

## WHAT CONDO DWELLERS ARE READING

# APATHY THREATENS SECURITY OF CONDO COMMUNITIES



It is shocking that individuals can be empowered to make decisions on a multi-million-dollar asset when they lack any level of expertise, knowledge or training. Yet this occurs daily in some condominium communities.

Miscues of incompetent condo boards threaten the safety, security and comfort of homeowners as the value of their homes decline. With condominium living being Toronto's largest and fastest growing form of housing, this state should not be allowed to exist.

CONTINUED PAGE 5 ...

## FROM THE EDITOR .....

**Toronto Condo News** celebrates its 12<sup>th</sup> year this month, and we have much to be proud of.

While we remain focused on condominium living and management in Toronto and the GTA, we have achieved a regional, national and international following. Our readership is among the highest of any periodical in Canada. Our **Condo Archives** is the largest resource anywhere for condominium residents, managers and directors, and **Condo Resource Guide** makes it easy to find condo-qualified vendors for high-rise buildings.

Our feature articles this month, **Apathy Threatens Security of Condo Communities** and **Civil Rights Movement's Approach to Meetings and Meeting Minutes** represent the difficult issues we regularly seek to address that others find convenient to simply ignore.

Thank you to our readers and advertisers for supporting our journey.

## A PEEK

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## CIVIL RIGHTS MOVEMENT'S APPROACH TO MEETINGS AND MEETING MINUTES



Our entire approach to meetings and meeting minutes requires rethinking.

Those meeting minutes produced after a meeting are designed to hide much of what goes on at the meeting. They provide no idea as to what was really discussed, strenuous objections or concerns. Meeting minutes, to the condo board, are not a form of disclosure. They are protection against opposition and litigation.

Meeting minutes are flawed yet the only way to learn something of a condo board's deliberations and decisions.

Insights from the civil rights movement in the 1960s provide a better approach for ensuring meetings and meeting minutes are effective.

Protest marches and other actions in the 1960s were decided and planned in sessions where protest leaders were encouraged to disagree with each other. Their decisions and actions resulted in dramatic improvements through nonviolent assembly. They provided a lasting example of how to encourage improvement and enact lasting change.

CONTINUED PAGE 4 ...

## CIVIL RIGHTS MOVEMENT’S APPROACH TO MEETINGS ... CONTINUED FROM PAGE 3



Condominium communities depend on meetings. People sit around a table or by virtual means to try and get things done. Unfortunately, we are not very good at meetings. We fail to prepare, lead or participate effectively. There is unnecessary conflict rather than discussion.

Civil rights leaders prepared well for their meetings and used them to develop action plans they could implement. They maintained meticulous records detailing, among other things, lengthy dissents. Meetings went on for hours, sometimes days, while disagreements were discussed and examined. People were risking their lives so civil rights leaders focused on developing a path forward rather than unanimity or majority vote. Meetings were focused on the realities of the day. Brutal honesty was more important than personal agenda. Their success was because the focus was always on efficient problem solving.

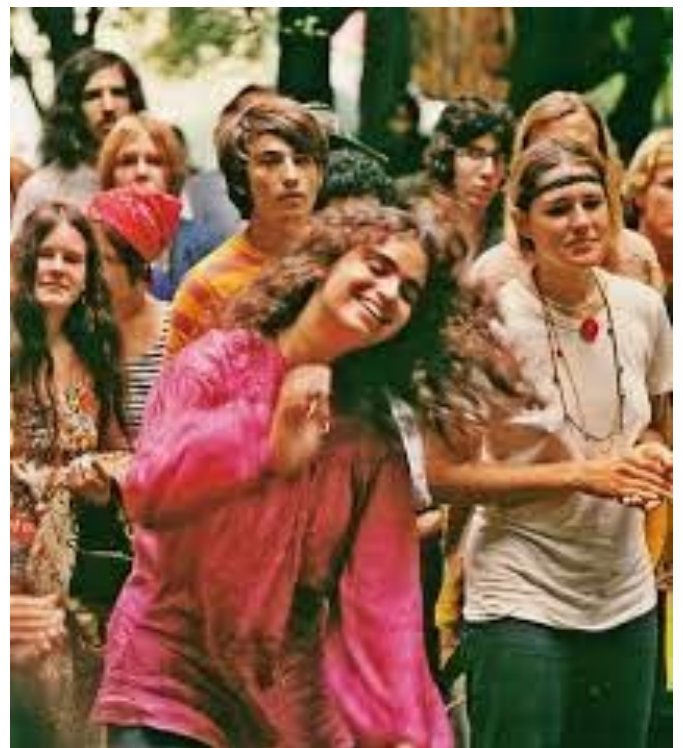
Success of the civil rights movement was evident in their successful marches, demonstrations, boycotts, and other protests despite overwhelming odds. They solved the problem of segregation.

