

WHAT CONDO DWELLERS ARE READING



SECURITY AND DUTY OF CARE

Condominium corporations have a responsibility to ensure the building they manage is reasonably safe. This does not mean they are responsible for the safety and security of building occupants.

Condominium corporations tend to accept responsibility for more security than required. Enhanced security promotes a feeling of safety. It helps to protect common areas and personal living space. This enhanced security is not a requirement unless stated

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FROM THE EDITOR

Risk cannot be eliminated, only reduced. **Security and Duty of Care**, our feature article, looks at condo building security as a shared responsibility. Boards and management must take reasonable measures to ensure the safety and security of building occupants. Residents must do their part to ensure their safety and that of their neighbours.

Finding a Great Condominium Manager, page 2, looks at how hard it is for condo boards to hire a good condominium manager, what it takes to meet this lofty goal, and the consequences of failing at this important task.

In **Energy and Water Usage Reporting for Buildings**, we look at the expansion of mandatory benchmarking and reporting on energy and water usage for all buildings including multi-residential high-rises, low-rises and townhome complexes.

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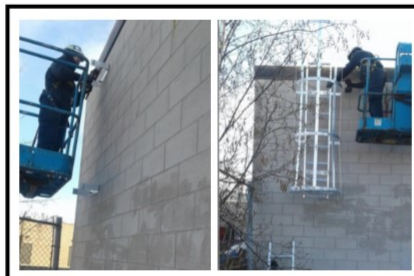
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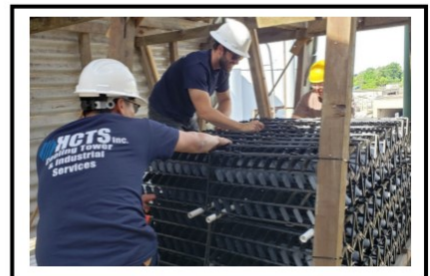
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FINDING A GREAT CONDOMINIUM MANAGER

Hiring a good condominium manager or management company is hard.

A good condominium manager will do more than deal with issues as they arise. They can prevent problems from happening and provide experience your corporation would otherwise pay for in other ways.



Higher than expected management fees, delayed repairs, high costs for the most basic of repairs, constantly missing or late for meetings, and limited knowledge on dealing with regularly occurring issues are signs that your manager or company is lacking in experience. This may explain why they charge less than others for their services.

The number of condominium buildings in the region has resulted in a shortage of condominium managers despite their growing numbers. Higher standards are unlikely so long as this shortage exists. Condo boards are starved for good condominium managers and can become desperate in their search.

All condominium managers and companies providing condominium management services to residential buildings in Ontario are required to be licensed. Licensure is the lowest level of competency in the profession. Finding a good condominium manager or management company requires you to look beyond the basic requirement of a license.

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FINDING A GREAT CONDOMINIUM MANAGER... CONTINUED FROM PAGE 3

Look for other credentials and experience.

A condo board wanting a great condominium manager should look for a company and manager with additional credentials. This would include a higher level of education, more experience in the field or in business, and specialized industry certifications. Various groups provide educational programs and credentials for the industry including Association of Condominium Managers of Ontario (ACMO), Canadian Condominium Institute (CCI) and Community Associations Institute (CAI). The best managers and management companies obtain these credentials as a way to stand out among the crowd.

When looking for a condominium manager or management company, the best and most practical thing a condo board can do is ask around. Ask those being considered for references from their current or recent clients or employer. Then call these individuals for a reference

before making a final decision.

Once that ideal condominium manager or management company has been found, they will likely charge more for their services. This premium is worth paying for their experience and good judgement.



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SECURITY AND DUTY OF CARE... CONTINUED FROM PAGE 1

in governing documents.

Condominium corporations have an obligation to take timely action to resolve safety issues that come up which can include lighting, locking outer doors and maintaining security gates. There is an obligation to inform residents of known safety concerns. When these basic requirements are considered inadequate or inferior, security precautions can be enhanced.

Enhanced security measures may include video security, sophisticated electronic fob or card systems, in-suite security systems and security staffing. Once added, the corporation has an obligation to maintain this additional security to a reasonable standard.

Two anesthesiologists were murdered in their South Boston condominium in 2017 by a former concierge in the building. The corporation was found to have failed "to exercise due care for the residents' safety in those areas under the association's control."

While risk cannot be eliminated, it can be reduced.

Community Risks

It is not uncommon in condominium communities to find the garage security door and gate left open so anyone can access the parking area. Doors to the building may not close and lock. Stairwell doors to the outside may not close and lock as they should allowing anyone to gain access to a building through a doorway not monitored by security cameras. Anyone can walk into the building, make their way to any floor and commit crimes without being monitored.

Condo boards can err by not sharing important information with residents. Someone breaks into

the building, enters one or more spaces and steals items or causes damage. Rather than inform residents of the security breach and how internal security has possibly been enhanced, thus giving residents an opportunity to implement their own safety or security precautions, the board or management chooses to remain silent. Perhaps they feel this is a prudent approach to avoid overconcern or panic. This certainly causes less work for the board and management in that they don't deal with resident inquiries. What they have done is deprive residents of important knowledge.

