

## Condominiums and City of Toronto Waste Collection Offences

The City of Toronto has been charging condominium management companies and condominium corporations, with offences under [the Toronto Municipal Code, Chapter 844, Waste Collection, Residential Properties](#) (the “**Municipal Code**”).

These charges relate to offences under section 16A(3) which requires that all garbage, recyclable materials, organic materials and yard waste being set out for municipal collection be “*free from contamination*”. “Contamination” is defined in the Municipal Code as “*The mixing of an item referred to in the list below with a different item described in the list below:*”

1. *Recyclable materials*
2. *Garbage*
3. *Yard waste*
4. *Prohibited waste*
5. *Organic materials*”

One management company that was charged advised us that the certificate of offence alleged that “both bins contained a mixture of recyclable materials and organic materials mixed with garbage” in one instance and in another, that black bags were found in the recycle bin. These citations were issued in the name of the management company after City inspectors inspected the waste bins in the condominium waste/garbage rooms and took pictures of the offending items. A condominium staff member allowed the City inspector to enter and conduct the inspection.

The imposition of these charges raises a number of concerns:

- Any such charges should not be imposed against the management company as the management company is not the “owner” of the property. In the Municipal Code, “owner” is defined as an “*owner, occupant, lessee, tenant or any other person in charge or in control of a residential property in the City.*” Based on this, the management company was ultimately not convicted of the offence.
- While the Municipal Code specifically gives the City’s inspectors the right to “*enter on land at any reasonable time for the purpose of carrying out an inspection*” there is no right granted to enter any building.
- While this management company was only fined \$125, the Municipal Code provides that “*where a corporation is convicted of an offence the maximum penalties shall be \$50,000 for the first offence and \$100,000 for any subsequent offence*” and the City has the right to discontinue waste collection services, in which case the condominium would have to arrange for private waste collection at its expense.

Because of the potential for sizable fines that could be imposed against a condominium corporation, as well as the possibility that City waste removal services could be discontinued, condominium corporations that receive waste collection services from the City of Toronto should be determining how to approach waste separation and whether to implement programs educating residents as to the how waste is to be separated. As we reported in a [prior blog post](#), in order to assist with this the City of Toronto can provide educational materials and signage.

