



4th Session, 37th Parliament

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REPORT OF PROCEEDINGS  
(HANSARD)

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SELECT STANDING COMMITTEE ON  
CROWN CORPORATIONS

Victoria  
Tuesday, July 8, 2003  
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SELECT STANDING COMMITTEE ON  
CROWN CORPORATIONS

Victoria  
Tuesday, July 8, 2003

- Chair:* \* Ken Stewart (Maple Ridge-Pitt Meadows L)
- Deputy Chair:* \* Harry Bloy (Burquitlam L)
- Members:*
- \* Pat Bell (Prince George North L)
  - \* Susan Brice (Saanich South L)
  - \* Daniel Jarvis (North Vancouver-Seymour L)
  - \* John Les (Chilliwack-Sumas L)
  - Harold Long (Powell River-Sunshine Coast L)
  - \* Barry Penner (Chilliwack-Kent L)
  - Rod Visser (North Island L)
  - \* John Wilson (Cariboo North L)
  - \* Patrick Wong (Vancouver-Kensington L)
  - Joy MacPhail (Vancouver-Hastings NDP)

*\* denotes member present*

*Clerk:* Craig James

*Committee Staff:* Audrey Chan (Committee Research Analyst)  
Jonathan Fershau (Committee Researcher)

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*Witnesses:* Bob Maling (Homeowner Protection Office)  
Dan Maxwell (Acting CEO, Homeowner Protection Office)  
Ken MacLeod (Chair, Homeowner Protection Office)



**CONTENTS**

Select Standing Committee on Crown Corporations

Tuesday, July 8, 2003

	<b>Page</b>
Review of Crown Corporations: Homeowner Protection Office .....	252
D. Maxwell	
B. Maling	



## MINUTES

# SELECT STANDING COMMITTEE ON CROWN CORPORATIONS



Tuesday, July 8, 2003  
11 a.m.  
Douglas Fir Committee Room  
Parliament Buildings, Victoria

**Present:** Ken Stewart, MLA (Chair); Harry Bloy, MLA (Deputy Chair); Pat Bell, MLA; Susan Brice, MLA; Daniel Jarvis, MLA; John Les, MLA; Barry Penner, MLA; Dr. John Wilson, MLA; Patrick Wong, MLA

**Unavoidably Absent:** Joy MacPhail, MLA; Rod Visser, MLA; Harold Long, MLA

1. Pursuant to its terms of reference, the Committee reviewed and examined the Homeowner Protection Office.  
Witnesses  
Dan Maxwell, Acting Chief Executive Officer  
Ken MacLeod, Chair, Board of Directors  
Bob Maling, Director of Licensing and Registrar and Acting Director of Research and Education
2. The Committee recessed from 1:05 p.m. to 1:15 p.m.
3. The Committee met *in camera* to discuss its review of the Homeowner Protection Office.
4. The Committee met in public session.
5. The Committee adjourned at 2:11 p.m. to the call of the Chair.

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Ken Stewart, MLA  
Chair

Craig James  
Clerk Assistant and  
Clerk of Committees





TUESDAY, JULY 8, 2003

The committee met at 11:05 a.m.

[K. Stewart in the chair.]

**K. Stewart (Chair):** Good morning, everyone. My name is Ken Stewart, and I'm the Chair of the Select Standing Committee on Crown Corporations. Today we have before us the Homeowner Protection Office. What I'd like to do is start with introductions. I'll start the introductions with the Clerk to my left, Craig James.

**C. James:** Craig James, Clerk of Committees and Clerk Assistant.

**A. Chan:** Audrey Chan, research analyst.

**J. Fershau:** Jon Fershau, committee research.

**J. Les:** John Les from Chilliwack-Sumas.

**B. Penner:** Barry Penner, MLA for Chilliwack-Kent.

**K. MacLeod:** Ken MacLeod, chair of the Homeowner Protection Office.

**D. Maxwell:** Dan Maxwell, acting chief executive officer of the Homeowner Protection Office.

**B. Maling:** Good morning. I'm Bob Maling. I'm the registrar at the Homeowner Protection Office.

**P. Bell:** Pat Bell from Prince George North.

**P. Wong:** Patrick Wong, MLA for Vancouver-Kensington.

**S. Brice:** Susan Brice, Saanich South.

**H. Bloy (Deputy Chair):** Harry Bloy, Burquitlam.

**K. Stewart (Chair):** Again, I was just looking at our agenda here. It says "protective office." I didn't think my eyes were that bad, but I did understand it to be "protection office." There we go.

**B. Penner:** Point of order, Mr. Chair.

**K. Stewart (Chair):** Yes?

**B. Penner:** I just wonder if we could have clarification from our speakers. Are they from the homeowner protective office, as indicated by the little signs with their names on them, or are they from the Homeowner Protection Office, as indicated on the service plan in front of us?

**K. Stewart (Chair):** I will allow our guests to clarify that.

**D. Maxwell:** It's the Homeowner Protection Office, as it appears on the service plan.

**K. Stewart (Chair):** Thank you very much.

**K. MacLeod:** I hope that's what the order-in-council says; otherwise, we're all in trouble.

**K. Stewart (Chair):** Now that we've gone over this, a couple of notes before we get started. Our general format is that we'll do an hour for your presentation. You can have up to an hour. Certainly feel free if you can do it a little quicker than an hour, as we usually run out of time on our questions. We have an hour for presentation and an hour for questions. At that time you'll be free to go, and we'll continue on with our meeting.

What I'd like to mention first.... Two things. One is that we're relatively informal here, going by first names. I hope that's no problem for you. The second part is that the transcripts today are being recorded in *Hansard*, and they will be available to the public probably in two days or so. They get them out on the Internet fairly quickly. Everything that you say today is being recorded and will be out for public consumption within a day or two.

Any opening remarks?

**C. James:** Just for the information of members, we have with us this morning Jonathan, as well, who is going to be replacing Audrey. Audrey is going to law school at UBC beginning in the autumn. We're sad to see her go, but happy that she's heading off on a new career. Jonathan will be intimately involved with the work of this committee, as Audrey has been over the course of the past year or two. If anybody has any questions, please feel free to ask me. Welcome Jonathan to the meeting here.

**K. Stewart (Chair):** On behalf of the committee, I'd certainly like to thank Audrey for all her hard work. You've done a very good job for us, and we wish you all the best in your future endeavours — although we will get to work with you until the end of the month, I understand. We still have a little work to do.

What I'd like to do now.... I'll just turn it over. Is it Bob or Dan that's going to be leading the charge today?

**D. Maxwell:** I'll lead the charge.

**K. Stewart (Chair):** Go ahead. We understand you have a PowerPoint presentation. We all have copies of it in front of us. My suggestion would be to lead us through it. I would ask the members to refrain from any questions until the end, unless it's something that you need to clarify as we move through. I would appreciate it if you could hold your questions until the end.

We can start now.

### Review of Crown Corporations: Homeowner Protection Office

**D. Maxwell:** I'm Dan Maxwell. I'm the acting chief executive officer of the Homeowner Protection Office. With me today is Bob Maling. He's the Homeowner Protection Office director of licensing and registrar. As well, he's our acting director of research and education.

[1110]

Also joining me is Ken MacLeod. Ken was just appointed chair of the HPO a couple of weeks ago. The first meeting of our new board is on Thursday this week. We'll be able to report back to the board on your comments here today.

Bob and I have a joint presentation that we're going to take you through, using PowerPoint. You do have the slides in front of you. It looks like it's going to run about 40 minutes. I hope that's okay.

Here's the agenda I'd like to follow today. I'm going to give an organizational overview and background. Then Bob will come and set the industry and consumer context for us. I'll return and take a look at the 2002-03 performance highlights and targets set out in our annual report that was recently tabled and our service plan from last fall. I'll take a look at the summary financial outlook for the office and then conclude with the core services review outcome that the HPO went through.

In terms of overview and background, the Homeowner Protection Office is a provincial Crown corporation formed in 1998 under the Homeowner Protection Act to strengthen consumer protection for homeowners, restore consumer confidence in residential construction and bring about an increase in quality in residential construction in British Columbia over the long term. Programs include the licensing of residential builders, mandatory private sector warranty insurance, research and education, and financial assistance for owners of leaky homes. These programs are funded primarily from builder licensing fees. The financial assistance programs also receive contributions from the federal and provincial governments.

In 2002-03 the HPO employed 34 people and generated revenues of \$23.4 million. The expenditures were \$19.9 million. We earned a net income of \$3.5 million.

A public-private service delivery model is in place for each of the HPO's program areas. Licensing and warranties are delivered through minimal centralized regulation to ensure a level playing field provincewide, coupled with competitive private sector warranty insurance to ensure choice, innovation and lower cost.

Licensing fees are set by provincial legislation. Currently, the licence application fee is \$600 with a \$500 annual renewal and a \$25 per-unit fee for each home built by builders. Warranty insurance costs, which are set by the private sector warranty providers, range from \$400 to \$1,200 per unit and are dependent upon a number of industry factors, including housing type and builder qualifications.

Research and education projects are delivered in partnership with industry, educational institutions and

the federal government. These projects are contracted out to research organizations and professional consultants who have the required technical expertise. The HPO aims to provide about one-third of the funding for these projects, with about two-thirds coming from the other partners. The HPO's goal is to facilitate, focus and expand applicable research and education in building science and consumer information.

Finally, the financial assistance is provided through a uniform eligibility assessment by the HPO to ensure equal access and fair treatment, coupled with private sector lending through banks, credit unions and trust companies to take advantage of their loan administration expertise and systems.

For licensing and warranties, the Homeowner Protection Act established licensing and third-party warranty insurance for new homes constructed as of July 1, 1999, and building envelope renovations as of September 30, 2000. The HPO maintains a public registry of licensed residential builders and building envelope renovators on its website, which enables the public to check the status of any builder.

The licensing and warranty provisions work in tandem to ensure that builders meet minimum standards and then, if a construction defect does occur, that the homeowner is protected by a policy of home warranty insurance. Licensing helps to create a more level playing field for the industry and increases builder accountability. Non-compliance cases are investigated by the HPO. In most cases, unlicensed builders in violation of the Homeowner Protection Act are convinced to become licensed and provide home warranty insurance to protect the homebuyers. In other cases, licences have been cancelled, restricted or suspended.

The home warranty insurance is the strongest in Canada. The system is preventative. Insurers are involved in the review of designs for complex buildings, and they are involved in conducting inspections during construction. Also, if claims begin to arise in a systemic way, insurers will respond by requiring design changes or different materials or different construction techniques. Finally, without warranty insurance, many consumers say they would not buy.

[1115]

Unfortunately, the residential construction industry does have a long history of major construction failures beyond the leaky-condo disaster. Typically, these major construction problems arise following a housing boom. The range of construction problems is diverse. On the slide I have some examples.

Recently there were 5,000 pyrite-damaged homes in Quebec, which required major repairs to foundations that were about the same scale as the leaky-condo repairs we have in B.C. Not that long ago we had 20,000 homes with untreated pine shakes in Alberta and a bit in B.C. Those pine shakes failed in three to five years and needed to be torn off and replaced with a proper roofing material.

