

# CORPORATE RECORDS

## What is a record?

- “Records” include, s. 55 (1):
  - (i) the financial records of the corporation;
  - (ii) a minute book containing the minutes of owners’ meetings and the minutes of board meetings;
  - (iii) a copy of the declaration, by-laws and rules (should include a note as to whether the rule was passed or amended by the owners s.58(8));
  - (iv) all lists, items records and other documents mentioned in s.43 (4) & (5) (ie. turnover documents);
  - (v) the performance audit described in s.44(8);
  - (vi) the record of names and addresses for service of owners and mortgagees required under s.47 (2);
  - (vii) notices received from landlords who rent their units, s.84 (3);
  - (viii) all reserve fund studies (including up-dates) and reserve fund plans;
  - (ix) a copy of all agreements entered into by or on behalf of the corporation (ie. all contracts, work orders, shared use agreements, leases, etc,...);
  - (x) a copy of any report received from an inspector appointed under s.131 (5);
  - (xi) proxies used for the election of directors, which must be held for 90 days after the date of the meeting for which they were given; during the 90 days the proxies form part of the records of the corporation, s.52 (7);
  - (xii) copies of settlement agreements reached in respect of mediation, s.132, (7);
  - (xiii) notices required to be sent to owners prior to commencing a lawsuit, s.23(2);
  - (xiv) notices required to be sent to the owners in respect of notices received by the corporation under the Expropriations Act, s.24 (2) or the Planning Act, s.25;
  - (xv) any other notice that the corporation is required by the Act to issue;
  - (xvi) copies of all status certificates issued by the corporation within the previous 10 years, O. Reg. 48/01, s.15; and
  - (xvii) all other records as may be prescribed or are specified in the by-laws for the corporation, s.55 (1).

## Additional Records

- You should add to this list items such as:
  - (i) section 98 agreements, s.98 (1) (b);
  - (ii) correspondence to current owners/tenants about specific issues;
  - (iii) newsletters and special notices issued to owners in general;
  - (iv) engineering reports and all plans, diagrams or surveys completed for the corporation in respect of additions or alterations to common elements;



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*The Condominium Group gratefully acknowledges the contributions of the originator of this guide, the late Ronald S. Danks.*

- (v) copies of the original disclosure statements and at least one “standard” offer to purchase for the new units and other information given by the declarant to first time buyers; and
  - (vi) opinion letters, reports or other information obtained by the board (remember these opinions may help defend directors against liability), s.37 (3).
- Corporations must maintain all records for at least 6 years from the end of the fiscal period to which they relate; some records should be maintained indefinitely, such as audited financial statements, s.55 (2)
  - Upon receiving a written request and reasonable notice, a corporation must permit an owner, a purchaser, a mortgagee of a unit or an agent appointed by one of them (in writing) to inspect the records, except those for which confidentiality can be claimed (see below), “... *at reasonable time for all purposes reasonably related to the purposes of this Act.*”, s.55 (3)
  - Tenants have no right to review any records unless authorized in writing to act as an “agent” of an owner

### **Confidential Records**

- The right to examine records does not apply to:
  - (i) employee records, except for employment contracts, s.55 (4) (a);
  - (ii) records relating to actual or pending litigation or insurance investigations involving the corporation; s.55 (4) (b); and
  - (iii) records relating to specific units, s.55 (4) (c) except that an owner, purchaser or mortgagee (or their authorized agents - in writing) can examine records relating to a unit that belongs to the owner, is being purchased by the purchaser or is mortgaged by the mortgagee - in addition an owner or agent of an owner can examine records relating to that owner (but not letters or reports involving litigation against that owner), s.55 (5) (a) & (b).

### **Right to Examine Records**

- The corporation must, within a reasonable time, provide copies of the records to the person examining them if the person requests it and pays a reasonable fee to compensate the corporation for the labour and copying charges, s.55 (6)
- If the corporation without reasonable excuse does not permit an owner or an agent of an owner to examine records the corporation must pay \$500.00 to the owner upon receipt of a written request for payment, s.55 (8)
- If the payment is not made the owner can recover it in Small Claims Court, s.55 (9)
- The Small Claims Court can also make an order for production of records where the corporation has refused to allow the owner to examine them, s.55 (10)