

CONDOMINIUM PROPERTY ACT

CHAPTER C-22

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1(1) In this Act,

- (a) “board” means the board of a corporation as provided for in section 23;
- (b) “building” means one or more buildings on the same parcel;
- (c) “by-laws” means the by-laws of a corporation as amended from time to time and includes any by-laws passed in substitution for them;
- (d) “common property” means so much of the parcel as is not comprised in a unit shown in a condominium plan;
- (e) “condominium plan” means a plan registered in a land titles office that complies with section 6 and includes a plan of redivision registered under section 15;
- (f) “corporation” means a body incorporated by section 20;
- (g) “Court” means the Court of Queen’s Bench;
- (h) “developer” means a person who, alone or in conjunction with other persons, sells or offers for sale to the public
 - (i) residential units, or
 - (ii) proposed residential units,that have not previously been sold to the public;
- (i) “landlord” means an owner of a residential unit that is being rented and includes a person acting on behalf of the owner;
- (j) “local authority” means
 - (i) a city, town, village, municipal district or county,

- (ii) the Minister of Municipal Affairs, in the case of an improvement district or a special area, or
- (iii) the Minister of the Crown in right of Canada charged with the administration of the *National Parks Act* (Canada), in the case of a National Park;
- (k) “management agreement” means an agreement entered into by a corporation governing the general control, management and administration of
 - (i) the real and personal property of the corporation associated with the residential units, and
 - (ii) the common property associated with the residential units;
- (l) “Minister” means the Minister of Consumer and Corporate Affairs;
- (m) “municipality” means the area of a city, town, village, municipal district, county, improvement district, special area or National Park;
- (n) “owner” means a person who is registered as the owner of
 - (i) the fee simple estate in a unit, or
 - (ii) the leasehold estate in a unit when the parcel on which the unit is located is held under a lease and a certificate of title has been issued under section 3(1)(b) in respect of that lease;
- (o) “parcel” means the land comprised in a condominium plan;
- (p) “purchase agreement” means an agreement with a developer whereby a person purchases a residential unit or proposed residential unit or acquires a right to purchase a residential unit or proposed residential unit;
- (q) “recreational agreement” means an agreement entered into by a corporation that allows
 - (i) persons, other than the owners, to use recreational facilities located on the common property, or
 - (ii) the owners to use recreational facilities not located on the common property;
- (r) “residential unit” means a unit used or intended to be used for residential purposes;
- (s) “special resolution” means a resolution

- (i) passed at a properly convened meeting of a corporation by a majority of not less than 75% of all the persons entitled to exercise the powers of voting conferred by this Act or the by-laws and representing not less than 75% of the total unit factors for all the units, or
- (ii) signed by not less than 75% of all the persons who, at a properly convened meeting of a corporation, would be entitled to exercise the powers of voting conferred by this Act or the by-laws and representing not less than 75% of the total unit factors for all the units;
- (t) "title document" means, in respect of a residential unit, a transfer of the unit that is registrable under the *Land Titles Act*;
- (u) "unanimous resolution" means a resolution
 - (i) passed unanimously at a properly convened meeting of the corporation by all the persons entitled to exercise the powers of voting conferred by this Act or the by-laws and representing the total unit factors for all the units, or
 - (ii) signed by all persons who, at a properly convened meeting of a corporation, would be entitled to exercise the powers of voting conferred by this Act or the by-laws;
- (v) "unit" means a space that is situated within a building and described in a condominium plan by reference to floors, walls and ceilings within the building;
- (w) "unit factor" means the unit factor for a unit as specified or apportioned in accordance with section 6(g) or 15(5), as the case may be.

(2) Other expressions used in this Act and not defined in subsection (1) have the same meanings as may be assigned to them in the *Land Titles Act*.

RSA 1970 c62 s2, 1972 c22 s2, 1978 c9 s2, 1978 c51 s29

Subdivision of
buildings into units

2(1) A building may be designated as a unit or part of a unit or divided into 2 or more units by the registration of a condominium plan under this Act.

(2) The Registrar shall not register a condominium plan unless that condominium plan describes 2 or more units in it.

(3) For the purposes of the *Land Titles Act*, a condominium plan shall be deemed on registration to be embodied in the register.

(4) This Act applies only with respect to land held in fee simple, excepting thereout all mines and minerals.

(5) Notwithstanding subsection (4), if land is held under lease and

a certificate of title has been issued under the *Land Titles Act* in respect of the lease, this Act applies to the land described in the certificate of title, excepting thereout all mines and minerals.

RSA 1970 c62 s3, 1972 c22 s3, 1978 c9 s3

Certificate of title
for unit

3(1) On registering a condominium plan the Registrar

(a) shall cancel the certificate of title to the parcel described in the plan, except as to any mines and minerals comprised in it, and

(b) shall issue a separate certificate of title for each unit described in the plan,

and any interests affecting the parcel that are noted on the certificate of title cancelled under clause (a) shall be endorsed on the certificates of title issued under clause (b).

(2) No more than one unit may be included in one certificate of title and no other land, except the owner's share in the common property, may be included in the same certificate of title with a unit.

(3) After a certificate of title to a unit is issued pursuant to subsection (1), the unit comprised in it may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as land held under the *Land Titles Act* and the provisions of that Act apply to those dealings in so far as they do not conflict with this Act or the regulations.

RSA 1970 c62 s4, 1972 c22 s4

Certificate to show
share in common
property

4(1) The Registrar, in issuing a certificate of title for a unit, shall certify on it the owner's share in the common property.

(2) The common property comprised in a registered condominium plan is held by the owners of all the units as tenants in common in shares proportional to the unit factors for their respective units.

(3) Except as provided in this Act, a share in the common property shall not be disposed of or become subject to a charge except as appurtenant to the unit of an owner and a disposition of or charge on a unit operates to dispose of or charge that share in the common property without express reference to it.

RSA 1970 c62 s5

Liability of owner

5 Except to the extent that an interest endorsed on a certificate of title relates to that particular unit, the owner of the unit is only liable in respect of that interest in proportion to the unit factor for his unit.

RSA 1970 c62 s6

Condominium Plans

Requirements of
condominium plan

6(1) Every plan presented for registration as a condominium plan shall

- (a) be described in the heading of the plan as a condominium plan,
- (b) delineate the external surface boundaries of the parcel and the location of the building in relation to them,
- (c) bear a statement containing those particulars as may be necessary to identify the title to the parcel,
- (d) include a drawing illustrating the units and distinguishing the units by numbers or other symbols,
- (e) define the boundaries of each unit,
- (f) show the approximate floor area of each unit,
- (g) have endorsed on it a schedule specifying in whole numbers the unit factor for each unit in the parcel,
- (h) be signed by the owner of the property,
- (i) have endorsed on it the address at which documents may be served on the corporation concerned in accordance with section 63, and
- (j) contain any other features prescribed by the regulations.

(2) If a plan presented for registration as a condominium plan includes residential units, that plan shall, in addition to meeting the requirements of subsection (1), delineate to the satisfaction of the Registrar the boundaries of the areas that are or may be leased under section 41 to an owner of a residential unit.

(3) The Registrar shall, within 28 days from the day a condominium plan is registered, mail to the local authority of the municipality in which the parcel is located, a copy of the registered condominium plan.

RSA 1970 c62 s7, 1978 c9 s4

Boundaries of
condominium units

7(1) Unless otherwise stipulated in the condominium plan, if

- (a) a boundary of a unit is described by reference to a floor, wall or ceiling, or
- (b) a wall located within a unit is a load bearing wall,

the only portion of that floor, wall or ceiling, as the case may be, that forms part of the unit is the finishing material that is in the interior of that unit, including any lath and plaster, panelling, gypsum

board, panels, flooring material or coverings or any other material that is attached, laid, glued or applied to the floor, wall or ceiling, as the case may be.

(2) Notwithstanding subsection (1), all doors and windows of a unit are part of the unit unless otherwise stipulated in the condominium plan.

(3) Notwithstanding subsections (1) and (2), if a condominium plan was registered prior to January 1, 1979, the common boundary of any unit described in the condominium plan with another unit or with common property is, unless otherwise stipulated in the condominium plan, the centre of the floor, wall or ceiling, as the case may be.

1978 c9 s5

Certificates to
accompany
condominium plan

8(1) Every plan presented for registration as a condominium plan shall be endorsed with or accompanied by

(a) a certificate of a land surveyor registered under the *Land Surveyors Act* stating that the building shown on the plan is within the external surface boundaries of the parcel that is the subject of the plan and, if eaves or guttering project beyond those external boundaries, that an appropriate easement has been granted as an appurtenance of the parcel,

(b) a certificate of

(i) an architect registered or licensed under the *Architects Act*,

(ii) a land surveyor registered under the *Land Surveyors Act*,

(iii) a professional engineer registered or licensed under the *Engineering and Related Professions Act*, or

(iv) a holder of a permit issued under the *Engineering and Related Professions Act*, if that holder is authorized to engage in professional engineering,

stating that the units shown in the plan are the same as those existing, and

(c) a certificate of the local authority or of a person the local authority designates stating that the proposed division of the building, as illustrated in the plan, has been approved by the local authority.

(2) If an application is made for a certificate under subsection (1)(c), the local authority

(a) may, with respect to a building that was constructed prior to August 1, 1966 or for which the building permit was issued

prior to August 1, 1966, prohibit the issue of the certificate if it considers it proper to do so, and

(b) shall, with respect to a building for which a building permit was issued on or after August 1, 1966, direct the issue of the certificate if it is satisfied that the building conformed to

(i) the development scheme, development control by-law, zoning by-law or land use by-law, as the case may be, and

(ii) any permit issued under that scheme or by-law,

that existed at the time the building permit was issued.

(3) The provisions of the *Planning Act* relating to the subdivision of land do not apply to the division of a building under a condominium plan if

(a) the surface boundaries of the parcel as defined in this Act on which that building is located correspond to the boundaries of a parcel as defined in the *Planning Act*, and

(b) any building located on the parcel that contains a unit, contains 2 or more units.