You probably recall there were 2,000 homes in B.C. with radiant ceiling heating panels that were a danger. A class action lawsuit resulted from that. The province

was sued and ended up settling and paid compensation to homeowners.

We had 280,000 homes with urea formaldehyde foam insulation that affected homes in all provinces. Then most recently we had our 65,000 leaky condos in B.C.

I think it's also interesting that prior to the collapse of the B.C. new home warranty program, the majority of claims that were landing on their doorsteps were coming from single-family homes. It's often thought that a leaky-condo problem is a multi-unit problem, that the majority of construction problems happen in multi-unit construction. They do have their share, but it is true that the majority of claims the B.C. new home warranty program got prior to 1998 were coming from single-family homes.

For warranty insurance. Minimum warranty insurance provisions are laid out in the Homeowner Protection Act. It's a two-five-ten coverage: two years on labour materials, five years on the building envelope and ten years on the structure. Private sector companies which meet the requirements of the Financial Institutions Act provide the warranty insurance. Right now in B.C. we have five companies that are competing to provide this product.

Although the act sets this minimum standard of two-five-ten, some of the companies have chosen to provide a higher level of coverage, so we do have two-ten-ten coverage in B.C. Home warranty provisions are also passed on to future purchasers of the home, so they run with the structure itself, not with the initial buyer of the home.

Claims activities are monitored by the HPO to ensure that the third-party insurance system is effective and is adequately protecting the consumers. Over time the number of claims made by homeowners to the various warranty insurance companies will be an important measure as to the improvement in quality of residential construction in the province.

What's happening in other jurisdictions? I think we're in line with the trend that we're seeing around the world. In Ontario and Quebec they have more mature licensing and registration systems — mandatory warranty insurance. I believe the Ontario new home warranty program has been around for about 30 years. The state of Victoria in Australia has a very similar system to B.C. Washington State, New Jersey, Arizona and other U.S. states do have licensing or registration for builders or contractors, then, with mandatory warranty or bonding systems.

In the United Kingdom registration and warranties are a requirement of financing, which effectively has made it a mandatory system. If you want to build a home with financing or sell a home, their financial institutions look for registration and warranties. Otherwise in Canada, Alberta and the other provinces are where British Columbia was prior to 1998. There are voluntary warranty systems and, really, a buyer-beware model that's operating.

In terms of the numbers, you can see from the top chart that we've seen an increasing number of builders

each year the Homeowner Protection Act has been in force. We now have over 3,000 builders licensed in B.C. For new home starts, last year we had over 25,000 starts. I'm talking about it in terms of a fiscal year — from April 1 to March 31, 2003.

You can see that over 20,000 homes had home warranty insurance. About 3,000 homes were exempt from the requirement for licensing and home warranty insurance because they were built by owners for their personal use. About 1,500 homes were exempt multi-unit rental buildings. If it's a purpose-built rental building with a single owner, it's exempt from the warranty requirement.

For research and education. Our research and education projects are focused in three main areas: consumer information, new and improved technology and building science, and education and training for industry. The HPO works with other levels of government — industry partners — to pool and leverage additional resources for these research and education projects. Research is not carried out in-house. Rather, it's contracted out to research organizations or professional consultants who have the required technical expertise and qualifications. With the involvement of the HPO, there is now a focus on research of particular relevance to the climate and geography of B.C. The leaky-condo issue is a good example of this.

[1120]

Some examples of consumer information include this guide you can see on the screen, the *Managing Major Repairs* guide, which we developed together with CMHC to help owners understand the complex process of completing what are often multimillion-dollar repairs to their homes. It's for something they've really had no training or experience with — dealing with the consultants and the construction contracts. This was a process guide, and it was one of our first initiatives to put this manual out.

In terms of research results to the industry, dissemination of the research to the field is critical. We do this through workshops, seminars and publications. The Managing Moisture in Housing building envelope symposium that appears on the screen was our biggest event to date, with over 400 participants from all aspects of the residential construction sector in the fall of 2001. Then in February this year we also helped to put on the Ninth Conference on Building Science and Technology. It attracted architects, engineers and building scientists from across Canada and the United States and from as far away as New Zealand, where I guess they're just where we were in 1998 — having their own leaky-building problem emerging.

These events were held in conjunction with industry partners, including the Urban Development Institute, the B.C. Building Envelope Research Consortium and CMHC. The major focus of the events was to get recent building science research to the industry. The goal is to ensure that builders, contractors and other industry players have access to improved technology and put these new best practices into the field.

One other example of that is the "Building Envelope Solutions" course that I have here on the screen. This is really a hands-on training course for those people who work on the jobsites and build the homes. The development of the course material was funded by the Homeowner Protection Office, CMHC and the Canadian Home Builders Association of B.C. The training course profiles the latest building envelope technology and best practices and incorporates the latest research results. The course is being delivered by BCIT on the lower mainland, with plans to deliver the course in Victoria and Kelowna.

In terms of financial assistance programs, this was the first priority of the office. When we were established in 1998, we were just in the midst of an exploding leaky-condo crisis — many homeowners with leaky homes and not the funds to be able to repair them. The first priority was to establish a no-interest loan program for homeowners who were not able to pay for or finance repairs to their buildings, which were suffering from what we've termed premature building envelope failure. It's not a general compensation program. Rather, it's an initiative to ensure that owners do not lose their homes due to the financial burden of repairing them.

To qualify for a loan, homeowners must own a home which is suffering from premature building envelope failure and then be unable to afford the repairs either through savings or by placing a second mortgage on the home. On average we provide loans to about 25 percent of owners in a building. We think the program has been successful in helping leaky-condo owners afford the repairs, in reducing foreclosures and bankruptcies that we think could have paralyzed the industry, and in ensuring that viable long-term repair solutions are selected by owners as they work their way through this process.

A major fiscal challenge for the program is the ending of federal funding this year. The federal government had agreed to provide about 25 percent of the cost of running the program, but now that the repair estimate has risen from the initial estimate of a billion dollars — back in 1998 — to what we now believe is going to be a billion and a half, the federal government has refused to provide any additional funding. It's capped at \$27.7 million, and I think by September-October we'll have received that full amount. No further funding is going to flow to the province unless we're able to change their opinion about that.

In terms of their numbers, you can see from the top chart that we reached our peak for new loans in 2000-01, and we provided about 3,000 loans that year. In each of the past two years we provided about half that number of loans. We expect this to gradually decline over the next few years as the remaining leaky condos are repaired. At the end of last year we had approved about \$285 million in total in leaky-condo loans.

The bottom chart shows the PST relief grants that are paid to owners once they've completed repairs and they're eligible to get all the PST back. That will sort of track the funding of loans and repairing of buildings

with a little bit of a time lag, a one-to-two-year time lag. Last year there were about 6,000 homes that qualified for PST relief grants.

At this point I'd like to turn over the presentation to Bob Maling, who will take us through the industry and consumer context.

[1125]

**B. Maling:** Thanks very much, Dan.

Good afternoon, ladies and gentlemen. What I'd like to do is very briefly give you an overview of where we believe the home-building industry is headed in B.C. and give you a flavour for some of the ongoing issues the HPO becomes involved in, in an effort to help support a healthy and productive housing industry while still protecting consumers.

The residential construction industry has traditionally been one of the leading economic generators in British Columbia and indeed in all of Canada. Although home building is not as highly profiled as some other traditional major industries such as forestry or mining, it does achieve similar performance in terms of gross domestic product. Home building accounted for \$3.9 billion worth of building permits in 2002. That translates into just a little less than 4 percent of last year's GDP. Our industry accounts for significant employment and in fact is currently experiencing a labour shortage in trying to keep up with the demand for new housing.

Although we've not returned to the heady days of the early nineties when we experienced up to 40,000 new home starts a year, we've seen a steady increase in starts as we've entered into the new millennium. Starts last year were just over 20,000 — up significantly from the previous two years — and predications are that as many as 25,000 new homes will be built this year. There is a strong demand for new housing. Interest rates remain at an all-time low and are not forecasted to increase in any great degree in the immediate future.

We forecast up to 27,000 new homes for fiscal 2003-04, and we predict a return to more traditional British Columbia levels of 30,000 housing starts for 2004-05. The bottom line is that our industry is again strong. It's contributing to significant employment in the province, and it's leading the way in a return to B.C. prosperity. By the way, last week's announcement of the 2010 winter games will mean even more demand for new housing starts and more employment in the construction industry in general, but all of this leads me to a couple of issues that challenge our industry and challenge the HPO's involvement.

When home building crashed down to 15,000 starts in the late 1990s, many of our skilled trades moved to other provinces to find work, or they moved off to other occupations. By the year 2000 the number of construction trades had significantly adjusted to match the amount of work that was available to them. With starts again headed for the 30,000 range, a skilled labour shortage crisis looms.

Now, for many years our industry has recommended the development of a training framework that

would allow for the development of specialty trades fashioned specifically to suit the home-building industry. Traditional apprenticeship training programs have not always met the needs of house builders. They often require participants to learn skills that are not applicable to home building and overlook areas that are critical for work on new homes. As a result, the industry has often resorted to on-the-job training. They train their own, which is often very time-consuming and expensive. With no form of certification available for that training for participants, the skills they've learned are not easily recognizable or transportable to other employers. Without any form of career or professional labelling, it's been very difficult to attract young people into the industry.

This is a priority issue with the Canadian Home Builders Association and UDI, both at the provincial and the national level. Now, with the HPO's assistance, CHBA-BC has recently developed a skills development plan which deals with these issues and proposes a quick-time stage approach to certify housing specialty trades, and it promotes the advancement through a training program as a career choice for young people.

HPO supports this approach and sees the new industry training model that was announced by this government as being key to facilitating this kind of innovation and in helping respond to the growing need for more and better-skilled trades in our industry. We see this as a glove fit with the HPO's mandate of improving residential construction, especially at a quality level, and we look forward to helping the industry develop that model.

[1130]

With respect to insurance, from its own point of view, the general insurance industry believes that it has fallen on hard times. Insurance companies traditionally make their money by taking product premium and investing it in the stock market. As long as the return on investment is better than the claim payouts, they make money for their shareholders. But as a result of a combination of events, including some catastrophic losses due to unusually severe weather-related events, acts of terrorism such as 9/11, unprecedented litigation over things like asbestos, medical and business malpractice and other issues — all of this coupled with the poor performance of the stock market — the insurance industry has seen loss ratios increase to well over 100 percent. They're not making money.

In response, the general insurance industry is pulling back on involvement in what it sees to be high-risk product lines, and it's significantly increasing premiums in those lines where it's keeping its business. One of those high-risk lines is liability coverage for contractors who build multi-unit wood frame buildings or those that remediate leaky condos. Loss ratios for these types of buildings are high, due in part to litigation over leaky-condo problems and a number of construction-related fires in other parts of the country.

