



**Submission to the**

**Condominium Authority of Ontario**

**on**

**Condominium Act Forms**

Community Associations Institute Canada Chapter

October 2022

## **Condominium Act Forms**

In early 2018, CAI Canada was asked to comment on the Forms required under the Condominium Act (1998). A small sub-committee of the CAI Public and Government Relations Committee (David S. Crawford, Denise Lash and Natalia Polis) worked on this project. In April 2018, CAI sent a submission to what is now called the Ministry of Public and Business Service Delivery.

In late 2019, the Ontario government delegated responsibility for many frequently used Condominium Act Forms to the Condominium Authority of Ontario. This was effective January 1, 2020. Since then, the CAO has made several desirable changes to the Forms, some of the changes were suggested by CAI in our 2018 submission.

Now that we have had more experience with the Forms and their revisions and have lived through the disruptions of covid-related restrictions and relaxations, the same group (and Sally Thompson) have looked again at our 2018 suggestions and, because the CAO has stated that their Strategic Plan for 2022/2023 includes making improvements to the Forms, we are pleased to submit an updated Report. Though there are many other official 'condominium Forms', this Report deals only with the 19 Forms (14 of which are mandatory and 5 are optional) for which the CAO is responsible.

In 2018 we suggested that the Forms should be examined and revised in 'groups' and we were thus pleased to note that the CAO has followed this suggestion. The CAO lists the 19 Forms in five "groups" and, with one change, our current submission follows this pattern.

- **Forms relating to Meetings and Voting**
- **Forms relating to Information Certificates**
- **Status Certificates**
- **Forms relating to Records**
- **Additional Forms**

For reasons explained below, we suggest that Status Certificates should be part of the 'Information Certificates Group'.

### **GENERAL COMMENTS**

Though we make specific comments about most of the 19 "CAO Forms", there are some general comments that apply throughout:

- Some Forms are completed by owners, some are completed by condominium 'professionals' (lawyers, managers, engineers, auditors); some forms are primarily used to provide information to owners, others have more sophisticated readers. It is important to remember who will be completing a form and who its primary

readership will be.

- The 'instructions' on how to complete a Form should not 'clutter-up' the distributed Form. Instructions should be on a separate page or able to be deleted/hidden when a Form is distributed.
- Any section on a Form that does not apply should be able to be deleted or hidden— e.g. A Notice of Meeting Form should not have a section on the removal of directors unless a director removal is on the agenda. The Proxy Form should be able to be tailored to the meeting agenda.
- All Forms should allow for some additional text in appropriate sections. e.g., allowing the addition of the day of the week and maybe spelling out the month and not just a date in all Notice of Meeting Forms will be useful for owners.
- If a Form is mandatory, this should be noted on it. If it is optional (and it can thus be re-formatted and amended) this too should be noted on the Form itself or its instructions.
- Before they are finally approved by CAO, all Forms need to be field-tested with both Form 'compilers and the intended 'end-users' to ensure that they are clear, and can be understood, and read as well on a screen as when they are printed out.
- The security "permissions" on all Forms should be examined to allow for the easy creation of a 'package' with, for example, a Notice of Meeting and a covering memo.
- On most Forms the date format is set as yyyy/mm/dd. The CAO normally uses the more common dd/mm/yyyy format, and it is suggested that CAO standardize its date conventions. Ideally, as noted above, at least for meeting forms, it should be possible to add the day of the week to a date field, so owners know that the meeting is on a 'Thursday', and it might add clarity if the month was also spelled out.
- As all Corporations must now send annual returns to the CAO, we also suggest that some of the basic, and usually unchanging, information these require (e.g., Date of Registration and number of Units) should also be reported to owners via Status and Information Certificates.

## **GROUP 1**

### **Forms Relating to Meetings and Voting**

- i. Proxy. (Mandatory)
- ii. Preliminary Notice of Meeting of Owners. (Mandatory)
- iii. Notice of Meeting of Owners. (Mandatory)
- iv. Notice of Meeting of Owners under Section 34 (5). (Mandatory)
- v. Submission to Include Material in the Notice of Meeting of Owners. (Mandatory)
- vi. Agreement to receive notices electronically (Optional)
- vii. Owner-Requisitioned meeting template. (Optional)

#### **i. Proxy (Mandatory)**

Though our 2018 suggestions for improvements to the Proxy remain valid, based on the very positive reception from owners and boards to virtual meetings over the last four years, we strongly suggest that it is now time to encourage the use of e-voting, as the preferred option for owners who cannot attend an owner meeting. The covid-inspired Regulations concerning virtual, or hybrid meetings and e-voting proved highly effective and are far better and more convenient ways to communicate with owners and obtain their input. A long-standing problem in condominiums has been a lack of owner involvement and most corporations report much greater owner participation when there is a choice of attending owner meetings in person or participating virtually.

