



Date: December 15, 2023

Attention: Hon. Doug Ford, Premier of Ontario

Hon. Doug Downey, Attorney General of Ontario

Hon. Todd McCarthy, Minister of Public and Business Service Delivery

RE: Safety and Security in Condominium Communities

Gentlemen,

In recent years, and particularly since the tragic shooting at Bellaria Residences on December 18, 2022, it has become clear that the duties and protections respecting violence and harassment in Condominiums in Ontario are inadequate.

As you know, more than 1.7 million Ontarians of all ages and backgrounds live in condominiums and we have a collective responsibility to foster strong communities that are safe. Condominium board directors, managers and owners are expressing very real and serious concerns about their safety and privacy rights. Some board directors are resigning, not running for re-election, or failing to enforce condominium rules because they fear for their personal safety.

On behalf of our members, the Association of Condominium Managers of Ontario (ACMO), the Toronto & Area Chapter of the Canadian Condominium Institute (CCI-T), and the Community Associations Institute, Canadian Chapter (CAI-C) have struck a number of working committees to identify and propose opportunities to improve safety and security in Ontario condominiums. Our Joint Legislation Committee has reviewed relevant legislation to identify areas where reform is necessary to ensure that condominium communities are safe places to live for residents, and safe for those that work or volunteer in them. Based on our review, government support and legislative changes are necessary to provide viable long-term solutions. These include changes to the Condominium Act, 1998, changes to the Ontario Health and Safety Act and changes to the Criminal Code.

Going forward we will be making a series of recommendations for your consideration, the first of which is below and relates to ensuring the privacy and protection of the condominium owner/director. We would welcome the opportunity to meet with you to further discuss this and help solve this very serious problem in the condominium industry.

Signed,

Eric Plant, President, ACMO

Lyndsey McNally, President, CCI-T

Jake Fine, President, CAI Canadian Chapter

*Encls.1 cc. Marit Stiles, Leader, New Democratic Party of Ontario; Leader, Official Opposition
Bonnie Crombie, Leader, Liberal Party of Ontario Mike Schreiner, Leader, Green Party of Ontario*



Joint Safety and Security Legislation Committee

RECOMMENDATION RE: Privacy and Protection of Owner/Director

Safety concerns have worsened with the ability of unit owners under subsection 55(3) of the Condominium Act, 1998 (the “Act”) to be able to request and receive the condominium corporation’s owners list with their address of service, which most often is their home address. Section 55(3) of the Act provides that “The corporation shall permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing, to examine or obtain copies of the records of the corporation in accordance with the regulations, except those records described in subsection (4). 2015, c. 28, Sched. 1, s. 51 (4).”

It is important to remember that condominium corporations (the “Corporation”) have a statutory duty to operate and manage the Corporation, the units, and common elements. This duty includes protecting the safety and security of, amongst others, owners and board members. However, in today’s social climate this ability to protect owners and board members has been severely eroded, and part of this stems from the easy availability of owners’ lists.

In addition to an owner’s ability to obtain the addresses of other owners, there is a requirement for Corporations to disclose directors’ addresses for service in every status certificate, PIC, NOIC and ICU. Many Corporations will, reasonably and prudently, use the address for service of the condominium management company as the addresses for directors, however, there are Corporations that may not have a management company and are self-managed or may not understand the risk related to revealing these private addresses. In these cases, a director’s home address would be provided. This has resulted in directors being subjected to owners and other individuals’ solicitation/complaints and sometimes harassment and abuse that has, and can, put those directors and staff at risk.

It is believed that the condominium industry, and perhaps society, has turned a very unfortunate and even scary corner, and that this increase in harassment, online-bullying, unchecked character attacks, violence and violent behaviour sadly is here to stay (and may continue to increase). With recent high inflation and interest rates, financial insecurity is becoming a real issue for many condo owners. Their angst about their finances is further raising the anxiety levels and anger towards directors, who are obligated to fund the corporation, even if some owners can’t afford it. As a result, it is submitted that positive and concrete steps are needed to safeguard unit owners and directors.

It is recognized that directors are receiving education on being a condominium director, but the existing legislation and regulations need to be updated to provide increased protection in this changing world.

It is certainly acknowledged, and important, that there be a balance between the rights of owners to be able to participate fairly and equally in the democratic process within their community (e.g., the ability to seek owners' support for the removal of directors, to be able to solicit proxies for a specific vote, etc.) VERSUS the obligations of the Corporation to protect the individual, directors, staff and the Corporation's potential exposure to liability.

