



October 25, 2024

Ministry of Public and Business Service Delivery and Procurement
6th Floor, 56 Wellesley St. W.
Toronto, ON
M7A 1C1

Sent by email to: kate.krestow@ontario.ca

Attn: Kate Krestow, Manager,
Strategic and Condo Policy Unit
Policy and Governance Branch, Policy, Planning and Oversight Division

Re: Amendments to the Condominium Act

Dear Kate,

We are writing on behalf of a special joint committee struck by the Canadian Condominium Institute, Toronto and Eastern Ontario chapters, the Canadian Chapter of the Community Associations Institute and the Association of Condominium Managers of Ontario to address safety in condominiums. We are responding to the public consultation posted in September 2024.

Our focus is on item H – copied below:

H Records Access

The ministry is considering changes to balance condo owners' rights to access records with their concerns related to safety and privacy.

The 2020 Auditor General's (AG) Report, Value-for-Money Audit of Condominium Oversight in Ontario, found that owners were not given access to information if it was not specifically required to be kept in the form of a record under the Condo Act. The AG noted that condo owners often did not receive part, or all, of the information which they were seeking and made recommendations to clarify the existing legislative and regulatory requirements with respect to records and expand the information owners may access. The AG recommended that the CAO clarify the existing legislative and regulatory requirements with respect to records and the information included in these records listed in the Condo Act and its regulations.

In December 2022, residents at condominium in Vaughan were tragically killed in a mass shooting. Following the shooting, the ministry heard from some members of the condominium

sector that there should be new limits on access to condo owners' and directors' information to increase the safety of condo owners and directors.

To address the more recent concerns from other stakeholders within the sector, the ministry is proposing changes related to access to records aimed at enhancing safety in condos. Currently, Section 55 of the Condo Act and certain provisions of O. Reg. 48/01 set out certain recordkeeping and records request requirements, including the requirement for: i) condo corporations to keep "adequate" records and ii) to allow owners, purchasers, and mortgagees to examine and obtain copies of certain records, including a record of addresses of owners. This right does not apply unless the request is solely related to the requester's interests as an owner, a purchaser or a mortgagee, having regard to the purposes of the Condo Act.

The ministry is considering updating section 55 of the Condo Act and how best to restrict the right to access condo records containing personal information, such as the address of condo owners and directors, unless the request is clearly directly related to the purposes of the Act, while maintaining necessary transparency to support condominium governance. The ministry is also exploring the option of amending O. Reg. 48/01 to require those requesting owners' information to provide a rationale which must directly relate to the purposes of the Act.

Question 1. Are there alternative methods of contacting owners, directors and officers which the ministry should consider instead of the home address?

The consultation paper, and particularly Question 1 above, references "home" addresses. The only address that should be under consideration is the address for service, which is not necessarily one's home address. The home address should never be provided, unless it happens to be the same address as the unit owner's address for service (which address is provided to the corporation by the unit owner).

We further note that while an email address might feel safer than a physical address, providing email addresses to other owners quite often results in an onslaught of unwanted communications. Therefore, it is our view that email addresses should never be provided. This point should be clarified in the regulations as it is currently causing challenges at the Condominium Authority Tribunal.

We have attached a copy of a prior submission made by this committee, dated December 15, 2023, in which we made recommendations, amongst other things, to avoid giving owners access to the list of owners and their addresses of service. We have considered this issue again for this submission and suggest the following as a fourth option that would ensure that only the corporation is entitled to the list owners and their addresses for service, except under the case where there are no board members in place.

Using the authority granted by section 55 (4) (d) of the Condominium Act, we submit that a new regulation 13.13 should be added to O.Reg. 48/01 which restricts access to the list of owners and their address for service under certain conditions. If a board is in place, and an owner, or group of owners, submit a requisition for an owners meeting, and the board refuses to call the meeting, then the requisitionists should be able to go to the CAT on an urgent basis, for a review of the requisition and a decision. If the CAT agrees that the requisition is valid, or alternatively would be valid if modified as

directed (e.g. deleting defamatory statements or hate comments, etc.), and should be sent to all owners, then the CAT can order the board to call and hold the owners meeting.

