

BOMA Canada

2022 Human Rights Guide

A blurred, teal-tinted photograph of a crowd of people walking, likely in a transit station or a busy public area, serving as a background for the main title.

Human Rights & Commercial Real Estate

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The logo for Borden Ladner Gervais (BLG), consisting of the letters "BLG" in a large, bold, blue sans-serif font.

Borden Ladner Gervais



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Our contributors, who shared their insight and spent valuable time on this guide:

Erica Fisher – Brookfield

Roy Manias - The Cadillac Fairview Corporation Limited

Sean Drygas – Colliers

Randal Froebelius – Equity ICI Limited

Derek Billsman – Healthcare of Ontario Pension Plan

Josh Scheinert – Individual Contributor

Stephane Villemain – Ivanhoe Cambridge

Theresa Warnaar - KingSett Capital

Regan Smith - Manulife Investment Management

Nishat Jessa – Oxford Properties

Darrell Campbell – Pivot Resources

Terry Chowanec – Police Executive Research Forum

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Introduction from BOMA Canada and BLG

BOMA Canada and Borden Ladner Gervais LLP have come together to address how the developing issue of Business and Human Rights (BHR) affects Canadian property ownership and management industries. For our industry, addressing BHR is a way to strengthen cultures of respect, dignity and ethics within our member organizations and mitigate risk.

BOMA volunteers collaborated on the production of this Guide, with meetings occurring against a rapidly changing domestic agenda, including an election campaign where Canada's two largest political parties both committed to introducing BHR legislation. We concluded when companies, including some which supported this Guide, withdrew from Russia because of the Ukraine crisis, and as the Canadian government released a new policy aimed at "enacting legislation to eradicate forced labour from Canadian supply chains and ensure that Canadian businesses operating abroad do not contribute to human rights abuses."¹

Engaging with BHR concerns is first and foremost about showing leadership on core moral issues. But beyond shaping our industry's values, BHR is also about risk mitigation. No property owner wants its building built by victims of human trafficking. No property manager wants to procure supplies manufactured with forced labour. No owner/manager wants its property being the site of human rights abuses. But every property owner, in Canada and beyond, face these risks and they can have varied impacts, including:

- **Reputational** – brand association with human rights abuses ;
- **Compliance** – potential legal liability for companies involved in human rights abuses; and
- **Financial** – costs associated with remedying human rights as well as growing investor diligence on human rights as part of ESG considerations.

Application to BOMA membership: owners and managers, domestic and global

BHR applies equally to owners, owner-managers and third-party managers irrespective of size or scale. Multinationals with extensive global operations and smaller enterprises with domestic operations each have responsibilities to safeguard human rights. Moreover, those which only operate domestically frequently have global inputs in their supply

chains. As this Guide lays out, all businesses must comply with domestic and global BHR guidelines.

Compliance with BHR obligations requires time, effort and money. However, BOMA Members can take great pride in the result, including operating businesses that take a stand for what is right – contributing to fairer and more just workplaces and societies; and safeguarding the rights of those upon whom the success of our businesses is built.

This Guide proceeds by providing an overview of the key BHR concepts drawn from the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the Organization for Economic Co-operation and Development Guidelines for Multinational Enterprises (OECD Guidelines). It then applies these concepts to property ownership and management before setting out how to incorporate BHR concerns into your operations. Finally, the appendices provide examples for due diligence and contractual provisions.

Thank you for joining us on this important journey and fostering the best of our industry's values!



Josh Scheinert

Lawyer and independent expert on business and human rights



Benjamin Shinewald

President & CEO
BOMA Canada

¹ Government of Canada, 2021. [Responsible Business Conduct Abroad - Canada's Strategy for the Future](#)

BHR Obligations and Your Organization: Summary Table

Business and human rights obligations for all businesses:		
<ul style="list-style-type: none"> • Do not cause or contribute to human rights abuses; • Prevent or mitigate human rights abuses directly linked to your operations. 		
What does this mean for my business?		
For Building Owners...	For Domestic Property Managers...	For Global Property Managers...
Identify potential issues: <ul style="list-style-type: none"> • Who is building my property? • Who is managing my property? • Which third-party service providers work at the property? • Who leases the property? 	Identify potential issues: <ul style="list-style-type: none"> • From where do I procure goods? • Where do my workers come from, including contract workers? • Who are my tenants? 	Identify potential issues: <ul style="list-style-type: none"> • From where do I procure goods? • Where do my workers come from, including contract workers? • Who are my tenants? • Are local laws and regulations sufficient to comply with BHR expectations?
Prevention strategies: <ul style="list-style-type: none"> • Conduct my own human rights due diligence on the property operations, including the manager • Include clauses mandating BHR standards in key contracts, including provision of grievance mechanisms • Audit for compliance 	Prevention strategies: <ul style="list-style-type: none"> • Conduct human rights due diligence on suppliers and vendors • Include clauses mandating BHR standards in key contracts, including provision of grievance mechanisms • Audit for compliance 	Prevention strategies: <ul style="list-style-type: none"> • Conduct human rights due diligence on suppliers and vendors • Include clauses mandating BHR standards in key contracts, including provision of grievance mechanisms • Audit for compliance
Be transparent about your human rights commitment and its implementation.		
<p><i>This may include:</i></p> <ul style="list-style-type: none"> • Ensuring all policies and codes of conduct related to human rights are publicly accessible and in applicable languages, so all relevant stakeholders understand • Conduct internal and external training/awareness sessions that explain what your business is doing to protect human rights, how that impacts various stakeholders, and the expected results 		