As all matters that will be voted on at owner meetings are known in advance, we suggest that owners who are not able to attend the meeting be encouraged to vote electronically. We also suggest that it should be clarified that an owner who casts an advance or online vote should be counted for purposes of quorum; Owners who are at the meeting would, of course, continue to vote in person (on paper or electronically).

One disadvantage of advance voting is that owners who will not be present at the meeting may not be able to vote for director candidates whose names are proposed at the meeting. In practice, the same situation exists with proxies as most proxy holders are instructed on how to vote (or are given a proxy for quorum purposes only) so most proxy holders also cannot vote for candidates proposed at a meeting. As the Act now provides ample time for owners to nominate candidates between the issuance of a Preliminary Notice of Meeting and the Notice itself, we strongly recommend that the Act should be amended so that director nominations would only be allowed from the floor at owner meetings if there are not enough valid advance nominations to fill the vacant positions. (i.e., if there are two vacant positions and there are only two valid advance nominations, these two candidates would be declared elected; if there were three valid advance nominations there would be an election and if there was only one

valid advance nomination that person would be declared elected, and the owners who are present at the meeting would then be able to nominate and vote to fill the remaining vacancy.)

Though we suggest that e-voting be encouraged, and the use of proxies reduced, we suggest that, at least for a proxy given for quorum purposes only, it may be appropriate to suggest an Officer as a default proxy (e.g., ‘the Secretary of the corporation, with power of substitution’) as many owners will not know of another owner who will be at the meeting.”

**ii. Preliminary Notice of meeting (Mandatory)**

We suggest that it would be clearer for owners if a “summary box”, like the example below, were at the top of the Form – owners are busy, and information needs to be presented clearly and concisely. It should not be necessary to attach a separate letter explaining the Notice.

<b>Date</b>	<b>Thursday 28<sup>th</sup> June 2022</b>
<b>Time</b>	<b>7pm</b>
<b>Location</b>	<b>135 Main Road East, Toronto</b>
<b>Type of meeting</b>	<b>Annual General Meeting, (37<sup>th</sup>)</b>
<b>Election</b>	<b>One position: “owner-occupied director”</b>
<b>Auditor</b>	<b>Motion to re-appoint CondoAudit &amp; Co LLP</b>

**Section 1.** (Date of meeting) It is suggested that a day of the week be added, and that the month be spelled out.

**Section 2** reads:

**Section 2.** You may provide information to the board in response to this notice in the following ways:

- a. By delivering the information to the following address of
    - the corporation: \_\_\_\_\_
    - condominium management provider or the condominium manager: \_\_\_\_\_
    - any other person responsible for the management of the property: \_\_\_\_\_
  - b. By delivering the information using an electronic method of communication:
    - Yes
    - No
- Instruction for person filling out the form:** If the board has approved an electronic method for receiving requests for records, you must provide an electronic method of communication above.
- c. By delivering information in an additional way
    - Yes
    - No

We suggest this Section could be simplified, possibly as follows:

*You may provide information to the board in response to this notice in the following ways:*

By delivering it to: **MTCC 666, 123 Main Street, Anytown ON M5A 4S2**

By sending it by email to [mtcc666@condo.ca](mailto:mtcc666@condo.ca)

By .....

**Section 3:** It is suggested that a draft agenda should be attached to this Form.

**Section 4** now reads:

**Section 4.** Please check any of the following that apply to the upcoming meeting:

- a. This is a meeting requisitioned by owners under s. 46 of the *Condominium Act, 1998*.
- b. This meeting will include discussion of proposed changes to the declaration, description, by-laws, rules, or agreements.
- c. This is a meeting to elect one or more directors (including a meeting requisitioned under s. 46 of the *Condominium Act, 1998* that may include the election of one or more directors).
- d. This is a meeting to remove or appoint an auditor.
- e. This is a meeting for the purpose of considering an addition, alteration or improvement to the common elements, a change in the assets of the corporation, or a change in a service of the corporation or for the purpose of considering the installation of an electric vehicle charging system to be carried out in accordance with s. 24.3 (5) of Ontario Regulation 48/01 made under the *Condominium Act, 1998*.
- f. This is a meeting relating to amalgamation under s. 120 of the *Condominium Act, 1998*.