Detailed minutes now shed light on how the civil

rights movement developed their strategies and worked with others. The same could not be said of minutes from condo board meetings which are intended, if not to deceive, then to gloss over issues. There is rarely recognition of disagreements, dissent or dispute. It is nearly impossible to know how individuals have voted or their reasons for doing so.

When it comes time to re-elect specific directors, nobody knows where an individual stands on the issues of the day or how they previously voted. Sparse minutes, which may protect against potential litigation, make it overly difficult for owners to get a sense of how their home is managed and who is best qualified to serve as an elected director.

Fixing meetings and meeting minutes is an important and necessary step in improving condominium community governance.



## APATHY THREATENS SECURITY OF CONDO COMMUNITIES... CONTINUED FROM PAGE 1

In one community, the president of a condominium community declared that water from a washing machine on the ground floor of the building travelled up four storeys to cause a water leak on the fourth floor. At the same time, the board placed a bin on the ground floor to capture water from the leak and placed blame for the fourth-floor water leak on the owner of the ground-level washing machine. Water damage spread as water was allowed to leak for eight days and Canada Post suspended mail delivery because of the condition of the lobby. Perhaps the laws of gravity didn't apply to this building.

When they finally investigated, the leak was found to have originated from a hallway pipe on the fourth floor. One owner sustained \$11,000 in water repair costs because the board failed to fulfill its obligation to maintain common areas and repair the leak when it was first identified. Damage costs to common areas are unknown.

Condominium corporations are legal entities governed by a condo board with responsibility to owners (shareholders) who entrust them to manage assets and budgets in the millions of dollars. The Condo Act mandates that elected directors act honestly and in good faith, in the best interests of the condominium corporation. They are expected to act with care and in the way a reasonably prudent person would act in comparable circumstances. No education, skill or experience is required, nor is any degree of common sense.

Individual directors can be incompetent, biased or operate with personal agendas. Many directors are simply people with time on their hands who desire the prestige of being a board member. They enjoy the power they have in making decisions and spending other people's money. These people are a danger to their communities. Owner apathy allows

this state of affairs to persist as their buildings degrade. Attendance at annual general meetings is low. Nobody scrutinizes board decisions or how money is spent.

Those in power tend to get re-elected as costs spiral out of control and major problems recur. Necessary projects are deferred. Important building matters get ignored until crises exist while these condo lords violate laws and best practices. Risk management – preventative maintenance and proactive initiatives to prevent problems – is nonexistent.

There comes a point when the operations budget and reserve fund can no longer sustain the level of incompetence. Monthly condo fees increase. Assessments require owners to fund "unanticipated" major expenditures with little notice. Condo loans become necessary. Nobody seems to understand what went wrong or why they should pay more.

Nothing protects a condominium community where there is apathy, and problems escalate when nobody is watching the decision makers. No laws or protections are enforced where owners are unaware of problems or unwilling to take action.

The best protection for any community is to understand their governing documents including the Condo Act, and to be prepared to take action when these are not adhered to.







# GOING GREEN OR GREENWASHING

Climate change has made “going green” more urgent.

“Going green” encompasses what we eat and wear, how we build and maintain our homes, and cleaning activities. Most frequently, it refers to how we clean. The process of “going green” is necessary but can be slow as we better understand what this means to our health, safety and future.

### Why Go Green

“Going green” is healthier, better for the environment, and can be more economical. Green cleaning products are eco-friendly. They reduce water and air pollution, minimize ozone depletion and help counter climate change.

### Green Cleaning Products

Household cleaners can contain hazardous chemicals that are linked to eye, respiratory and skin irritation. Green cleaning products do not include these hazardous chemicals which can be released into the air. Green cleaning products help to improve air quality.

Green cleaning products can be more economical. Rather than using individual products for specific tasks – floors, windows, walls – a single multipurpose product means fewer products to purchase.

The most dangerous chemicals commonly found in cleaning products are volatile organic compounds (VOCs) which include ammonia, phosphorus and nitrogen. Waste treatment processes are usually

unable to remove these chemicals which contribute to environmental contamination. Their impact extends beyond spaces where they are used. Laundry and dishwasher detergent containing phosphates can trigger widespread growth of algae in wetlands and waterways. Reduced oxygen levels in water from phosphates makes it unfit for drinking, bathing, recreation, and is harmful to wildlife. Opening windows during or after cleaning releases toxic chemicals to the environment.

Using eco-friendly cleaning products that reduce or eliminate the volume of VOCs is healthier for the environment and safer for everyone.

### Cleaning Odours

Older cleaning products tend to be harsh smelling. Post cleaning, the smell of ammonia or bleach can linger for an extended period. Some residents can have strong or negative reactions to these odours. Green cleaning products are designed to have a mild or imperceptible smell.

### Avoid Greenwashing

Greenwashing is a marketing tactic. Some products are labelled green when the only thing “green” about them is the name, colour or dilution of chemicals.