Understanding Business and Human Rights

This section offers an overview of BHR and how it applies to property ownership and management. This section includes:

- A. Introduction to the BHR framework
- B. Sources for understanding and complying with BHR expectations
- C. The primary BHR obligation for businesses
- D. Meeting the obligation to avoid causing, contributing to, or being directly linked to adverse human rights impacts
- E. Potential exposure for non-compliance with international BHR standards

A. Introduction to the BHR framework

The emerging BHR framework expects businesses to take proactive steps to respect human rights within their operations and supply chains and to ensure that individuals or groups whose rights have been violated have access to a remedy. This expectation exists regardless of where a business operates, its size, or industry.

However, the specific circumstances of each business will impact how it meets this expectation. See, *Example 1 - Differing Expectations*.

Many jurisdictions have local laws addressing areas like health, safety, and labour. Complying with these laws may not be sufficient to meet BHR expectations. This is especially important in international jurisdictions where legal human rights protections may not be robust, or in instances where a business engages contractors or subcontractors that may have different standards with respect to legislated human rights protections.

B. Sources for understanding and complying with BHR expectations

International documents set out expectations for avoiding or mitigating business activities' adverse human rights impacts.

The primary source is the 2011 United Nations Guiding Principles (UNGPs)² and the 2011 Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises (OECD Guidelines)³.

Canadian businesses are expected to adhere to the UNGPs and OECD Guidelines even if they are not legally binding instruments. The Government of Canada's policy on Responsible Business Conduct (RBC) Abroad includes the

*"The Government of Canada expects Canadian companies operating abroad to abide by all relevant laws, to respect human rights in their operations, and to adopt best practices and internationally respected guidelines on RBC such as the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises."*⁴

UNGPs and OECD Guidelines and explicitly states:

The UNGPs organize the BHR framework into an interrelated three-pillar approach: **Protect, Respect, and Remedy**.

- 1. Protect:** States have the primary duty to protect human rights.
- 2. Respect:** Businesses have a responsibility to respect human rights.
- 3. Remedy:** Individuals or groups impacted by human rights abuses must have access to a remedy.

This guide focuses on adhering to the principles set out in pillars two and three.

² United Nations, 2011. [Guiding Principles on Business and Human Rights](#)

³ OECD, 2011. [OECD Guidelines for Multinational Enterprises](#)

⁴ Government of Canada, 2021. [Responsible Business Conduct Abroad - Canada's Strategy for the Future](#)

C. The Primary BHR obligation for Businesses

To meet the UNGP's responsibility to respect human rights, a business must:

Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur.

Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

-UNGPs, Principle 13²

Note the distinction between causing and contributing to human rights impacts, versus being directly linked to them (e.g. via your supply chain), which clarifies the scope of a business's responsibility. Contracting out an entire service line does not mean responsibility to ensure respect for human rights has also been entirely contracted out.

I. Not All Businesses Are Created Equal

BOMA membership includes large, multinational enterprises and small and medium enterprises. The expectation to respect human rights applies to all members regardless of size. However, BHR expectations recognize that not all companies have the same capacity and resources.

Consider the following example:

EXAMPLE 1 - DIFFERING EXPECTATIONS:

Procurement Company A manages large office towers across Canada and globally, with thousands of employees, contractors, and subcontractors. Company B is a family-run property management company that owns commercial office space in and around Kingston, Ontario with a staff of 35, including contractors and subcontractors. Each company procures apparel for its employees, contractors, and subcontractors from a supplier in Asia.

The UNGPs and OECD Guidelines require Company A and Company B to respect human rights in their supply

D. Meeting the obligation to avoid causing, contributing to, or being directly linked to adverse human rights impacts: Human rights policy, due diligence, grievance mechanism

All businesses should have three components in place to meet their BHR obligations:

I. Have a **human rights policy** stating a commitment and approach to respecting human rights.

As in all compliance matters, an excellent policy is only as valuable as how well it is implemented and adhered to. Therefore, a human rights policy must be accompanied by training and monitoring to ensure it achieves its objectives.

II. Undertake **human rights due diligence** to assess the potential for adverse human rights impacts.

Undertaking human rights due diligence allows businesses to identify, prevent and mitigate adverse human rights impacts. It also helps account for how the company is addressing human rights.

