

May 23, 2023

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**Attn: Robin Dafoe, Ali Arlani and Mike McRae**

**Re: Single Owner Condominiums**

There are a number of condos throughout Ontario in which each unit is owned by the same single owner ("SOC"), generally a rental landlord, but occasionally another entity such as a commercial parking provider. While technically condos, these corporations do not require the same level of oversight or consumer protection as condo corporations with multiple owners. For an SOC, there are no purchasers or multiple owners with competing or different interests. No one enters into an arm's length relationship with the corporation. SOCs should be exempted from many of the administrative requirements of the Condominium Act, 1998 (the "Act").

The Condominium Authority of Ontario ("CAO") has recently begun an initiative to "audit" condos. SOCs are unable to complete their annual returns with the CAO unless they provide information about the directors and the date when the corporation's last Annual General Meeting ("AGM") was held. Unless the annual return is filed with the CAO, the corporation cannot pay their yearly assessment. A simplified return would be appropriate for SOCs to permit them to pay their yearly assessment without jumping through the other administrative hoops.

SOCs are not operated like normal condos. With a single owner there is no benefit to following many of the procedural requirements under the Act. For example:

- There is no value in having a board of directors as the building is run by a company with an existing management structure.
- There is no value in holding an AGM to provide information to all unit owners, run contested elections, hire an auditor or provide general updates on the affairs of the corporation to multiple owners, given that there is just one owner.

- Appointing an auditor specific to the corporation will simply be a matter of compliance resulting in wasted money and effort; the company will also audit/review its books at the higher corporate levels.
- Single owner condos often complete a reserve fund study but then fund each year by special assessment. They often have a mortgage on the building, so putting aside money in a reserve fund, earning less than the rate they are paying on the mortgage would be illogical. The reserve fund study process, and the requirement to maintain a reserve fund becomes an administrative exercise that adds no value.
- There is no value to issuing budgets, notices and forms to owners when there is a single owner.
- The requirement to maintain the particular insurance required by the Condo Act is redundant because the building owner will also insure the units.
- And lastly, but probably most importantly, the requirement to have a manager licenced by the Condominium Management Regulatory Authority of Ontario (“**CMRAO**”) is a waste of rare, licensed manager capacity. In a condominium with multiple unit owners, consumers are the purchasers of the units, and the overall purpose of the Act and the Condominium Management Services Act, 2015 (“**CMSA**”) is to ensure that smaller individual unit owners have a fair say and oversight in the affairs of their condo. Under the circumstances, they would be enforcing compliance for the sake of compliance, with no consumer protection achieved, as there are no individual owners to protect.

The directors and managers of SOCs face substantial risks and penalties for either failing to file an annual return with the CAO or for filing an annual return that is misleading. If a person is convicted of an offence, then such person may be fined: (i) not more than \$50,000, if the person is a corporation; or (ii) not more than \$25,000, if the person is not a corporation. This risk means that SOCs incur significant expenditures fulfilling administrative requirements that add no value to their business and provide no consumer protection.

### **Recommendation**

SOCs should be exempt from the requirements to:

- Have a Board of Directors
- Hold an AGM;
- Appoint an auditor;
- Contribute to a reserve fund and prepare reserve fund studies;
- Maintain separate accounts for operating and reserve funds;
- Maintain the insurance required under the Act
- Issue budgets, notices and forms to owners; and
- Retain the services of a manager licenced under CMSA.

In the event that a single unit were to be sold to a third party, then the requirements under the Act and CMSA should once again apply. This should include the requirement to fund a reserve fund.

## Reasons in Support of Recommendation

**Consumer Protection:** the purpose of the Act is consumer protection. With SOCs, there is no consumer but rather tenants, and tenants have ample protections under the *Residential Tenancies Act*. An exemption would thus not diminish the protection offered, and thus the purpose, from the legislative regime.

**Different Duties and Objectives:** Managers for SOCs tend to focus on different duties, such as setting the rent price, getting units ready, assessing the rental market, tenant screening and approval, etc.<sup>1</sup> This is different from the normal duties listed on the CMRAO website, such as collecting common expenses, keeping records, preparing annual budgets and overseeing the reserve fund, etc. While there is overlap, the spirit and function of SOCs is quite different. Further, the managers are serving the for-profit building owners, not a volunteer board and third-party owners. Given that these condominiums are condominiums in name only, deep familiarity with the Condo Act should not be required.

**Cost of Compliance:** A landlord must spend additional time, energy and resources to comply with the Act and CMSA. These costs will inevitably be passed on to the tenants. Eliminating the compliance costs under the Act and CMSA should result in those savings being passed down as well. This also means the CAO and CMRAO can focus their own resources on the “true” condos that matter the most, ones with arm’s length purchasers.

**Shortage of Managers:** A licensed condominium manager is a valuable resource. There is currently an industry shortage, and this strain leads to frequent burnout and more shortages. By requiring SOCs to have a licensed manager, they are drawing from an already overburdened pool.

Established in 1973, Community Associations Institute (CAI) is an international membership organization dedicated to building better communities. With more than 40,000 members worldwide, CAI works in partnership with 63 chapters, including chapters in Canada and South Africa. CAI provides advocacy, information, education, and resources to the boards of directors of condominiums and the professionals who support them.

CAI Canada (the Canadian chapter of CAI) was formed to represent the Canadian interests of the broader industry, and to ensure that Canada is part of the conversations related to setting standards and sharing industry-wide best practice.

CAI offers these comments in a spirit of cooperation, and recognition that, above all, condominium owners need to have their interests protected and represented.

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<sup>1</sup> Taken from: <https://rcpmsolutions.ca/responsibilities-property-manager/>

We would be happy to meet with you to discuss, if it is of value.

Yours truly

A handwritten signature in blue ink, appearing to read "Justin McLarty".

Justin McLarty

CAI Canada Advocacy Committee

A handwritten signature in black ink, appearing to read "Sally Thompson".

Sally Thompson