### Green Cleaning Solutions

Odoban and Simple Green are all purpose eco-cleaning products used in some residential communities - to disinfect, wash floors, clean walls, and as a deodorizer.

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## COLLECTING ARREARS



When a condominium owner chooses not to pay their condo fees, the corporation can file a lien for unpaid common charges.

A lien can remain with a property for years and require repayment before the property can be sold.

The condominium corporation may choose to sue the unit owner for money owed or commence a foreclosure action forcing the property to be sold so the debt can be repaid.

If the property has a mortgage and a lien has been filed, the lender does not get paid until after the condominium corporation receives its funds. To clear a lien, the lender may choose to pay outstanding monies. Their agreement with the mortgagee likely gives them this right and may consider nonpayment of condo fees to be a default of the mortgage. This may allow the mortgage holder to take control of the property.

When a condominium owner fails to pay their fees, management may choose to withhold services. They may disconnect access to a building's intercom system or refuse to make calls announcing visitors to the unit. Guests may not be allowed to enter the building unless the unit resident meets them in the lobby. Packages may not be accepted. Fobs used to access the building, common areas or amenities may be deactivated.

Condominium corporations have no authority to terminate a lease or evict tenants.



## GOING GREEN OR GREENWASHING... CONTINUED FROM PAGE 6

Pre-diluted products can contain at least 90 percent water and are designed for immediate use. Purchasing products that need to be diluted eliminates the cost to transport and store water.

Steam cleaners that require only water to clean, sanitize and deodorize can be used to clean and sanitize floors and exercise equipment without the need for cleaning products or chemicals.

Utilize green products when renovating to protect

residents, particularly those with allergies and environmental sensitivities, from toxic products. The greenest, sustainable and durable carpets are 80 percent wool 20 percent nylon. Use wall coverings and paint with a low level of VOCs.

“Going green” is the future as environmental and cleaning standards are likely to become more rigorous. Green products and solutions will continue to improve as environmental concerns increase.



# CONDOMINIUM RECORDS MANAGEMENT STANDARDS

The Condominium Management Regulatory Authority of Ontario (CMRAO) has introduced proactive standardized inspections focusing on records management. Their goal is to review and improve condominium manager business practices.

Inspectors will interview condominium management providers and request they retrieve key records maintained for their clients during the inspection. This allows inspectors to see the effectiveness of a record management system. Records that may be requested can include:

- By-laws, rules and amendments
- Monthly financial statements and approved budgets
- Building operations records
- Signed service contracts
- Copies of current or expired insurance policies

During an inspection, the manager may be asked to describe:

1. methods used to protect against unauthorized access,
2. how files are backed-up and protected against loss or damage, and
3. list the people and/or positions who have access to the records.

The inspection program is in response to complaints about

misconduct that resulted in regulatory actions including the revocation and suspension of licences. No grading system appears to exist to determine if a condominium management provider has met a required standard, nor does there appear to be any consequences for failing to meet any required standard.

Managers utilizing condo management software allowing them to easily categorize, save and share records will be better able to achieve acceptable results during a CMRAO records management inspection.

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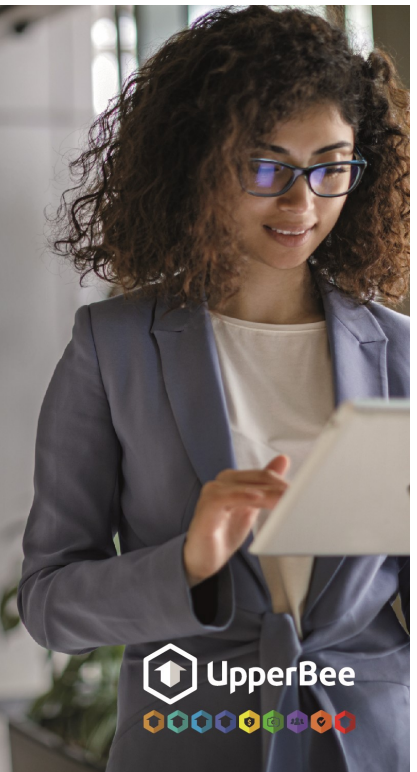
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## TOXIC BOARD MEMBERS



A toxic board or board member is when ego, self-interest or both get in the way of making decisions in the best interests of the community. This may include individuals who are used to getting their own way or prone to bullying. They may ridicule, belittle or coerce other directors into supporting them.

Toxic board members are less inclined to oversee financial, maintenance and managerial decisions in the best interests of the community. Their focus is to deter, discredit, disrespect or distract the community or other directors from effective decision making. They cause conflict and damage the community.

### Condo Governance

When a condo board has individuals who will not or cannot get along, or who have priorities and an agenda that conflicts with the rest of the board or community, it is difficult to govern effectively. Individuals who threaten others sap the energy of other volunteers trying to do their best. Focusing

on politics is an unnecessary distraction from making good decisions that hurts everyone. Toxic individuals impede the progress and decision making of an entire condo board.