BHR expectations recognize it may not be practical to undertake human rights due diligence for all aspects of business operations. Where this is the case, the UNGPs advise businesses to focus on areas with the most significant risk profiles.

A significant aspect of human rights due diligence is what to do with the information learned. Businesses

need to analyze potential human rights risks and decide if and how they can be addressed, and what impact that might have on operations. This is a context-specific exercise.

Businesses need to be prepared to mitigate activities where human rights due diligence determines there is a risk to human rights.

- III. Facilitate or participate in a **grievance mechanism** so individuals whose human rights have been impacted have access to a remedy.

Grievance mechanisms will vary depending on each specific adverse impact, i.e., whether the business caused or contributed to the adverse impact, or whether it is linked to it through its business relationships or supply chain. BHR expectations state businesses should facilitate grievance mechanisms for adverse impacts they cause or to which they contribute. However, they are not expected to facilitate grievance mechanisms where they are linked to adverse impacts (though businesses may still participate in grievance mechanism if it feels it would be appropriate.)

Using *Example 1 - Differing Expectations*, assume Company A and Company B are both arms-length purchasers of the garments in question. Neither

company would be expected to offer an operational level grievance mechanism to workers located in garment factories abroad who suffered adverse human rights impacts in the production of those garments. However, if the larger company, Company A, decided to purchase a stake in the garment manufacturing company, giving it some degree of operational control, it would be expected to offer a grievance mechanism.

However, this does not mean there would not be ramifications for Company A or Company B in the event of a human rights issue. Company A and Company B are still both expected to mitigate human rights abuses. In this case, that can mean using leverage to work with suppliers on improving labour practices.

Human rights due diligence in practice – owners versus managers:

EXAMPLE 2.1 –REGULATING SECURITY FOR MANAGERS:

Company A owns commercial properties in Canada, the United States and Brazil and retains Company B to manage those properties. Company B undertakes human rights due diligence before retaining private security guards for those properties. Each country has its own laws and regulations for how private security contractors carry and use firearms. The laws and regulations vary in stringency and address who can be hired as a private security contractor, the type of firearm they are permitted to carry, and the required training on use of the firearm.

Q: Can Company B undertake less robust human rights due diligence in those jurisdictions with weaker domestic regulation?

A: **No.** Companies are expected to apply the most stringent regulatory standard throughout their operations and not take advantage of weaker regulatory environments to cut corners. Company B is expected to undertake the same due diligence for retaining private security guards in each location.

E. Potential exposure for non-compliance with international BHR standards:

Businesses that do not comply with the international BHR standards discussed above risk exposure from several sources.

Legislation:

In Canada, the government has committed to enacting BHR legislation. Draft bills were previously introduced in the House of Commons and Senate. It should be expected that a draft bill will be passed as the largest federal parties committed to passing legislation in their most recent electoral platforms. Existing legislation in the UK, France, Australia, and California imposes requirements on businesses to ensure human rights are respected in their supply chains. The content of each legislation varies but generally takes one of two forms that mandates either reporting or due diligence. We can expect other jurisdictions to pass legislation in the near future.

Contractual obligations in supply chains:

BOMA members may be bound by other countries' existing BHR laws through contractual provisions, even if they do not

operate in jurisdictions where those laws are in force. For example, a Canadian owner or property manager could enter into a contract with a UK supplier for goods or services. That UK company could include contractual language requiring the Canadian entity to confirm its operations comply with the UK Modern Slavery Act – even if the Canadian entity does not operate in the UK. This is because the UK entity will need to ensure business activities down its supply chain do not violate its obligations under the UK Modern Slavery Act.

Trade restrictions:

Canada prohibits the importation of goods produced in conjunction with certain human rights abuses, including forced or child labour. The revised NAFTA trade agreement (United States-Mexico-Canada Agreement, or USMCA) requires Canada to take steps to prohibit such imports, and Canada amended its Customs Tariff as a result. Recently, the Canada Border Services Agency (CBSA) seized a shipment of clothing suspected of being produced by forced labour.

BOMA members regularly procure goods from around the world. A good source on goods produced with forced or child labour is the US Department of State *List of Goods Produced by Child Labor or Forced Labor*.⁶ The list breaks down which goods from which country have known risk of being

⁶ US Department of Labor, 2021. [List of Goods Produced by Child Labor or Forced Labor](#)

EXAMPLE 2.2 –REGULATING SECURITY FOR OWNERS:

Before Company A bought an ownership stake in the three properties above, it knew security services raised a potential human rights concern. However, it did not discover any previous human rights issues at these properties during the due diligence phase. It also knew Company B is a reputable property manager. Therefore, it trusted Company B to ensure security services operated responsibly at all properties.

Q: Did Company A meet its expectation to respect human rights concerning security?

