



CAO Guide on Issues Management

Advanced Director Training



Condominium
Authority of
Ontario

www.condoauthorityontario.ca

Table of Contents

Acknowledgements	3
CAO Contact Information	3
Document Purpose	3
Guiding Principles of Issue Management	6
Framework for Issues Management	8
1 – Identify	14
2 – Evaluate	21
3 – Respond & Resolve	27
4 – Track and Monitor	41
Appendix I – Director’s Checklist	47

Have a Question?

If you have a question about any of the information in this Guide, please contact us. We have a team available to answer any questions you may have.

This guide may be updated from time to time. You can access the most up-to-date version on the CAO website.

Date: April 11, 2024

Acknowledgements

CAO would like to acknowledge the significant contributions of our Ontario based experts from Cosgrove & Co. Strategy Consulting Ltd. As well as all the members of our Advisory Panel.

CAO Contact Information

Please submit any inquiries via the [Contact Us](#) portal on our website.

Monday to Friday:
9:00 a.m. - 5:00 p.m.

CAO Local number – 416-901-9356
CAO Toll Free number – 844-880-5341

TTY (telephone device for the hearing impaired)

[Bell Relay Service](#)

Document Purpose

This Advanced Director Training Guide supplements CAO's Advanced Director Training Modules and serves to deepen participants' knowledge of issues affecting condominium living. This guide will provide condominium directors with assistance in identifying, understanding, resolving, and monitoring situations that arise in condominiums.

The Guide can be found below and may be updated from time to time. To confirm that you have the most current version, please visit the CAO website at www.condoauthorityontario.ca.

Introduction

Living in a condominium can bring many benefits to owners, but it can also bring unique challenges. Condominium living often means co-existing in close proximity to neighbours, sharing common elements, following common rules, and balancing lifestyle differences. These can all create issues, give rise to tensions, cause disagreements between an owner and the condominium board, or create problems between members of the condominium community.

Some issues will require condominium boards to think through legal complexities and find solutions that try to balance the needs of multiple stakeholders.

Since difficult situations of all kinds are inevitable, condominium boards should promote a community living mindset to all owners and be prepared to try to manage issues so that negative effects can be avoided, or at least minimized as much as possible.

Community Living Mindset



Living in a condominium can have unique challenges. Effective and transparent communication is one way the board of directors can contribute to promoting a safe, respectful, and inclusive condo community. Everyone has a right to feel safe, welcome, and respected. With this right comes the responsibility for everyone to be accountable for their actions and contribute to harmonious condo community living. This can be best practiced through civility, compromise, and patience.

What does Issues Management mean?

Issues management is the process of *proactively and effectively* dealing with problems or situations in such a way to minimize or avoid further harm, disruption in the community, and which positively impacts the well-being of owners.



Issues management is identifying, evaluating, responding to, and monitoring issues affecting the condominium.

Whenever a situation emerges, a condominium board is advised to address the matter quickly, efficiently, and as effectively as possible.

Known as ‘getting in front’ of a situation, proactive issues management enables condominium boards to quickly deal with a situation and hopefully resolve it – before it becomes an actual issue or emergency.

Key Definitions

Situation, problem, issue, emergency, crisis – these words are used every day, often interchangeably. However, they have distinct meaning in the world of issues management.

For the purposes of this guide, we will focus on the following three terms:

- A **situation** is an everyday occurrence, whether positive or negative.
- An **issue** is a problematic situation that has already surfaced, may cause negative impact or effect, and which warrants attention and action to avoid further escalation.
- An **emergency** is a serious and sometimes suddenly occurring event that poses an *immediate and serious risk* to health, life, the condominium’s property, or the broader environment. Emergency response is not covered in this guide.

Why Do Condominiums Need Good Issues Management?

Issues can create headaches or bad outcomes for the condominium board, and/or the owners it serves. Such situations can arise in many ways, from factors arising outside or inside the condominium, some of which may be under the control or influence of the condominium board, and some which are completely beyond its control. Issues seldom resolve themselves, and can result in some difficult and/or expensive problems for the condominium and its owners, such as:

- *Excessive financial costs* for projects that take too long and cost extra money, or costs for repair or remediation – all of which are ultimately borne by owners;
- *Protracted and complicated lawsuits*, which may have significant financial impact, but are also time-consuming and stressful for those involved in it;
- *Decreased market value* of condominium units;
- *Physical damage* to common elements and/or units;
- *Disruption* to an owner’s peaceful enjoyment of residential unit;
- *Tension* or unpleasantness in the condominium community;

- *Damage to the condominium's brand;*
- *Damage to their reputations of condominium directors or owners; and*
- *Criminal investigations.*

Escalating from Issues to Emergencies



When situations are not effectively and quickly resolved, they can become issues or even emergencies.

In many cases, emergencies may be judged in hindsight as issues that were not appropriately managed or were not acted upon quickly enough.

Proactive and effective issues management can help problems or situations from becoming issues or can reduce the severity of them and help to resolve them without further escalation.

Guiding Principles of Issue Management

Good issues management is practiced by professionals of all kinds – from governments at all levels, to public and private companies, project managers, marketing and public relations practitioners, and other sectors. There are many established practices in these sectors that condominium boards can leverage to avoid negative outcomes.

Some general practices and principles of effective issues management include:

- **Act quickly.** At the first sign of a problem, condominium boards should move quickly to assess and evaluate a potential issue. Decisions can then be made about how best to proceed, but if a situation is not properly understood or acted upon right away, it can become far more difficult to manage what has happened and decide what to do.
- **Get help at the right time.** It is a very good practice to self-reflect honestly and be open-minded to identify when the condominium board and/or condominium manager lacks the right skills, leadership, style, or time to effectively manage a problem. Engaging professionals to investigate and provide impartial advice – from lawyers of various types, obtaining an engineering report, or commissioning a noise study – can pay off in dividends to keep an issue from getting worse.

- **React with appropriate proportionality.** When dealing with an owner’s in-unit behaviour or lifestyle issues (e.g., noise, pet, smoking), it may be wise to first engage in a personal one-to-one conversation (or several conversations), before sending a legal letter or threatening legal action. While the behaviour can be highly annoying, directors should make every effort to stay calm and react to the situation proportionally, starting with a pleasant and neighbourly discussion of the issue. Many difficult people simply wish to be heard and will react positively to opportunities to share their views.
- **Make decisions transparently.** Condominium boards are often tempted to hold back important details, analysis or rationale for tough decisions, believing that owners may disagree with their thinking and get upset. This tends to have the opposite effect. Condominium boards should consider freely sharing non-confidential information (including minutes of their meetings) and assist owners in fully understanding the decision-making process and any analytical factors that were considered.
- **Manage projects effectively.** When major capital projects are being considered, condominium boards should strongly consider engaging their own independent, professional project manager to ensure that the project stays on track and on budget.

Effective project management is an important tool to help avoid issues before they happen and get problematic project situations back on track. While some contractors will propose a project manager on major projects, condominium boards should remember that this person is working for the contractor – not the condominium corporation.

- **Document everything clearly.** Human memory is not perfect. It is easy to lose track of issues over time, or to forget the minute details of how an issue evolved and what steps were taken to resolve it. Writing things down will help future boards understand how issues were managed (even if the proposed resolution is to have a verbal conversation with someone).

Another important tool in issues management is the creation and regular updating of an *Issue Log* [see Tip box below].

Tip: Using an Issue Log



An **issue log** is a highly effective tool used by professional project managers and other business professionals to accurately record, prioritize, and track issues *as they become known, and to capture changes over time.*

An issue log can be a simple list or a spreadsheet where problems, issues and situations are recorded. This allows condominium boards to document how they have responded to those issues with dates, names and details.

As soon as potential issues are identified (even before they are fully understood), they should be recorded in an issue log and discussed by the full board.

An issue log is best used for tracking and monitoring of issues over time, especially to monitor if the issue has escalated, or whether mitigating actions have been successful.

[Issue logs are further discussed in Section 4 of this Guide](#)

Referencing a set of guiding principles can be useful for the condominium board, as it can ask itself “Are we managing the issue based on our guiding principles? Or have we gotten distracted?”

Framework for Issues Management

There are four key components of effective issues management for successful condominium corporations.

Each component is described in a separate section of this document, and are outlined in the framework below:



Figure 1: High-Level Issues Management Process

Key Roles and Responsibilities

Many issues in a condominium community begin with a breach of condominium by-laws or rules. Common situations arise between owners, such as someone that refuses to stop smoking in their unit, misuses a common element, makes excessive noise, lists their unit on

short-term rental site in a condominium that prohibits this practice or obtains a pet in a pet-free condominium.