Directors who think or act as if they are 'above the law' are a danger to the community. Those failing to abide by the corporation's governing documents, who ignore the declaration, by-laws and rules cause division and inequality. Owners no longer trust the board or have faith in their decisions. This is to be avoided at all costs, for obvious reasons.

Toxic directors may inappropriately disclose and misrepresent information to obtain community support. Major projects take longer to get approved and completed. They can refuse to follow a set agenda at board meetings. They may cause good condominium managers to seek employment elsewhere. Toxic directors take advantage of others who are uncomfortable with and unwilling to curtail their behaviour.

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## CONDOMINIUM RECORDS MANAGEMENT STANDARDS... CONTINUED FROM PAGE 8

Throughout 2024, CMRAO is planning to conduct 30 proactive inspections of individuals or companies providing condominium management services.

[CMRAO's Inspections Program](#) offers an outline of the inspection program and reasons for its implementation.

[CMRAO's Inspection Guide to Records Management](#) assists condominium management service providers to prepare for an inspection. It includes checklists and questions that can be answered prior to the inspection.



## TOXIC BOARD MEMBERS... CONTINUED FROM PAGE 9

### The Solution



Toxicity should not be ignored or avoided. Unacceptable behaviour and remarks should be called out as they happen. Acknowledge that there is an issue that needs to

immediately be addressed. Ignoring that individual gives them more power when they know they can get away with their actions.

Bad behaviour should not be tolerated. Other board members have the power to demote or replace an officer of the corporation thus giving them less power. Directors can go to owners and ask them to remove a board member by vote.

It is up to board members to police themselves. When one director is out of line, others can insist on enforcing a code of conduct. The president is first among equals and should lead in ensuring that everyone has an opportunity to speak, voice dissenting opinions and debate before a decision is

made. Personal attacks, accusations and even hints of conflict of interest should not be tolerated. Individuals who are overly emotional or having a clear conflict of interest should be asked to recuse themselves.

Situations should be addressed quickly. The longer they are allowed to continue, the harder it is to correct them.

Effective condo boards are comprised of individuals who work together. This requires a degree of trust and an expectation that each comply with their fiduciary obligation as an elected director. Once an item is put to a vote, the board should speak with a single voice to the community.

The dangers of a toxic board are serious. They infect others and affect their actions. Dealing quickly with toxicity is the only way to avoid more serious problems.



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## REALITIES OF WINDOW REPLACEMENT

Your building is nearing 40 years old and certain major work can no longer be delayed. The biggest job is to replace all windows and window systems at a cost of around \$7 million. Other work needing to be completed add another \$3 million to the total.

This is the challenge confronted by one condominium community undertaking a window replacement project that started during the pandemic and continued while costs were escalating by 30 percent. Unlike many communities, this one is well funded and able to undertake the work without increasing condo fees or implementing a special assessment.

This is the challenge facing condominium communities when it comes to funding their reserve fund. No matter how many times some accountant, manager or director tells you the reserve fund is strong, few are prepared to discuss the day when \$7 million or more will be needed.

The window system replacement project is disruptive and invasive. Each suite is impacted for about a month during this three-year project. Replacing glass windows and doors requires repairs, painting and moving of household



items. Few have somewhere else to go while work is being completed, and people enter and exit the home. Residents can spend much of their day in the library, lobby, card room, or other common areas accessible to them during daytime hours when work is occurring.

Each year a portion of condo fees goes into the reserve fund while money is also being spent. While this occurs, does your community have a plan that entails building the fund to \$10 million or more for when it is needed?







# PROJECT DEFERRAL IS NOT A BUDGETING SOLUTION

Deferring work may at first seem to be a reasonable solution for condo boards struggling to balance rising costs, inadequate financial resources or an operating deficit.

Condo fees from owners is the only source of funds for paying the costs of work in a building. Condo boards find it difficult to explain why fees need to be increased and addressing opposition to this, so may prefer to cut back on necessary expenditures.

Budgeting - deciding how much money is needed and what to spend it on - involves trade-offs and requires discipline. There is a limited amount of money available and not everything can be done at once. The annual budget identifies priorities for how money is to be spent in the coming year. Except for emergency situations, there should be no expenditures not included in the budget.

Any budget can incorporate a prior-year surplus for unexpected expenditures that can be rolled over to the next year's budget thus lowering condo fees.

Deferral of major projects is unwise. Costs will be higher in the future. In the present, deferred projects require more maintenance and repairs to keep spaces functional and systems operational.

Adhering to a budget forces a condo board to plan, and to follow the plan. It provides advance warning of upcoming financial shortfalls, and time to consider options. Raising condo fees is practical if there is sufficient time to obtain funds for necessary work. A special assessment requires owners to provide needed funds by a set date. Obtaining a loan can provide immediate funds that owners must repay with interest over a set period of time.