RSA 1970 c62 s8,1977 c89 s165,1978 c9 s6

Sale of Residential Units by Developers

Sale of residential
units by developers

9(1) A developer shall not sell or agree to sell a residential unit or a proposed residential unit unless he has delivered to the purchaser a copy of

(a) the purchase agreement,

(b) the by-laws or proposed by-laws,

(c) any management agreement or proposed management agreement,

(d) any recreational agreement or proposed recreational agreement,

(e) the lease of the parcel, if the parcel on which the unit is located is held under a lease and the certificate of title to the unit or proposed unit has been or will be issued under section 3(1)(b),

(f) any mortgage that affects or proposed mortgage that will affect the title to the residential unit or proposed residential unit or, in respect of that mortgage or proposed mortgage, a notice prescribed under subsection (2), and

(g) the condominium plan or proposed condominium plan.

(2) A developer may deliver to the purchaser in respect of a mortgage or proposed mortgage a written notice stating

- (a) the maximum principal amount available under the mortgage,
- (b) the maximum monthly payment that may be paid under the mortgage,
- (c) the amortization period,
- (d) the term,
- (e) the interest rate or the formula, if any, for determining the interest rate, and
- (f) the prepayment privileges, if any.

(3) Subject to subsection (4), a purchaser of a residential unit under this section may, without incurring any liability for doing so, rescind the purchase agreement within 10 days from the date the purchase agreement was executed by the parties to it.

(4) A purchaser may not rescind the purchase agreement under subsection (3) if all the documents required to be delivered to the purchaser under subsection (1) have been delivered to the purchaser not less than 10 days prior to the execution of the purchase agreement by the parties to it.

(5) If a purchase agreement is rescinded under subsection (3), the developer shall, within 10 days from his receipt of a written notice by the purchaser of the rescission, return to the purchaser all of the money paid in respect of the purchase of the residential unit.

1978 c9 s7

Rescission of
purchase
agreement

10 Every developer who enters into a purchase agreement shall include in the purchase agreement the following:

- (a) a notification that is at least as prominent as the rest of the contents of the purchase agreement and that is printed in red ink on the outside front cover or on the first page of the purchase agreement stating as follows:

“The purchaser may, without incurring any liability for doing so, rescind this agreement within 10 days of its execution by the parties to it unless all of the documents required to be delivered to the purchaser under section 9 of the *Condominium Property Act* have been delivered to the purchaser not less than 10 days prior to the execution of this agreement by the parties to it.”;

- (b) a description, drawing or photograph showing

- (i) the interior finishing of and all major improvements to the common property located within a building,

(ii) the recreational facilities, equipment and other amenities to be used by the persons residing in the residential units,

(iii) the equipment to be used for the maintenance of the common property,

(iv) the location of roadways, walkways, fences, parking areas and recreational facilities,

(v) the landscaping, and

(vi) the exterior finishing of the building,

as they will exist when the developer has fulfilled his obligations under the purchase agreement;

(c) the amount or estimated amount of the monthly unit contributions in respect of the residential unit;

(d) the unit factor of the unit and the basis of unit factor apportionment for all units comprised in the condominium plan.

1978 c9 s7

Payments held in trust

11(1) A developer or a person acting on his behalf shall hold in trust all the money paid by a purchaser under a purchase agreement, other than rents, security deposits or mortgage advances, and

(a) if the improvements to the residential unit and the common property are substantially completed, that money may be paid to the developer on delivery of the title document to the purchaser, or

(b) if the improvements to the residential unit are substantially completed but the improvements to the common property are not substantially completed,

(i) not more than 50% of that money less the interest earned on it may be paid to the developer on delivery of the title document to the purchaser, and

(ii) on the improvements to the common property being substantially completed, the balance of that money and all the interest earned on the total amount held in trust in respect of that purchase agreement may be paid to the developer.

(2) The developer or a person acting on his behalf who receives money that is to be held in trust under subsection (1) shall forthwith deposit the money into an interest bearing trust account maintained in a bank, treasury branch, trust company or credit union in Alberta.

(3) Money deposited under subsection (2) shall be kept on deposit in Alberta.

(4) If money is being held in trust under subsection (1) and the

purchaser of the residential unit takes possession of or occupies the unit prior to receiving the title document, the interest earned on that money from the day the purchaser takes possession or occupies the unit to the day he receives the title document shall be applied against the purchase price of the unit.

(5) Subject to subsection (4), the developer is entitled to the interest earned on money held in trust under this section.

(6) For the purpose of this section, improvements to the residential unit or the common property, as the case may be, are deemed to be substantially completed when the improvements are ready for use or are being used for the purpose intended.

(7) This section does not apply in respect of money paid to a developer, or to a person acting on behalf of a developer, under a purchase agreement if that money is held under the provisions of a plan, agreement, scheme or arrangement approved by the Minister that provides for the receipt, handling and disbursing of all or a portion of that money or indemnifies against loss of all or a portion of that money or both.

1978 c9 s7

Exemption

12 Section 11 does not apply if the purchaser does not perform his obligations under the purchase agreement.

1978 c9 s7

Limit on security deposit

13 If a purchaser of a residential unit, prior to receiving title to the unit, rents that unit from the developer, the amount that the developer may charge the purchaser as a security deposit in respect of the unit shall not exceed one month's rent charged for the unit.

1978 c9 s7

Management Agreements

Management agreements

14(1) In this section, “developer’s management agreement” means a management agreement that was entered into by a corporation at a time when its board was comprised of persons who were elected to the board while the majority of residential units were owned by a developer.

(2) Subject to subsection (3), a corporation may, notwithstanding anything contained in a developer’s management agreement or a collateral agreement, terminate a developer’s management agreement at any time after its board is comprised of persons who were elected to the board after the majority of the residential units were owned by persons other than a developer.

(3) A developer’s management agreement

(a) may not be terminated under subsection (2) without cause until 2 years have elapsed from the day that the agreement was entered into, except when the agreement permits termination at an earlier date, and

(b) may only be terminated under subsection (2) on the corporation giving 60 days' written notice to the other party to the agreement of its intention to terminate the agreement,

and the corporation is not liable to the other party to the agreement by reason only of the agreement being terminated under this section.

1978 c9 s7

Redivision

Redivision of unit

15(1) Any owner or owners may, with the approval of the local authority, redivide his or their units by registering a condominium plan relating to the unit or units so redivided in the manner provided by this Act for the registration of condominium plans.

(2) Except as provided in this section, the provisions of this Act relating to condominium plans apply with all necessary modifications to a redivision of units.

(3) Notwithstanding section 20, the owners of units in a condominium plan of redivision are not a corporation, but are, on the date of registration of the condominium plan of redivision, members of the corporation formed on registration of the original condominium plan.

(4) On registration of a condominium plan of redivision, units comprised in it are subject to the burden and have the benefit of any easements affecting those units in the original condominium plan that are included in the condominium plan of redivision.

(5) The schedule endorsed on a condominium plan of redivision, as required by section 6(g), shall apportion among the units the unit factor or factors for the unit or units in the original condominium plan that are included in the redivision.

(6) Before registering a proposed condominium plan of redivision, the Registrar shall amend the original condominium plan in the manner prescribed by the regulations.

(7) On registration of a condominium plan of redivision, the land comprised in it shall not be dealt with by reference to units in the original condominium plan.

RSA 1970 c62 s10

Conversions

Conversion to
condominium units

16 If a building contains premises that are

(a) rented for residential purposes to a tenant who is not a party to a purchase agreement, and

(b) not included in a condominium plan,

the owner of those premises or a person acting on his behalf shall not sell or agree to sell those premises as a residential unit until the condominium plan that includes those premises is registered at a land titles office.

1978 c9 s9

Easements

Easements in
favour of owner

17 After the registration of a condominium plan, there is implied in respect of each unit shown in it,

(a) in favour of the owner of the unit and as appurtenant to the unit, an easement for the subjacent and lateral support of the unit by the common property and by every other unit capable of affording support,

(b) in favour of the owner of the unit, and as appurtenant to the unit, an easement for the shelter of the unit by the common property and by every other unit capable of affording shelter, and

(c) in favour of the owner of the unit, and as appurtenant to the unit, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio and television services through or by means of any pipes, wires, cables or ducts for the time being existing in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of the unit.

RSA 1970 c62 s11

Easements against
owner

18(1) After the registration of a condominium plan, there is implied in respect of each unit shown in it,

(a) as against the owner of the unit, an easement, to which the unit is subject, for the subjacent and lateral support of the common property and of every other unit capable of enjoying support,

(b) as against the owner of the unit, an easement, to which the unit is subject, to provide shelter to the common property and to every other unit capable of enjoying the shelter, and

(c) as against the owner of the unit, easements, to which the unit is subject, for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio and television services through or by means of any pipes, wires, cables or ducts for the time being existing within the unit, as appurtenant to the common property and also to every other unit capable of enjoying those easements.

(2) When an easement is implied by this section, the owner of any utility service who is providing his service to the parcel, or to any unit on it, is entitled to the benefit of any of those easements that

are appropriate to the proper provision of that service, but not to the exclusion of the owner of any other utility service.

RSA 1970 c62 s12

Easements or
restrictions exist
without mention

19(1) Easements or restrictions as to user implied or created by this Act or the by-laws take effect and are enforceable

(a) without any memorial or notification on that part of the register constituting titles to the dominant or servient tenements, and

(b) without any express indication of those tenements.

(2) All ancillary rights and obligations reasonably necessary to make easements effective apply in respect of easements implied by this Act, including the right of an owner of a dominant tenement to enter a servient tenement and replace, renew or restore any thing the dominant tenement is entitled to benefit from.

RSA 1970 c62 s13

Condominium Corporation

Condominium
corporation

20(1) On the registration of a condominium plan, there is constituted a corporation under the name “The Owners: Condominium Plan No.” (the number to be specified being the number given to the plan on registration).

