

This page is a PDF cover page which contains information about the document that follows.

Overview

This document contains material delivered at the **Life after Operating Agreements: The Practical and the Possible** forum which took place on March 31, 2016, organized by the City of Toronto Shelter, Support and Housing Administration Division.

Contact us

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More information

Please visit www.toronto.ca/socialhousing and select Planning for End of Operating Agreements.



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Life after Operating Agreements Building on the Practical

By: John Fox
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John Fox



Introduction

John Fox – Brief Resume (The Usual Stuff)

- Partner, Robins Appleby LLP
 - Housing, Real Estate, Construction, Financing
- CEO, Batawa Development Corporation
 - Redevelopment of industrial site in rural setting
- Acting Vice-President, Development, TCH
 - Responsible for Regent and major procurement exercises
- General Counsel (Development), TCH
 - Partnership and Construction Contracting

Introduction

John Fox – Brief Resume (Fun Facts)

- Former President, Laidlaw Foundation
 - Responsible for Strategic Planning
 - Laidlaw supports engagement of youth in all aspects of our society
- Graduate of Dalhousie Law School (1993)
 - Before that, I was footloose and carefree
- Certificate in Construction Law, Osgoode Law School (2012)
 - Intensive course in construction law
- Certified CHA Trainer (Level One) (2012)
 - Can fit a hockey helmet

The Operating Agreement

- Providers received funding from the Canada Mortgage and Housing Corporation (CMHC) through a Section 56.1 (now Section 95) Operating
- These generally expire after a 30 year term.
- When the Operating Agreement expires, the provider's relationship with CMHC will come to an end and it will no longer be bound by the Operating Agreement
- At that point, the Provider's, by-laws, rules and policies will continue to govern the affairs of the co-op and it will be "business as usual".



The Before and After Shot

	With Operating Agreement	Without Operating Agreement
Physical Infrastructure	Aging Building with maintenance and capital repair needs	Aging Building with maintenance and capital repair needs
Governance (NFP)	Compliance with Corporations Act, Articles, By-Laws	Compliance with Corporations Act, Articles, By-Laws
Director Liabilities	Yes	Yes
Other payments (property taxes etc)	Yes	Yes



The Before and After Shot (Continued)

	With Operating Agreement	Without Operating Agreement
Contractual Obligations under Operating Agreement and Mortgage Repayment	Yes	No
Government Subsidy	Yes	No
Ownership of Land	Current Registered Owner	Current Registered Owner

The Before and After Shot (Last Word)



on your situation – or how you

To Consider: Hierarchy of Governance

1. Incorporating Statute
 - Corporations Act (Ontario)
 - Co-operative Corporations Act
2. Letters Patent
3. By-Laws
4. Resolutions and Policies

Consider: What needs to be reviewed? Do our governing documents still reflect our mission?

To Consider: The Board

- Director's fiduciary duty to the organization.
- Directors have personal liability for certain matters (such as unpaid wages)
- Post EOA Strategies may range from property management to redevelopment

Consider: Does our board have the skill set to manage our post EOA Strategy?

To Consider: Case by Case Issues

- Impact on HST rebates
- Land Development Opportunities
- Impact on any charitable registrations
- Employment considerations

Consider: Your post EOA strategy may impact on any one of these.




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