In the case where the corporation does not then comply with the order of the CAT, then the CAT could order that the requisitionists be provided the list of owners and their respective addresses for service so that the owners could call and hold the meeting as per subsection 46(5) of the Condominium Act.

The process/mechanism described above could also be used for other situations where an owner or group of owners have requested that information related to a meeting be circulated by the corporation to the owners (e.g. proper material or literature for the purposes of soliciting proxies, etc.). This presupposes the regulatory amendment allowing the corporation to ask the owner, or group of owners, for the purpose of the request to ensure that it relates to their interests as an owner and for a purpose reasonably related to the purposes under the Act.

With this mechanism in place, the owners would never need the list of owners addresses for service, except in the extreme case, where there is no remaining board member in place, for example, if the board has all resigned and an owner wishes to exercise their rights under Section 46(5) of the Act.

Suggested wording for new 13.13:

Access to List of Owners and Address for Service

13.13

The list of owners and their address for service are included in records relating to specific units or owners under subsection 55(4)(c), and the right to examine or obtain copies of them under Section 55 does not apply, except for the following process and limited circumstance:

- (1) In the case of a requisition to call an owners meeting under Section 46, if the corporation denies the validity of the requisition and refuses to call the meeting, then the requisitionists may apply to the Condominium Authority Tribunal on an expedited basis for a decision of the Tribunal on the validity of the requisition, or an amended version of it. If the Tribunal determines that the requisition is valid, or an amended version that it determines would be valid (taking into consideration such issues as whether the requisition contains defamatory comments, hate comments, human rights violations, or any other similar reason), then it can order the corporation to call and hold the owners meeting and circulate the requisitionists information (or amended version as the CAT may determine).
- (2) If the corporation does not comply with the order of the Tribunal following the process set out in (1) above, then the Tribunal may order that the list of owners and their address for service be provided to the requisitionists so that they may call the owners meeting in accordance with subsection 46(5).
- (3) In cases where other documents are requested to be circulated to the owners, and the corporation refuses to do so, then so long as they are for reasons related solely to the

requestor's interests as an owner or mortgagee of a unit and is for a purpose reasonably related to the purposes of the Act, then the process set out in (1) and (2) would apply.

- (4) There is no board of directors of the corporation, then following the above process, initiated by a unit owner or mortgagee, the Tribunal can order that the person who has access to the corporation's records provide the list of owners and address for service to the unit owner or mortgagee who has made the request.

Question 2. Should those requesting the list of owners described in subsection 46.1(3) of the Condo Act provide a rationale for their request? Should it be mandatory that the rationale relate to the purposes and objectives of the Act?

Yes, for all purposes, the unit owner or mortgagee who makes any form of request, and not just for a list of owners, should always provide a rationale for their request. In addition, 13.3 (2) of the Regulations should be amended to provide that in all cases the requestor must provide the corporation with a specific statement of the purpose of the request, which purpose must be reasonably related to the purposes of the Act.

Question 3. The CAO Guide to Records for owners and condominium corporations was published to help requestors better understand what records they are entitled to and how long records are required to be kept. Is this enough information? What other types of education tools could help condo owners understand records access?

The guide would need to be modified to reflect the new 13.13. Further educational tools, such as virtual seminars with condominium specialists should be offered to the public.

Signed,

Eric Plant, President, ACO

Lyndsey McNally, President, CCI-T

Sally Thompson, President, CAI Canadian Chapter

Antoni Casalnuovo – Member, Safety and Security Committee

Armand Conant – Member, Safety and Security Committee

Nancy Houle – Member, Safety and Security Committee

Dean McCabe – Member, Safety and Security Committee

Attachment: Dec 15, 2023 Memo



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 attached](#) 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

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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 TSCCXXXX@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.