(2) A corporation consists of all those persons

(a) who are owners of units in the parcel to which the condominium plan applies, or

(b) who are entitled to the parcel when the condominium arrangement is terminated pursuant to section 51 or 52.

(3) Without limiting the powers of the corporation under this or any other Act, a corporation may

(a) sue for and in respect of any damage or injury to the common property caused by any person, whether an owner or not, and

(b) be sued in respect of any matter connected with the parcel for which the owners are jointly liable.

(4) The *Companies Act* does not apply to a corporation.

RSA 1970 c62 s14

Voting Rights

Voting rights

21(1) The voting rights of the owner of a unit are determined by the unit factor for his unit.

(2) When an owner’s interest is subject to a registered mortgage, a power of voting conferred on an owner by this Act or the by-laws,

(a) if a unanimous resolution is required, may not be exercised by the owner, but is exercisable by the registered mortgagee first entitled in priority, and

(b) in other cases, is exercisable by the mortgagee first entitled in priority and may not be exercised by the owner if the mortgagee is present personally or by proxy.

(3) Subsection (2) does not apply unless the mortgagee has given written notice of his mortgage to the corporation.

(4) An owner or mortgagee, as the case may be, may exercise his right to vote personally or by proxy.

RSA 1970 c62 s15, 1978 c9 s10

Voting where
owner incapable

22(1) Any powers of voting conferred by this Act or the by-laws may be exercised

(a) in the case of an owner who is a minor, by the guardian of his estate or, if no guardian has been appointed, by the Public Trustee, or

(b) in the case of an owner who is for any reason unable to exercise control over his property, by the person who for the time being is authorized by law to exercise control over that property.

(2) If the Court, on application by the corporation or by an owner, is satisfied that there is no person capable, willing or reasonably available to vote in respect of a unit, the Court

(a) shall, in cases when a unanimous resolution is required by this Act, and

(b) may, in its discretion, in any other case,

appoint the Public Trustee or some other person for the purpose of exercising the powers of voting under this Act and the by-laws as the Court determines.

(3) On making an appointment under this section, the Court may make any order it considers necessary or expedient to give effect to the appointment.

RSA 1970 c62 s16, 1978 c9 s31

Board of a Corporation

Board of
management

23(1) A corporation shall have a board of managers that shall be constituted as provided by the by-laws of the corporation.

(2) A corporation shall, within 15 days of a person becoming or ceasing to be a member of the board, file at the land titles office a notice in the prescribed form stating the name and address of that

person and the day that the person became or ceased to be, as the case may be, a member of the board.

(3) The powers and duties of a corporation shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the board of the corporation.

(4) All acts done in good faith by a board are, notwithstanding that it is afterwards discovered that there was some defect in the election or appointment or continuance in office of any member of the board, as valid as if the member had been properly elected or appointed or had properly continued in office.

RSA 1970 c62 s17, 1978 c9 s11

Annual Meetings of the Corporation

Convening of
meeting

24 When a developer registers a condominium plan, he shall within

(a) 90 days from the day that 50% of the residential units are sold, or

(b) 180 days from the day that the first residential unit is sold,

whichever is sooner, convene a meeting of the corporation at which a board shall be elected.

1978 c9 s12

Annual meeting

25(1) The board shall, once every year, convene an annual general meeting of the owners.

(2) An annual general meeting of the owners shall be convened by the board within 15 months of the conclusion of the immediately preceding annual general meeting.

1978 c9 s12

By-laws

By-laws

26(1) The by-laws shall regulate the corporation and provide for the control, management and administration of the units, the real and personal property of the corporation and the common property.

(2) Any by-law may be amended, repealed or replaced by a special resolution.

(3) An amendment, repeal or replacement of a by-law does not take effect until

(a) the corporation files a copy of it with the Registrar, and

(b) the Registrar has made a memorandum of the filing on the condominium plan.

(4) No by-law operates to prohibit or restrict the devolution of units

or any transfer, lease, mortgage or other dealing with them or to destroy or modify any easement implied or created by this Act.

(5) The by-laws bind the corporation and the owners to the same extent as if the by-laws had been signed and sealed by the corporation and by each owner and contained covenants on the part of each owner with every other owner and with the corporation to observe and perform all the provisions of the by-laws.

RSA 1970 c62 s18, 1978 c9 s13

Initial by-laws

27 On the registration of a condominium plan the by-laws of the corporation are the by-laws set forth in Appendix 1.

1978 c9 s13

Previous by-laws

28 If

(a) a corporation existed on May 16, 1978, and

(b) that corporation was regulated by the by-laws set forth in Appendix 2, Schedules A and B as those by-laws existed on May 15, 1978,

that corporation shall continue to be regulated by those by-laws and for that purpose those by-laws remain in force in respect of that corporation until they are repealed or replaced.

1978 c9 s32

Enforcement of by-laws

29(1) If an owner, tenant or other person residing in a residential unit contravenes a by-law, the corporation may take proceedings under Part 4 of the *Provincial Court Act* to recover from the owner or tenant or both a penalty of not more than \$200 in respect of that contravention.

(2) In an action under subsection (1), the corporation must establish to the satisfaction of the provincial judge hearing the matter that

(a) the by-law was properly enacted, and

(b) the by-law was contravened by the owner, tenant or other person residing in the residential unit.

(3) On hearing the matter, the provincial judge may

(a) give judgment against the defendant in the amount being sued for or any lesser amount as appears proper in the circumstances, or

(b) dismiss the action,

and make an award as to costs as appears proper in the circumstances.

(4) A corporation may not commence an action under this section unless it is authorized by by-law to do so.

(5) For the purposes of subsection (2)(a), a copy of a by-law that is certified by the Registrar as being a true copy of the by-law filed at the land titles office is prima facie proof

- (a) of the contents of the by-law, and
- (b) that the by-law was properly enacted.

(6) The commencement of an action against a person under this section does not restrict, limit or derogate from a remedy that an owner or the corporation may have against that person.

1978 c9 s14

Powers and Duties of Corporation

Control and
management

30(1) A corporation is responsible for the enforcement of its by-laws and the control, management and administration of its real and personal property and the common property.

(2) Without restricting the generality of subsection (1), the duties of a corporation include the following:

- (a) to keep in a state of good and serviceable repair and properly maintain the real and personal property of the corporation and the common property;
- (b) to comply with notices or orders by any local authority or public authority requiring repairs to or work to be done in respect of the parcel.

(3) A corporation may by a special resolution acquire or dispose of an interest in real property.

RSA 1970 c62 s19, 1978 c9 s15

Administrative
expenses

31(1) In addition to its other powers under this Act, the powers of a corporation include the following:

- (a) to establish a fund for administrative expenses sufficient, in the opinion of the corporation, for the control, management and administration of the common property, for the payment of any premiums of insurance and for the discharge of any other obligation of the corporation;
- (b) to determine from time to time the amounts to be raised for the purposes mentioned in clause (a);
- (c) to raise amounts so determined by levying contributions on the owners in proportion to the unit factors for their respective units;
- (d) to recover from an owner by an action in debt any sum of money spent by the corporation
 - (i) pursuant to a by-law, or

- (ii) as required by a local authority or other public authority, in respect of the unit or common property that is leased to that owner under section 41.
- (2) A contribution levied as provided in subsection (1) is due and payable on the passing of a resolution to that effect and in accordance with the terms of the resolution, and may be recovered by an action for debt by the corporation
- (a) from the person who was the owner at the time when the resolution was passed, and
 - (b) from the person who was the owner at the time when the action was instituted,
- both jointly and severally.
- (3) A corporation shall, on the application of an owner or a person authorized in writing by him, certify
- (a) the amount of any contribution determined as the contribution of the owner,
 - (b) the manner in which the contribution is payable,
 - (c) the extent to which the contribution has been paid by the owner, and
 - (d) the interest owing, if any, on any unpaid balance of a contribution
- and, in favour of a person dealing with that owner the certificate is conclusive proof of the matters certified in it.
- (4) A corporation may file a caveat against the certificate of title to an owner's unit for the amount of a contribution levied on the owner but unpaid by him.
- (5) On the filing of the caveat under subsection (4) the corporation has a charge against the unit equal to the unpaid contribution.
- (6) A charge under subsection (5) has the same priority from the date of filing of the caveat as a mortgage under the *Land Titles Act* and may be enforced in the same manner as a mortgage.
- (7) The *Dower Act* and the *Exemptions Act* do not apply to proceedings under subsection (6).
- (8) If a corporation has filed a caveat under this section, the corporation on the payment to it of the amount of the charge shall withdraw the caveat.

Interest on
outstanding
accounts

32 The corporation may, if permitted to do so by by-law, charge interest on any unpaid balance of a contribution owing to it by an owner.

1978 c9 s17

Recovery of
money

33 If any interest referred to in section 32 or a deposit referred to in section 44(3) is owing by an owner to a corporation, the corporation may, in addition to any rights of recovery that it has in law, recover that amount in the same manner as a contribution under section 31 and for that purpose that amount shall be considered as a contribution under section 31.

1978 c9 s17

Recovery of costs

34 If a corporation registers a caveat against the title to a unit under section 31, it may recover from the owner of the unit the cost incurred in preparing and registering the caveat and in discharging the caveat.

1978 c9 s17

Investments

35 Subject to section 30(3), a corporation may invest any funds not immediately required by it only in those investments in which a trustee may invest under the *Trustee Act*.

1978 c9 s17

Information on
request

36 On the written request of an owner, purchaser or mortgagee of a unit the corporation shall, within 20 days of receiving that request, provide to the person making the request one or more of the following as requested by that person:

(a) a statement setting forth the amount of any contributions due and payable in respect of a unit;

(b) the particulars of

(i) any action commenced against the corporation and served on the corporation,

(ii) any unsatisfied judgment or order for which the corporation is liable, and

(iii) any written demand made on the corporation for an amount in excess of \$5000 that, if not met, may result in an action being brought against the corporation;

(c) the particulars of or a copy of any subsisting management agreement;

(d) the particulars of or a copy of any subsisting recreational agreement;

(e) a copy of the budget, if any, of the corporation;

(f) a copy of the financial statement, if any, of the corporation;

- (g) a copy of the by-laws of the corporation;
- (h) a copy of any minutes of proceedings of a general meeting of the corporation or of the board.