When a community defers necessary work, this is a budgeting failure. It signifies an unwillingness to ensure owners are aware of and required to pay the true costs of maintaining your home.

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## THE IDEAL CONDO RENTAL

Renting the ideal condo depends on your interests and priorities.

Some desire a home that is quiet and isolated. Others prefer to have easy access to everything Toronto offers without having to travel. A young and single individual is content to live in a smaller space. Older individuals, with or without children, may desire more space.

Some are only concerned with the space they live in. For many, amenities are the priority. Exercise room, swimming pool, socialization space, or pet services may be important.

Other considerations:

- Not all communities allow pets. Of those that do allow pets, not all provide pet amenities. Some require pets to enter and exit through a back or side door, or be carried through the building.
- Some communities offer space to park a vehicle, store a bicycle and/or include a storage locker.
- Smoking of tobacco and/or marijuana may be allowed or disallowed. Different rules may apply to private units and common areas.

If cost is a consideration, smaller units farther from downtown and subway lines cost less to rent. Those with fewer amenities, lesser quality

furnishings and no security personnel tend to have lower condo fees thus charge less rent.

You get what you pay for. That larger and nicer unit in a well-maintained community with extensive amenities and good security will cost more to rent. That owner paid more for the unit, likely has a larger mortgage, and is required to pay more in monthly fees which they expect to be recouped by charging more in rent.

The ideal condo rental is elusive. It varies depending on one's personal situation, interests and income.





# HIRING STAFF, VENDORS AND PROFESSIONALS

A high-rise residential community requires many skilled individuals to keep the place running – superintendent, maintenance staff, security, engineers, cleaning, accountant, lawyer, roofers, designers and landscapers. The condominium manager and management company play a central role for employing and organizing these providers along with the condo board.

Individuals employed in a residential community are typically classified as building personnel, professional services, and contracted services. Each requires a different approach to hiring.

When hiring **building personnel**, the board does not need to get involved. The condominium manager should be in charge of operations and making decisions without consultation with directors. The manager would interview and offer employment to those with a suitable resume, work experience and demeanor. A working relationship between staff and the condo board is an unnecessary and problematic complication to be avoided.

Prior to employing a **professional** such as a lawyer or engineer, look for individuals or companies

with a good reputation, and experience working with or representing residential condominium communities.

**Contractors** are typically employed for a specific job or project such as replacing or repairing a roof, landscaping or gardening, air quality or HVAC, common area redesign and renovations, or repair of damage from water, fire or mischief. Pest control, waste management, odour control, restoration and parking area services are always needed on a regular or periodic basis. You want to find someone with a good reputation. While price is always important, availability and ability to provide

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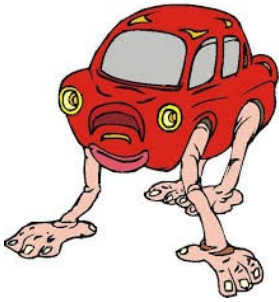
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## UNCOMMON VIEW OF CONDO LIVING

Condo Conquest, by Randy Lippert, presents a perspective on condominium living that conflicts with its widespread popularity and reality. Mr. Lippert, professor of sociology and criminology at the University of Windsor, is clearly not a fan of condominium living..

According to Mr. Lippert, “Condos are like sausages” that “are made, sold, consumed everywhere in cities. . . . But, like sausages, little is known about the condo innards, and the less one knows, the better off one may feel.” He describes condominium governance as “a fourth level of government where normal social and community relations are subsumed or even trampled by a profusion of rules, audits, surveillance techniques, and obsessive concerns over resale value.”

His book is not a real or fair representation of condominium living. It presents the absolute worse-case scenarios which fail to exist in even the most poorly managed communities. However, Mr. Lippert is correct when he states that many buyers don’t understand what they’re getting themselves into when they purchase a condominium unit for hundreds of thousands of dollars.

There are good reasons why so many find high-rise condo living so appealing. Some appreciate easy access to parks, malls, transit, entertainment and services. Amenities such as swimming pool, exercise room, concierge and activities are important to some.

Condominiums are often described as an apartment or townhouse that can be owned. They combine advantages of urban living with the high-end features of suburban single-family homes. Common areas include swimming pools, exercise rooms and other recreational spaces more extensive than can be found in other housing.

The first condo laws in Canada were passed in the 1960s. Provincial governments wanted to create a legal structure for what were then called stratas which allowed buyers to acquire an apartment or townhouse as well as a portion of the complex’s common areas which include balconies, lobbies and other spaces. The concept proved to be popular and has only been enhanced over the decades. Toronto, as of 2016, had more condo units than any city in North America except for Miami. From nothing more than five decades ago, more than half of Toronto is now estimated to live in a condo.

There can be frustrations. Some condo boards do a poor job at maintaining the property, encouraging socialization and communication. Nobody is happy when condo fees increase each year despite it costing less to maintain a condo than a single-family home. Where condos have become investment properties, some are frustrated with the impact this has on communities.