A: No. Building owners cannot insulate themselves from exposure to BHR risks by outsourcing their

responsibilities to managers. Yes, the responsibilities might differ, but owners must take steps to ensure they use their leverage to protect against human rights risks. Per UNGP 13, there are several steps Company A could have taken to achieve this, including:

- conducting its own human rights due diligence about the potential human rights issues by security services at the properties,
- requiring Company B to sign a Supplier Code of Conduct setting out mandatory standards to ensure Company B's actions do not jeopardize Company A's commitment to respecting human rights at properties it owns, and
- periodically auditing operations at properties it owns to confirm operations are not jeopardizing its BHR obligations and that suppliers are complying with the Supplier Code of Conduct.

produced by forced and/or child labour. Some of the goods on the list that would be used by BOMA members include bricks, carpets, garments, granite, textiles and timber.

Civil suits clarifying human rights duty of care:

Multiple Canadian companies have faced civil suits alleging responsibility for human rights abuses that took place

abroad. Impacted industries have so far included mining, apparel and food/agriculture, though the facts that gave rise to the claims are not unique to those industries. Allegations include human rights abuses by private security contractors, use of child and forced labour, and partnering with firms that knowingly engage in human rights abuses.



Why Us? BHR concerns and property management

The following section provides four recent examples/case studies of human rights abuses in business areas relevant to the property ownership and management industries. They relate to:

- A.** Property maintenance (cleaners)
- B.** Security services
- C.** Construction
- D.** Tenants

After each example, we discuss how similarly situated businesses could mitigate such risks.

A. Who is maintaining your property? Labour abuses and human trafficking in cleaning services

The incident: Ontario cleaning contractor employs trafficked workers

In 2019, 43 Mexicans were brought to Canada on false pretenses, thinking they would be enrolled in educational programs or given work visas. Instead, they were made to work for a cleaning contractor near Barrie, Ontario and forced to clean hotel properties in southern Ontario. The contractor kept them living in squalid conditions, driving them to and from their places of work each day. In addition, the contractor charged the workers living and transport fees, which sometimes left them with less than \$50 in wages each month.

In February 2019, the Ontario Provincial Police freed the 43 individuals. One of the rescued men is reported to have told police, "Last night, I went to bed a slave. This morning, I woke up a free man."⁷

Mitigating similar risk:

BOMA members have leverage to set terms and conditions in relation to the provision of services. These will vary by each situation and risk profile. It is worth considering how your leverage might be used to improve contractor BHR

conditions. Some options could include:

- A contractual provision that prohibits the use of human trafficking or forced labour and that the contractor must abide by all applicable labour laws, including those concerning compensation;
- A requirement that contract workers sign a declaration stating they work freely and voluntarily for the contracting entity;
- Posting notifications of worker rights in common service areas or private staff areas, including contact information to submit complaints to a relevant government office if it exists (signage should be in the main languages spoken by contract employees);
- Maintaining a hotline or email account for contract workers to reach out to and disclose abuses by employers; and
- Conducting random monitoring and oversight of contract workers, either in-person or virtually, to ensure their employment conditions are in keeping with your expectation.

B. Who is protecting your property? Security services and human rights abuses

The incidents: Security guards accused of physical abuse in Canada and the US

Investigations in Canada and the United States revealed allegations of physical abuse by security personnel at commercial properties.

Some incidents led to lawsuits against the security companies and property owner/manager.

Findings from the investigations include:⁸

- Guards physically restraining and detaining a man who says he was just at a mall waterpark, leading to the man sustaining injuries.
- Allegations of racially profiling shopping mall patrons.

⁷ CBC, 2019. [Police in Ontario free 43 Mexicans brought to Canada by alleged human traffickers](#)

⁸ Edmonton Journal, 2018. [As Alberta's private security industry surges, what happens when guards behave badly?](#)
CTV, 2012. [Lawsuits settled in alleged mall security beatings](#) (continues on p.10)

- Physical abuse of low-income individuals at commercial properties, resulting in a lawsuit and subsequent settlement.
- Hiring security guards with histories of assault, weapons charges, and domestic violence, including restraining orders issued against them. One cleaner accused such a security guard of sexual assault and sued the security company and bank who contracted the security company. Both companies settled.
- Internally suppressing allegations of abuse to not jeopardize contracts.

Mitigating similar risk:

BOMA members can engage with security contractors to establish (a) criteria for individual security personnel to be employed and (b) policy and standard operating procedures concerning the use of force and any subsequent documentation and investigation following security incidents, which would include informing the property owner and/or manager of each incident.

C. Who is building your property? The construction industry accounts for 7% of global workforce but 18% of forced labour/modern slavery instances

The incident: Criminal investigation in New Zealand into recruitment of foreign construction workers

New Zealand immigration authorities are investigating practices surrounding the recruitment of certain Chinese nationals into New Zealand's construction industry. Over 40 men were given temporary visas to work for a construction company. They obtained visas and work offers through a recruitment agent, for which they paid a fee. Visas were conditioned on working for the one construction company. Some of the men were housed in company accommodations.