If the board's actions prove ineffective at preventing future problems, it may be that as with the South Boston deaths, the corporation has failed "to exercise due care for the residents' safety in those areas under the association's control."

Share What You Know

Failing to share known security risks with building residents deprives them of the ability to make informed decisions. The corporation may have inadvertently taken on additional security obligations by failing to protect residents and depriving them of knowledge of the extent of their risk.

Security is a Shared Responsibility

Condo residents should be reminded that their security is a shared responsibility. Residents should keep their unit doors locked, refuse building access to unknown individuals, and inform management or security when unknown individuals are seen entering or wandering through the building.





SPRING THAW AND MAINTENANCE

Birds chirping. Trees blooming. Yes, spring is upon us once again. Condominium boards and managers are preparing for warmer weather. Now is the time to make everything look good!

Summer preparations should have begun months ago while snow and ice were still on the ground. Checklists should have been completed. Gardeners, landscapers, other vendors and supplies should have been scheduled and now ready to proceed. Planning should be complete and now its time to execute just as tulips are springing from the ground.

Early prep work avoids disappointment. The board should have finalized details long ago and made their decisions on what needs to be done. Waiting until weather warms up to begin making decisions and hiring contractors is too late. Contractors and products are unavailable, and prices higher, than if decisions were finalized months ago.

Planning should commence about six months prior to when work is to begin, and completed by late February. Decide on what work is needed, and source vendors before their schedules get filled. Waiting until the last minute ensures sacrifices and higher cost.

Planning begins with a visual inspection. Look for anything that may affect structural integrity or safety. Check pipes and structures for damage, cracks, leaks or signs of deterioration. Test equipment not used during the winter such as air conditioners and pool pumps to ensure they will function as the weather warms up. Schedule repairs prior to when this equipment will be

needed. Pay attention to sidewalks and roadways. Look for cracking, potholes, damaged curbs, water pooling and accumulation of ice. Check mortar, caulking and sealants for cracks. Schedule repairs for once the snow and ice are gone.

Property beautification first requires that the aftermath of winter be cleaned up. Salt and sand used to keep surfaces clear of ice end up in lobbies, elevators and hallways. It damages grass, trees and plantings. Downed tree branches and other debris needs to be removed from flower beds, roofs and trees. Windows need to be cleaned, bushes and trees pruned, and light fixtures cleaned.

Check lobbies before spring rain arrives. Replace worn lobby floor mats, and inspect seals around windows and doors. Clear debris or blockages from building drainage systems.

With moving season starting, ensure elevator pads are in good condition. Missing corner guards should be replaced to protect walls from damage. These small investments protect against the need for more extensive repairs later.

Outdoor amenities should be checked and repaired no later than April. Outdoor pools, decks, furniture, planters and equipment may require maintenance or repair. It may take time to order equipment, parts and furniture. Tennis and pickleball court resurfacing, if needed, is weather sensitive and should be undertaken in early fall to avoid courts being unavailable during peak season.

Now, sit back and enjoy the weather.

ENERGY AND WATER USAGE REPORTING FOR BUILDINGS



Mandatory benchmarking and reporting on energy and water use is now here for all condo buildings. Large buildings have been reporting energy usage since

2020. Starting in 2023, reporting is mandatory for all buildings including multi-residential high-rises, low-rises and townhome complexes.

It has been five years since Ontario mandated reporting of energy and water usage in larger buildings. See [New Energy Reporting Requirements](#) and [Energy Reporting Mandatory in 2023](#) in the [Condo Archives](#) for more information.

Toronto recently passed a comparable by-law, [Municipal Code 367](#), mirroring the Ontario legislation, and has created a portal allowing buildings to report their data to both the city and province using a free online tool.

Effective in 2025, owners of buildings that are 929 square metres (10,000 square feet) or larger will be required to report their energy and water use to the City.

[Click here](#) for more information on reporting of building energy and water usage, and to report this information.

CAN A SPOUSE BE A BOARD MEMBER

It is common that only one spouse be listed on home ownership documents despite both having an equal interest in the property.

When two people are legally married, they have an equitable ownership interest in the home. Taking an equally equitable view, both are usually considered owners according to the condominium corporation without requiring that both names appear on ownership documents. This allows, for example, either owner to serve as a director of the corporation although perhaps not both at the same time. One can serve as a director while another may choose to participate on a committee.

There is no good reason for a condominium corporation to require that home ownership documents be amended to show both spouses as owners. Doing so may be problematic to the owner from a tax, financing, accounting or estate planning perspective unrelated to the condominium corporation. Taking a hard stance on this is counterproductive.

Volunteers are hard enough to find in a condominium corporation. Restricting participation to only one spouse in a family serves no practical purpose.





CONDO COMMUNITY TRENDS SOUTH OF THE BORDER IN 2024

Short of a structural building or garage collapse visible from the street, it is difficult to identify infrastructure concerns in a condominium community until too late. Repairs, or the lack of them, are operational matters with no information available to the public.

One way to identify trends is to follow information from major urban centres in the United States where more information is available with regard to high-rise and condominium living. These can be advance indications of what to expect in Ontario.