Mr. Lippert appears to have an understanding of legislation; corporation bylaws, reserve fund studies and condo rules documents, but little understanding of how this works in practice. He has

**CONTINUED PAGE 17 ....**

## UNCOMMON VIEW OF CONDO LIVING... CONTINUED FROM PAGE 16

created a fantasy world that does not exist and argues that condo governance creates conflict. Condo fees are manipulated to facilitate sales. Volunteer directors engage in self-dealing including when they hire property management companies, and delay on necessary maintenance to keep condo fees low.

Mr. Lippert describes condominium community oversight as excessive or over-policed, and dysfunctional. Condo boards and management implement and enforce rules for problems that often don't exist in response to a chronic fear of litigation among owners, boards and condominium managers. He cites problems with noise, renters and short-term rentals, none of which is unique to condominium living. The elevator, according to Mr. Lippert, is a "site of resistance" prone to traffic jams, construction delays and congestion. It is one of the few places where residents can meet one another casually to discuss condo board incompetence or corruption, construction deficiencies, and motivations behind board decisions.



The reality of condominium living and management is that demands for regulation often come from residents. Most boards, which are comprised of volunteers, try to balance their owners' conflicting rights while protecting property and peace.

Mr. Lippert succeeds in identifying concerns with condominium governance and other aspects of condominium living. His dystopian and extreme view fails to recognize condo living for its success and presenting what to most are relatively minor concerns that can and should be addressed by those who create the laws which govern condominium living.

One condo director, after reading a review of this book, is likely correct in stating that the approach favoured by Mr. Randy Lippert would probably include armed conflict.

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# INCONSISTENT WATER TEMPERATURE

Water problems don't simply disappear when ignored.

Residents were experiencing unexplainable temperature fluctuations at random intervals. Sometimes there would be no hot water. Hot water would come out of cold-water taps. The temperature would fluctuate for periods ranging from seconds to minutes or hours. There was no way to predict when water temperature problems would occur, making it impossible to shower without risking injury from a sudden and dangerous change in water temperature.

*There was no way to predict when water temperature problems would occur, making it impossible to shower without risking injury from a sudden and dangerous change in water temperature*

water cartridges. Some units were charged a fee after a plumber sent by management provided the same direction.

As time passed, owners realized that affected units were in a line sharing the same water pipe. After insisting more forcefully that management isolate and rectify the problem, they began sending the superintendent or a plumber when problems were reported. Unit visitations occurred hours or days after problems were reported. By this time the problem had dissipated and nothing was found.



At first, management was in denial and told affected residents that their unit was the only one experiencing problems. They were instructed to change all

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## LEAKY PIPES?

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## INCONSISTENT WATER TEMPERATURE... CONTINUED FROM PAGE 18



Management continued to claim there were no problems and no complaints.

It is not uncommon that a water problem

goes unnoticed in one unit while affecting other units. The most common problem is a bad cartridge in the shower faucet in one unit that impacts other units. Other causes can be the design of a plumbing system or an improper connection in one unit. Finding the source can be challenging.

It was about a year after problems first appeared that [LEaC Shield](#), a company specializing in detection and prevention of water leaks, was called to diagnose and hopefully rectify the problem. We began speaking with residents to understand what they were experiencing. Wireless temperature

probes were installed in strategic locations which would send the temperature data real-time to an online dashboard so we could remotely see and better understand where and when temperature fluctuations were occurring, how much water temperature was dropping and for how long. After monitoring the situation for a couple of months, we were able to isolate the primary problem area and then identify water temperature fluctuations as originating in or near a specific unit.

Our next step was to install check valves on the cold and hot water supply lines to the specific unit. This ensures cold water will not flow back into the hot water riser from the affected unit, and prevents water issues in one unit from affecting other units.

Since check valves were installed at the identified unit, no further cold water temperature problems have been reported in other units.

[LEaC Shield](#) has been providing pinhole leak and flood prevention solutions since 1992.



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## PICKLEBALL CRAZE

If you are not currently a pickleball fanatic, you probably know someone who is. Pickleball is growing at a rate almost unprecedented in the history of sports, and it's not just for retirees. There are pickleball associations, camps and leagues for those interested in more than an occasional game.

Pickleball is an easy amenity to offer in any condominium community with tennis courts. All it requires is painting additional lines!

### What is Pickleball



Pickleball is a paddle sport that can be described as a cross between tennis and ping-pong played on a badminton-sized court.

There are usually two players on each side of the net. The singles game, one opponent on each side of the net, is far more strenuous and less popular. The ball is perforated plastic similar to a wiffle ball, and short-handled paddles are made of wood or composite.

### History of Pickleball

Pickleball was invented in 1965 by fathers on Washington's Bainbridge Island using a wiffle ball, some ping-pong paddles and an old badminton net looking for family-friendly entertainment. It became popular in retirement communities in Florida and Arizona, and has now spread throughout the United States and Canada.

