mandate that a written, respectful, condo owner **GENERAL** request is responded to within ten (10) days of the date of the request.

Mandate that a written condo owner **SALE, LEASE OR RENTAL** the condo board approval request is responded to within forty-eight (48) hours of the date of the request.

These ideas would increase openness, transparency, and disclosure to owners on decisions that are made by an unlicensed, unregulated, unmonitored, untrained in condo board governance and often ill-informed group of VOLUNTEERS responsible for managing our multimillion dollar complexes.

These ideas would also lessen the potential of a condo board, as identified above, holding the success of a sale, lease, or rental in the palm of their hands by being able to ignore and/or unmercifully question, defer to others on the condo board, second guess, or demonstrate an abuse of power time delay to where the pending transaction fails.

(If you would like three personal examples of such abusive and costly behaviour, please contact me).

5. AGM NOTICE AND LEGAL, CONDO MANAGER, CONDO “CONSULTANT” INVOLVEMENT

The shortcoming of the “Surprise, we’re having an AGM” fourteen (14) day notice to condo owners for an Annual General Meeting is unacceptable.

Equally unacceptable is receiving the DRAFT AGM minutes approximately one year AFTER the AGM and the quiet hiring of external representatives (condo managers, lawyers, condo “consultants”, etc.) to conduct AGMs and other types of meetings.

Mandate a sixty (60) day “Save the Date and Time” notice to Owners.

Mandate that fourteen (14) days prior to the meeting the agenda, financials and other related documents are sent to Owners.

Mandate that condo boards advise the ownership in the “Save the Date and Time” notice if they are hiring lawyers, condo managers, condo consultants, etc., to organize, attend, conduct, and record meeting minutes AND what the estimated cost will be.

Mandate that fourteen (14) days after the AGM, or any other type of condo related meeting organized by the condo board, or owner extraordinary meetings, the DRAFT meeting minutes are released to the ownership for their review. This helps ensure topics are more easily remembered by attendees and therefore more easily corrected should there be an error in the minutes.

These ideas ensure busy condominium owners have ample notice to schedule AGM attendance. As well, they would have ample time to register issues on the agenda that require ownership vote. Third, they would

know, in advance, who is attending their meeting, why that is the case, and how much of their condo fee money is being paid to an outsider to do a job that the condo board should be doing for themselves.

6. PETS

The shortcoming and loophole where a condo purchaser can purchase in a “pet friendly” building only to learn later that the ownership decided to make the building “non-pet friendly” is unfair and emotionally devastating to many pet-loving condominium owners.

Often, existing pets are “grandfathered”. This means that when the pet dies, or moves from the building, the owner **cannot** obtain another pet even if they have been a perfect pet owner.

This happens because the “grandfathering” is applied to the pet, not to the owner. Grandfathering should be applied to the owner, so the owner can obtain another pet.

The “grandfathering” should apply to owners who currently live in the building AND those who might be renting their units anticipating that they will move into the building at a later date (i.e. when they retire, downsize, etc.).

Mandate that if a condo owner originally purchases in a pet friendly building, as long as they own the condo unit, they are entitled to have a pet in their unit according to the grandfathering bylaw described above.

This idea ensures that, should the pet bylaw change, condo owners who buy in a pet friendly building, and often pay a premium to do so, end up owning what they purchased ... which is the right to have a pet in the building.

7. TENANTS ON CONDO BOARDS

This shortcoming where tenants can now, with no requirement to inform the unit owner, let their name stand, and be elected, to a condominium board position cannot continue.

Mandate the ban of tenants being on a condo board **OR** (worst case) **mandate** that the unit owner must give written permission to the condo board and/or condo manager 14 days prior to the AGM stating their tenant can represent the owner on the condo board.

Mandate the ban of non-titled individuals from condo board nominations and/or involvement.

These ideas lessen the potential of a tenant becoming a condo board member, without the owner's knowledge, or the knowledge of other owners, and then influencing financial, maintenance, property repairs, legal, reserve fund, administrative, owner treatment decisions, only to move out in thirty (30) days leaving owners to deal with the fall out.