1978 c9 s17

Documents, Specifications and Approvals

Documents
required

37(1) The owner of the land at the time a condominium plan is registered shall provide to the corporation without charge not later than 180 days from the day the condominium plan is registered the original or a copy of the following documents:

- (a) all warranties and guarantees on the real and personal property of the corporation and the common property for which the corporation is responsible;

- (b) the

- (i) structural, electrical, mechanical and architectural working drawings and specifications, and

- (ii) as built drawings,

that exist for the common property for which the corporation is responsible;

- (c) the plans that exist showing the location of underground utility services, sewer pipes and cable television lines located on the common property;

- (d) all written agreements that the corporation is a party to;

- (e) all certificates, approvals and permits issued by a local authority, the Government or an agent of the Government that relate to any property for which the corporation is responsible.

(2) A corporation may at any time before it receives a document under subsection (1) make a written request to the owner of the land referred to in subsection (1) for a copy of that document and that person shall, within 20 days of receiving that request, provide to the corporation without charge a copy of that document if the document is in the possession of that person.

1978 c9 s17

Insurance

Insurance

38(1) A corporation

- (a) shall place and maintain insurance on the units, other than improvements made to the units by the owners, and the common property against loss resulting from destruction or damage caused by fire and those other perils specified in the by-laws,

(b) shall, if required to do so by by-law, place and maintain insurance on the improvements made to the units by the owners against loss resulting from destruction or damage caused by fire and those other perils specified in the by-laws, and

(c) may place and maintain insurance on the units and the common property or either of them against additional perils other than those specified in the Act or the by-laws,

and for that purpose the corporation has an insurable interest in the units and the common property.

(2) In complying with subsection (1), the corporation must place insurance that provides that if

(a) the insured property is destroyed or damaged, and

(b) that property is replaced or repaired,

no deduction shall be made from the settlement for depreciation to the property.

(3) If a corporation places insurance under subsection (1)(c), it may continue that insurance unless it is prohibited from doing so by a resolution passed at a properly convened meeting of the corporation.

(4) Any payment by an insurer under a policy of insurance for the destruction of or damage to a unit or the common property shall, notwithstanding the terms of the policy,

(a) be paid to the insurance trustee designated in the by-laws or, if the by-laws do not designate an insurance trustee, to the corporation, and

(b) be used forthwith, subject to sections 50, 51 and 52, for the repair or replacement of the insured property that was destroyed or damaged.

(5) Notwithstanding the *Insurance Act* or any policy of insurance, if insurance is placed by a corporation and an owner against the loss resulting from destruction of or damage to the units or the common property,

(a) the insurance placed by the corporation is deemed to be first loss insurance, and

(b) the insurance placed by the owner of a unit in respect of the same property that is insured by the corporation is deemed to be excess insurance.

RSA 1970 c62 s21.1972 c22 s6.1978 c9 s18

provide to the person making the request copies of the policies of insurance placed by the corporation.

1978 c9 s20

Dispositions of Common Property

Disposition of
common property

40(1) By a unanimous resolution a corporation may be directed to transfer or lease the common property, or any part of it.

(2) When the board is satisfied that the unanimous resolution was properly passed and that all persons having registered interests in the parcel and all other persons having interests, other than statutory interests, notified to the corporation

(a) have, in the case of either a transfer or a lease, consented in writing to the release of those interests in respect of the land comprised in the proposed transfer, or

(b) have, in the case of a lease, approved in writing of the execution of the proposed lease,

the corporation shall execute the appropriate transfer or lease.

(3) A transfer or lease executed in accordance with subsection (2) is valid and effective without execution by any person having an interest in the common property and the receipt of the corporation for the purchase money, rent, premiums or other money payable to the corporation under the terms of the transfer or lease is a sufficient discharge of and exonerates the persons taking under the transfer or the lease from any responsibility for the application of the money expressed to have been so received.

(4) The Registrar shall not register a transfer or lease authorized under this section unless it has endorsed on it or is accompanied by a certificate under the seal of the corporation stating

(a) that the unanimous resolution was properly passed,

(b) that the transfer or lease conforms with the terms of it, and

(c) that all necessary consents were given.

(5) The certificate referred to in subsection (4) is,

(a) in favour of a purchaser or lessee of the common property, or part of it, and

(b) in favour of the Registrar,

conclusive proof of the facts stated in the certificate.

(6) On the filing for registration of a transfer of common property, the Registrar

(a) shall, before issuing a certificate of title, amend the condominium plan by deleting from it the common property comprised in the transfer, and

(b) shall register the transfer by issuing to the transferee a certificate of title for the land transferred, but no notification of the transfer shall be made on any other certificate of title in the register.

(7) On the filing for registration of a lease of common property, the Registrar shall register the lease by noting it on the condominium plan in the manner prescribed by the regulations.

RSA 1970 c62 s25

Exclusive use areas

41 Notwithstanding section 40, a corporation may, if its by-laws permit it to do so, grant a lease to an owner of a residential unit permitting that owner to exercise exclusive possession in respect of an area or areas of the common property.

1978 c9 s21

Covenants
benefiting parcel

42 By a unanimous resolution a corporation may be directed to accept on behalf of the owners a grant of easement or a restrictive covenant benefiting the parcel.

RSA 1970 c62 s26

Procedure for
granting restrictive
covenants

43(1) By a unanimous resolution a corporation may be directed to execute on behalf of the owners a grant of easement or a restrictive covenant burdening the parcel.

(2) When the board is satisfied that the unanimous resolution was properly passed and that

(a) all persons having interests in the parcel, and

(b) all other persons having interests, other than statutory interests, that have been notified to the corporation,

have consented in writing to the release of those interests in respect of the land comprised in the proposed disposition, the corporation shall execute the appropriate instrument to grant the easement or covenant.

(3) An instrument granting an easement or covenant executed in accordance with subsection (2) is valid and effective without execution by any person having an interest in the parcel, and the receipt of the corporation is a sufficient discharge of and exonerates all persons taking under the instrument from any responsibility for the application of the money expressed to have been so received.

(4) The Registrar shall not register an instrument granting an easement or covenant authorized under this section unless it has endorsed on it or is accompanied by a certificate under the seal of the corporation stating that the unanimous resolution was properly passed and that all necessary consents were given.

(5) The certificate referred to in subsection (4) is,

(a) in favour of a person dealing with the corporation under this section, and

(b) in favour of the Registrar,

conclusive proof of the facts stated in the certificate.

(6) The Registrar shall register the instrument granting the easement or covenant by noting it on the condominium plan in the manner prescribed by the regulations.

RSA 1970 c62 s27

Rental of Residential Units

Rental of
residential units

44(1) An owner of a residential unit shall not rent his unit until he has given written notice to the corporation of his intention to rent the unit, setting forth

(a) the address at which he may be served with a notice given by the corporation under section 45 or an originating notice or order referred to in section 46 or 47, and

(b) the amount of rent to be charged for the unit.

(2) If an owner of a residential unit rents his unit it is a condition of that tenancy, notwithstanding anything in the tenancy agreement, that the persons residing in that unit shall not

(a) cause damage to the real or personal property of the corporation or the common property, or

(b) contravene the by-laws.

(3) The corporation may require an owner who rents his residential unit to pay to and maintain with the corporation a deposit that the corporation may use for

(a) the repair or replacement of the real and personal property of the corporation or of the common property, and

(b) the maintenance, repair or replacement of any common property that is subject to a lease granted to the owner of the unit under section 41,

that is damaged, destroyed, lost or removed, as the case may be, by a person residing in the rented unit.

(4) A deposit referred to in subsection (3) shall not exceed one month's rent charged for the unit.

(5) The owner of a residential unit shall give the corporation written

notice of the name of the tenant residing in the unit within 20 days from the commencement of the tenancy.

(6) Within 20 days of ceasing to rent his residential unit, the owner shall give the corporation written notice that his unit is no longer rented.

(7) A corporation shall, within 20 days of receiving a written notice under subsection (6),

(a) return the deposit to the owner,

(b) if the corporation has made use of the deposit for one or more of the purposes referred to under subsection (3), deliver to the owner

(i) a statement of account showing the amount used, and

(ii) the balance of the deposit not used, if any,

or

(c) if the corporation is entitled to make use of the deposit but is unable to determine the amount of the deposit that it will use, deliver to the owner an estimated statement of account showing the amount it intends to use and, within 60 days after delivering to the owner the estimated statement of account, deliver to the owner

(i) a final statement of account showing the amounts used, and

(ii) the balance of the deposit not used, if any.

1978 c9 s22

Notice to give up
possession

45(1) The corporation may give a tenant renting a residential unit a notice to give up possession of that unit, if a person residing in that unit

(a) causes damage, other than normal wear and tear, to the real or personal property of the corporation or to the common property, or

(b) contravenes a by-law.

(2) When the corporation gives a tenant a notice under subsection (1),

(a) the tenant shall give up possession of the residential unit, and

(b) notwithstanding the *Landlord and Tenant Act* or anything contained in the tenancy agreement between the tenant and his landlord, the tenancy agreement terminates,

on the last day of the month immediately following the month in which the notice is served on the tenant.

(3) A notice given under subsection (1) shall be served on the tenant and his landlord.

1978 c9 s22, 1979 c17 s56

Application for
order to give up
possession

46(1) If a tenant is given notice under section 45(1) and does not give up possession, the corporation or the landlord may apply by originating notice to the Court for an order requiring the tenant to give up possession of the residential unit.

(2) An originating notice under this section shall be served on the tenant and his landlord not less than 3 days, exclusive of holidays and Saturdays, before the day named in the notice for the hearing of the application.