To make matters even worse, one of the major suppliers of general liability coverage recently withdrew from the market altogether. As a result, many B.C. con-

tractors are left with no general liability coverage, and other GL suppliers are not anxious to pick up those builders because they have high risk exposure associated with their previous construction. Those carriers that do remain in the market are providing coverage still but at significantly higher premiums. At least the builders that are their customers are able to take on new work and continue business.

Those who find themselves without general liability coverage are in a catch-22. Without GL coverage, they cannot get bonding, and without bonding, they cannot enter into contracts of any consequence. As a direct result of this, many current leaky-condo repairs are on hold while their contractors scramble to try to find general liability coverage or strata boards try to find new contractors who still carry insurance.

The HPO recently joined the Independent Contractors and Businesses Association of B.C. in making a presentation to representatives of the insurance industry in Toronto. What we were trying to do is impress upon them the positive ways in which the construction industry has changed here in B.C., and we put forward the proposition that B.C. is probably a less risky environment for them to provide policies in than many other parts of the country. The insurers seemed to listen to what we had to say. They understood our message, but it remains to be seen whether they will make any immediate turnaround in their practices.

I am pleased to say that yesterday, one of our warranty providers entered into arrangements with Lloyd's of London and with Commonwealth Insurance to write general liability coverage for builders operating under their particular home warranty insurance program. This fact should solve the insurance dilemma for most builders and building-envelope renovators, provided they are prepared to undergo the type of scrutiny that this one particular warranty provider requires. Builders who were orphaned by the withdrawal of the major carrier will at least have some place to turn to get their GL coverage.

Probably the most single reoccurring complaint registered by the home-building industry about the Homeowner Protection Act is abuse of the exemption from licensing and warranty insurance requirements that is afforded to owner-builders. Individuals who are prepared to complete a declaration that they are personally building a new home for their own use are not required to become licensed, nor are they required to provide home warranty insurance — the theory being that they will live in this house they built and that if there are problems arising out of that, they're responsible only to themselves.

In fact, the legislation allows an individual to build as an owner-builder once in every 18 months. A recent representative sampling by our staff shows that 25 percent of all new homes built by owner-builders are sold within two years and that 33 percent are sold within three years. HPO's field compliance staff routinely discover unlicensed builders constructing homes on behalf of individuals purporting to be owner-builders, or

they find owner-builder homes being offered for sale prior to completion.

None of this is lost on licensed professional home-builders. They see this type of activity as unfair competition and urge us in the strongest possible terms to turn up the heat on this issue. They begrudge the fact that many owner-builders work within the underground economy, pay cash for services of contractors who do not pay WCB fees, and don't pay PST and other taxes or business costs associated with legitimate contracting.

[1135]

They resent the fact that the HPO is not effectively stopping this, but in fact three-quarters of the HPO's licensing staff and of our budget are spent in work directly related to the owner-builder exemption, while the remainder of our staff and our budget services the needs of the 3,200 licensed builders and new applicants that come in the door.

I should point out that the HPO's main source of revenue is builder licensing and that owner-builders pay nothing in terms of fees to the HPO. Closing loopholes in the system and making it fair to those who make their living building new homes is an issue that the home-building industry is adamant must be dealt with soon.

As I mentioned, our field compliance efforts often turn up unlicensed contractors, and 75 percent of our licensing resources are spent in trying to manage those that would work outside of the system. Although the requirements for licensing and warranty came into effect in 1999, it was not until 2001 that we introduced a formal compliance function.

As you see from the graph, although it is a resource drain, it has had a moderate effect on reducing the number of unlicensed builder activities and increasing the number of new homes that are covered by home warranty insurance. Early on in our existence close to 40 percent of all new detached homes were built using the owner-builder exemption, and they had no home warranty insurance. As I mentioned before, 33 percent of those have now been sold to consumers without home warranty insurance. With the housing market heating up, there will be even more incentive for individuals to build a new home for sale. Our challenge will be to try to continue to be diligent in protecting new homebuyers and still exercise fairness to individuals and to the home-building industry. I can assure you that legislative change in this area is very high on the agenda of organized representatives of the home-building industry, both at the Canadian Home Builders Association level and the UDI level.

One of the goals of the HPO is to help improve consumer confidence in the home-building industry, and since 1999 we've been making efforts to improve consumer awareness that the industry has changed and that they are well protected when making the single most expensive purchase that they will likely ever make. Last year, in order to get a benchmark measurement of consumer awareness and satisfaction, we conducted a survey of recent buyers of new homes and

people who were planning on buying a new home in the very near future. The survey says that buyers think home warranty insurance is very important, and it made a difference in their decision to buy. Fully 24 percent of those we surveyed would not have purchased a new home without home warranty insurance. The survey also showed that new homes built by licensed residential builders ranked very high in quality of construction. Those people we surveyed who indicated they were planning on buying a new home soon registered concern about the potential for defects, but when questioned further, they drew comfort from the knowledge that licensing and home warranty insurance were now requirements in our province.

Awareness among those planning on buying a new home that home warranty insurance is now mandatory in B.C. registered only 45 percent. That was somewhat disappointing for us. However, when we thought about it, raising the awareness of the general public about issues like home-buying is probably not cost-effective. Making sure that people become more aware as they actually get serious about buying a new home and closer to the purchasing decision is probably a more appropriate target for us. As I said, this is a benchmark survey. It helps us identify areas where we need to make efforts to improve over the long term and an effort in helping consumers make savvy decisions. It can be used to help us compare the success as time goes on. Just for your information, we're planning a similar survey of all of our licensed residential builders later this year.

Thanks for the opportunity to speak to you about these issues. I'll turn the rest of the presentation back over to Dan.

**D. Maxwell:** Now I'd like to take a look at the 2002-03 performance measures and targets. I'll cover the actual performance that we report in our annual report that was released just a couple of weeks ago and also talk about the 2003-06 targets that are in that report as well as our service plan.

We've adopted ten key performance measures and targets to report on our performance. We think that ten measures is a good number, and those ones really give the snapshot view of what we're doing and are the measure to make sure we're achieving what we said we would achieve. Where possible, we benchmark ourselves against others, and for some of our measures they were new this year, so we used them to establish baselines.

[1140]

Homeowner satisfaction with their home warranty insurance is key. It tells us if the system is working and if the consumers believe they are adequately protected at a fair price. Our surveys show that 83 percent are satisfied with their home warranty insurance. As we go out to 2005-06, we'd like to see that target rise to 85 percent.

Homeowners with warranty insurance claims are also important. They can tell us if the quality of construction is improving over time as we track the num-

ber of claims. We saw that about 5 percent of the homeowners had claims. This compares to about 4 percent in Ontario under the Ontario New Home Warranty Program.

You can see we set a target of under 10 percent going forward out to 2005-06. I guess the one caution we had with the 5 percent number we saw is that we are very new to the game, in the system. The first homes requiring home warranty insurance began their construction in July of 1999. I think really when we get closer to the expiry of the five-year building envelope coverage and the ten-year structural coverage, we'll have to see in those later years what the warranty insurance claim ratio is, but we do expect it to rise.

Investigations resulting in voluntary compliance. When it comes to compliance, we've learned that by far the best approach is to get voluntary compliance. Our target is to get seven out of ten of our compliance investigations resulting in voluntary compliance. Now, we know that the cases we try to prosecute through the court are expensive and time-consuming. There is value in getting precedents and publicizing them, but the best approach is to get the builder on board, get the builder licensed and get the buyers of their homes protected by home warranty insurance. In 2002-03, 76 percent of our investigations resulted in voluntary compliance. In going forward, we want this target to rise to 80 percent.

Timeliness of licensing decisions. Builders pay for the system, so we make them and their licensing requests our priority. Our goal is to make all of our licensing decisions in five days. Last year we averaged 3.1 days. This compares to Washington State and Maryland state where registration takes, on average, five to seven days.

Homebuyer awareness. Awareness of the licensing and warranty system is important because when consumers have an expectation of licensing and warranty, they will ensure that they get the protection they deserve. This is an area where we need to improve. At present, only 73 percent of homebuyers are aware that their builder must be licensed. Less than half know about the mandatory home warranty insurance. As Bob said, we recognize it is expensive to launch a consumer awareness advertising campaign, so that's not been our focus. Instead, we've concentrated on educating realtors and lenders so they can inform their clients of these systems when they're ready to make that buying decision. As well, we regularly speak at first-time homebuyers' seminars, and we participate in home shows and try to get our message out that way.

Reconstruction loan default rate is important. Our general goal of this program is to ensure that owners do not lose their homes. So far, less than 1 percent have defaulted on their no-interest loans. This doesn't include people who decide to walk away from their leaky condo before they take a loan from us; it only talks about people who've received a loan from us. What we're seeing is that 99 percent of them are making their payments and keeping their homes. That compares to a default rate of 0.5 percent for all mort-

gages in British Columbia. One statement I'd make there is that by definition, this program gives loans to people who otherwise would not qualify for a loan from their financial institution, so it is a riskier group of people who receive loans under this program than the general population of loans.

Recovery of home values following those building envelope renovations. Ultimately, what leaky-condo owners want is to get their money back. This measure looks at whether or not the assessed value of their home has risen by at least as much as they've spent on repairing it. To date, about 55 percent of all repaired homes have risen in value by at least as much as the cost of repairs. That is, it's risen in value from a depressed value because it was a leaky condo. What we're seeing is that they're at least getting a recognition from the market for the amount of money they've put into repairing their home.

Leveraging of additional research education funding. The HPO is a small organization with a modest research and education budget. Consequently, we want to get the maximum bang for our buck. We do that by partnering with industry and the federal government. We try to ensure that for every dollar we put into research, our partners put in \$2. Last year we got between \$4 and \$5 for each one we put in.

[1145]

Research results disseminated. It's critical that once the research is done, it's put into the hands of the people who will use it to build better buildings. This measure looks at how well we do that. We target for one major symposium or publication each two-year cycle and to hold 12 educational sessions. We've been successful in doing that so far, and I highlighted two regional conferences that happened in the last few years.

Research results incorporated into building standards and best practices. We also want to ensure that our research gets incorporated into building standards or best practice guides, so we set a target to participate in national Building Code committees and to develop best practice guides. Bob Maling serves on two national Building Code standing committees as well as the provincial technical discussion forum and the Canadian Standards Association strategic steering committee.

We don't want to overstate the impact of the HPO. The development of building codes is a national process and has involvement from many different sectors, but we at least want to make sure the HPO has a voice at the table. If we conduct research, it can be put in front of those committees for a decision to be made on it.

Now I'd like to move on to a discussion of the financial results for the office. This slide shows where the funds come from for each of our programs. Builder licensing fees pay for the HPO operations — our licensing, compliance, registrar, research and educational activities. A reconstruction levy in the coastal climatic zone, which is a \$750-per-unit levy in multi-unit buildings built in that part of the province, go to fund the reconstruction loan program. There's also a federal

contribution that goes to that program — the \$27.7 million that I mentioned earlier. Then there's a provincial contribution for the PST relief grant program. That program operates, I guess, as a flow-through or return of funds to leaky-condo owners. As they conduct repairs to their homes, they'll pay PST on the materials used to repair their homes. The province collects that funding and then, through the HPO, refunds that PST back to the leaky-condo owners.