8. BOARD GENERATED "Rules"

This shortcoming and loophole according to current Amendments (Section 32.1), means that unlicensed, unregulated, untrained in condo board governance, sometimes ill informed, self-serving, or unethical condo board VOLUNTEERS

"may by resolution make, amend, or repeal Rules respecting procedures used in the administration of the corporation".

The result is a condo board, with no input, consultation, or approval from the condo ownership can randomly and arbitrarily, make, amend, apply, or repeal Rules at their discretion.

This is excessive and potentially damaging power to bestow upon to volunteers who are unmonitored, uncensored, and seldom held to account for behaviours, statements, or action towards condominium owners.

Mandate that Service Alberta must define "Rules" in forthcoming legislation.

Mandate that Service Alberta must clearly state the purpose of the "Rules" in forthcoming legislation.

Mandate that Service Alberta must clearly state the difference between "Rules" and "Bylaws" in forthcoming legislation.

Mandate that condo boards must gain 75% approval of their "Rules" prior to the Rules being implemented.

Mandate that condo boards must gain 75% approval of their "Fines" prior to the Fines being implemented.

Mandate that condo boards must obtain the same 75% approval on the "Fines" often associated with "Rules".

Mandate that condo boards publish "Rules" and related "Fines" and that information is kept current with changes published within fourteen (14) days of any updates.

These ideas eliminate condo boards, as described above, haphazardly, and erratically creating Rules and Fines to fit personal or malicious agendas or the needs of "friends of the board". It also ensures the condo community is involved, informed, involved and in agreement with the fairness and reasonableness of the Rules and Fines.

Service Alberta Meeting 4, Reserve Funds

Service Alberta Meeting 5, Condominium Documents

9. BYLAWS

There are three shortcomings and loopholes on this topic and they are:

- One vote for all
- Bylaw Restriction statements
- Thirty-day (30) approval notice

A. Ban “one vote for all” vote processes applied to bylaw changes, additions, or deletions.

This is where condo bylaws are grouped together in one large, often complex, and overwhelming package and owners are given only ONE vote to vote for either ALL of the bylaws or vote AGAINST ALL of the bylaws.

Mandate all bylaw changes, additions, and deletions be individually described in point form, in all condo bylaw revision packages, with **75% ownership vote agreement in place**.

Bylaws are intended to protect and maintain owner property values; quality of life, financial stability, and owner’s rights. Bylaws must be abundantly clear, and they can only be made that way by individual attention to each bylaw adjustment.

This idea lessens the potential of condo owners being overwhelmed by the complexity and length of legally written, voluminous bylaw correspondence, and voting to “get the bylaw hassle behind us”

B. Bylaw restriction statements: Potential purchasers should clearly know their exposures in any bylaw or in any condo board approval provided to them regarding pets, parking, storage, etc.

Owners should not be taken by surprise by the arbitrary application of a bylaw that states, in the middle of the bylaw, “which approval the Board may arbitrarily withhold and may, if given, be withdrawn anytime on fifteen (15) day’s notice to that effect”

Address bylaw restrictions by providing a clear statement at the end of each bylaw that identifies whatever limitations might affect the potential purchaser or current owner

Mandate that all restrictions, exceptions, limitations, be clearly stated at the END of the pertinent bylaw, not tucked WITHIN the bylaw.

This idea ensures potential condo purchasers can easily see the unique conditions and realize how fragile their approval might be, and how vulnerable they are, when relying on the condo board approvals.

C. Advance notice of bylaw changes. Currently, condo boards and condo managers are not required to give condo owners advance notice of bylaw changes where the 75% vote approval is required.

That means condo owners often have a very short period to review, clarify, question, or discuss proposed condominium bylaw changes among themselves, with their neighbours, or with the condo board.

Mandate that copies of proposed bylaw changes/amendments, and advance notice of motions, be distributed to all owners thirty (30) days before the vote deadline.

This idea lessens the rush to approve that often accompanies bylaw changes that sometimes comes back to haunt condominium owners. It also gives condo owners time to read, reflect, initiate discussion, ask questions, clarify, confirm, and receive answers from the condominium board and/or the condo lawyer on legislation that will affect their property values, quality of condominium ownership and life, and financial stability.

10. CONDO BOARD MEETING MINUTES

There are two shortcomings and loopholes to address. The first is the irregular, sometimes undocumented board meetings and/or decisions made by a condo board. The second is addressing the often incomplete, inaccurate, difficult to understand condominium board meeting minutes created by some condo boards.