Issues can also arise from building or equipment that are not properly maintained, ineffective condominium management, poor communication practices or record-keeping, and/or poor governance resulting in confusion or unhappy owners.

Condominium Board of Directors

In any of these situations, the condominium board has a duty to follow the condominium corporation's by-laws and rules and implement them fairly and consistently.

The rules of the condominium corporation are typically initially set by the developer of the condominium and transferred to the new condominium board upon completion of the building. Rules are addressed by section 58 of the *Condominium Act, 1998* ("the Condo Act"), which indicates that rules exist to:

- Promote the safety, security, or welfare of owners and their property, as well as the condominium corporation's assets; and/
- Prevent unreasonable interference with the use and enjoyment of the units and common areas.

All owners and residents must follow the rules of the condominium corporation, and the condominium board must enforce the rules fairly and equitably. This means ensuring that each owner or resident who brings forward a complaint is taken seriously, and each person who breaks the rules is treated equitably and fairly.

However, enforcing rules can be difficult.

Owners may ignore attempts to enforce the rules. Staff may not be consistent in their application of the rules. Some condominium directors may break the rules themselves or have friends and/or family that live in the community, which creates challenges with enforcement.



Tip for Self-Managed Condominiums

For self-managed condominiums, the condominium board often plays a more active role in its day-to-day affairs.

They may have engaged a condominium director to fulfill the role of condominium manager. Alternatively, the full condominium board may be involved in operations.

It may be helpful to assign responsibility for issues management to one condominium director, which will allow for easier action and monitoring.

This condominium director can also be responsible for reporting on issue status to the condominium board.

As issues arise, condominium directors should act quickly, prudently, and communicate effectively with the community.

Condominium Manager

For condominium corporations that have a condominium manager, that person is the best source of issue prevention and the condominium corporation's 'first line of defence' as situations arise.

Professional condominium managers are typically responsible for the effective management of the condominium corporation's interests, on-site service staff (if any), and day to day operations such as:

- Routine inspections of the building(s) and equipment;
- Responding to owner complaints;
- Monitoring the performance of third-party vendors;
- Keeping good records; and
- Engaging the condominium board proactively to report, identify, assess, and manage problems and issues.

The condominium board should regularly consult with and engage the condominium manager for information and insights about active situations and potential issues. However, the condominium board should not rely exclusively on the condominium manager to identify and manage issues.

Condominium directors also have an obligation to follow up independently on situations, ask good questions, and ensure that communications to the community have been timely and transparent.

Assigning an Issue Owner

As issues arise, it is a best practice to immediately assign each one to an *Issue Owner*. This role is given to the primary person responsible for the monitoring of an issue and

reporting to the condominium board. Depending on the situation, an issue owner might also be responsible for:

- Obtaining more information on the situation;
- Speaking with professional advisors to brief them on the situation and obtaining their advice;
- Putting a special committee together and/or chairing its meetings;
- Working with lawyers to prepare legal letters, legal papers or attend court; and
- Preparing a document explaining the situation and options available for distribution to the condominium board, or perhaps the community.

An issue owner can be anyone in a position of overseeing and monitoring changes in an issue, such as the condominium board president, another condominium director, or a member of the condominium corporation's personnel.

Where a condominium manager exists, it is common for multiple issues to be assigned to this person. Other issues may be assigned to the building superintendent, or the head of security, or cleaner, where appropriate. However, the condominium board is still ultimately accountable for ensuring that issues are effectively resolved. If an issue owner fails to do their job and does not effectively monitor the issue, this becomes another problem or issue for the condominium board.

Over time, the issue owner may change depending on the specific resolution and response selected by the condominium board.

Over and above other duties, the issue owner is responsible for monitoring and reporting back to the condominium board any changes in the issue's status.

For topics of significance or severity, such as ongoing legal action, issues being resolved with special committees, or community disruption, it may be wise to assign a condominium director to be the issue owner.

Importance of Good Documentation

Many condominium corporations keep an issue log to document issues as they arise, and the decisions that are made to try to resolve them. Issue logs are described in detail in Section 4 of this document.

In general, it is important that condominium directors carefully document everything within the issues management process. Condominium directors should ensure that good notes are taken in every meeting and phone call, and that all approaches, strategies, plans, and actions are detailed and documented, especially when a decision is made about a particular course of action.

For more complex issues, the condominium corporation should keep a dedicated file and ensure that it contains all records in one place, such as correspondence, facts, notes from meetings, studies, and consultant reports.

More information on issues documentation is found in the next chapter of this document.

Developing an Issues Management ‘Mindset’

Dealing with issues can be constant, intimidating, and challenging in a condominium. It can mean initiating awkward or tense conversations with owners, discussing sensitive or unwelcome financial proposals, or enforcing unpopular rules.

As a result, some condominium directors may be tempted to delay or ignore issues to avoid an uncomfortable situation. In most situations, this will likely worsen the issue, or impede the condominium board’s ability to cost-effectively manage it down the road.

Condominium directors should always be aware that situations can quickly escalate into issues or emergencies and need to be ‘actively managed.’

Actively managing issues means being willing to perform analysis, review the facts before making up one’s mind, have tough conversations, and take the extra time to assess a range of options before deciding how best to resolve the issue.

Most importantly, to avoid or reduce issues from escalating to harassing or aggressive behaviour, it is important for condominium boards to be proactive and set expectations about appropriate behaviours to create a safe, respectful, and inclusive condominium community.

Guiding Principles for Promoting Safe and Respectful Condo Communities

Everyone has a right to feel safe, welcome, and respected.

Some guiding principles for maintaining a safe, respectful, and inclusive condo community include:



1. Promoting positive behaviour;
2. Not tolerating any form of harassment including bullying, discrimination or sexual harassment from any individual;
3. Not tolerating any form of violence from any individual;
4. Regularly communicating a commitment to a safe and respectful environment;
5. Maintain ongoing efforts to resolve issues early and identify risks

6. Intervening as necessary to prevent inappropriate behaviour; and
7. Addressing inappropriate behaviour with appropriate steps and consequences.

When addressing issues of violence and harassment condominium boards will want to consider:

- Whether the condominium's declaration, by-laws, rules, or policies apply.
- Whether the actions of the individual are likely to damage property or cause an injury or an illness to an individual? If so, [Section 117 \(1\)](#) of the *Condominium Act* may apply.
- Whether the *Occupational Health and Safety Act* is applicable if the issue is directed at workers.

Reporting Issues to the Condominium Board

A primary function of a condominium board is risk management. Issues and risks need to be reported to the condominium board accurately and in a timely manner.

The emergence of an issue, the decisions and response plan for an issue, and changes in the issue's status should be provided to the condominium board. It may be helpful for the condominium board to discuss and align expectations on the following:

- What is our process for issue reporting?
- How often should the condominium board receive a written report on issues? From whom?
- How often should the condominium board receive a verbal report? From whom? What content or message is appropriate for a verbal update (e.g., non-material update)?
- What information should be included in the report?
- Who will give the report?
- Can information about the issue be recorded in the general minutes of the condominium board meeting, or should it be moved to an *in camera* session?
CAUTION: issues related to specific owners should always be discussed *in camera*.

1 – Identify

The first step in effective issues management is to *identify* the issues that have already occurred, and those which may arise in future.

In a condominium, many potential issues can be anticipated. For that reason, issues management should begin before any situations have even occurred.

A critical component of good issues management is *accepting* that issues will inevitably arise, despite even robust planning, and *anticipating* which issues the condominium might face.

Which Issues Might Arise in a Condominium?

Condominium boards can face issues that arise from a range of internal and external factors. Some of the most common issues arise because of:

- The condominium's **current financial position, and its financial outlook for the future**
- **The habits and choices made by owners** – their in-unit behaviour, personal lifestyle choices, willingness to follow rules, and how they interact with other owners. Potential issues might include:
 - Smoking;
 - Wood-burning fireplaces;
 - BBQs on balconies;
 - Noise issues;
 - Unpleasant odours;
 - Cannabis use or production;
 - Pets;
 - Short-term rentals in breach of rules; and
 - Excessive use, or monopolizing, of common elements, space and/or equipment.
- **Governance processes and decisions made by the condominium board** – how effectively the condominium board and condominium directors oversee or manage

the business of the condominium corporation, make decisions, and communicate with the community, including whether or not to engage a professional condominium manager.