There is a professional pickleball league with teams owned by Naomi Osaka (tennis), Patrick Mahomes and Tom Brady (football) and LeBron James (basketball). Community centres offering pickleball fill up quickly and struggle to meet demand for court space.

### Why has Pickleball become Popular

For anyone who plays a racquet sport such as tennis, squash, racquetball or badminton, there comes a time when the body can no longer handle the physical strain. Tennis players experience hip and shoulder problems because of the heavy racquet and ball. Squash, racquetball and badminton demand an intensity difficult to maintain as the body ages.

Pickleball is easy to learn and less physically demanding than other racquet sports. Anyone with a reasonable level of coordination can quickly learn to be competitive. The smaller court makes it easy to chat while playing.

Pickleball with its smaller court, short and lighter racquet, and lighter ball is easier to play. Rules are designed to maintain longer volleys without as many difficult-to-return shots. And playing in teams of two is less physically demanding. The result is a game that is less strenuous than other racquet sports but still challenging.

### The Downside of Pickleball

Sharing tennis and basketball courts with pickleball means more people competing for limited

CONTINUED PAGE 21 ....



## FEAR-BASED DECISION MAKING



One management company agreed to work with a community afraid to deal with their predicament.

The community was nearly out of money. Modernizing elevators was expected to cost \$1 million. Leaking windows damaging units could be even more expensive. The community operated based on fear of paying more money rather than doing what was necessary to keep their home in good condition. This fear prevented condo fees from rising to cover the cost of necessary repairs.

They failed to accept an earlier proposal from the management company, preferring to work with one that charged less. Things didn't work out. Little progress had been made at addressing problems. Now, the management proposal required the board to agree to certain terms as part of any agreement.

1. Be prepared to make difficult decisions and stand behind them regardless of opposition.
2. Publicly and unconditionally support the management company when others blame them for substantial increases in assessments,

- special assessments and loans.
3. Be prepared to pay the management company for the work necessary to turn things around. There was a fixed management fee plus a possible hourly or percentage of project costs.

The management company was transparent in the challenges to be faced. Difficult as these terms are, there is no other option for a community wanting to turn around a bad and worsening situation.

A condominium management company or condominium manager does not make decisions. The best they can do is facilitate actions based on board decisions. Management can only succeed at fixing problems and educating owners when supported by the condo board.

Turning around a struggling community takes considerable work and a dedicated condo board. Finding a good management company capable of the task is more important than going with the cheapest option.

## PICKLEBALL CRAZE... CONTINUED FROM PAGE 20

recreational space. The thwack sound of a pickleball paddle hitting the ball can be frustrating for those who live nearby.

Toronto and the GTA have been slow to provide dedicated pickleball courts, or to convert underutilized tennis courts for dual use. Condominium communities with existing tennis

courts can easily make the conversion to dual use by painting pickleball court lines on the surface. Any open indoor space can be converted for pickleball with a portable net and painted lines.

Pickleball has made it easier for more people to remain physically active while having fun.





# POWERS AND LIMITS OF THE CONDO BOARD

Condominium corporations operate as a democracy with directors elected to govern on behalf of owners. Having every owner involved in every decision is unworkable.

A condominium community is an unincorporated association of owners. It is not a business organization and not governed by the same federal or Ontario legislation as incorporated business enterprises or non-profit corporations. It

is created upon registration of a declaration and a description in the Land Registry Office. A condominium corporation elects representatives to act on their behalf but only to the extent stated in the corporation's governing documents. A condo board is authorized to maintain and govern the common areas of the corporation, and can only act if the corporation's governing documents say it can.

Things become less clear when something happens within a unit. An owner or tenant may fail to maintain the bathroom allowing water to leak, causing damage to other units and common areas. There may be problems in common elements affecting one or a few units. These are matters where the condo board needs to get involved.

## The Business Judgement Rule

Condo boards will make decisions that, at times, are not correct. Condo directors are protected against incorrect decisions that are not criminal.

***Board members have the right to make decisions on behalf of the community based on facts and sound decision making***

Condo boards are expected to act with informed judgement so long as the individuals uphold their fiduciary duty. This does not protect individuals from fraud or negligence, or where they fail to uphold rules and

regulations in condo documents. Directors who fail in their fiduciary duty can be held personally liable for their actions.

***Condo directors are protected against incorrect decisions that are not criminal***

The Business Judgement Rule states that board members have the right to make decisions on behalf of the community based on facts and sound decision making. As long as decisions are made in good faith, this rule protects directors from potential liability resulting from their

decisions. This rule does not protect directors who have conflicts of interest, who fail to undertake due diligence before acting, violation of contractual obligations or breaking the law. Within these limits, board directors are safe from being held personally liable for their actions.

## HOMEOWNERS INSURANCE



Your standard insurance policy protects your property and some possessions against damage or theft. Mortgage terms may require that you maintain this insurance to protect the interests of a financial institution.