Service Alberta must set the standard as to how often meetings should be held and how meeting minutes are to be recorded to ensure truthfulness, accuracy, and completeness of information recorded about our multimillion dollar condominium complexes.

Mandate that a minimum of at least one (1) condo board meeting is held each quarter. If a meeting is not required, the condominium board president documents the reason the meeting is not required and the condo board members who supported the decision, in the condo board meeting minute book.

Mandate that all condo related meetings are written according to a Service Alberta meeting minute templates (For example: make Roberts Rules of Order the standard meeting minute protocol).

These ideas would ensure consistency of condo board meetings, so owners would know when meetings are scheduled should they wish to present a topic at a meeting AND it would ensure more truthful and complete recording of actions and decisions made by the condo board.

Meeting minutes must be truthful and complete as they are court admissible: that is often not the case at the present time. Our ideas would minimize condo decisions being privately, and randomly, made by condo board “insiders” and/or “friends of the board” and not reported in the corporation’s documentation.

11. INSPECTION REPORTS

This loophole relates to there being no requirement for a condominium board to either act on an Inspection Report problem OR advise the ownership that a property/maintenance issue exists and could result in a “cash call” – “special assessment”.

Mandate that condominium boards advise the ownership within fourteen (14) days of receiving an Inspection Report from a qualified, licensed Inspector, of Inspection Report deficiencies.

12. PRIVACY ACT CLARIFICATION

Condo boards and condo managers often refuse to identify who is on the condo board and/or to provide board contact information to condo owners. We understand condo board members might not want condo owners contacting them directly; however, the refusal to disclose who is on the condo board results in owners not knowing who is making property repair, maintenance, financial, legal, and administrative decisions on their behalf.

It also leads to an imbalance of power and lack of condo board accountability to the ownership. In addition, the condo manager could potentially manipulate and/or misconstrue owner information to, and from, the condominium board and the condo owner would have no way of tracking the information or document trail.

Condo board members have voluntarily committed to this public office. As such, they should be prepared to have basic contact information available to those who voted them to their positions.

While some basic information is available through Land Titles, there is no guarantee that all condo boards register the condo board member names, so it is possible Land Titles would not know condo board member contact information. Further, why should a condo owner be required to spend the time and money to deal with Land Titles, when this information is readily available in condo management company files?

Mandate disclosure, within fourteen (14) days, in accordance with the Privacy Act, of condo board member identity and contact information that should be available to individuals making a written request for that information.

13. ENGLISH OR FRENCH.

This shortcoming creates opportunity for condo owners to experience what recently happened in British Columbia where a condo board held their meetings in Mandarin even though there were owners who did not speak Mandarin. As Canada becomes more population-diverse, Service Alberta must prevent language legal challenges (as happened in British Columbia) from taking place where condo owners experienced conflict, broken relationships, and large, unnecessary legal bills to have the situation addressed.

Mandate that ALL condo meetings be held in either one of Canada's official languages – English or French – and that the ownership votes on their language of choice.

This idea ensures all condo related meetings are held in one of Canada's official languages. Furthermore, it does not put condo complexes in a position where they spend inordinate money on legal fees to fight for something that is a fundamental Canadian law.

14. ELECTRONIC TRANSFER OF CONDO DOCUMENTS TO CONDO OWNERS:

This shortcoming and loophole means that even if a condo owner requests all condo documents be sent to them via electronic transmission, condo boards, managers, and other service providers are not required to respond or adhere to that request.

They can, and often do, ignore the owner request, and documents are sent by regular mail, often resulting in dated information, missed deadlines, miscommunication, fines, etc.

Mandate that if a condo owner requests, in writing, that all condo documents be delivered to them via electronic transfer (i.e. email or whatever method evolves in the future) their request is adhered to by the condo board and/or condo manager, or anyone else involved in the condo owner request.

This idea ensures condo owners are provided with timely condo information despite what their work, travel, volunteer, health, or family schedule might be.

15. DOCUMENT COSTS: Ban billing condo owners' fees for obtaining THEIR condominium documents.

The shortcoming and loophole of condominium management companies or condominium document "sellers" charging a range of fees for condominium documents (i.e. \$30.00 for a two page electronically transmitted document or \$25.00 for a one-page copy of a condo board meeting) is unacceptable, unfair, and unjustified.