(3) The application of the corporation shall be supported by an affidavit

(a) establishing service of the notice under section 45 to give up possession,

(b) stating the reasons for giving the tenant a notice to give up possession,

(c) stating the failure of the tenant to give up possession and the reasons given, if any, for that failure, and

(d) stating any other relevant facts.

(4) On hearing the application the Court may order the tenant to give up possession of the residential unit by a date specified in the order and make any other order that it considers proper in the circumstances.

(5) If the corporation is granted an order under subsection (4), it shall serve a copy of that order on the landlord.

1978 c9 s22

Application for
order to give up
possession

47(1) If a person residing in a residential unit that is being rented

(a) has caused or is causing excessive damage to the real or personal property of the corporation or to the common property, or

(b) is a danger to or is intimidating persons who are residing in the other residential units located on the parcel,

the corporation may, notwithstanding that the tenant renting that residential unit has or has not been given a notice to give up possession of that residential unit under section 45 or by the landlord under the tenancy agreement, apply by originating notice to the Court

for an order requiring the tenant to give up immediate possession of that residential unit.

(2) An originating notice under this section shall be served on the tenant and his landlord not less than 3 days, exclusive of holidays and Saturdays, before the day named in the notice for the hearing of the application.

(3) The application of the corporation shall be supported by an affidavit

(a) setting forth

(i) the damage to the real or personal property of the corporation or the common property, and

(ii) the nature of the danger to or intimidation of persons residing in the other residential units,

or either of them, and

(b) stating any other relevant facts.

(4) On hearing the application, the Court may make an order

(a) requiring the tenant to give up possession of the residential unit, if the Court is satisfied that

(i) a person residing in that residential unit has caused or is causing excessive damage to the real or personal property of the corporation or the common property or is a danger to or is intimidating persons residing in the other units, and

(ii) there are reasonable and probable grounds to believe that further damage may be done or that the danger or intimidation will not cease if the tenant is allowed to remain in possession of the rented unit,

and

(b) fixing the day on which the tenant is required to give up possession of the rented unit,

and make any other order that it considers proper in the circumstances.

(5) The tenancy agreement between the tenant and the landlord terminates on the day that the tenant is required to give up possession of the unit pursuant to an order made under subsection (4).

(6) The corporation shall serve a copy of an order made under subsection (4) on the landlord.

1978 c9 s22

- (a) impose or collect deposits under section 44,
 - (b) give notices to give up possession of residential units under section 45, or
 - (c) make applications to the Court under section 46 or 47,
- unless it is authorized by by-law to do so.

(2) A by-law referred to in subsection (1) may be general or specific in its application.

1978 c9 s22

Administration of Corporation

Appointment of
administrator

49(1) A corporation or a person having an interest in a unit may apply to the Court for appointment of an administrator.

(2) The Court may, on cause shown, appoint an administrator for an indefinite period or for a fixed period on any terms and conditions as to remuneration or otherwise that it thinks fit.

(3) The remuneration and expenses of an administrator appointed under this section are administrative expenses within the meaning of this Act.

(4) An administrator has, to the exclusion of the board and the corporation, those powers and duties of the corporation that the Court orders.

(5) An administrator may delegate any of the powers or duties so vested in him.

(6) The Court may, on the application of an administrator or a person referred to in subsection (1), remove or replace the administrator.

RSA 1970 c62 s28, 1978 c9 s31

Damage to Building

Settlement scheme
for damage to
building

50(1) If a building is damaged but the condominium status is not terminated pursuant to section 51 or 52, an application to settle a scheme may be made to the Court by the corporation, an owner, a registered mortgagee of a unit or a vendor under an agreement for sale of a unit.

(2) On an application under this section the Court may by order settle a scheme including provisions

- (a) for the reinstatement in whole or in part of the building, or
- (b) for transfer of the interests of owners of units that have been wholly or partially destroyed to the other owners in proportion to their unit factors.

(3) In the exercise of its powers under subsection (2), the Court may make those orders as it considers necessary or expedient for giving effect to the scheme, including orders

(a) directing the application of insurance money received by the corporation in respect of damage to the building,

(b) directing payment of money by the corporation or by the owners or by some one or more of them,

(c) directing an amendment of the condominium plan as the Court thinks fit, so as to include in the common property any accretion to it, and

(d) imposing any terms and conditions it thinks fit.

(4) On an application to the Court under this section an insurer who has effected insurance on the building or any part of it, being insurance against destruction of units or damage to the building, has the right to appear in person or by agent or counsel.

RSA 1970 c62 s29,1974 c65 s3(2),1978 c9 s31

Termination of Condominium

Termination of
condominium

51 The condominium status of a building may be terminated by a unanimous resolution.

RSA 1970 c62 s30

Application for
termination of
condominium

52(1) An application to terminate the condominium status of a building may be made to the Court by the corporation, an owner, a registered mortgagee of a unit or a vendor under an agreement for sale of a unit.

(2) On an application under this section, if the Court is satisfied that, having regard to the rights and interests of the owners as a whole, it is just and equitable that the condominium status of the building should be terminated, the Court may make a declaration to that effect.

(3) When a declaration has been made pursuant to subsection (2), the Court may by order impose any conditions and give any directions, including directions for the payment of money, that it thinks fit for the purpose of adjusting as between the corporation and the owners and as amongst the owners themselves the effect of the declaration.

(4) On an application to the Court under this section an insurer who has effected insurance on the building or a part of it, being insurance against destruction of units or damage to the building, has the right to appear in person or by agent or counsel.

RSA 1970 c62 s31,1974 c65 s3(3),1978 c9 s31

Effect of
termination of
condominium

53(1) On the condominium status of the building being terminated under section 51 or 52, the corporation shall forthwith file with the Registrar a notice of the termination in the prescribed form.

(2) On receipt of the notice referred to in subsection (1), the Registrar shall make a notification in respect of the notice on the condominium plan in the manner prescribed by the regulations and on the notification being made, the owners of the units in the plan are entitled to the parcel as tenants in common in shares proportional to the unit factors of their respective units.

RSA 1970 c62 s32, 1978 c73 s7

Sale of property

54(1) When the condominium status of a building is being terminated the corporation may be directed, by a unanimous resolution, to transfer the parcel or any part of it.

(2) When the board is satisfied that the unanimous resolution was properly passed and that

(a) all persons having registered interests in the parcel, and

(b) all other persons having interests, other than statutory interests, that have been notified to the corporation,

have consented in writing to the release of the interests in respect of the land comprised in the proposed disposition, the corporation shall execute the appropriate transfer.

(3) A transfer executed pursuant to subsection (2) is valid and effective without execution by any person having an interest in the parcel and the receipt of the corporation is sufficient discharge of and exonerates the person taking under the transfer from any responsibility for the application of the money expressed to have been so received.

(4) The Registrar shall not register a transfer executed pursuant to this section

(a) unless the transfer has endorsed on it or is accompanied by a certificate under the seal of the corporation that the unanimous resolution was properly passed and that all necessary consents were given, and

(b) until the notification required by section 53 has been made on the condominium plan.

(5) A certificate made pursuant to subsection (4) is,

(a) in favour of a purchaser of the parcel, and

(b) in favour of the Registrar,

conclusive proof of the facts stated in the certificate.

(6) When land is transferred by a corporation pursuant to this section, the Registrar

(a) shall cancel the certificates of title relating to the units, and

(b) shall register the transfer and issue to the transferee a certificate of title for the land transferred,

whether or not he is in possession of the duplicate certificates of title for the units.

RSA 1970 c62 s33

Dissolution of Corporation

Dissolution of
corporation

55(1) The Court on an application by a corporation, a member of the corporation, or an administrator appointed under section 49 may by order provide for the winding up of the affairs of a corporation.

(2) By the same or subsequent order the Court may declare the corporation dissolved on a date specified in the order.

RSA 1970 c62 s34, 1978 c9 s31

Assessment and Taxation

Definitions

56 In this section and sections 57 to 59,

(a) “assessing Act” means an Act pursuant to which an assessing authority is empowered to assess and levy rates, charges or taxes on land or in respect of the ownership of land and includes a by-law or regulation made pursuant to that Act;

(b) “assessing authority” means a local authority, school board or other authority having power to assess and levy rates, charges or taxes on land or in respect of the ownership of land.

RSA 1970 c62 s35

Copies of
condominium plan
to assessing
authority

57(1) A corporation shall, within 28 days after the registration of a condominium plan or an amendment to it, furnish to the assessing authority 2 copies of the condominium plan or amendment to it, including all endorsements on it, certified as prescribed by the regulations.

(2) For all purposes in relation to the making, levying, imposition, assessment or recovery of rates, charges or taxes in relation to the parcel or a part of it

(a) the particulars shown on the certified copy of the condominium plan or any amendment to it furnished pursuant to subsection (1) are conclusive proof of those particulars, and

(b) the production by an assessing authority of what purports to be a certified copy of a condominium plan or an amendment

to it furnished pursuant to subsection (1) is prima facie proof that it is the certified copy so furnished.

RSA 1970 c62 s36

Assessment and
taxation

58 For the purpose of assessment and taxation by an assessing authority,

(a) each unit and the share in the common property appurtenant to it constitutes a separate parcel of land and improvements, and

(b) the common property does not constitute a separate parcel of land or improvements,

and the provisions of an assessing Act or another Act authorizing or affecting

(c) the assessment or valuation of land and improvements by an assessing authority,

(d) the imposition of rates, charges or taxes by an assessing authority in respect of land and improvements for municipal, school, hospital or other purposes authorized by law, or

(e) the collection and recovery of rates, charges or taxes by an assessing authority by proceedings against an assessed owner and his property or the land and improvements against which the rates, charges or taxes are charged,

apply with all necessary modifications to each unit and the share in the common property appurtenant to it.

RSA 1970 c62 s37

Liability of
corporation

59 The corporation is not liable in relation to the parcel for any rate, charge or tax levied by an assessing authority.

RSA 1970 c62 s38

Miscellaneous

Petition to Court

60(1) Unless otherwise provided for in this Act or the regulations, an application to the Court under this Act shall be by petition.

