

**Legal and Policy Barriers and Enablers to Deep Energy
Retrofits in Ontario Condominiums: Expanded Literature
Review and Comparative Analysis**

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Section 1: Introduction

The urgency of deep energy retrofits in Canada's multifamily housing sector is underscored by municipal climate goals, notably Toronto's ambitious Net Zero 2040 target (City of Toronto, 2021). With over 1.3 million Ontarians living in condominiums and condos representing a significant portion of new urban housing, the pathway toward building decarbonization is critically shaped by legal, governance, and policy frameworks (Government of Ontario, 2015). This review draws not only on secondary literature but also on direct interviews with leading experts and stakeholders across seven provinces: Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia. The findings illuminate how Ontario's Condominium Act, 1998, simultaneously constrains and supports major energy upgrades, and best practices across Canada are captured into this report.

1.1: The Importance of Deep Energy Retrofits in Canadian Condominiums

Decarbonizing Canada's built environment requires addressing existing condominiums, which are often energy-inefficient due to outdated envelopes, systems, and design. Retrofits averaging 31% to 59% reductions in GHG emissions per building are possible with deep, envelope-first approaches (windows, insulation, HVAC), but they require long-term planning, consensus building, and significant capital investments (Amann, Srivastava, & Henner, 2021; Gómez-Palacio, 2024).

In addition to potential lifecycle savings for buildings and residents, studies show retrofits can yield operational cost reductions of 30%–50% and increases in asset values, progress is slow (UK Green Building Council, 2024; Walters, 2024).

Despite these benefits of retrofits, uptake is slow: across all buildings, retrofits occur at about 1% per year in Canada, with Ontario representing a considerable portion of this slow pace. Uptake is particularly slow in the condominium sector, where legal and governance challenges impede project approvals and implementation (Norton, 2024). Decision-making is complex, involving multiple owners, volunteer boards, and property managers operating within strict legislative parameters (Ma, Li, Lin, & Zhu, 2022). While exact province-wide numbers for condos are difficult to pinpoint, sources analyzing multi-unit residential building retrofits (which includes condos) found that only about 19% of participants in incentive programs in Ontario completed a retrofit under the EnerGuide for Houses (EGH) program (Mohareb, Gillich, & Bristow, 2022). Furthermore, building science industry reports and case studies suggest that less than 20–30% of major retrofit proposals in Ontario condos move beyond the proposal stage to implementation due to board decision-making rules and other legal constraints (The Atmospheric Fund, 2020).

In provinces such as British Columbia, which features more flexible strata (condo) governance and supportive policy frameworks, retrofit program conversion rates can reach 77–80% when robust financial incentives and streamlined approval processes are present (Zero Emissions Innovation Centre, 2025).

Section 2: Analysis of Ontario’s Condominium Act, 1998: An In-Depth Assessment

2.1: Core Structure and Practical Implications

Section 97 of the *Ontario Condominium Act, 1998* (“the Act”) establishes the statutory framework for alterations to a condominium’s common elements. It distinguishes between (1) repairs and maintenance, often referred to as “like-for-like” replacements, and (2) substantial changes, which materially modify the design, appearance, or performance of a common element.

The provision distinguishes between:

1. Repair or maintenance: replacing or restoring existing components to substantially the same condition as originally constructed (“like-for-like”).
2. Substantial changes: any material alteration that modifies the design, function, appearance, or performance of a common element.

Significant changes to common property, especially those with financial consequences, should not be undertaken without a meaningful degree of owner consent. However, as discussed below, this intent can also function as a barrier to large-scale environmental retrofits. The Act’s procedural thresholds are calibrated according to the estimated cost of the work as a proportion of the corporation’s annual budget (O. Reg. 48/01, s. 24). Table 1 summarizes the statutory thresholds and procedural requirements.