The men allege they went months without work and were paid less than promised. The workers retained a lawyer who filed a grievance on their behalf. This prompted the company to evict the men from its company housing, which led to the allegations going public and the criminal investigation.⁹

Mitigating similar risk:

BOMA members can avoid similar situations by:

- Having clear policies for recruiting foreign workers, including procedures to ensure the policy is followed.
- Respecting workers' rights to file grievances and engage proactively in the grievance mechanism to resolve concerns early on.

D. Who is leasing and using your property? Could human rights violations by tenants pose a risk to landlords?

The incident: Accusations of worker mistreatment by tenant prompt UK landlord to act

A large UK retail sporting goods chain faced accusations of worker mistreatment. The landlord, Hermes Investment Management (not connected with the luxury goods company of a similar name), confronted its tenant about the accusations. Hermes went a step further and inserted anti-slavery clauses into all of its leases, requiring tenants to comply with the company's anti-slavery policy and clauses requiring compliance with the UK Modern Slavery Act.

The company's 2017 Modern Slavery Statement provides the text of the anti-slavery clauses:

"The Contractor shall at its own cost and without entitlement to an extension of time comply (and procure compliance by its subcontractors and suppliers) with the Employer's anti-slavery statement as prepared by the Employer in accordance with the Employer's obligations under section 54 of the Modern Slavery Act 2015 and which is disclosed to the Contractor."¹⁰

Mitigating similar risk:

BOMA members must ask if there are steps you can take within the owner-manager or landlord-tenant relationship to mitigate risk of human rights abuses by tenants at your properties. Mandating clauses in lease agreements on compliance with BHR laws, government-recognized standards, and your own policies, is one approach.

⁸ (cont'd) USA Today, 2019. [A security empire deployed guards with violent pasts across the U.S. Some went on to rape, assault or kill](#)

⁹ Stuff.co.nz, 2019. [Chinese construction workers caught in "bonded labour" by recruitment company, says union](#)

¹⁰ Hermes Investment Management, 2017. [Modern Slavery Statement](#)
Business and Human Rights Resource Centre, 2016. [Sports Direct landlord Hermes to use 'Anti-Slavery' clauses](#)



How to react? Protecting human rights within your business and properties

BOMA membership is diverse. Company actions to implement BHR best practices will therefore differ. However, the steps required to implement those practices into your business should be the same. Below, we review how you can embed the UNGPs into your own operations. We then discuss ways to address the BHR practices of your business partners.

A. Embed BHR compliance into company operations

I. Start from the top: Review your operations

Businesses need to grasp how operations could adversely impact human rights in order to implement BHR best practices. This requires thinking through your supply chain to identify operations that could have adverse human rights impacts. Considering relationships with managers, contractors, suppliers and tenants is an obvious place to start, but is not enough on its own.

BOMA members should compile all potential human rights touch points and ensure processes are in place to address those risks through human rights due diligence when the situation warrants. Not all potential risk areas will arise at the same time.

II. Perform human rights due diligence

Human rights due diligence (HRDD) is the most important tool for any business enhancing BHR compliance.

HRDD should be embedded across all your business lines and divisions, from existing risk areas to new business opportunities.

Below are some suggested steps for performing HRDD:

- **Establish knowledgeable teams:** Consider establishing a designated human rights committee to lead your HRDD together with the appropriate business professionals. The human rights committee could develop the necessary familiarity with key human rights issues for your business while working with other professionals who have knowledge of the business division/activity in question to design and carry out your HRDD.

- **Find the right stakeholders:** Your HRDD will only be as good as the information it's based on. This means finding the right stakeholders for input is critical.
- **Be prepared to adapt your business to mitigate risk:** HRDD is not a check-box exercise to be performed as a matter of course and, cannot be designed as such. Businesses must be prepared to adapt if HRDD determines a potential activity poses a human rights risk.
- **Set a monitoring calendar:** The long lifespan of operations and contracts means businesses will need to monitor whether circumstances change.
- **Communicate:** Businesses should publicly communicate their HRDD. Concerns around business confidentiality are valid reasons to limit certain disclosure. However, being transparent about how you take human rights risks seriously is an important tool to give stakeholders and the public confidence in your operations. It can also mitigate reputational risks you might face on account of concerns around human rights practices and impacts.

The Government of Canada has committed to developing a "due diligence standard". It is intended to provide "a common set of indicators for Canadian companies to account for how they address the actual and potential negative impacts of their business activities."

III. Provide for or participate in grievance mechanisms

Businesses are expected to support access to a remedy. This does not mean, however, that every company will establish its own grievance/dispute settlement process, see the earlier *Example 1 - Differing Expectations*.