In terms of revenues, last year our total revenue was \$23.4 million. The pie chart shows that 90 percent of the revenue that we earned related to the financial assistance programs of the office, and 10.5 percent related to the core operations of the office, if you will — the licensing, warranties, compliance, and research and education functions.

In terms of expenditures, our total expenditures last year were \$19.9 million, and it's the same story here. The licensing, registrar and compliance accounted for 9.9 percent of our spending. Finance and administration for all the programs, including financial assistance, accounted for 2.9 percent, and then the majority of the expenditures were directed at financial assistance programs — about 70 percent going to the no-interest loan program and about 16 percent going to the PST relief grant.

Some financial highlights. Our net income last year was \$3.5 million, and that compared to a loss of \$500,000 in the prior year. When you exclude the loan program and just look at our core operations, our net income was \$433,000, and that compares to a net income of \$284,000 in the prior year. That is our business model. We are to be self-sustaining from our own revenues, and we're achieving that.

The reconstruction loan program has a slightly different business model there. The idea was to flow out leaky-condo loans — no-interest loans — as quickly as homeowners came forward and wanted those loans. So we had a bubble of loans going out at the front end. That program is to be paid for by that \$750 levy.

In '98-99 there were very low multi-unit construction starts — not a lot of revenue coming in but a lot of loans going out and costs being incurred. So there the business model is over a ten-to-15-year time period to have that \$750 levy fund the entire program. It operates at a deficit in the early years, and then as we go forward, surpluses will be generated to pay off the initial deficits and fund the loans that will remain in place for up to 40 years.

We show a \$3.5 million net income. About \$3 million of that was the result of reconstruction levies funding the reconstruction loan program. I show the reconstruction levies were up 47 percent to \$7.2 million, and that's an indication that multi-unit construction really did do quite well last year, particularly in downtown Vancouver.

The licensees' fees were also up 17 percent to \$2.5 million as more builders wanted to become licensed and build homes. Loan program expenditures declined. We are past the peak in the funding of new loans, so our costs will gradually decline as we go for-

ward. On the other hand, licensing program expenditures were up 11 percent. That was so we could keep pace with our requests from builders for licences and other licensing requests they make of us.

Total housing starts exceeded 25,000 homes for the first time in four years. Here I am reporting that on a fiscal year basis. I believe Bob reported it on a calendar year basis when he talked about the 20,000 starts in 2002.

[1150]

Looking forward, we plan to continue on as a break-even operation. A stronger housing market allows us to begin to pay down the debt that we incurred by funding all those reconstruction loans upfront. We did borrow from the province to fund the cash flows we needed to be able to do that. We believe that this program is now in decline, and as we're working our way through the repair of the leaky condos and finally getting them repaired, the costs of the program will decline.

The decline of revenue that you can see in the top line there — we've gone from \$22.8 million in 2003-04 down to \$20.3 million and \$20.6 million — is the impact of the loss of the federal funding for the reconstruction loan program. Still, you can see the bottom line there. We're forecasting surpluses, and we'll do that. We'll manage our expenditures to make sure we live within our means.

There are a couple of risks and sensitivities within this: higher interest rates or a slowdown in the housing market. Housing, as you know, is one of the very interest rate-sensitive industries. That really tells a story why housing starts have turned around over the last couple of years. These very low interest rates are spurring consumers who want to buy homes and take out mortgages. That convinces builders to want to build. If that turns around — if we see a spike in interest rates — that will necessarily result in fewer housing starts and fewer builders who want to take out licences and build. That will reduce our revenues, and we'll have to cut back our programs.

The other impact there.... Those are no-interest loans that we give for leaky-condo owners, but they're provided by financial institutions, as I said. We pay interest on those loans at the prime rate of the banks. If we see those prime rates rise, that increases our costs and higher interest costs on the outstanding no-interest loans. That will lengthen the time it will take us to pay back the money we've borrowed from the province to fund the cash flows in those first years.

Now I'd like to finish with the core services review outcome for the HPO. Our core review was approved by cabinet in December 2002. It was a "stay the course as a Crown corporation" review in the short term. It was judged that there is a legitimate and essential role for a licensing mandatory warranty insurance, research and education into residential construction, and financial assistance for leaky-condo owners. Those are programs that are in the public interest, but cabinet did ask that a new board of directors be appointed for the HPO — and that board to be drawn from the industry



that we regulate as well as from consumers — to develop recommendations on the future of the HPO over the coming year. That board has a mandate to report back about a year from now and give advice on what should happen to the HPO as we go forward.

As I mentioned earlier, Ken MacLeod was appointed two weeks ago as the chair of our board. Ken served in the provincial Ministry of Municipal Affairs for 25 years, from 1975 until his retirement in 1999. For six of those years he was deputy minister, and during his tenure he was responsible for a variety of ministry programs including housing, local government, and Building Code and safety.

Other members on our board include Tony Gioventu. Tony is the executive director of the Condominium Home Owners Association and is there to represent consumers generally. Eric Gerrits is a homebuilder from Summerland, and he's the current president of the Canadian Home Builders Association of B.C. Peter Schultze is a homebuilder and renovator from Victoria, and he's the immediate past president of CHBA-BC. Maureen Enser is the executive director of the Urban Development Institute in Vancouver. Joe Redmond is a developer with the UBC Properties Trust.

So where does this leave us? We think we play a role in government's strategic goal for a strong and vibrant economy for B.C. The Homeowner Protection Act supports consumer confidence. It will lead to an improvement in construction quality, and it will help expand the demand for new homes. It will result in new, higher-paying jobs. As Bob said, the residential construction sector accounts for almost 4 percent of the province's GDP, and as such it's an important economic driver.

I'll conclude at that. Thank you very much. We're prepared to take your questions.

**K. Stewart (Chair):** Thank you very much for that. What we'll do is ask questions of you. If there are any questions that you don't have the answer to today or that need more research from your end, if you could make that available in written form through the Clerk's office, they will be distributed back. If there's a question that you can't fully answer or you need some more research on, feel free to do that and get it to us.

As I mentioned to you, the final report will not be presented to the Legislative Assembly until October, but we would like to get those questions returned to us as soon as possible. Also, if we run out of time today, there may be written questions that the members have that they'd like to submit for you to return to us.

[1155]

What we'll do is go around and ask each member to ask a question, and then just continue around until we either have all our questions concluded or run out of time. We'll start with Harry today.

**H. Bloy (Deputy Chair):** Thank you very much for your presentation. You went through the presentation about what you're doing for the future. You're even

giving courses to existing builders on how to build. You're showing your financial income.

The one thing that I haven't heard is what caused this problem. It wasn't around 20 years ago that we heard of. There have always been a few builders that may not build according to code. Who do we hold responsible — the city inspectors? Do we eliminate that because you seem to be doing the same job as the city inspector without physically building? To me a city inspector only stamps what an engineer does. Is it the architect that developed these buildings, starting in the late seventies? Is it the engineers that did it? I don't see anything that has been done to stop the problem. Visually, as you drive around the province in some areas, more and more buildings completed in the last five years are being tarped all over again. I'd like to know what the cause of this problem was and how that's being resolved.

**K. Stewart (Chair):** If I can just interject. I know there's been a lot of speculation as to what the cause is. If you want to maybe refrain from a full response and leave it to the role that your office plays in that.... Your understanding of it might make it a little easier for us to get an answer.

**D. Maxwell:** I'll try to give that answer, if I can. I think we do know what caused leaky condos. Really, the problem is that it was a systemic failure. The system failed, so it's very difficult to point the finger at one party and say: "You caused it." Many people have tried to do that, and it simply doesn't work. In 1998 the Barrett commission wrote a report, and they reported that they believed the two main causes — and we would support that now, after having seen the repair of hundreds and hundreds of buildings, the cladding ripped off those buildings, and seeing what went wrong — were poor design and inadequate construction.

Basically, face-sealed stucco buildings were used here in British Columbia, which were too sensitive to water getting into those wall systems. Anywhere there was a penetration like a window, a dryer vent, where a balcony joins the face of the wall or where a bay window sticks out — all of those joins were very sensitive to water leaks. If you had any sort of cracking that got in there to the wall system, the stucco did an enormous job of holding that water in there, because it was up tight against the building paper and the sheathing. That caused rot. There was no way for that water to get out.

What have we changed? I think the industry has really learned from that. A lot of building science has been done into it. We now have a CMHC best practices guide that's a technical, detailed guide — it stands about this high on your table; I didn't bring it today, but I guess I could have — that tells those architects, engineers and builders how to build a wall system that's going to work well in a rainforest. Basically, the idea now is: plan on water getting into the wall. When it gets into the wall, allow a path for it to get back out.

I think a thing that has significantly changed is the involvement of the home warranty insurance. Clearly, insurance companies are not going to take the risk of insuring those homes for five years if they don't believe something has changed. I said that they review designs, and that's one of the things they look for. They look for the team that's putting together that building and designing it. They're making sure that it's a type of design they believe is appropriate for that application. You do build a highrise quite differently than you build a low-rise. It's protected by big overhangs, so they adjust for that. Then they'll have inspections conducted while the home is being built to make sure that it is properly built. If they fail at that, it's not going to be the consumer who's going to have to pay next time around. It's going to be the insurance company, as it quite rightly should be. We believe that the homes being built today are good quality, and they're going to have building envelopes that are going to function into the long term.

For sure, there were other factors that came into play. It was the entire system. Municipal inspections weren't doing what homeowners thought they were. I think they thought the municipal inspector was there to inspect for quality of construction, and they never were. They were there to make sure that the health and safety aspects of the Building Code were adhered to. For the most part there was an architect who was the lead design professional on that building, who designed it and then had a responsibility to report that it was built in accordance with that design, and that didn't happen. There were builders that were on site building those homes and using subtrades that maybe weren't trained well enough.

[1200]

I did mention that all types of failures, not just leaky condos, typically happen after a housing boom, so we are no different in B.C. During the late eighties and nineties we had a housing boom, and some people have said that if you were able to hold a hammer, you could work on a jobsite. Maybe that was somewhat true. We've certainly seen a whole bunch of leaky buildings where they lapped the building paper the wrong way. It's meant to be like the scales of a snake so that if water runs on it, it's forced to the outside. Well, we see it the exact opposite way, so it's directing water into the sheathing and exacerbating that rot problem. That's a simple concept. I'm a chartered accountant, and I understand it. So why didn't the builders on the site understand that?

Poor windows. Materials are, for sure, a problem. We've got a whole bunch of windows put into buildings where our industry just believes they're going to leak. For the leaky-condo repairs, you expect it's going to leak, and you basically build a diaper around the window and plan for when that water comes through that there's a way of directing it back out of the building.