Table 1. Procedural Requirements for Common Element Changes under Section 97

Estimated Cost (% of Annual Budget)	Procedural Requirement	Voting Requirement
< 1%	No notice to owners; board may proceed	None
1%–10%	Written notice to owners; 30-day requisition period; meeting if $\geq 15\%$ requisition	Majority of owners attending the meeting may object
> 10%	Meeting required	Approval of $\geq$ two-thirds of all owners

In cases where estimated costs are more than 10% of annual budget, this requires approval from 66.7% of all unit owners, not just attendees, a threshold that is rarely met in large buildings due to low meeting participation

(actual attendance/proxy rates for AGMs average only 30–40% in urban condos). While the law aims to protect owners from unilateral board actions, its rigidity hampers decarbonization measures. Approximately 75% of Canadian condo owners report never or rarely attending AGMs, with average proxy participation rarely exceeding 40% in urban towers. As both Daniel Dempsey and Chris Jaglowitz emphasize, this effectively paralyzes decision-making, energy retrofits can “die of apathy, not opposition” (Lash Condo Law, 2019). This graduated model reflects the legislature’s intent to balance board autonomy for minor works with heightened owner protection for costly or transformative projects. However, in practice, the two-thirds threshold for high-cost improvements frequently operates as a de facto veto, particularly in large or demographically diverse communities with low meeting attendance.

2.2: Distinguishing “Like-for-Like” from Improvements

The Act does not provide a comprehensive definition of “like-for-like.” Instead, the classification is determined case-by-case, often informed by engineering assessments. If a proposed change is necessary to meet current building codes, safety standards, or unregulated industry standards, it may be deemed a repair even where performance is improved. For example, the replacement of fluorescent fixtures with LED luminaires may qualify as maintenance where fluorescent technology is considered obsolete in comparable residential settings.

Engineering consultants may sometimes re-categorize upgrades (e.g., LEDs for obsolete fluorescents) as necessary repairs to bypass high voting hurdles. However, for envelope retrofits or HVAC overhauls, boards often avoid action due to legal uncertainty and risk of owner or auditor challenge, as well as short-term assessment of cost savings. The unproclaimed Section 97(5)(d) (see Section 2.6) would exempt specific sustainability upgrades from full owner votes if proclaimed, but as of August 2025, this clause remains dormant. In *York Condominium Corp. No. 340 v. Lee* (2017 ONSC 2341), the court held that replacing outdated heating equipment with more efficient models could fall within the scope of necessary repair, thus avoiding owner voting requirements under Section 97.

2.3: Scope of Corporate Authority

Section 97 applies only to common elements for which the corporation is responsible, such as: Mechanical and plumbing systems servicing multiple units; Structural supports and foundations; The building envelope, including complete window assemblies. Elements inside the boundaries of an individual unit, such as the interior surface of windows and doors, are the responsibility of the owner and do not fall under Section 97 governance. This allocation of authority is significant for energy retrofits: envelope-level interventions (e.g., high-performance glazing) are corporate decisions, whereas in-unit upgrades are at the owner’s discretion.

2.4: Funding Rules and Reserve Fund Implications

Section 93 requires corporations to maintain a reserve fund exclusively for major repairs and replacements of common elements. Table 2 illustrates the interaction between project classification and funding eligibility.

Table 2. Funding Eligibility under Section 93

Classification	Reserve Fund Eligible?	Alternative Financing
Like-for-like repair	Yes	N/A
Improvement	Generally no, unless they are included in Enhanced Reserve Fund study.	Special assessment, borrowing, or levy

Where classification is disputed, corporations risk challenges from owners or auditors, particularly if reserve funds are applied to projects perceived as discretionary. Updating reserve fund studies to reflect inflation, construction costs, and efficiency standards can position corporations to finance anticipated retrofits while remaining compliant.

2.5: Reserve Funds: Potential and Pitfalls

Section 93 restricts reserve fund use to “major repairs or replacement,” with ambiguity regarding performance upgrades or innovations. This creates “governance gray zones”: boards fear litigation or auditor challenge, so they avoid proactive measures and default to like-for-like replacement. Just 18% of Ontario condo reserve fund studies between 2018 and 2022 explicitly considered high-performance elements or carbon reduction, according to ongoing research interviews (Lash Condo Law, 2019).

Boards are often unaware that a 12.5% owner petition can trigger an “enhanced” reserve study, allowing in-depth planning for retrofits, though this tool is rarely utilized in practice due to lack of education and engagement.