BOMA members need to support access to remedy for workers across entire supply chains. This expectation should be communicated to contractors through contractual clauses and codes of conduct. In certain high-risk areas, such as labour and security, businesses should consider a more hands-on approach when ensuring contractors provide grievance mechanisms to employees and access to remedy for those whose rights may have been violated.

B. Contractual clauses, supplier codes of conduct, third party audits

The UNGPs and BHR best practices expect your business to take steps to ensure human rights are respected by those business with whom you have relationships. This includes your contractors, subcontractors, and suppliers.

Inserting contractual clauses, mandating adherence to supplier or vendor codes of conduct, and conducting third party audits are ways to increase the likelihood that your business partners share your commitment to respecting human rights. Note, however:

- A code of conduct is more a statement of expectations. It can serve as an extension of your business' human

rights policy. It is applicable across your business and communicates your BHR expectations to business partners. You can incorporate a reference to a code of conduct in contracts and they can even form an appendix to the contract itself.

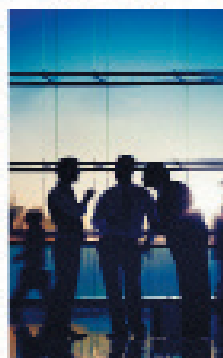
- A contractual clause should be case-specific. It is an opportunity to address a particular risk that could be borne through the business relationship and provision of goods or services. See Appendix II.

Third party audits are also effective ways to gather real-time information on respect for human rights. AI technologies have made conducting third-party audits more efficient, minimizing the risks and costs associated with in-person auditing.

Conclusion

The emerging Business and Human Rights framework challenges the BOMA membership to do more. From testing our most deeply held values to managing emergent business risks, our industry and our organizations are beginning to grapple with BHR. Like so many complex challenges, the context in which BHR considerations emerge – and how we handle them – will evolve over time. Changing cultural mores, new legislative initiatives and dynamic global and domestic politics will all affect how our industry grapples with these challenges.

But grapple with them, we must – and this Guide is intended to help the BOMA membership begin and continue along this new, important and exciting path.



Appendix I – Steps for performing human rights due diligence

1. Ensure teams involved in human rights diligence have sufficient knowledge of human rights issues and possible application to operations.

2. Set out human rights risks that could arise from operations:	<ul style="list-style-type: none"> Have you identified the full range of human rights impacts that could occur throughout various business divisions? 	<ul style="list-style-type: none"> Identify risks based on specific areas of business. Consult external stakeholders.
	<ul style="list-style-type: none"> Have you identified the full range of stakeholders whose human rights could be impacted by your operations? 	
	<ul style="list-style-type: none"> What are the higher risk aspects of your operations? 	<ul style="list-style-type: none"> Categorizing high and low risk activities assists with resource allocation when turning to the risk removal/mitigation stage
3(A). Identify factors that could contribute/exacerbate human rights risks: Geography	<ul style="list-style-type: none"> Do you operate in any high-risk jurisdictions? 	
	<ul style="list-style-type: none"> Identify where a business will need to go beyond local regulation to uphold its BHR commitments. 	
3(B). Identify factors that could contribute/exacerbate human rights risks: Business Relationships	<ul style="list-style-type: none"> Can you list all your suppliers and manufacturers? This list should go beyond the first tier of suppliers and manufacturers. 	<ul style="list-style-type: none"> Do you know if they employ contractors and subcontractors?
	<ul style="list-style-type: none"> Have you listed your contractors? 	<ul style="list-style-type: none"> Do you know if they employ subcontractors?
	<ul style="list-style-type: none"> Do you have information on the business practices and/or operating procedures of suppliers, contractors, and subcontractors to assess whether their activities could impact your organization's commitment to human rights? 	

Appendix I – Steps for performing human rights due diligence (cont'd)

4(A). Achieving internal BHR compliance:	• Do you have a human rights policy that is known throughout your business?
	• Who is/should be responsible for managing and overseeing human rights risks, including HRDD?
	• Do you have clear reporting lines for addressing human rights risks?
	• Have you established processes for engaging in HRDD, including monitoring and public communication?
	• Have you established an internal grievance mechanism that potentially impacted stakeholders know about and feel comfortable accessing?
4(B). Achieving BHR compliance in business relationships:	• Do you have a code of conduct articulating expectations for business partners' BHR performance, including contractors and vendors (e.g., property managers for property owners)?
	• Have you assessed what leverage, if any, you have with particular suppliers, contractors, and subcontractors to measure and/or enhance their human rights practices?
	• What processes are in place to ensure your business relationships do not link your operations to human rights abuses, including steps to ensure suppliers comply with your code of conduct?
	• How do you support business partners' grievance mechanisms and access to remedy?

Appendix II - Possible contractual clauses to enhance human rights protections in operations and supply chains

(Disclaimer: these sample provisions are drafted for general purposes only, do not constitute legal advice, and should not be incorporated into contracts without obtaining tailored legal advice.)

i. Compliance with your company Supplier or Vendor Code of Conduct:

a. For contractors:

Contractor warrants it will abide by **YOUR COMPANY**'s Supplier Code of Conduct.