We suggest this may be clearer if slightly expanded to:

- This is the Annual General Meeting of our Corporation.
- This is a meeting of owners called by the Board.
- This is a meeting requisitioned by owners under s. 46 of the *Condominium Act*.  
The nature of the business to be presented at the meeting (as stated in the requisition) is:
  - This meeting will include discussion of proposed changes to the declaration, description, by-laws, rules or agreements. The purpose of the proposed changes are:
    - One or more directors may be elected at this meeting. Details:
  - This meeting will include discussion on replacing the Corporation's auditor and/or appointing a new auditor.
  - This meeting will include considering an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service of the corporation or for the purpose of considering the installation of an electric vehicle charging system to be carried out in accordance with s. 24.3(5) of Ontario Regulation 48/01 made under the *Condominium Act, 1998*.
  - This is a meeting relation to amalgamation under s. 120 of the *Condominium Act, 1998*.

At an AGM the appointment of an auditor is mandatory under Section 60 (2) of the Act, and we suggest that there are three possible scenarios that arise with the appointment of an auditor:

- A meeting called to remove the auditor before their 1-year appointment

ends and appoint a new auditor.

- An owner (or the board) thinks that it is 'time for a change' of auditor (because they are 'not satisfactory' or because they want to get a fresh opinion) and intends to propose a new auditor at the next AGM.
- The board thinks the current auditor is doing a good job and intends to propose that they be reappointed at the next AGM.

These three possibilities vary in their significance; the removal of an auditor probably shows that there are problems, and the re-appointment of the current auditor probably shows that things are working well. If a new auditor is going to be proposed, it is suggested that owners need to have this flagged in the Preliminary Notice.

Under Section 63 of the Act an auditor can be removed and replaced by an owner meeting. It is suggested that the board should receive sufficient advance notice about the new auditor being proposed so that they can do due diligence. In our opinion, it should not be possible to propose the names of new auditors at a meeting without advance notice.

To better inform owners, we think that the election of directors needs to be put into context so we suggest that at all meetings where an election of directors is planned, the names and terms of ALL current directors should be noted on the Notices. Perhaps something like:

*"Our Corporation has FIVE Directors whose terms are:*

- *Fred Bloggs 2021-2024. (Mr Bloggs is the Director elected only by resident owners.)*
- *Maureen Holmes 2020-2023.*
- *Donald Reilly 2022-2025*
- *Anne Singh 2022-2025*
- *Joe Smith 2020-2023.*

*The terms of Ms Holmes and Mr Smith are ending; under the by-laws of the Corporation, both may\* put themselves forward for re-election." (\* Or may not)*

**Section 4.e.** The current wording of this Section implies that a change will cost money; some changes will save money. Changes to the common elements or services may be the addition of a service (e.g., hiring a 24/7 concierge) but they may also be the removal of something (e.g., closing the swimming pool).

It should be made clear that the estimated cost (or saving) should be the annual cost. (Or, for example, the one-time cost of closing a pool and the ongoing annual savings that

will result.) If it is proposed to add a service only available with a multi-year contract (e.g., cable TV or wi-fi), the cost should be the annual cost (or annual/monthly cost per Unit) not the total cost of the multi-year contract.

The disclosure obligations and qualifications (see s. 29(1) of the Condominium Act, 1998 and s. 11.6 of Ontario Regulation 48/01 under the Condominium Act, 1998) must be included with the Preliminary Notice of Meeting Form if the meeting will include an election and must also be sent with the Notice of Meeting Form itself. This seems like overkill and perhaps they should only be required to be sent with the Preliminary Notice?

**iii Notice of Meeting (Mandatory)**

As with the Preliminary Notice of Meeting Form, we suggest it may be useful to add a “quick information” box to top of this Form.