Service Alberta recently released legislation to ban concert ticket scalpers. We want Service Alberta to apply the same logic and action to ban condominium paper scalpers.

Mandate that condominium documents are provided free of charge to registered on title condo owners. It is a cost of doing business and a fee to obtain OUR documents should not be absorbed by condominium owners.

This idea increases the accessibility of condo owner documents AND reduces owner costs of obtaining documents that belong to them in the first place. Further, not having to pay for condo documents will encourage condo owners to obtain relevant documents and be consistently aware of condo board decisions affecting their investment.

16. CONDO MANAGER DOCUMENT SCREENING of CONDO OWNER CORRESPONDENCE TO CONDO BOARDS

This loophole enables some condo boards to abdicate their responsibility to condo owners by dictating to owners that all condo owner requests intended for the condo board, are routed through the condo manager.

Condo owners have no guarantee their correspondence reaches the condo board and/or that ALL board members are made aware of the condo owner request or issue.

Mandate that all condo owner correspondence sent by a condo owner to a condo board, that requires routing through a condo manager, is delivered to the condo board contact by the manager within forty-eight (48) hours after receipt.

Mandate that the condo manager confirm to the condo owner sender, that their document has been forwarded to the condo board contact within forty-eight (48) hours after condo manager receipt.

Mandate that the condo board contact must deliver ALL correspondence to ALL other board members within forty-eight (48) hours after receipt.

These ideas minimize a condo manager restricting information that is intended for condo board knowledge. It also reduces the potential for collusion between the condo manager and a condo board president. It is against the law for a person to intercept mail directed to another person. Why is it permissible for a condo manager to intercept mail from an owner that is directed to their condominium board? The same legality should apply to condo mail as it does to regular mail.

It also ensures that all condo-owner generated correspondence is not blocked or screened by the condo manager thereby putting other condo board members at a disadvantage by the entire board not knowing of

owner or community issues. This process would ensure greater openness, transparency, and disclosure to ALL condo board members at the same time, so they are informed of ALL condo owner concerns.

17. THIRD PARTY SALE OF CONDO CORPORATION DOCUMENTS/COPYRIGHT OWNERSHIP

Separate to some condominium management companies who sell condominium documents, there are other third-party condo document sale companies that sell condo corporation documents for various fees, documents that are provided to them by condo management companies who represent condo corporations.

We believe there are condo corporations who don't realize that their condo documents are being sold by the third-party condo document sale company;

AND that the third party might be involved in a financial arrangement with the condo management company representing the condo corporation,

AND where the condo corporation receives no financial benefit from the arrangement between the third-party document seller and the condo management company who provided them with the documents.

We also believe that many condo corporations affected by such activity are not aware that the condo document sale company often claims to "own" the copyright of the condo corporation's documents when, in fact, they might not have created the original document(s) nor do they appear to have a license agreement with the document originator that enables them to claim copyright ownership and/or to threaten legal action against anyone who violates their (?) copyright.

Mandate that organizations who sell on line condo documents are banned from operation as condominium document scalping must not exist in Alberta.

This idea facilitates an environment of openness, disclosure, and transparency which all Alberta condominium owners deserve.

18. REDACTION OF CONDOMINIUM CORPORATION EVENTS, ISSUES, ACTIONS, AND DECISIONS IN CONDOMINIUM DOCUMENTATION

At present, condominium boards, managers, lawyers, and others can arbitrarily, with no permission from condominium owners, or approval from anyone to do so, selectively, and subjectively redact (remove, eliminate, sanitize, "doctor", not disclose) information related to condominium corporation events, issues, actions, and decisions. This cannot continue.

Condominium documents are meant to be a **TRUTHFUL** and **COMPLETE** history of our condominium corporations/homes and Service Alberta must do all possible to maintain that standard.

The two main redaction justifications used are “the situation is before the courts” or “disclosure would violate the Privacy Act”, both of which are unacceptable reasons not to tell the true and complete story about the events, issues, actions, and decisions of the condominium corporation board.

There is a way to identify ALL events, issues, actions, and decisions, and Service Alberta needs to identify how such activities are to be documented so that existing owners and prospective purchasers are provided with truthful and complete condominium documentation.

