

Competition Bureau Launches Investigation into Condominium Renovations

Canada's Competition Bureau (the "**Bureau**") has [launched an investigation](#) relating to the supply of renovation/contracting services to condominiums in the Greater Toronto Area. The Bureau obtained a court order compelling approximately 140 condominium corporations to produce all of their written and electronic records relating to contracts between 2006 and 2014 for renovations and major repairs and replacements of common elements (i.e. requests for proposals, bids, contracts, board minutes and related correspondence). As condominium buildings age, multi-million dollar expenditures are required to maintain the condominium common elements, both to keep them in a state of good repair (e.g. roof replacement, elevator replacement, parking lot reconstruction, etc.) and to preserve the marketability of the units in the building (e.g. renovations of the lobby and recreational amenities.)

The Bureau's investigation is focused on determining if there has been any [bid-rigging](#) or [conspiracy](#) in the tendering, bidding and awarding of these contracts. Both bid-rigging and conspiracy are criminal offences under the Competition Act, punishable by fines and imprisonment. The commission of these offences results in reduced competition and artificially inflated prices for goods and services.

While the Bureau's investigations are conducted in private, it has been reported in the media that it is the suppliers of services to the condominium corporations that are being investigated, not the condominium owners or boards. If the investigation ultimately concludes that any of the service providers have in fact engaged in conspiracy or bid-rigging in relation to these contracts, then the condominium corporations that have overpaid for services are the victims. Section 36 of the Competition Act provides a statutory cause of action to victims who have incurred loss or damage as a result of a breach of the conspiracy or bid-rigging provisions of the Competition Act.

Because of the extent of this investigation, it will no doubt be some time before the investigation is concluded. Those condominium corporations that are compelled to provide the information to the Bureau must do so within 90 days. These corporations should be consulting with their legal counsel to ensure that they adequately comply with the court order. Unfortunately, the search for and the collection, compilation and copying of the required records will be a time-consuming task for management.