Issues related to how the condominium board manages the condominium corporation's financial affairs might result in overspending, unpopular capital and operating decisions, reserve funding, increasing maintenance fees, special assessments, ineffective capital project management leading to cost overruns and quality concerns.

Governance-specific issues might include:

- Inability to recruit new condominium directors;
- Excessively long tenured condominium directors;
- Inconsistent application of the condominium by-laws or rules;
- Lack of transparency;
- Poorly organized Annual General Meetings (AGMs) or other owners' meetings;
- Volatile or self-interested condominium directors;
- Dysfunctional condominium boards;
- Controversial condominium board elections;
- Poor contract management and record-keeping; and
- Issues related to shared facility or reciprocal agreements with other condominium corporations.

Other Types of Issues. Other types of issues might originate with:

- Building and mechanical issues, such as:
 - Upkeep, repair and replacement of major equipment or mechanical systems;
 - Repair, restoration and addressing issues related to structures in the physical environment; and
 - Other infrastructure or system issues in the building, such as leaking roofs or pools.
- Management and service provider issues, such as:
 - Decisions related to uniform application of the condominium's rules;

- Underperforming condominium manager;
- Security services;
- Staff scheduling and performance;
- Building cleanliness; and
- Landscaping.
- Community issues, such as:
 - Complaints;
 - Disruptions at Annual General Meetings or owner meetings;
 - Cliques or factions within the community;
 - Poor community relations; and
 - Lack of engagement of owners in condominium life leading to confusion, disagreements, volatility, or rule-breaking by owners or residents.
- External environment issues, such as:
 - Increased street crime and similar (e.g., petty theft, vandalism);
 - Changes in local regulations or municipal by-laws impacting the condominium and its residents (e.g., parking); and
 - Issues with neighbouring buildings or new developments that might impact the condominium.

Anticipating Issues

There are many points in time at which potential issues could be identified or anticipated. Some of these include:

During the strategic planning process

A best practice for condominium corporations is to perform *strategic planning*, which will foster a shared vision for the community in the future and assist in aligning owner expectations on various topics. The planning process and inputs will vary by community and circumstances. However, in general a strategic plan aims to answer three core questions:

- *Where are we now?*
- *Where are we going?*
- *How will we get there?*

Discussing these three questions with the broader community will assist in understanding owner expectations for the internal environment and their envisioned quality of life: (e.g., interior décor, landscaping, and gardening, 24-hour security). These can be documented and agreed upon as part of strategic planning.

The condominium board can then factor owner expectations into important purchasing and other decisions (such as scoping a lobby renovation project and engaging a contractor and/or a landscaper). If owner expectations are misaligned with how the condominium is being run or overseen, issues may be anticipated.

EXAMPLE

In a condominium corporation's strategic planning process, a large percentage of owners communicated a strong vision for hotel-quality décor and finishes in the common areas.

A year later, the condominium board tendered for a lobby renovation project, but decided to proceed with a lowest-bidding contractor who proposes to use 'builder-basic' tile, countertops, and light fixtures. The condominium board's intention was to minimize the expense of the project; however, this intention may not be aligned with owners' expectations for 'hotel-like finishes.' It is likely that some owners will complain about the lobby project, and the condominium board may have extra headaches.

Many issues can be anticipated (and avoided) by aligning on a shared vision through strategic planning.

In the event that misalignments can be anticipated, such as in the example above, steps can be taken to discuss with owners and/or make other arrangements *before* the issue becomes a major problem in the community.

Inputs to budgeting and forecasting

As previously mentioned, all condominium boards should anticipate that issues will arise from time to time. Many of these will have a financial impact which may or may not have been factored into the budget.

Some issues will require extra repair or maintenance to resolve, but do not represent a material impact to the condominium's financial position. Other issues (such as being involved in a lawsuit) can be extremely expensive, hard to predict the outcome for, but may require significant funds to address.

For that reason, condominium boards may wish to set aside a small fund to address active and/or potential issues.

Emergency planning

Some emergencies arise without warning. Unfortunately, other emergencies do not begin as a complete surprise – in fact, in many cases, emergencies may have started as potential issues that in hindsight may not have been sufficiently or effectively managed, and ultimately escalated into an actual emergency.

The process of emergency planning takes a good look at the condominium's internal vulnerabilities, including the condition of the physical structures, the mix of owners in the community, and other factors which could contribute to issues arising in the condominium.

Condominium boards that establish clear procedures and effectively communicate expectations to owners, residents, and condo staff put themselves in a better position to reduce potential issues and mitigate risks. To assist condominium boards in preparing for emergencies, the CAO has created a [guide on emergency planning](#).

Other 'Signals' and Indicators

So, how does the condominium board know something is becoming a growing issue? Condominium boards can look to several different indicators to determine if a situation is becoming an issue, such as:

Owner Behaviour

- In a condominium, it is difficult to satisfy everyone. Some owners may overreact to problems, interfere, and cause disruption;
- While some level of dissatisfaction can be expected on any topic and is normal, condominium directors should be on the look-out for problems that trigger owners to become significantly upset or angry; and
- When owners show they are visibly angry, emotional, or otherwise upset, the condominium board should pay very careful attention. This is usually an indication that an issue is at risk of escalation.

Annual General Meetings/Owner Requisitioned Meetings

- Annual General Meetings (AGMs) and owner requisitioned meetings are a primary opportunity for condominium board and owners to meet in a formal setting. AGMs and owner requisitioned meetings should be well-planned and transparent;
- In addition to mandatory business that takes place at these meetings, they should address the important topics relevant to the community at that time;
- If the AGM tends to be dominated by the same topics, or the same topics have appeared on agendas for several years, this is a good indication that there is a problem or issue that needs more attention;
- Similarly, if owners have requisitioned a meeting to discuss a specific topic, there is a good chance a percentage of them are not happy and the condominium board should pay careful attention; and
- If AGM or owner meetings do not go smoothly and owners continue to appear upset or angry as described above, this is usually an indication that an issue is at risk of, or has already, escalated.

Condominium Board Minutes

- Recorded minutes may not be clear or may suggest condominium directors disagree on a certain topic;
- Historical minutes may also suggest that a particular issue has plagued the condominium corporation for a long time and needs to be resolved; and
- Minutes can also indicate that meetings are dominated by one or more condominium directors, or that appropriate due diligence has not been performed on a particular issue.

Project Milestones Missed

- Contractors or service providers missing milestones or deadlines is a big red flag that projects and contracts are not being effectively managed;
- Ineffective project management is a frequent contributor to issues arising in a condominium;
- All missed milestones and weak contractor performance should be actively investigated to avoid further delay, cost overrun, or other negative outcomes; and
- If necessary, professional project managers can be brought in to assist in getting projects back on track.

Employee Issues and Complaints

- Condominium boards must investigate when they first learn of employee conduct issues, questionable ethical behaviour, or other serious performance issues;
- Failure to respond to resident requests, missed milestones and/or absenteeism are all indicative of an emerging performance issue; and

Similarly, the condominium board should actively investigate any concerns and complaints reported by employees, such as inappropriate conduct, discriminatory remarks or bullying behaviour by an owner/resident or supplier.

Complaints and Owner Petitions

- An increase in owner complaints is a sign of a looming issue. The condominium board should be aware of and respond to these issues, especially if multiple owners seek solutions to the same situation.

Letters From Owners

- When owners send you a formal letter, condominium boards should take notice. Formal letters are sometimes a precursor to legal action.
- Condominium boards should not only review carefully the complaint or concern, but also pay close attention to any statements or accusations made against condominium directors or condominium manager. *Letters From Lawyers*
- Any formal legal letter received by the corporation is a serious red flag issue; and
- Condominium boards should engage legal counsel and respond only with the advice of a qualified professional.

Properties Sell Slowly or Sell Below Expected Price

- Declining sales values or slow-moving sales can be an indicator that the condominium's market value has declined; and
- The condominium board may wish to explore if the slowdown has been caused by broader market forces, or whether there is an issue affecting the condominium's brand and market value.

While owners and residents should be encouraged to report issues, raise complaints, and voice their concerns, it is important that both parties can distinguish between behaviour and communication that is acceptable and that which is inappropriate. As a best practice the board of directors should ensure that the condominium corporation's governing documents set this standard.

Importance of Good Documentation

Condominiums often face multiple issues at one time, often in varying stages of resolution.

