



Office of the Auditor General of Ontario

Value-for-Money Audit  
Condominium  
Oversight in Ontario



*December 2020*



# Condominium Oversight in Ontario

## 1.0 Summary

Buying and maintaining a condominium home can be one of the most significant investments in a person's life. We estimated that the combined value of the entire condo sector in Ontario was at least \$300 billion. This is based on the average assessed value of a condo apartment of \$340,000 in 2018 (for a 930-square-foot condo apartment according to Statistics Canada) and the roughly 890,000 condo units in Ontario. This average assessed value, or condo price, in the Greater Toronto Area (GTA) was significantly higher, and the GTA is one of the fastest-growing areas for new condo construction in North America. The GTA also ranks as one of the top three most unaffordable markets for housing in general in Canada, along with Vancouver and Victoria in British Columbia. Condos are generally more affordable than detached houses, which has led to an increasing reliance on the condo market in Ontario. There are approximately 890,000 condo units in Ontario, in buildings managed by 11,350 condo corporations. Effective oversight of the condo sector is therefore very important.

According to data collected by Statistics Canada for 2018 (the most recent data available), of the properties in Ontario classified as “condominium apartments,” 86% were owned by individuals. The remaining 14% were owned by non-individuals or industries such as real estate and rental and leasing

businesses; construction firms; and finance and insurance firms.

However, in Ontario 57% of condo apartments are occupied by these individual owners. This suggests that the other 43% of condo apartments are more likely to be either used as a secondary property, rented out or vacant.

In Ontario, the *Condominium Act, 1998* (Act) and the *Condominium Management Services Act, 2015* are the key pieces of legislation that regulate the condo sector. Although the creation, ownership and governance of condos are regulated by the Act, every condo corporation is a self-governing entity with a declaration (akin to a “constitution” for the corporation), rules and bylaws. These features are first put in place by the condo developer, and then they become the responsibility of condo owners through their elected boards of directors.

The Ministry of Government and Consumer Services (Ministry) initiated a review of the Act in 2012 and 2013 that resulted in reforms to the Act in 2015. Those reforms included the creation of two administrative authorities—the Condominium Authority of Ontario (Condo Authority), which was designated on September 1, 2017; and the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority), which was designated on November 1, 2017. The Condo Authority's responsibilities include educating condo corporation directors, maintaining a public registry of condo corporations, and overseeing

and managing the operations of the Condominium Authority Tribunal (Tribunal), which resolves certain condo disputes. The Management Regulatory Authority's responsibilities include licensing, handling complaints, inspection, and investigation and enforcement of condo managers and management companies.

We found that many of the reforms have still not been implemented five years after they were passed. The existing model for the condo sector does not provide effective consumer protection and does not address the risks that exist for condo owners and buyers. For example, reforms not yet in force at the time of our audit included changes to help ensure that condo buyers receive accurate financial information about the cost of purchasing and maintaining their home. This has resulted in some condo developers understating condo fees so as to stay competitive with other developers to attract potential buyers.

We also noted that many developers did not budget enough money in the condo's reserve fund to pay for future major repairs and replacement for the building's assets and common areas. This is compounded by a failure in the Act's regulations to require that condo corporations, which take over responsibility for the reserve funds from developers, budget for the cost of major repairs and replacements if these take place more than 30 years in the future. As a result, the boards had to require condo owners to make unexpectedly higher contributions to the reserve funds to pay for necessary repairs and replacement of the condo's assets and common areas. We noted instances where significant increases in the required contributions resulted in financial hardship to some condo owners.

Our audit also found that the mandate given to the Condo Authority under the Act is limited compared with the mandates of other administrative authorities in Ontario, such as the Bereavement Authority of Ontario, the Electrical Safety Authority and Tarion Warranty Corporation. The Condo Authority lacks the ability to inspect or investigate potential abuses or misconduct by

condo boards, or to investigate non-compliance and enforce compliance with the relevant legislation and regulations (except for limited enforcement powers, for example, if condo corporations do not pay their assessment fees to the Condo Authority or make a false information return). It also cannot get involved in the challenges of effective board governance, such as ensuring sound elections to the board and effective financial management of the condo corporation. These limitations impact the ability of condo owners and purchasers to obtain assistance to best manage their ownership interests.

The Tribunal, created in November 2017 under the Condo Authority with an aim to provide a quick and inexpensive adjudication function to resolve disputes in condo communities, can only hear disputes specifically related to records maintained by condo corporations and condo owners' rights to access those records as of the end of September 2020. We found that the only recourse open to condo owners for other issues—including condo board governance, condo fees for use of common areas and issues related to condo living such as infestation and noise—is to seek relief through private mediation and arbitration or through the courts, depending on the issue (or ultimately seek to change their condo board or stand for election themselves). Dispute resolution was one of the key issues faced by condo communities in the 2012–2013 review of the Act; however, an effective dispute resolution process for these significant challenges has yet to be established.

We also found that, although the key mandates of the Management Regulatory Authority include handling complaints, and monitoring and enforcing compliance of the legislation by condo managers and management companies in Ontario, the Management Regulatory Authority had not effectively addressed nearly half of the complaints we sampled. It also did not exercise its authority to inspect condo managers and management companies proactively.

As well, because neither the two authorities nor the Ministry collect sufficient information to

understand the condo sector, we conducted two surveys, one to selected condo owners and another to selected condo boards, to inform our audit work. Response rates were between 20% and 31%. **Section 3.1** discusses the survey demographics.

The following are some of our significant findings.

- **Initial developer-set condo fees are typically understated.** Our audit found that 47 condo boards, representing approximately 73% of the 63 boards that responded to the relevant question in our survey, experienced significant increases in condo fees, ranging from 10% to over 30%, in the first two years after the condo's registration. The impact of understated condo fees was also reflected in our survey of 518 condo owners, representing 75% of the ones we surveyed, who experienced increases in condo fees ranging from 10% to over 50% in the five years up to August 2020.
  - **The majority of condo boards surveyed were required to increase reserve fund contributions by an average of 50%.** Condo fees paid by owners cover monthly operating expenses and also include an amount that the condo corporation sets aside to pay for future major repairs and replacement of the building's assets and other common areas. This amount goes into a reserve fund. We found that 69% of the 32 condo boards that responded to the relevant question in our survey did not have adequate amounts set aside in their reserve funds to plan for repairs and replacements of common areas and assets in their older condo buildings—those registered in 1980 and 2000. They had to pay unexpectedly higher contributions to their underfunded reserve funds, with annual increases ranging from 3% to 258%, and averaging 50%, over a period of one to 10 years.
  - **Ministry enforcement powers are used infrequently and are weak.** In British Columbia and Alberta, condominium legisla-
- tion enables the government to appoint an inspector or investigator to look into potential offences or non-compliance relating to developer misconduct. However, Ontario does not have such powers. Both provinces also have the authority to levy administrative penalties for non-compliance with the legislation. Again, Ontario does not have such powers. In addition, although Ontario courts can impose fines for offences such as developer misconduct or condo boards not keeping adequate records, the government has not prosecuted an individual or corporation for an offence under the Act in the last 10 years.
- **Hundreds of unlicensed individuals and companies provide condo management services.** We identified 316 individuals and 156 companies that did not hold licences but were listed in the Condo Authority's public registry as providing condo management services and were associated with a total of 713 condo boards with over 44,000 units, as of February 2020. This means that these individuals and companies without a licence had not taken required courses, did not have the required experience or supervision and had not made themselves subject to a code of ethics. We also found that the Management Regulatory Authority does not proactively identify these unlicensed individuals and companies. Not until we brought them to its attention did the Management Regulatory Authority start to identify or follow up on these discrepancies.
  - **The Management Regulatory Authority took limited action on nearly half of the owners' complaints we sampled.** The Management Regulatory Authority received 1,500 complaints between April 2018 and March 2020. It did not summarize the types of actions taken and outcomes systematically across all complaints; therefore, it was unable to assess whether appropriate and consistent actions were taken to resolve them.

It also does not have a formal policy in place specifying the types of action that should be taken based on the nature and the issues of the complaints. Our review of a sample of 200 complaints received by the Management Regulatory Authority found that while 103 (51%) of them were handled appropriately, the other 97 (49%) were closed too soon, without the underlying issues related to, for example, leaks, floods and other significant repair issues being resolved in a timely manner.

- **The Management Regulatory Authority's inspection efforts are mainly reactive.** Between 2018/19 and 2019/20, the Management Regulatory Authority conducted a total of only 18 inspections and six investigations as a result of complaints it received. These covered less than 1% of more than 3,650 licensed condo managers and management companies in Ontario. As well, it does not conduct a full inspection for every case to verify whether the managers and companies were also in compliance with other key legislative requirements such as contract management, disclosure of interests and record-keeping practices for the condo corporations where they provided services.
- **Over 6,000 ineligible condo directors serve on boards.** The Act requires every condo board director complete designated training on board governance and what they are accountable for. This training is to occur within six months of the date they were appointed, elected or re-elected. We found that about 6,420 directors of condo boards (approximately 17% of the 37,568 directors active as of April 30, 2020) had not completed the training within the six-month timeline, based on the information available to us. These individuals ceased to be eligible to remain as directors as per the Act, yet they continued to serve. The Condo Authority was unable to inform just over half (52%) of these

directors and their impacted boards of these individuals' ineligibility to continue to serve. The Condo Authority did request that the Ministry make a legislative change to allow it to post the ineligibility of these individuals on its public registry, but the Ministry denied that request.

- **Directors can complete mandatory online training without reading the training materials.** We found that 6,012 or 26% of about 22,700 directors sitting on the boards of condo corporations who accessed the free online training program provided by the Condo Authority did not spend sufficient time in training to understand their rights and obligations. If directors do not spend the time needed to properly review training content and gain an understanding of it to manage the obligations and finances of the condo corporation, they might not possess the necessary knowledge to fulfill their duties and obligations. The Condo Authority does not track or analyze the available data regarding time taken by board directors to complete the training and so does not take the steps needed to help ensure that board directors are equipped to serve their condos.
- **Information on the interests of directors who serve on multiple condo boards is not transparent.** We found that neither the Ministry nor the Condo Authority collects necessary and basic information on condo board directors, as well as on the type of condo corporation they serve. There are 11,354 condo corporations registered in Ontario, but neither the Ministry nor the Condo Authority knows which are commercial, which are residential, which are mixed use (residential and commercial) and which are wholly owned by investors operating rental businesses. Such information is essential so that the Ministry can monitor the condo sector and/or propose any changes to legislation or regulations, if needed, to ensure all ownership interests are

protected. Through our research, we found that as of March 31, 2020, 1,083 directors were serving on multiple condo boards (from two to over 30). These directors oversaw a total of approximately 2,160 condo corporations and about 210,160 units in Ontario, representing 19% of the 11,354 condo corporations registered in Ontario and 24% of the 890,000 condo units (approximately) in Ontario.

- **Condo owners face difficulties and barriers in accessing condo corporation information.** We found that condo owners did not get part or all of the information to which they sought access in 21 (51%) of 41 cases before the Condominium Authority Tribunal (Tribunal). Applicants sought access to records in 41 out of a total of 56 cases before the Tribunal from November 2017 to March 2020. In 21 cases, condo corporations were not required under the law to maintain information such as lists of permanent, temporary and contract staff employed by the condo corporation and support for the condo board's approval of a contract renewal—information that is important to condo owners.
- **Condo owners are not on a level playing field with condo boards at the Tribunal.** Of the 56 Tribunal decisions issued between November 2017 and March 2020, we found that in 47 or 84% of these cases, the condo owners were self-represented and so without the benefit of legal counsel. In contrast, condo boards had lawyers or agents, often condo managers or management companies hired by the condo corporations, to represent them in 91% of the cases (51 cases). The significant disparity in representation and support between condo owners and condo boards puts the average owner at a disadvantage. This can create an uneven playing field for dispute resolution between the two parties, as the Act can be complex to comprehend and interpret for the average condo owner.

We note that the Civil Resolution Tribunal in British Columbia does not permit parties in condo disputes to be represented by lawyers unless it grants special permission.

- **The Management Regulatory Authority has not established targets to assess its performance of most of its mandated activities.** We found that the Management Regulatory Authority did not establish targets to measure its performance effectiveness in fulfilling its key mandates such as licensing and resolving licensee complaints, conducting inspections and investigations of condo managers and companies. Without these key performance targets, neither the Management Regulatory Authority, the Ministry nor the public can assess how effective and efficient the Management Regulatory Authority is in discharging its obligations to oversee condo managers and management companies.

This report contains 20 recommendations, consisting of 46 actions, to address our audit findings.

## Overall Conclusion

Overall, we concluded that the mandates given to the Condominium Authority of Ontario (Condo Authority) and the Condominium Authority Tribunal (Tribunal) are limited and do not sufficiently protect condo owners against common issues that they may encounter in their daily condo living. Many of the relevant 2015 amendments to the *Condominium Act, 1998*, that would provide more consumer protection giving condo owners and boards a stronger ability to manage their ownership interests and/or responsibilities effectively, are not proclaimed and therefore are not in force.

We found that the Condo Authority, designated in September 2017, does not yet have effective and efficient processes and systems in place to carry out its mandated responsibilities. For example, certain information in the public registry maintained by the Condo Authority is incomplete, inconsistent or inaccurate. Its existing mandate does not enable

the Condo Authority to take the necessary actions to protect the public interest and provide more public information. For example, although the Condo Authority is mandated to facilitate training for condo directors, it is unable to notify the condo owners that their directors had not completed the required training.

We also found that, the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority), designated in November 2017, does not yet have effective processes in place to resolve complaints against licensed condo managers and management companies. It also does not conduct proactive inspections of licensed condo managers and management companies in Ontario. Further, it does not know whether unlicensed individuals and companies are working as condo managers.

The Ministry has not approved performance measures to evaluate the effectiveness of the two authorities in fulfilling their mandates.

From our work, we observed that the condominium sector in Ontario has grown extensively and brings with it unique challenges to ensure that condominium ownership and governance are appropriately managed and regulated in the province. The two authorities, including the Tribunal within the Condo Authority, were created in late 2017 to provide oversight of the condominium sector. Many of our observations and findings in this report support the need to further assess the structure and authorities to better provide consumer protection for condominium owners and particularly for owners whose condominium is their home.

## OVERALL MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) would like to thank the Auditor General and her staff for their work on the audit and recommendations. The Ministry welcomes the feedback on condo sector oversight, and how the Ministry can improve its oversight of the two administrative authorities.

Options for the government's consideration will be informed by the Auditor General's recommendations. Many recommendations would require the development of potential legislative and regulatory proposals, which would involve consultations with the public to assess impacts, costs and timing.

The *Condominium Act, 1998* (Condo Act) is a complex statute. It has, at its core, the principle that condo corporations are self-governing. Within this context, the Ministry continually considers potential refinements to the Condo Act, and will prioritize changes based on the evolving needs of the condo sector.

## OVERALL RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario (Condo Authority) appreciates the work of the Office of the Auditor General of Ontario and its review of our accomplishments during the first three years of operations. The Condo Authority is in a solid financial position to deliver its current mandated services and welcomes the Auditor General's recommendations and opportunities to extend our services to condo owners.

Through this fall's strategic planning exercise, the Board and management will establish a strategic framework for the next three years that includes steps to achieve the improvements highlighted by the Auditor General, including:

- increased access to information and resources;
- enhanced data collection, analytics and reporting;
- enriched condo board director training; and
- heightened focus on increased consumer protection for condo owners.

The Condo Authority is actively implementing newly delegated responsibilities relating to digitized condominium forms and additional activities including enhanced policy and advisory services, a data analytics and



business intelligence strategy, the Condominium Buyers' Guide, and handling more dispute types through the government's recent expansion of the Condominium Authority Tribunal's jurisdiction.

The Condo Authority will continue to work in collaboration with the Ministry of Government and Consumer Services and the Condominium Management Regulatory Authority of Ontario to implement the Auditor General's recommendations and fulfil its mandate for protecting condominium owners.

## OVERALL RESPONSE FROM THE CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

The Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) appreciates the work of the Office of the Auditor General of Ontario. The report's recommendations will help the Management Regulatory Authority to enhance our operations and strengthen consumer protection.

Prior to November 2017, Ontario's condominium management sector was unregulated. Today, the Management Regulatory Authority licenses over 3,200 condominium managers and 400 management companies operating across the province. As a new organization, our early efforts have been focused on laying the foundation and transitioning Ontario's condominium management sector to a regulated professional practice.

The Auditor General's report provides the Management Regulatory Authority with helpful recommendations in four key areas:

1. sharing data with the Condominium Authority to support proactive identification of unlicensed individuals or companies providing condominium management services and bringing them into compliance;
2. enhancing the Management Regulatory Authority's complaints handling and resolution process;

3. enhancing the Management Regulatory Authority's inspection program by conducting proactive, risk-based, standardized inspections; and
4. setting targets and publicly reporting on key activities within the Management Regulatory Authority's legislated mandate.

We support the intent of the Auditor General's recommendations. We are pleased to have received the report at this early stage of our organization. We look forward to collaborating with the Condo Authority and Ministry of Government and Consumer Services to strengthen our operations and the framework that protects Ontario's condominium communities.

## 2.0 Background

### 2.1 Introduction

A condo is not a specific type of building or structure but a type of property ownership, where owners own their individual residences (referred to as "units") with joint ownership and responsibility for shared areas such as hallways, entrances, courtyards, elevators and gyms (collectively known as common areas). The collective ownership is through a condo corporation, which is an entity that manages the affairs of the property. The condo corporation is created when it is registered with the Ministry of Government and Consumer Services' (Ministry) land registration system.

Although the creation, ownership and governance of condo corporations are regulated by the *Condominium Act, 1998* (Act), every condo corporation is a self-governing entity with its own declaration, rules and bylaws.

The condo developer initially puts these in place, and they can subsequently be changed by the condo corporation and condo owners.

- Condo corporation declarations are like the constitution of the condo corporation. A declaration may set out, for example, which parts

of the building belong to units and which parts are common areas and elements, what expenses form part of the common expenses and the proportion for which owners of different units are responsible, and conditions or restrictions on the use of units or common areas and elements, such as for short-term rentals (although certain restrictions and conditions can be found in bylaws and rules as well).

- At the time of purchasing a condo unit from a developer, the developer must provide a disclosure statement that includes information about a condo unit and the condo corporation to a potential buyer of the unit. As part of the disclosure statement, a potential buyer must receive the declaration (if the condo is registered) or the proposed declaration (if it is not). A buyer has 10 days within which they can rescind the agreement of purchase and sale (contract) subsequent to receipt of the disclosure statement or contract, whichever is received later. If there is any “material change” to the disclosure statement (including the proposed declaration), the developer has to deliver a revised disclosure statement to the buyer within a reasonable time and, in any event, at least 10 days before delivering the deed to the property to the purchaser. The Act defines a material change as a change that a reasonable buyer, on an objective basis, would have regarded as sufficiently important that they would not have bought the condo. At that point, the buyer has 10 days within which they can rescind the deal.
- Condo corporation bylaws detail how the condo should operate, including tenure of board members, how meetings are run and management of finances (for example, insurance and investments). The bylaws must

be consistent with the Act and any relevant municipal regulations.

- Condo corporation rules concern the safety, security and welfare of the owners related to day-to-day condo living—for example, parking and noise restrictions, smoking, pets, use of the freight elevator and response to emergencies such as COVID-19.

Owners pay for the maintenance of not only their own units, but also for a share of the common expenses for the shared property. In addition to the price paid to purchase a condo, owners pay monthly common expenses or condo fees. These fees include an amount that the condo corporation sets aside to pay for future major repairs and replacement of the condo’s assets and other common areas. This amount goes into a separate fund called the reserve fund.

### Reserve Funds

The developer must budget an initial amount for contributions to the reserve fund in the condo corporation’s first-year budget. Within one year after the condo is registered, the condo corporation must have a reserve fund study conducted by an expert (the requirements are set out in the regulations, and include, for example, engineer and architect). After that, reserve fund studies are required every three years.

The *Condominium Act, 1998* (Act) and regulations set out the requirements for a reserve fund study. It includes:

- preparing an inventory of all of the components of the common property (worth \$500 or more);
- calculating the life expectancy of the components (for example, the roof, a boiler and lobby furniture) and the cost of major repair and replacement; and
- proposing the amount of contributions to the reserve fund that will allow the condo corporation to pay for the repairs and replacements as they become necessary.

The Act currently requires the cashflow analysis to ensure the condo corporation has enough money to pay for major repairs and replacements to look forward at least 30 years.

The first reserve fund study has to be based on a site visit, and then a site visit is required at least every six years. In the years when a site visit is not required, the preparer of the reserve fund study can base the study on the provider’s verification of records of the corporation and interviews with condo corporation directors, employees and agents that the provider deems appropriate.

Within 120 days of receiving the reserve fund study, the condo board must propose a plan for future funding of the reserve fund that it determines is adequate. The board can disregard the advice of the reserve fund provider, although the Act requires the board to clearly indicate this information and provide it to the owners.

## 2.2 Condo Sector

### 2.2.1 Condo Statistics

In the first 25 years after the enactment of the *Condominium Act, 1967*, the number of condo corporations registered in Ontario has fluctuated, reaching

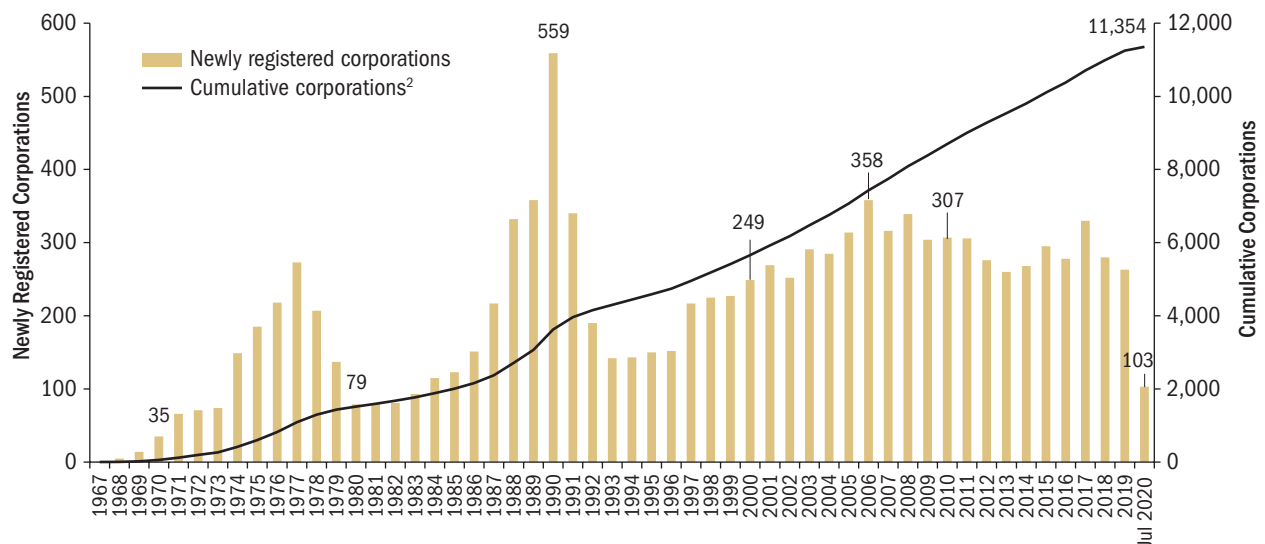
as high as 559 newly registered condo corporations in 1990. The primary reason for this real estate boom was that there was a large inflow of immigrants and low unemployment rates in the pre-1990s. Consequently, there was more demand for real estate and many builders started venturing into the condo sector. Since 2000, the number of newly registered condo corporations per year ranged from a low of 249 (in 2000) to a high of 358 (in 2006), averaging at 292 condo corporations per year.

**Figures 1a** and **1b** show the trend of newly registered condo corporations and condo units in these condo corporations, respectively, from the enactment of the *Condominium Act, 1967* to July 2020. As these figures show, as of July 31, 2020, there were a total of 11,354 condo corporations registered in Ontario, with around 890,000 condo units in the province.