Something like:

<b>Date</b>	<b>Thursday 28<sup>th</sup> June 2022</b>
<b>Time</b>	<b>7pm (registration starts at 6.45pm)</b>
<b>Location</b>	<b>2<sup>nd</sup> floor Lounge, 135 Main Road East</b>
<b>Election</b>	<b>Two directors to serve 2023-2026</b>
<b>Auditor</b>	<b>Motion to re-appoint BestAudit LLP</b>

**Section 1.** Date and Time of the Meeting. It is suggested that a day of the week be added, and that the month be spelled out.

**Section 3.** We suggest that the final agenda should always be attached to the Notice. If this occurs, this Section can be simplified.

**Section 4.** Why not say “*The quorum required for this meeting is the owners of NN out of the NNN VOTING units in the corporation.*”? (This would mean that all mention of the non-voting (parking and storage) units could be eliminated.)

**Sections 5 and 6.** If the answer is NO then these sections should ‘vanish’ from the distributed Form.

**Section 8.** As with the Preliminary Notice, we suggest this Section be re-structured.

- This is the annual general meeting of our corporation – a copy of the corporation’s financial statements and the auditor’s report (if any) are attached.
- This is a meeting called by the Board.
- This is a meeting requisitioned by owners under s. 46 of the Condominium Act.
- This meeting will include discussion of proposed changes to the declaration,



description, by-laws, rules or agreements.

- One or more directors will be elected at this meeting.
- This meeting will include discussion on replacing the Corporation's auditor and/or appointing a new auditor
- This meeting will include considering an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service of the corporation or for the purpose of considering the installation of an electric vehicle charging system to be carried out in accordance with s. 24.3(5) of Ontario Regulation 48/01 made under the Condominium Act, 1998.
- This is a meeting relation to amalgamation under s. 120 of the Condominium Act, 1998.

**Section 8.b.** If an election is anticipated, the Form reads: "The maximum number of positions on the board that are or could be the subject of an election at the meeting..." Presumably, the number of vacancies could increase between the time the final notice is distributed and the meeting. (e.g., The death or last-minute resignation of a Director). We suggest this be re-phrased to: *"The number of positions on the board that are expected to be the subject of an election is ..."*

As with the Preliminary Notice, we suggest it would be useful for owners if all the directors are listed on this Form.

**Section 8.c.** As noted above for the Preliminary Notice, we suggest that if the meeting is to discuss the removal of the auditor and/or the appointment of a new auditor, we suggest this needs to be flagged. We suggest the text should read *"This is a meeting to remove the auditor and/or appoint a new auditor."* We strongly suggest that Section 8.c. should not be completed if the re-appointment of the existing auditor will be proposed, in our opinion this is 'routine AGM business'.

**Section 8.e.** As noted above, if changes to the common elements or services are being proposed, they may be the addition of a service (e.g., hiring a 24/7 concierge) or the removal of something (e.g., closing the swimming pool). It should be clarified that the cost (or saving) figures given should be the annual cost. (Or, for example, a one-time cost to close a pool and the ongoing annual saving that will result.) If it is proposed to add a service normally available with a multi-year contract (e.g., cable TV) the cost should be the annual cost (or annual/monthly cost per Unit) not the total cost of the contract.

The disclosure obligations and qualifications (see s. 29(1) of the Condominium Act, 1998 and s. 11.6 of Ontario Regulation 48/01 under the Condominium Act, 1998) must be included with the Preliminary Notice of Meeting Form if it announces that an election will be held and with the Notice of Meeting Form itself. This seems like overkill and perhaps these documents should only be required to be sent with the Preliminary Notice?

**iv. Notice of Meeting of Owners under s. 34 (5) of the Condominium Act (Mandatory)**

We suggest that the owner(s) calling the meeting should confirm which Unit(s) they own.

As with other meetings, we suggest that the agenda should always be attached to this Notice.

As with all meetings where directors are to be elected, we suggest that the name(s) of the remaining directors (if any) be included with this notice.

As noted above, the disclosure obligations and qualifications (see s. 29(1) of the Condominium Act, 1998 and s. 11.6 of Ontario Regulation 48/01 under the Condominium Act, 1998) must be included with the Preliminary Notice of Meeting Form if it announces that an election will be held and with the Notice of Meeting Form itself. This seems like overkill and perhaps they should only be required to be sent with the Preliminary Notice?