I think there's enough blame that can go around to just about everybody who's involved in it. That's left leaky-condo owners, really, with nowhere clearly to

turn. I think the system we've got going forward now is a system that responds to it. Having the home warranty insurance and an industry itself that got hurt by those housing starts dropping down to 14,000 in '98 and '99, they felt it. They know they need the consumer confidence that it's a product worthy of people buying it, and I believe we have that now.

**K. Stewart (Chair):** Harry, did that answer your question?

**H. Bloy (Deputy Chair):** Could I just have one little follow-up?

**K. Stewart (Chair):** Be quick.

**H. Bloy (Deputy Chair):** Would you compare the program you're putting into place as an accreditation program, similar to the United States, where every building product goes through an accreditation? They actually have two or three. It's a make-work job in the States. Anyway, is that what you would look at — what you're doing with builders and suppliers of product — that you're accrediting the product if installed in the correct way that it'll provide a safe home for the buyer?

**D. Maxwell:** No, we're not. That model could have been chosen by the government of the day, and if it had, we would need an army of people to conduct that accreditation. Instead, the decision was made to have a licensing system through us, through a government Crown corporation.

We're really there to exercise a compliance function — to make sure that the builders are playing by the rules and that those homes are getting home warranty insurance, but then with the oversight of the private sector through home warranty insurance. So, get the people who are financially at risk to make that call — that it's a builder with the qualification and experience, that it's a design that works and that it's well constructed. Government decided to transfer the risk to the private sector and have them do it. It's not at all an accreditation system for builders and certainly not for materials. We really have nothing to do with materials.

**S. Brice:** I was interested in where you focused on some of the abuse in the system and how loopholes need to be closed. With the stats you gave us that in three years 33 percent of owner-builders had sold, and I think it was 25 percent in the first two years.... Obviously, these are not just the fringe players. Obviously, we are talking about some people who are upstanding members of the Canadian Home Builders Association and the guys we go to for advice and so on. What strategies have you set in place to target those very serious issues, particularly in the part of the industry that you are quite rightly using to assist you in cleaning up the whole aspect of building?

**D. Maxwell:** I'd like to make one comment at the beginning, and then I'll turn it over to Bob, who's the

one most directly responsible for that, to give an answer. I believe you may have suggested that members of the Canadian Home Builders Association were taking out owner-builder permits. That's not correct. I don't think we see any members of the Canadian Home Builders Association taking out owner-builder permits, except where they are legitimately building a home for their own use. They're the ones that most feel this unfair competition.

I believe that if they've made the choice to join that sort of an association — and about 10 percent of the people that we license are members of the Canadian Home Builders Association — they're really those leading-edge builders who want to see a professionalizing of the industry and a going-forward in raising the bar there. They're not the ones with the problems. It is people who have chosen to play outside of the system that are taking out the owner-builder applications. If I can, I'd like Bob to answer the strategic part.

[1205]

**B. Maling:** Yeah, just on the CHBA issue as well. The Canadian Home Builders Association has 12 chapters in the province. Each of those chapters has passed a bylaw in recent years requiring that in order to become a builder member of their local association, you must first be a licensed residential builder, and you must undertake to provide home warranty insurance on the homes you build.

The strategies that we have in place are simply, within the scope of the act and its regulations, to do as much as we can to screen individuals who come forward and say they are going to be an owner-builder. We like to make sure that, number one, they own the property. That's pretty basic. Number two, we check to make sure that they haven't been an owner-builder previously, within the last 18 months. Other than that, an individual has the full right to build a home under the current legislation for their own personal use.

The fact that they might change their mind after they file the declaration with us or perhaps were not truthful in filing the declaration and they fully intended to sell the home.... Our strategy in dealing with that is that we keep track of MLS listings. We have compliance officers in the field who visit owner-builder sites at least once, usually close to the beginning of construction. Oftentimes, as I said, they will find a for-sale sign on it already, especially in today's hot market.

There are other investigative techniques that the compliance officers we've hired — most of whom are former RCMP constables, by the way.... They use those investigative techniques to try to weed out those who are not being truthful from those who are legitimate owner-builders.

The industry has come forward to us with a number of recommendations, however, with respect to regulatory change that would help that. The industry believes that 18 months is not sufficient time. They believe that an individual may indeed be entitled and should be entitled to build their own home, but not every 18 months; 18 months is really amateur building

or part-time building. That's one of the things that they very strongly object to.

**S. Brice:** I thank you, and I have great respect for the Canadian Home Builders Association. I didn't realize that only approximately 10 percent were members of the association. That's why it was hard to square those numbers of 33 percent and not feel you were capturing some members of the Canadian Home Builders Association. In fact, they are still a relatively small portion of the builders....

**B. Maling:** The industry in B.C., unlike many other provinces, is not strongly organized. It is an industry of small businesses, of — for want of a better term — mom-and-pop operations, for the most part. They aren't association joiners. The innovative builders, the leading builders are members of associations. They like to get together. They respect the lobbying capability of an association and the promotion of professionalizing of their industry.

For the most part, in terms of numbers of builders, most are not members of any association. If you look at that in terms of the numbers of homes that are built, the numbers of homes that are built in the province are significantly higher in terms of those that are built by members of either the Urban Development Institute or the CHBA.

**P. Wong:** I would like to follow up on a question of Susan's, although I have a lot of questions on leaky-condo items.

I understand that there are an increasing number of owner-builders, primarily because of tax reasons. A homeowner does not have to pay any profit because he chooses to become a principal resident. I think as a CA, same as me, you know that kind of potential profit for the owners. I understand that a lot of purchasers from the homeowner-builders have a lot of concerns with potential claims against the original builders.

What kind of protection are you able to give to the consumers if one buys a house from an owner-builder? Is there any bonding requirement? You need some kind of substantial evidence that there's a potential claim, or otherwise the owner just sells the house and leaves.

**D. Maxwell:** The protection is very different for someone who buys a home that's built by an owner-builder. There's no policy of home warranty insurance on that home. Instead, the Homeowner Protection Act effectively provides a statutory protection for the homeowner, which establishes that original owner-builder is responsible for a period of ten years for construction defects in that home to the purchaser.

[1210]

The difficulty with that system is that the purchaser can only enforce those rights through the court. First, you have to sue the owner-builder, prove that they were responsible for the construction defect and then hope that they have the resources that you can recover

against them. It's a very poor level of protection. We try and convince consumers that that's not the way to go. Buy a home from a professional, licensed builder and make sure you get a policy of home warranty insurance.

**P. Wong:** Are you able to help the consumers to locate the builders, say, within ten years' time?

**D. Maxwell:** When the owner-builder wants to build that home, they do have to file a form with us that contains information — their name and address, who they are basically. That form could be made available to the future purchaser. That could help to find who took out that owner-builder declaration. I guess we'd help them to that extent.

**P. Wong:** Practically, you rely on that piece of paper.

**D. Maxwell:** Yeah. The system is basically that you come forward and tell us that you're going to be an owner-builder, and we believe you. If you have title to the land and you fill in the form, then we're obliged, under the act, to provide you that exemption. It's not until the point that you turn around and sell the home that there's then evidence that maybe you were not actually a legitimate owner-builder and entitled to an exemption under the act.

**B. Maling:** One of the things that has emerged, however.... We encourage the warranty providers that exist in the province to consider a system similar to what they have in the United Kingdom, which is a self-builder insurance program. One of our warranty providers has picked up on that and is offering to provide a policy of home warranty insurance for owner-builders. It hasn't become highly popular. It's a fairly expensive proposition, because there is an inspection fee involved. In my personal view, it's providing a service to owner-builders that they perhaps felt that they were going to get from municipal inspection but don't because municipal inspectors are inspecting for health and life safety issues. It provides them with inspection by the warranty provider in terms of quality and building practices.

What we're finding is that in the resale market, it's becoming a little bit more popular because some of the realtors have picked up on it and know that it's available. Oftentimes owner-builders are coming to the warranty provider asking for this policy of insurance because the purchaser wants it. It is available.

**P. Wong:** So there are two kinds of building standards. One is for licensed builders; the other is for owner-builders. How can consumers be aware? How do you educate people?

**B. Maling:** One of the things that we are proposing is to.... We're going to ask to be given the right to maintain a registry of homes along with our registry of

licensed builders. That registry of homes.... One could log on, look up an address and determine whether the home was built by a licensed residential builder, who the warranty provider is and at what point the policy commenced. You'd know whether you're buying a home that's in the fourth or fifth year. The other part of that website would indicate that this home was built by an owner-builder, so at least you would be alerted to that fact. We would then have reference material there for people to look and see what their rights are if they purchase from an owner-builder.

**K. Stewart (Chair):** Before I move on to John, I just want to bring to the committee's attention that this organization did go through a core review. What we're trying to do is establish how they're performing — not necessarily how the builders out there are performing but how this organization is performing, given the mandate that they were doing. It's our job and role to basically benchmark their performance to date. Where we're questioning is how their performance is going to work out in the future based on what they're telling us their intentions are. Given that, we can maybe direct the questions a little more back to this organization, other than to the field.

**J. Wilson:** Sorry for getting here late. I was listening. On your leaky condo, the remedy was to put in drainage, and on some of the new construction, it was to provide for that when it was constructed. Was I wrong in hearing that? That was my interpretation.

**D. Maxwell:** I think that's the basic idea. Generally, the way to solve a three- or four-storey multi-unit building is to put in what's called a rainscreen wall system, which has a quarter-inch-thick cavity in it that allows water to drain out.

Then, in new construction, they're designing in systems like that for similar buildings. A different approach could be used for a single-family dwelling or for a highrise.

[1215]

**J. Wilson:** So the building for the water to leave is put in. Have you established a life on these buildings?

**B. Maling:** I think probably the life expectancy of new construction in Canada is really not something that's been nailed down. I mean, we know there are buildings that were built a hundred years ago which continue to function and operate very well. They probably weren't designed with anybody thinking: "This building should last a hundred years." But if properly maintained — and that is one of the key factors — wood-frame buildings should be capable of lasting well into the future for many, many years, if they are properly maintained and if people do adequate inspection of the building to see where minor problems are developing and deal with those minor problems.

I think the real problem we've faced in the past is that we've relied on building practices when technology has changed. With the technology changing, I think buildings became less tolerant of water and more susceptible to damage caused by water. Materials changed, designs changed, and everybody was looking for that nice California look with protruding balconies and flat roofs. Part of the equation was the change in design style of these buildings as well.

The building codes were always intended, and always had wording in them that intended, that you build a building that doesn't allow water to get inside, but there was always a "but": but if water does get inside, you should build the building such that the water can then escape from the building. I think part of the problem was in relying on old construction practices as technology changed. We expected buildings to continue to be water-tolerant, and they stopped being water-tolerant.

**P. Bell:** I'd like to focus on some of the goals, objectives and performance measures that you've identified in your service plan. One thing that is somewhat concerning for me is that I see throughout your targets that you've exceeded the majority of your targets significantly in the first year of operations. Just to use an example, homeowners are protected by warranty insurance on their homes. The performance measure is homeowner satisfaction rating of their warranty insurance. Your objective in '03-04 is 80 percent. In '02-03 you came in at 83 percent, so you've already over-achieved your objective.