Here is what New York City high-rise communities are preparing for in 2024.

Disclosures on Resale

There are stricter regulations against lead paint. Sellers must disclose if their building has a history of flooding. In Ontario, there is no disclosure of the degree of flooding or water incidents that occur.

Greenhouse Emissions

Buildings 25,000 square feet and higher in The Big Apple need to meet greenhouse gas emissions limits or face escalating fines through 2050. Buildings exceeding their allowable carbon dioxide emissions will face fines.

Ontario has required buildings to report their energy use since 2019. Ontario's Open Data, a public catalogue of information on energy and water use for large buildings, has been promised but is not yet available. This would allow condo owners to determine how their building performs in energy and water use compared to buildings of similar type. Public visibility of poorly performing buildings is hoped to

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motivate communities to improve building operations.

Energy and water costs can account for about half of a condo building's expenses. Reducing these costs by improving building performance provides financial benefits to all condo owners. Public reporting of this information may encourage condo management to shift their focus from replacing old equipment to running existing equipment more efficiently.

No standards have been established nor fines assessed for failing to meet any standards.

Building Façade Inspections

A façade inspection is required every five years in New York City for buildings over six stories as part of a Façade Inspection & Safety Program. As of 2024, new rules apply.

Façade inspections are undertaken every nine years in Ontario as part of every third reserve fund study conducted. Infrastructure deficiencies are not shared with owners or the public. Evidence of problems may only become noticeable once concrete starts falling on people.

Parking Garages

Buildings in New York City with parking garages are dealing with new and stricter inspection

requirements. Based on recent inspections it appears that about 20 percent of building garages have structural deficiencies that require repair. As with building facades, evidence of problems may only become noticeable once concrete starts falling on people or cars.

Insurance Costs Continue to Rise

After insurance premium increases in 2023, more are expected in 2024. Increases are necessary to cover the cost of high insurance claims, and increased cost of labour and materials for repairs. The best way to minimize insurance costs is to keep up with building and building-system repairs. Ensure vendors working in a building have insurance to cover them for mistakes and accidents. Look closely at policies and eliminate coverage that may be unnecessary.

Impact on Condo Budgets and Fees

Condo budgets will remain under pressure in 2024. Keeping up with necessary maintenance and proactive projects, which does require funding, are the best way to minimize future increases in monthly fees which are expected to increase by around 10 to 15 percent (USA) in 2024 according to Mark Foley, President of Folsom Group. With inflation in Canada being higher than in the United States, condominium corporations north of the border should anticipate a larger increase.



COMMON AREAS AND AMENITIES



BULK INTERNET AND PROGRAMMING SERVICES

Internet access has become an essential service.

Developers are including bulk internet and programming services in new condominium buildings. Beanfield Metro, a local provider of these services, is asking the Canadian Radio-Television Commission (CRTC) to disallow these arrangements.

The practice of developers arranging bulk agreements for new buildings has become increasingly common over the past five years. These bulk agreements, which typically cover the first five to eight years after the condo building is built, have residents pay for internet, and possibly television, service as part of their condo fees.

Older condominium communities are adding bulk services as a way to help residents lower their expenses and as part of including building-wide internet access throughout all common areas. Savings can be more than 60 percent over what is paid when these services are purchased individually by residents. Carriers benefit from efficiencies inherent in

signing up an entire building for its services rather than obtaining business one unit at a time.

While other service providers are allowed to sell their services in a building covered by a bulk service, few are interested in paying a second time for services included in their monthly fees. Beanfield argues that the use of "bulk agreements ... effectively eliminate end-user choice" and "constitute an undue advantage" that limits competition.

Beanfield estimates that bulk deals are in place for close to half of all new condominium and apartment developments in the Toronto area.

Should Beanfield prevail, condo fees and rent will be slightly lower while owners and tenants pay substantially more subscribing to these services.

What is Toronto saying about Toronto Condo News?

"Great publication.

I look forward to the issues and I save them on my iPad for future reference."

"I think it is important for all condo owners to know this information."

"I really appreciate your excellent choice of stories; they are uncannily right on the mark as to the interests of condo owners and directors."



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A CONDO CLASSIC

Chargebacks and Insurance Deductibles



Condominium insurance can be confusing, especially when it involves chargebacks and deductibles.

Unknown to the unit owner, a toilet valve in the ensuite bathroom was deteriorating. The valve broke while the family was on vacation. Water overflowed the toilet and the unit's bathroom floor. Hours later, the entire unit was flooded along with units adjacent and below. In total, about ten units were damaged. Repair costs for the condominium corporation's common areas exceeded \$100,000.

Some version of this scenario, which is based on an actual situation, plays out regularly in high-rise buildings.

The condominium corporation had insurance protecting against water damage which carried a \$25,000 deductible. A dispute arose about who is responsible for the cost to repair the flood damage and to what extent. The primary issue was about who pays the deductible.

When there is damage originating in a unit that affects other units or common areas, the corporation can submit a claim to its insurance company which will also pay for repairs to the unit where damage first occurred. The corporation can then issue a chargeback to the unit, if they can show that damage was caused by an act or omission by someone in the unit, in the amount paid as a deductible for their insurance policy, but only for

damage caused in that unit.