**v. Submission to include material in the Notice of Meeting of Owners (Mandatory)**

We suggest that the following information should be added:

The **UNIT NUMBER(S)** of the owner(s) who are making the request.

The **DATE** of the meeting for which the owners want the material included.

We also suggest that the Form should state that the completed Form must be sent by mail to the Address for Service of the Corporation or by email (if the Corporation accepts email) to the e-mail address the Corporation uses for Record Requests.

The current Form gives prominence to the (optional) contact information of an owner who is submitting the Form. We suggest that it would greatly simplify the Form if it simply stated. *“If the corporation has questions concerning this request, the owner(s) listed above will be contacted at their Address(es) for Service.”*

**vi. Agreement to Receive Notices Electronically (Optional)**

This Form, though very useful, is optional and we suggest that the fact a Form is optional (and can thus be edited and modified) should be noted on the Form or its instructions.

Though this optional Form can be edited by a corporation to meet its needs, we see no reason why the signature of a representative of the Corporation and the Corporation’s seal should ever be required. If an owner wants to get all Corporation documents by e-mail (and the Corporation offers that service) the only information required, in addition

to their e-mail address, should be the owner's Name, Unit Number and signature.

The owner's **UNIT NUMBER** should be added to the Form.

We suggest that mention of a fax number be deleted, facsimile machines are now rare.

The Form should include the statement: **"If my e-mail address(es) change I will inform the Corporation."**

vii **Owner-Requisitioned meeting template.** (Optional)

We have no comments on this optional Form.

## **GROUP 2**

### **Forms relating to Information Certificates**

- i. Status Certificate (Mandatory)
- ii. Status Certificate in amalgamation (Under clause 120 (3) (C) (Mandatory)
- iii. Information Certificate (Mandatory)
- iv. Information Certificate Update (Mandatory)
- v. New Owner Information Certificate (Mandatory)
- vi. Notice of Online Posting of an Information Certificate (Mandatory)

As noted above, we consider that Status Certificates are closely related to Information Certificates, so we have put all of them in this 'group' and strongly suggest:

***"That CAO should:***

***i. Evaluate the basic information that Corporations are currently providing to owners and others through Status Certificates, Information Certificates and the Annual Returns that must be sent to the CAO.***

***AND***

***ii. Evaluate whether there is additional information that should regularly be made available to owners and others.***

***AND***

***iii. Ensure this information is made available in a standardized format."***

In our opinion, the basic information that must be sent to owners concerning the Corporation should be identical (and identically presented) in Status Certificates and Information Certificates. Of course, a Status Certificate will have additional

information on a specific Unit and some information (e.g., how to make Records requests) may only be appropriate on an Information Certificate. A Status Certificate and an Information Certificate issued on the same day should present identical information about the Corporation. We suggest that this will make both documents easier for property managers to complete and easier for owners to understand.

We note the following basic information on condominium corporations and where it is now reported.

Subject	Status	CAO	PIC
Name and Number of Corporation	Yes	Yes	Yes
Mailing address	Yes, #1		
Address for service	Yes, #2	Yes	Yes, #1
Municipal address		Yes	
Name of Property Manager (and/or Company) and details	Yes, #3	Yes	Yes, #1
Directors' names etc.	Yes, #4	Yes	Yes, #2
Budget info	Yes, #9-12		Yes, #4
Reserve Fund info	Yes, #13-17		Yes, #4
Legal proceedings etc.	Yes, #18-22		Yes, #5-6
Leased Units	Yes, #24		Yes, #1
Changes to common elements	Yes, #25		
Insurance			Yes, #3
Disclosure			Yes, #7
Compliance			Yes, #8
Info on sending Records Requests			Yes, #1
Number of Units/Voting Units		Yes	
Date of registration		Yes	
Type of corporation		Yes	
e-mail for Service		Yes	

Though we have not discussed their suggestions in detail, we note that *The [Stage 2 Solutions Report](#)* (page 19) made several recommendations, which we support, to improve Status Certificates. Among them was one to note that a Unit has not been inspected and another to include information on the corporation's policy on pets. We would add that a Corporation's policies (if any) on smoking or leasing might also usefully be noted.