It can be challenging to recall the details of every issue, and it can be impossible to report effectively and monitor the situation without good documentation. Condominium boards should make documentation a priority when new issues arise. Documentation can include but is not limited to:

- Dates, times, and details of an issue occurring;
- Names of all participants, witnesses, and/or impacted parties;
- Copies of emails or letters that have been sent/received about the issue;
- Copies of consultant and/or engineering reports or studies done to investigate or resolve the issue;
- Photographs and videos;
- Security camera footage;
- Equipment maintenance records;
- Staffing schedule for the dates in question;
- Employee attendance records for the dates in question; and
- Receipts and other financial records.

It can be helpful to document in the issue log (see Section 4 of this document) that certain information exists. Condominium boards should also maintain electronic and/or paper files on any significant issues that cannot be quickly resolved.

Condominium boards will also need to consider whether the information included in the issue documentation constitutes a record under section 55 of the Condo Act, and/or section 13.1 of Ontario Regulation 48/01.

For more information on condominium records, please see the [CAO Guide to Condo Records](#).

2 – Evaluate

Once an issue has been identified, the condominium board should move into the second step: **Evaluate**.

As previously described, as soon as an issue is identified, it should be assigned an issue owner and begin to be actively tracked.

This activity will help the condominium board understand the issue's unique circumstances, who is involved, how it arose, and what to do about it. [See Step 4 of this guide for more information on issue tracking and monitoring.](#)

It is important to note that some issues may not be quickly or easily resolved. They can be actively monitored for change or while pending professional opinion, which may take time.

However, the condominium board should ensure that its actions are clear at all times. In virtually no circumstances should issues 'linger' without clear understanding of the current status of the issue, what the next steps are, and who is tasked to manage that issue.

When condominium boards find themselves in situations where issues are lingering for a long time, the prudent action is to re-evaluate the situation and try to find new actions to respond with a goal of resolving the issue. This is covered in more detail in the next chapter of this document.

Understanding the Core Issue

Issues sometimes arise when there is confusion about the circumstances or a 'rush to judgement' about why something happened.

When first trying to decide what to do about an issue, it is important to understand **why** the issue occurred in the first place.



Condominium boards must work to understand the core issue, without delaying a timely response.

Issues should be evaluated on a case-by-case basis. Even if an issue seems to be exactly like something that occurred previously, it is wise to evaluate the issue fully, and with an open mind, each time something occurs.



The same residential unit owner complains of a recurring noise issue over several months. The noise being experienced may be related to the condominium's HVAC system, noise from an adjacent residential unit, a commercial unit located below, a recently replaced or serviced piece of equipment, a poorly maintained garage door – or all of the above.

Unless it is clear what exactly is causing the problem, the wrong action could be taken by the board.

Simple Evaluation – “Five Ws”

Understanding the underlying cause or core issue can be done quickly and effectively using the 5 Ws approach – who, what, where, when and why. This model is familiar to many people and allows directors and condominium managers to understand the situation from several angles:

1. **What is the issue exactly?** What is the core issue? Have we collected all the right information, or are we guessing? Do we need to engage external consultants to better understand the issue (e.g., engineers, lawyers, others)? What expert studies or reports has the condominium already obtained that might cover this topic? Could it be related to a similar past issue?
2. **Who does the issue involve?** Who will investigate the issue on behalf of the condominium? Which owners or other stakeholders are involved, and how? How have paid staff and condominium managers been involved? Any third-parties such as suppliers or contractors? Neighbours? What part does each play? Were there witnesses?
3. **Where did the issue take place?** Did it occur on common property? In an owner’s unit?
4. **When exactly did the issue occur?** What was the exact date and time for our issue log? Is this a recurring or a one-time event? If recurring, on what dates / times exactly?
5. **Why did the issue happen?** Without casting blame, do we have a good understanding of what truly caused the issue? How can we prevent it from occurring again?

Condominium directors should avoid the temptation to jump to conclusions about the likely outcome or approach that might be necessary and should make efforts to understand the *root cause* for each issue.

It also should be noted that asking these five questions should not be perceived as assigning blame for problems arising in the condominium – that is not helpful or appropriate for directors to do.

Instead, it is more helpful to take the time to understand the unique circumstances, what precipitated the issue, and what the options might be for resolving it.

More Complex Evaluation – Obtaining Advice

Some issues are more complex than can be evaluated without professional help. Condominium boards may choose to engage an outside professional advisor to review the situation and provide their opinion. Professional advisors can include:

- **Reserve fund study providers;**
- **Accountants** and other financial professionals (e.g., bookkeepers, investment advisors);
- **Lawyers** practicing in different fields (e.g., employment law, condominium law);
- **Architects** and design professionals;
- **Engineers** from different specializations (e.g., structural, mechanical, civil); and
- **Other types of consultants** (e.g., construction management, security, acoustic).

Professional advisors can provide their opinion on how severe a situation is, the options available to address it, and sometimes an estimate of the costs or process to resolve the issue.

For most issues, the advisor will need to perform an inspection or investigation before rendering their opinion. Condominium boards may be able to solicit a written report from the consultant to provide documentation and to inform its decision-making.

Acting without a good understanding of the root cause could lead to ineffective or unfair outcomes, or even unnecessary cost.

Assessing Impacts and its Severity

The type, severity, and magnitude of the issues impact should influence how quickly the condominium board acts to resolve it. While issues should not be pending indefinitely, some issues require faster action to be taken. When assessing an issue, a few basic things should be considered:

- An initial assessment should be done when the issue is identified. A key input to assessing the situation is whether the issue is at risk of escalating to an even more serious situation;
- A simple way of assessing severity is to rate each issue on a scale of one (1) to three (3), where one (1) is 'least severe' and three (3) is 'most severe';
- If the issue has a strong potential to escalate, then severity may be high. Action should be taken more quickly in such cases;

- This assessment should be included in the issue log and updated as needed;
- This rating can be adjusted if the condominium board learns the issue is more severe than originally understood, or if its status changes over time; and
- When issues increase in severity, they should be actively monitored even more closely.

A more advanced method of assessing issues is to assign them an issue type (e.g., governance, mechanical, other). Then a low/medium/high impact can be assigned, based on pre-defined criteria.

An example of this assessment method is shown in the table below:

Type of Impact	Examples of Impacts and their Ratings
Financial	<ul style="list-style-type: none"> • Low - Issues that can be managed within the condominium corporation's approved operating budget. • Medium - Issues that cannot be managed within the approved operating budget, but which have expenses that can be covered fully or in large part by the reserve fund. Care should be taken to ensure these expenses are eligible under section 93 (2) of <i>the Condo Act</i> (e.g., major repairs or replacements). • High – Issues that cannot be covered by either the approved budget or reserve fund and which may be high enough to require a special assessment or significant increase in common expenses fees.
Health or Safety	<ul style="list-style-type: none"> • Low – Issues that are unlikely to have a negative effect on health or safety, or which can be overcome relatively easily and quickly • Medium – Issues that have already had some negative effect on health or safety • High – Issues with have already caused, or which might cause serious illness, serious injury or loss of life
Quality of Life and Enjoyment	<ul style="list-style-type: none"> • Low – Minimum impact on owner quality of life or enjoyment of their units (e.g., owners are occasionally disrupted or prevented from fully enjoying their units at all times)

Type of Impact	Examples of Impacts and their Ratings
	<ul style="list-style-type: none"> • Medium – Moderate impact on owner quality of life or enjoyment of their units (e.g., owners are frequently disrupted, or otherwise prevented from fully enjoying their units at all times) • High – High impact on owner quality of life or enjoyment of their units (e.g., owners are forced to vacate their unit temporarily or permanently)
Building/Mechanical Components	<ul style="list-style-type: none"> • Low – Issues which might cause inefficiency or damage to the integrity of the condominium’s building, roof(s), HVAC system, elevator, etc. • Medium - Issues which have already caused inefficiency or damage to the integrity of the condominium’s building, roof(s), HVAC system, elevator, etc. • High - Issues which have already caused damage to the building mechanicals or infrastructure.
Unit Value (also known as Return on Investment or “ROI”)	<ul style="list-style-type: none"> • Low – Minimal impact to owner ROI • Medium – Moderate impact to owner ROI • High – High impact to owner ROI
Harassing or threatening communication and/or violent behaviour	<ul style="list-style-type: none"> • Low – The individual’s behaviour could be considered annoying and distracting but not aggressive and threatening in nature. • Medium – The individual’s behaviour is not compliant with the governing documents of the corporation, may be considered either an unreasonable nuisance or a prohibited condition or activity under section 117 of the <i>Condo Act</i>, and if directed at workers could be defined as workplace harassment, workplace sexual harassment, or workplace violence under the <u>Occupational Health and Safety Act, 1990</u>. • High – The individual has made direct threats and/or has engaged in violent behaviour threatening the safety of staff, directors, a specific owner and/or the larger community. Boards encountering issues of this nature should review section 117 (1) of the <i>Condo Act</i>.

