

## THE CONDOMINIUM ACT – SUGGESTIONS FOR IMPROVEMENT

**W**e encourage you to submit suggestions for improving the Provincial Condo Act to us via <https://cci-manitoba.ca/resources/the-condominium-act-suggestions-for-improvement>.

We have started posting these 'suggestions for improvement' in our quarterly Condominium News and Views. In case you missed the improvement suggestions in the prior editions, have a look at the Fall 2020, Winter 2021 and Spring 2021 editions at <https://cci-manitoba.ca/members-only/newsletter-archive>

The Province has a useful website with a guide to the Act and links to the Act itself, and the associated regulation and various related forms. The website link is <https://www.gov.mb.ca/condo/>.

We received one new submission, which is similar to another published in our winter 2021 edition

*Condominium tribunals for dispute resolution are required in Manitoba. This would empower condo owners to address problematic issues in an efficient, impartial and effective manner. This is also important for vulnerable populations who are marginalized, or can't afford a lawyer to intervene and represent their interests.*

Currently Manitoba lacks a regulatory authority for the condo industry and has no tribunal for dispute resolution. Other Provinces do have them, and while they do offer improvements over the Manitoba context they are not a panacea, as highlighted in the 2020 Ontario Auditors General Report.<sup>1</sup> Significant findings from the report include:

- "Initial developer-set condo fees are typically understated."
- "The majority of condo boards surveyed were required to increase reserve fund contributions by an average of 50%."
- "Ministry enforcement powers are used infrequently and are weak."
- "Hundreds of unlicensed individuals and companies provide condo management services."
- "The Management Regulatory Authority took limited action on nearly half of the owners' complaints we sampled."
- "The Management Regulatory Authority's inspection efforts are mainly reactive."
- "Over 6,000 ineligible condo directors serve on boards."
- "Directors can complete mandatory online training without reading the training materials."
- "Information on the interests of directors who serve on multiple condo boards is not transparent."
- "Condo owners face difficulties and barriers in accessing condo corporation information."
- "Condo owners are not on a level playing field with condo boards at the Tribunal."

- "The Management Regulatory Authority has not established targets to assess its performance of most of its mandated activities."

British Columbia and Alberta receive favourable mention in the report in a few places:

- In both BC and AB, their condominium legislation enables the appointment of an investigator to look into developer misconduct and also have the authority to levy administrative penalties and/or fines.
- In BC, the dispute resolution tribunal doesn't allow representation by lawyers for either party unless granted by special permission. Note that while this evens the playing field, the arguments presented by the parties are not always well made.
- In BC, if developers understate the initial estimates for expenses and fees, they have to pay a penalty.

Note that while BC is praised in the report in a few places, they have their own problems too, in comparison to the Manitoba context, especially in relation to reserve funds. For example, in BC

- While depreciation reports (aka reserve fund studies) are required, there is an option to opt out if 75% of the unit owners don't want to spend the money for the report.
- Strata councils (aka condo boards) lack the authority to pass the budget by themselves and have to seek approval from all unit owners, who collectively seldom vote to increase fees to keep the property maintained sometime in the future, regardless of the recommendations in their depreciation report.

Currently, the BC Chapter of CCI is engaged with the Ministry of Housing in a review of the Provincial legislation and regulations. Hopefully once the pandemic is over, the Manitoba government will be open to reviewing and updating condo regulations and legislation here. Until that time, keep sending us your suggestions for improvement.

Note that while it is important to have a sound regulatory environment and comprehensive legislation, no system is ever perfect. Regardless of what the government puts in place, each condo corporation should be considering director education, governance, responsibility and accountability with an objective of continuous improvement. As well, all unit owners should be diligent in their participation in condo corporation affairs. They are after all investors, besides also being residents in most cases. Since their condo is likely one of their biggest investments, it would be prudent to scrutinize all documents and financial statements, read their newsletters, attend their AGMs, etc.

CCI MB COMMUNICATIONS COMMITTEE 🍁

<sup>1</sup> Value-for-Money Audit: Condominium Oversight in Ontario, Office of the Auditor General, December 2020 [https://www.auditor.on.ca/en/content/annualreports/arreports/en20/20VFM\\_10condominium.pdf](https://www.auditor.on.ca/en/content/annualreports/arreports/en20/20VFM_10condominium.pdf)