Outside the condo community, people often associate condos with high-rise residential buildings. The multi-storey glass buildings with hundreds of individual residential units along Toronto’s waterfront and in urban areas across Ontario are not the only type of condo properties. Cities across the province contain rapidly growing condo communities, populated with properties including high and low-rise structures, townhouses and buildings

**Figure 1a: Newly Registered Condominium Corporations, 1967–July 2020<sup>1</sup>**

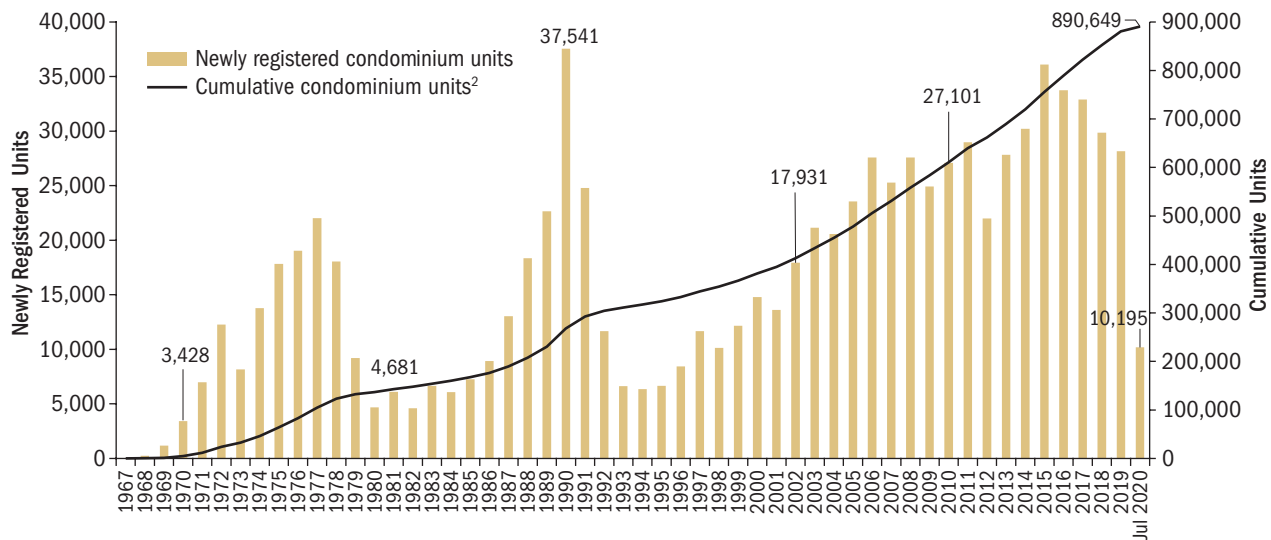
Source of data: Condominium Authority of Ontario



1. Data is available up to July 31, 2020.  
 2. Represents the cumulative number of registered condominium corporations.

**Figure 1b: Newly Registered Condominium Units, 1967–July 2020<sup>1</sup>**

Source of data: Condominium Authority of Ontario



1. Data is available up to July 31, 2020.
2. Represents the cumulative number of registered condominium units.

with a mix of residential, commercial or industrial space.

**Figures 2a** and **2b** show the geographical spread of condo corporations and condo units across Ontario. As this figure shows, most condo corporations are located in Central Ontario, with 38% of all 11,354 condo corporations, followed by Toronto with 23%. However, the condo corporations in Toronto have the highest number of individual units with around 41% of all 890,000 condo units, followed by the Central Ontario region with around 33%. **Appendix 1** shows the number of condo corporations with the number of units, by land registration office location.

### 2.2.2 Review of Condo Legislation in 2012 and 2013

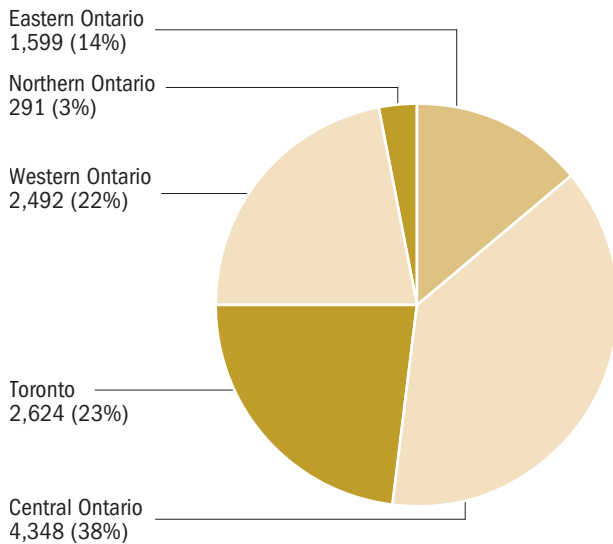
Due to the expansion and increasingly complex issues that were emerging in the condo sector, the Ministry announced the review of the *Condominium Act, 1998*, (Act) in June 2012, after more than a decade since the last major revision of the Act in 2001. A three-stage public engagement process was conducted that sought to modernize the Act.

Over an 18-month period, owners, developers, condo managers and other experts identified issues and developed recommendations, resulting in reforms to the Act with an aim to strengthen consumer protection and support the needs of condo communities. Overall, the review of the Act resulted in over 200 recommendations, some of which were implemented through revisions to the Act. See **Appendix 2** for a history of key condo legislation.

The issues that were highlighted during the review were: governance, dispute resolution, financial management, consumer protection, the qualifications of condominium managers and issues outside the Act (including concerns related to property taxes, condo conversions, insurance rates, tenant rights and responsibilities, industry trends and power imbalances in the condo sector). Stakeholders participating in the review process also emphasized that buying a residential condo meant agreeing to both rights and responsibilities, not only with respect to their home, but also with respect to the community living in the condo corporation or building and the common areas of the condo corporation or building. See **Figure 3** for examples of these key rights and responsibilities.

**Figure 2a: Total Number of Condominium Corporations in Ontario, July 2020**

Source of data: Condominium Authority of Ontario



Through the revisions to the *Condominium Act, 1998*, and the passing of the *Condominium Management Services Act, 2015*, the government designated two administrative authorities—the Condominium Authority of Ontario (Condo Authority) was designated on September 1, 2017; and the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) was designated on November 1, 2017. **Sections 2.5 and 2.6** discuss the two authorities further.

## 2.3 Condo Communities

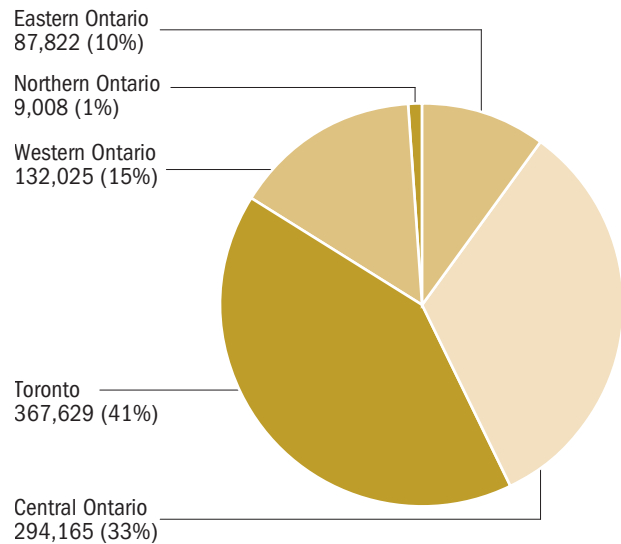
### 2.3.1 Condo Owners

The three main owner groups that purchase, live in and maintain condos include the following:

- **Resident owners:** people who live in a condo unit and consider it their primary home.
- **Investor owners:** individuals, rental businesses, asset management companies and Real Estate Investment Trusts or REITs;
- **Commercial operator owners:** offices, retail stores, salons and professional business owners such as doctors and dentists.

**Figure 2b: Total Number of Condominium Units in Ontario, July 2020**

Source of data: Condominium Authority of Ontario



These different owner groups have diverse and sometimes competing interests in the condo corporations and units. For example, investor owners want to maximize return on investment in the condo property for themselves or their clients. They generally buy more than one unit within one or many condo corporations. In some cases, investor owners own all the units in the condo building and operate the buildings as rental buildings. Commercial operator owners use the units for their businesses and may be less involved in the day-to-day aspects and demands of condo living, such as storage, noise, pets and elevator maintenance. For resident owners, however, the condo is their home and they want a peaceful and welcoming experience, well-maintained common areas and shared facilities with few ownership challenges and low condo fees.

### 2.3.2 Condo Boards

The board of directors of the condo corporation manages the property and assets of the condo corporation on behalf of all the owners. While directors, who are often volunteers, are usually owners or residents of the condo, this not a requirement;

### Figure 3: Condominium Owners' Key Rights and Responsibilities

Prepared by the Office of the Auditor General of Ontario based on information from the Condominium Authority of Ontario and other sources

Rights	
1.	Quiet enjoyment of your unit.
2.	Vote at owners' meetings.
3.	Vote for board members.
4.	Seek election to the condo board.
5.	Review your condo corporation's records (such as financial statements and meeting minutes).
6.	Requisition an owners' meeting.
7.	Ask for an issue to be added to an owners' meeting agenda.
8.	File specified disputes for resolution with the Condominium Authority Tribunal.
9.	Seek accommodation related to a disability.
10.	Rent or sell your unit. Your condo's declaration, bylaws or rules may limit your ability to rent your unit.
Responsibilities	
1.	Be aware of and follow your condominium's declarations, bylaws, and rules.
2.	Maintain and, as required by condo declaration, repair your unit (condo bylaws and rules may limit some of the things you can do in your unit).
3.	Pay a common expense fee to the condo corporation.
4.	Not interfere with your neighbours' quiet enjoyment of their units.
5.	Maintain the common elements in good order.
6.	Do your part in keeping the building and grounds clean and in good working order.
7.	Co-operate with management's (that is, condo board) reasonable requests.
8.	Attend the Annual General Meeting (AGM) regularly. Participate in the AGM in a civil way even when disagreements arise.
9.	Provide completed proxy forms when not able to attend AGMs in person.
10.	Elect conscientious and knowledgeable boards of directors, who can represent all the owners fairly.
11.	Consider becoming a board member with a view to helping the condo community.

this can be specified in the bylaws of the condo corporation.

The developer appoints the first directors within 10 days of registration of the condo corporation. Subsequently, condo owners elect directors to serve on the condo boards to represent their interests. Board roles are designated by the condo corporation and may include president, chair, vice-president, secretary, assistant secretary, treasurer, assistant treasurer. The *Condominium Act, 1998* requires a minimum of three directors to be elected to serve on the boards. Their responsibilities include, but are not limited to, the following:

- Assess the extent to which and when warranty claims are required and how to file those claims against the developer in a timely and effective manner.
- Identify and assess insurance needs and obtain that insurance at a reasonable cost.
- Select and oversee the property manager, should the board elect to hire a third-party property manager or management company.
- Establish bylaws and rules and enforce compliance.
- Set a reasonable and adequate monthly condo fee amount.
- Prepare and maintain a budget including a sufficient reserve fund.
- Identify repair and maintenance needs and funding.
- Select contractors/consultants for maintenance and major repair or replacement projects.
- Resolve disputes with owners and between owners.

- Organize, manage and document board and owner meetings.

### 2.3.3 Condo Managers

A board of directors of a condo corporation may hire and contract some or all of its obligations to be performed by a condo manager or condo management company; however, the ultimate decision-making authority remains with the board of directors of the condo corporation. Directors' responsibilities that are often delegated to condo managers and condo management companies include, for example:

- creating and maintaining records for the condo corporation;
- responding to owner complaints;
- collecting condo fees;
- co-ordinating the maintenance and repair of the property;
- issuing meeting notices;
- implementing an emergency management plan and responding to emergencies;
- preparing draft annual budgets and monitoring the reserve fund; and
- preparing financial reports and arranging for audits.

Condo managers can either work independently in providing property management services to condo corporations or work for property management companies as employees. With the designation of the Management Regulatory Authority in November 2017, condo managers and management companies are required to be licensed to be able to provide property management services. There was no requirement for condo managers or companies to obtain any licence prior to November 2017. Until March 30, 2018, managers who had provided two or more years of condo management services within the previous five years were able to apply for a Transitional General Licence. This licence cannot be renewed beyond June 30, 2021, at which point managers need to complete the educational requirements to obtain a General Licence.

Licensed condo managers and companies are required to comply with the *Condominium Management Services Act, 2015*. **Appendix 3** summarizes some of this Act's key requirements.

See **Section 2.6.1** for details of licensing and the number of licensed condo managers and management companies in Ontario.

### 2.3.4 Other Participants

A number of other groups or participants also form part of the condo sector and include developers of condo properties, tenants living in condo units, contractors hired by condo corporations to perform repairs or maintain common areas, as well as professional advisors including lawyers, engineers and auditors of the condo corporation's financial statements. As well, not-for-profit organizations such as the Canadian Condominium Institute and the Association of Condominium Managers of Ontario provide support, including professional development, networking opportunities and seminars, to condo participants such as owners, condo boards and condo managers.

## 2.4 Ministry of Government and Consumer Services (Ministry)

By proposing laws to the Legislative Assembly, it is up to the government to propose the policy and legal framework for the condo sector and decide what powers and responsibilities it gives to the Minister of Government and Consumer Services to govern the sector. The Minister proposes changes to the policy and legal framework for Cabinet to consider.

The Condo Authority and the Management Regulatory Authority are responsible for administering the provisions of the *Condominium Act, 1998* and the *Condominium Management Services Act, 2015* and their regulations, respectively, that the government has delegated to them. The Minister is responsible for administering the provisions of the Acts and regulations that have not been delegated to the authorities. The Minister's oversight powers

over the two administrative authorities and the mandates of the two authorities are set out in these Acts as well as in their respective administrative agreements. See **Appendix 4** for a summary of key obligations of the Minister and the two authorities specified in the administrative agreements.

## 2.5 Condominium Authority of Ontario (Condo Authority)

The Condo Authority is a self-funded, not-for-profit corporation that is designated as an administrative authority under the *Condominium Act, 1998* (Act). It has a mandate to protect the public interest and ensure a fair, safe and informed condo community. This includes education of condo corporation directors as to roles and responsibilities and effective governance, collecting information from condo corporations and maintaining a public information registry of this information, and managing a tribunal to provide dispute resolution.

### 2.5.1 Key Operations and Activities

The Condo Authority is overseen by a seven-member board of directors, as shown in **Appendix 5**. It had a total of 49 full-time-equivalent staff as of July 2020, including the Chief Executive Officer and the Chair of the Condominium Authority Tribunal (Tribunal). When Tribunal hearings are conducted, the work is performed by any of the 26 part-time appointees, the Chair and Vice-Chair of the Tribunal. See **Figure 4** for the organization chart of the Condo Authority. It provides the following key services to the public.

#### 1. Online Dispute Resolution

The Condominium Authority Tribunal, formed in November 2017, is responsible for carrying out dispute resolution online. The objective of the online dispute resolution was to create a quicker, convenient and less costly process to hear and resolve disputes within condo communities. **Figure 5** shows the three-stage dispute resolution process.

#### 2. Director Training

The Condo Authority administers an online training program for condo corporation directors. Condo directors who fail to complete the training within the legislatively mandated timelines (for directors appointed, elected or re-elected on or after November 1, 2017, they are required to complete the training program within six months of the date of their appointment, election or re-election) cease to be a director on their respective condo corporation boards. Existing directors appointed, elected or re-elected prior to November 2017 were not required to complete training unless they were subsequently re-elected. Training for condo directors is facilitated through an online system that captures and maintains a record of when directors have completed the training.

#### 3. Public Registry

Beginning April 1, 2018, the Condo Authority started to maintain a public registry of condo corporations in Ontario that is accessible online. The registry includes basic information that is submitted by condo corporations through condo information returns, which are required to be filed with the Condo Authority.

The returns provide information, such as:

- the date the corporation was created;
- name of the corporation;
- board of directors' names and first effective election dates;
- condo management service providers (individuals and companies);
- number of units in the corporation; and
- fiscal year of the condo corporation.

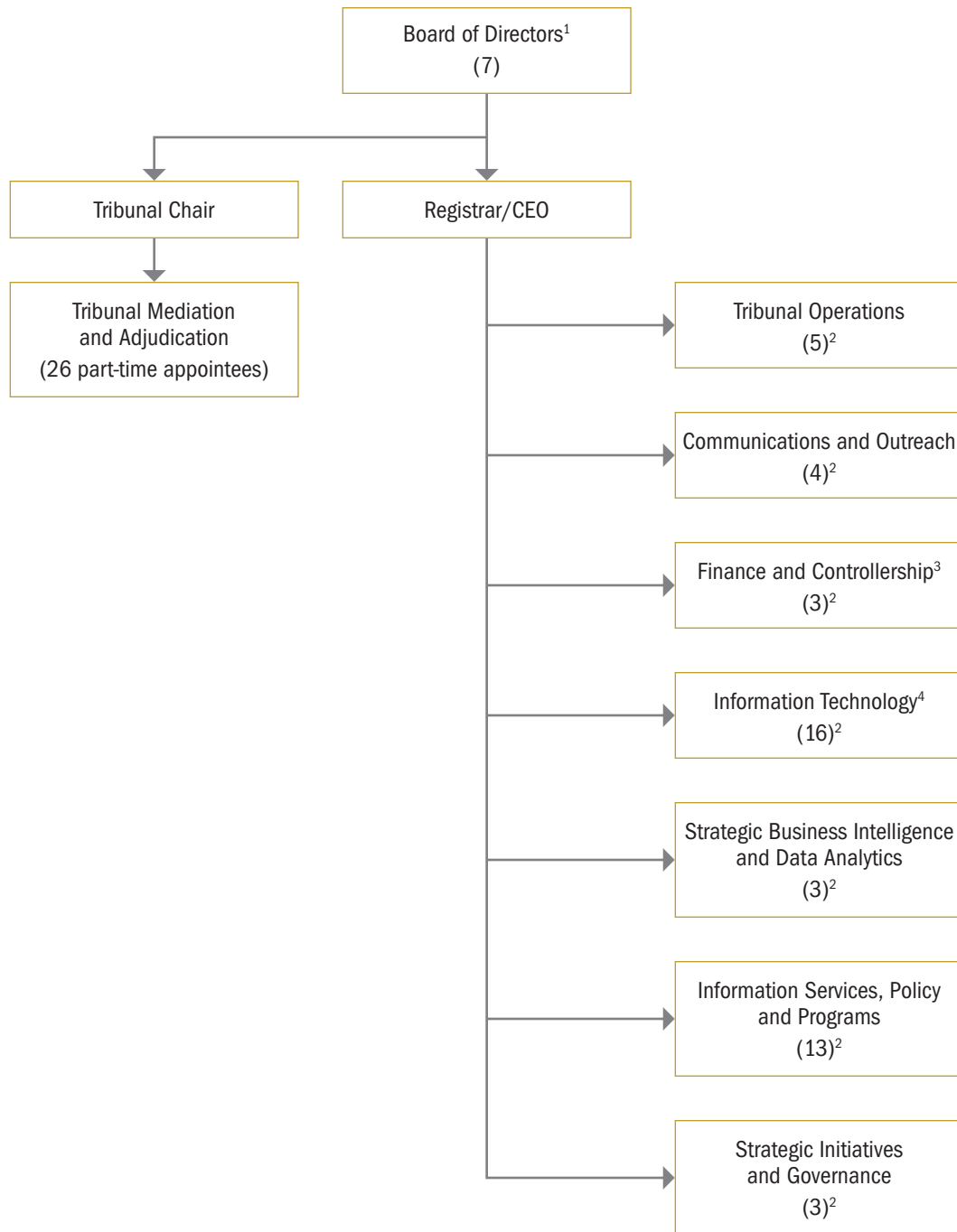
#### 4. Online Information Resources

The Condo Authority provides information to help owners, residents, directors of condo boards and condo managers understand their general rights and responsibilities. Some of the tools and resources developed by the Condo Authority include a Buyer's Guide, steps to resolving common issues as



**Figure 4: Condominium Authority of Ontario Organizational Chart, July 31, 2020**

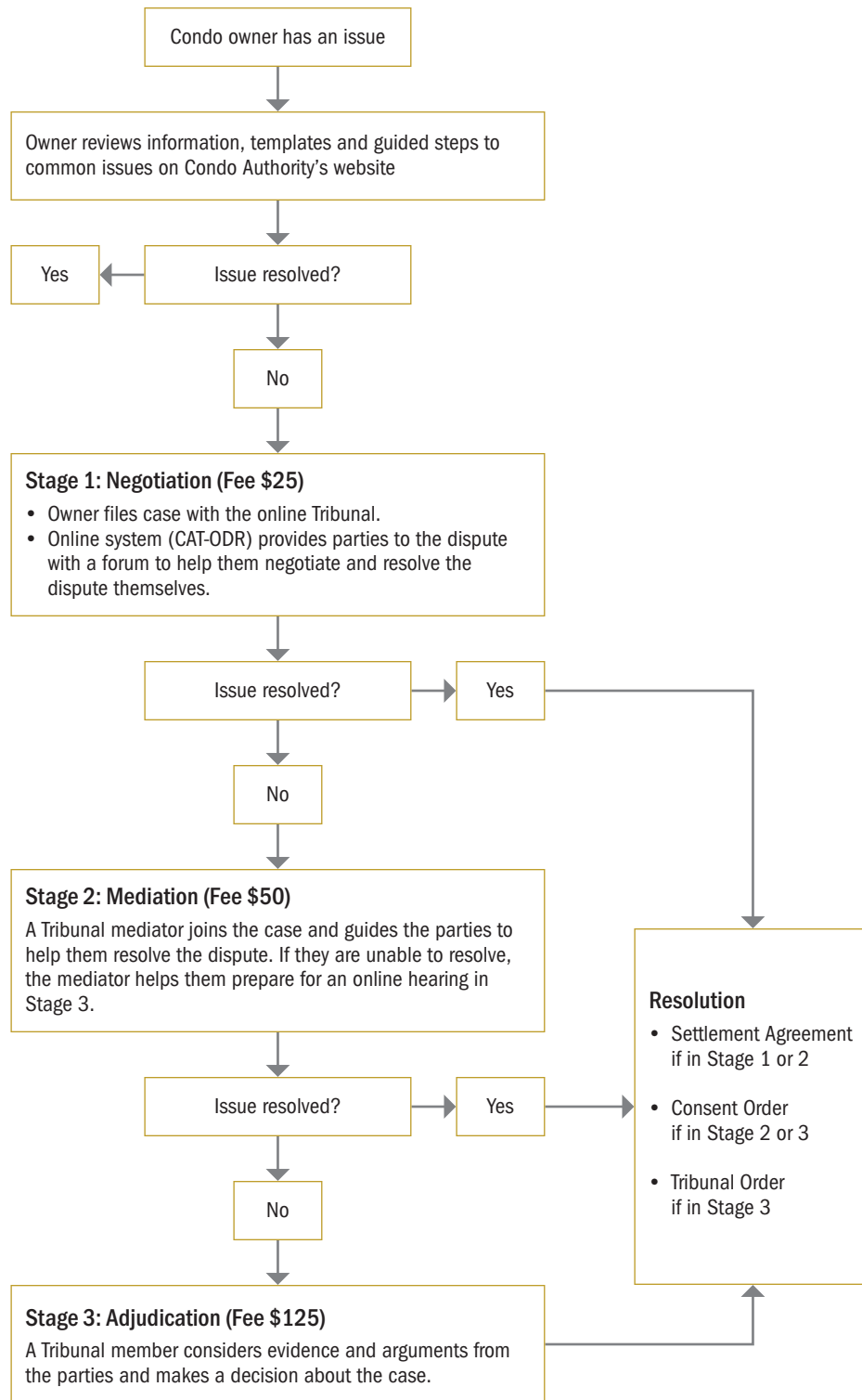
Source of data: Condominium Authority of Ontario



1. There are three Board committees: (1) Audit and Risk Standing, (2) Nominating and (3) Condominium Owner Outreach (created in September 2020) committees.
2. Staffing numbers are full-time equivalents.
3. Finance is a shared resource with the Management Regulatory Authority.
4. Information Technology was a shared resource with the Management Regulatory Authority until December 1, 2019.

## Figure 5 : Online Dispute Resolution Process of the Condominium Authority Tribunal

Source of data: Condominium Authority of Ontario



well as administration of forms used regularly to run condos including proxies, information certificates and status certificates.