If Service Alberta allows redaction of ANY corporation events, issues, actions, or condominium board decisions in our condominium documentation, they are permitting people in power to potentially:

- lie and misrepresent our information, and mislead consumers

and that is completely unacceptable.

If redaction is allowed, potential purchasers would not be able to rely on any documents they might be given. Existing owners would also not be able to rely on documents they are given at their AGM or that they request from the condominium board.

There would be no point in keeping any records at all if Service Alberta allows redaction in our condominium corporation documents.

There is a way to ensure all events, issues, actions, and condominium board decisions are completely and accurately outlined in ALL our corporation documents, and Service Alberta needs to establish guidelines on how that can be done. It is their job to provide this type of insight, guidance, and leadership.

Mandate the ban of any form of redaction or removal of condominium events, issues, actions, and decisions from ANY condominium corporation documentation.

This decisive action would ensure truthful and complete condominium documentation that identifies ALL corporation events, issues, actions, and decisions to new condominium purchasers, existing condominium owners, and new board members, thereby ensuring they have a paper or information trail of previous condo board activities.

(A detailed discussion of this unacceptable situation is presented in our Alberta Condo Act Team (ACAT) newsletter, number 31. If you wish a copy, please send an email to info@albertacondominiums.ca)

Service Alberta Meeting 6, Sale of Condominium Parcel following Termination

Service Alberta Meeting 7, Arrears and Sanctions, Borrowing, and Rental Deposits

19. OWNER DEPOSITS FOR TENANT BEHAVIOUR

Condo boards can dictate that a condo owner who rents their condo must make a tenant deposit equal to a month's rent. When a tenant is alleged to have broken the bylaws, the condo board, without any proof of the allegation or any "warning" notice to the owner, can arbitrarily "fine" the condo owner for the behaviour of their condo tenant.

This results in condo boards arbitrarily removing money from the condo owner deposits and the condo owner having no timely or cost-effective voice or recourse.

Mandate that prior to a fine being levied against a condo owner where money is arbitrarily withdrawn from an owner account, the condo board and/or manager must provide documented proof (witnesses, videos, audios, pictures, etc.) of the alleged bylaw violation ten (10) days before any action is taken against the condo owner.

Mandate that condo boards must pay interest to condo owners who pay a tenant deposit.

WE REQUEST SERVICE ALBERTA ADDRESS

THE FOLLOWING SHORTCOMINGS AND LOOPHOLES THAT EXIST,

BUT DO NOT FIT INTO ANY ONE OF THEIR CATEGORIES, IN THEIR REGULATIONS

ADDITIONAL CONDO LEGISLATION REQUIREMENTS:

20. CONDO MANAGER "Preferred Supplier" FEES/COMMISSIONS/UPCHARGE DISCLOSURE:

This loophole enables condo management companies to ask suppliers to pay them a certain amount should the supplier wish to be on their "Preferred Supplier" list (or a similar name).

This means that if a condo owner needs a job done, if the condo management company refers a "Preferred Supplier" to do the job, the owner could unknowingly be billed for the job itself AND the "Preferred Supplier" fee the supplier is required to pay the management company.

Mandate that upon a written request by a condo board, or condo owner, any “preferred supplier” fees must be disclosed to those making the written request within fourteen (14) days of the request.

Mandate that all condo owner invoices be itemized to identify the product and/or service cost, the taxes, and any extra fees/commissions – all as separate line items.

These ideas clearly identify to condo owners and condo boards what the actual product, service, or repair cost is AND what additional fees, commissions, kick-backs, or upcharges are added to the invoice.

21. CONDO MANAGER “Errors and Negligence” DOWNLOADS TO CONDO CORPORATIONS

This shortcoming and loophole means condominium management companies can download their staff errors and negligence onto condominium corporations. It means that if a condo manager makes an error or causes damage to a condo corporation, they are not liable for the loss, damage, or costs as the condo corporation must accept all responsibility for the situation even though they were not the cause of the problem.

Mandate that condominium management companies cannot download/offload their errors/negligence to condominium corporations.

This idea makes condo management companies responsible for their employee or contractor errors or negligence as such situations are the condo management company cost of doing business.