**As noted above, we strongly suggest that both of the Status Certificates should be re-designed, and that the 'regular' status certificate issued under subsection 76 of the Act should be organized into two distinct and separate Sections: one on the Corporation and one on the Unit.**

**i. Status Certificates: (Mandatory)**

**Section 1. Information about the Corporation.**

In addition to the information in the current Status Certificate, we suggest adding some additional general information about the Corporation such as its date of Registration and number of voting and non-voting Units. This information is already required in the Annual Return that must be sent to the CAO and is included in the Public Register.

Apart from very specific information for owners (e.g., how to submit Records requests), the information about the **Corporation** in the Status Certificate and the information in the most recent Information Certificate (or Update) should be identical.

As with all Forms, we suggest that if parts of the Status Certificate do not apply, they can be removed or hidden prior to distribution.

We suggest that this basic corporation information should include:

- Name of condominium corporation:
- Corporation number:
- Type of corporation:
- Date registered at the Land Registry Office:
- Municipal address:
- Address for service:
- Number of units, by type:
- Number of units leased on yyyy/mm/dd, by type:
- Name of manager or management company:
- Contact information of manager or management company:
- Names of directors of the corporation and their terms:
- The budget of the corporation:
- The reserve fund:
- Legal proceedings (including arbitration):
- Substantial changes to the common elements etc.:
- Insurance:
- Restrictions in Rules or Declaration on smoking and pets:
- Restrictions in Rules or Declaration on leasing:

Except for the restrictions on pets or smoking and leasing (and the fact that the number of units and the number of units which are leased are not presented together) all of this information is already provided on at least one of the three current documents (Status, Information Certificate or Annual Return)

## **Section 2. Information about the Unit.**

The Status Certificate will also, of course, have information about a specific **Unit** and we suggest the following should be included:

- Common expenses – amount of the current monthly fees, whether they are up to date, liens etc.
- Agreements registered on Unit title concerning changes to the common elements – Section 98, e- vehicle charging etc.
- Information that the Unit has exclusive use of some of the common elements - parking, storage, decks, balconies etc.

The fact that a unit has exclusive use of some part of the common elements is not currently reported, we suggest it should be.

We support the suggestion in the *Stage 2 Solutions Report* that the Status information “... should include ... a warning that the unit has not been inspected for alterations (unless otherwise stated) ....”

### **iii & iv. Information Certificates and Information Certificate Updates (Mandatory)**

To make it clear that one updates the other, we suggest that the names of these Forms should be standardized to ‘Information Certificate’ and ‘Information Certificate Update’ (Or ‘Periodic Information Certificate’ and ‘Periodic Information Certificate Update’).

We suggest that the need to attach other documents to Information Certificates needs to be examined. As they are normally annual documents that do not change, is it necessary to attach the insurance certificate or approved budget to every Information Certificate unless there are changes? It is suggested that these documents must be sent to owners within 30 days of being adopted or received. Subsequent ICs could then perhaps have a note such as “The current insurance certificate/approved budget was distributed on yyyy/mm/dd, if you require an additional copy, please contact [info@YCC653.ca](mailto:info@YCC653.ca)” (If this is already permitted, this should be noted in the ‘instructions’ information on ICs.)

Though we suggest above that the Information Certificate should be completely revised so that the information it provides matches what is given on a Status Certificate, we note some suggestions about the current Information Certificate.

**Section 1. General information about the Corporation.** So that the significance of the number of leased units can be assessed, we strongly suggest that the IC includes the TOTAL number of Units in the corporation and their type (residential, commercial, parking, storage etc.).

This is a possible example:

	<b>Number</b>	<b>Number leased*</b>
<b>Residential</b>		
<b>Commercial</b>		
<b>Parking</b>		
<b>Total</b>		

*\*The corporation has received notice under s. 83 of the Condominium Act, 1998 that unit(s) was/were leased on dd/mm/yyyy"*

For clarity and to make it easier to report, we strongly suggest using an actual date to report leased units not number leased "in the last fiscal year", as now. We suggest that the number of Units leased figure that is reported be as of the start of the current fiscal year or the date of the IC (or Status).

**Section 3. Insurance.** As noted above, we question why the annual certificate of insurance needs to be distributed with every IC.