## 5. Public Inquiries

The Information Services team at the Condo Authority responds to telephone and email inquiries from the public regarding condo-related issues and to clarify their rights and responsibilities under the *Condominium Act, 1998*. While the Condo Authority provides guidance on the relevant portions of the Act and other legislation, it does not provide legal advice nor does it play a role in the inspection, investigation, enforcement or resolution of issues.

### 2.5.2 Funding and Financial Information

The Ministry funded the Condo Authority's start-up costs through a loan of \$5.5 million with a 10-year payback period, with the last loan payment due on

April 1, 2029. As of March 31, 2020, the loan balance was \$5.2 million.

In 2019/20, the Condo Authority's revenue was \$8.9 million, mainly from assessment fees collected from condo corporations. The Condo Authority uses the information provided within the condo returns to calculate an assessment fee based on the equivalent of \$1 per condo unit per month. The same year, it incurred \$7.1 million expenses, of which 63% were for salaries and wages. **Figure 6** shows the revenue and expenses from 2017/18 to 2019/20.

## 2.6 Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority)

The Management Regulatory Authority is also a self-funded, not-for-profit corporation that is designated as an administrative authority under the

**Figure 6: Condominium Authority of Ontario's Revenues and Expenses, 2017/18–2019/20 (\$ million)**

Source of data: Condominium Authority of Ontario

	2017/18	2018/19	2019/20	3-Year Change (%)
<b>Revenue</b>				
Fee revenue <sup>1</sup>	5.89	9.49	8.91	51
Other income <sup>2</sup>	0.04	0.17	0.27	575
<b>Total Revenue</b>	<b>5.93</b>	<b>9.66</b>	<b>9.18</b>	<b>55</b>
<b>Expenses</b>				
Salaries and benefits <sup>3</sup>	2.25	3.75	4.44	97
General administrative <sup>4</sup>	1.60	1.65	2.01	26
Depreciation and interest <sup>5</sup>	0.27	0.56	0.65	141
<b>Total Expenses</b>	<b>4.12</b>	<b>5.96</b>	<b>7.10</b>	<b>72</b>
<b>Excess of Revenue over Expenses<sup>6</sup></b>	<b>1.81</b>	<b>3.70</b>	<b>2.08</b>	<b>15</b>

1. Mainly comprises assessment fees charged to condo corporations on the basis of \$1 per voting unit per month. In 2017/18, the Condo Authority charged condo corporations a prorated, seven-month, assessment fee because it was not designated until September 1, 2017. The decrease in 2019/20 compared with 2018/19 was due to a temporary 25% reduction in the Condo Authority's annual assessment fees.
2. Includes interest earned from bank account.
3. Increased by 97% primarily due to the number of staff, which increased from 19 in 2017/18 to 32 in 2019/20. The majority of the new hires were because the Condo Authority initially outsourced the Information Resources unit and the Call Centre, but later brought these services in-house.
4. Starting in 2019/20, the Ministry of Government and Consumer Services charged an oversight fee of \$302,225 annually. The administrative authority model is expected to be cost neutral to the provincial government. The oversight fee is used to cover the costs (staff time, legal costs and Ministry overhead) incurred by the Ministry in carrying out its oversight activities.
5. Includes depreciation on IT software and interest on a loan from the Ministry.
6. For 2019/20, the \$2.08 million surplus was mainly due to unexpected assessment fees of \$1.5 million received from first-time filers who filed in 2019/20, and \$0.5 million of underspending by the Tribunal compared with its budget.

*Condominium Management Services Act, 2015* (Act). It has a mandate to protect the public interest and promote a fair, safe and informed marketplace. This includes licensing and maintaining a public registry of condo managers and management companies; handling complaints and inquiries; conducting inspections, investigations and enforcement activities.

### 2.6.1 Key Operations and Activities

The Management Regulatory Authority is overseen by a seven-member board of directors, listed in **Appendix 6**. It had a total of 15 full-time-equivalent staff as of July 2020, including the Chief Executive Officer. See **Figure 7** for its organization chart. It provides the following key services to condo managers, management companies and the public.

#### 1. Licensing

With the passing of the *Condominium Management Services Act, 2015* (Act), all individuals or companies compensated for the provision of condo

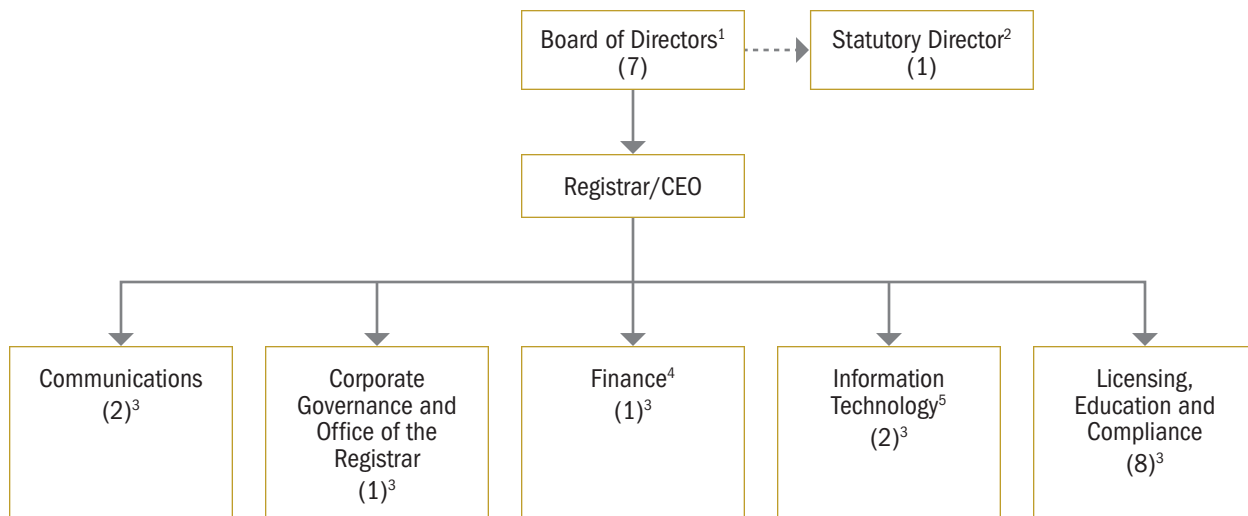
management services in Ontario are required to hold a licence.

The Management Regulatory Authority began accepting licence applications on November 1, 2017, and issues four types of licences: General, Transitional General, Limited and Condo Management Provider. Condo managers with the general or transitional general licence can work independently in providing property management services to condo corporations or can work for property management companies as employees. Condo managers holding limited licences cannot operate independently and have to work for licensed property management companies. As of July 31, 2020, there were a total of 3,369 licensed condo managers and 422 management companies in Ontario. See **Figure 8** for the type of licences issued by the Management Regulatory Authority and number of licensees.

The five property management companies employing the highest number of licensed property managers in the province are Crossbridge Condominium Services Ltd. (355 managers); Del Property Management Inc. (258); FirstService Residential Ontario (160); I.C.C. Property Management Ltd.

**Figure 7: Condominium Management Regulatory Authority of Ontario's Organization, July 31, 2020**

Source of data: Condominium Management Regulatory Authority of Ontario



1. There are two Board committees: (1) Audit and Risk Management and (2) Governance committees; and three committees reporting to the Board: (1) Discipline, (2) Appeals and (3) Management Regulatory Authority Advisory committees.
2. An individual appointed by the Management Regulatory Authority to oversee investigations and enforcement activities.
3. Staff numbers are full-time equivalents.
4. Finance is a shared resource with the Condo Authority.
5. Information Technology was a shared resource with the Condo Authority until December 1, 2019.

**Figure 8: Number of Active Licensees for Condominium Management Services, 2017/18<sup>1</sup>–2019/20**

Source of data: Condominium Management Regulatory Authority of Ontario

	2017/18	2018/19	2019/20	3-Year Change (%)
Limited Licence	197	722	958	386
Transitional General Licence <sup>2</sup>	249	711	574	131
General Licence	776	1,538	1,710	120
Condominium Management Provider Licence	68	389	410	503
<b>Total</b>	<b>1,290</b>	<b>3,360</b>	<b>3,652</b>	<b>183</b>

1. Licensing of condominium managers and condominium management providers (companies) came into effect on November 1, 2017.

2. Transitional General Licences are time limited. The last day to apply for a Transitional General Licence was March 30, 2018. Transitional General Licensees have until June 30, 2021, to complete the educational requirements and obtain a General Licence.

(97); and Wilson, Blanchard Management Inc. (85). There are 49 licensed companies with 10 or more licensed property managers in the province; 198 companies employing two to nine managers; and 175 one-person licensed property management companies. There are an additional 579 active licensed property managers not listed as employed by a property management company.

## 2. Complaints

The Management Regulatory Authority started accepting complaints from the public against licensed condo managers and management companies in April 2018. The public can file a complaint through its online complaint portal, which is available on its public website. The Management Regulatory Authority can perform a number of actions to address a complaint, in accordance with the *Condominium Management Services Act, 2015* (Act), including attempt to mediate or resolve the complaint, require the licensee to take further educational courses, issue a written warning to the licensee, refuse to license or renew a license, suspend or revoke a license and refer the complaint for inspection/investigation.

The Management Regulatory Authority can also refer the matter in the complaint, in whole or in part, to a discipline committee, made up of appointees from the condo sector such as condo managers and officers or directors of a licensed condo management company, as well as people from outside

the sector with adjudicative experience. The committee can assess a licensee's wrongdoing and has the power to impose fines on a licensee for up to \$25,000.

## 3. Inspections and Investigations

Under the Act, the Management Regulatory Authority's Board can appoint a statutory director to inspect and investigate complaints against licensed condo managers and management companies. The statutory director can also prosecute offences under the Act. Between 2018/19 and 2019/20, the Management Regulatory Authority contracted with third-party investigation firms to conduct a total of 18 inspections and six investigations as a result of complaints it received.

Of the 18 inspections, two did not find any non-compliance issues, and nine were in progress as of March 31, 2020. The Management Regulatory Authority issued written warnings to management for two of the remaining seven inspections; applied conditions for another two; and suspended or revoked the licenses for the remaining three.

Of the six investigations conducted between 2018/19 and 2019/20, two were closed due to lack of evidence and two were in progress as of March 31, 2020. In the remaining two investigations, the Management Regulatory Authority pressed charges on two individuals who were found to be providing unlicensed services; the charges were pending a court resolution at the time of our audit.

**Figure 9: Condominium Management Regulatory Authority of Ontario's Revenues and Expenses, 2017/18–2019/20 (\$ million)**

Source of data: Condominium Management Regulatory Authority of Ontario

	2017/18	2018/19	2019/20	3-Year Change (%)
<b>Revenue</b>				
Licence revenue <sup>1</sup>	1.39	2.85	2.91	109
Grant <sup>2</sup>	2.06	0.19	0.00	(100)
Other income <sup>3</sup>	0.01	0.05	0.08	700
<b>Total Revenue</b>	<b>3.46</b>	<b>3.09</b>	<b>2.99</b>	<b>(14)</b>
<b>Expenses</b>				
Salaries and benefits	1.46	1.45	1.59	9
General administration <sup>4</sup>	0.58	0.66	1.20	107
Depreciation on IT software	0.04	0.11	0.07	75
<b>Total Expenses</b>	<b>2.08</b>	<b>2.22</b>	<b>2.86</b>	<b>38</b>
<b>Excess of Revenue over Expenses</b>	<b>1.38</b>	<b>0.87</b>	<b>0.13</b>	<b>(91)</b>

1. In 2017/18, the Management Regulatory Authority charged only a prorated, eight-month licensing fee because it was designated on November 1, 2017 (the licence year runs from July 1 to June 30).
2. The Ministry of Government and Consumer Services' grant of \$2.5 million was used mostly in 2017/18 to fund start-up expenses. The balance was used in 2016/17 and 2018/19.
3. Including interest on bank account.
4. Increase in general administration was primarily due to a \$127,000 increase in occupancy costs (arising from a move to a new location in 2019/20) and \$198,000 paid to the Ministry for oversight fees, starting in 2019/20. The administrative authority model is expected to be cost neutral to the government. The oversight fee is used to cover the costs (staff time, legal costs and Ministry overhead) incurred by the Ministry in carrying out its oversight activities.

## 2.6.2 Funding and Financial Information

The Ministry provided the Management Regulatory Authority with a total grant of \$2.5 million to fund its start-up costs: \$1.5 million in 2016/17 and an additional grant of \$1 million in 2017/18.

In 2019/20, the Management Regulatory Authority's revenue was approximately \$3 million, mainly from licensing fees collected from condo property managers and property management companies. The same year, it incurred almost \$2.9 million in expenses, of which 56% were for salaries and wages. **Figure 9** shows the revenue and expenses from 2017/18 to 2019/20.

## 3.0 Audit Objective and Scope

The objective of our audit of the Ministry of Government and Consumer Services (Ministry) was

to assess whether the Ministry has effective and efficient processes in place to:

- implement, review and re-assess the support for condominium owners and condominium boards to manage their ownership interests and/or responsibilities effectively; and
- determine whether the mandates of the Condominium Authority of Ontario and the Condominium Management Regulatory Authority of Ontario are appropriate and fulfilled effectively.

The objective of our audit of the Condominium Authority of Ontario (Condo Authority) was to assess whether the Condo Authority has effective and efficient processes and systems in place to:

- carry out its mandated responsibilities—including public education, training for directors of condominium boards, handling dispute resolution and maintaining a public registry—in accordance with the *Condominium Act, 1998*, and its regulations; and

- measure and publicly report on the effectiveness of the services it provides to protect condominium owners, condominium buyers and condominium corporations.

The objective of our audit of the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) was to assess whether the Management Regulatory Authority has effective and efficient processes and systems in place to:

- carry out its mandated responsibilities—including licensing of condo managers and management companies; handling complaints, inspections and investigations; and maintaining a public registry—in accordance with the *Condominium Management Services Act, 2015*, and its regulations; and
- measure and publicly report on the effectiveness of the services it provides to protect condominium owners and condominium corporations.

In planning for our work, we identified the audit criteria (see **Appendix 7**) we would use to address our audit objective. These criteria were established based on a review of applicable legislation, policies and procedures, internal and external studies and best practices. Senior management at the Ministry, the Condo Authority and the Management Regulatory Authority reviewed and agreed with the suitability of our objectives and associated criteria.

We conducted our audit between December 2019 and August 2020. We obtained written representation from the Ministry and the two authorities that, effective October 29, 2020, they had provided us with all the information they were aware of that could significantly affect the findings or the conclusions of this report.

Our audit work was conducted primarily at the Condo Authority's and Management Regulatory Authority's offices in Toronto.

Our audit work at the two authorities included a review of the relevant documentation and data they maintained as well as a review of the internal policies and procedures they had established since

their inception. The documentation and data we reviewed were related to information filed by condo corporations, condo board directors' training, applications filed with and case hearings conducted by the Condominium Authority Tribunal, applications for condo manager and management company licences, complaints filed with the Management Regulatory Authority and the inspection and investigation files it maintained, and data included in both authorities' public registries.

Our audit work at the Ministry included reviewing relevant documentation and data related to its oversight of the two authorities, including its obligations regarding the two administrative agreements. As well, we reviewed data and analyses on the 2012–2013 review of the *Condominium Act, 1998*, and public consultations related to the condo sector led by the Ministry.

We also did the following during our audit:

- met with the chairs and current and former board members of both authorities, sent questionnaires to all of them, and reviewed their responses;
- conducted a survey of condo owners and condo board directors as discussed later in this section;
- interviewed representatives from relevant stakeholders such as the Canadian Condominium Institute, the Association of Condominium Managers of Ontario, the Consumers Council of Canada;
- spoke to several individuals, including condo lawyers, expert reserve fund study providers, condo owners and directors sitting on condo boards;
- obtained extensive advice from an external consultant; and
- researched best practices from other jurisdictions, including other Canadian provinces, the United States and other countries such as Ireland and Australia.

The scope of our audit work did not include tenants living in condos, as they are not governed under the *Condominium Act, 1998*, but covered

under *Residential Tenancies Act, 2006*, which is administered by the Ministry of Municipal Affairs and Housing.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standard on Quality Control and, as a result, maintains a comprehensive quality-control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Chartered Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

### 3.1 Survey Demographics

We conducted two surveys in June 2020 and asked a selected number of condo boards and condo owners to complete our surveys, which informed our audit work. We conducted the surveys because the Condo Authority collects only basic and limited information about corporations and directors.

#### Survey of Selected Boards of Condo Corporations

We selected condo corporations registered in 1980 and 2000 in order to include condo buildings of varying ages. We examined expert evaluations of these condos that determined whether they had adequate funds to conduct the necessary replacements of expensive components and areas of the

condos; for example, boilers, heating and cooling systems and windows.

We selected condo corporations registered in 2016 to include more recent buildings to examine their budgets and expenses in the first few years after registration.

We sent surveys to a total of 691 boards of condo corporations and received responses from 220 (response rate of 31%). We also asked the condo boards for specific documents, including budget statements, financial statements and reserve fund studies, which we used to inform our audit work. We received these documents from 27 condo boards.

Of the 220 condo boards that responded to our survey, we obtained the addresses of 219 condo corporations that they served; the address of one condo corporation was not available to us. We noted that 81 condo corporations (or 37%) were located (or registered) in Toronto; 66 (30%) were in the central region of the province; 36 (16%) were in the western region; 28 (13%) were in the eastern region; and eight (4%) were located in the northern region.

#### Survey of Selected Condo Owners

We selected 4,500 condo owners randomly to include newer condo owners as well as condo owners who contacted the Condo Authority with questions or concerns. We received responses from 903 condo owners (response rate of 20%).

Of the 903 condo owners who responded to our survey, 805 owners provided the address of their condo units. We noted from the addresses that 38% owned a unit in Toronto; 32% in the central region; 14% in the eastern region; 13% in the western region; and 3% in the northern region.

Of the 903 owners, 81% were resident owners and 19% were not residing in their unit. Of the 19% who were not residents, 14% rented their unit long-term (that is, one year or more) and 5% either had a family member staying in the unit or left the unit empty.



## 4.0 Detailed Audit Observations

### 4.1 Purchase of Condominiums

#### 4.1.1 Condo Purchases Complicated by Lack of Standard Documents

Our audit found that the buyers of a new condo face disadvantages when buying their home due to the lack of standard contract documents. We found, for example, that 49% of 415 new condo buyers who responded to our survey indicated that the condo that they took possession of did not meet their expectations in areas such as square footage, parking and amenities.

The *Condominium Act, 1998*, (Act) does not require developers to use standard agreements for purchase and sale (contracts) or declarations. Also, the Act does not require developers to use standard documents when providing information to purchasers of new condo units, such as the disclosure statement. Real estate agents use their standard Ontario Real Estate Association forms for the resale of a condo unit, but developers provide the forms for the sale of a new unit. Therefore, developers are able to use complicated documentation that is specific to each development and that can be as much as 100 pages. As a result, condo buyers can find it difficult to understand what they are buying into and what the developer is required to provide under the contract. In addition, not all buyers are getting legal assistance for their purchase. In our survey, we asked: “When you purchased your condo (pre-construction or resale), did you obtain legal advice?” Of the 833 responses, 610 (73%) replied “yes,” but 223 (27%) answered “no.”

Developers may include square footage and floor plan information in their promotional materials to market their new developments to potential buyers, but the legal contracts that govern the purchase often do not include this information and specifically mention that promotional materials are

not binding. In our examination of contracts, we observed that if floor plans or square footage were mentioned in the contracts, they were specifically described as “artist’s conception” or “subject to change.” We consulted an expert in condo law who acknowledged that certain important matters such as square footage and floor plans are usually not included in most contracts. The documents that we examined included language that provided developers the sole discretion to change important attributes without notifying the purchaser. These include layout; size (square footage); balcony size; window location, size and height; number and location of elevators; amenities, such as fitness rooms or business facilities; and arrangements for sharing facilities (such as garbage and recycling areas and services) with commercial operators in the building.

We noted an instance where an owner indicated the condo had fewer square feet than they had been led to expect. Further, the developer had promised a garage door for an underground parking garage but did not provide one when the condo was completed. The owner described this as contributing to vehicle break-ins and fear regarding security among the condo residents, especially at night.

The Ministry acknowledges on its website that declarations “vary widely and are often difficult for condo buyers to read and understand.” The government changed the Act in 2015 to allow it to require standard declarations and disclosure statements; however, these changes were not in force at the time of our audit. The Ministry did not indicate any intention to develop regulations related to these changes at the time of our audit.

### RECOMMENDATION 1

To better protect buyers of new condominium units, we recommend that the Ministry of Government and Consumer Services look to implement the following:

- set standard terms and forms for key documents relating to the purchase of new condo

units, such as the agreement for purchase and sale (contract), declaration and disclosure statement; and

- require developers to comply with these standard terms and forms when selling new condos to buyers and clearly identify where the documents used differ from the standard.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that buyers of condominium properties would benefit from greater clarity regarding their condo purchases. Options for the government's consideration will be informed by the Auditor General's recommendations.

These recommendations would require developing potential legislative and regulatory proposals, which would involve consultations with the public to assess impacts on the condo sector.

Amendments to the *Condominium Act, 1998* relating to a condominium guide were proclaimed into force recently. As a result, the Condominium Authority of Ontario will be responsible for publishing a condominium guide by January 1, 2021, that will include information to better inform purchasers about the process of buying a condo unit and about condominium living.

### 4.1.2 Initial Developer-Set Condo Fees Are Typically Understated

Our audit found that many developers of new condo buildings had sold units using understated amounts for condo fees in their initial budgets and did not include all the expenses that a condo corporation was expected to incur. As a result, condo buyers could purchase a condo unit based on inaccurate cost estimation information—generally lower than actual—of how much they would

have to pay for condo fees in the first few years. We noted that there were condo fee hikes in the first two years of a condo building's life.

In our survey of condo boards registered in 2016 (discussed in **Section 3.1**), 47 boards of the 64 that responded to our survey question indicated that they experienced increases in condo fees in the first two years after the condo's registration. For example, 29 condo boards indicated increases in the first year compared with the developer's budget. Of the 29, 15 (52%) noted the increases were between 10% to 29%; 11 (38%) noted increases of 30% and higher; and three (10%) did not know the percentage of increase.

Of the 29 boards above, 19 (66%) also experienced increases in the second year compared with the first year's expenses; four (21%) noted of between 11% to 29%; another four (21%) noted of 30% or higher; and 11 (58%) noted of 10% or less.

The condo boards that responded to our survey question provided the following reasons for the increases:

- 40% of boards indicated that the reserve fund study (conducted within the first year after registration) had resulted in increased expenses. See **Sections 4.1.3** and **4.1.4** for more details on this;
- 26% indicated that the condo corporation had become responsible for costs that were deferred or otherwise not payable in the first year, such as elevator maintenance contracts;
- 12% indicated that the condo corporation became responsible for costs for assets that might normally be part of the common areas (for example, guest suites);
- 12% indicated other reasons for the increase, including unexpected hydro expenses and gardening costs; and
- only 10% indicated that the increase was due to costs that the developer could not reasonably have foreseen.

We also examined second-year audited financial statements compared with the developers' budget statements for seven condo corporations registered

in 2016. We found that six of them indicated an average increase of 77% in their condo fees, compared with the developers’ budget, and one indicated a decrease of 10%.

The impact of understated condo fees was reflected in our survey of condo owners where of the 691 owners responding to our question, 75% of them (518) indicated that they had experienced increases in condo fees ranging between 10% to over 50% in the five years prior to August 2020. See **Figure 10** for the range of percentage increases for these 691 owners. In answering another question where we asked whether these increases in common expenses and related condo fees had been explained to their satisfaction, 45% (327 of 734) indicated that they had not been. See **Figure 11** for two specific examples from our owner survey results of increases caused by developers understating the condo fees.

Under the Act, a developer must provide new condo buyers with a budget that estimates how much the common expenses—and condo fees—will be for the first year after the condo is registered. However, some developers have omitted, understated or deferred maintenance costs to subsequent years, to understate condo fees in their budgets. In these cases, the condo corporation subsequently becomes responsible and has to re-budget for costs that were originally excluded by the developers

from the original budget statements that were provided to new condo buyers, and could have been used in new condo buyers’ decision-making on whether to purchase a new condo.