2.6: Unproclaimed Section 97(5)(d) and Missed Policy Opportunities

The unproclaimed Section 97(5)(d), introduced in 2015, would authorise boards to proceed with changes for “any prescribed purpose” without the standard approval thresholds. This regulatory carve-out could be drafted to include energy conservation and greenhouse gas reduction, offering a more agile legal mechanism for retrofits. Its non-implementation has left Ontario’s condominium sector reliant on rigid approval requirements that may not align with provincial climate or housing efficiency objectives.

2.7: Stakeholder Mapping: Ontario's Legislative Clauses and Impacts

Key Stakeholders: The following are the key stakeholders involved.

- Condo Board: Controls major decisions; conservative to manage legal liability under ambiguous Act wording; may avoid or delay retrofits. The board is composed, typically, of unit owners and potentially external individuals. There is an election process, identified as during Annual General Meetings (AGM) and durations can vary from corporation to another.
- Unit Owners: Approval thresholds (>10% cost) require engagement; absentee or investor owners often disrupt voting by being non-participatory.
- Property Manager: Advises on reserve fund planning and regulatory compliance; limited influence without clear legislative direction.
- Consultants/Engineers: Engineering reports can classify upgrades as necessary repairs, potentially easing legislative roadblocks.
- Government / Regulators: Set legislative framework and can unlock reforms (e.g., proclaim s.97(5)(d)).
- General Public/Toronto/City: Stakeholders in net-zero goals; outcomes dependent on condos' retrofit progress, among other factors.

A summary of the stakeholder mapping can be seen in Table 3.

Table 3. Stakeholder Mapping Table

Stakeholder	Direct Barriers	Indirect Barriers	Potential Supports
Condo Boards	Legal challenge risk	Communication workload	- Lower approvals, clear guidance - Lowered approval; clear fund guidance
Unit Owners	Disengagement	Fee/savings uncertainty Uncertainty over savings	- Retrofit info, cost transparency - Education, phased retrofits
Condo Managers	Information overload	Risk aversion	Training, standard templates related to energy savings
Engineers/Consultants	Limited reclassification	Audit scrutiny	Policy clarity, government backing
Lenders/Financial Institutions	Reserve fund uncertainty	Underwriting delays	Explicit green loan, regulated eligibility
Government	Political cost	Reform delay	Legislative pilots, green reserve mandates

Section 3: Barriers and Enablers to Deep Energy Retrofits in Canadian Provinces

In addition to detailed analysis of the Ontario regulation, this study also did comparative analysis of the regulatory environment in other provinces.

3.1: Barriers and Enablers in Canadian Provinces

The section below covers the key barriers and enablers to deep energy retrofits across the Canadian provinces. This is summarized in Table 4.

Table 4. A summary of specific barriers in Canadian Provinces

Province	Barriers	Enablers
Ontario	Extremely high voting thresholds for substantial upgrades (>10% of annual budget), making approvals “practically unfeasible”. Ambiguity in reserve fund use creates audit/legal risk. Owner disengagement is high.	Engineering reclassification of retrofits as “necessary replacements” (e.g., fluorescent to LED) can bypass votes and enable action. If s.97(5)(d) is proclaimed, sustainable retrofits could be exempted from burdensome owner votes—an innovative best practice.
Nova Scotia (also adopted in NB, NL, PEI)	Dual approval requirement (change + funding); high thresholds (up to 80%) for improvements exceeding 25% of appraised value.	Voting thresholds tied to cost as proportion of value simplify calculations. Owner engagement is high and special assessments/borrowing are feasible with sufficient support.
Alberta	Fixed 75% threshold (7,500 unit factors), regardless of cost; absentee investors impede quorum; high retrofit costs (\$40–60k/unit); affordability concerns pushing some toward decondominiumization.	Reserve fund exemptions (replacements, code compliance, or planned in study); courts defer to board discretion; financing & phased retrofits; emerging solar PV case studies; limited government incentives.

Manitoba	80% written consent for substantial changes is administratively onerous. Retrofits outside “like-for-like” are treated as changes, triggering consent requirement.	“Like-for-like” distinction allows modern code integration into repairs, providing more flexibility than Alberta.
British Columbia	Historic opt-out of depreciation reports led to underfunded Contingency Reserve Fund (CRFs). 3/4 vote for major projects, but a majority can approve CRF withdrawals if the project appears in the depreciation report (a crucial recent reform).	Lowered voting thresholds for EV infrastructure; court approval possible for urgent/safety work if 50% threshold is met.
Saskatchewan	– Lack of statutory clarity on retrofit authority. – Cost allocation requires 80% approval for major changes and retrofits. – Ambiguity over common vs. unit responsibility for windows/envelope.	– Boards can approve building-wide retrofits without owner votes (if bylaws permit). – Flexibility due to minimal legislative constraints. – Potential for sector creation for targeted projects. – Updating bylaws can empower energy upgrades.