If we move on to the next goal, improvement in the quality of residential construction, the performance measure of homes built under the Homeowner Protection Act with warranty insurance claims.... Your objective for '03-04 is less than 10 percent, and your actual for '02-03 is 5 percent. I can continue on. There's a fairly common thread throughout your goals and objectives.

I understand that you developed your plan prior to having the results for '02-03. So it's understandable that you wouldn't necessarily have known what your results were at that point. But given the fact that you have exceeded almost all of your objectives for '03-04 in the '02-03 fiscal year, have you thought through re-establishing your targets in some of the out years and coming forward with a new service plan that would present for targets that are perhaps, rather than being lower than existing values, at least the same as or looking to improve upon your existing standards, and have a target that would cause people to strive forward and achieve bigger and better things?

**D. Maxwell:** I guess I'd give a "yes, but" answer to that. You're right in that the service plan was developed last fall. When we come to performance report, we can't change the targets as we report, so we are tied to them. We are a new organization without a history in a lot of these areas, so we had to make the best estimates that we could. We tried to do that. I think there's that factor there. When we come to this next service

plan development, we will be adjusting some of the targets.

[1220]

I think the other thing that's in there.... You highlighted the homeowners with warranty insurance claims. It's only 5 percent now and going to rise to 10. We really do believe we're early in the game with a number of these homes that have been built with home warranty insurance. You know, we're at the point where a great majority of those homes are only one or two years into the life of the home. We think that as you get closer to the expiry dates on the five-year coverage and the ten-year coverage, that's typically when homeowners will have investigations done on their multi-unit building and see if there are problems.

We really believe that the incidence of claims can be expected to rise over time. Setting the target for what it ultimately is going to be in the long run.... I think we then need to look at those benchmarks in other jurisdictions, because there's really no reason that the quality of construction in British Columbia should be any less than the quality of construction in Ontario.

I think that's where we're going in the long run. I guess the only excuse I'd give for it now is that we're trying to figure out a relatively new system and how it's going to unfold over time, and perhaps we are a little pessimistic.

**P. Bell:** I think you said that we should anticipate seeing a little more aggressive targets, then, in the next set of service plans. Is that what I heard you say?

**D. Maxwell:** In some of the areas, I think that's fair. Particularly for those ones around the incidence of home warranty insurance claims, satisfaction of consumers with warranty insurance, I think you'll see a more negative result when we come back and report next year.

**B. Penner:** In coffee shops around the province conversations often include the following comments. Buildings are still being constructed in ways that will trap the water inside the building and will eventually result in development of the leaky-condo problem. Further, people frequently make remarks that buildings that have been fixed are starting to fail again. Does your office keep track of those two alleged occurrences?

**D. Maxwell:** Yes, we do. I am happy to report that of every building that we've put a no-interest loan into, none of those buildings have yet come forward in need of a second repair or a fixing of repair work that we helped to fund through the no-interest loan. Now, I don't think I'm going to be saying that every year, because I'm sure some of the repairs that were done will fail. I think it'll be a very small percentage, but generally the repairs that are being done to the leaky condos are long-lasting and effective repairs.

We're also monitoring buildings. We've got four or five buildings that we have water sensors or monitors

in, continually monitoring what's happening within that rainscreen building. I think the oldest of those has been in place for a couple of years, and our plan is to have them in place for about five years just to see what really is happening. What we're finding is that the walls are wetting in that cavity in some areas, and then they're drying out. It's okay for wood to get wet. It just has to dry before it rots. Those are functioning as designed. I think we're going to see that the vast majority of leaky-condo fixes were well done and will work.

As for new buildings being constructed and trapping water, I just don't believe that's happening to any great extent. For sure, there will be some buildings that will be done badly, and they'll fail — we'll never have an industry that's absolutely perfect — but the vast majority of them are being done. For those ones that do fail, it's going to be a whole different story for those consumers that buy in there. Now they're going to have a warranty insurance product, so it won't be money out of their pocket to fix the building. It's going to be an insurance company that's going to be involved in that.

**B. Penner:** Thank you.

**J. Les:** Your objective is to see a warranty on every home that's built. I think it's fair to say that.

**B. Maling:** Built for sale.

**J. Les:** Yeah.

I don't think I disagree with that. What I think is a danger in these things.... You know, we have a problem, and we try to fix it, and in the course of fixing the problem, we complicate things. We make demands that have the result of making the industry more "professional," which also includes making it more exclusive, making it more insular and inevitably driving out competition and making it more difficult for new entrants into the industry, which I would argue you always need in a healthy and thriving industry.

[1225]

I believe you need to do more work to make people aware of the benefit of having a warranty on a new home that they purchase. I think you need to lose the idea of sending ex-RCMP members out into the field to terrorize people. I think that is the wrong approach. If you're pushing a good product — i.e., a new home warranty program — it needs to recommend itself if you make people appropriately aware of that program.

I think more needs to be done, as well, to ensure that in the future, more leaky buildings are not built. In my youth I spent five years with a hawk in one hand and a trowel in the other hand, and I stuccoed houses all over the place — apartment buildings that were three and four storeys high. Today they are just as dry as the day they were built. The question often arises in my head: why is that? I'll just leave that question right there. It doesn't bear answering here.

You know, I also knew a lot of builders back then who built two, three, four houses a year and weren't

members of any organization. They were just good builders. I would still today pay a premium for the homes that they built, because they did a very good job. I'm concerned that it's exactly those kinds of people that we're going to harass out of the business, and I think that would be unhealthy economically and really doesn't serve any purpose at all. I certainly can see from a consumer protection point of view that the more warranties on the more homes, the better, but let's think carefully about how we achieve that. I think you need to do more work to make people aware of the benefit of having an appropriate warranty on their home.

**K. Stewart (Chair):** If I can just maybe redirect the question with regard to a compliance issue. I know there was quite a bit of social commentary there. Having listened to John's question, the one part I would like to add to that with regard to enforcement is the level of enforcement, the way the enforcement is being done and the results that you see achieved from the performance of your enforcement, if that would maybe make it a little bit more objective in a response.

**D. Maxwell:** It is one of the things that we track in trying to obtain this voluntary compliance from all of our compliance investigations. What we're reporting in our performance measure was, I think, that 76 percent of those compliance investigations result in voluntary compliance.

**J. Les:** Could I maybe just add and slightly rephrase? I'm not so sure that perhaps your objective shouldn't be repositioned a little. Right now you've got an out only for owner-builders. Perhaps everybody should be allowed to build a home with no warranty on it. You know, maybe we should make sure that if someone does that, they're going to pay a big penalty when they sell the building, whether as an owner-builder or whether as just a spec builder.

If you've done a good job in making people aware of the benefit of having a home warranty, then I wouldn't want to be a spec builder building a house without a warranty — right? I think that's a far healthier approach.

**D. Maxwell:** I'd agree with that comment. I think that's what we see in the United Kingdom. The difference there is that they have a very mature system where the consumers have been made aware, but more importantly, I think, the lending institutions have been made aware of the risks that are faced by poorly built homes that don't carry that warranty system.

I would hope what we see in British Columbia could be a transitory model, but I believe we're many years away from that stage where all the lending institutions and all the consumers of homes will understand the difference in having a professional builder build it with warranty insurance. Ultimately, you know, you would hope to get to the place where the U.K. is, where you don't have to make it mandatory.

You simply rely on the private lenders to enforce a system that's going to ensure good-quality construction.

**K. Stewart (Chair):** Dan?

**A Voice:** Dan, how are you?

[1230]

**D. Jarvis:** I'm good. Sorry I'm late. The helijet was delayed, and they lost my briefcase and all the rest of it, so all my questions I had prepared for you have to come from my mind, but nevertheless.... So they'll be very brief.

I think the biggest problem we are facing today is the fact that there's a change in the insurance industry and the fact that there's almost a Big Brother attitude coming out of HPO with regard to the independent builders out there that are doing the renovations.

First of all, I wanted to know whether you knew any more particulars than I have been hearing. In fact, just for example, the roofers themselves — I doubt that any of them will be able to have any of their insurance renewed, because the cost of it is just so expensive. Or else the underwriters will just refuse to underwrite in British Columbia right now, especially in the lower mainland. It's the same with the architects and all the rest of it. There's no insurance left for them. That's a big, major problem with our building industry.

The second is the hand of HPO out there. You cannot, if you have a building that theoretically has some water damage to it.... It may not be large, a big job, but you cannot now.... The builders I've talked to say that you just cannot go into a municipality now and ask for a building permit. They say you have to go through HPO. Therefore, HPO does.... Although you told me before that you look at target repairs, they can't do target repairs, because you need an engineer to write off, and the damage just seems to grow and grow and grow. It gets larger. Instead of doing target repairs in parts of the building where the people inside that own it can afford it, they're now faced with major, major repair jobs. I'm hearing stories of things where a \$200,000 or \$300,000 repair job is now, after HPO's requirements kick into place — because the municipality will not give the builder a certificate to build, and you're in control of it — \$1.2 million or \$1.3 million. That is coming down pretty heavy on the owners.

**K. Stewart (Chair):** I've heard two questions so far there. Maybe we could get those two questions answered first, before we go on.

**D. Jarvis:** All right. I'll leave it at that, then. You and I have talked about this before.

**D. Maxwell:** I'll take the second one first. I think basically what I heard you say was that the requirements under the Homeowner Protection Act and the regulations are forcing a higher level of repairs than are necessary for buildings. We're in agreement with that.

We think that is happening. Right now we're going through a consultation with the affected industry about this. We plan to make recommendations for change to those regulations.

I can give some examples of that. It's often the case where owners would like to take out their existing windows, do a minor modification to it — maybe put a gasket around it and put it back in. The Homeowner Protection Act regulations say if you do that, then the home warranty insurance provider has to insure that window. Effectively, you could get full insurance on a new window that simply has this new little gasket on it. The insurance company looks at that and says: "Well, no. That's an old, worn-out window. We're not going to give you insurance on that for the next five years. We won't insure that repair unless you put in a brand-new window." Owners are forced into having to put in brand-new windows.

That's not the intended outcome there. It makes a lot of sense in some cases just to take out that window and put the gasket around it and put it back in. We'd like to recommend that the regulation be amended to exclude that window and allow it not to be covered by the warranty insurance policy, but right now the insurance company does not have the ability to do that.

There's a series of other changes. We're looking at, on building envelope repairs.... I didn't describe it, but it's a two-five coverage — two years on labour and materials, five years on water penetration. We believe, like you suggested, that those repairs that are just going to require a minor amount of work — and it's less than \$2,000 per unit — will attract a two-year level of coverage. I think what we've seen in the marketplace is repairs coming in at \$1,999 just to avoid that exemption. There are instances where a proper repair is just steered away from because people don't want to go through the cost or the problem of getting warranty insurance on that repair.