**Section 4. Financial information about the corporation.** Providing information about the Reserve Fund is certainly essential but it is currently presented in an unclear way as it does not differentiate between money already spent and money that will be spent. Though most large reserve fund expenditures are planned, there are always 'surprises'. We suggest the following might be clearer:

- Balance of Reserve Fund at the start of the fiscal year.
- Balance of Reserve Fund on yyyy/mm/dd
- Contribution to the Reserve Fund which will be made in the current fiscal year.
- Expenditure already made from the Reserve Fund in the current fiscal year.
- Anticipated expenditure that will be made from the Reserve Fund in the remainder of the current fiscal year.

The past and future reserve fund expenditures that are reported could then be described.

Currently an Information Certificate Update must be sent when:

- The Address for Service of the corporation changes
- Names of any directors or their address for service change
- The manager changes. (It is suggested that this should be the licensed property management company rather than the individual property manager as individuals change and the corporation normally has a contract with the company.)
- The address to send Record Requests changes
- The insurance deductibles changes

- The insurance is terminated
- There are vacancies on the Board and there is no quorum

Most of these ‘trigger-events’ are important and time-sensitive and it is suggested that they should be communicated to owners within, at most, 30 days of the triggering event. However, we suggest, because it happens quite often and is not as important, it may be unnecessary to send out an Update so speedily if a Director resigns (or their address for service changes) and there is no loss of Board quorum. Perhaps this information could be distributed with the next regular IC?

**v. New Owner Information Certificate (Mandatory)**

We suggest that it should be clarified how a new owner must confirm their ownership; we recommend that a copy of the Land Registry Office transfer of ownership certificate should be required. If this suggestion is implemented, we suggest it would be useful to have a new mandatory Form for this purpose; it would be the new owner’s responsibility to ensure it was sent to the corporation.

Corporations should certainly be obliged to send new owners a copy of the most recent Information Certificate and any Update(s) to it within 30 days of receiving the legal notice of the change of ownership. In our opinion, it is unnecessary for a Form to accompany it and we question why an official ‘transmittal form’ is mandatory for this purpose; we would eliminate the current New Owner Information Certificate.

**vi. Notice of Online Posting of Information Certificate (Mandatory)**

This Form has a note:

If you wish to obtain a copy of the information certificate, in paper form, you may do so by making a request under s. 55 (3) of the *Condominium Act, 1998*. To make a request for records, you must use the Request for Records form, available on the Government of Ontario website.

We suggest it would be better to assume that a paper copy can be easily obtained by simply contacting the Corporation and asking for it. An official ‘Request for Records’ should never need to be the first choice. We suggest an information box such as:

- *“If you wish to obtain a paper copy of this Information Certificate or Information Certificate Update, please contact the Property Manager at: [propertymanager@YCC763.ca](mailto:propertymanager@YCC763.ca)”*

If this does not get a response, then the Owner can submit a regular Request for Records Form.

It should be noted that the Request for Records Form is now available from the CAO not the Government of Ontario.



## GROUP 3

### Forms relating to records

- i. Request for records (Mandatory)
  - ii. Waiver by requester of records (Mandatory)
  - iii. Board's response to request for records (Mandatory)
  - iv. Notice relating to record of owners (Optional)
  - v. Notice relating to record of mortgages (optional)
- i. **Request for Records** (Mandatory)

We suggest that the layout/order of the first part of this Form for both Requestors and Agents could be more intuitive and presented in a different order. Possibly to:

**Name:** \_\_\_\_\_

*I affirm that this request for records is solely related to my interests as an owner, a purchaser or a mortgagee, having regard to the purposes of the Condominium Act, 1998.*

*Identify the unit or common interest referred to above:* \_\_\_\_\_

**Date** (yyyy/mm/dd): \_\_\_\_\_

**Mailing address:**

**email Address:** (optional):

**Telephone Number:** (optional):

We have the following questions/comments:

How does the Corporation determine who is a 'purchaser'? At what point does someone move from being 'a citizen' (who is possibly 'stalking' an owner) to a 'purchaser'? Can a Corporation refuse to issue a Status Certificate?

It is suggested that one should be able to request individual by-laws; the Form seems to require requesting/receiving all of them.

Many corporations have websites with copies of its declaration, by-laws and rules. If so, an adequate response should be: "Please consult our website at: [www.xxx.ca](http://www.xxx.ca)".

