

# Amending a Declaration

Procedure under the *Condominium Act, 1998*

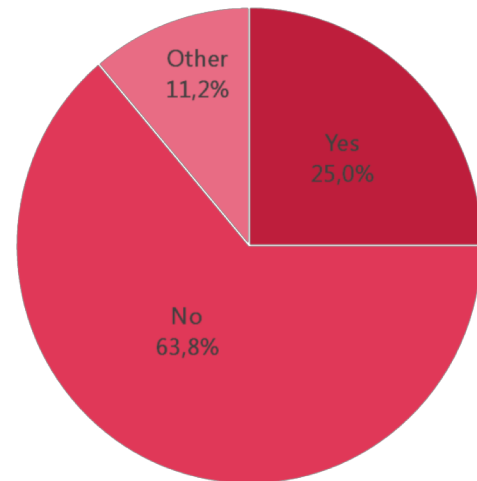


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# Before considering an Amendment

- Recommend doing a survey of owners to see what their position is on the proposal
- No point spending money if there is no chance of getting the amendment passed



# Preliminary Steps

- Legal counsel prepares the Amendment to the Declaration
- The Corporation's Board of Directors passes a resolution approving the Amendment to the Declaration



# Declaration Amendment

- A surveyor prepares amendments to the Description sheets, if changing unit boundaries and/or exclusive use common elements.
- The Corporation will want a quote from its solicitor and the surveyor.



# The Meeting of Owners

- The Corporation is required to:
  - Send a Preliminary Notice of Meeting to owners
  - Send a Notice of Meeting to owners  
(with a copy of the proposed Amendment to the Declaration)
- The Meeting of Owners is to discuss and not vote on the Declaration



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# Other Steps

- Notice of the amendment (not the meeting) must be sent to all mortgagees...
- The amendment documentation must be registered in the Land Registry Office no earlier than the expiration of 30 days from the date that the notice of the amendment was sent to the mortgagees.



# Approving the Amendment to the Declaration

- Not done by a vote
- Written consent:
  - At least 80% of all of the units if...
  - At least 90% of all of the units if...
- The written consent must be obtained from the owners of units as at the date the Board of Directors approved the Amendment to the Declaration



# Court Application for Amendment

- Application to the Court for an Error or Inconsistency
- What constitutes Error or Inconsistency?





# Other Steps

- A Certificate must accompany the amendment, signed by the board indicating that the amendment is compliant with the requirements of the Act.
- Must retain consents as a Record.



# Questions?