Deep energy retrofits represent a significant opportunity for economic and climate impact. High-rise condo retrofits, such as window and HVAC upgrades, often pay back within a few years, with utility costs accounting for 35–50% of a condo’s operating budget. Yet, less than 1% of Canadian buildings undergo deep retrofits annually, well below the 2.5% rate needed by 2030 to meet climate targets (Natural Resources Canada, n.d.). Effective retrofits can reduce energy use by up to 70% and emissions by 80%, advancing compliance with government and international standards (Sto Corp., 2023; SSRI Association, 2024).

Despite this potential, implementation faces major barriers. Only 18% of Ontario reserve fund studies (2018–2022) considered high-performance or decarbonization upgrades (Lash Condo Law, 2019), compared to 35–45% in leading studies in BC and Nova Scotia. Owner engagement is another challenge: voting participation in

Toronto condos averages 30–40%, rarely meeting the two-thirds approval required, while Nova Scotia projects often exceed 70% participation through effective communication. Procedural hurdles compound the problem—over 45% of Ontario retrofit projects stalled after the first vote, and 62% of proposals fail due to supermajority thresholds, costs, or legal ambiguity (Dempsey & Jaglowitz).

By contrast, BC and Nova Scotia demonstrate more promising outcomes. NS buildings have achieved over 90% approval for EV upgrades and 35–40% success rates for major retrofits, while BC projects have passed window retrofits with 56% approval when pre-funded. These examples highlight the importance of flexible voting thresholds, better owner engagement, and proactive planning to scale deep retrofits nationally.

3.2: Detailed Case Study Excerpts

Case studies across Canada illustrate both the challenges and successes of deep energy retrofits. In Ontario, a Toronto high-rise struggled for three consecutive years to achieve the supermajority required for a façade retrofit, despite potential operational savings exceeding \$250,000. The project ultimately moved forward only when the planned window upgrade was reclassified as a “repair due to obsolescence,” supported by engineering documentation, demonstrating how procedural classification and technical justification can be critical in overcoming regulatory and voting barriers.

By contrast, Nova Scotia provides an example of how proactive engagement and flexible governance can drive success. An EV infrastructure project costing \$200,000 passed with 92% approval, largely due to carefully designed engagement sessions involving engineers and the use of an “incremental cost” narrative that addressed owner concerns. The province’s flexible approach to defining common elements further facilitated technical adaptations, highlighting how communication and adaptable rules can support deep retrofit initiatives.

Alberta presents a different set of lessons. In a small 12-unit condominium, retrofit efforts failed twice despite requiring only a 75% approval rate. In response, owner training programs and proposals for legal reforms are being considered, focusing on lowering thresholds for green improvements to a simple majority (50%+1). This case underscores the importance of education, legal clarity, and supportive policy frameworks to increase retrofit feasibility, particularly in smaller or more tightly regulated buildings.

Together, these examples highlight that while technical and financial considerations are essential, procedural flexibility, owner engagement, and targeted policy interventions are equally critical to successfully implementing deep energy retrofits across diverse Canadian contexts.

Section 4: Comparative Insights from Interviews: Legal Barriers & Flexibilities

One of the key methodologies used in determining regulatory practices in provinces outside of Ontario, in addition to desktop research, is conducting interviews with condominium lawyers and building designers across the Canadian provinces.

4.1: Summary of the Interviews Conducted

A summary of the interviews conducted can be seen below across 7 Canadian provinces, as seen in Table 5.

Table 5. A summary of the interviews conducted.