22. “PROBLEM OWNER” BRANDING

This loophole means that a condominium board who does not like a condo owner, or who do not want to answer sensitive condo owner questions, can confer with the condo manager and/or condo lawyer, and arbitrarily allege and label a condo owner as a “problem owner”.

Condo boards can seek legal advice as to how to deal with an alleged “problem owner” and by doing so they use the owner’s condo fee money to pay the legal bill to seek legal advice against the owner.

Mandate that prior to a condo board seeking legal advice or paying condo manager consulting fees, related to an alleged “problem owner”, the condo board must advise, in writing, the owner as to what the issues are ten (10) days before seeking such legal or consulting advice.

Mandate that any legal fees arising from the situation, for both the condo board and the alleged “problem owner”, are paid by the condominium corporation.

This idea will lessen instances of condo boards unnecessarily branding, legally abusing, OR damaging the reputation of a condo owner who simply wants questions answered in an open and transparent manner.

23. REAL ESTATE COUNCIL OF ALBERTA (RECA) CONDOMINIUM MANAGER LICENSING, REGULATION AND EDUCATION

We oppose RECA being given this responsibility; however, it appears the Government of Alberta position is non-negotiable regarding having RECA provide this offering. That being the case:

FIRST, we want Alberta condominium owners (who will be financing the RECA licensing project through increased condominium fees) to be permitted to launch a condominium manager complaint **DIRECTLY** to RECA, where it will receive unbiased, professional, timely attention, and resolution.

Currently, that is not the case. According to RECA's Condominium Manager Regulation Consultation paper, Page 3, Col. 1), RECA wants condo owners to route their complaint through their condo board; a condo board the owner might not like, trust, or believe to be competent AND/OR a condo board who might be behaving badly with the condo manager, who is the subject of the complaint.

Condo owners should not be required to have their privacy violated or have themselves subjected to condo board and or condo neighbour gossip, harassment, or bullying by having to present their case in this manner.

SECOND, we want self-managed condominium boards subject to licensing, regulation, and education, not exempted, as is currently proposed.

THIRD, we want, ALL Alberta condominium managers licensed, regulated, and educated. At present RECA exempts certain managers. However, they do not publish their exemption criteria. This lack of disclosure can lead to cronyism, favouritism, confidentiality and privacy breaches, unequal treatment of others, conflict of interest, and abuse of power.

Mandate the three concerns identified above be addressed as requested.

24. GOVERNMENT IMPOSED FINANCIAL PENALTY FOR CONDO BOARDS AND ALL OTHER CONDO INDUSTRY SERVICE PROVIDERS FOR BREAKING CONDOMINIUM LAWS

This shortcoming and loophole means that a condo board, manager, lawyer, developer, builder, or any other condominium service provider can contravene the Act, violate legislation, and break the rules with little or nothing being done by Service Alberta to address the individual and their alleged violation.

Mandate that condominium owners are made aware, through the Service Alberta website and traditional media, within thirty (30) days of a conviction, of condominium board members who engage in proven illegal conduct and who will not be permitted to serve on any Canadian condominium board for a period of five (5) years from the date and time they received the Court judgement, have resigned with paperwork finalized by the condominium board and/or condominium manager on their resignation, or have been removed from the Board.

25. GOVERNMENT NOTICE TO CONDOMINIUM OWNERS OF FUTURE CONDOMINIUM LEGISLATION CHANGES/UPDATES

This shortcoming and loophole means our Government can make updates, additions and/or deletions to any and our condominium legislation without having to:

- advise, in advance, condominium owners of their intentions to institute updates, additions and/or deletions.
- solicit condominium owner feedback on their proposed updates, additions and/or deletions.
- disclose their implementation plan, or workplan, to Alberta condominium owners.
- disclose external resources working with Service Alberta on the above activities.

This means the Government of Alberta could agree to our Improvement Ideas and implement every one of our ideas in the “Regulations” in order to have the legislation proclaimed into law and to “get it behind them”.

Shortly after proclamation, when the spotlight is off this issue, this Government (or any future Government) could, behind closed doors, quickly, quietly, covertly, and confidentially, in a Cabinet meeting, approve different updates, additions and/or deletions that would negate, erode, and/or override everything we thought we had accomplished via our Improvement Ideas.