The Ministry as well as the Condo Authority only warns potential buyers about this practice. For example, the Ministry notes on its website that “a condo developer may defer some of a [condo] corporation’s operating costs and not include them in the first-year operating budget. A [condo] unit’s monthly fees can rise sharply once these costs take effect.” However, the Ministry does not indicate

**Figure 10: Percentage Increase in Condo Fees Reported by Condo Owners Surveyed by the Office of the Auditor General of Ontario**

Prepared by the Office of the Auditor General of Ontario

% Increase in Condo Fees over Five-Year Period Prior to August 2020	# of Survey Respondents	% of Survey Respondents
<10%	173	25
10%-19%	238	35
20%-29%	117	17
30%-39%	79	11
40%-49%	40	6
50%>	44	6
<b>Total</b>	<b>691</b>	<b>100</b>

Note: Shaded area in grey shows that 75% of survey respondents indicated that they had an increase in condo fees of 10% or more over the five-year period.

**Figure 11: Examples of Condo Fee Increases Caused by Developers Understating Condo Fees**

Source of data: Condo Owner and Board Surveys conducted by the Office of the Auditor General of Ontario

**Example 1**

An owner indicated to us that they had moved in 2016 into a new condo building of over 150 units and became a member of the board. The owner indicated that the developer had understated certain operating costs or neglected to include costs in the budget by shifting them to the second year of operations. Two items not included in the developer’s budget for the first year were the contract for elevator maintenance (\$15,000) and the payments on the guest suite mortgage (\$40,000)—initially held by the developer. Along with revisions to other expenses, these items contributed to a 38% increase (from \$678,000 to \$935,000) in the owners’ condo fees in the second year. This developer also has projects in the Toronto and the Durham regions.

**Example 2**

In the case of one condo building registered in 2015 with approximately 30 units, the board had to increase condo fees by a total of 62% over a four-year period after the condo was registered. This was because the developer had under-budgeted for operating expenses. Therefore, the condo corporation had to double the developer’s estimate for operating expenses, including maintaining the grounds, utilities, and legal and audit costs, from about \$28,000 to \$56,000. Also contributing to the 62% increase was that the condo’s reserve fund study showed it was necessary to significantly increase reserve fund contributions to meet future expenses (see **Section 4.1.4**).

potential solutions on its website for owners who experience these increases.

The Act states that if the costs incurred by the condo corporation for common area expenses in the first year after registration are more than what the developer disclosed in the budget statement, the condo board can claim the difference from the developer. The board must make the claim within only 30 days of receiving audited financial statements for the year, which the developer is required to pay within 30 days of receiving the claim. However, we noted that to enforce this, the condo corporation must go through private mediation and arbitration, and if that fails, seek a court order. Also, making a claim can begin a protracted legal battle with the developer—someone with deep pockets who has experience in such disputes. For example, we examined two instances of condos where the boards experienced significant increases in condo fees and had attempted to recover the difference between the actual costs incurred by the condo corporations and the budget statements from the developers. See **Figure 12** for details on these two examples.

Many changes to the Act were made following its 2012–2013 review to address these issues, but they were still not in force at the time of our audit. These unproclaimed changes to the Act include:

- giving condo corporations 90 days, as opposed to 30, to make a claim against the developer;
- adding a requirement that the developer must disclose:
  - any expenses that the developer knows about—or should know about—that will arise after the first year after registration;
  - the reasons for the expenses, and
  - whether these will increase condo fees; and
- making the developer responsible for the amount of first-year contributions to the reserve fund, to be determined according to regulations, if the developer’s budget statement did not include an amount for the reserve fund that met the requirements of the regulation.

**Section 4.5.3** lists other key legislative changes that were not in force as of July 2020.

We noted that other provinces have put more provisions in place to protect condo owners and boards. For example:

- In Nova Scotia and Newfoundland and Labrador, the developer must put money in trust to be available to the condo corporation if the developer understates common area expenses. This is not required in Ontario.

## Figure 12: Examples of Condo Boards Filing Claims Against Developers for Condo Fee Increases

Source of data: Condo Board Surveys conducted by the Office of the Auditor General of Ontario

### Condo 1

This condo, with approximately 40 units, described increases arising because of inadequate budgeting on the part of the developer and excessive spending on the part of the condo manager. The condo board advised that it had initially retained legal counsel to pursue a claim against the developer. However, they indicated that proceedings had been delayed. Meanwhile, the condo’s costs to pursue the claim are continuing to increase. The condo board indicated that it was pursuing the claim, still in arbitration, without legal counsel because it could not afford a lawyer.

### Condo 2

This condo, also with approximately 40 units, indicated that it had experienced cost increases arising from past decisions made by the developer to substitute construction materials (for example, in constructing the roof). The condo board indicated that it had launched an action but later decided to abandon the matter. Its counsel advised the board that the time and expense of a lawsuit would not be worth it. Even if the condo corporation won, it would be unlikely to recover money from the developer, because the developer had utilized another firm to develop the property and that company had insufficient assets to pay a settlement.

### Figure 13: Examples of Condo Owners Facing Significant Financial Hardship due to Condo Fee Increases

Source of data: Condo Owner Surveys conducted by the Office of the Auditor General of Ontario

#### Example 1

A condo with over 20 units had fees that went up by 106% after the first year. The condo manager informed the owner that the increases were largely due to an increase in administration expenses from \$3,500 to over \$25,000, including condo manager fees and audit fees. The owner indicated that they had initially been told by the developer that fees would remain minimal and that they (the owner) had not planned for an increase in fees in their own household's budget. As a result, the unexpected increase was very difficult for them to manage. The owner also indicated that with the increase in fees, the condo was priced above the market and it would be difficult to sell.

#### Example 2

A condo owner took possession of their unit at the end of February 2017. The owner indicated that special assessments (an additional payment or a levy that a condo board has to impose on condo owners when there is not enough money in the reserve fund) had totalled over \$100,000 for their unit alone, since February 2017. The owner attributed the special assessments to poor management and maintenance at the condo. When another property management company took over, a new reserve fund study found that significant maintenance of several costly components (such as the elevators, underground parking garage and balcony slabs) would be required in the next few years. To pay for their portion of the special assessments, the owner had to withdraw money from investments that formed part of their savings. These unplanned withdrawals also led to significant individual income tax increases.

- In British Columbia, developers that understate expenses have to pay a penalty. If expenses are at least 10% more than the budget statement, the developer has to pay twice the amount to the condo corporation. If expenses are at least 20% more, the developer must pay three times the amount to the condo corporation. There are no similar provisions in Ontario.

We also noted that more than 30% of the condo owners we surveyed indicated that increases in common area expenses and related condo fees within the last five years had imposed significant financial hardship. We noted two further examples detailed in **Figure 13**.

### RECOMMENDATION 2

To better protect buyers of new condos and minimize the risks of developers understating common area expenses, we recommend that the Ministry of Government and Consumer Services look to implement the following:

- require additional disclosure by developers of expected increases to common area expenses;

- give condo boards more time, such as 90 days, to claim increased amounts spent on common area expenses compared with the developer's budget statement; and
- implement best practices from other jurisdictions, such as requiring developers to place money in trust to be available to the condo corporation if the developer understates common area expenses; or that developers have to pay a penalty if they were found to understate condo expenses by a set percentage compared with their budget statements.

### MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that buyers of condominium properties would benefit from greater clarity about condo purchases, including common expenses. Options for the government's consideration will be informed by the Auditor General's recommendations.

These recommendations would require developing potential legislative and regulatory proposals, which would involve consultations with the public to assess impacts on the condo

sector, including impacts on the housing supply and/or potential increases to the cost of housing.

As mentioned in **Recommendation 1**, certain amendments to the *Condominium Act, 1998* that relate to a condominium guide were recently proclaimed into force. As a result, the Condominium Authority of Ontario will be responsible for publishing a condominium guide by January 1, 2021, that will include a general warning that common expense fees may increase over time, to better inform purchasers.

#### 4.1.3 Majority of Condo Boards Surveyed Were Required to Increase Reserve Fund Contributions by an Average of 50%

Condo fees paid by owners cover monthly operating expenses and also include an amount that the condo corporation sets aside to pay for future major repairs and replacement of the building's assets and other common areas. This amount goes into a reserve fund. We found that 69% of condo boards registered in 1980 and 2000 from our survey whose recent financial documentation we examined (22 of 32) did not have adequate amounts set aside in their reserve funds. On the basis of the reserve fund studies, they were required to pay higher contributions to their underfunded reserve funds, with increases ranging from 3% to 258%, with an average increase of 50%, over a period of 1 to 10 years (**Figure 14**).

For example, Condo 5 in **Figure 14**, an 11-unit condo registered in 2000, had the highest increase of 258%. It was phased in over seven years. The condo's increased costs were due to repairs to roofing, drainage and retaining walls, and required each unit's annual reserve fund contributions to increase from about \$1,000 to over \$3,600.

In addition, 29% of the condo boards that responded to our survey question (36 of 124) indicated that within the last five years, they had needed to raise funds through special assessments. Assessments are an additional payment or a levy

that a condo board has to impose on condo owners when there is not enough money in the reserve fund.

We examined one condo built in 2000 with over 100 units. The board indicated that it needed \$1.6 million more than budgeted to cover roof repairs needed earlier than expected, as well as balcony repairs and unanticipated repairs due to a water leak. Not wanting to increase the condo fees for an extended period and potentially hurt resale values, it decided to raise the money through special assessments over four years. These totalled more than \$15,000 per unit.

#### Period of 30 Years Is Too Short for Reserve Fund Budgeting

We found that the regulations relating to reserve funds do not require condo corporations' reserve fund studies to budget for necessary major repairs and replacements for the building beyond a window of 30 years at any point in time. We noted that because expensive items, like boilers, windows and building cladding, may only require replacement 40 to 50 years after construction, condo boards often do not budget for them in the first 10–20 years. This can eventually cause serious financial difficulties for condo boards and owners because expenses for major repairs and replacements are not allocated evenly over the life of the building. For the first 20 years, less is required. After that point, more extensive and expensive repairs and replacements begin to have to be made. These can result in significantly higher condo fees or special assessments.

**Figure 15** is a real-life example obtained from an expert reserve fund study provider. The figure shows the estimated expenditures for repair and replacement for a condo, Condo A, over 60 years. Condo A was constructed in 2018 with over 300 units. It has amenities such as a fitness room, social rooms, guest suite and pool. The types of expenditures not included in the 30-year time frame include repair and replacement of the building's elevators, and parts of the building's cladding, win-

**Figure 14: Increases in Required Annual Contributions per Unit to Reserve Fund**

Prepared by the Office of the Auditor General of Ontario

Condo*	Before Increase (\$)	After Increase (\$)	Change (\$)	Change (%)	Phase-in Period (Years)
<b>Condo Corporations Registered in 1980</b>					
1	2,208	3,349	1,141	52	3
2	2,045	2,615	569	28	3
3	4,800	5,921	1,121	23	3
4	3,114	3,473	358	11	2
<b>Condo Corporations Registered in 2000</b>					
5	1,014	3,635	2,621	258	7
6	2,828	6,061	3,234	114	8
7	2,792	5,363	2,572	92	10
8	2,806	5,024	2,219	79	10
9	1,701	2,809	1,107	65	3
10	879	1,407	528	60	1
11	868	1,279	412	47	6
12	4,474	7,109	2,635	59	8
13	361	506	145	40	5
14	1,917	2,589	672	35	4
15	2,821	3,749	928	33	3
16	1,563	1,992	429	28	2
17	2,183	2,749	567	26	3
18	1,480	1,774	294	20	1
19	1,982	2,308	326	16	2
20	3,148	3,554	406	13	1
21	2,177	2,329	152	7	1
22	2,002	2,069	67	3	1
<b>Average</b>				<b>50</b>	

Note: Through our survey, the condominium corporations provided us with reserve fund studies and related notices. The condominium corporations used varying phase-in periods.

\* Condo number assigned by the Office of the Auditor General of Ontario.

dows, electrical systems and balconies, including railings.

The first arrow in **Figure 15** shows the expenditures included in the initial 30-year time frame for reserve fund studies, mandated by the provisions of the *Condominium Act 1998 (Act)*. The increasing cost of major expenditures for the years after year 30 are not included in the 30-year time frame of the reserve fund study.

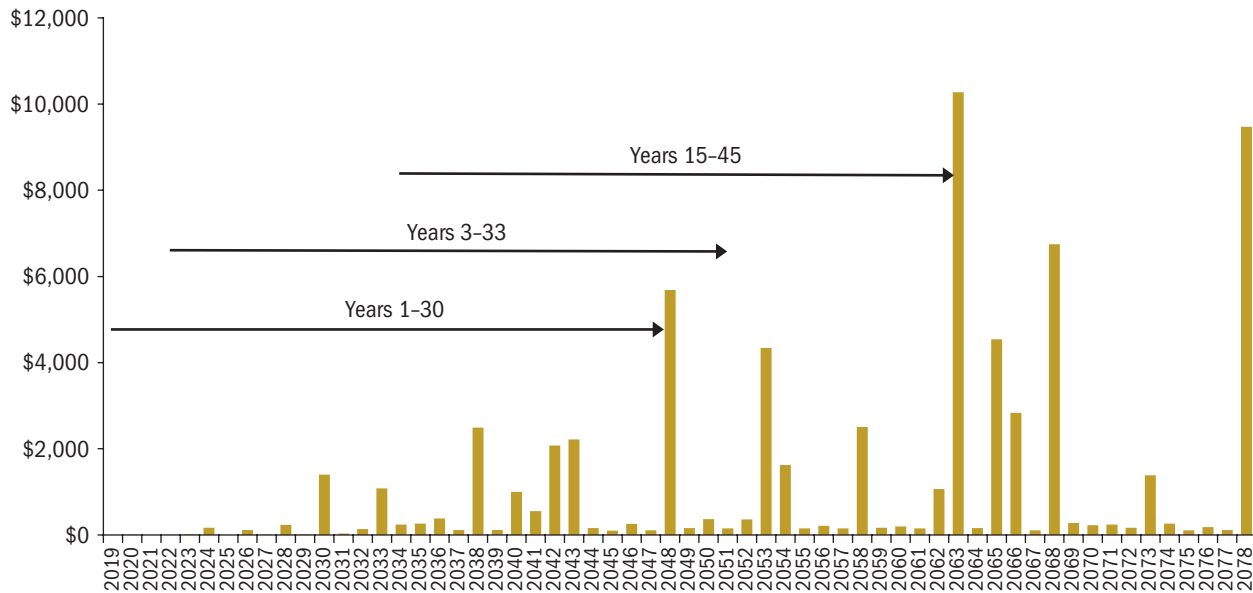
Every three years, Condo A is required to obtain an updated reserve fund study. After several years

and at least one more study, this condo board and the owners may still be unaware that they have been paying too little. Every three years, a new reserve fund study will replace relatively inexpensive years of repairs and replacements with more expensive years. For the period shown by the third arrow, if the reserve fund study has used the 30-year time frame for assessing expected expenses, Condo A will be trying to catch up.

Condo fees will go up more dramatically than if, from the start at registration, the condo owners had

**Figure 15: Estimated Expenditures for Repairs and Replacement for Condo A (\$ 000)**

Source of data: Anonymous reserve fund study



been paying for fees based on a 45-year or 60-year budget period for the reserve fund.

Our experts in reserve fund studies indicated that by increasing the budget window to 45 to 60 years, condo corporation budgets will include most of the expensive items. This will allow the cost of maintaining the condo building to be spread more equitably for both current and future owners of the condo building's units.

The changes to the Act subsequent to the 2012–2013 review included a change that would allow the government to set regulations stating what amount of funding is adequate for a reserve fund. We found that Ministry planning documents relating to this change indicated that it would allow the government to specify in regulations how a board would have to achieve an adequately funded reserve. Such a fund would not require further increases in contributions beyond the rate of inflation before the next reserve fund study was conducted. The Ministry's view, at the time, was that this would prevent condo corporations from intentionally shifting the burden of maintaining the condo corporation to owners in the future. The Ministry sought further input on the area of reserve

funds in 2020, but has not made any decisions regarding implementing the changes.

We noted that potential buyers and future owners of units in these condo corporations would be paying for the repair and replacement of condo assets that they did not enjoy the use of. They would also be required to pay higher than normal condo fees to make up for the previous underfunding. This further impacts the resale value of condo units in these corporations. For example, one condo unit in the GTA that we examined was being sold for a price that was significantly lower than the market value. On examination, this reflected the poor condition of the condo building, past serious underfunding of the condo's reserve fund, and large increases in required contributions faced by owners in order to try to improve the condition of the condo. Past owners had not paid what they should have to maintain the building. New owners would be expected to pay for the deteriorated building. Moreover, we were advised by a real estate professional that new purchasers in this building would not be able to obtain mortgages for units in the building because of the condo's finances and expected future demands on owners.



### RECOMMENDATION 3

So that condominium corporations are required to set aside sufficient resources to safely and properly maintain condominiums, we recommend that the Ministry of Government and Consumer Services look to:

- extend reserve fund studies of condo buildings to include the cost of repairs and replacements looking forward 45 to 60 years, instead of 30 years;
- set thresholds and define adequacy of reserve funds; and
- work with the Condominium Authority of Ontario to raise awareness and communicate this issue in a clear and understandable manner.

### MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that condominium corporations should set aside sufficient resources to safely and properly maintain their property and assets. Options for the government's consideration will be informed by the Auditor General's recommendations.

These recommendations would require developing potential legislation and regulations proposals, which would involve consultations with the public to assess impacts, including regarding potential additional costs to condo owners.

As mentioned in **Recommendation 1**, amendments to the *Condominium Act, 1998* that relate to a condominium guide were recently proclaimed into force. As a result, the Condominium Authority of Ontario will be responsible for publishing a condominium guide by January 1, 2021, that will include information about reserve funds and a general warning that common expense fees may increase over time, to better inform purchasers.

### RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario will work in partnership with the Ministry of Government and Consumer Services to raise awareness and communicate in a clear and understandable manner to condominium corporations the importance of setting aside sufficient resources for the safe and proper maintenance of their condominium. This will include consideration for the best approach and time frame for estimating reserve funds.

#### 4.1.4 Condo Buyers at Risk of Higher-than-Expected Fees When Reserve Fund Contributions Start Too Low

Our audit found that buyers of new condos are also at risk of facing higher-than-expected fee increases because reserve funds start out underfunded. The Act provides that the original contributions to the reserve fund (as reflected in the developer's budget) should be the greater of: (1) the amount reasonably expected to be enough, and (2) 10% of estimated common expenses, not including what is set aside for the reserve fund. The expert reserve fund study providers we consulted agreed that most developers only use (2) to calculate reserve fund contributions, and that this results in underfunding and making condo fees appear lower for potential buyers of condo units. The experts we interviewed indicated that any reasonable estimate for the first budgeted reserve fund would always be significantly more than 10% of common expenses. In our view, this indicates widespread non-compliance with the legislation. A developer making a misleading statement is an offence under the Act, and the government has not prosecuted any developer for this offence, as detailed in **Section 4.5.2**. The Condo Authority does not have the mandate to enforce this offence under the Act.

We found in our survey of condo boards that 72% of the boards that responded to the question

indicated that developers based the reserve fund on 10% of common expenses. Fourteen percent of boards indicated that the developer used between 13% to 20% of estimated common expenses to calculate reserve fund contributions. The remaining 14% of the boards did not indicate the amount of reserve fund contributions estimated by the developer. Therefore, buyers of new condos are likely at risk of reserve fund contribution increases and special assessments in the following years after purchasing their condo. As noted in **Section 4.1.3**, most of the condos we examined required significant increases in contributions to their reserve funds.

We noted a case where a condo's developer had set the annual reserve fund contribution at \$200,000. This represented 15% of the budgeted operating expenses, more than the 10% budgeted for by most other condos we examined. Nevertheless, if contributions were kept at that amount (and with both contributions and expenses not adjusted for inflation for this comparison), total reserve fund contributions for 60 years (a period that would include the major expenses the condo will face as well as the inexpensive early years) would equal only about 18% of the total money that would actually be required for major repairs and replacements, leaving an 82% shortfall. As a result, this condo needed to make significant increases to its reserve fund contributions in the years after it was registered. After six years of increases, each owner will be required to pay an additional \$2,400 per year in reserve fund contributions through their condo fees, four times the original \$600 per year budgeted for by the builder.

Industry advocates have proposed to the government that the developer's original budget for the reserve fund should be supported by a preliminary reserve fund study. This would provide for more supportable reserves, as they would not be set arbitrarily based on operating expenses—which experts advise us have no relation to the cost of repair and replacement over the life of the building—but would be set on actual needs or what is more

reasonably expected to be sufficient. However, the Act does not currently impose this requirement to protect buyers of new condos. We are not aware of any other Canadian jurisdiction that imposes this requirement; however, given the continuing extensive use of condos for housing in Ontario, it seems reasonable that Ontario should be a leader in protecting buyers of new condos.

## RECOMMENDATION 4

For there to be sufficient funding of the long-term reserve from the outset and for condominium fees to realistically accrue sufficient funds to handle the long-term repair and replacement needs of the building, thus protecting condominium owners from unexpected financial shocks, we recommend that the Ministry of Government and Consumer Services look into removing the option of developers basing reserve fund contributions on 10% of operating expenses and replacing this option with a requirement to have the contributions be supported by a third-party reserve fund study.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that condominium corporations should have sufficiently funded reserve funds. Options for the government's consideration will be informed by the Auditor General's recommendation. This recommendation would require developing potential legislative and regulatory proposals, which would involve consultations with the public to assess impacts, including on the housing supply and/or potential costs to condo owners.

## 4.2 Condo Management

### 4.2.1 Hundreds of Unlicensed Individuals and Companies Provide Condo Management Services

We identified 316 individuals and 156 companies (in total 472) that did not hold licences to provide condo management services but were listed in the Condo Authority's public registry as providing condo management services, and associated with 713 condo corporations, as of February 2020. As shown in **Figure 16**, which lists the number of unlicensed individuals or companies providing condo management services, 64% of the 713 condo corporations, that they were associated with were larger corporations with more than 20 condo units each, accounting for over 44,000 condo units in total.

Under the *Condominium Management Services Act, 2015*, condo board directors are allowed to self-manage their condo corporation without a licence, as long as they are not being compensated for providing condo management services. We noted that almost 40% of the 316 unlicensed individuals were also listed as active condo directors. However, the Management Regulatory Authority does not verify whether these individuals—who are also listed as active condo directors—are being compensated for providing condo management services, which would require a licence.

We found that the Management Regulatory Authority also does not proactively identify unlicensed individuals and companies that are listed on the Condo Authority's public registry as condo managers. Such verification can be started by annually comparing the information reported by condo corporations to the Condo Authority. We noted that both the *Condominium Act, 1998*, and the *Condominium Management Services Act, 2015*, allow the two authorities to share information between them to exercise their duties. In January 2019, the two authorities signed an agreement that specifies the needed information, such as names of

**Figure 16: Condo Corporations Associated With Unlicensed Individuals or Companies Categorized by Number of Units, February 2020**

Source of data: Condominium Authority of Ontario

# of Units	Condo Corporations	
	#	%
1-20	256	36
21-50	224	31
51-100	113	16
101-300	96	13
301-731	24	4
<b>Total</b>	<b>713</b>	<b>100</b>

Note: Shaded area in grey shows that 64% of the 713 condo corporations had more than 20 condo units each, hence were larger condo corporations.

condo managers and companies, to be shared, and how and when they are to be shared.

Notwithstanding the legislation and the data-sharing agreement, the two authorities do not have a process to cross check the information collected by each of them and identify and investigate anomalies such as unlicensed condo managers and management companies. The Management Regulatory Authority started to follow up on the discrepancies after we brought this situation to its attention.

Condo boards delegate many of their responsibilities to condo managers and management companies, so it is crucial for these individuals to complete the educational requirements, accumulate the experience and obtain the supervision needed for them to be licensed. The courses taken for licensing cover areas such as condominium law, physical building management, financial planning for condominium managers, and condominium administration and human relations. Licensed condo managers and companies are also obligated to comply with legislative requirements (**Appendix 3**) and a code of ethics, giving further security to condo corporations.

We sampled 50 condo managers and management companies and contacted their boards to confirm whether or not they were providing unlicensed property management services. We received a 74% response rate from the boards and learned that 30

of the 50 condo managers and companies (60%) were unlicensed, with 26 of them continuing to provide management services as of August 2020. From the information available to us, we could not confirm whether the 30 condo managers and companies were being compensated for their property management services. Therefore, the Management Regulatory Authority needs to further investigate these managers and companies.