The corporation may decide not to submit an insurance claim. They still have an obligation to ensure repairs are undertaken in the originally damaged unit and throughout the building. They may feel this approach is preferable to risking a higher insurance deductible or premiums. If the corporation can show that damage was caused by an act or omission by someone in the unit, they can issue a chargeback to the unit up to the amount of the corporation's insurance deductible.

Any chargeback can only be applied to the cost of repairing damage in the originally damaged unit. It cannot be applied to the cost of repairing other units or common areas. The amount of this chargeback is limited to the amount of the condominium corporation's insurance deductible.

If the damage was not caused by an act or omission by someone in the unit, no chargeback can be applied.

Damage to Common Areas

According to the Condo Act, if a condominium corporation's insurance policy has a deductible, the amount of the deductible is a common expense if the damage is either caused to common areas and/or originates from the common areas which includes hallways, stairways, lobby and recreational facilities. The corporation's insurance company

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A CONDO CLASSIC... CONTINUED FROM PAGE 11

would pay the repair costs to the common areas and any affected units. The insurance deductible would be considered a common element expense paid by the condominium corporation and funded through condo fees.

If the damage to common areas is less than the deductible, the amount may be an additional common expense payable by the unit owner where damage first occurred. This amount is described as a chargeback and cannot be applied to the cost of repairing other units or common elements. If there has been negligence on the part of the owner, resident or guest in the unit, the chargeback can be applied to the unit. This would require that the corporation show that an owner, resident or guest did something to have caused and/or resulted in the damage.

Insurance Deductible By-law

If the condominium corporation had chosen to pass an insurance deductible by-law, the condominium corporation could have been allowed to issue a chargeback to the unit where damage originated. A properly drafted by-law could allow the condominium corporation to charge back to the originally damaged unit the cost of repairs to the unit and the cost of repairs to other affected units and/or common areas, up to the insurance deductible amount. There would not be a requirement that an act or omission by someone in the unit had occurred.

An insurance deductible by-law would have ensured that all repair costs arising from the water leak were charged back to the originating unit.

A condominium insurance specialist can best advise on how to protect your community from an

unnecessarily high or large number of insurance claims. They may suggest policy revisions if some are available. Revisions to governing documents for protecting the corporation against claims by residents are likely for those communities without an insurance deductible by-law. Damage mitigation measures such as water detection systems are likely to be suggested to communities with a large number of, or high dollar amount water damage claims.



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SENDING AGM PACKAGES AND NOTICES BY E-MAIL

Condominium corporations have been allowed to send notices by e-mail to owners since October 2023. E-mail is faster, more efficient and economical over printing and distribution of paper.

Sending Notices

Owners can receive notices:

- by personal delivery;
- by regular mail to their address of service;
- by dropping notices at their unit or mail box unless they requested that this method of delivery not be used and provided another address of service;
- by electronic communication unless the Corporation has a by-law prohibiting service by this method.

Sending notices by e-mail must be authorized by the board. One way to do this is through a resolution by the board. (Section 47(4) of the Condo Act.)

Sending Annual General Meeting (AGM) Packages

Condominium corporations can provide their AGM package and notices by e-mail unless a by-law against this has been adopted. Owners opting out of e-mail service would receive the AGM package and notices by another method. This applies to all meetings and not just the AGM.

Sending Other Information

Any notice required to be given to an owner or mortgagee under the Condo Act can be sent by e-mail. While specific documents are not identified, presumably this would include information certificates, financial statements, auditor reports and notices of future funding,

The owner's e-mail address must appear in the records that the corporation is required to maintain. This e-mail address can be any that the owner has used to communicate with the corporation or has provided in writing, unless they have opted out.

Opting Out of E-mail Communications

Owners can opt out of e-mail service by providing the corporation with a written request that their e-mail address not be used to serve notices. This request must be provided after the e-mail address has been used.

The opt-out appears to be limited to formal notices from the Corporation. Opting out of e-mail service does not prevent the corporation from communicating with an owner by e-mail.



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SECURITY OF PACKAGE DELIVERIES



Condominium boards have an obligation to ensure the security of residents' mail and accepted parcels.

In Burnaby, BC, one condominium owner was renting his unit to Airbnb guests. One of the guests broke into the building's mailboxes, and stole letters and parcels. The condominium owner was assessed a \$5,000 repair bill and over \$2,000 in by-law fines. The owner was using the unit as an Airbnb which was in contravention of a by-law.

The community had an effective security system in place. They were able to track fob use and match this with security camera footage to confirm the culprit, and link them back to the owner.

Despite this level of security, mail room and package areas can remain vulnerable.

The mail room is frequently wide open, unsecured, unmonitored and fairly close to a building's entry doors. Anyone entering a building can see the mail room, its lack of security and capitalize on what they see as an opportunity. They can damage mailboxes and steal mail. Parcels sitting in the mail room, lobby or vestibule areas can "disappear".

From a general security perspective, delivery personnel should not be allowed beyond the building lobby. Guests should not be allowed to access the building unless accompanied or approved by a resident. Security cameras should monitor the lobby, mail, parcel and elevator areas.

