

## THE CONDOMINIUM ACT – SUGGESTIONS FOR IMPROVEMENT

**W**e received one suggestion from a member to improve the Provincial condo Act (The Act). The suggestion is to increase the threshold from 10 to more than 25 for smaller condo corporations (CCs) to have more flexibility in meeting audit requirements. This pertains to section 156 of The Act <https://web2.gov.mb.ca/laws/statutes/2011/c03011e.php#A156>. The rationale is that the cost of performing the audit seems to be increasing perhaps due to smaller firms leaving the audit field or being bought up by larger firms. As it is, the audit cost as a percentage of the overall CC budget is significant for smaller CCs and is only increasing. Along the lines of improving the flexibility, the member suggested *"Perhaps smaller corporations could be subjected to an "inspection" or "examination" every 3 years by a qualified accountant or auditor to ensure the financial records are being properly maintained and that safeguards and internal controls exist to protect the interests of CC owners. This type of review would only require a management letter along with recommendations, if any, for addressing any internal control weakness. Since a professional opinion would not necessarily be required, the risk and potential liability to the accounting firm would be much less, therefore, cost would be at far less per year for smaller CCs like ours."*

As a result of the Champlain Towers Condo collapse in Florida just over a year ago, the Community Association Institute® (CAI) published a report titled *CONDOMINIUM SAFETY PUBLIC POLICY REPORT - RESERVE STUDIES AND FUNDING, MAINTENANCE, AND STRUCTURAL INTEGRITY*. What follows is a brief summary of the report. The report is available at <https://www.caionline.org/HomeownerLeaders/DisasterResources/Documents/CAI%20Condo%20Safety%20Public%20Policy%20Report%2010%2021.pdf>

While the report has focused on the USA context there are several sections pertinent to the Canadian context and could be useful as input into plans to update Provincial condo acts and related regulations.

*"CAI recommends additional requirements by developers during the development process and prior to transition to the homeowners. CAI worked closely with developers on these recommendations. We believe these recommendations are balanced, equitable, and approved by the participating developers and their agents. Structural integrity is addressed through statutory mandated building inspections with a baseline inspection when the building is 10 years old, another inspection at 20 years, and every five years thereafter. Inspections are based on the American Society of Civil Engineers (ASCE) published protocol for building inspections (ANSI)."*

CAI documents their position in relation to reserve fund studies on pages 11-12, which includes specific recommendations for pre-construction, construction and transition to owners phases. This is especially of interest for purchasers of new condos.

The CAI position on building maintenance and structural integrity is documented on pages 25-28 and includes specific recommendations for inspections and documentation for the period up to the turnover meeting, including all drawings and a preventative maintenance manual. They provide a recommended inspection schedule including a baseline inspection at the five year point for new construction, then subsequent inspections every five or ten years, depending on the age of construction.

Federal solutions and policy priorities in the wake of the Champlain Towers collapse are presented. While these are USA specific, there are likely similar solutions possible for the Canadian context.

ALAN FORBES

Chair, CCI MB Communications Committee

We 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/>.

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