We think we've seen inappropriate repairs happening because of the wording in the regulation. We're not really sure that the two-year labour and material coverage is really providing any real protection to the owners. What's that really doing for them? We're not sure. We're thinking that they're paying a cost for that but not getting a lot out of it.

[1235]

We think the five-year water penetration coverage is different. If you put on a full-scale recladding of the building, you should at least have the assurance that for five years it's not going to leak. You should really believe that it's not going to leak for much longer than that, but five years is long enough to look at the building, have an inspector come and look at it and see in five years' time if it is leaking and if rotting is starting to happen — if there is a construction defect there and you can get it responded to.

We think there are some parts of the regulation that should be changed so that you'd really have major buildings, major leaky buildings — if I can say it that way — covered by policies of home warranty insurance on those repairs and in other buildings, going

much further whether or not the repairs are targeted or covered by home warranty insurance. Now that product is available in the marketplace. Two-five coverage is available. If owners of their own accord wanted to go out and buy it, it's a product that's there. We just don't think it needs to be mandatory down to that level anymore.

Age of buildings is another one. The way the regulations read right now, if you have a 150-year-old building that needs a building envelope repair, against this building we're sitting in today — well, it's not residential, but a residential building 150 years old.... If you did a building envelope repair to it, you'd have to get a policy of home warranty insurance on that. That was not at all the intention of the regulation. It wasn't to deal with these historic heritage buildings; it was to deal with buildings built in the late eighties and early nineties. So we'd also like to see a time cap put on it.

We hope that our consultation will work its way through this summer. We'll make a recommendation to the minister and, hopefully, be able to come back with something in the fall for you to consider and for changes to be made to the regulations and the act.

**D. Jarvis:** I was just going to say when I asked you that question on insurance.... Do you have someone in your outfit that reviews these policies? I'm hearing out in the street that they may be able to get insurance. They're asked if they have a policy. They show you the face of that policy, but inside it's been deleted so badly. Moisture has been deleted out of it. The coverage is stripped down. That's something that builders are actually out there doing. They're showing you the face of the policy, but the content inside that policy is somewhat more limited than what it was before because the coverage is being restricted.

**D. Maxwell:** Yes, we have someone. That's Bob. So why don't you...?

**B. Maling:** If the policy that you're talking about is their general liability policy or their errors and omissions insurance policy, you're absolutely correct that the industry is putting restrictions on those policies, especially for designers, architects, engineers. Many of the errors and omissions insurers are now issuing a policy, but the policy specifically excludes any claims related to water penetration or building envelope. We're aware of that. The home warranty system, when it comes to providing home warranty on a house built or designed by those individuals.... The home warranty system relies on those policies to a certain degree. It's not pure insurance the way the marketplace has developed; it's a form of indemnity arrangement as well. As a home warranty insurance company, if I place home warranty insurance on a home that you've designed and there's a problem related to the design, I may come back after you. I'm relying on you and your policy of errors and omissions insurance.

The policies are being reviewed in theory by the home warranty insurance industry to make sure their

indemnity is protected, but at the end of the day, if they don't do that diligence, their reliance on that indemnity will be fruitless for them. They'll still have to pay the claim. They'll still have to fix that leaky building. But they won't be able to come after the original designer's insurance policy, because the policy doesn't cover those elements.

The system relies on the home warranty insurance. Home warranty insurers are relying on an indemnity. To the extent that they pursue that indemnity or fail-safe that indemnity by reading the policy, that's their choice.

[1240]

**K. Stewart (Chair):** Thank you.

As I move on, I'd just like to point out to members that we have before us the act, the Homeowner Protection Act. We've got an annual report, we've got a financial report, and we've been given a presentation today which talks about the core review and presentation. We have 20 minutes left for questions here. I'll do another round of questions. I'd like the members to specifically look at those issues and try to direct their questions toward the measurement of the process or the tools that are used to reach those measures, to ask questions of our guests today with regard to their performance and the measurement of their performance. I know there's a lot of interest in the topic of leaky condos especially, but you have your marching orders already. We're not here to give you your marching orders. We're just here to make sure that you're marching in step with those orders and what we perceive to be the public's best interest in those orders.

We've got 20 minutes left. If we can look at that specifically, that would probably be most helpful for that time, given what our role is here today.

I have a question, and I guess it's falling along those lines. You talked about your performance comparative to other regions, other agencies. Can you talk a little bit about some of the tools you use when you're measuring that performance? Pat brought up a number of areas where you're overachieving. What tools are you using, and what validity do they have so you're comfortable that you're actually reaching those goals?

**D. Maxwell:** I think that depending on the performance measure, there are different things that we'll do. We are trying to work with the home warranty insurance providers to report to us all their claims activity. We think that's one of the key measures. The number of claims you have on warranty insurance policies directly indicates how many construction defects occurred. We expect to receive regular quarterly reporting from the home warranty insurance companies on the number of claims they've received. We'll use that information to report on claims activity.

When we talk about things like a homeowner's satisfaction, that's something where we'll have to go out every couple of years and do some sort of a statistically valid representative survey and ask homeowners what they think about things. In terms of default rates on



reconstruction loans, we actually have to pay the costs of those defaults, so through our own expenditures we know what the default rate is and we're able to report on it that way.

Some of the other measures tracked participation in major symposiums or publications, so those ones are very directed. We're looking for those symposiums or participating in those publications and making sure we're directing our resources and achieving those sorts of things. That's how we're doing the direct measurement on us.

In looking at the benchmarks against industry, you can receive a mortgage default rates publication from the Canadian Bankers Association, so we're regularly receiving that and we know what mortgage is due. When we benchmark against insurance claims in other jurisdictions, that's a little bit more tricky. That's almost a trade secret for the other organizations, and it's difficult to get them to share that information. We have a special relationship with the Ontario New Home Warranty Program in that Bob Maling worked there for about 25 years and still has contacts. We've been able to do some sharing of information that way and to establish those benchmarks.

**K. Stewart (Chair):** That's the type of thing that's important for us to know here, who you're comparing yourself to, because we do that a lot as a province — compare ourselves to other jurisdictions. It's really important to know that we're getting the value out of the programs we're having. To say that customer satisfaction is at 86 percent — well, compared to what, and what factors are you building in there? If you're looking at initially 80 percent and you're at 86, why is that, and what real measures are you using to determine that?

**H. Bloy (Deputy Chair):** Going forward, your performance measures seem to be measuring up, and you've got extremely good numbers, which you're trying to accomplish on paper here. Do you see in your lifespan a sunset clause for your office? Do you see it going back to the private sector to control themselves — like, you do a job for so long and then government should step out of it? What is your recommendation back to the minister about how long you should be in that position?

**D. Maxwell:** That's a difficult question to answer. The core review process for us went on for about two years, and I forget how many different versions of core review recommendations we had during that time period. For a great period of time we did have a recommendation that the office become a self-regulating profession. Turn it over to the builders to regulate themselves in the same way that architects, engineers or accountants do.

[1245]

We went out and consulted with the industry around that, and in particular, the Urban Development Institute came forward and said: "No, we don't support

that. We want licensing, but we think it needs to be done through a Crown corporation. We don't think this industry is mature enough to be able to accomplish the licensing itself." I think the minister heard that, and obviously cabinet made the decision not to go that route but rather to leave us in place.

I think that's one of the things this board of directors is going to wrestle with. Maybe it's a question appropriately pointed toward the board: what should the sunset clause be? If you wanted my opinion as CEO, I don't think that the industry is there or that it's at the point now where it's able to regulate itself. Some people have called home building in B.C. the last Wild West industry. That's an overstatement for sure, but I think we've got some way to go before you can see an accreditation type of system that architects, engineers and accountants would go through to have something reasonable that could be in place for home building. Whether that ever really makes sense in the long run for an industry that's so diverse, from a fellow who may build one home every year to a major developer who's just putting together a financing package and building thousands of units in multi-unit buildings.... It's really difficult to establish an accreditation program that would make sense.

I'm not sure I have a good answer. I don't think it's within the next five or ten years that you'd really be prepared to turn over the reins of regulation to the industry itself.

**S. Brice:** The goal that the value of homes will increase accordingly once homes with building envelope failure are repaired.... You have as a performance measure: "Assessed values of repaired homes will increase." I know that you made reference to this in your presentation.

With the wide range of disparity around the province in terms of house values and how they get back whole again after they've been through this process, are your numbers median? Are they averaged out? Are they regionally pegged? How do you do that, given that, say, the Victoria and Vancouver markets are so different from other parts of the province?

**D. Maxwell:** We really only have leaky condos in the lower mainland and Vancouver Island. It's just in coastal British Columbia. There was one building in Nelson that probably fit the definition of a leaky condo, but those owners were able to sue and collect funds from the original developer and municipality in that case and fix that building.

We've only ever provided loans into buildings in the coastal climatic zone, mainly the lower mainland and southern Vancouver Island. What that measure is really trying to look at is: how does the assessed value of the homes...? How does the market itself value those repairs going into the home? To some extent, it's really a measure that's beyond our control to affect. It's a whole range of factors that make that decision why people want to pay what they pay.

Really, what we're looking at are homes that had this reduced value, because they were leaky condos and everyone knew it. The B.C. Assessment Authority knew it, and they ground down the value of that building. After you fix it and you put \$20,000 into repairing it — or \$100,000 if it was on the south shore of False Creek, in some cases — do you see that value come back? Does the Assessment Authority then have a market that's prepared to pay back that revised value? I think we're reporting that about 55 percent of the homes are at that point.

It needs to be 100 percent. When is that going to happen? I don't know. Is it important that we measure that? I think that it is and that we report on it. I think that's one of the key things that leaky-condo owners know: the money they put into repairs was the right amount of money, they were necessary repairs, and we should see that come back. It's an appropriate measure for us to report on, even though to some extent we can't directly influence what the market is prepared to pay for the homes. Hopefully, we're influencing the amount of money that's being spent on the repairs, so I think we're catching it at that end.

**P. Wong:** You said that you can recover 55 percent of the home value. I understand that each leaky-condo owner has to spend over \$25,000 per unit. What percentage of that \$25,000 can be recovered? Is it the same as 55 percent, or is it totally excluded from your number?

**D. Maxwell:** I may have misspoken if I described it that way. Of the homes that have been repaired, 55 percent have recovered 100 percent of the value. If those homeowners spent \$25,000 or \$30,000 on repairs, 55 percent of those homes have seen their assessed values increased by that \$25,000 or \$30,000.

[1250]

**P. Bell:** When I read your executive summary of your service plan, you start out by saying that you're now in the fifth year, and you continue to work with industry and consumers. Then I think the last part of that first sentence kind of identifies the key principle for your existence, and that is to increase homeowner protection and to improve the quality of residential construction in British Columbia. When I read that, for me, that would be the fundamental principle the Homeowner Protection Office would exist for.

When I flip over to the next page and look at your vision statement, it says you're a responsive Crown corporation leading an improvement in the quality of residential construction and increased homeowner protection in British Columbia. I think those are all the right reasons for you to exist. I think they're stated in a succinct fashion.