There are three general approaches to protecting

delivered packages.

Some choose to do nothing. They entirely separate themselves from the delivery of packages by refusing all deliveries. Residents must be home at the time packages are delivered or make arrangements for an alternate delivery location.

Most communities offer some degree of protection through their package receiving and handling procedures. They accept packages, store them and inform residents of their arrival. Condo management software and applications, such as [UpperBee](#), provide technology for managing package deliveries.

Some communities have chosen to replace parcel acceptance with secure smart parcel lockers. Packages can be delivered and retrieved without involving concierge/security. Residents are informed electronically when a package arrives for them and provided with retrieval instructions.





TAKING OWNERSHIP

Condominium communities struggle with a shortage of individuals prepared to take ownership. Many residents expect management to do this or take care of that. Few are prepared to take ownership of a problem and work to resolve it. Many are full of ideas but expect someone else to execute or implement. They think the board is responsible for everything despite it being a volunteer position.

The idea of serving on the condo board or committees can be daunting. There can be endless meetings, arguments and blame when friends or neighbours are unhappy with decisions. More often, the problem is apathy. Most don't care enough to get involved. Wait long enough and someone else will volunteer. Those willing to serve can do so for years, perhaps decades, which can bring its own set of problems.

Reasons for Apathy

Owners choose not to participate on the condo board for reasons that include lack of experience or knowledge. Perhaps renter mentality is the problem. New owners coming from a rental environment or living at home have difficulty without access to a landlord for addressing repairs and other concerns. Becoming involved in managing a home for many people requires greater awareness than some possess.

Some presume the only individuals qualified to sit on the board come from the specialties of law, accounting, engineering or architecture. While everyone is well-intentioned, many are also quite

busy. They have a perception that serving on the condo board is thankless, time consuming and not worth their time.

It can be easier and more comforting to not become involved in a decision-making capacity.

In reality, many of the best condo directors don't come from any of these fields. They recognize that their home is their greatest asset, and the required work to maintain it. They understand that buying into a community includes a degree of involvement in its management and governance.

Directors can Increase Board Participation

A transparent and open board has less resistance. Apathy is often a fear of the unknown which disappears with transparency. Increasing transparency requires good and continuous communication.

Spread the work out among board members and committees so it doesn't all fall on just a couple of board members. Let people know what opportunities exist to get involved and improve their home.

Get people involved by creating committees and having them serve. This provides an introduction to how groups meet, work together and limited decision-making authority. Make meetings enjoyable by providing beverages or snacks. Use committees as a way to train future board members. Empowered committee members will be more interested in joining the board when a position opens.

APPEAL OF LOW CONDO FEES



There can be strong support for keeping common fees low. Yet, what is the point if this leads to a financial crisis?

If your community isn't setting aside adequate reserves for common elements in your building, what is the long-term plan for maintaining major expense common elements including windows, siding, parking areas and sidewalks? When the community falls into disrepair, the only remaining options if the home is to be maintained are special assessments or a condo loan every time major maintenance or repairs are necessary.

While there is great appeal for keeping condo fees low, this makes no sense if it leads a community down a path to financial ruin. A condo board failing to maintain, protect and enhance common areas is not fulfilling their obligation. Choosing to keep common areas in a state of disrepair because financial resources are inadequate is a poor way to ensure a community remains financially viable. Those currently happy with low condo fees will soon sour when things start to break down and don't get repaired.


Problems arise when the owner mindset focuses on avoiding necessary fee increases regardless of the outcome. There can be a perception that potential buyers prefer low fees over a property that is in good condition. This short-sighted perspective offers no solution other

than for individual owners to sell and move before walls come crashing down, hot water becomes a luxury and water leaks flood their home.

A better approach is to raise common fees and build an adequate reserve fund to handle known, upcoming expenses. Special assessments should be reserved for major, unforeseeable expenses.

If the board isn't adequately representing the best interests of the community, owners must be prepared to nominate and elect candidates to the Board who will do a better job of managing the common elements, and that includes creating a fiscal strategy that addresses financial shortages.

When a major storm is just over the horizon, you probably don't want to be an owner or resident in its path. Putting off for tomorrow what needs to be done today is a slippery slope.




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 **Common reasons for borrowing**

- 1 Repair and Replacement
- 2 Additions and Alterations
- 3 Refinancing of Guest and Superintendent Suite
- 4 Capitalization of Undermaintained Reserve Fund



PRE-CONSTRUCTION SURVEYS

As our communities expand to accommodate greater density, existing buildings are at risk of damage from nearby construction.

With new buildings and transit being constructed, equipment used during excavation cause vibrations that can damage adjacent buildings. Documenting the condition of a building pre- and post-construction shows what damage has not been caused by wear. Any new damage can more easily be attributed to recent construction activities.

“Surveys conducted by qualified engineers prior to the onset of new construction provide a snapshot of an existing property’s condition” explains [Brown & Beattie Building Science Engineering](#), which works with condominium corporations to maintain their infrastructure. “These independent inspections make owners aware of conditions that may be affected by sustained vibrations caused by nearby construction work.”