(2) On an application, notice shall be served on the persons the Court directs.

(3) Notwithstanding subsection (2), the Court may dispense with notice.

(4) The Court may direct the trial of an issue and may give any directions as to all matters, including filing of pleadings, that appear necessary and proper for the final hearing of the application.

RSA 1970 c62 s39,1978 c9 ss23,31

Variation of order

61 The Court may from time to time vary any order made by it under this Act.

1978 c9 s24

Right of entry

62 When a local authority, public authority or person authorized by either of them has a statutory right to enter on any part of a parcel, the authority or person is entitled to enter on any other part of the parcel to the extent necessary or expedient to enable it or him to exercise its or his statutory powers.

RSA 1970 c62 s40

Service

63(1) A document including any written notice or request may be served on a corporation

(a) by leaving it at or by sending it by registered mail

(i) if a change of address for service has not been filed under section 65(2), to the address shown on the condominium plan, or

(ii) if a change of address for service has been filed under section 65(2), to the address for service shown on the latest notice filed,

or

(b) by personal service on a member of the board.

(2) For the purposes of this section “document” includes summons, notice, tax notice, order and other legal process.

RSA 1970 c62 s42,1978 c9 s26

Service of notices

64(1) A corporation may serve on a landlord a notice given under section 45 or an originating notice or order referred to in section 46 or 47

(a) by personal service, or

(b) by registered mail sent to the address given to the corporation under section 44.

(2) A corporation may serve on a tenant a notice given under section 45 or an originating notice or order referred to in section 46 or 47

(a) by personal service, or

(b) if the tenant cannot be served personally by reason of his absence from the premises or by reason of his evading service,

(i) by giving it to an adult person who apparently resides with the tenant,

(ii) by posting it up in a conspicuous place on some part of the premises, or

(iii) by sending it by registered mail to the tenant at the address where he resides.

1978 c9 s27

Change of address
for service

65(1) A corporation may by resolution of the board change its address for service.

(2) A change in the address for service under subsection (1) does not take effect until a notice of that change of address is filed in the prescribed form at the land titles office.

1978 c9 s27

Fees for documents

66 The corporation may charge a reasonable fee to compensate it for the expenses it incurs in producing and providing a document required under this Act.

1978 c9 s27

Dower Act

67 For the purposes of the *Dower Act*, one unit, together with the owner's share in the common property, constitutes a homestead.

RSA 1970 c62 s43

Exemptions Act

68 For the purposes of section 1(k) of the *Exemptions Act* a unit together with the owner's share in the common property is deemed to be a house and lot.

RSA 1970 c62 s44

Writ of execution

69 If a judgment is obtained against a corporation, a writ of execution in respect of it may be registered against the condominium plan.

RSA 1970 c62 s45

Builders' Lien Act

70 For the purposes of the *Builders' Lien Act*,

(a) if on the request of the owner of a unit

(i) work is done on or in respect of that unit, or

(ii) material is furnished to be used in that unit,

any lien that arises under that Act in consequence of it is on the estate of the owner in that unit and his share in the common property;

(b) if on the request of a corporation

(i) work is done on or in respect of the common property or a unit or both, or

(ii) material is furnished to be used in the common property or a unit or both

intended for the benefit of the common property generally, any lien that arises under that Act in consequence of it is on the estates of all the owners in all the units and the common property;

(c) if on the request of a corporation

(i) work is done on or in respect of any unit, or

(ii) material is furnished to be used in any unit,

intended for the benefit of that unit, any lien that arises under that Act in consequence of it is on the estate of the owner in that unit and his share in the common property.

RSA 1970 c62 s46

Offence and fine

71(1) A person who fails to comply with section 9(1) or (5), 10 or 16 is guilty of an offence and liable to a fine of not more than \$2000.

(2) Subject to subsection (1), a person who fails to comply with this Act is guilty of an offence and liable to a fine of not more than \$500.

(3) If a corporation fails to comply with this Act, each member of the board who is knowingly a party to that failure is guilty of an offence and liable to a fine of not more than \$500.

RSA 1970 c62 s47, 1978 c9 s28

Application of Act

72(1) This Act applies notwithstanding any agreement to the contrary and any waiver or release given of the rights, benefits or protections provided by or under sections 9 to 14 is void.

(2) A remedy that a purchaser of a residential unit has under this Act is in addition to any other rights or remedies that he has.

(3) A purchase agreement may be enforced by a purchaser notwithstanding that the developer failed to comply with this Act.

1978 c9 s29

Regulations

73 The Lieutenant Governor in Council may make regulations

(a) in respect of forms to be used for the purposes of this Act, including the form of certificates of title to units;

(b) respecting the manner of registering a condominium plan;

(c) prescribing the fees to be paid for any procedure or function required or permitted to be done under this Act;

(d) respecting the practice and procedure governing application to the Court under this Act;

(e) concerning all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

RSA 1970 c62 s48, 1978 c9 s31

APPENDIX 1

(Section 27)

BY-LAWS OF THE CORPORATION

1(1) In these by-laws,

(a) “Act” means the *Condominium Property Act*;

(b) “annual general meeting” means an annual general meeting of the corporation;

(c) “general meeting” means a general meeting of the corporation.

(2) Expressions defined in section 1 of the Act have the same meaning in these by-laws.

(3) The rights and obligations given or imposed on the corporation or the owners under these by-laws are in addition to any rights or obligations given or imposed on the corporation or the owners under the Act.

(4) If there is any conflict between these by-laws and the Act, the Act prevails.

Duties of the Owner

2 An owner

(a) shall permit the corporation and its agents, at all reasonable times on notice (except in case of emergency when no notice is required), to enter his unit for the purpose of

(i) inspecting the unit,

(ii) maintaining, repairing or replacing pipes, wires, cables and ducts existing in the unit and used or capable of being used in connection with the enjoyment of any other unit or common property,

(iii) maintaining, repairing or replacing common property,
or

(iv) ensuring that the by-laws are being observed,

(b) shall forthwith

(i) carry out all work that may be required pursuant to these by-laws or as required by a local authority or other public

authority in respect of his unit, other than any work for the benefit of the building generally, and

(ii) pay all rates, taxes, charges and assessments that may be payable in respect of his unit,

(c) shall maintain his unit in a state of good repair,

(d) shall notify the corporation forthwith of

(i) any change in the ownership of the unit, or

(ii) any mortgage registered against the unit,

and

(e) shall not make structural, mechanical or electrical alterations to his unit or to the common property without the prior written consent of the board, which shall not be unreasonably withheld.

Powers of the Corporation

3 The corporation may

(a) acquire personal property to be used

(i) for the maintenance, repair or replacement of the real or personal property of the corporation or the common property, or

(ii) by owners in connection with their enjoyment of the real and personal property of the corporation or the common property,

(b) borrow money required by it in the performance of its duties or the exercise of its powers,

(c) secure the repayment of money borrowed by it and interest on that money by negotiable instrument, a mortgage of unpaid contributions (whether levied or not), or a mortgage of any property owned by it or by any combination of those means,

(d) grant a lease to an owner under section 41 of the Act,

(e) charge interest under section 32 of the Act on any contribution owing to it by an owner, and

(f) make an agreement with an owner or tenant of a unit for the provision of amenities or services by it to the unit or to the owner or tenant of the unit.

Election of the Board

4(1) The board shall consist of not less than 3 and not more than 7 individuals.

(2) Notwithstanding subsection (1), if there are not more than 2 owners, the board may consist of one or more individuals not to exceed 7 in number.

(3) An individual shall not be a member of the board unless that individual is 18 years of age or older.

Eligibility to Sit on the Board

5(1) A person does not need to be an owner in order to be elected to the board.

(2) Notwithstanding subsection (1),

(a) if a unit has more than one owner, only one owner in respect of that unit may sit on the board at one time, and

(b) an owner who has not paid to the corporation the contributions due and owing in respect of his unit is not eligible for election to the board.

Voting

6 At an election of members of the board each person entitled to vote may vote for the same number of nominees as there are vacancies to be filled on the board.

Term of Office

7(1) Subject to subsection (2), a member of the board shall be elected at an annual general meeting for a term expiring at the conclusion of the annual general meeting convened in the 2nd year following the year in which he was elected to the board.

(2) At the first general meeting convened under section 24 of the Act

(a) not more than 50% of the members of the board shall be elected for a term expiring at the conclusion of the annual general meeting convened in the year following the year in which they were elected, and

(b) the balance of the members shall be elected for a term expiring at the conclusion of the annual general meeting convened in the 2nd year following the year in which they were elected.

(3) Each member of the board shall remain in office until

(a) the office becomes vacant under section 9 of these by-laws,

- (b) the member resigns,
- (c) the member is removed under section 8 of these by-laws, or
- (d) his term of office expires,

whichever comes first.

Removal of a Member of the Board

8 Except when the board consists of less than 3 individuals, the corporation may by resolution at a general meeting remove a member of the board before the expiration of his term of office and appoint another individual in his place to hold that office for the remainder of the term.

Vacating of the Office of a Member of the Board

- 9** The office of a member of the board is vacated if he
- (a) becomes bankrupt under the *Bankruptcy Act* (Canada),
 - (b) is more than 30 days in arrears in payment of any contribution required to be made by him as an owner,
 - (c) is the subject of a certificate of incapacity issued under the *Dependent Adults Act*,
 - (d) is convicted of an indictable offence for which he is liable to imprisonment for a term of not less than 2 years,
 - (e) resigns his office by serving notice in writing on the corporation, or
 - (f) is absent from 3 consecutive meetings of the board without permission of the board and it is resolved at a subsequent meeting of the board that his office be vacated.

Vacancy

10 When a vacancy occurs on the board under section 9 of these by-laws, the board may appoint an individual to fill that office for the remainder of the former member's term.

Officers of the Corporation

11(1) At the first meeting of the members of the board held after the general meeting of the corporation at which they were elected, the board shall designate from its members a president, vice-president, secretary and treasurer of the corporation.