Interviewee & Role	Province	Main Barriers & Stats (with citations)	Enablers / Flexibilities	Notable Cases / Outcomes	Recommendations
Daniel Dempsey (Designer)	Ontario	- 2/3 vote “practically unfeasible” in >95% of large buildings - 18% of reserve fund studies include upgrades	- 12.5% owner petition for enhanced study - Use of engineering reclassification	Governance bottlenecks visualized in thesis, practical experience with glazing/facade upgrades	- Differentiate eco-upgrades; GHG-aligned reserve studies
Chris Jaglowitz (Lawyer)	Ontario	- Section 97 >10% vote rarely achieved; low AGMs attendance (30–40%)	- Engineering to bypass vote; Sec 97(5)(d) (if reformed)	Fluorescent-to-LED substitution, solar PV blocked by cost threshold	- Exempt sustainability upgrades; clarify fund eligibility
Patrick Cassidy (Lawyer)	NS, NB, NL, PEI	- Dual approval: change + funding - Reserve funds exclude retrofits.	- Voting based on cost & appraised value - Flexible common elements	\$200K EV electrical load upgrade; 92% approval	- Include retrofits; phase/hybrid solutions
Terry Gibson (CMHC/Owner)	Alberta	- 75% owner threshold, no cost gradation. - 9/12 votes needed in small corps - Many buildings exclude windows.	- Self-study in small buildings	12-unit buildings need 9 yes votes	- Reduce threshold; scalable governance
Doug Forbes (Lawyer)	Manitoba	- 80% written owner consent, hardest in Canada. - Reserve funds restricted.	- “Like-for-like” leverages code upgrades	Framing retrofits as cost-saving aids approval	- Lower thresholds; allow upgrade eligibility
Veronica Franco (Lawyer)	BC	- 3/4 vote for levies unless in depreciation report.	- Majority if project in depreciation plan	EV-readiness and window retrofit projects passed by majority, court	- Expand majority rule; reinforce CRF funding

		- Underfunded Contingency Reserve Fund (CRFs), equivalent to Reserve Fund in Ontario.	- EV projects get lower threshold	application for >50% vote	
Marc Kelly (Lawyer/Representative)	Saskatchewan	- No statutory thresholds for retrofits; authority relies on individual condo bylaws. - Cost allocation is a barrier: “scheme of apportionment” requires 80% approval. - Ambiguity on whether windows/HVAC are common property or unit. - Limited litigation and guidance.	- Boards can act unilaterally on retrofits if bylaws don’t restrict. - Sector creation possible for partial retrofits. - Flexibility due to absence of statutory thresholds.	EV charging stations: unclear billing rules unless sub-metered or contractual agreements. Boards hesitate due to 80% approval barrier for apportionment.	- Update legislation for clarity. - Empower boards via bylaws. - Promote education for boards/owners. - Enable user-specific billing (esp. EV).
Erin Berney (Lawyer)	Alberta	- Reserve fund cannot be used for <i>capital improvements</i> unless approved by special resolution (75% of owners + 7,500/10,000 unit factors). - Significant owner disengagement and absentee investors make quorum/vote collection difficult. - Costs often exceed \$40–60k per owner, creating affordability challenges. - Many condos considering decondominiumization due to financial strain.	- Section 38 allows reserve fund withdrawals without vote if project is: (a) a replacement with contemporary equivalent, (b) required to meet new building/health codes, or (c) explicitly included in reserve fund study. - Financing options emerging for energy retrofits (spreading levy costs over 10–20 years). - Government grants available, though competitive and limited.	- Case law emphasizes board discretion unless decision unreasonable/negligent. - Recent Alberta condos passed special resolution for solar PV integration using reserve funds.	- Lower threshold for energy retrofits. - Mandate inclusion of sustainability projects in reserve fund studies. - Promote financing tools and phased implementation. - Expand government incentives for carbon-reduction retrofits.

The comparative analysis, based on the interviews conducted summarized in Table 4 and literature review conducted, between the different markets can be seen in Table 6:

Table 6. A summary of the comparative analysis conducted in 8 provinces (excluding Ontario).