A pre-construction survey would involve identifying existing cracks and other damage in walls, floors, finishings and exterior cladding above and below ground prior to commencement of nearby construction. Once construction is complete, any damage that may have been caused by the work can be identified.

An independent pre-construction survey begins with a site review to document the building’s current condition. Existing cracks in walls, and signs of deterioration or settlement are noted for at least the first two storeys of the building and lower levels.

The location and extent of conditions prior to neighbouring construction would be documented by way of a video or photos. Finally, a findings report is prepared including photographic documentation and recommended actions.

Pre-construction surveys conducted by developers are usually

more cursory and may not provide sufficient detail to ensure they fully capture existing conditions, although documented damage becomes harder to dispute later. However, these surveys may not be available for review by owners of existing buildings.

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COURT DECISIONS AFFECTING CONDO CORPORATIONS IN 2023



The Superior Court of Justice, Small Claims Court and Condominium Authority Tribunal (CAT or Tribunal) were busy throughout 2023 addressing condominium corporation matters.

Here we present noteworthy rulings impacting on or clarifying proper conduct for condominium corporations and residents.

Civility

There is no excuse for being abusive, mean or disruptive to others.

A resident complained that another resident was transmitting smoke from their unit which was prohibited according to corporation rules. The individual making the complaint was found to be causing a nuisance by harassing condominium staff, the other resident and their family. Costs were awarded against her.

[York Condominium Corporation No. 444 v. Ryan, 2023 ONCAT 81](#) (“York”)

Fire Safety

Toronto Fire Services inspecting a condo unit identified fire hazards that resulted from hoarding. The owners failed to comply with a Toronto Fire Services (TFS) order, and an order from the condominium corporation to comply with the TFS order to address these fire hazards.

The court’s noting the condominium corporation’s

potential liability for Fire Code violations should serve as a warning they can be held responsible for fire safety issues in common areas and in units.

[York Condominium Corporation No. 221 v. Mazur](#) (“Mazur”)

Board Authority over Common Elements

An owner installed a new garage door and front door without seeking corporation permission. The corporation brought an application before the court to ensure compliance. The court decision noted that their role is not to make decisions about property management, and that owners must accept their board’s jurisdiction to make decisions relating to common elements.

[Carleton Condominium Corporation No. 123 v Newton](#) (“Newton”)

Director Access to Records

A unit owner and director sought access to corporation records, only some of which were provided. The application for remaining records was denied because it was made in his capacity as a director. CAT does not address applications made by a director for records.

[Sharma v. Toronto Standard Condominium Corporation No. 2510, 2023 ONCAT 39](#) (“Sharma”)

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COURT DECISIONS AFFECTING CONDO CORPORATIONS IN 2023... CONTINUED FROM PAGE 19

Odours, Vapours, Smells and Smoke

One resident complained to the Tribunal there were odours, vapours, smells and smoke coming through their vents. CAT determined this was a maintenance and repair issue and not within its jurisdiction. Had this been a problem relating to activities taking place in another unit, the resident would have had a greater likelihood of success.

[Rahman v. Peel Standard Condominium Corporation No. 779, 2023 ONCAT 37](#) (“Rahman”)

Condo Renovations

One owner received approval to renovate their kitchen and washroom, and to use the service elevator. When approving this request, the board required that renovations be completed in four days and service elevator access restricted to 20 minutes on two occasions. Owner requests for an extension were denied.

The court found that the board’s position was arbitrary and not reasonable, and awarded the owner nearly \$40,000 in damages.

[Moran v. Peel Condominium Corporation No. 485](#) (“Moran”)

Disruptive Tenants – Being a Nuisance Reimbursement of Legal Expenses

A tenant was verbally abusive to condominium staff. They were disruptive, noisy and left debris in the halls. The unit owner failed to ensure their tenant complied with condominium rules or evict them.

CAT ordered the owner to ensure compliance with condo rules, and the tenant to cease their disruptive activities. While it is not common for CAT to award a corporation “compensation” for legal expenses,

these actions were sufficiently clear and egregious that costs were awarded.

[Toronto Standard Condominium Corporation No. 2804 v. Micoli et al., 2023 ONCAT 21](#) (“Micoli”)

Forcing the Sale of a Condo Unit

A resident with a substance abuse problem was described by the court as “aggressive, rude, profane, and disrespectful.” He had criminal convictions. The condominium corporation sought to require him to sell his unit. The court disagreed and felt this action would be too harsh.

Ordering an owner to sell their unit is a draconian remedy courts are reluctant to grant. A history of refusal to abide by condo rules, bad conduct and possibly court orders should be established before asking the court to consider ordering the sale of a unit.

Toronto Standard Condominium Corporation No. 2581 v. Paterno (“Paterno”)



CURB APPEAL CHECKLIST FOR OUTDOOR AREAS



Our region is blessed with great neighbourhoods and communities.

focused on landscaping, parking areas and lighting.

Curb appeal is the favourable impression others have of a property during a first visit. When lacking, it reduces interest in properties for sale. In a high-rise community, curb appeal extends to the way residents feel about their common areas.