We, as condominium owners, would be right back where we are now: mislead, ignored, trivialized, and vulnerable. We cannot let this exposure exist and a mechanism needs to be established to inform Alberta condominium owners of such backroom activity.

26. PROPOSED ALBERTA CONFLICT TRIBUNAL

The topic of the Alberta Conflict Tribunal is fraught with shortcomings and loopholes. The proposed Conflict Tribunal will only be as effective as the condominium legislation lets it be. If the legislation is incomplete, if it doesn't discuss "real life" topics that create conflict, then the Tribunal will be ineffective.

If the Condo Act downloads conflict-oriented topics to the bylaws that, in our view, will be an abdication of responsibility by Service Alberta because bylaws are used to control and manage condominium owners, their families, and their pets. Condominium board and community dysfunction, on-going conflict, financial abuses, and broken relationships can be significantly minimized with strong legislation. We expect Service Alberta to specifically address topics in the Act that we know cause conflict, many of which are identified in this document.

27. CONFLICT TRIBUNAL CONDO BOARD REPRESENTATION

A troubling trend that will become another huge shortcoming and loophole if not addressed early by Service Alberta is taking place in British Columbia. Despite B.C. having a Civil Resolution Tribunal (CRT) intended to be a timely, cost effective conflict resolution approach for BC condominium owners, we have learned that condominium boards are hiring condominium managers, consultants, advisors, etc., to represent them at the CRT instead of the condominium board members themselves appearing before the CRT to state their case.

That means condominium owners could potentially be financially hit in four ways:

- paying their own fees to prepare the situation for the CRT
- paying the condominium board CRT fees through their condominium fees because the condominium boards use community fees to pay their fees
- paying, through their condominium fees, the condominium manager/consultant/advisor who represents the condominium board
- and last, there is a good chance the condominium manager/consultant/advisor seeks feedback from a condominium lawyer on certain aspects of the case and so there is a fourth potential cost to a condominium owner.

Mandate that all condo board members must appear, in person, to address and defend their actions. If a condo owner and/or condo board member requires a support person due to a health, language, etc., disadvantage, they may have a support person to assist them once their requirement is legally confirmed in terms of Human Rights legislation.

Mandate that there is to be no hiring of a condo manager or condo "consultant" of any kind where there is not a need related to Human Rights.

Mandate that any legal fees arising from the situation, for both the condo board and the owner, are paid by the condominium corporation.

This idea will lessen instances of condo boards abdicating their responsibility to participate in the resolution of a conflict and it will make condominium board members more accountable for their statements and actions as they interact with condominium owners they are elected to represent.

28. PENALTIES, FINES AND CONDO ACT ENFORCEMENTS

Existing, and proposed Alberta condominium legislation is empty, unenforceable, and ineffective.

There are no identified standards of conduct and related fines or penalties for Condo Act non-performance by condo boards and condo industry insiders outlined in the legislation.

1. You can have campfire issues addressed and enforced but not Alberta condominium issues
2. You can have a fisherman ticketed for illegal behaviour but not an Alberta condominium board member
3. You can be prosecuted for securities irregularities but not for condo board financial mismanagement
4. You can be ticketed for failing to communicate workplace safety protocols but not for “doctoring” condo records, withholding condominium documents, or misrepresenting financial information
5. You can be penalized for hunting without a license, but an Alberta condo board member can collect millions of dollars of condo owner condo fee and special assessment money without a license or any mandated accountability.

*(These two sentences slightly modified from what was sent to M. Malkinson) The lack of standards of conduct and performance, related fines and penalties, and non-enforcement of legislation is a boon to condo industry insiders. It forces distressed condo owner victims to:

- shut up
- sit back and live with “it”
- sell and move
- or enter a legal system most Alberta condo owners cannot afford.

The above is unacceptable when “consumer protection” is a key mandate of Service Alberta.

This ends our Improvement Ideas presentation. We understand we can’t “win them all”, however, we believe there is middle ground on every idea that addresses existing shortcomings and loopholes in current and proposed legislation.

We welcome the opportunity to meet with Service Alberta staff and any condo industry insiders group interested in improving the scope, depth, quality, and fairness of Alberta's condominium legislation.

Sincerely

June Donaldson

END