3 – Respond & Resolve

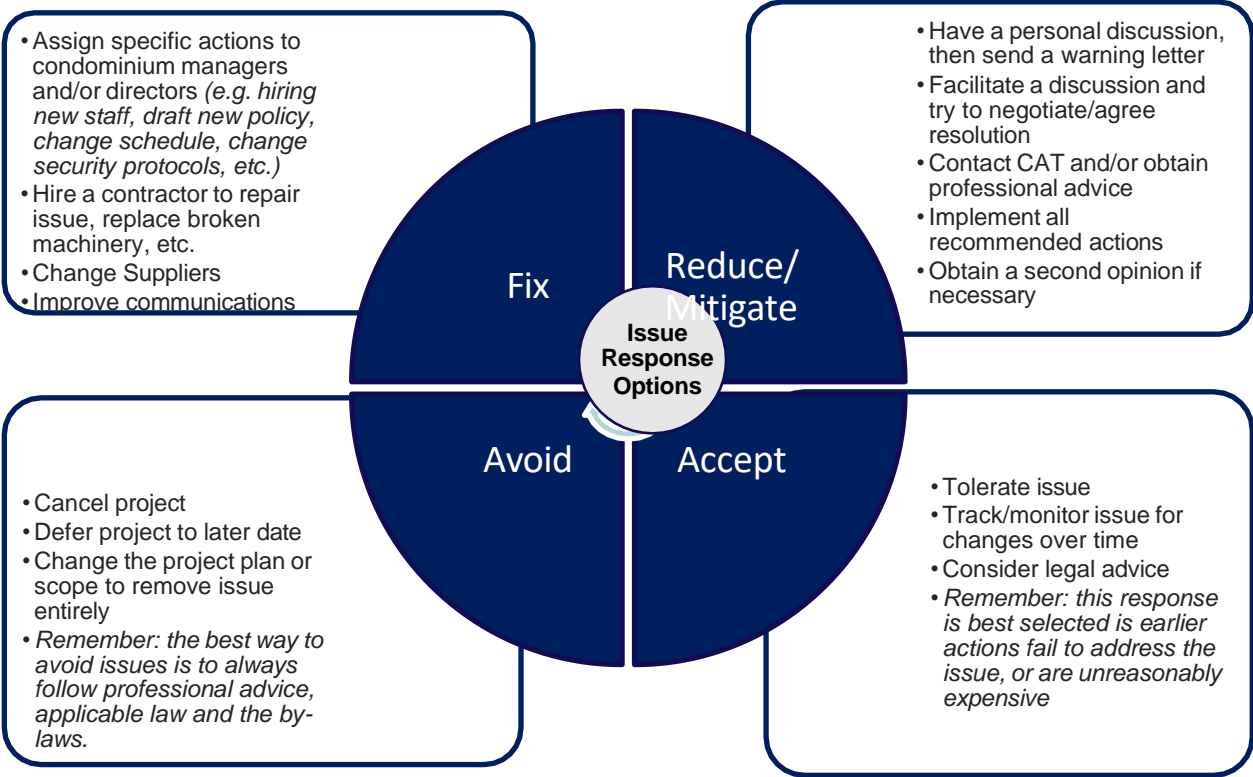
The third step of the issues management process is Respond & Resolve.

Earlier steps in the process typically provide condominium boards with more information on an issue, and a range of options on how to resolve it. In the third step, that information options will be acted upon, and the appropriate response will be selected and implemented.

The condominium board will often have a range of response options to choose from, in order to *respond to the issue*. Selecting the right course of action to respond with is the logical next step.

Responding to Issues

The options available for most issues can generally be categorized into four responses: *Fix*, *Mitigate*, *Avoid*, and *Accept*, which are described in the diagram below:



Not every issue will have all four responses available. For example, when major health and safety issues arise, *Accept* may not be an appropriate response. Or, for issues with extremely high costs (such as digging up a buried oil tank beneath the parking garage, before any leaking or issues have arisen), *Fix* may not be an option.

The right response could be somewhere in between, and some issues will have multiple responses.

Each of the four response options are described in detail in the table below:

Response Option	Description
Fix	<p>Many issues can be resolved with direct action from the condominium board and/or condominium manager.</p> <p>Available responses will vary by the nature of the issue, however “fix” actions are often obvious and easy to implement. When selecting Fix actions, it is helpful to decide if the action will reasonably be expected to fully resolve the issue.</p> <p>Examples might include</p> <ul style="list-style-type: none"> • Engaging a contractor to perform a repair or replacing a broken piece of equipment • Hiring more staff or changing their schedules to better align with operating needs • Changing specific operating procedures • Switching suppliers to one will guarantee a faster response time; • Other specific action that the condominium board has direct control over.
Reduce or Mitigate	<p>Reduce or Mitigate responses to an issue will vary based on the issue’s unique circumstances.</p> <p>Some issues can only be lessened, reduced or mitigated, because the issue is not within the full or direct control of the condominium board, or because there is no way to completely eliminate the source of the problem.</p>

	<p>Example: For a noise complaint, the condominium board may consider include one or more of:</p> <ul style="list-style-type: none"> • Having a polite and personal discussion with the owner or third-party that is perceived as creating the problem, gently explaining the concerns and asking for cooperation (e.g., asking them to reduce noise late at night, installing area rugs on hardwood floors). • Sending a warning letter from the condominium board to the offending party (e.g., documenting the issue, citing the by-law or rule that is being broken, and demanding that the offending party comply with condominium rules). • Engaging professional advisors to perform testing and a thorough investigation of the issue; • Engaging a qualified contractor to implement recommendations made by professional advisors <p>Schedule follow-up testing to assess whether mitigations have been effective (e.g., installing noise-reducing floor mats, adding insulation and thicker drywall to the walls, adding noise-cancelling sound panels).It should be noted that in condominium communities, many people live in adjacent units and share tight physical spaces such as hallways. It may be unrealistic to fully eliminate issues that arise from neighbours or communal living – but it can usually be improved.</p>
<p>Avoid</p>	<p>The best line of defense in avoiding issues is to always act in accordance with the Condo Act, applicable legislation, and precisely follow the condominium corporation’s governing documents.</p> <p>Some issues can be avoided entirely by changing a plan or taking an alternative approach that will not allow an issue to arise in the first place. While this can be a tough decision, it often provides much greater certainty to the condominium board or community.</p> <p>Example: If multiple bids for a major project come in much higher than expected, an issue arises that the reserve fund does not have enough money to cover he expense. The condominium board may decide to cancel or defer the project to another time, which will allow the reserve fund to be built up.</p> <p>Example: The condominium board discovers a significant</p>

	<p>mistake was made in a procurement process, which may have impacted the bidders' understanding of scope and the prices they offered. Bids have been received but the contract has not been awarded yet.</p> <p>While it could be tempting to try to salvage the process and provide bidders with new information, the condominium board may decide to cancel the procurement process completely, and start a fresh process. This way the condominium board can avoid any legal issues that arise from confusion or misunderstanding with bidders.</p>
<p>Accept</p>	<p>In a condominium community environment, the condominium board must think carefully about whether to accept an issue is occurring but do nothing about it.</p> <p>Some issues may be within the board's control and influence and many attempts may have been made to resolve the issue. However at some stage, there may be no further options available.</p> <p>Condominium boards should get advice on whether sufficient attempts have been made, and if accepting the issue is an acceptable response.</p> <p>Example 1: A unit owner complains of noise from a piece of mechanical equipment. The corporation takes all reasonable steps to investigate and try to resolve the concern. Over time the noise is somewhat reduced, but still audible to the unit owner.</p> <p>Although the unit owner is not fully satisfied, there are no further steps that can be taken by the corporation. A claim against the corporation is unlikely at this stage, so the corporation may accept the noise complaint as an issue and monitor over time to ensure that it does not get worse.</p> <p>Example 2: A second floor unit owner complains of odours arising from a ground level restaurant that is directly below the unit. The corporation engages the appropriate consultants and performs a thorough investigation.</p> <p>Although all possible air transmissions have been appropriately filtered and the restaurant windows sealed, some odour persists. The owner is unhappy but based on expert advice and mutual good faith efforts to try to resolve the issue, the condominium board is out of options. The lawyers agree there</p>

	<p>are no further steps that the condominium board can reasonably take.</p> <p>In both examples, the condominium corporation may accept the issues as unresolved and continue to monitor over time. If the issue worsens, the issue should be re-opened and re-investigated to see if new solutions can be identified.</p> <p>Example 3: Other issues may be Accepted because they are outside of the board’s control, such as changing legislation or decisions made by the municipality.</p> <p>A condominium community is worried about a potential new development that may encroach on the condominium’s property or impact on-street parking availability. While owners may choose to participate in public consultations or letter-writing campaigns, there is no specific action that the board can take to address the issue and influence its outcome. It may be forced to Accept (or tolerate the issue), and monitor for change over time.</p>
--	---

Reducing the Choices

Some issues have more than one option to consider as a potential resolution. Condominium boards sometimes struggle to decide which option to choose, which can create tension or confusion that delays resolution of the problem.