[Include further specific references to how the Supplier Code of Conduct applies to the business activity in question].

YOUR COMPANY Supplier Code of Conduct is attached to this agreement as Appendix X.

YOUR COMPANY reserves the right to audit and monitor compliance with the Supplier Code of Conduct at a time of and in a manner of its choosing. This may include but is not limited to, sending questionnaires or forms for completion by management and/or employees; telephone or video consultations with management and/or employees; third-party auditing either in-person or electronically; and in-person spot checks performed by **YOUR COMPANY** employees.

YOUR COMPANY will review any findings with Contractor.

Contractor agrees to remedy all non-compliance with the Supplier Code of Conduct in a time and manner agreed upon with **YOUR COMPANY**. **YOUR COMPANY** reserves the right to terminate this Agreement in the event Contractor does not remedy non-compliance in a satisfactory manner.

b. For property managers/vendors:

PROPERTY MANAGER warrants it will abide by **YOUR COMPANY**'s Vendor Code of Conduct. **YOUR COMPANY**'s Vendor Code of Conduct is attached to this agreement as Appendix X.

PROPERTY MANAGER warrants it has its own human rights policies, protocols, and procedures to govern management of **THE PROPERTY** in compliance with **YOUR COMPANY**'s Vendor Code of Conduct. Copies of these policies, protocols, and procedures are attached to this Agreement as Appendix X.

[Include further specific references to how the Vendor Code of Conduct applies to the business activity in question.]

YOUR COMPANY reserves the right to audit and monitor compliance with the Vendor Code of Conduct at a time of and in a manner of its choosing. This may include but is not limited to, sending questionnaires or forms for completion by management and/or employees; telephone or video consultations with management and/or employees; third-party auditing either in-person or electronically; and in-person spot checks performed by **YOUR COMPANY** employees.

YOUR COMPANY will review any findings with **PROPERTY MANAGER**.

PROPERTY MANAGER agrees to remedy all non-compliance with the Vendor Code of Conduct in a time and manner agreed upon with **YOUR COMPANY**. **YOUR COMPANY** reserves the right to terminate this Agreement in the event **PROPERTY MANAGER** does not remedy non-compliance in a satisfactory manner.

ii. Prohibition against forced labour for contractors or property managers (“XXX”):

XXX warrants it will not employ forced or child labour, including through any subcontractors. **YOUR COMPANY** reserves the right to audit XXX's labour practices, including those of any subcontractors XXX hires.

YOUR COMPANY reserves the right to audit and monitor XXX's compliance with this prohibition at a time of and in a manner of its choosing. This may include, but is not limited to, sending questionnaires or forms for completion by management and/or employees; telephone or video consultations with management and/or employees; third-party auditing either in-person or electronically; and in-person spot checks performed by **YOUR COMPANY** employees.

YOUR COMPANY will review any findings with XXX.

Discovery of any forced or child labour practices **YOUR COMPANY** will result in immediate notification of local law enforcement.

XXX agrees to remedy all non-compliance with this prohibition in a time and manner agreed upon with **YOUR COMPANY**. **YOUR COMPANY** reserves the right to terminate this Agreement in the event that XXX does not remedy non-compliance in a satisfactory manner.

XXX warrants that all its and any subcontractor workers, including full-time, part-time, and contract employees, include further reference to labour practices needed to satisfy any expectation that there is no forced labour in the circumstances

[For example, include any reference to local labour code, industry standard etc.]

iii. Requirement to disclose supply chain for contractors or property managers (“XXX”):

XXX will disclose the supply chain used to procure and produce goods if requested by **YOUR COMPANY**. XXX agrees to provide all the available information in response to such requests, and where it does not have complete information available, warrants to undertake best efforts to provide it.

Appendix III - Glossary & Acronyms

Human rights

The primary source for internationally recognized human rights is the International Bill of Human Rights, which consists of the [Universal Declaration on Human Rights](#), the [International Covenant on Civil and Political Rights](#), and the [International Covenant on Economic, Social and Cultural Rights](#). Several of these rights are also protected in the [Canadian Charter of Rights and Freedoms](#).

Examples of rights protected by these instruments include:

- The right to life, liberty and security of the person;
- The right not to be held in slavery or servitude;
- The right not to be required to perform forced or compulsory labour;
- The right to equality;
- The right to freedom of religion;
- The right to peaceful freedom of assembly and expression;
- The right to form and join unions;
- The right to strike (*in conformity with national laws).

Human rights abuse or abuses

The violation of a single human right or multiple human rights as protected by the International Bill of Rights whether or not the violation contravenes domestic legislation in the jurisdiction(s) concerned.

Manager or property manager

Third-party or fee manager.