- (2) Notwithstanding subsection (1), the board may designate one person to fill the offices of secretary and treasurer.
- (3) In addition to those duties assigned to the officers by the board,
- (a) the president or, in the event of his absence or disability, the vice-president,
 - (i) is responsible for the daily execution of the business of the corporation, and
 - (ii) shall act as chairman of the meetings of the board;
 - (b) the secretary or, in the event of his absence or disability, another member of the board designated by the board,
 - (i) shall record and maintain all the minutes of the board,
 - (ii) is responsible for all the correspondence of the corporation, and
 - (iii) shall carry out his duties under the direction of the president and the board;
 - (c) the treasurer or, in the event of his absence or disability, another member of the board designated by the board, shall
 - (i) receive all money paid to the corporation and deposit it as the board may direct,
 - (ii) properly account for the funds of the corporation and keep those books as the board directs,
 - (iii) present to the board when directed to do so by the board, a full detailed account of receipts and disbursements of the corporation, and
 - (iv) prepare for submission at the annual general meeting
 - (A) a budget for the forthcoming fiscal year of the corporation, and
 - (B) an audited statement for the most recently completed fiscal year of the corporation.
- (4) A person ceases to be an officer of the corporation if he ceases to be a member of the board.
- (5) If a person ceases to be an officer of the corporation, the board shall designate from its members a person to fill that office for the remainder of the term.
- (6) If a board consists of not more than 3 persons, those persons

may perform the duties of the officers of the corporation in such manner as the board may direct.

Majority Vote and Quorum of the Board

12(1) At meetings of the board, all matters shall be determined by majority vote and in the event of a tie vote, the chairman is entitled to a casting vote in addition to his original vote.

(2) A quorum for a meeting of the board is a majority of the members of the board.

Written Resolutions

13 A written resolution of the board signed by all of the members of the board has the same effect as a resolution passed at a meeting of the board duly convened and held.

Seal of the Corporation

14(1) The corporation shall have a corporate seal that shall not be used except

(a) under the authority of a resolution of the board given prior to its use, and

(b) in the presence of not less than 2 members of the board who shall sign the instrument to which the seal is affixed.

(2) Notwithstanding subsection (1), if there are not more than 2 members of the corporation, one member may be authorized by the board to use the corporate seal and sign the instrument to which the seal is affixed.

Signing Authority

15 The board shall prescribe, by resolution,

(a) those officers or other persons who are authorized to sign cheques, drafts, instruments and documents not required to be signed under the corporate seal, and

(b) the manner, if any, in which those cheques, drafts, instruments or other documents are to be signed.

Powers of the Board

16(1) The board shall

(a) meet at the call of the president to conduct its business and adjourn and otherwise regulate its meetings as it thinks fit, and

(b) meet when a member of the board gives to the other members

not less than 7 days' notice of a meeting proposed by him, specifying the reason for calling the meeting.

(2) The board may employ on behalf of the corporation any agents and employees it thinks necessary to control, manage and administer the real and personal property of the corporation and the common property and in that respect may authorize those persons to exercise the powers of and carry out the duties of the corporation.

(3) The board may, subject to any restriction imposed on it or direction given to it at a general meeting of the corporation, delegate to any of its members or to other persons any or all of its powers and duties as it thinks fit, and may at any time revoke that delegation.

Duties of the Board

17 The board shall

(a) cause proper books of account to be kept in respect of all money received and expended by it and the matters in respect of which the receipt and expenditure take place;

(b) prepare financial statements relating to all money of the corporation, and the income and expenditures of the corporation, for each annual general meeting;

(c) maintain financial records of all the assets, liabilities and equity of the corporation;

(d) submit to the annual general meeting an annual report consisting of the financial statements and other information as the board may determine or as may be directed by a resolution passed at a general meeting.

Procedure

18 All meetings of the board and general meetings shall be conducted according to the rules of procedure adopted by the board.

General Meetings other than an Annual General Meeting

19 The board

(a) shall, on the written request of the owners entitled to vote and who represent not less than 15% of the total unit factors for the units, convene a general meeting, and

(b) may, whenever it considers it proper to do so, convene a general meeting.

Notice of General Meetings

20(1) When an annual general meeting or a general meeting is to be convened, the board shall, not less than 7 days prior to the day on which the meeting is to be convened, give to each owner written notice of the meeting stating

(a) the place, date and time at which the meeting is to be convened, and

(b) the nature of any special business, if any, to be brought forth at the meeting.

(2) On being notified by a mortgagee entitled to vote under section 21 of the Act that it wishes to be notified of general meetings, the board shall give to that mortgagee the same notices required to be given to the owner under subsection (1) of this section.

(3) An annual general meeting or a general meeting or anything done at that meeting is not invalid by reason only that

(a) a person, by accident, was not, in respect of that meeting, given a notice under subsection (1), or

(b) a person did not in fact receive a notice given under subsection (1) in respect of that meeting.

Quorum

21(1) Except as otherwise provided by these by-laws, no business shall be transacted at an annual general meeting or a general meeting unless a quorum of persons entitled to vote is present or represented by proxy, at the time when the meeting commences.

(2) A quorum for an annual general meeting or a general meeting consists of not less than 25% of all the persons entitled to receive notice under section 20 of these by-laws being present in person or represented by proxy at that meeting.

(3) If within 30 minutes from the time appointed for the commencement of an annual general meeting or a general meeting a quorum is not present, the meeting shall stand adjourned to the corresponding day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the commencement of the meeting, the persons entitled to vote who are present or represented by proxy constitute a quorum for the purpose of that meeting.

22(1) The president or, in the event of his absence or disability, the vice-president or other person elected at the meeting, shall act as chairman of an annual general meeting or a general meeting.

(2) The order of business at an annual general meeting and, as far as practicable at any other general meeting, shall be as follows:

- (a) call to order by the chairman;
- (b) calling of the roll and certifying of proxies;
- (c) proof of notice of meeting, waiver or proxies, as the case may be;
- (d) reading and disposal of any unapproved minutes;
- (e) reports of officers;
- (f) reports of committees;
- (g) election of members of the board;
- (h) unfinished business;
- (i) new business;
- (j) adjournment.

Show of Hands

23(1) At an annual general meeting or a general meeting, a resolution shall be voted on by a show of hands unless a poll is demanded by a person entitled to vote and present in person or by proxy, and unless a poll is so demanded, a declaration by the chairman that a resolution has on the show of hands been carried is conclusive proof of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

(2) If a person demands a poll, that person may withdraw that demand and on the demand being withdrawn the vote shall be taken by a show of hands.

Taking of Poll

24 A poll, if demanded, shall be conducted in a manner as directed by the chairman, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Tie Vote

25 In the case of a tie in a vote taken at an annual general meeting or a general meeting, whether on a show of hands or on a poll, the chairman of the meeting is entitled to a casting vote in addition to his original vote.

Number of Votes

26(1) If a vote is taken by a show of hands, each person entitled to vote has one vote.

(2) If a vote is taken by a poll, the number of votes that a person

may cast shall correspond to the unit factors for the respective units represented by that person.

Votes at an Annual General Meeting or a General Meeting

27 Except for matters requiring a special resolution or unanimous resolution, all matters shall be determined by a majority vote.

Manner of Voting

28 On a show of hands or on a poll, votes may be given either personally or by proxy.

Appointment of Proxy

29 An instrument appointing a proxy shall be in writing under the hand of the person making the appointment or his attorney, and may be either general or for a particular meeting, but a proxy need not be an owner.

Restrictions on Voting

30(1) Except as provided for in subsection (2) of this section or section 21 of the Act, there are no restrictions or limitations on an owner's rights to vote at an annual general meeting or a general meeting.

(2) If, at the time of an annual general meeting or a general meeting, an owner has not paid to the corporation all contributions that are due and owing in respect of his unit, that owner is ineligible to cast a vote at that meeting in respect of any resolution other than a special resolution or a unanimous resolution.

(3) An owner's ineligibility to cast a vote does not affect the right of the mortgagee first entitled in priority in respect of a mortgage registered against the title of that owner's unit to vote in accordance with the Act.

Vote by Co-owners

31(1) If a unit is owned by more than one person, those co-owners may vote personally or by proxy and

(a) in the case of a vote taken by a show of hands, those co-owners are entitled to one vote between them, and

(b) in the case of a vote taken by a poll, a co-owner is entitled to that portion of the vote applicable to the unit as is proportionate to his interest in the unit.

(2) A co-owner may demand that a poll be taken.

Signed Resolution — Majority Vote

32 If a resolution of the members of the corporation requires a majority vote, that resolution signed in person or by proxy by all the persons who, at a properly convened annual general meeting or general meeting, would be entitled to vote, has the same effect as a resolution duly passed at the meeting.

Capital Replacement Reserve Fund

33(1) The board shall establish and maintain a fund called a “Capital Replacement Reserve Fund” to be used for the repair or replacement of

(a) any real and personal property owned by the corporation, and

(b) the common property,

when the repair or replacement does not occur annually.

(2) The board may by resolution determine the minimum amount that may be paid from the Capital Replacement Reserve Fund in respect of a single expenditure.

Failure to Comply with By-laws

34 The board may exercise the powers provided for in section 29 of the Act.

Tenants

35 The corporation is authorized to

(a) impose and collect deposits under section 44 of the Act,

(b) give notices to give up possession of residential units under section 45 of the Act, and

(c) make applications to the Court under sections 46 and 47 of the Act.

Amendment of By-laws

36 Notwithstanding section 20 of these by-laws, if a by-law is to be amended, repealed or replaced, the persons entitled to vote shall be given written copies of the text of the proposed amendment, repeal or replacement not less than 14 days prior to the day on which the special resolution is to be voted on.

Restrictions in Use

37(1) In this section,

(a) “occupant” means a person present in a unit or in or on the real or personal property of the corporation or the common property with the permission of an owner;

(b) “owner” includes a tenant.