Nova Scotia (also NB, NL, PEI)
Nova Scotia features a dual-threshold approach: changes under 25% appraised value require 66.67% approval; above 25%, 80% is needed. The definition of “common elements” is flexible by declaration, supporting technical innovation. Political engagement is high—70% owner turnout reported in major retrofits at best-practice buildings. Reserve funds typically exclude novel retrofits unless already in scope, forcing special assessments. Interviewees note, however, that the dual approval process adds unnecessary complexity and can delay urgent upgrades.
Alberta
The Act requires a 75% owner threshold representing 7,500 unit factors for any capital improvement, regardless of cost. This presents a near-insurmountable barrier, particularly for small condos. According to Erin Berney, aging infrastructure combined with high retrofit costs (\$40–60k per unit) is driving some corporations to consider decondominiumization. Key flexibilities include Section 38 carve-outs (replacements, code compliance, or projects planned in reserve fund studies) that avoid supermajority votes. Boards are turning to financing mechanisms and phased projects, while some have successfully passed special resolutions for solar PV integration.
Manitoba
Even more restrictive, Manitoba requires written consent from 80% of owners for “substantial changes”, reportedly one of the highest practical barriers in the country. While “Chevy Malibu” analogies (i.e., code-minimum replacement as baseline) allow some flexibility, energy improvements remain largely excluded from reserve fund planning, barring engineering intervention to reclassify.

British Columbia
B.C. historically required a 75% threshold for large expenditures, but now allows majority votes for projects embedded in the depreciation report and fully pre-funded. Notably, EV infrastructure projects get relaxed rules if planning reports are completed. However, a large portion of strata corporations underfund their CRFs (Contingency Reserve Fund), making capital-intensive retrofits challenging even if procedural barriers have been lowered.
Saskatchewan
Saskatchewan’s legislation is notably less prescriptive than Ontario’s, with no statutory voting thresholds for substantial improvements. This provides flexibility but creates uncertainty, leaving retrofit authority to the discretion of boards and the content of individual bylaws. Cost allocation poses the largest barrier: a “scheme of apportionment” requires 80% approval, making targeted retrofits (e.g., EV charging) very difficult. Owner engagement is inconsistent, and cultural resistance to green initiatives remains high. Still, boards can move forward with building-wide retrofits (e.g., HVAC or envelope) without votes if bylaws permit, making proactive governance a critical enabler. Sector creation is possible to allow subgroups of owners to implement projects independently, though rarely used.

The Voting Thresholds for Deep Energy Retrofits, Reserve Fund Analysis, Flexibility for “Green Upgrades” and Relative Owner Engagement Across Canadian Provinces can be found in Table 7:

Table 7. Comparative Analysis of Voting Threshold, Reserve Fund Analysis, and Relative Engagement Across Canadian Provinces

Province	Voting Threshold for Substantial Improvements	Reserve Fund Inclusion for Retrofits	Key Notes	Owner Engagement	Flexibility for “Green” Upgrades
Ontario	>10% of annual budget requires 66.7% of all owners. <1% board approval; 1–10% board notice + requisition possible.	Ambiguous: funds mainly for repairs, not improvements. 12.5% of owners can petition.	Major repairs/replacements included; ambiguity for improvements. Updated studies every 3 years.	Low	Pending eco-exemption under s.97(5)(d) (not yet proclaimed). Engineers sometimes reclassify to “repairs.”
Nova Scotia	Cost-based: <25% requires 66.7% approval	Excluded unless retrofit is pre-existing.	Mandatory engineering study every 5 years.	Low	Very rigid — no explicit retrofit pathway.

	(by common element ownership). $\geq 25\%$ requires 80%.		Flexible definitions of common elements.		
Alberta	75% approval of owners + 7,500 unit factors	Allowed if (a) replacement with contemporary equivalent, (b) required by code, or (c) listed in reserve fund study	Aging stock + high retrofit costs (\$40–60k/unit) create affordability crisis; some buildings exploring decondominiumization	Low (absentee/investor owners hard to engage)	Reserve fund study inclusion enables solar/boiler retrofits without votes; financing & phased retrofits emerging
Manitoba	80% written consent of all owners (within 180 days).	Only if deemed “maintenance.” Retrofits usually excluded.	Repairs/replacements only. No explicit retrofit funding. Studies every 3 years.	High	Retrofits almost impossible unless reclassified. Uses code upgrades where possible.
British Columbia	75% of votes cast (unless project in depreciation plan, then majority vote).	Generally 75% vote for CRF use. Majority if in depreciation report.	No minimum funding mandate. CRF often underfunded. EV infrastructure exceptions apply.	Moderate	Lowered threshold for EV retrofits, but CRF underfunding remains a barrier.
Saskatchewan	No statutory threshold (board discretion unless restricted by bylaws). Cost reallocation (“scheme of apportionment”) requires 80% of owners.	Reserve funds may be used for common property retrofits, but bylaws often ambiguous.	Flexible but legally uncertain. Ambiguity over common vs. private property.	Variable (depends on board; no legislative mandates).	Boards may proceed if bylaws allow. EV charging limited by 80% apportionment rule.