To avoid later disputes or misunderstandings, we suggest that the Form should have a general note stating that under s 55 (4) and (5) of the Act some information can be redacted.

In some cases, an owner may want specific information “All mentions in Board minutes in 2022 concerning Unit XXX” or “All information in the 2022 minutes concerning the closure of the gymnasium.” It should be an option to request, and for the Corporation to provide, only the requested information – with the normal limits on the release of personal information.

ii. **Waiver by requestor of records** (Mandatory)

The Requestor’s Unit number (or other identification) should be added.

iii. **Board’s response to request for records** (Mandatory)

We have no comments on this Form but suggest that it should be examined when the other Forms in this group are finalized.

iv. **Notice relating to record of owners** (Optional)

In most cases, when they receive the official notification of a change of ownership, a Corporation will send out this (optional) Form. As it is an optional Form, we assume corporations can edit it and then send the Owner either Part A or Part B as appropriate and that they may add information such as to whom the completed Form should be sent.

As noted above, we suggest that it should be clarified how a new owner must confirm their ownership; we recommend that a copy of the Land Registry Office transfer of ownership certificate should be required. As noted above, we suggest that it may be useful to have a mandatory Form for this purpose.

That said, we have the following specific suggestions on what we see as a, useful, template:

Name of owner: The Notice relating to record of owners should allow for multiple owners and corporate owners.

A.1 to A. 4 are choices and (presumably) only one is required. This should be clarified. BUT, even if one selects A. 2, it is essential to include, if one exists, the Unit number; very few Corporations will know a Unit’s Property Identification Number.

**8. Address for Service.** It is strongly suggested that it should be noted that the Unit is the default Address for Service. (e.g., “*The Unit is the default Address for Service, if you wish to use an alternate Address for Service, please enter it here.*”)

We suggest that it would be useful to add the text of the (also optional) “Agreement to receive notices electronically” Form to this Form as a separate Section. Then a new owner can do everything in one place and on one Form.

This Form should note: **“If any of the owner information on this form changes, it is the responsibility of the owner(s) to submit an updated version to the corporation.”**

**v Notice relating to record of mortgagees (Optional)**

We suggest that the official name and municipal address and/or address for service of the Corporation be added at the top of this Form.

How can the corporation confirm that “the mortgagee identified in this form has the right to vote at a meeting of owners in place of the owner or to consent in writing in the place of the owner”? Can the corporation request proof?

## **GROUP 4**

### **Other Forms**

- i.** Notice of future funding of the reserve fund (Mandatory)
- ii.** Summary of lease or renewal (Optional)

**i. Notice of future funding of the Reserve Fund (Mandatory).**

We have not examined this Form, but it clearly should be reviewed by both those who complete these forms (engineers and architects) and those who should understand them (owners and property managers). The current Form is not very ‘owner-friendly’.

**ii. Summary of lease or renewal (Optional)**

Most ‘leasing owners’ will receive this Form from the corporation and, as an optional Form, we assume that corporations or property management companies can and will customize it to add the name of the corporation and can make other edits to suit their own situation. (For example, many corporations have rules or declaration restrictions or prohibitions on short-term leases, pets or smoking, and, if so, this information could usefully be added to this Form. We suggest above that it should also be included in the Status and Information Certificates.)

Though some corporations may allow, oral leases, at many others all leases must be in writing. The Ontario government does not encourage oral leases and use of the official Residential Tenancy Agreement (Standard Form of Lease) Form is encouraged.

See: <https://www.ontario.ca/page/guide-ontarios-standard-lease> This link could usefully be added to the Form.

We suggest that an owner should be able to refer a lessee or tenant to an electronic version of the corporation's rules, by-laws and declaration and should not be required to supply paper copies.

This Form should note: **"If any of the owner or tenant information on this form changes, it is the responsibility of the owner(s) to submit an updated version to the corporation."**

### **Additional Forms**

In addition, as suggested above, to a possible Form that a new owner must submit to the corporation with proof of their ownership from the Land Registry Office, it is suggested that CAO might develop an Optional **Disclosure Form** to be used by candidates running for election. Several condominium lawyers have produced versions, The [disclosure form from Lash Condo Law](#) is a good example. It may be a useful if the CAO created a standard one. Though some corporations have additional restrictions (e.g., that all directors must be owners) most director qualifications are laid down in the Act.

Toronto October 2022