In addition, we researched all 156 unlicensed management companies and found that 59 of these companies (38%) were advertising themselves as providing property management services, including residential, commercial and/or rental properties, to seek clients.

## RECOMMENDATION 5

As required under the *Condominium Management Services Act, 2015*, to enforce that only valid licence holders perform condo management services, we recommend that the Condominium Management Regulatory Authority of Ontario work with the Condominium Authority of Ontario to:

- share the data on property managers and management companies collected by both authorities regularly;
- reconcile and confirm the completeness and accuracy of the data;
- identify the names of property managers and management companies that are not licensed; and
- follow up with the condo boards that employ the unlicensed managers and companies, find out whether they are providing unlicensed services and receiving compensation, and take appropriate enforcement actions under the *Condominium Management Services Act, 2015*.

## RESPONSE FROM THE CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

The Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) supports this recommendation. The Management Regulatory Authority has started to investigate the discrepancies identified by the Auditor General and will continue to examine all cases where unlicensed individuals and companies have been identified in the Condominium Authority of Ontario's registry as providing condominium management services.

This will support broader compliance with the licensing requirements under the *Condominium Management Services Act, 2015*, and improve data quality. The Management Regulatory Authority will proactively contact condo boards that have identified unlicensed individuals or companies in their condo returns and ensure that management services are provided only by valid licence holders and those who are exempt under Regulation 123/17.

## RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario (Condo Authority) agrees with the recommendation. The Condo Authority has been working with the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) to develop a technology solution that will allow for the sharing of data relating to both licensed and unlicensed managers or management companies as they are entered into the Condo Authority's database. This will allow for the verification of the completeness and accuracy of licensee data that is provided to the Condo Authority through the filing of condominium returns by each condominium corporation, and for notification of the Management Regulatory Authority.

#### 4.2.2 Nearly Half of the Owners' Complaints in Our Sample Received Limited Action by the Management Regulatory Authority

The Management Regulatory Authority received a total of 1,500 complaints between April 2018 and March 2020. Although it summarized the types of complaints and the turnaround time, it did not systematically summarize the types of actions taken and their outcomes across all complaints. As a result, it was unable to confirm that appropriate and consistent action was taken to resolve the complaints. As well, the Management Regulatory Authority does not have a formal policy in place specifying what types of action should be taken based on the nature and the issues of the complaints.

We reviewed a random sample of 200 complaints out of the total 1,500 and conducted our own analysis on what actions the Management Regulatory Authority took to address these complaints and how they were resolved. **Figure 17a** shows the top 10 issues we noted in our analysis. We also found that while the Management Regulatory Authority addressed 103, or 51%, of the

200 complaints appropriately, it took no action or limited action on the remaining 97, or 49% (**Figure 17b**) for a number of reasons. Examples of the Management Regulatory Authority's limited action included: the Management Regulatory Authority did not follow up when the complainant did not respond to the Management Regulatory Authority's call or email (28% of complaints); and the Management Regulatory Authority relayed information from the manager to the complainant but closed the case too soon, before ensuring that the underlying issues were resolved (12%). Some complaints related to serious allegations, and we found that the Management Regulatory Authority should have done more to resolve or address the issue, such as further inspection or investigation of the complaint. Many complaints relating to leaks and floods (22) and other repair issues, including infestation (19), as shown in **Figure 17a**, were still unresolved after over 12 months. See **Figure 18** for two specific examples where we noted that the Management Regulatory Authority closed the case too soon, before ensuring that the underlying issues were resolved.

**Figure 17a: Top 10 Issues from a Sample of Common Complaints Received by the Condominium Management Regulatory Authority of Ontario, April 1, 2018–March 31, 2020**

Prepared by the Office of the Auditor General of Ontario with data from the Condominium Management Regulatory Authority of Ontario

	# of Complaints <sup>1</sup>	% of Total
1. Mismanagement of funds	27	13
2. Payment disputes	23	11
3. Leaks and flood repairs	22	11
4. Other repairs (such as common areas, no hot water, lighting, infestation)	19	10
5. Condominium corporation records	19	10
6. Board of Directors elections (for example, processes and proxies)	15	8
7. Board of Directors decisions	15	8
8. Allegations of individuals providing condo management services without a licence	12	6
9. Safety and security (such as chemicals, electrical, carbon monoxide and fire)	7	3
10. Breach of privacy and confidentiality of director or owner information	6	3
Other <sup>2</sup>	35	17
<b>Total</b>	<b>200</b>	<b>100</b>

1. The Office of the Auditor General of Ontario sampled 200 complaints out of the total 1,500 complaints that the Management Regulatory Authority received over the period.

2. Other includes areas such as odours, property manager conduct and frequency of board meetings.

**Figure 17b: Summarized Results of Actions Taken by Condominium Management Regulatory Authority of Ontario for Sample of 200 Complaints,\* April 1, 2018–March 31, 2020**

Prepared by the Office of the Auditor General of Ontario with data from the Condominium Management Regulatory Authority of Ontario

	#	%
<b>Appropriate action was taken for the following reasons:</b>		
Complaint fell outside of the Management Regulatory Authority's jurisdiction	32	16
Interviewed both complainant and manager and concluded manager was not at fault	27	14
Interviewed both complainant and manager, concluded manager was at fault and reminded them of their obligations or suggested they take action to rectify the issue	25	12
Complainant resolved the issue on their own and no further action was needed	10	5
Complaint was referred for an inspection or investigation	9	4
<b>Subtotal</b>	<b>103</b>	<b>51</b>
<b>No or limited actions were taken for the following reasons:</b>		
Complainant did not respond to the Management Regulatory Authority's call or email	56	28
Interviewed both complainant and manager, but only relayed information updates from manager to complainant	26	12
There was insufficient documentation to identify what actions were taken	9	5
Complainant could not provide the evidence requested by the Management Regulatory Authority	3	2
Complainant wished to remain anonymous	3	2
<b>Subtotal</b>	<b>97</b>	<b>49</b>
<b>Total</b>	<b>200</b>	<b>100</b>

\* The Office of the Auditor General of Ontario sampled 200 complaints out of the total of 1,500 complaints that the Management Regulatory Authority received over the period.

**Figure 18: Examples of Condominium Management Regulatory Authority of Ontario Closing Owner Complaints, before Ensuring Resolution of Underlying Issues**

Source of data: Condominium Management Regulatory Authority of Ontario

#### Example 1

In March 2019, a condo owner submitted a complaint to the Management Regulatory Authority regarding a pigeon infestation since July 2018 in the roof of her condo. The Management Regulatory Authority closed the complaint after reaching out to the condo property manager, who committed to address the complaint. Four months later, the condo owner resubmitted the complaint to the Management Regulatory Authority. Again, the Management Regulatory Authority closed the complaint after contacting the condo manager and relaying the information back to the complainant that the condo manager was still in the process of rectifying the issue. As of August 2020, no inspection had been conducted and there was no information available at the Management Regulatory Authority to confirm that the issue had been resolved.

#### Example 2

A complainant alleged the property manager was working with the board of directors to enact a lending bylaw to borrow \$1.6 million without holding an owners' meeting and obtaining 51% of owners' votes, as required under the *Condominium Act, 1998*. The complainant alleged that \$7,000 had already been spent on arranging for the loan. The Management Regulatory Authority reached out to the complainant for more information and informed the complainant that as part of the complaint process, it would have to disclose who the complaint came from to the property manager. The complainant did not agree with this because the complainant resided in the same building that the property manager worked in; the complainant abandoned the matter. The Management Regulatory Authority's records show that it subsequently closed the complaint without further investigating the allegations.

The Management Regulatory Authority indicated that because in some of these cases the underlying issues involved the condo boards, these cases may fall outside of their jurisdiction, and therefore it has no authority to ensure the issues were resolved in a timely manner. In **Section 4.5.4**, we further discuss that having two authorities makes it difficult for condo owners to know where to turn when they have a problem.

The Management Regulatory Authority has a target of responding to 100% of complaints within five days of receiving them, and we found it met this target; but it did not establish targets for resolving the complaints (further discussed in **Section 4.7.1**). The average time taken from date of submission to closure of the 200 sample complaints was 62 days. However, we found that, because the Management Regulatory Authority closed many cases too soon without confirming whether the cases were actually resolved, condo unit owners could still be dealing with the issues for an extended period of time, as illustrated by **Example 1** in **Figure 18**.

## RECOMMENDATION 6

To support the appropriate and timely resolution of issues brought forward by condominium owners, we recommend that the Condominium Management Regulatory Authority of Ontario:

- track and summarize the types of actions taken and outcomes for all complaints, and produce periodic summaries for review by management; and
- establish a formal policy that defines the type of actions that should be taken based on the nature of the complaints and the issues they raise.

## RESPONSE FROM THE CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

The Condominium Management Regulatory Authority of Ontario (Management Regulatory

Authority) appreciates this recommendation. The Management Regulatory Authority will improve the way complaints are tracked and reported, including actions taken and outcomes for all complaints. The Management Regulatory Authority will develop a formal policy that defines the type of actions that should be taken with regard to specific types of complaints.

### 4.2.3 Management Regulatory Authority Inspected Less than 1% of Licensed Condominium Property Managers and Companies

We found that the Management Regulatory Authority's inspection efforts are mainly reactive based on complaints received. The Management Regulatory Authority does not have a plan to conduct proactive inspections to monitor and assess whether property managers and companies are complying with the key requirements of the *Condominium Management Services Act, 2015* and its regulations.

Since the inception of the Management Regulatory Authority in November 2017 and up to March 30, 2020, the Management Regulatory Authority inspected less than 1% of the total number of condo managers and companies in Ontario. Only 14 licensed condo managers (out of 3,242) and only four licensed condo management companies (out of 410) were inspected over this time period. We found that the inspections conducted were triggered by multiple complaints containing a wide range of allegations, such as failure to pay bills, financial theft, inappropriate solicitation of proxies and failure to provide documents in a timely manner. Even in these cases, the Management Regulatory Authority's inspection actions were mostly limited.

The Management Regulatory Authority did not conduct a full inspection for every case to determine whether these managers and companies were in compliance with other key requirements specified in the *Condominium Management Services Act, 2015* (**Appendix 3**). Some of these key require-

ments are related to contract management, disclosure of interests, record-keeping and informing the Management Authorities when there is a change of employment with a condo corporation or management company. As well, the Management Regulatory Authority did not conduct inspections of other property managers or companies if it did not receive a complaint against them.

Given that only 38% of 903 respondents to our owners' survey were aware of the Management Regulatory Authority, we found that the existing reactive inspection approach is not sufficient to promote compliance with the Act and adequately protect condo boards and owners. Fifty-seven percent of the condo boards that responded to our survey indicated that they had experienced issues with their condo managers, of which 44% reported that these issues related to quality and timeliness of services.

We noted that the Management Regulatory Authority does not use an inspection checklist. In contrast, we noted that another administrative authority, the Bereavement Authority of Ontario (Bereavement Authority), has an inspection checklist covering key requirements that licensees must follow under the legislation. The Bereavement Authority's inspectors use the checklist to conduct full inspections of the licensees that go beyond the specific issues in a complaint.

The Management Regulatory Authority's 2018/19 annual report stated that the Management Regulatory Authority was planning to implement risk-based approaches to conducting inspections, by identifying and analyzing statistical trends to determine when a proactive inspection may be warranted. However, we noted that, as of August 31, 2020, a risk-based plan for proactive inspection had not been developed. We also did not find any statistical trends or analysis being done to inform past, current or future inspection decisions.

## RECOMMENDATION 7

To monitor and confirm that condominium property managers and companies are complying with the key requirements under the *Condominium Management Services Act, 2015* and its regulations, we recommend that the Condominium Management Regulatory Authority of Ontario:

- develop and use an inspection checklist to carry out full inspections of property managers and/companies rather than only addressing the issues within a complaint;
- develop a plan to carry out proactive inspections of selected property managers and companies based on a risk-based framework based on inspection results, areas of non-compliance, statistical trends and other risk factors; and
- conduct regular proactive inspections and take appropriate disciplinary actions if required.

## RESPONSE FROM THE CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

The Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) agrees with the intent of this recommendation. The Management Regulatory Authority will develop checklists and processes that support inspections related to compliance with specific areas of the *Condominium Management Services Act, 2015* (Act), including:

- Section 48: Requirement that licensees have proper contracts, including all required disclosures, with the condominiums where they provide condominium management services;
- Section 52: Requirement that licensees properly disclose any direct or indirect interest they have in any existing or proposed contract or transaction involving a client condominium corporation;



- Section 53: Requirement that licensees only solicit instruments appointing a proxy for a meeting of owners in accordance with the Act and the prescribed requirements; and
- Section 54: Duty to transfer records to a client upon termination of a contract within the prescribed period.

The Management Regulatory Authority will also develop a policy for proactive inspections of selected condominium managers and management companies based on a risk-based framework and will take appropriate actions as required.

## 4.3 Condo Board of Directors

### 4.3.1 Over 6,000 Ineligible Condo Directors Still Serving on Boards

Condo board directors are volunteers and may not possess all the necessary skill sets and knowledge to oversee the millions of dollars that a condo corporation must manage. Therefore, as of November 1, 2017, it is a requirement under the *Condominium Act, 1998* (Act) that condo board directors complete designated free training on governance, roles and responsibilities, and topics relating to management of condos within six months of the date of their appointment, election or re-election. The Condo Authority delivers this training through an online system.

Based on the information available to us, we found that about 6,420 directors (17% of all 37,568 active directors as of April 30, 2020) had not completed the training within the required time frame. This made them ineligible to remain as directors as of April 30, 2020. Of the approximately 6,420 directors:

- The Condo Authority did not follow up or notify 20% (about 1,280) of these directors and their boards that they were no longer eligible to remain on their boards. The Condo Authority explained that it did not track training completion for these directors who

had never opened an account to access the program on the online training system.

- The remaining 80% (about 5,140) had accessed the online training program but had not completed their training within the mandated time requirements. The Condo Authority sent an email to each of the approximately 3,080 directors and their condo boards they served on to notify them of the individuals' ineligibility to serve as directors; however, it did not follow up to determine whether the directors stepped down from the board. The Condo Authority told us it did not send an email to the remaining approximately 2,060 directors and their condo boards because it was not required to do so under legislation (and the emails it did send were sent as a courtesy only).

Altogether, we noted that, the Condo Authority was unable to inform about 3,340 (1,280 plus 2,060) or just over half (52% of about 6,420) of these directors and their impacted boards of these individuals' ineligibility to continue to serve.

Not having completed the required training, these approximately 6,420 condo directors may not have the skills they need to appropriately perform their roles and responsibilities, such as overseeing the management of condo fees and decisions regarding reserve funds.

### Ministry Denied Condo Authority's Request to Publicly Flag Ineligible Directors or Inform the Boards They Serve On

We also noted that the Condo Authority does not have the regulatory authority to flag on its public registry any of the approximately 6,420 ineligible directors still serving or inform the Boards they serve on. The Condo Authority indicated to us that it asked the Ministry in January 2018 to amend the regulation that governs the publication of information on the public registry to be able to flag the ineligible directors. However, the Ministry denied the request on the basis that condo owners have

a right to make formal records requests to their condo corporations related to director training and can follow this up, if required, by filing an application with the Condominium Authority Tribunal. The Ministry further informed the Condo Authority that “adding training compliance information to the registry may create the expectation that the CAO [Condo Authority] will enforce the new training rules [i.e., the training rules put in place in November 2017].”

In addition, we noted that the Ministry sent a letter to the Condo Authority in January 2020 instructing it to discontinue notifying ineligible directors or their condo boards of their disqualification, as the government had not delegated this responsibility to the Condo Authority.

However, we found that the authority of the Condo Authority should be expanded to enable it to require ineligible (i.e., disqualified) directors to stop acting as directors with the purpose of protecting the public interest and advancing the principle of ensuring a fair, safe and informed condo community.

## RECOMMENDATION 8

To better educate boards of directors on carrying out their duties and increase compliance with the training requirement under the *Condominium Act, 1998 (Act)*, we recommend that the Ministry of Government and Consumer Services expand and strengthen the roles and responsibilities of the Condominium Authority of Ontario overseeing directors’ training under the Act with the purpose of protecting the public interest and advancing the principle of ensuring a fair, safe and informed condo community, specifically looking to:

- expand the information the Condo Authority can collect and publish relating to individual directors who have not completed the mandatory training within the prescribed time requirements; and
- require the ineligible individuals to stop acting as directors of their condo boards.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that condo directors’ compliance with the mandatory training requirement is important. Options for the government’s consideration will be informed by the Auditor General’s recommendation. This recommendation would require developing potential legislative and regulatory proposals, which would require consultations with the public to assess impacts. This recommendation could have an impact on the principle of condo corporation self-governance.

## RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario agrees with the recommendation and will work with the Ministry of Government and Consumer Services to identify and publish the names of directors who did not complete the mandatory director training requirement within the prescribed timeline and to require these directors to stop acting as directors of their condo boards.

### 4.3.2 Directors Can Complete Mandatory Online Training without Reading the Training Materials

We found that the mandatory online training program provided to board directors by the Condo Authority can be completed in as little as 15 minutes—the time it should take to finish one topic—when we simply clicked through the entire program of 21 topics without reading them. This means that directors can complete the training without even reading it.

The Condo Authority does not track or analyze the available data regarding time taken to complete the training. Our analyses found that 6,012 (26%) of about 22,700 directors sitting on the boards of condo corporations who accessed the online training program completed their entire training in less

than three hours—while the expected completion time is between three to six hours. About 1,600 directors (or 7% of the total) took less than an hour to complete the entire program. If directors do not spend adequate time reviewing the content and gaining knowledge to manage the obligations and finances of the condo corporation, they may not possess the knowledge they should have to fulfill their duties and obligations.

Condo communities highlighted the issues relating to inexperienced directors sitting on boards of condo corporations during the review of the *Condominium Act, 1998*, in 2012–2013. The training for directors was implemented to address this issue. Therefore, it is important for the Condo Authority to ensure that directors receive adequate training and obtain a satisfactory understanding of issues to consider while managing their condo corporations.

We also reviewed completion times for individual topics within the training program and found that at least 50% of the 22,700 directors took zero to 10 minutes to complete the majority of individual topics (12 of 21 topics)—while the expected completion time for each topic ranges between 10 and 20 minutes. The topics where the directors spent less-than-expected time included complex topics with potential risks of fraud or mismanagement, repairs and maintenance and procurement processes.

As of March 2020, condo board directors reported 87% satisfaction with the training through the Condo Authority’s survey distributed after the training. They indicated that they learned something new and that they would recommend the training to others. In our survey conducted with condo boards, 79% reported satisfaction with the training materials. However, 42% indicated that they would like more training in the following top five areas: Overseeing condo managers (25%), procurement best practices (23%), board governance best practices (21%), issue management best practices (20%), and finance topics including reserve funds, budgets, financial statements and investments (19%). The Condo Authority does not

collect feedback from condo board directors on individual topics, or regularly assess which topics require more in-depth training due to the complexity of the subject matters.

We reviewed the training materials for the top five areas and found that while the materials provide a good initial introduction to key concepts like procurement and interpreting financial statements and other information, they do not include practical applications such as case studies and real-life examples.

We also noted that during the COVID-19 pandemic, the Condo Authority provided useful information on its website such as guidelines for preventing the spread of COVID-19 in condo buildings. In contrast, however, the director training material does not cover emergency planning and preparedness for epidemics or pandemics to better equip directors for when such emergencies arise.

## RECOMMENDATION 9

To better inform and educate condominium board directors to carry out their duties in managing their condo corporations, and comply with the training requirement, we recommend that the Condominium Authority of Ontario:

- analyze and review the data on time taken by directors to complete training, by individual topic as well as the complete training program in order to implement measures to address the ability to scroll through screens without reading material (for example, put in quizzes to complete at the end of each section to demonstrate learnings that ensure material is being read);
- annually solicit input from directors and condo owners on improvements that can be made to training material;
- annually review and improve the director training materials; and
- add an emergency planning and preparedness component to the training material as well as case studies and other practical applications for key topics of condo operations.

## RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario (Condo Authority) agrees with the recommendation and is committed to taking steps to better inform and educate condo directors in carrying out their responsibilities for managing their condo corporations. Steps will include conducting a review of the data regarding the time taken to complete each training module and identifying improvements to the director training program. In addition to the current satisfaction survey that is issued at the end of the online training modules, the Condo Authority will issue an annual survey to identify priority areas for additional information or training.

### 4.3.3 Public Registry of Condo Corporations Does Not Provide Condo Owners with Accurate and Key Information

We found that the Condo Authority's registry contains limited information on directors who sit on the boards of condo corporations that condo owners might want to know. As well, some of the key information about condo directors was not publicly available. For example, condo owners would like to know, but do not have full access to, information such as when directors have been elected or re-elected; whether they were elected by condo owners or appointed by the condo board; the directors' roles within the board; whether directors are owners, occupants or neither in the condo; the terms for each of the directors; and whether the directors have completed their training within mandated timelines.

As well, the information within the registry is organized by condo corporation only, so only condo corporations can be searched, not condo directors. As a result, condo owners and potential buyers cannot determine whether condo directors serve on multiple boards (see **Section 4.3.4**).

We also found a number of inconsistencies and inaccuracies in the condo manager and company names listed on the public registry maintained by the Condo Authority. As a result, condo owners are unable to determine whether a particular condo manager or company listed on the registry holds a valid licence to provide management services to their condo corporations.

At the time of our audit, the Condo Authority had not reviewed the data to remove variations in the names of property managers and companies. We noted, for instance, multiple variations of the same management company's name, such as 34 different discrepancies for one company and 26 for another—both were major condo management companies within the industry. We also noted other errors such as property manager names incorrectly listed as "CAO Admin." The Condo Authority indicated to us that these inaccuracies were mainly due to input errors when directors reported the data in their annual returns to it.

In addition, to access even basic information from the public registry, the searcher has to know and enter at least the number or operating name of the condo corporation. This is because the database does not provide the ability to search by municipal address. This presents an initial barrier to search for any important information of a condo corporation because the number or operating name is not as widely known or easily accessible as the municipal address for a member of the public, and sometimes even for an owner who lives in that condo.

The Condo Authority describes itself as seeking to provide "easy-to-use information to help owners and residents understand their rights and responsibilities," and to become a "trusted source for information" focused on consumer protection and supporting healthy condo communities across Ontario. However, we found that the public registry maintained by the Condo Authority does not readily serve the needs of the condo community by providing accurate, complete and useful information.

## RECOMMENDATION 10

To provide accurate, complete and useful information for condo owners through the public registry, we recommend that the Condominium Authority of Ontario work with the Ministry of Government and Consumer Services to:

- enable public searches for relevant information by entering the municipal addresses of condos and the names of directors;
- collect information related to condo board directors including whether directors have been elected by condo owners or appointed by the condo board, the directors' roles within the board, whether directors are owners, occupants or neither in the condo;
- regularly review and verify the information self-reported by condo corporations when filing their annual returns, including the names of licensed condo managers and management companies; and
- publish the collected and verified information on the registry.

## RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario (Condo Authority) accepts the recommendation and will work with the Ministry of Government and Consumer Services to look for ways to enable additional search options on its Public Registry. The Condo Authority will augment the collection of information relating to condo board directors, including whether they have been elected by the owners or have been appointed by the condo board and whether directors are owners, occupants or external parties. The Condo Authority is already collecting information regarding the roles of directors within their board and will be publishing this information starting in January 2021.

### 4.3.4 Information on the Interests of Directors Who Serve on Multiple Condo Boards Not Transparent

We found that neither the Ministry nor the Condo Authority collects necessary and basic information on condo board directors, as well as on the type of condo corporation they serve. There are 11,354 condo corporations registered in Ontario, but neither the Ministry nor the Condo Authority know which are commercial, which are residential, which are mixed use (residential and commercial) and which are wholly owned by investors operating rental businesses. In turn, they do not know which directors on which boards run investor-owned condos, as well as how many boards any given director serves on and the number of units a director owns. The Condo Authority also does not collect information to identify the type of owners living in the condo corporations—for example, if owners are resident owners, investor owners or commercial operator owners. Such information is essential to understanding the landscape of Ontario's condo sector and its key stakeholders, and would alert condo owners and potential buyers of the risk that directors on a condo's board may not fully represent their interests as residents but instead represent their own commercial interests as investor-owners. Such information is also essential so that the Ministry can monitor the condo sector to help ensure all ownership interests are protected.