First impressions count! Buildings that appear unclean or poorly maintained suggest that owners care less about their home. Visitors, including prospective buyers, are less likely to look for problems or walk away with a “bad feeling” when a property looks good.

A condo building that looks good, and is thought to be managed well, has curb appeal. Lobby, hallways, finishings, lighting, amenities and landscaping all play a role. Any building that looks old, appears stale, smells funny or has visible damage lacks curb appeal. Damaged and unmaintained parking areas, strange or bad smells, noise, water damage and landscaping all contribute to a lack of curb appeal. Buyers in buildings lacking curb appeal are less optimistic, have lower expectations and will pay less to purchase a unit.

When considering outdoor spaces, curb appeal is

Main Entrance

*You
never get a
second chance
to make a great
first impression*

Walk around the driveway and front entrance to see what others see.

- The entrance sign should be easily noticed
- Ensure the address and name are intact and unhidden by obstructions
- Signage should look modern and in good condition
- Visitor parking and signage should be noticeable and clear
- For ground level units accessed from outside, unit numbers should be visible

Effective signage and easy-to-see unit numbers help potential buyers and visitors. Emergency response teams can more quickly reach someone in distress.

Common Area Sidewalks

Sidewalks should be level and wide. Uneven sidewalks and those with cracks, overgrown turf or missing pieces are a tripping hazard. Keep them free of snow and ice. All walking areas should be free of obstacles.

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CURB APPEAL CHECKLIST FOR OUTDOOR AREAS... CONTINUED FROM PAGE 21

Landscaping, Decoration and Use of Colour

Colourful flowers - annuals and/or perennials – are best located where they can be seen in the front garden beds, along walkways and driveway entrances. Indoors, urns with colourful flowers in the front entranceway are welcoming. Replace summer flowers with decorative displays during the winter months.

- Cut back overgrown and overhanging trees
- Cut in fresh garden edges
- Remove weeds and add mulch
- Remove damaged, diseased or dying plants and trees
- Ontario’s pesticide ban makes it more difficult to keep landscaped spaces weed-free. More frequent seeding, replacing grass areas with a garden, and using mulch around trees are effective practices. An irrigation system makes it easier to keep gardens and grass looking good while minimizing weeds.

Lighting

Effective lighting provides security and improves personal safety. Landscape lighting or light fixtures

along sidewalks helps make your condominium home welcoming, inviting and safer.

- Parking area and walkways should be well lit at night without trees or shrubs blocking lights

Lighting near sidewalks and driveways make residents comfortable walking outside at night.

Community Gardens

Community gardens offer a growing space providing a sense of community and collaboration, and low-cost food. Community gardens can be created in any unused space on the ground, roof or mid-level terrace.

Landscaping works best when used by residents. Seating, grassy areas for lounging and barbecue pits, and space for parties or resident gatherings should be part of outdoor planning. Family friendly buildings require play space for children.

Keeping areas up to date, well maintained and safe is a goal that makes your home more enjoyable to residents and more appealing to potential buyers that want to live in your community.



AUTO THEFT



Auto theft in Toronto has reached epidemic proportions. In December 2023, more than 1,000 vehicles were stolen.

Auto thefts and carjackings more than doubled in Toronto, Peel and York Region from 2021 to 2022, according to a December 2023 report by the Criminal Intelligence Service of Canada (CISC). Auto thefts and carjackings have never been higher and continue their dramatic rise in 2024.

Ontario's top three most stolen vehicles in 2022 were the Honda CR-V, Lexus RX Series and Dodge RAM 1500 Series.

Simple precautions can reduce the risk of vehicle theft or the loss of property from your vehicle.

WHY VEHICLES ARE STOLEN

- To sell the vehicle or parts - Often thieves will take your car out of the province or country. Identification numbers may be altered or removed, ownership certificates forged, parts sold or the vehicle repainted.
- For transportation - Thieves will use your vehicle to get where they want to go and later abandon it. They may just drive your vehicle around to gain 'status' with their friends.
- To commit other crimes - Vehicles are stolen and used in other crimes such as robberies, break and enters, drug dealing or drive-by shootings.
- For vehicle cloning - Vehicles are stolen, given a fraudulent identification number and then sold

to unsuspecting persons who are defrauded of their money. Fraudulent vehicles will be located and seized by the Police.

REDUCE THE RISK OF VEHICLE THEFT

When parking your vehicle:

- Turn ignition off and TAKE the keys with you.
- Park in a well-lighted, attended area if possible.
- Lock all valuables in your trunk.
- Completely close and lock doors and windows.
- Turn your wheels towards the curb to make it harder to tow.

When at home:

- If you have a garage, use and lock it.
- If you have a rear-wheel drive car, back into driveway.
- If you have a front-wheel drive car, park front end first.
- Always set the emergency brake.
- Don't leave the original ownership or insurance cards in the vehicle when unattended.
- Drop business cards or address labels inside doors to assist with vehicle identification.

Other important tips:

- Never hide a spare key in the vehicle, thieves know where to find it.
- Be aware of your surroundings and drive with your doors locked.
- Be aware when purchasing a vehicle. If the deal

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AUTO THEFT... CONTINUED FROM PAGE 23

sounds too good to be true...it probably is!