Modern slavery and forced labour

A [United Kingdom](#) government paper defines modern slavery as “recruitment, movement, harbouring or receiving of children, women or men through the use of force, coercion, abuse of vulnerability, deception or other means for the purpose of exploitation.”

The [United States Department of State](#) notes modern slavery is an umbrella term meant to include sex trafficking and

“compelled labor”. It defines forced labor as employing “force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work”.

Organization for Economic Co-operation and Development Guidelines for Multinational Enterprises (OECD Guidelines)

The [OECD Guidelines](#) provide standards for responsible business conduct in a global context. They were updated in 2011 to incorporate the UN Guiding Principles on Business and Human Rights (see below). The OECD publishes several practice and industry specific guidelines related to business and human rights, including a [Due Diligence Guidance for Responsible Business Conduct](#).

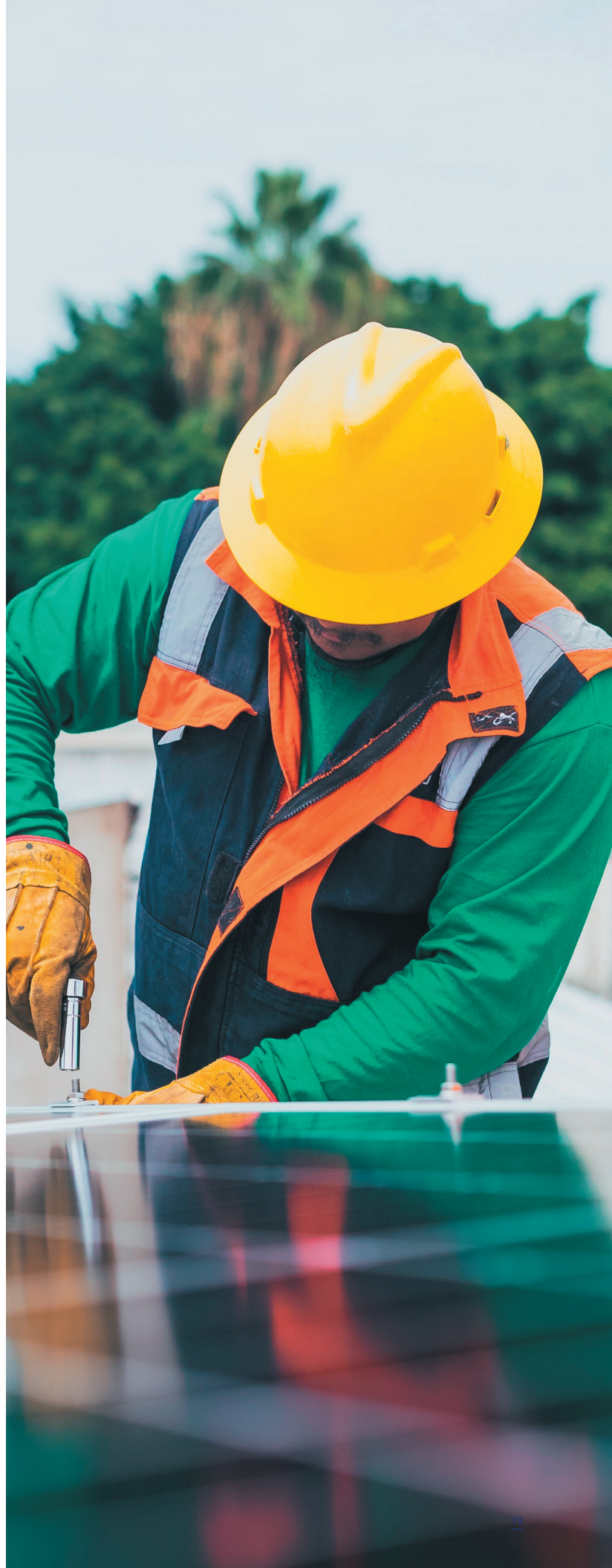
Responsible Business Conduct (RBC)

RBC is the term preferred by the Government of Canada to address business and human rights. The government defines RBC as:

“The process of integrating the management of risks to the environment, people and society within the core activities of a business. Responsible business principles and standards set out the expectation that businesses—regardless of legal status, size, ownership or sector—contribute to sustainable development; avoid and address adverse impacts of their operations; and recognize that companies have leverage to promote these values throughout their supply chains and business relationships.”

United Nations Guiding Principles on Business and Human Rights (UNGPs)

The 2011 [United Nations Guiding Principles on Business and Human Rights](#) is a UN document articulating 31 principles for the protection of human rights in the context of transnational business. It was unanimously adopted by the United Nations Human Rights Council and has since become the global standard for how states and business entities embed human rights protections into business operations.



Human Rights & Commercial Real Estate

For further information about the guide,
please contact:

BOMA Canada
1 Dundas Street West, Toronto
Ontario, Canada M5G 1Z3

info@bomacanada.ca

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