Through our research, we found that as of March 31, 2020, 1,083 directors served on multiple condo boards (from two to over 30) (**Figure 19a**). These directors oversaw a total of 2,162 condo corporations and 210,163 units in Ontario. This represents 19% of the 11,354 condo corporations registered in Ontario and 24% of the 890,000 condo units (approximately) in the province.

We reviewed all the 95 directors who each serve on the boards of five or more condo corporations simultaneously, and we found through our own research that 62 of the directors had commercial interests in real estate companies, real estate investment trusts, asset management companies,

property management companies and/or rental businesses (in that they were senior management in or employed by these entities) (Figure 19b). There was no information available on 33 of the 95 directors we reviewed. Our research did not cover the remaining 988 (1,083 minus 95) directors overseeing fewer than five boards simultaneously. As such, some of these 988 directors could have had similar commercial interests; however, we could

not confirm this with the information that was available to us.

Further, we found that in 15 out of 20 condo boards we sampled, the presence of directors from the 62 with commercial interests made up a majority of the board. See Figure 20 for our analysis of these 20 condo boards, which were selected from our review of 62 directors and the condo boards that they oversaw, as listed in Figure 19b. No information was available to us on the other five of the 20 condo boards.

As noted in Section 2.3.1, the interests of investors and commercial business owners can differ from and compete with the interests of resident condo owners. Investors and commercial business owners primarily want to ensure a reasonable financial return for themselves, whether in the short or long term. Resident condo owners primarily want to live in a place that is clean and safe with affordable condo fees. They will want the decisions made to benefit the condo corporation in the long term—for example, investing in the maintenance of the building and conducting regular repairs.

**Example:** One condo owner filed a complaint stating that three of the directors on the board were representatives of a real estate company and that one of them owned and rented 24 units in the building. The complainant noted that the directors refused to provide financial

**Figure 19a: Number of Directors Serving on Multiple Condo Boards**

Source of data: Condominium Authority of Ontario

# of Condominium Corporation Boards Served	# of Directors Serving on Multiple Boards
2	833
3	118
4	37
5	21
6	12
7	14
8	4
9	4
10-19	28
20-29	6
30+	6
<b>Total</b>	<b>1,083</b>

Note: We conducted further research on the 95 directors (shaded in grey) serving on five or more condo boards, and provide a breakdown, as shown in Figure 19b.

**Figure 19b: Representation by Industry of Directors Serving on Five or More Condo Boards**

Prepared by the Office of the Auditor General of Ontario

	# of Directors
Real estate asset management/REIT* (investment vehicles)	26
Real estate development, ownership and management (builders and landlords)	17
Real estate ownership and management (landlords)	12
Property management services	4
Real estate advisory services	1
Real estate brokerage (real estate agents)	2
<b>Represented by the industries above</b>	<b>62</b>
Unknown	33
<b>Total</b>	<b>95</b>

\* A real estate investment trust (REIT) is a company that owns, operates, or finances income-generating real estate. REITs are investment vehicles, where individual investors can invest capital in REITs and earn dividends from property investments without having to buy, manage, or finance real estate directly.

**Figure 20: Composition of a Sample of 20 Condo Boards, Selected from Figure 19b**

Prepared by the Office of the Auditor General of Ontario based on data from the Condominium Authority of Ontario and other sources

Condo <sup>1</sup>	# Units	# of Directors on Board	Industry	Majority of Directors Represented by the Industry
1	360	3	Real estate investment (asset management/investment income trust companies)	Yes
2	201	3	Real estate development, ownership and management (rentals)	Yes
3	119	2 <sup>2</sup>	Real estate development, ownership and management (rentals) Unknown	Unknown
4	119	3	Real estate investment (asset management/investment income trust companies)	Yes
5 <sup>3</sup>	106	3	Real estate development, ownership and management (rentals)	Yes
6	105	3	Real estate investment (asset management/investment income trust companies)	Yes
7	101	1 <sup>2</sup>	Real estate development, ownership and management (rentals)	Yes
8	82	3	Unknown	Unknown
9	81	3	2 Unknown 1 Real estate development, ownership and management (rentals)	Unknown
10	70	3	2 Real estate development, ownership and management (rentals) 1 Unknown	Yes
11	66	3	Real estate investment (asset management/investment income trust companies)	Yes
12	65	3	Unknown	Unknown
13 <sup>3</sup>	60	1 <sup>2</sup>	Real estate development, ownership and management (rentals)	Yes
14	56	3	Property management services	Yes
15	45	3	Real estate development, ownership and management (rentals)	Yes
16	42	5	Unknown	Unknown
17	42	3	Real estate development, ownership and management (rentals)	Yes
18	30	1 <sup>2</sup>	Real estate ownership and management (landlords)	Yes
19	16	3	Real estate development, ownership and management (rentals)	Yes
20	7	3	2 Real estate development, ownership and management (rentals) 1 Unknown	Yes

1. Condo number assigned by the Office of the Auditor General of Ontario.

2. These boards had fewer than three directors, contravening the provisions of the *Condominium Act, 1998 (Act)*, which requires a minimum of three directors to serve on a condo board. As described in Sections 4.5.1 and 4.5.2, neither the Ministry nor the Condo Authority have the powers to enforce this requirement. The Tribunal also does not have jurisdiction with respect to this.

3. Developer same as Director's associated company.

information or respond to emails, and never held an owners' meeting as required by the Act. The complainant was concerned that the building was not being managed properly. The complainant later learned that neither the Condo Authority nor the Management Regulatory Authority could resolve this issue because neither has the legislative authority

to regulate and oversee the conduct of a board of directors. The complainant will have to seek legal advice if they find the issue continues to be unresolved by the board of directors.

Collecting information about directors who do not reside in condos or are investor owners would enable the Ministry to evaluate whether there are

sufficient protections for resident owners, especially those who own units in commercial buildings who may not have enough of a say in how the building is being managed. Increasing the transparency of board composition would help owners and buyers in their decision-making.

## RECOMMENDATION 11

To enable the Ministry of Government and Consumer Services (Ministry) to evaluate protections for condo owners who reside in their units, and to promote transparency and support informed choices by condo buyers, we recommend that the Ministry:

- allow the Condominium Authority of Ontario to collect and publish relevant information to enable identification of condo corporations where non-resident directors or directors with commercial interests form the majority on condo boards; and
- analyze this information to evaluate whether increased protections are required for condo owners who reside in their units.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that transparency is important for condominium owners and purchasers. Options for the government's consideration will be informed by the Auditor General's recommendations.

These recommendations would require developing potential legislative and regulatory proposals, which would involve consultations with the public to assess impacts, including, for example, to determine the extent of any associated administrative burden on condo corporations.

## RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario (Condo Authority) agrees with the recommendation.

The Condo Authority will promote transparency by helping to determine how best to collect and publish information to enable the identification of condo corporations where the majority of the condo board consists of non-resident directors or directors with commercial interests in the condo corporation. The Condo Authority will work with the Ministry of Government and Consumer Services to analyze information and evaluate whether increased protections are required for condo owners who reside in their units.

## 4.4 Disputes

### 4.4.1 Condo Owners Must Use Private Mediation or Courts for Majority of Issues Including Common Expenses and Board Misconduct

At the time of our audit, the scope of the Condominium Authority Tribunal was limited by the *Condominium Act, 1998* (Act) and regulations: the Tribunal has only heard disputes relating to a condo corporation's records, including disputes concerning an owner's right to access the records of their condo corporation, since the creation of the Tribunal in November 2017.

After our audit fieldwork, in October 2020 the Ministry expanded the scope of the Tribunal to also hear issues relating to pets, parking, storage and personal property such as vehicles in a condo, as defined by the provisions of a condo corporation's documents (such as declaration, bylaws or rules), as well as compensation charges related to the above disputes. However, even with the scope expansion, the only recourses open to condo owners for other key common issues, such as condo board governance, condo fees for use of common areas, reserve fund and issues related to condo living such as infestation and noise, were to seek private mediation and arbitration or file a lawsuit in the courts, depending on the issue (or ultimately seek to change their condo board or stand for election themselves). As a consequence, dispute



resolution, which was identified as one of the six key issues faced by condo communities during the review of the Act in 2012–2013, still remains a significant issue more than seven years after the review. Condo owners who face common issues or are involved in disputes either with their boards or with other owners in their condos are largely left still unable to resolve most of their issues in a timely and cost-effective manner.

Of the 903 owners who responded to our survey, 62% indicated they had disputes with other owners or their condo boards in the five years up to August 2020. Of the remaining 38%, 15% said they did not have any disputes and 23% were not aware of any disputes in their condos.

The top five disputes related to the following issues:

- repairs to common elements (31% of 903 survey respondents);
- board misconduct (29%);
- common expenses and related condo fees (26%);
- noise/odour/smoking (23%); and
- renovations of common elements (23%).

Issues relating to access to records retained by condo boards was the sixth top dispute type—indicated by 22% of the 903 survey respondents. Issues relating to pets, parking, storage and personal property, as defined by the provisions of a condo corporation's documents, did not feature in the top five issues as indicated by owners who responded to our survey.

In addition to the owner comments included within our survey, approximately 30 owners reached out to our Office separately through emails seeking help in resolving issues they had with their boards and/or condo managers. They indicated they were frustrated that many issues were not being resolved by their boards, condo managers or the two authorities and felt they were left with no recourse (see **Appendix 8** for examples).

Also, only 22% of the 670 condo owners who responded to our survey question reported satisfaction with the dispute resolution services offered by

the Condo Authority through the Tribunal. Another 32% reported that they were not satisfied to very dissatisfied, 37% indicated they were neutral about the Tribunal's services, and 9% did not know that the Tribunal existed.

The Ministry indicated that the disputes that now go to the Tribunal in the October 2020 expansion of its scope were some of the most common dispute types. The Ministry indicated that its proposal to include these was partly based on the inquiries received on the Condo Authority's website and on correspondence to the Ministry from condo communities. However, we noted that although rules and pets featured among the top five issues listed on the Condo Authority's website, the other issues, including noise and short-term rentals, were left out of the expansion of the Tribunal's scope. We also noted that the correspondence received by the Ministry did not specifically indicate that the issues that were included in the expansion were of concern to condo communities.

We identified 328 written decisions issued by the Ontario Court of Justice and the Superior Court of Justice in Ontario from the enactment of the *Condominium Act, 1967* to June 2020. We noted that there were many other issues that the courts ruled on that are not included in the Ministry's proposed expansion for issues that the Tribunal would be able to hear. **Figure 21** lists the common issues we observed based on the written court decisions. It indicates that other types of condo disputes, including liens (for example, relating to failure to pay condo fees or special assessments), commercial units, repairs, condo board directors' conduct and reserve funds, are serious enough for owners to go to court but they are not in the Tribunal's scope expansion proposal. Without the Tribunal option, condo owners who encounter similar issues may not have a convenient recourse to have their cases heard.

**Figure 21: Number of Written Decisions<sup>1</sup> by Ontario's Provincial Courts and Inclusion in the Condominium Authority Tribunal's Expansion in October 2020**

Prepared by the Office of the Auditor General of Ontario with data from CanLII

Issue	# of Decisions	Included in Proposed Expansion of Tribunal
Liens	36	x
Commercial units	34	x
Developers	32	x
Repairs	21	x
Records <sup>2</sup>	19	✓
Resident behaviour	17	x
Parking	13	✓
Directors	12	x
Noise <sup>3</sup>	12	x
Rentals	11	x
Reserve funds	10	x
Mixed-use condominiums	9	x
Unauthorized modification to units	9	x
Pets	6	✓
Meetings	6	x
Common spaces	5	x
Smoke <sup>3</sup>	5	x
Insurance	3	x
Renovations	2	x
Infestation <sup>3</sup>	1	x
Vibrations <sup>3</sup>	1	x
Other	64	x
<b>Total</b>	<b>328</b>	

1. Decisions on issues brought to the Ontario Court of Justice and the Superior Court of Justice represent all written decisions issued by the courts since the enactment of the *Condominium Act, 1967* to June 2020. Decisions that were issued orally are not captured in the data.
2. Disputes related to records have been included in the Tribunal's scope since its inception in November 2017.
3. The Chair of the Condo Authority's Board of Directors recommended expanding the scope of disputes that can be filed with the Tribunal to include these dispute types. As of August 2020, the Ministry of Government and Consumer Services had no timeline for implementing this recommendation.

## RECOMMENDATION 12

To better protect condo owners as they face condominium-living issues and disputes, we recommend that the Ministry of Government and Consumer Services work with the Condominium Authority of Ontario to include key areas relating to condo fees, repairs to common areas, board misconduct, reserve funds, commercial units or other areas considered appropriate within the Condominium Authority Tribunal's jurisdiction.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services agrees that the Condominium Authority Tribunal's (Tribunal's) jurisdiction should continue to expand. As the Ministry plans future regulatory proposals to expand the Tribunal's jurisdiction in phases, options for the government's consideration will be informed by the Auditor General's recommendation.

The Tribunal's jurisdiction was recently expanded to include certain disputes related to provisions of a condominium corporation's declaration, by-laws or rules that:

- prohibit, restrict or otherwise govern pets or other animals, parking, vehicles or storage in a unit, the common elements, or the assets, if any, of the corporation; and
- govern the indemnification or compensation of the corporation, an owner, or a mortgagee in relation to the above-noted disputes.

## RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario (Condo Authority) agrees with the recommendation to expand the jurisdiction of the Condominium Authority Tribunal (Tribunal) to better protect and support condo owners as they face condominium-living issues and disputes. The Condo Authority will work with the Ministry of

Government and Consumer Services (Ministry) by providing data and information relating to the key areas where issues and disputes arise.

While this recommendation relates solely to expanding the jurisdiction of the Tribunal, the Condo Authority will also work with the Ministry to review this recommendation alongside **Recommendations 15 and 16**, and identify approaches for protecting condominium owners who face condominium-living issues and disputes.

#### 4.4.2 Owners Face Difficulties in Accessing Important Information Relating to Their Condo Corporations

We noted the limited jurisdiction of the Tribunal in hearing disputes relating to records of the condo corporation in **Section 4.4.1**. We noted that while the Tribunal has jurisdiction over records disputes, what many owners seek from their condo corporation is information rather than “records.” We found that condo owners did not get part of or all the information to which they sought access in 21 or 51% of the 41 cases relating to access to records (out of a total of 56 cases) before the Tribunal from its start in November 2017 to March 2020. We found that the Tribunal’s decisions, made in accordance with the provisions of the *Condominium Act, 1998* (Act) and the jurisdiction given to the Tribunal, focused on form over the substance of the condo owner’s requests for information. Condo owners were not given access to information if it was not specifically required under the Act to be kept in the form of a record. In such cases, the owner could not access the information needed to manage their ownership of and investment in the condo, which may be their permanent home.

In these 21 cases, we noted that some of the information that owners sought included important information such as lists of permanent, temporary and contract employees employed by the condo corporation and support for the condo board’s approval of a contract renewal. This information

should be available to condo owners, but is not specifically required to be maintained under the Act in the form of a record.

The Act and its regulations establish recordkeeping requirements, including a requirement for condo corporations to keep “adequate” records. The Act does not exhaustively define what records must be kept but it lists records, as shown in **Appendix 9**, that condo corporations must retain. It also gives condo owners a right to examine or obtain copies of records kept by the corporation upon request, subject to limited exceptions. This list of records includes, among other things, a copy of the declaration, bylaws, the budget for the corporation’s current fiscal year and audited financial statements.

For many of these listed records, the Act allows condo corporations to determine whether the records must be kept in order to meet its obligation to keep adequate records and does not provide specific details or requirements.

For example, one of the records listed is “records that relate to employees of the corporation and that the corporation creates or receives.” The condo corporation has latitude in deciding what records it may decide to create—or not create—in this category. There is also no requirement that a condo corporation provide information, relevant or not, if it is not a record. Instead of increasing the amount of information available to an owner, we found that this limits the information that an owner can obtain. See **Figure 22** for examples of condo owners who faced difficulties during 2018 and 2019 in obtaining records that are not specified under the Act. The Condo Authority provides links on its website to the sections of the Act and regulations listing the types of records that condo corporations must maintain and provide to condo owners upon request. However, it does not provide an explanation of these records, including what information condo owners can expect to find within them, or provide examples of these records.

## Figure 22: Examples of Condo Owners who Faced Difficulties in Obtaining Records

Source of data: CanLII

### Example 1

A condo owner applied to the Tribunal in August 2019 to seek a list of all permanent, temporary or contract employees of the condo corporation and of the condo service provider, as their salaries represented a significant part of the condo budget. The condo owner attempted to prove a record existed by referring to a list of employees that was previously provided to unit owners, but which did not differentiate between type of employment and employers. The condo board indicated that a list of employees with these additional details did not exist. The Tribunal concluded in February 2020 that a list of employees was not a prescribed record that the corporation was required to keep and therefore the condo owner had no entitlement to one if it did not, in fact, exist. We noted that although the records requested by the owner may not have existed, it would have been reasonable for the condo corporation to produce a list of employees with the requested details and provide this information to the owner.

### Example 2

A condo owner applied to the Tribunal in March 2019 to seek the “Management’s Policy on Liens and Arrears” that was referenced in the condo board meeting minutes. The board refused to provide the policy, citing that it was an informal policy and not available in the form of a record. The condo owner argued it was not possible to ascertain that the Management’s Policy did not conflict with the official lien policy of the condo corporation in relation to when steps should be taken to recover unpaid condo fees for common expenses and to involve legal counsel. The Tribunal ruled on this case in September 2019 and did not order the board to provide the Management’s Policy as referenced in the minutes.

### Example 3

A condo owner applied to the Tribunal in November 2018 to seek emails in relation to the approval of the renewal of a gas contract that was referenced in the board meeting minutes, as having “been approved by the Board via email,” to understand how the board approved the gas contract renewal. The board argued that the emails did not constitute formal approval of the gas contract. The Tribunal concluded in May 2019 that the condo owner was not entitled to access them, as they do not qualify as records prescribed by the Act or constitute records of the condo corporation.

## RECOMMENDATION 13

To provide condominium owners with appropriate access to important information and increase the transparency of the operations of their condo corporations, we recommend that the Condominium Authority of Ontario:

- clarify the existing legislative and regulatory requirements with respect to records and the information included in these records listed in the *Condominium Act, 1998* and regulations; and
- work with the Ministry of Government and Consumer Services to expand and enable owners’ right to access all reasonable information about the functioning of their condo corporation.

## RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario (Condo Authority) agrees with this recommendation. The Condo Authority will review and update the public information on its website to further clarify the existing legislative requirements with respect to the types of records that fall outside and within the list of records under the *Condominium Act, 1998* (Act) and regulations, as well as the information included in these records.

The Condo Authority will also work with the Ministry of Government and Consumer Services to expand owners’ rights under the Act to access all reasonable information about the functioning of their condominium corporation.

#### 4.4.3 Owners Lack Level Playing Field with Condo Boards at Tribunal

The significant disparity in representation between condo owners and condo boards puts the average owner at a disadvantage and creates an uneven playing field for dispute resolution between the two parties, as the *Condominium Act, 1998*, can be complex to comprehend and interpret for the average condo owner.

In our review of the 56 Condominium Authority Tribunal decisions issued between November 2017 and March 2020, we found that in 47 or 84% of these cases, the condo owners were self-represented. They hired a lawyer or agent only in 16% of cases. Condo boards hired lawyers or agents, often condo managers or management companies hired by the corporations, to represent them in 91% of the cases (51 cases); they were self-represented only 9% of the time.

The Tribunal's rules allow condo owners and boards to be represented by lawyers and agents. However, it is generally more difficult for a condo owner to afford a lawyer than it is for a condo board, as the board can use the condo corporation's funds to pay for a lawyer. We noted that these funds are primarily paid for through the common expenses by all the condo owners.

We found that British Columbia's Civil Resolution Tribunal (BC Tribunal), which hears a wide array of condo-related disputes, require both parties to represent themselves throughout the dispute resolution process (unless the BC Tribunal orders otherwise). For example, in one case, the owners of a condo unit sought monetary compensation for the alleged errant repair of a deck. The condo board applied to the BC Tribunal to be represented by a lawyer and the BC Tribunal rejected the application on the basis that the applicants did not have a lawyer, nor did they consent to the condo board being represented, and that there was nothing exceptionally unusual or complex about the case. When the condo board appealed to the Supreme Court of British Columbia

for a review of its right to legal representation in the BC Tribunal process, the Supreme Court dismissed the review and found that the BC Tribunal's original decision was reasonable.

#### RECOMMENDATION 14

In order to provide condominium owners a level playing field in their disputes with condo boards, we recommend that the Ministry of Government and Consumer Services work with the Condominium Authority of Ontario (which includes the Condominium Authority Tribunal) and the Ministry of the Attorney General to implement best practices such as requiring equal legal representation by parties to the dispute.

#### MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) will work with the Condominium Authority of Ontario to explore additional tribunal best practices that may be implemented regarding legal representation at the Condominium Authority Tribunal (Tribunal).

Implementing this recommendation would require consultation with the Ministry of the Attorney General, as well as the public, to assess impacts on the condo sector and the operations of the Tribunal.

#### RESPONSE FROM THE CONDOMINIUM AUTHORITY OF ONTARIO

The Condominium Authority of Ontario will review whether it is feasible to implement some measures, such as a third-party insurance program, that may help condominium owners find affordable legal advice.

## 4.5 Condominium Sector Oversight

### 4.5.1 Significant Gaps in Mandate Weaken Authority’s Ability to Help Condo Owners

Although changes were made to the *Condominium Act, 1998* (Act) after the review conducted by the Ministry in 2012–2013, our audit found that condo owners and buyers are not adequately protected under the existing legal framework. The mandate of the Condo Authority under the Act is limited compared with the mandates given to other administrative authorities in Ontario. These limitations provide weaker protections for condo owners.

The Condo Authority’s limited mandate does not permit it to:

- inspect or investigate potential abuses or misconduct by condo boards or individual directors;
- investigate non-compliance with the Act, the regulations, or a particular condo’s declaration, bylaws, rules or policies;
- enforce the Act and regulations except in very limited cases; and
- get involved with board-related matters such as elections in condo corporations and financial management of condo corporations.

See **Appendix 10** for mandates given to other administrative authorities in Ontario.

In addition, the scope of the Condominium Authority Tribunal to hear complaints against condo boards is also limited to disputes related to the owners’ right to access records of the condo corporations and, since October 2020, issues relating to pets, parking, storage and personal property, as defined by the provisions of a condo corporation’s documents (see **Section 4.4**).

Consumer protection is a central role for Ontario’s administrative authorities. On the Ministry website, these authorities are described as “... responsible for ensuring that a number of Ontario’s consumer protection and public safety laws are applied and enforced.” The Condo Authority and the Management Regulatory Authority were created through legislation called the *Protecting*

*Condominium Owners Act, 2015*—a name that suggests the protection of condo owners by the two authorities.

In previous sections, we detailed how the limited mandate and lack of adequate protections impact the ability of condo owners and purchasers to manage their ownership interests. When we asked the Ministry why the mandate of the Condo Authority did not include investigation and enforcement powers similar to those given to other administrative authorities, the Ministry responded that other administrative authorities regulate providers of services to the public and that providing such powers to the Condo Authority would go against the principle of self-regulation for condo owners.

We observed with respect to condos now:

- increasingly complex issues (for example, involving residential and commercial activities);
- larger amounts of money in condo corporation budgets than there used to be;
- changing ownership (owners with commercial interests) as detailed in **Section 4.3.4**; and
- changing uses of condos (such as short-term rentals).

Although the nature and extent of condo ownership has changed, the Ministry has not revisited its existing approach for oversight of the condo sector.

We noted that certain US states—for example, Florida and Nevada—have condo agencies whose mandates include investigation and enforcement of, for example, condo boards and election matters.

In **Section 4.1.3**, we described condos where owners were being required to contribute significantly increased amounts (through large increases to reserve fund contributions and special assessments) to make up for inadequate funding. One area that could be included in routine examination is flagging of condos at risk of serious future financial difficulties because of inadequate money being set aside to maintain and repair the condo.

