

Board of a Corporation

Board of directors

(Excerpt from the Condominium Property Act)

28(1) A corporation shall have a board of directors that is to be constituted as provided by the bylaws of the corporation.

(1.1) At least 2/3 of the membership of the board of directors of a corporation must be unit owners or mortgagees unless the bylaws provide otherwise. **Chanticleer bylaws require all Board members to be owners of a unit.**

(2) Every member of a board, in exercising the powers and performing the duties of the office of member of the board, shall

- (a) act honestly and in good faith with a view to the best interests of the corporation, and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(3) Where a member of the board has a material interest in any agreement, arrangement or transaction to which the corporation is or is to become a party, that person

- (a) shall declare to the board that person's interest in the agreement, arrangement or transaction,
- (b) shall not vote in respect of any matter respecting that agreement, arrangement or transaction, and
- (c) shall not be counted when determining whether a quorum exists when a vote or other action is taken in respect of the agreement, arrangement or transaction.

(4) Subsection (3) does not apply to an agreement, arrangement or transaction in which the member of the board has a material interest if that material interest exists only by virtue of that member of the board owning a unit.

(5) A corporation shall, within 30 days from the conclusion of the corporation's annual general meeting, file at the land titles office a notice in the prescribed form stating the names and addresses of the members of the board.

(6) A corporation shall, following a change in

- (a) the membership of the board,

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(b) the name of a member of the board, or

(c) the address of a member of the board,

promptly file at the land titles office a notice in the prescribed form stating the change.

(7) Repealed 2014 c10 s18.

(8) A person who

(a) is a bona fide third party dealing at arm's length with the corporation, and

(b) does not have notice of a restriction or direction referred to in section 28.2(1),

is not liable for or otherwise affected or bound by any breach of or failure to follow that restriction or direction by the corporation.

(9) 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.

(10) Repealed 2014 c10 s18.

RSA 2000 cC-22 s28;2014 c10

Removal or vacating of office of a member of the board

28.1(1) A person ceases to be a member of the board if the member

(a) becomes a bankrupt as defined in the Bankruptcy and Insolvency Act (Canada),

(b) is more than 60 days in arrears in payment of any contribution required to be made by the member as an owner,

(c) is more than 60 days in default of a judgment by a court of any money owing to the corporation, **Chanticleer bylaws say a Board position is vacated if the member is more than 30 days in arrears of money owed to the corporation**

(d) is or becomes a represented adult as defined in the Adult Guardianship and Trusteeship Act,

(e) is convicted of an indictable offence for which the member is liable to imprisonment for a term of not less than 2 years,

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(f) resigns the member's office by serving notice in writing on the corporation, or

(g) is removed under subsection (2).

(2) A corporation may by ordinary resolution remove a member of the board before the expiration of the member's term of office and appoint another individual in the member's place to hold that office for the remainder of the term.

Chanticleer bylaws indicate a Board member may be removed for failure to attend 3 consecutive Board meetings without permission.

2014 c10 s19

Exercise of powers and duties by boards

28.2(1) The powers and duties of a corporation shall, subject to any restriction imposed or direction given in an ordinary resolution, be exercised and performed by the board of the corporation.

(2) An ordinary resolution that directs or restricts the corporation, or interferes with the corporation, in its exercise of powers and performance of duties is not valid if the direction or restriction is contrary to this Act, the regulations or the bylaws.

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Powers and Duties of Corporation

Control and management

37(1) A corporation is responsible for the enforcement of its bylaws and the control, management and administration of its real and personal property, the common property and managed 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, the common property and managed property;

(b) to comply with notices or orders by any municipal 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 2000 cC-22 s37;2014 c10 s28

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Reserve fund

38(1) A corporation shall, subject to the regulations, establish and maintain a capital replacement reserve fund to be used to provide sufficient funds that can reasonably be expected to provide for major repairs and replacement of

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

(b) the common property, and

(c) any property of an owner in respect of a bare land unit that the corporation is required by bylaw to repair and replace,

where the repair or replacement is of a nature that does not normally occur annually.