Every condominium resident, owner or tenant, should maintain insurance coverage to protect against damage or loss to their personal property.

**Condo Owner Insurance** provides coverage for owners consistent with their liability as owner and resident of a residential condominium suite.

**Tenant Insurance**, purchased by tenants, is intended to protect possessions in the event of loss, liability for accidents, and against liability for damages arising from problems within a rented unit. **Rental Coverage**, purchased by the owner of a condominium suite, is intended to protect against property damage by a renter. Should a tenant cause \$45,000 in damage to the suite and common areas, and be unable to pay for damages or lack adequate coverage, this provides financial protection to the condominium owner.

Regardless of what type of insurance you require, all policies include certain types of coverage.

### Damage to the Home's Interior and Exterior

Your insurer will compensate you for repairs or rebuilding costs resulting from fire, hurricanes, lightning, vandalism or other covered disasters. Water damage arising from interior flooding, including that from other units, is available for condominiums. Damage resulting from floods, earthquakes or poor home maintenance is unlikely

to be covered unless additional "riders" have been purchased.

### Damage to or Loss of Personal Items

Home contents including clothing, furniture and appliances are covered if damaged, destroyed or stolen in an insurance-covered incident. There is "off-premises" coverage for items such as electronics or jewelry if lost when away from home subject to certain limits.

Expensive items such as artwork or jewelry may require proof of value and a "floater" or "rider" policy for full coverage.

### Personal Liability

This is protection from lawsuits filed by others. If someone slips and falls on your property or your dog bites a neighbour, your insurer will pay their medical expenses.

### Accommodation during Repair or Rebuilding

If your home becomes uninhabitable, you are reimbursed for a hotel room, meals and other costs incurred while waiting for your home to become habitable after a covered damage. Policies typically impose daily or total limits on this coverage.

A condominium corporation maintains separate insurance to protect common areas of the building that include property and liability coverage.





# SECURITY, SAFETY & FRAUD



## FORENSIC ACCOUNTANTS

I am looking to hire a forensic accountant. Can you provide me with a list for condominium financial issues?

M. E.



### Response from Toronto Condo News

Forensic accountants use accounting skills to investigate fraud or embezzlement. Their goal is to obtain answers to specific questions by analyzing financial information that can later be used in legal proceedings. With condo boards providing oversight over millions of dollars in owner funds,

identifying improper use of these funds is the responsibility of owners when actions of the condo board are questionable.

Taking the step of hiring a forensic accountant is only considered after other measures have failed. You have likely approached the condo board about financial concerns and have been provided with questionable, suspicious or insufficient information, or have been ignored.

Any “list for condominium financial issues” would be overly long and of limited value. Your instructions to the forensic accountant should be based on your specific concerns and not a general fishing expedition if results are to be practical and useful. A better approach would be for you to peruse the [Financial Management section of the Condo Archives](#) for articles pertaining to your concerns.

[Condo Archives](#) articles that offer a broad overview of how forensic accounting can be helpful at documenting or confirming suspicions include:

- [Fraud and Forensic Accounting](#)
- [Preventing, Recognizing and Dealing with Condo Fraud](#)
- [Guidelines Regarding Condo Fraud and Kickbacks – Letter to the Editor](#)
- [Condo Fraud Red Flags](#)

Best of luck.





## CONDO ELECTIONS

A resident wishing for himself, his wife and their friend to be elected to our Board of Directors went door to door and collected proxies.

They were elected and now have the majority vote on our Board. We do have a 'no solicitation' rule but the manager says it does not apply in this situation.

Can someone advise as to where to take this for further investigation as to whether our voting was valid?

D.

### Response from Toronto Condo News

Those elected as directors and serving on the condo board yield considerable authority and control large sums of money. Elections are to be conducted in accordance with the Condo Act.

If you suspect your condo election was not conducted properly, refer to Sections 51 to 53 of the Condo Act which you can access at <https://www.ontario.ca/laws/statute/98c19>. Your declaration or by-laws may impose additional

controls such as who can serve as a condo director. It may be that only owners or one member of a household can serve although this may be problematic in communities unable to find enough quality volunteers to serve on the board.

Your manager is correct. Individuals campaigning for election to the condo board is not considered solicitation and is not prohibited. Individuals can choose to campaign door-to-door and collect proxies. If enough proxies are collected, results of an election are decided in advance by those not in attendance on the day of a vote. These proxies should be reviewed to ensure they are properly completed before deemed valid. Among requirements, a proxy should be signed by the owner providing it and not by the individual collecting it. Some communities have eliminated the need for proxies, and door-to-door campaigning, by implementing electronic voting.

Information on condo elections and proxies can be found in the [Condo Archives](#) under [Condo Boards, Communications & Community – Meetings and Elections](#).

Unless condo elections are conducted in a fair and valid manner, owners lose trust in their board and management.

I hope this is helpful to you.



*"Well, then, it's unanimous."*



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