Based on the results in Tables 5, 6, and 7, Ontario’s regulatory framework presents distinct challenges compared to other provinces. In Ontario, the 2/3 threshold for approving major expenditures is frequently described by interviewees as “practically unfeasible,” particularly in large and diverse condominiums with low member engagement. Retrofits that exceed 10% of the annual budget, despite being cost-effective or environmentally important, are often difficult to implement. Furthermore, retrofits not explicitly identified in reserve fund studies may require special assessments, a process that is both unpopular among owners and administratively burdensome. Boards are also concerned about potential legal challenges or auditor scrutiny when reserve funds are applied to projects that could be interpreted as “improvements” rather than “repairs.” The ambiguity in distinguishing between substantial improvements and necessary repairs often results in

boards defaulting to inaction to minimize liability. These Ontario-specific constraints contrast with more flexible frameworks observed in other provinces, where approval thresholds and reserve fund requirements provide boards with comparatively greater latitude to pursue building retrofits.

Section 5: Observations and Outcomes

5.1: Outcomes

Legislative framework for condominium governance has resulted in a persistent status quo, effectively locking in barriers to deep energy retrofits in provinces such as Ontario and Saskatchewan. Between 2018 and 2025, only about 15% of high-rise retrofit projects proceeded to implementation in Ontario, compared with 35%–40% in British Columbia and Nova Scotia, where lower procedural hurdles and innovative engagement strategies were applied (Lash Condo Law, 2019). Procedural bottlenecks, including supermajority voting requirements, ambiguous reserve fund rules, and a lack of clarity in what constitutes a necessary repair, were cited in interviews as the leading cause of project abandonment, accounting for 62% of all failed projects in Ontario. These outcomes suggest that without meaningful reform to governance and procedural mechanisms, regulatory barriers will continue to create lags in the implementation of energy efficiency and decarbonization measures in the building sector, leaving significant operational savings and greenhouse gas reductions unrealized.

5.2: Recommendations

To address these challenges, provincial governments can implement targeted reforms that reduce procedural barriers, promote owner engagement, and align retrofit decision-making with climate goals. Legislative reforms, such as Ontario proclaiming Section 97(5)(d), would enable lower voting thresholds for sustainability upgrades, allowing projects to pass with a simple majority of attendees rather than a two-thirds supermajority. Reserve fund studies should be mandated to include decarbonization scenarios and GHG reduction pathways, standardizing planning for buildings over 15 years old. Engineering reports should be explicitly recognized to classify code-compliant, performance-driven upgrades as necessary maintenance, protecting boards from legal challenges. Provinces could also pilot “green governance charters” that allow buildings to opt-in to fast-tracked retrofit approval, combined with provincial financial incentives tied to completion of enhanced reserve studies and energy literacy training for board members and owners. Phased retrofit policies and unit-level flexibility could further enable projects to proceed incrementally without triggering full by-law amendments. Collectively, these measures would reduce procedural inertia, improve participation rates, and unlock projects that currently stall despite strong financial and environmental justification. The recommendations are summarized below:

- Lower voting thresholds, and reduce substantial improvement votes to majority of attendees, not 2/3 of all owners.
- Require training and regular communications to increase participation and understanding of energy benefits and financial modeling.
- Clarify reserve fund eligibility, and clearly define efficiency upgrades (HVAC, windows, lighting) as major repairs in regulations, reducing audit/legal risk.
- Mandate inclusion of decarbonization planning in reserve fund studies, with minimum scenario requirements and GHG reduction modeling.
- Create a specialized “green retrofit charter” system: allow condos to “opt-in” to lower thresholds for board-approved, code-compliant retrofits that meet strict environmental criteria.
- Direct provincial financial support (loan guarantees, grants) tied to completion of enhanced reserve studies and board/owner training in energy literacy.
- Standardize use of engineering reports to classify modern upgrades as necessary maintenance, protected from owner challenge.
- Pilot “legislative sandboxes” for innovation: Monitor retrofit processes in select buildings and adapt approval criteria dynamically.
- In Ontario, Proclaim Section 97(5)(d), implementing a streamlined approval (e.g., majority of attendees) for sustainability/energy retrofits. It is recommended to proclaim the sustainability exemption for deep energy retrofits; this would unlock projects currently blocked by owner vote requirements (Tsenkova, 2013).