(2) An owner shall not

(a) use or enjoy the real or personal property of the corporation or the common property in such a manner as to unreasonably interfere with its use and enjoyment by other owners or the occupants;

(b) use his unit in a manner or for a purpose that will cause a nuisance or hazard to any other owner or occupant;

(c) use his unit for a purpose that is illegal;

(d) make undue noise in his unit or on or about real property of the corporation or the common property;

(e) keep an animal in his unit or on the real property of the corporation or the common property after a date specified in a notice given to him by the board;

(f) in the case of a residential unit, use his unit for a purpose other than for residential purposes;

(g) do anything in respect of his unit, the real or personal property of the corporation or the common property or bring or keep anything on it that will in any way increase the risk of fire or result in an increase of any insurance premiums payable by the corporation;

(h) use a toilet, sink, tub, drain or other plumbing fixture for a purpose other than that for which it is constructed;

(i) hang or place on the real property of the corporation or the common property or within a unit anything that is, in the opinion of the board, aesthetically unpleasing when viewed from outside the units;

(j) leave articles belonging to his household on the real property of the corporation or the common property when those articles are not in actual use;

(k) obstruct a sidewalk, walkway, passage, driveway or parking area other than for ingress and egress to and from his unit;

- (1) use any portion of the real property of the corporation or the common property except in accordance with the by-laws.
- (3) An owner shall ensure that his occupants comply with those requirements that the owner must comply with under subsection (2).

RSA 1970 c62 Sch A,B,1974 c65 s3(4),1978 c9 s30

APPENDIX 2

(Section 28)

BY-LAWS OF A CORPORATION THAT WAS INCORPORATED BEFORE MAY 16, 1978

SCHEDULE A

1 An owner shall

(a) permit the corporation and its agents, at all reasonable times on notice (except in case of emergency when no notice is required), to enter his unit for the purpose of inspecting the unit and maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the unit and capable of being used in connection with the enjoyment of any other unit or common property, or for the purpose of maintaining, repairing or renewing common property, or for the purpose of ensuring that the by-laws are being observed,

(b) forthwith carry out all work that may be ordered by any municipality or public authority in respect of his unit, other than such work as may be for the benefit of the building generally, and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his unit,

(c) repair and maintain his unit, and keep it in a state of good repair, reasonable wear and tear and damage by fire, storm, tempest or act of God excepted,

(d) use and enjoy the common property in such a manner as to not unreasonably interfere with the use and enjoyment thereof by other owners or their families or visitors,

(e) not use his unit or permit it to be used in any manner or for any purpose that will cause a nuisance or hazard to any occupier of a unit (whether an owner or not) or the family of such an occupier, and

(f) notify the corporation forthwith on any change of ownership or of any mortgage or other dealing in connection with his unit.

2 The corporation shall

(a) control, manage and administer the common property for the benefit of all owners,

(b) keep in a state of good and serviceable repair and properly maintain the fixtures and fittings (including elevators) used in connection with the common property,

(c) where practicable establish and maintain suitable lawns and gardens on the common property,

(d) maintain and repair (including renewal where reasonably necessary) pipes, wires, cables and ducts for the time being existing in the parcel and capable of being used in connection with the enjoyment of more than one unit or common property, and

(e) on the written request of an owner or registered mortgagee of a unit or a vendor under an agreement for sale of a unit, produce to the owner, mortgagee or vendor, or to any person authorized in writing by the owner, mortgagee or vendor, the policy or policies of insurance effected by the corporation, and the receipt or receipts for the last premium or premiums in respect thereof.

3 The corporation may

(a) purchase, hire or otherwise acquire personal property for use by owners in connection with their enjoyment of common property,

(b) borrow money required by it in the performance of its duties or the exercise of its powers,

(c) secure the repayment of money borrowed by it, and the payment of interest thereon, by negotiable instrument, or mortgage of unpaid contributions (whether levied or not), or mortgage of any property vested in it, or by combination of those means,

(d) invest as it may determine any money in the fund for administrative expenses,

(e) make an agreement with any owner or occupier of a unit for the provision of amenities or services by it to the unit or to the owner or occupier thereof,

(f) grant to an owner the right to exclusive use and enjoyment of common property, or special privileges in respect thereof, but any such grant shall be determinable on reasonable notice unless the corporation by unanimous resolution otherwise resolves, and

(g) do all things reasonably necessary for the enforcement of the by-laws and the control, management and administration of the common property.

4 The board shall consist of not less than 3 nor more than 7 owners and shall be elected at each annual general meeting, but where there are not more than 3 owners, the board shall consist of all owners.

5 Except where the board consists of all the owners, the corporation may by resolution at an extraordinary general meeting remove any

member of the board before the expiration of his term of office and appoint another owner in his place to hold office until the next annual general meeting.

6 Any casual vacancy on the board may be filled by the remaining members of the board.

7 Except where there is only one owner, a quorum of the board is 2 where the board consists of 4 or less members, 3 where it consists of 5 or 6 members, and 4 where it consists of 7 members.

8 At the commencement of each meeting the board shall elect a chairman for the meeting, who shall have a casting as well as an original vote, and if any chairman so elected vacates the chair during the course of a meeting the board shall choose in his stead another chairman who has the same rights of voting.

9 At meetings of the board all matters shall be determined by simple majority vote.

10 The board may

(a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, but it shall meet when any member gives to the other members not less than 7 days' notice of a meeting proposed by him, specifying the reason for calling the meeting,

(b) employ for and on behalf of the corporation such agents and servants as it thinks fit in connection with the control, management and administration of the common property, and the exercise and performance of the powers and duties of the corporation, and

(c) subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke such delegation.

11 The board shall

(a) keep minutes of its proceedings,

(b) cause minutes to be kept of general meetings,

(c) cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which such receipt and expenditure take place,

(d) prepare proper accounts relating to all money of the corporation, and the income and expenditure thereof, for each annual general meeting, and

(e) on application of an owner or mortgagee, or any person

authorized in writing by him, make the books of account available for inspection at all reasonable times.

12 A general meeting of owners shall be held within 3 months after registration of the condominium plan.

13 Subsequent general meetings shall be held once in each year and not more than 15 months shall elapse between the date of one annual general meeting and that of the next.

14 All general meetings other than the annual general meeting shall be called extraordinary general meetings.

15 The board may whenever it thinks fit, and shall on a requisition in writing made by owners representing 25% of the total unit factors for the units, convene an extraordinary general meeting.

16 Seven days' notice of every general meeting specifying the place, the date and the hour of meeting and, in case of special business, the general nature of that business, shall be given to all owners and registered first mortgagees who have notified their interests to the corporation but accidental omission to give that notice to any owner or to any registered first mortgagee or non-receipt of that notice by any owner or any first mortgagee does not invalidate any proceedings at any such meeting.

17 All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts and election of members to the board, or at an extraordinary general meeting.

18 Except as otherwise provided in these by-laws, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business, and 1/2 of the persons entitled to vote present in person or by proxy constitutes a quorum.

19 If within 1/2 hour from the time appointed for a general meeting a quorum is not present the meeting shall stand adjourned to the corresponding day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within 1/2 hour from the time appointed for the meeting the persons entitled to vote who are present constitute a quorum.

20 At the commencement of a general meeting a chairman of the meeting shall be elected.

21 At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by an owner present in person or by proxy, and unless a poll is so demanded a declaration by the chairman that a resolution has on the show of hands been carried is conclusive proof of the fact without proof of the number or proportion of votes recorded in favour of or

against such resolution, but a demand for a poll may be withdrawn.

22 A poll, if demanded, shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

23 In the case of equality in the votes whether on a show of hands or on a poll the chairman of the meeting is entitled to a casting vote in addition to his original vote.

24 On a show of hands each owner shall have one vote; on a poll the votes of owners shall correspond with the unit factors for their respective units.

25 On a show of hands or in a poll votes may be given either personally or by proxy.

26 An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and may be either general or for a particular meeting, but a proxy need not be an owner.

27 Except in cases where by the *Condominium Property Act* a unanimous resolution is required, no owner is entitled to vote at any general meeting unless all contributions payable in respect of his unit have been paid.

28 Co-owners may vote by proxy jointly appointed by them, and in the absence of such a proxy are entitled to vote on a show of hands, except when the unanimous resolution of owners is required by the *Condominium Property Act*, but any one co-owner may demand a poll, and on any poll each co-owner is entitled to such part of the vote applicable to a unit as is proportionate to his interest in the unit, and the joint proxy, if any, on a poll has a vote proportionate to the interest in the unit of such of the joint owners as do not vote personally or by individual proxy.

29 Where owners are entitled to successive interests in a unit, the owner entitled to the first interest is alone entitled to vote, whether on a show of hands or a poll, and this by-law is applicable whether by the *Condominium Property Act* the unanimous resolution of owners is required or not.

30 Where an owner is a trustee he shall exercise the voting rights in respect of the unit to the exclusion of persons beneficially interested in the trust, and those persons may not vote.

31 The corporation shall have a common seal which shall at no time be used except by authority of the board previously given and in the presence of the members of the board or at least 2 members thereof who shall sign every instrument to which the seal is affixed, but where there is only one member of the corporation his signature is sufficient for the purpose of this clause.

32(1) The by-laws in Appendix 2, Schedule B of the *Condominium Property Act* may be added to, amended or repealed by special resolution of the corporation and not otherwise.

(2) A special resolution means a resolution passed at a general meeting of which at least 14 days' notice specifying the proposed special resolution has been given by owners representing a majority of not less than 3/4 of the total unit factors for all the lots, and not less than 3/4 of all the owners.

1966 c19 Sch A

SCHEDULE B

1 An owner shall not

- (a) use his unit for any purpose that may be illegal or injurious to the regulation of the building, or
- (b) make undue noise in or about any unit or common property, or
- (c) keep any animals on his unit or the common property after notice in that behalf from the board.

2 When the purpose for which a unit is intended to be used is shown expressly or by necessary implication or by the registered condominium plan, an owner shall not use his unit for any other purpose, or permit the unit to be so used.

1966 c19 Sch B