We also noted that the Condo Authority has provided performance measures to the Ministry

in accordance with the administrative agreement regarding fulfilment of its mandate, such as percentage of clients satisfied with director training and timeliness of release of decisions by the Condominium Authority Tribunal. However, the Ministry had not yet approved these performance measures. The Ministry indicated it has been conducting a review of all administrative agreements and performance measures for the Ministry's eleven administrative authorities. This review stems from our recommendation in our *2018 Annual Report* audit of the Technical Standards and Safety Authority and in our 2019 Special Audit of the Tarion Warranty Corporation.

### RECOMMENDATION 15

To provide better protection for condominium owners and buyers, we recommend that the Ministry of Government and Consumer Services look to:

- review and formally clarify the mandate of the Condominium Authority of Ontario (Condo Authority);
- providing the Condo Authority with inspection, investigation and enforcement powers; and
- reaching an agreement with the Condo Authority on appropriate performance measures regarding fulfilment of its mandate.

### MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that protections for condominium owners and buyers are important. Options for the government's consideration will be informed by the Auditor General's recommendation to provide the Condominium Authority of Ontario (Condo Authority) inspection, investigation and enforcement powers. This recommendation would require developing potential legislative and regulatory proposals, which would require consultation with the public.

The Ministry agrees with the first recommended action that it is important that the Condo Authority has a clear understanding of its mandate and will clarify the mandate with the Condo Authority.

The second recommended action could have a significant impact on the principle of condo self-governance, and has implications regarding the extent to which the government, or a regulatory body, could potentially become involved in the decisions made about the management of homes or other private property (including common areas collectively owned by condo owners).

For the third recommended action, the Ministry agrees that it is important for the Ministry and the Condo Authority to reach an agreement on its performance measures. The Ministry will work closely with the Condo Authority on the implementation of this recommended action.

### 4.5.2 Ministry Enforcement Powers Used Infrequently and Are Weak

We found that the Ministry of Government and Consumer Services (Ministry) has fewer enforcement tools under the *Condominium Act, 1998* (Act) than some other Canadian jurisdictions and it does not use the ones it has. For example, in the past 10 years, the government has not prosecuted any individual or corporation for an offence under the Act.

Enforcement powers relating to developer misconduct in other Canadian jurisdictions are more rigorous than those in Ontario. For example:

- In British Columbia and Alberta, condo legislation enables the government to appoint an inspector or investigator to look into potential offences or non-compliance by developers. Ontario does not have such powers. Enforcement reports from the BC Superintendent of Real Estate describe investigations by its staff and actions taken against developers. These included, for example, actions taken against a developer for marketing a condo development without making required disclosures

(relating to encumbrances registered against titles to the development) and for not placing deposits (of over \$10 million) in trust as required by legislation. The enforcement actions included obtaining an order that the developer of the 92-unit residential condo cease marketing the properties and place all deposits in trust.

- Both British Columbia and Alberta have the authority to levy administrative penalties for non-compliance with the legislation. In British Columbia, the penalty is up to \$500,000 for corporations or \$100,000 for individuals. In Alberta, the penalty is up to \$100,000 for both corporations and individuals. Ontario does not have the ability to impose administrative penalties.
- In British Columbia, fines for offences (these are different from administrative penalties, in that there has to be a prosecution) are significantly higher than in Ontario. Fines can be up to \$1.25 million for first conviction and \$2.5 million for subsequent convictions (individuals and corporations); also, individuals can face up to two years imprisonment.

In Ontario, under the Act, fines can be up to \$25,000 (individuals) and \$100,000 (corporations) for certain offences, including developer misconduct (for example, not providing records to the board of a new condo corporation) and a board not keeping adequate records for the condo corporation. Amending the Act to strengthen the investigative and enforcement powers of the Ministry or the Condo Authority similarly to the powers used in these other jurisdictions is one possible way to better protect condo owners and buyers. Another way is to provide condo owners with access to inexpensive and effective ways to resolve disputes and address issues. However, as we discuss in **Section 4.4**, we found that the Condominium Authority Tribunal has very limited jurisdiction over the matters it can handle. Therefore, condo owners and purchasers are unable to resolve many of their condo-living issues efficiently and cost-effectively.

## RECOMMENDATION 16

To provide better protection for condo owners and buyers in Ontario, we recommend that the Ministry of Government and Consumer Services conduct a thorough cost/benefit analysis of strengthening the powers and penalties for regulating the condo sector similarly to those that are used by other jurisdictions.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that protections for condo owners and buyers are important and will undertake an analysis of enforcement powers in other jurisdictions.

The Ministry notes that other jurisdictions, such as British Columbia and Alberta, have different statutory frameworks and, as such, the powers under their applicable condominium legislation may differ substantially from those under Ontario's legislation.

### 4.5.3 Condo Owners Less Protected Because Key Laws Not in Force

Our audit found that many of the legislative changes made in 2015 offering condo owners and purchasers improved protections were still not in force as of July 2020. We have discussed some of the protections in previous sections. For example:

- Regulations to require standardized condo declarations to make them easier for purchasers to understand (discussed in **Section 4.1.1**).
- The developer to disclose whether expenses will increase in the first year after registration of the condo, by how much and why, as well as any expenses that the developer knows about—or should know about—that will arise after the first year after registration, together with the reasons for the expenses,



and whether these will increase condo fees (discussed in **Section 4.1.2**).

- The government to set what is adequate, in terms of the reserve fund, in regulations (discussed in **Section 4.1.3**).
- The budget statement to contain amounts for the reserve fund, not just operating expenses. The developer would be responsible for the difference between the budget and actual expenses incurred, for the reserve fund in the first year, if actual expenses are higher (discussed in **Section 4.1.4**).

In addition, many other important changes to protect condo owners are not in force. For example:

- The condo corporation's financial statements to include more information, such as the budget and the statement of cash flows;
- After its first fiscal year, condo corporations to prepare an annual budget that meets requirements to be set in regulations. Condo corporations would provide the budget to owners and could not implement the budget until they provide it; and
- The condo corporation could not enter into certain procurement contracts (set by regulation) unless the contracts meet requirements that would be set in the regulations.

The government indicates on its website that the majority of the provisions of the changes to the *Condominium Act, 1998* are not in force and it plans to work quickly to develop regulations and implement key provisions. In February 2020, the Ministry conducted stakeholder consultations in selected areas to help it consider and prioritize changes. However, in August 2020, the Ministry indicated to us that no decisions had been made on the prioritization or timing of work associated with implementing the remainder of the legislative changes that are not in force.

## RECOMMENDATION 17

So that the *Condominium Act, 1998* and regulations more effectively protect condominium

owners and purchasers, we recommend that the Ministry of Government and Consumer Services seek proclamation of the provisions that are not yet in force.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that additional amendments to the *Condominium Act, 1998* (Act) may need to come into force. Options for the government's consideration will be informed by the Auditor General's recommendation. This recommendation would require developing potential legislative and regulatory proposals, which would involve consultations with the public to propose changes that are responsive to the public's needs.

The Ministry considers potential refinements to condo governance requirements, including whether to propose bringing amendments to the Act made under the *Protecting Condominium Owners Act, 2015* into force, based on the evolving needs of the condo sector.

## 4.5.4 Opportunities Exist to Increase Effectiveness of Two Authorities' Operations

Our audit found that opportunities exist to increase the efficiency and effectiveness of the operations of the two authorities by consolidating them into one authority, with the Tribunal being set up independently. We estimated that annual cost savings of up to \$753,000 could potentially be achieved if the two authorities were combined.

We examined why there were two authorities, rather than one authority that combined the functions and responsibilities of the Condo Authority and the Management Regulatory Authority. We noted that the initial findings and recommendations from the Ministry's 2012–2013 review of the *Condominium Act, 1998* were in favour of a single organization that would have responsibility for education, a public registry, dispute resolution and licensing of condo managers.

The Ministry solicited public feedback on the proposals. The respondents welcomed the creation of an authoritative body to provide information, support and oversight to the condo sector and recommended granting adequate enforcement authority to “avoid another level of bureaucracy.” Many respondents also preferred to keep condo manager licensing and education functions separate. However, they were concerned about increases in their condo fees that would invariably result from providing these services and supported a blended funding model; for example, through a combination of fees from unit owners, users of services, condo managers and developers as well as provincial tax contributions, to keep condo fees at a reasonable level.

We found that the government considered having a single organization but, as described in **Section 2.2.2**, as part of its planned condo-sector reforms it decided to designate two administrative authorities.

We noted that input from the condo management industry at the time strongly favoured having one authority for licensing and regulating condo managers, and another to resolve disputes. The Ministry indicated to us that feedback received from stakeholders included that combining the dispute-resolution authority with the authority that licenses and regulates condo managers could be perceived as creating the potential for conflict of interest and could potentially lead to a bias against condo managers and decisions regarding granting their licences.

We found that the perceived conflict of interest could be mitigated by the existing administrative agreements between the Minister and each authority that prohibit boards from interfering with the exercise of statutory powers (such as resolving disputes or disciplining condo managers) by their authority.

In **Appendix 11**, we compare the two authorities’ organizational staffing, and identify areas where key functions can potentially be streamlined, combined or shared between the two authorities

to increase efficiency and cost effectiveness. We estimated that potential annual savings could be between \$610,000 and \$753,000 if only one board and one CEO are needed for a single authority.

Other potential benefits of a single authority are:

- **Increased convenience and accessibility for members of condo communities:** A single condo authority would promote better awareness and provide a simplified single point of contact for members of condo communities, including condo owners, who need to know where to turn for information and to resolve issues or complaints. When individuals have an issue, they should not have to try to analyze and navigate the jurisdictional differences between the two authorities.

In a sample of 200 complaints that the Management Regulatory Authority received (discussed in **Section 4.2.2, Figure 17b**), we found that 16% of them did not relate to the conduct of property managers, but to board decisions and conduct, because the complainants were confused as to which authorities oversaw which matters.

Our audit also found that there is a lack of awareness about the existence of the two authorities. Of the 903 respondents to our owner survey:

- 72% indicated that they were aware of the Condo Authority’s existence and 28% were not; and
  - only 38% indicated that they were aware of the Management Regulatory Authority and 62% were not.
- **More complete inspection and investigation of condo-related issues:** In cases of complaints or issues relating to an unresponsive condo board and/or condo manager, the underlying issue could be better addressed by a single authority. The following example illustrates that a condo owner had to navigate between multiple authorities to seek resolution to their issue.

**Example:** In February 2019, a condo owner submitted a complaint to the Management Regulatory Authority alleging that four directors serving on their condo's board were not managing their condo corporation in accordance with the *Condominium Act, 1998*. The complainant alleged that the condo board had not held an annual general meeting for seven years, had not maintained or provided the owners with the required records, and that one of the condo board directors also acted as the property manager and received compensation from the common area fees for their services. While the Management Regulatory Authority initiated an investigation against the condo board director who received compensation for providing property management services without a licence, the Management Regulatory Authority could not investigate the allegations against the remaining directors of the condo corporation, as board director misconduct was not within its jurisdiction. As a result, the condo board directors continued to remain on the condo board and manage the condo corporation. In the following year, two other unit owners within the same condo corporation individually submitted applications against the same condo board to the Condominium Authority Tribunal (Tribunal) after the condo board refused to provide them with requested records. Although the Tribunal ordered the condo board to provide both owners with the records they had requested, the condo board

did not comply with the Tribunal's orders. The two unit owners then applied to the Small Claims Court to enforce the Tribunal's orders. The matter was still pending as of October 2020.

- **Improved operational effectiveness:** The following key activities could be combined to improve efficiencies and effectiveness:
  - Maintaining one public registry of key information on condo corporations and licensed condo managers, instead of two. Our audit found that there is a lack of cross-checking between the two registries separately maintained by the two authorities, as discussed in **Section 4.3.3**.
  - Co-ordinating the education and training of condo board directors and condo managers. Because the mandate for setting education requirements for condo managers is being transferred from the Ministry to the Management Regulatory Authority effective November 1, 2021, the education and training function could be combined within a single authority after the effective date.

## RECOMMENDATION 18

To provide a centralized access for the condominium community, including condominium owners, as well as to potentially increase the efficiency and cost-effectiveness of the Condominium Authority of Ontario and the Condominium Management Regulatory Authority of Ontario, we recommend that the Ministry of Government and Consumer Services conduct its own comprehensive analysis of having one instead of two authorities that includes:

- a) the costs and benefits of having a single point of contact to address public complaints and inquiries, provide training, maintain a

public registry and conduct inspection and investigations; and

- b) positioning the Condominium Authority Tribunal outside of the new authority.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that administrative authorities overseeing or providing services to the condo sector should be operating efficiently, and will undertake an analysis of having a single condo authority and a standalone Condominium Authority Tribunal (Tribunal).

To inform an analysis, the Ministry may need to consult with the public to assess impacts, including on costs associated with the Tribunal as a sustainable standalone entity and on its funding sources.

## 4.6 Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority)

### 4.6.1 Performance Targets Not Established for Most Key Activities

We found that the Management Regulatory Authority had not established targets and, therefore, does not measure its performance effectiveness against targets for key activities such as licensing, resolving licensee complaints, and conducting inspections and investigations of condo managers and companies. Although it tracks these activities internally, it has not set targets for, for example, the numbers of licences applied for versus approved by the Management Regulatory Authority, turnaround time for completing licence applications, the resolution rate of complaints received, and turnaround time for resolving complaints.

Without these performance targets, neither the Management Regulatory Authority, the public nor the Minister of Government and Consumer Services can measure its efficiency and effective-

ness in achieving its mandate. In addition, the Management Regulatory Authority did not meet its obligations to provide the Minister with variance information comparing targets to results and explaining the variances in accordance with the administrative agreement, as detailed in **Section 2.4**.

Other performance indicators and targets it had set but not been measured against actual results as of August 2020 included the following:

- Indicator: increase in number of licensees who have completed all qualification requirements for a General Licence; Target: 7% increase.
- Indicator: decrease in number of licensees who were the subject of substantiated complaints and/or regulatory action; Target: 5% decrease (though pending further analysis by the Management Regulatory Authority).
- Indicator: proportion of licensees who report satisfaction with the level of service they have received from the Management Regulatory Authority; Target: 80%.
- Indicator: proportion of consumers who report satisfaction with its complaint-handling process; Target: 60%.

The Management Regulatory Authority indicated that, for the first two performance indicators, it would use the actual data from the 2020/21 fiscal year as the baseline measure. It would start to measure its performance against these baseline measures in 2021/22. For the last two performance indicators, it would start to measure its performance against the targets by the end of the 2020/21 fiscal year. It also planned to report the results publicly.

In contrast, the Ontario Motor Vehicle Industry Council and the Real Estate Council of Ontario measure their performance on how quickly they process completed licence applications and how quickly they resolve complaints against licensees. The Real Estate Council of British Columbia, which regulates property managers in BC, has targets of

processing 99% of complete applications for new individual licences within three weeks.

Although the Management Regulatory Authority has provided performance measures to the Ministry in accordance with the administrative agreement regarding fulfilment of its mandate, the Ministry had not yet approved these performance measures. The Ministry indicated it has been conducting a review of all administrative agreements and performance measures for the Ministry's eleven administrative authorities. This review stems from our recommendation in our 2018 Annual Report audit of the Technical Standards and Safety Authority and in our 2019 Special Audit of the Tarion Warranty Corporation.

### RECOMMENDATION 19

To measure its own achievements and to inform the public on the effectiveness of its key activities, we recommend that the Condominium Management Regulatory Authority of Ontario:

- establish appropriate targets for performance indicators for its key activities, including time taken to process condo manager licence applications and time taken to resolve complaints against licensed managers;
- collect the data relevant to the targets established;
- assess its performance against the targets periodically;
- provide the Minister of Government and Consumer Services and the public with its performance results; and
- take corrective action when actual results do not meet targets.

### RESPONSE FROM THE CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

The Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) agrees with this recommendation and will establish targets for performance indicators for its key legislated mandates such as timely processing of licence applications and resolving complaints. The Management Regulatory Authority will collect the relevant data, assess and publish the results, and take corrective actions when targets are not met.

### RECOMMENDATION 20

In order to meet the administrative requirement between the Minister of Government and Consumer Services (Ministry) and the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority), we recommended that the Ministry reach an agreement with the Management Regulatory Authority on appropriate performance measures regarding fulfilment of its mandate.

### MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that it is important for the Ministry and the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) to reach an agreement on its performance measures. The Ministry will work closely with the Management Regulatory Authority on implementing this recommendation.

## Appendix 1: Number of Condominium Corporations and Units by Land Registry Office Location, July 2020

Source of data: Condominium Authority of Ontario

Region	# of Condo Corporations	# of Units
<b>Eastern Ontario</b>		
Glengarry	5	86
Lennox	11	344
Prince Edward	11	451
Haliburton	12	276
Renfrew	14	336
Grenville	15	379
Victoria	22	640
Stormont	24	958
Lanark	26	780
Prescott	26	561
Leeds	41	1,430
Russell	58	2,488
Hastings	59	2,340
Frontenac	78	4,274
Peterborough	92	2,301
Northumberland	94	1,963
Ottawa-Carleton	1,011	68,215
<b>Central Ontario</b>		
Port Hope	1	28
Newcastle	7	362
Dufferin	37	1,471
Niagara South	140	4,412
Niagara North	302	11,364
Durham	322	22,938
Simcoe	437	18,007
Wentworth	551	25,433
Halton	678	40,738
York	847	72,347
Peel	1,026	97,065
<b>Toronto Region</b>	<b>2,624</b>	<b>367,629</b>

Region	# of Condo Corporations	# of Units
<b>Western Ontario</b>		
Huron	12	321
Haldimand	19	506
Kent	28	1,287
Elgin	32	843
Bruce	35	1,108
Norfolk	41	1,368
Perth	45	1,255
Lambton	63	3,188
Brant	110	4,129
Grey	113	4,450
Oxford	123	4,093
Essex	174	10,262
Wellington	254	13,134
Waterloo	619	31,818
Middlesex	824	54,263
<b>Northern Ontario</b>		
Timiskaming	1	51
Manitoulin	2	16
Rainy River	2	39
Cochrane	11	491
Kenora	13	167
Parry Sound	15	358
Algoma	20	875
Sudbury	28	924
Thunder Bay	58	1,933
Nipissing	60	1,627
Muskoka	81	2,527
<b>Total</b>	<b>11,354</b>	<b>890,649</b>

## Appendix 2: History of Key Condominium Legislation

Prepared by the Office of the Auditor General of Ontario

Sep 1967	The province's first condo legislation, the <i>Condominium Act, 1967</i> , comes into force.
May 2001	The <i>Condominium Act, 1998</i> , comes into force. It is a major revision from the previous Act, with a stated intent to improve consumer protection through more disclosure prior to purchase, mandatory inspections of common areas and requirements for reserve fund studies.
Jun 2012–Dec 2013	The Ministry of Consumer Services conducts a review of the <i>Condominium Act, 1998</i> .
Dec 2015	The <i>Protecting Condominium Owners Act, 2015</i> , receives royal assent but many provisions do not come into force until proclamation and remain unproclaimed at the time of our audit. The Act amends the <i>Condominium Act, 1998</i> , but also enacts the <i>Condominium Management Services Act, 2015</i> .
Sep 2017	Parts of the <i>Protecting Condominium Owners Act, 2015</i> , relating to the Minister's ability to designate a condominium authority come into force September 1, 2017. Additional changes come into force at various dates and others are not yet in force (see <b>Section 4.5.3</b> ). The Condo Authority is created.
Nov 2017	Parts of the <i>Protecting Condominium Owners Act, 2015</i> , relating to the Cabinet's ability to designate a condominium management authority come into force November 1, 2017. The Management Regulatory Authority is created.
Jun 2018	Election and change in government.
Jul 2020	The <i>Rebuilding Consumer Confidence Act, 2020</i> comes into force governing delegated administrative authorities. The changes include: <ul style="list-style-type: none"> <li>• giving the Minister the authority to appoint an administrator, subject to certain conditions, to assume control of the Condo Authority;</li> <li>• permitting the Minister to make an order for the Condo Authority to disclose board, executive and employee compensation;</li> <li>• permitting the Minister to make an order that no more than a fixed percentage of board members be from among a specific group or class of people; and</li> <li>• designating the <i>Condominium Management Services Act, 2015</i> under the <i>Safety and Consumer Statutes Administration Act, 1996</i> (not yet in force).</li> </ul>



## Appendix 3: Summary of Key Legislative Requirements for Condominium Property Managers and Companies

Source of Data: *Condominium Management Services Act, 2015*, and its Regulations

Entering into contracts with condominium corporations	
Contract	Every licensee that provides condominium management services to a condominium corporation must have a written contract specifying the services, and must abide by the terms of the contract.
Disclosures before entering into contracts	<p>Before entering in contract with a condominium corporation, a licensee must disclose in writing to the corporation the following:</p> <ul style="list-style-type: none"> <li>a) a description of the condominium management services that may be appropriate to meet the needs of the client, based on the description of those needs that the client gives to the licensee;</li> <li>b) a description of associated costs that the licensee would charge under the contract;</li> <li>c) a statement whether any services, discounts or other benefits provided by the licensee to the client are contingent on the client continuing to purchase one or more services either from the licensee or from an interested person;</li> <li>d) a statement whether any of the services will be provided or could reasonably be expected to be provided, in whole or in part, by a person other than the licensee. If applicable, the name of the person and a description of the service to be provided by the person;</li> <li>e) any material interest that the licensee or a related person of the licensee has in another business that is offering or could reasonably be expected to offer services to the condominium corporation; and</li> <li>f) any direct or indirect financial benefit that the licensee or a related person of the licensee may receive from another person in connection with providing condominium management services to the client.</li> </ul>
Providing condominium management services	
Disclosure of interest	A licensee must disclose to the condominium corporation any direct or indirect interest in any existing or proposed contract or transaction involving the condominium corporation. The licensee must disclose in writing the nature and extent of the interest using the form as developed by the Management Regulatory Authority.
Proxies	A licensee or any person acting on behalf of a licensee must not solicit an instrument appointing a proxy for a meeting of owners, if the subject matter of the meeting includes any matter directly related to the licensee, removal or election of directors of the condominium corporation.
Transfer of records	<p>Upon termination of employment contract with a condominium corporation, the licensee must do the following:</p> <ul style="list-style-type: none"> <li>a) immediately transfer all documents and records to the condominium corporation;</li> <li>b) only retain copies of documents and records if copies are required for purposes relating to the employment contract; and</li> <li>c) not retain any documents or records as a means of pressuring the condominium corporation to fulfil the contractual obligations of the employment contract.</li> </ul>
False information	A licensee must not falsify, furnish or assist in falsifying or furnishing, any information or document related to the licensee's providing of condominium management services. The licensee must not induce or counsel another person to falsify, furnish, assist in furnishing or falsifying these documents.
Counselling	A licensee must not counsel, advise or knowingly assist a person to contravene the <i>Condominium Management Services Act, 2015</i> , the <i>Condominium Act, 1998</i> and regulations.
Other disclosures	During the course of providing services to a condominium corporation, the licensee must disclose to the corporation it is seeking to enter into contract with any other condominium corporation to provide services and disclose the name of the other corporation and description of the services to be provided before entering into contract.