In addition to the options set out below, it is submitted that the Act should be reformed to provide that the purpose for which the owners' list is being requested must be stated, the purpose must be within the intent of the Act, and the Corporation is entitled to ask the requestor for the purpose (this right was removed with the reforms to the Act that came into force in November of 2017).

The following are three suggested Options to protect the privacy and safety of condominium owners and board members.

Option A

1. Amend the Act and its Regulations so that the list of owners and directors is exempt from being produced under Sec. 55 of the Act.

Option B

1. If Option A above is not implemented, then amend the Act and its Regulations to give owners the right to remove their information from the record of owners provided to other Owners under section 55.

Option C

1. An independent 3rd party (the "3rd Party") should be the "gate keeper" or "intermediary" for the list of owners and board members and their addresses for service, and no list be given directly to owners. Condominium corporations would be required to maintain updated lists with the 3rd party.

2. This 3rd Party could be a private contractor, a mailing house appointed by the Government from time to time, or perhaps ideally, the Condominium Authority of Ontario (the "CAO").

3. This 3rd Party could take on the responsibility for the lists and addresses for service for all owners including directors – as provided for each individual mailing from the Corporation and/or management. The 3rd Party would then be the entity that distributes anything that must be distributed to owners, such as Notices of Meetings, material, or other mandated communications. This would assist in removing a large sector of disputes that arise between owners/management and the Corporation who often distrust one another's ability (or their good faith) to send out and handle communications.

4. The right under the Act for someone to be able to obtain these lists could then be removed from the Act and replaced with a requirement that all owners work through or with the 3rd party. In no

case should Owner addresses for service, or email addresses, be provided to other Owners, as email addresses particularly are quite often the target for identity fraud and other online crimes such as harassment and bullying.

Placing the lists and communications in the hands of an independent 3rd Party, will also be of significant assistance in ensuring that the election process (and removal of a director or directors, if a requisition) is fair, transparent and with no interference by owners, directors, or management.

An added benefit of the above proposal is that it should result in lowering the costs for Corporations who currently are responsible for mailings, disputes from owners re: privacy and mailings, while at the same time protecting the privacy of owners and directors. If there is any increase in costs to Corporations for the 3rd Party, this in our view would be more than offset by the enhanced protection of the safety and privacy of owners and directors.

Additional issues that will have to be reviewed further and potential solutions proposed are:

1. The vetting process by the 3rd party to prevent the circulation by it of defamatory, harassing or otherwise inappropriate information and material. While owners should have the ability and right to use the 3rd Party to have their material circulated to all owners, etc., this right cannot be unlimited as there must always be checks and balances in place. Perhaps the CAO could be tasked with reviewing any mailing that the Corporation feels is not in accordance with the stated reason, or the mailing is slanderous, defamatory, hate literature, or otherwise hurtful to other owners and board members, and determine whether the mailing needs to be revised before being sent, or it simply does not meet the stated purpose and should not be circulated.

2. The basis for so many disputes in Corporations is the communication between it and the owner(s), especially those from a disgruntled owner or group of owners who often accuse the Corporation of not replying to their communications or that the Corporation is not truthful when it says it did not receive their communication(s), etc. Therefore, a possible solution is for the 3rd party to be the gatekeeper of all such communications, i.e. one place (one email address such as TSCCXXX@cao.ca) to where owners send their communications. The 3rd Party would not review or deal with these communications, but rather forward them to a designated email address of the Corporation. This way there would be an independent verification that a communication was received and that it was forwarded to the Corporation. This is a potentially complicated solution and requires further study, but the intent is not to increase the workload or infrastructure of the 3rd Party nor to change the Corporation's obligation to properly deal with communications from owners, even those that may be seeking to remove the board, etc. Rather, as stated above, it is an attempt to have an independent verification that the communication was sent and received to the Corporation, and thus eliminate an existing and significant irritant, or cause for disputes and problems in Corporations – communications between owners and their Corporation. This approach would also give directors in smaller, or self-managed, corporations the ability to deal with owners without giving out their personal emails, which would greatly improve directors' safety.

These societal changes are greatly impacting the condominium industry, and unfortunately these new norms appear to be here for the foreseeable future and may even get worse, with more

violence. Thus, it is important to be proactive and find solutions to this growing and extremely serious problem.