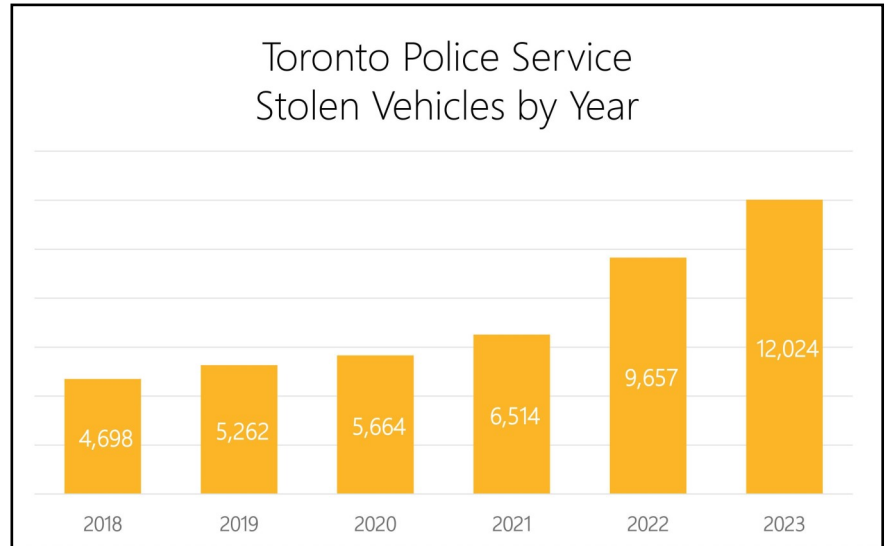
- Never leave ANYTHING on display when you leave your vehicle. This includes purses left in the front seat when pumping gas and power chords to run and charge devices as these may attract thieves to your vehicle.
- Consider an alarm – Consider installing an alarm if you regularly leave your vehicle in accessible unattended places such as a parking garage or a commuter parking lot. Remember to always take anti-theft precautions regardless of whether you have an alarm, as it can only be expected to improve your chances of not being a victim.

Tips when parking your vehicle:

- Remove any item that you do not want to lose from your vehicle as hiding them discourages theft - REMEMBER, they CAN'T steal what's not there!
- Lock all parcels and shopping bags in the trunk of your vehicle.

INVEST IN VEHICLE PROTECTION IF POSSIBLE

- Have an Ignition Kill Switch installed – The ignition kill switch will prevent your vehicle from starting without it being turned on. As only you will know its hidden location, it is a good deterrent against thieves. In the event that you have this switch installed, contact your insurer and ask for a discount.
- Window Etchings - Have your vehicle's windows etched with your Vehicle Identification Number. This is a visual deterrent that is costly for thieves to change.
- Visible Steering Wheel Lock – A visual deterrent to a thief.



- Consider installing a Vehicle Tracking System - A vehicle tracking system uses GPS technology to locate and track your vehicle.

IF YOUR VEHICLE IS STOLEN

Report the theft to the Police immediately.

You should be ready to report the following vehicle information:

- Year and make, model, colour(s)
- Licence number
- Vehicle Identification Number (VIN)
- Serial numbers of all special equipment
- Special markings - dents, scratches, other damage etc.

If your accessories are stolen, the Police will need specific information to identify these items.

For more information on crime prevention, visit the [Toronto Police website](https://www.toronto.ca/police) .

Thank you to Toronto Police Services for providing this information which is available on their [website](https://www.toronto.ca/police).



DISSATISFIED WITH MANAGEMENT

Nobody seems accountable in our building and situations seem to be handled in a careless manner.

How do we ensure management and the board are meeting standards and following regulations?

One of many concerns is making sure health and safety measures are maintained and that regulations are being followed.

A.



Response from Toronto Condo News

It is in the interests of all building residents that a property be well-managed. When this is not the case, everyone suffers.

Management for a condominium building is employed by your condo board. It is their job to ensure management is operating at an appropriate standard and following regulations including maintaining health and safety measures. It is not your role, as an owner, to deal with these matters beyond electing directors to serve on the condo board and represent your interest.

It is not clear what you mean when you say management is not accountable and situations are handled in a careless manner. Management reports to and is accountable to the condo board.

If you have concerns about management and are an owner, bring these concerns to the attention of your condo board. It is up to them to decide if your concerns have merit and are to be acted on. If you and a majority of owners are dissatisfied with how your condo board is managing your home and community, including their choices for management and how they are directed to operate, individual directors can be replaced at the next election or sooner.

If you are a tenant, any concerns should be addressed to your landlord.

If there are specific safety concerns such as not adhering to fire regulations, you can consider approaching your local fire department and asking them how to report your concerns.

See [Condo Building Management - Management Office](#) in the [Condo Archives](#) for more about condominium management.

The following articles can be found there:

- [Role of Condo Management](#)
- [Negotiating Management Contracts](#)
- [Stages of Condominium Management](#)
- [Not My Job](#)

Best of luck.



Information and resources for the Toronto and GTA condo community

Serving Condominium Residents, Directors and Management



Toronto Condo News Our monthly magazine is what condo dwellers are reading.

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