With few exceptions, condominium boards should try to make reasonable decisions in a timely manner. There is little benefit in long delays once information has become available.

For those issues that might have more than one potential resolution, it can be helpful to reduce the number of options or choices available.



The responsibility of the condominium board is to review the facts and options available and come to its own decision about a timely and effective response.

The condominium board may wish to **consider which options can be fully eliminated or thrown out**, perhaps due to their exceptionally high cost, unreasonably long time required to implement, or their low probability of success. It can help to take those options off the list altogether and move forward with a few choices that are more realistic.

In this way, the condominium board has a shorter list of response options to consider and can make faster decisions.

Options Analysis

The remaining response options can then be reviewed and prioritized more easily. It may be helpful to perform options analysis before choosing a path forward. Options analysis can provide objectivity and better inform the condominium board’s decision-making process.

Options analysis can be more formal or less formal. Some examples of options analysis include:

Type of Analysis	Common Scenarios
<p>Informal analytical techniques, <i>such as</i>:</p> <ul style="list-style-type: none"> • Elimination (throwing out options that are cost-prohibitive or will take too long, as described above) • Brainstorming • Shortlisting • Identifying pros and cons • Listing advantages and disadvantages 	<ul style="list-style-type: none"> • Simple or routine expenses or decisions • Issues with many possible solutions or options to consider • Issues with short-term, low impact consequences
<p>Formal analytical techniques, <i>such as</i>:</p> <ul style="list-style-type: none"> • Comparative analysis/management analysis • Engineering study • Feasibility study • Investment appraisals • Cost-benefit analysis or cost comparison • Business case development 	<ul style="list-style-type: none"> • Major expenses or complex decisions • Issues with a small number of options or choices (e.g., two (2) to three (3) maximum) • Issues with long-term, high impact consequences • Examples: <ul style="list-style-type: none"> ○ Moving from a self-managed condominium to engaging/employing a professional condominium manager ○ Major purchases, capital projects and capital expenses ○ Major construction projects

	○ Windows replacement
--	-----------------------

When evaluating options, it is important to consider both short- and long-term consequences of each option.

One of the key approaches to formal options analysis is the development of **selection criteria**. Criteria may be unique to the condominium, or vary by the issue, however some commonly considered selection criteria include:

- Probability of resolving the issue successfully;
- Estimated cost;
- Ease of implementation;
- Speed of implementation; and
- Other factor(s) that may align with the condominium’s values or influence the condominium board’s decision (e.g., “green” or environmentally friendly solution; locally sourced supplier or product; 24-hour availability; preferred construction material; etc.)

A maximum of 4 or 5 criteria are suggested. More than that become too cumbersome and the condominium board’s priorities become unclear.

Prioritization of Options

Prioritization means making choices about which factors are more important than others. When using formal selection criteria as described above, it can be helpful to evaluate each option on a scale. For example:

- Options can be rated on a simple scale for each criterion (such as a scale of one (1) to five (5), where one (1) = low and five (5) = high);
- Then the total scores are added up; and
- The option with the top score is likely to be one of the best courses of action

Theoretically, the option that scores the highest is the ‘best’ option and should be strongly considered by the board for implementation.

Developing the response and taking action

Once the decision has been made about which response option will be actioned, the condominium’s agreed course of action should be documented – sometimes in a **response plan**.

Most issues will not require a detailed response plan. The issue log described in earlier sections can be used to document key information and decisions. Fields commonly added to the issue log to document the response include:

- Issue owner (if different than when the issue was originally identified);
- Options considered;
- Response selected;
- Date that the response will be implemented; and
- Additional notes.

More complex issues may benefit from a written **response plan** that documents the condominium board’s agreed plan of action, along with items necessary to assist the condominium board in implementing the response and communicating the decision effectively to the community.

For example, a response plan typically documents all aspects of the issue (e.g., when it was identified, any earlier attempts to resolve the issue, and writes up the information outlined above). The response plan may also include:

- Description of the response or action selected;
- How response was selected (e.g., selection criteria considered, analysis performed, pros and cons, etc.);

- Response team (e.g., the suppliers or consultants that will be engaged to respond, as well as issue owner who will be responsible for overseeing the response and reporting to the board);
- Response workplan to implement the response;
- Response budget and estimated costs;
- Key milestones; and
- Communications plan for owners and other stakeholders.

Common issues and responses

There are several types of issues that come up in condominium that create disruptions and confusion. Some of the common issues include:

- Records;
- Infestation;
- Light;
- Smoke and Vapour;
- Noise and vibrations;
- Odours;
- Pets and animals;
- Parking and storage;
- Meetings;
- Condominium managers;
- Vehicles;
- Short-term rentals.

The CAO has developed step-by-step guidance for each of these situations that can be used by condominium directors and boards. Boards facing these types of issues are encouraged to consult the CAO's guidance on the website [here](#), and attempt to resolve the situation collaboratively.

The CAO also provides allows owners and condominium boards to bring a dispute to the **Condominium Authority Tribunal** ("CAT"), which has been established to provide the condominium community in Ontario with a formal dispute resolution process for certain dispute types. For more information on the CAT, including dispute types within its jurisdiction and dispute resolution process, please click [here](#).

Other issues and responses

The CAO's Guided Steps to Common Issues process can assist in resolving any issues that are not listed above. See below:

Step 1: Understand the Issue

A good starting point often is a simple discussion in which information is communicated in a personal manner between the parties. Many issues are compounded by assumptions or misinformation that can easily be cleared up with a personal conversation.

As a rule, phone calls are more effective than emails or text messages to find common ground and agree a solution. A face-to-face meeting is often more effective than other methods to clarify any confusion, and to align parties on next steps.

Condominium boards may also have consulted with their lawyer or external experts to obtain additional information or analysis on the issue that has arisen. Reports and communications from experts can be invaluable to understanding the issue and the range of options available to resolve it.

Step 2: Legal Considerations

The condominium board should consult the condominium corporation's governing documents to identify specific actions or processes that must be taken, as well as obtain any guidance or relevant information that could be helpful. The governing documents that should be consulted are (in order of priority) the Condo Act, the declaration, the by-laws, and the rules.

A condominium corporation's governing documents are required to be consistent with the Condo Act. In addition, a condominium corporation's by-laws and rules must be consistent with the declaration and must be reasonable.

A review of the governing documents may identify a rule that needs to be clarified, or a point of confusion with the owner. In any event, the condominium board must ensure that the by-laws and rules are applied consistently and equitably to all owners.

Step 3: Solutions

While it is always good practice to have initial verbal discussions with the parties involved, the written word is still more powerful than verbal communication if initial efforts have not yielded results.

At some stage, the condominium board may decide that sending a formal letter – on condominium corporation letterhead, signed by the condominium board president.

Sending correspondence by Canada Post Registered Mail sends an even stronger message and will allow the condominium board to obtain a signature that the message was received.

Step 4: Additional Help

If talking the issue over respectfully and directly has not adequately resolved the situation, there are other options available: *negotiation, mediation / arbitration, or taking legal action in the courts.*

Negotiation

Negotiation is often the best first step. It can be very challenging to remain unemotional and calm when frustrating and sometimes unjust situations occur, or when there are personality factors at play in a conflict. It is very important for condominium directors to consider which approach is most likely to achieve an outcome that the community can ‘live with’ – a perfect solution is not always achievable.

Ideally, each party will be willing to ‘give a little, to gain a little.’ Each party should be aware that they will likely not get everything they want, but if everyone compromises, a solution can be found. Negotiating this type of compromise can be done with minimal expense and can often resolve the situation quickly.

For example: a condominium board believes a contractor on a major capital project did not properly complete part of the work.