The concern I have as I'm listening to what's going on around the room is that there seems to be a significant portion of your resources that is actually being utilized in a reactive mode as opposed to, perhaps, a proactive mode. I know you've got some educational

objectives in your service plan. There are some things like that.

I know, clearly, you are working on some other objectives, but as you stated a few minutes ago, the leaky-condo issue pertains principally to the lower mainland and Vancouver Island. There is a large portion of the province that I would presume the builders contribute funds to your office through membership payments. I'm not sure exactly how they do that, but I would presume that certified builders in Prince George, Nelson, Quesnel or Kelowna would also pay a fee that goes to the Protection Office.

There are other types of concerns in other portions of the province that don't relate to leaky condos. I'd just like some comments from you on the way that you have your service plan structured versus, perhaps, some of the questioning that's occurred today. It sounds to me like you're focusing a tremendous amount of your resources on the leaky-condo issue and perhaps not as much on other areas. It may just be the line of questioning that's taken place today. I'm not sure. That's kind of what I'm hearing going on around the room. If you could maybe comment on that, Dan — just your thoughts on what is being done in other parts of the province that I'm not seeing in the service plan or that I'm not hearing. How do you use those funds, and how are they effectively allocated to other regions of the province that aren't impacted by leaky condos?

**D. Maxwell:** Right. I think I'll share this answer with Bob. I'd like to have him speak to some of our regional efforts as well, because we do have staff that report to Bob in other parts of the province.

I think it is a fair statement that the majority of our resources have been targeted to leaky condos. That was the reason that we came to be and the single biggest problem we are facing, but it is a short-term problem that's going to go away.

The licensing warranty system is the core of the office. I tried to show on those charts that I pulled out the 10 percent that pertained to them, because we really believe that's what we're about. I'm not sure we were appropriately named. I'm not sure Homeowner Protection Office was the right name. Maybe we should have been the "builder licensing office." That might have been more core to our function, but that's neither here nor there.

We have tried to address the leaky-condo issue by providing support to leaky-condo owners and making sure that their repairs being undertaken were the right ones and long-lasting ones. The sorts of questions we've heard here today are very familiar to us from all sorts of people. When we stand up in front of strata owners, that's what they want to know. They're telling us: "We're going to need to spend \$25,000. Who's going to guarantee that this is going to be the right repair and is going to work?" So we've had to address that. We want to make sure the building science, technology and education have all gone along with that.

For sure, compliance. Bob said three-quarters of his licensing staff and resources are targeted to compliance

activities — only 25 percent dealing with those builders paying the licence fees, nothing being collected from the owner-builders and nothing coming back to us from the compliance side other than getting builders licensed, and then they pay a licence fee.

I guess what I'd say there is that we've got a brand-new system that, in some sectors, we're seeing some challenges in bringing all parts of this industry on board with this new system. I think maybe we're at the front end of a pretty young organization — overspending at the front end on that compliance, getting a system up and running.

[1255]

We really have made headway with the financial institutions. We didn't talk about it too much today, but if you go to the CIBC, you're not going to get a loan to finance construction of an owner-built home. That's not true for every financial institution. There are certainly credit unions that are making some business out of providing that sort of financing.

We think we're making headway. There are realtors who are aware of the issues there. We've got disclosure that happens on the real estate forms. You're told if that's an owner-built home or if it comes with a policy of home warranty insurance.

I think over time we're going to see a shift where we won't need that level of compliance resources. We think we could get some assistance with some legislative changes to give us some better tools so we could shift resources back, but we do need to move off leaky condos, for sure. We need to move off of compliance and to working with the licensed builders. Maybe Bob can talk a little bit about the issues that are faced in other parts of the province.

**B. Maling:** We've recognized that leaky condos is our first issue to be dealt with foremost. Now we're at a planning stage, for instance, with our research and education function in terms of surveying all of our licensed residential builders to find out what their needs are. We're working very closely with the local chapters, for instance, of the Canadian Home Builders Association in places like Kelowna, Prince George and Vernon, finding out what their issues are and what their needs are.

To suggest that our compliance function has really been one of harassment or policing.... I think there is a certain amount of truth there. We do end up on the site. We are a bit in your face in terms of the actions we take once we find that somebody is offside. But in travelling from place to place, our compliance officers not only visit the sites, but they also visit the local municipal building inspection office, for instance, to make sure they're fully aware of the legislation and to get a feel for what's going on in the local community. Those individuals also will drop by the small branch offices of the CIBC to make sure the local manager understands that the legislation exists. We visit real estate offices and local real estate chapters in all of those communities, not just the lower mainland.

When we talk about banks, we deal with Credit Union Central. Sure we do. We have meetings with those on a regular basis. We deal with the Canadian Bankers Association and their risk group, but we also go out to the local chapters of the Mortgage Lenders Association. We also sit down with local mortgage lenders and make sure they understand who we are, why we are — and local real estate offices. I would suggest in the last year we've been concentrating a lot more on making some efforts in rural British Columbia and the interior as well as in the lower mainland and the more urban areas.

That is our target. That is our plan. Part of our recruiting in terms of the people we've recruited is that they have to have an understanding that they will be in a transition role from what they're doing now, moving more into a communications role and a role where they will be liaising with the local community more so than policing the local community.

That is kind of a goal. I don't think it's laid out well in our business plan, but it's certainly something that our staff have been advised is the evolution that they will go through over the next few years.

**K. Stewart (Chair):** We've now reached where our time has run out. If anyone has an urgent, very short question, we'll allow it. Other than that, you'll be receiving some written questions that didn't get asked today. If you get them back to us in a timely manner, that allows us at least to internally conclude our questions so we can start on our reports. Even though I mentioned our reports will not be filed until October, we'd certainly like to get them done by the end of this month. So, burning short questions?

**P. Bell:** I haven't finished mine. The response was not, I think, what certainly.... Part of it was responding to my question, and perhaps I didn't describe my question effectively.

Given the focus on leaky condos, do you think that your service plan has adequately addressed that issue? When I go and look at your goals and objectives, I have not noticed the term "leaky condos" in there. I noticed it on page 3 of your service plan. One of your missions is to provide financial assistance to owners of leaky homes...

**K. Stewart (Chair):** If it's not a short answer....

[1300]

**P. Bell:** ...but I didn't see it anywhere else.

So I guess my questions were actually — given the significance of the leaky-condo issue, I was certainly curious as to the resources that we're putting behind it — how that is reflected in your goals and targets.... We'll just perhaps leave it at that one, because the other one related to non-urban B.C. That's okay. I don't need that.

**K. Stewart (Chair):** Again, if you have a real short answer — great.

**D. Maxwell:** I think it is there, because we tried to look at the two key measures around the leaky condos. Do people really keep their homes after receiving financial assistance? We looked at the default rate. That's one of the key ones. Do they get their value back after they complete their repairs? We think that's key.

Then on improving the construction quality, seeing the research happen, getting the results disseminated, participating in those major symposiums or publications, I think that's really where we've tried to target it. Those sorts of things are dynamic; they equally apply to leaky condos as they will apply in the future out to different sorts of construction issues as we go forward.

The performance measures that deal with the leaky-condo program are going to have a life for the next ten years, because many of those homes are going to be in place for much longer than that. So they'll still be valid for the short term.

**J. Les:** Just a quick one. You list as one of the responsibilities of your director of research and education the objective of advising government and the city of Vancouver on amendments to the Building Code. My question would be: have you been able to advise of required changes to the code to date?

**B. Maling:** Part of the current proposed changes to the B.C. Building Code was in response to recommendations that were made from our office as part of the review process. Certainly, part of the changes that are being proposed to the National Building Code, which will be reviewed this fall, come from efforts of our office and from other members of those committees who come from British Columbia.

**D. Jarvis:** The interest-free loans are ostensibly to those who cannot qualify with their bank, or their repairs are so excessive that's where it's available. They are on a term, like a three-year or a five-year term — these no-interest loans?

**D. Maxwell:** That's right. They typically have a five-year term, although the amortization period can be up to 40 years.

**D. Jarvis:** Okay. That's what I was leading up to. What happens after the term lapses and they are either without work or whatever it may be and cannot re-qualify with a loan institution?

**D. Maxwell:** Then we'd renew the loan.

**D. Jarvis:** You'd renew the loan. Does this go on and on?

**D. Maxwell:** Yes.

**D. Jarvis:** I don't see where you've made allowance in your future revenue or costs.

**D. Maxwell:** Building up those numbers into the forecasts going out, we have an assumption for the

number of loans that will need to be renewed each cycle. So at the end of your five-year term, we take a look at the situation you're in and ask the question: can you now qualify for regular financing from a financial institution? If so, then the interest-free portion stops, and you just roll that loan into your first mortgage, very likely. If not, it'll be renewed through the HPO.

We have accounted for costs for that.

**D. Jarvis:** How long will that go on? Basically, someone that can't qualify on the second round will not be able to qualify for the third round, ostensibly, because of age...

**D. Maxwell:** That's right.

**D. Jarvis:** ...and not working, and they won't have the sufficient moneys. So where is it in here that we have allowed for...? It's still going to be a loss to the government.

**D. Maxwell:** Yeah, that's part of the cost. I think in the service plan or annual report we report that we believe that the total cost of the reconstruction loan program is going to be \$110 million over its life. Buried into that is the thought that some of those loans are going to be in place for 40 years.

**K. Stewart (Chair):** Okay, thanks.

Just before we close, I'd like to make it clear that this will be coming out in *Hansard*. If, in reading *Hansard*, you gentlemen have any clarification you'd like to give to some of the answers that were given or some of the questions, feel free to do so. Let's look at, say, two weeks out, getting that back to the Clerk. Also, to the members of the committee, if you have any further questions that you want to put through the Clerk's office, we'll get them out to the Homeowner Protection Office as quickly as we can.

Again, I'd like to thank you gentlemen for today. It was a very informative topic, and I know that we certainly got specifically interested in one aspect of it. We certainly look forward to your future visit and being able to keep things on the track that you've set out for yourself.

Thank you.

**D. Maxwell:** Thank you.

**K. Stewart (Chair):** If it's the wish of the committee, we'll have a five-minute recess. We'll come back after that.

The committee recessed from 1:05 p.m. to 1:15 p.m.

[K. Stewart in the chair.]

**K. Stewart (Chair):** Could I have a motion to move in camera?

Motion approved.

The committee continued in camera at 1:16 p.m.

The committee continued in open session at 2:10 p.m.

[K. Stewart in the chair.]

**K. Stewart (Chair):** In conclusion to today's meeting, we have decided that due to the unavailability of our next set of witnesses, we won't be meeting on the 23rd — is that acceptable to everyone? — and that we

will be meeting at a date convenient to all of us in early September, and that all the information.... If you have any further questions of any of the witnesses, your reports.... Please get them in within ten days so that Audrey can complete them before she goes off to law school — then, of course, working with Jonathan, who is going to help her with that task.

Any further discussion?

The committee adjourned at 2:11 p.m.