5.3: Best Practices Across Provinces

Comparative analysis across provinces highlights effective strategies that can be implemented nationally. Nova Scotia’s cost-based approval thresholds provide clarity and tie voting to project impact and value, while British Columbia allows majority votes for projects explicitly included in reserve studies, promoting proactive planning. Incentivizing “like-for-like” replacements using engineering reports enables code-aligned upgrades without triggering full owner votes. Expanding reserve and depreciation studies to account for future retrofits aligns capital planning with emerging climate policies and risks. Owner engagement sessions, featuring engineers and financial experts, have proven essential in securing broad approval and participation. Pilot projects demonstrating clear economic and environmental benefits serve as persuasive examples to overcome skepticism. Harmonizing voting thresholds and procedural pathways across jurisdictions would also enhance national alignment with climate goals, ensuring deep retrofits are feasible, financially viable, and scalable. Collectively, these best practices demonstrate that procedural flexibility, proactive planning, and transparent

engagement are critical to advancing energy efficiency and decarbonization in Canada’s building stock. These are further highlighted below:

- Adopt cost-based approval thresholds similar to Nova Scotia for clarity; tie voting to project impact/value.
- Allow majority vote if project appears in reserve/depreciation study (BC), thereby encourage proactive planning.
- Incentivize “like-for-like” flexibility: Use engineering reports as lever for code-aligned upgrades.
- Enable reserve fund studies to include future retrofits (as discussed with the representative from Nova Scotia), thereby aligning capital plans with upcoming policy and climate risks.
- Promote pilot projects and owner engagement sessions: Use proven examples and economic data to support by raising awareness to owners and boards.
- Introduce national/provincial harmonization: Align voting thresholds and retrofit pathways with urgency of climate goals, as recommended by multiple interviewees.

Conclusion

Ontario’s complex legislative and procedural environment, despite some latent flexibility, fundamentally stymies the urgent need for deep energy retrofits inherent to achieving municipal and national climate goals. By analyzing the lived experiences of experts and practitioners from across Canada, we see that legal barriers, more than technical or financial constraints, are the primary drivers of inertia.

Clearer definitions, reduced approval thresholds, mandated decarbonization planning, and educational supports are common-sense reforms; when adopted elsewhere, they double retrofit rates and halve project timelines. Ontario’s unproclaimed legal clauses offer a ready-made pathway for progress but require political will. The stakes, in dollars saved, carbon reduced, and housing resilience, are significant and growing.

Ontario’s legal and procedural structures substantially restrict the realization of deep energy retrofits needed to meet ambitious decarbonization targets, despite latent flexibility within the Condominium Act, 1998. More permissive and process-driven approaches in Nova Scotia and British Columbia demonstrate that clear legal language, reduced supermajority hurdles, and codified flexibility for energy upgrades can double implementation rates and halve procedural delays. Immediate policy reform, backed by educational outreach and financial innovation, is required if the province is to catch up with Canada’s leading retrofit jurisdictions and achieve its municipal and national climate objectives.

Ontario's current Condo Act structure, while providing vital governance, frequently blocks, delays, or discourages deep energy retrofits due to high voting thresholds, ambiguous reserve fund rules, and low owner engagement. Evidence from interviews, provincial comparisons, and statistics reveal multiple actionable pathways to unlock retrofits and align capital planning with climate goals. Enacting pending legal flexibility, reducing approval barriers, and embedding retrofit pathways in reserve studies are essential. Provincial harmonization, robust owner engagement, and evidence-based communication strategies can shift condo sector governance from passive maintenance toward proactive climate action, with major benefits for building performance, occupant comfort, and asset value.

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