The condominium board could decide to sue the contractor in the Superior Court of Justice. However, such an action may be disruptive to the community, cost the community tens of thousands of dollars – and still not have any guarantee of a positive outcome. Also, the necessary work may still be incomplete.

Tip: Negotiating with the BATNA Technique

In situations when negotiation is being used, the concept of BATNA or “Best Alternative to A Negotiated Agreement” can be helpful when talks fail and the parties have not been able to reach agreement.



Condominium boards should determine their own BATNA by first listing all the alternative actions that could be taken if no agreement is reached in the current negotiation.

Condominium boards should have an idea of their ‘bottom line’ or minimum criteria for entering into a negotiation.

Mediation/arbitration is a form of third-party BATNA.

A better alternative could be for the condominium board to negotiate a resolution with the contractor. Some negotiations might use the BATNA technique (see box above). Points of negotiation might include:

- Asking the contractor to reduce their rate for the rest of the project;
- Asking the contractor to return to the site and redo the work that was not satisfactory; and
- Asking the contractor to perform other work at a discounted rate.

In complex or sensitive situations, condominium boards should consider formally documenting the outcomes of the negotiation. For example, the terms of the negotiated agreement should be memorialized in a document that both parties sign that clearly outlines *exactly* what each party must do, along with details of the dates by which they have agreed to implement the solution, and perhaps a clause allowing the condominium corporation to check on progress.

Condominium boards should be careful to assign negotiation responsibilities to the right person (see tip box on [page 33](#), “*Who Can Negotiate on Behalf of the Corporation?*”)

Mediation/Arbitration

Mediation and arbitration can be costly, both in terms of time and money. While they are likely less costly than a lawsuit, they still require time from lawyers whose fees are higher than many other professionals.

Mediation and arbitration are considered *alternative dispute resolution* processes and are a form of negotiated resolution. They typically involve hiring an independent lawyer to act as mediator or arbitrator. Mediation and arbitration are mandatory for certain disputes listed under section 132 of the Condo Act, including:

- Disagreements regarding certain agreements listed under section 132 (2) of the Condo Act;
- Disagreements between the condominium corporation and the declarant regarding the budget statement; and
- Disagreements between the condominium corporation and the condominium owners in relation to the declaration, by-laws, and rules.

In *mediation*, the mediator acts as a facilitator for discussion, and helps the parties reach a resolution on their own. The outcome of mediation is that a negotiated agreement is produced which clearly outlines the terms and conditions of the settlement, along with dates and deadlines for implementing the resolution.

In *arbitration*, the arbitrator will listen to both sides, but makes the final decision (similar to a judge) which is binding under section 37 of the *Arbitration Act, 1991*. In some cases, an appeal process could possibly set aside the judgement under section 45 or 46 of the *Arbitration Act, 1991*.

Both methods are typically less expensive than a trial, but more expensive and time-consuming than negotiating directly with the other party.

Further legal action

Sometimes an issue cannot be resolved or attempts to resolve fail for some reason. At some point, however, the condominium board may consider legal action.

As a rule, filing a lawsuit is extremely expensive, time-consuming, and can be stressful for everyone involved. It is not uncommon for legal expenses to escalate to tens of thousands, or hundreds of thousands of dollars – with no guarantee of a positive outcome.

It may be the right answer in some circumstances; however, condominium boards should consult with a lawyer on this approach and think carefully about pursuing other resolutions first.

Going Against Advice

For many complex issues, the condominium board will have solicited advice from lawyers or other professionals. These professionals may have recommended courses of action which the condominium board has considered but which may not align with one or more director's preferred course of action.

Condominium directors and officers of the condominium board have an obligation under section 37 (1) of the Condo Act, to adhere to a certain 'standard of care.' This means acting honestly and in good faith, exercising appropriate care, diligence and skill in exercising the powers of the board.

While condominium directors are generally not liable for decisions they make when applying an appropriate standard of care, if they act against professional advice, they may be taking on personal liability for those decisions, as per section 37(3) of the Condo Act.



Directors should re-consider any proposed action that goes against professional advice.

For example, if a legal advisor or engineer has given a professional opinion that suggests a certain action, and the board decides not to perform that action, *condominium directors should consider that they may be taking on **personal liability** for any negative consequences.*

It can also be helpful to satisfy owners when the condominium board is able to confirm that it has followed professional advice and taken every action that has been recommended.

When it has not acted with advice and the action has failed, the condominium board's decision is much harder to defend. Condominium community members are less tolerant of decisions that appear as the condominium board 'going rogue.'

Assigning Roles and Responsibilities

After the condominium board has identified the appropriate response for an issue, it should decide how to implement and monitor the effectiveness of that response.

Acting without assigning responsibility for the action to a specific person can cause confusion or conflict. It is much more effective to assign the responsibility to one person who will fully embrace the role and see it through to completion.

As previously discussed, this person is often the issue owner, who is typically responsible for overseeing and/or implementing the agreed response, reporting to the board on progress, ensuring that the resolving actions adhere to the agreed terms and conditions of any negotiated agreement, and monitoring the situation.

Sometimes however, the issue owner selected when the issue was identified, is not the right choice for implementing the condominium board's response.

If the resolving actions requires the engagement of third parties or those with specialized skills, the logical issue owner might be a director or the condominium manager.



If everyone is responsible, no one is responsible.



A leak was first identified by the condominium's superintendent. This individual was responsible for attempting initial responses that included minor repairs and taping a small pipe, however those responses were not successful.

Consultants were engaged to investigate, and it was determined that a major repair was necessary, which would involve removing part of a wall in a common area.

At this stage, it may be more appropriate to re-assign the issue to a new owner - a condominium director or condominium manager who can oversee the supplier's contractual obligations and quality of work meets the corporation's requirements.

In addition to issue owners, sometimes it is necessary to involve others in responding to the issue, for example to negotiate a settlement (see box below on authorizing individuals to negotiate on behalf of the corporation).

Who can negotiate on behalf of the corporation?

Before entering into a negotiation, it is important for the condominium board to clearly identify who is authorized to negotiate a settlement, and the process for approving the proposed solution.



Although condominium board approvals and resolutions must follow the process outlined in the condominium corporation's by-laws, not all condominium board members need to attend every meeting while a negotiation is in progress. This often slows down the process and prevents agreement from being reached.

If permitted by the by-laws, authorizing one or two condominium board members to negotiate on behalf of the condominium corporation may be an option to get to an agreement on a complex or sensitive topic.

Condominium boards should be careful to follow the by-laws and obtain formal board approvals for all decisions; particularly those involving money.

4 – Track and Monitor

Condominium corporations will probably face a range of issues at any given time. Some may be straightforward, some more complicated. Some may be newly emerging, whereas others may be nearly resolved.

Tracking and Monitoring Issues is an ongoing step in the issues management process that helps condominium boards capture, assess, and monitor changes to the issue and the attempted resolutions over time.

Tracking and Monitoring should begin as soon as an issue is identified and ends when the issue is closed.

Maintaining an Issue Log

As described in the Introduction section, an **Issue Log** is a crucial tool for condominium boards and condominium managers to record and document any problem, situation, or issue as soon as it has been identified.

Although some condominium corporations may choose to invest in specialized software to track and manage issues, a **basic spreadsheet** is a low cost and highly effective way to capture issues almost instantly.

Key fields to include are:

- Issue identifier or ID (simple numbering works well);
- Issue name (short descriptive title);
- Category of issue (e.g., employee matters, general complaints, maintenance, engineering, security, special project, etc.);
- Description of issue;
- Date of first identification;
- Issue status (e.g., open, closed, etc.);
- Issue owner;
- Date of resolution; and
- Notes.



Issues should be logged in the issue log as soon as they are identified. Some information may not be available or decisions yet to be made, but these can be added later. Logging an issue right away puts it on the condominium board's radar and bring it into the process where it can be resolved.

The log can be reviewed from time to time by the condominium board, with the goal of resolving each issue.

Once resolved, an issue can be closed. However, issues should not be completely deleted from the log. It is helpful to document issues even after they are closed. Past issue logs can be used to:

- Identify a pattern of issues, for example, with building maintenance, certain owners, or certain topics which continue to recur;
- Document the condominium board's attempts to resolve the issue;
- Defend a potential lawsuit that arises from the issue;
- Provide training material for new condominium board members; and

- Document performance issues about third-party vendors for contract renewal discussions, or for lawyers to review.

Monitoring Issues

Monitoring of issues can take many forms. Monitoring allows the condominium board to have the most up-to-date understanding of the issue, and to act quickly if there are changes in the issue.

Once an issue has been identified and logged in the issue log, it will need to be monitored both before and after action is taken. Monitoring an issue might include:

- Documenting new complaints about the issue;
- Engaging third parties such as inspectors, engineers, or architects to examine the issue, make recommendations, and/or implement resolutions to the issue;
- Checking in with suppliers or consultants to understand and communicate their findings;
- Checking in with owners to understand whether the issue has worsened or improved; and
- Checking in verbally with a complainant to see if circumstances have changed.

Issues can be monitored over a long period of time if necessary. Condominium directors should guard against the temptation to become ‘comfortable’ with an outstanding issue – if something has become an issue, efforts should be made to fix or minimize it – even if it takes a long time.

Effective monitoring will allow the condominium board to make decisions based on all the facts and avoid attempting to solve a problem with a method that might not work anymore due to changing circumstances.

Changes in Issue Status

Documenting and updating the issue log with changes in issue status will help condominium directors and others understand how the issue evolved and changed over time.

This documentation process enables condominium boards to carefully track whether issues are getting worse, whether closed issues have recurred, whether interventions or actions have been successful, and if further action is needed.

Effective Communications

When dealing with small issues or large issues, condominium boards should make a strong effort to provide proactive, transparent, and timely communications.

The condominium board's priority should be to communicate with affected owners and others that are involved in the issue. The condominium board may also need to communicate with a wider audience such as the full condominium community, the local neighbourhood, or even the local municipality.

For most communications, the condominium board might consider the following questions:

- **What type of communication is it** (e.g., routine update, substantial update, milestone decision, resolution has been successful, resolution has not been successful, good news, bad news, etc.)?
- **What is the intended outcome of the communication** (e.g., understanding, awareness, agreement, approval)?
- **What method is most appropriate for this type of communication** (e.g., text message, social media, formal letter, email, door-to-door, posting on community portal, temporary or permanent signage, etc.)?
- **What are the key messages that the condominium board wishes to get across in this communication** (e.g., on track, not on track, change of direction)?
- **What content will be communicated?** What is the right level of detail to achieve the intended outcome?
- **Are there privacy concerns that should be respected?**

For some complex issues, a communications plan may be necessary. The condominium board may wish to engage the services of a communications consultant to assist in preparing and executing the communications plan.

Techniques for communicating

The condominium board should consider how best to communicate about the issue and aim to be as transparent as possible without breaching privacy and confidentiality.

There are a range of communications techniques that can be effective for communicating with the broader community. The condominium board may wish to use multiple methods for the same message. These methods could include:

In Writing (e.g., letters to owners, emails, newsletter article, posters, other)

Condominium boards and condominium managers will often need to communicate in writing. This could take the form of a letter, an email, a poster in an elevator or common area, or another form.

When deciding which specific method to use, the condominium board should consider which is most appropriate for the subject matter. For example, letters are typically seen as more formal than email, and email is more formal than a poster.

Periodic Information Certificates

A periodic information certificate is a legal requirement for all corporations unless the corporation has specifically opted out of it.

Periodic information certificates are distributed twice per fiscal year to all owners (within 60 days of the end of the first quarter and 60 days of the end of the third quarter). It includes key information about the condominium corporation's board, finances, insurance, reserve fund, legal proceedings, and other matters.

If the condominium board wishes to use the periodic information certificate to circulate other information, they can pass by-laws to either increase the amount of information disclosed, or the frequency of issuance.

For more information about information certificates, see CAO's website [here](#).

Community Online Portal

Some condominium management companies, or condominium corporations, have invested in an online portal where owners can log in to access protected information, send messages, and review documents in a secure location.

Depending on the issue, the portal may be appropriate for updates or other communications about an issue.

Annual General Meeting

The Annual General Meeting ("AGM") is a good place to make announcements, provide updates on important projects, or on issues that are of importance to the community. Condominium boards may place an issue on the agenda in advance of the AGM.

Condominium directors should be well prepared and anticipate an open discussion about any topics on the agenda. A summary of information can be provided in advance.

Additionally, condominium directors should remember that owners are permitted under section 45 (3) of the Condo Act to raise for discussion any matter relevant to the affairs and business of the corporation. This is sometimes known as "*raising a question from the floor*", meaning bringing up a topic during the meeting that is not on the meeting agenda.

It is a good practice for condominium directors to informally canvas the community well in advance of the AGM to identify any emerging concerns or issues. This will allow them to not only consider a possible response in a timely manner, but also to allow them to avoid being caught off-guard if a topic arises by an owner ‘from the floor’ during an AGM.

While *owner requisitioned meetings* are sometimes called to discuss an emerging issue that is negatively impacting the community, they are not a traditional communication method used by the condominium board. However, the condominium board may wish to proactively use the opportunity to increase its transparency, listen to owner concerns and feedback, and correct any misinformation that may be at play in the community and contributing to confusion or disagreement. Ideally, such an open and transparent discussion will resolve owner concerns and can be concluded in a healthy and constructive manner. For more information on owner requisitioned meetings, please click [here](#).

Appendix I – Director’s Checklist

Basic Activities for Issues Management

The following checklist corresponds with the high-level issues management process outlined in Figure 1, click [here](#) to view.

Recognizing that some issues may not require extensive issues management or response planning, there are a few key steps that should be considered minimum or basic activities:

Basics of Issues Management	
Step 1: Identify Issues	<ul style="list-style-type: none"> <input type="checkbox"/> Identify any known / identified issues through board meetings and/or discussion on budgeting, reserve fund study / updates, special topics, etc.) <input type="checkbox"/> Create an issue log <input type="checkbox"/> Agree on a process for monitoring and reporting issues to the board
Step 2: Evaluate Issues	<ul style="list-style-type: none"> <input type="checkbox"/> Assign roles to each issue: <ul style="list-style-type: none"> <input type="checkbox"/> Issue Owner <input type="checkbox"/> Authorized Negotiator <input type="checkbox"/> Others as necessary <input type="checkbox"/> Document key information (e.g., impacted parties, any previous response attempted, date when issue first identified, etc.) <input type="checkbox"/> Engage external advisors and/or lawyers as needed to obtain further insights and analysis <input type="checkbox"/> Informally assess issues, and prioritize high impact issues for discussion <input type="checkbox"/> Discuss key issues using pros and cons, elimination, other analytical technique.

<p>Step 3: Respond and Resolve Issues</p>	<ul style="list-style-type: none"> □ Shortlist potential responses □ Discuss and make selection □ Document board discussion including selected response, who will implement and date it will be implemented □ Implement response □ Take action / attempt a resolution
<p>Step 4: Track and Monitor</p>	<ul style="list-style-type: none"> □ Issue Owner oversees and monitors outside of board meetings; provides a verbal debrief and update at each board meeting □ Review full issue log <i>quarterly</i>: <ul style="list-style-type: none"> □ Add new issues arising □ Close (but do not delete) issues resolved □ Update issues with new information or change in status □ Change/adjust Issue Owner role, if required by the situation □ Continue to track/monitor over time. When issue is resolved, close issue. If issue is not resolved in a reasonable period of time, return to Step 1.

Advanced Activities for Issues Management:

For condominium corporations that have fully implemented the above list of basic issues management techniques measures, there may be a desire to add more detail and/or increase rigour.

A number of advanced activities may be added as outlined in the table below:

Advanced Activities for Issues Management

<p>Step 1: Identify Issues</p>	<p>ALL of the basic activities listed above, AND:</p> <ul style="list-style-type: none"> □ Perform scan of potential issues during strategic planning discussions □ Perform review of news media and other literature to proactively identify potential issues that could arise in future
<p>Step 2: Evaluate Issues</p>	<p>ALL of the basic activities listed above, AND:</p> <ul style="list-style-type: none"> □ Define prioritization criteria □ Define prioritization process □ Evaluate issues on criteria and shortlist high-impact issues □ Perform formal analysis (e.g., develop a business case) for key issues □ Document board discussions/decisions and formal analysis with options and criteria
<p>Step 3: Respond and Resolve Issues</p>	<p>ALL of the basic activities listed above, AND:</p> <ul style="list-style-type: none"> □ Prepare written response plan including workplan, budget etc. □ Implement response and escalate/adjust as needed □ Issue Owner prepares and submits written progress reports
<p>Step 4: Track and Monitor</p>	<p>ALL of the basic activities listed above, AND:</p> <ul style="list-style-type: none"> □ Issue Owner monitors, as well as prepares and submits written progress reports □ Issue Log reviewed at <i>every board meeting</i>. □ Develop and implement formal communications plan for key issues.