Maintaining records of the condominium corporation	<p>A licensee:</p> <ul style="list-style-type: none"> <li>a) must ensure that records are maintained securely, accurately, and with care and due regard for the client's obligations under section 55 of the <i>Condominium Act, 1998</i>;</li> <li>b) upon request by the client, make the records available for inspection by the condominium corporation as soon as reasonably possible; and</li> <li>c) at the request of the condominium corporation, transfer any records or copy of records held, as soon as reasonably possible.</li> </ul>
Supervision of condominium managers	A condominium management company must ensure an adequate level of supervision for employed condominium managers who hold a limited license.
<b>Other</b>	
Notices to the Management Regulatory Authority—employment information	<p>A condominium management company must notify the Management Regulatory Authority in writing within five days of the following events:</p> <ul style="list-style-type: none"> <li>a) change in address for service;</li> <li>b) the commencement or termination of every condominium manager; and</li> <li>c) reasons for termination of any condominium manager.</li> </ul> <p>Condominium managers must notify the Management Regulatory Authority in writing within five days of the following events:</p> <ul style="list-style-type: none"> <li>a) change in address for service;</li> <li>b) the commencement or termination of employment by a condominium management company; and</li> <li>c) the commencement or termination of employment by a condominium corporation.</li> </ul>
Notices to the Management Regulatory Authority—officers' and directors' Information	Licensee must obtain consent by the Management Regulatory Authority prior to changing its officers or directors, and notify the Management Regulatory Authority of the change within five days of making it.
Notices to the Management Regulatory Authority—ownership Information	<p>A condominium management company must disclose to the Management Regulatory Authority any persons who either:</p> <ul style="list-style-type: none"> <li>a) own or control 10% or more of the equity shares issued and outstanding; or</li> <li>b) are associated with each other and that together beneficially own or control 10% or more of the equity shares issued and outstanding.</li> </ul> <p>At the time of its license, on each renewal of its license, and within 30 days of any issue or transfer of shares resulting in a change of the above.</p>
Employment of condominium managers	<p>A condominium management company must not employ an unlicensed person to perform condominium management services for any condominium corporation.</p> <p>A condominium management company must ensure that every employed condominium manager carries out their duties in compliance with the <i>Condominium Management Services Act, 2015</i> and regulations.</p>

## Appendix 4: Key Oversight Obligations between Minister of Government and Consumer Services and the Two Administrative Authorities

Prepared by the Office of the Auditor General of Ontario

Ministry Responsibilities	Frequency	Met as of August 2020?	
Recommend regulatory changes to the Lieutenant Governor in Council and propose legislative changes to the Legislative Assembly.	Not specified	Yes	
Minister shall make reasonable efforts to meet with the Board Chair.	“From time to time”	Yes	
Minister “shall have regard to the competency criteria and selection criteria used by the Board when making appointments to the Board.”	When making appointments	Yes	

Administrative Authority Responsibilities	Frequency	Condo Authority Met?	Management Regulatory Authority Met?
Agree with Ministry on performance measures regarding fulfillment of the statutory mandate	Within one year of designation	No <sup>1</sup>	No <sup>1</sup>
Provide Minister with outcome measures and targets, and report where not met	Annually and on request by Minister	Yes	Partly met <sup>2</sup>
Have annual meeting open to the public	Annually	Yes	Yes
Develop process for advisory input to the Board and report on the process	Annually	Yes	Yes
Provide advice to the Minister on legislative changes	Not specified	Yes	Yes
Provide business plan to the Minister and public	Annually	Yes	Yes
Provide annual report to the Minister and public	Annually	Yes	Yes
Account for how the authority managed and resolved complaints related to its mandate and work	Annually	Yes	Yes
Implement a risk management framework	Annually	Yes	Yes
Conduct client satisfaction/value survey	At least once every two years, starting one year after designation	Yes	Yes
Establish a conflict-of-interest policy for the Registrar and Deputy Registrar(s) and make publicly available	Not specified	Yes	Yes
Pay oversight fee to the Ministry within 30 days of the date of the invoice sent by the Ministry each year.	Annually	Yes	Yes

Note: These obligations are contained within administrative agreements between the Ministry and the administrative authorities.

- As of June 2020, the Ministry indicated that it was conducting a review of all administrative agreements and performance measures for the Ministry's eleven administrative authorities, as recommended in our *2018 Annual Report* audit of the Technical Standards and Safety Authority and in our *2019 Special Audit of the Tarion Warranty Corporation*. See **Section 4.5.1** and **4.6.1** for details.
- The Management Regulatory Authority has provided performance measures but not targets to the Minister. See **Section 4.6.1** for details.

## Appendix 5: Condominium Authority of Ontario's Current and Former Board of Directors, July 31, 2020

Source of data: Condominium Authority of Ontario

Director	Title	Elected or Appointed	Experience	Initial Appointment	Expiry of First Term	Subsequent Appointment/Election	Expiry of Second Term
Tom Wright	<ul style="list-style-type: none"> <li>Former Chair (1<sup>st</sup> term)</li> <li>Former Member (2<sup>nd</sup> term)</li> </ul>	Elected	<ul style="list-style-type: none"> <li>Senior Board position in Resource Productivity and Recovery Authority Board</li> <li>Former Board Chair, Bereavement Authority of Ontario</li> <li>Former CEO/Registrar of Real Estate Council of Ontario</li> </ul>	Jul 11, 2016 <sup>t</sup>	Sep 9, 2019	Sep 9, 2019	Was Sep 9, 2020 Resigned Apr 8, 2020
Francesco D'Onofrio	Former Vice Chair	Elected	<ul style="list-style-type: none"> <li>Former Deputy Minister and Chief Executive Officer, Service Ontario</li> <li>30+ years in Ontario Public Service, including executive positions at Ministry of Transportation</li> </ul>	Jul 11, 2016 <sup>t</sup>	Sep 9, 2019	Sep 9, 2019	Was Sep 9, 2021 Resigned Apr 8, 2020
Armand Conant	Former Secretary	Elected	<ul style="list-style-type: none"> <li>Partner, Shibley Righton LLP</li> <li>Past President, Canadian Condominium Institute (Toronto)</li> <li>Member, Expert Panel in the review of the <i>Condominium Act, 1998</i></li> </ul>	Jul 11, 2016 <sup>t</sup>	Sep 9, 2019	Sep 9, 2019	Was Sep 9, 2022 Resigned Apr 8, 2020
Genevieve Chormenki	Member <sup>1</sup>	Elected	<ul style="list-style-type: none"> <li>Mediator, arbitrator, and dispute resolution consultant since 1989</li> <li>Member, National Appeal and Audit Committee for the Alternative Dispute Resolution (ADR) Institute of Canada</li> </ul>	Jul 11, 2016 <sup>t</sup>	Sep 9, 2019	Sep 9, 2019	Sep 9, 2022 Resigned Apr 8, 2020

Director	Title	Elected or Appointed	Experience	Initial Appointment	Expiry of First Term	Subsequent Appointment/Election	Expiry of Second Term
Lisa Vescio	Member <sup>2</sup>	Appointed	<ul style="list-style-type: none"> <li>35+ years in Ontario Public Service, in various senior positions across Ministry of Transportation, Finance, and Government and Consumer Services</li> </ul>	Feb 15, 2018	Sep 9, 2019 <sup>2</sup>	n/a	n/a
Patricia Volker	Treasurer (former)	Appointed	<ul style="list-style-type: none"> <li>Board member; Chair, Finance and Audit Committee, ORNGE</li> <li>Board member, Burlington Hydro Electric Inc.</li> </ul>	Mar 9, 2018	Sep 9, 2019 <sup>2</sup>	n/a	n/a
Heather Zordel	Chair <sup>3</sup>	Appointed	<ul style="list-style-type: none"> <li>Partner, Gardiner Roberts LLP</li> <li>Part-time Commissioner, Ontario Securities Commission</li> <li>Co-director and Adjunct Professor, Osgoode Law School</li> <li>Board member, Toronto Hydro Corporation</li> <li>Former Bencher and Tribunal member, Law Society of Ontario</li> </ul>	Nov 30, 2018	Nov 29, 2021	n/a	n/a
Margaret Samuel	Secretary	Appointed	<ul style="list-style-type: none"> <li>President, CEO and Portfolio Manager, Enriched Investing Inc.</li> <li>Past experience includes RBC and the Ontario Teachers' Pension Plan Board</li> </ul>	Sep 9, 2019	Sep 9, 2022	n/a	n/a
Judy Sue	Treasurer	Appointed	<ul style="list-style-type: none"> <li>President, Eagle Audit Advantage Inc.</li> <li>23 years in various accounting and finance roles at a large Canadian financial institution</li> </ul>	Mar 4, 2020	Mar 4, 2023	n/a	n/a

Director	Title	Elected or Appointed	Experience	Initial Appointment	Expiry of First Term	Subsequent Appointment/ Election	Expiry of Second Term
Mary Throop	Member	Elected <sup>4</sup>	<ul style="list-style-type: none"> <li>• Founder, Summerhill Capital</li> <li>• Former Senior Partner, Laketon Investment Management</li> <li>• Former Managing Director, International Equities, CIBC World Markets</li> </ul>	Sep 16, 2020	Sep 15, 2021	n/a	n/a
Larry Banack	Member	Elected <sup>4</sup>	<ul style="list-style-type: none"> <li>• Member, Law Society Hearing and Appeal Panels</li> <li>• Roster Arbitrator, Sport Dispute Resolution Centre of Canada</li> <li>• Former Commissioner, First Case Management Masters' Remuneration Commission</li> <li>• Ex Officio Benchler, Law Society of Ontario</li> </ul>	Sep 16, 2020	Sep 15, 2022	n/a	n/a
Allison Scanlan	Member	Elected <sup>4</sup>	<ul style="list-style-type: none"> <li>• Former Board member, Community Associations Institute, Canada</li> <li>• Strategic Supply Chain Consultant, Allison Scanlan Strategic Business Consulting</li> <li>• Former employee, General Motors</li> </ul>	Sep 16, 2020	Sep 15, 2022	n/a	n/a
Erik Levinson	Member	Elected <sup>4</sup>	<ul style="list-style-type: none"> <li>• Founder, Key CTO</li> <li>• Founder, CondoWorks</li> </ul>	Sep 16, 2020	Sep 15, 2023	n/a	n/a

1. Invited by the Ministry of Government and Consumer Services to be the initial directors of what would become the Condo Authority (on designation).

2. Appointments were revoked by the Ministry of Government and Consumer Services.

3. Appointment of Heather Zordel as Chair of the Board was confirmed on September 9, 2019.

4. New members recently elected to fill vacancies caused by resignations of the four founding directors.

## Appendix 6: Condominium Management Regulatory Authority of Ontario Current and Former Board of Directors, July 31, 2020

Source of data: Condominium Management Regulatory Authority of Ontario

Director	Title	Elected or Appointed	Qualifications and Experience	Initial Appointment	Expiry of First Term	Subsequent Appointment / Election	Expiry of Second Term
Aubrey LeBlanc	Chair	Elected	<ul style="list-style-type: none"> <li>• Chief Administrative Officer, Ontario Building Officials Association</li> <li>• Former Chief Executive Officer/Registrar of Taron Warrant Corporation</li> <li>• Former Chair, Bereavement Authority of Ontario</li> </ul>	Jul 1, 2016 <sup>1</sup>	Jun 5, 2019	Jun 5, 2019	Jun 16, 2020 <sup>2</sup>
John Oakes	Secretary	Elected	<ul style="list-style-type: none"> <li>• Chair, Crossbridge Condominium Services Limited (formerly Brookfield)</li> </ul>	Jul 1, 2016 <sup>1</sup>	Jun 5, 2019	Jun 5, 2019	Jun 2022
Gail Beggs	Member	Elected	<ul style="list-style-type: none"> <li>• 30+ years in Ontario Public Service</li> <li>• Former Deputy Minister of the Ministry of the Environment, the Ministry of Natural Resources and the Ontario Secretariat for Aboriginal Affairs</li> </ul>	Jul 1, 2016 <sup>1</sup>	Jun 5, 2019	Jun 5, 2019	Jun 2021
Elizabeth Gibbons	Member	Elected <sup>3</sup>	<ul style="list-style-type: none"> <li>• 20 years in public relations, communications, and stakeholder relations</li> <li>• Director of Communications for TELUS International</li> <li>• Past Director of Communications for the Ministry of Agriculture</li> </ul>	Jun 26, 2018	Jun 5, 2019	Jun 5, 2019	Jun 2022

Director	Title	Elected or Appointed	Qualifications and Experience	Initial Appointment	Expiry of First Term	Subsequent Appointment / Election	Expiry of Second Term
Joan Andrew	Former member (resigned)	Elected	<ul style="list-style-type: none"> <li>Former Deputy Minister, Ministry of Citizenship and Immigration</li> <li>Vice Chair, Niagara Parks Commission</li> </ul>	Jul 1, 2016 <sup>1</sup>	Mar 6, 2018	n/a	n/a
Kerry Carmichael	Member	Appointed	<ul style="list-style-type: none"> <li>30+ years in real estate and retail automotive industries</li> <li>Former Executive Director of Retail Communications, BMW Canada</li> </ul>	Jun 5, 2019	Jun 5, 2022	n/a	n/a
Beth Pearson	Member	Appointed	<ul style="list-style-type: none"> <li>Over 30+ years in insurance industry</li> <li>Former owner and partner, AP Insurance Brokers</li> <li>Past President of Registered Insurance Brokers of Ontario</li> </ul>	Jun 5, 2019	Jun 5, 2022	n/a	n/a
Paul Kyrte	Member	Appointed	<ul style="list-style-type: none"> <li>Paralegal, operates his own company</li> <li>Property administrator for a private corporation</li> </ul>	Jun 5, 2019	Jun 5, 2022	n/a	n/a
Milton Chan	Former member	Appointed	<ul style="list-style-type: none"> <li>Chief of Staff, Toronto Region Board of Trade</li> <li>Previously served as an advisor in the Ontario Public Service to various elected officials</li> </ul>	Feb 15, 2018	Jun 5, 2019	n/a	n/a

1. Invited by the Ministry of Government and Consumer Services to be the initial directors of what would become the Management Regulatory Authority (on designation). They subsequently re-elected themselves as directors.

2. Re-elected for a three-year term on June 16, 2020.

3. Invited by the elected directors in May 2018 to fill the vacancy from Joan Andrew's resignation until the June 2018 Annual General Meeting. At that meeting, Elizabeth Gibbons was elected to complete Joan Andrew's initial term (to June 2019) and was also elected at the June 2019 for a new term.



## Appendix 7: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

### Ministry of Government and Consumer Services (Ministry)

1. Clear legal frameworks are in place to define roles and responsibilities of key stakeholders in the condominium sector, such as condominium owners, condominium boards and oversight bodies.
2. The Ministry identifies emerging issues and best practices in the condominium sector; shares the results with legislators and the public on a timely basis; and regularly reassesses the extent of support that condominium owners and condominium boards need to manage their ownership interests and/or responsibilities effectively.
3. Effective and efficient processes are in place to assess whether the Condo Authority and the Management Regulatory Authority obtain sufficient and timely information from stakeholders to effectively fulfill their mandates.
4. Effective and periodic monitoring processes are in place to assess whether the mandates of both authorities are appropriate, and to recommend updates to the legislation to address concerns that may arise in the condominium sector.

### Condominium Authority of Ontario (Condo Authority)

1. Effective governance and accountability structures are in place to oversee the operations of the Condo Authority in fulfilling its mandated responsibilities.
2. Efficient and effective processes are in place to manage and optimally use the Condo Authority's resources in fulfilling its mandated responsibilities including public education, training for directors of condominium boards, handling dispute resolution and maintaining a public registry of condominium corporations.
3. Processes are in place at the Tribunal to provide cost-effective mechanisms to help condominium owners and condominium boards resolve their disputes effectively and efficiently.
4. Effective and efficient processes are in place to collect accurate, timely and complete information to update key data related to condominium corporations and to help management make informed decisions.
5. Meaningful performance indicators and targets are established, and performance is monitored against the indicators and targets. Results are publicly reported and corrective action is taken in a timely manner.

### Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority)

1. Effective governance and accountability structures are in place to oversee the operations of the Management Regulatory Authority in fulfilling its mandated responsibilities.
2. Efficient and effective processes are in place to manage and optimally use the Management Regulatory Authority's resources in fulfilling its mandated responsibilities including licensing of property managers and property management companies; handling complaints, inspections and investigations; and maintaining a public registry of licensed property managers and property management companies.
3. Effective and efficient processes are in place to ensure that inquiries and complaints received are accurately recorded, resolved and followed up in a timely manner.
4. Effective and timely inspection and investigation processes are in place for licensed condominium management companies and condominium managers to determine whether they comply with applicable requirements, consumers are protected, and follow-up action is taken when needed.
5. Meaningful performance indicators and targets are established, and performance is monitored against the indicators and targets. Results are publicly reported and corrective action is taken on a timely basis.

## Appendix 8: Examples of Emails Sent by Condo Owners to Our Office\*

Source of data: Condo Owner Emails Received by the Office of the Auditor General of Ontario

1. I hope the results help to improve condo ownership and living in Toronto. Currently, I'm apoplectic that I'm being asked to pay a monthly redaction fee of \$xx/month in order to receive our condo's monthly financial statements. I already pay \$xx/month in condo fees! You would think that this would be enough to cover redaction fees. I can't say this enough but I firmly believe that Minutes and Monthly Financial Statements should AUTOMATICALLY be distributed to ALL owners through either a management's portal or email. Transparency is not something our condominium board of directors champions, which results in a lot of issues (frustration, negativity, uncertainty, ill will, secrecy, etc.).  
  
I'm the ONLY person in my entire building (approximately 40 units) who asks for the financials. At one point I knocked on over a dozen ppl's doors to ask them to request the financial statements, but after following up with many of them, none had asked for them. Owners said they were too busy or hadn't gotten around to it.
2. We need help. Our condo looks like a housing project. We have had the same board members for 15 years. [One] is very rude and likes to act like he owns the property. I've been threatened twice on different occasions. We need a forensic Audit done to many things that have supposedly been done. Please send help.
3. We have many questions about the board of directors, specially the president. The owners want to know about expenses, in particular when a quote is given. They never stick to that quote and we never get reasons of why it has tripled in cost. A lot of owners are suspicious about things here.
4. I would like to provide fact-based solutions to assist the operations of condominiums across Ontario at no cost and on my time. My experience as a previous board member and as a current owner will enhance efficiencies from a cost perspective. There are significant flaws in the Condo Act and as well as continued necessary improvement to the CAO [Condominium Authority of Ontario] which was a long overdue government requirement for oversight/regulation and standards for directors/managers. I can provide an added perspective from an individual with a *[phrase removed to retain privacy of the author of the email]* to enhance rights from that perspective as well.  
  
My vision is to have condo owners be treated with dignity, equality and financial integrity at the highest level. Unfortunately, biased-based decisions continue to put owners at significant financial risk and economic hardship. It's time for complete disclosure, transparency, oversight and accountability of this multi-billion-dollar industry.
5. In our combination of detached homes and townhomes, common elements, all units are charged the same dollar amount. This was set up by the developer and is certainly a marketing ploy because larger units are not charged any more than smaller units, a sales strategy to sell larger homes. Developers should not be allowed to do this. Larger homes are therefore subsidized by smaller homes.  
  
This means that smaller homes pay more than their fair share for:
  - Community insurance coverage, because it costs more to repair larger homes when an insurance claim is made
  - Maintenance of units; larger driveways, bigger roofs, longer eavestroughs and more landscaping because yards are bigger
  - Snowplowing because the yards have more frontage
  - Other stuff I haven't even thought about.

The only way to change this injustice is through a motion that requires a large majority of owners' votes to pass BUT because there are more detached homes in our community, there is no way such a vote would pass. This is grossly unfair and certainly undemocratic given the specific circumstances. The law needs to change to better define (actually, just to define) how the cost of common elements should be equitably allocated.
6. [Translated into English from another language by the author of the email] - I have a question want to ask you. I just read our corporation Financial Statement for 2019, I found some amount did not match with the previous financial document that the management sent to us. Our corporation almost hired the maintenance people without license. Sometimes it repair by the board of director. And this management refuse to show us about the Superintendent license or repairs person license. The trick things is they always ask the people came to do the repair job at night when most of owners leave the plaza. Some owners and I talked this issue with the management by email, however, they never response these email. I want to know how can we do right now.

7. I have previously served as a director of the condominium that I live in. I have completed the Directors Training program and currently serve as a financial manager of a non-profit community center. Having gone through the CAT process [Condominium Authority Tribunal] last year I have the following comments.
- a. The process is lengthy, and each step is time consuming.
  - b. The rules are extensive and the opportunity for error in the process is significant. One must spend considerable time to fully understand the process.
  - c. The concept of the tribunal is that it can be used in a way that would avoid major legal expense and the use of the court system. It appears that the use of legal advice is not required and the process can be undertaken by the average person. The reality is that legal advice is very useful because the instructions on-line are not sufficient. Unfortunately, there is no provision for recovering these legal costs.
  - d. It appears that condominium corporations have quickly learned that the best course of action to take in a CAT process is simply not to participate. The potential fines are small and much smaller than legal costs encountered by the condo corp in engaging lawyers to represent them in the process. (This was exactly what happened in my own case where the legal counsel for the condo chose not to participate. The fine that was eventually levied was probably a fraction of the legal cost that they would have faced with active participation. My own legal costs were not compensated.)
  - e. At first glance it appears that there is a very close relationship between large condominium corporations, condo management companies and the Condo Authority. The rules and actions by these bodies tend to be very self serving.
  - f. There tends to be an opinion that repeated request for records by a condominium owner is characterized as a form of harassment. The fact that repeated requests are made only because these are ignored and remain unanswered for months on end. This reality is not taken into account.
  - g. There is no easy appeal process if there is dissatisfaction with the rulings that are made.
  - h. There needs to be a better process to review the process of proxy harvesting that has become prevalent in many larger condos. Currently it is easy to use this process to take over the operation of a condo board. A well-organized small number of individuals can mount a campaign of misinformation, can harvest a large number of proxies, take over a board and hire a new management company at a significantly higher fee. These changes are often not in the best interest of the unit owners. There is no easy way to prevent this from happening, and if it happens, to request a review and ruling on the legality of the process.

Currently it is the Condo Authority that controls much of the items listed above. Unit owners have to count on this body to provide them the unbiased protection of their rights as well as a forum to right any grievances. It is very necessary to look at the mandate of the Condo Authority to carry out its mandate. It is probably time to review aspect of the Condominium Act of Ontario to ensure that it has not fallen out of step with the realistic needs of the main clients, the condominium owners.

8. My building pays xx cents/sq ft in maintenance fees. [*phrase removed to retain privacy of the author of the email*] I firmly believe we pay far above average cause of the shady dealings of our board/property manager (when I was on the board, I saw fake and duplicate invoices, bloated contracts, and sheer ineptness!). The Board is encouraged to get away with their duplicitous actions (kickbacks, lining of pockets, financial incompetence, etc.) which results in higher maintenance fees and lifestyles many people can no longer afford thanks to COVID and the lack of jobs, opportunities, etc.

\* Some details from the emails have been removed to preserve the confidentiality of the authors of the emails.

## Appendix 9: Condominium Corporation Records under the Legislation

Source of data: *Condominium Act, 1998* (Act) and Ontario Regulation 48/01: General (Regulation)

### Categories of Records under the Act

1. The financial records of the corporation.
2. A minute book containing the minutes of owners' meetings and the minutes of board meetings.
3. A copy of the declaration, bylaws and rules.
4. All lists, items, records and other documents from the corporation's turn-over meeting.
5. The report that the corporation receives from the person who conducts a performance audit.
6. List of owners' names and addresses for service of each unit and notices of leased units.
7. A record of all reserve fund studies and all plans to increase the reserve fund.
8. A copy of all agreements entered into by or on behalf of the corporation.
9. The report that the corporation receives from an inspector, in the event one is appointed by the Superior Court of Justice.
10. All instruments appointing a proxy or ballots for a meeting of owners that are submitted at the meeting.
11. Any additional records specified in the bylaws of the corporation.

### Categories of Records under the Regulation

12. Status certificates that the corporation has issued.
13. Records of disclosure statements and information provided to the board or the corporation that relate to directors and officers of the board.
14. Records of training courses completed by directors and officers of the board that the Condo Authority provides to the corporation.
15. Records that relate to employees of the corporation and that the corporation creates or receives.
16. Records that relate to actual or contemplated litigation and that the corporation creates or receives.
17. Records that relate to claims under an insurance policy in relation to the corporation and that the corporation creates or receives, including insurance investigations involving the corporation.
18. Records that relate to specific units or owners and that the corporation creates or receives.
19. A copy of all existing and expired warranties and guarantees that the corporation receives and that relate to the property or to any real or personal property that the corporation owns or that is the subject of an agreement entered into by or on behalf of the corporation.
20. Reports and opinions of an architect, engineer or other person whose profession lends credibility to the report or opinion, that the corporation receives and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an agreement entered into by or on behalf of the corporation.
21. Drawings and plans that the corporation receives and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an agreement entered into by or on behalf of the corporation.
22. Reports and opinions of an appraiser that the corporation receives and that relate to the property or to any real or personal property that the corporation owns or that is the subject of an agreement entered into by or on behalf of the corporation.
23. Records that relate to a right, title, interest, encumbrance or demand of any kind affecting land in relation to the corporation, but not including the interest of an owner in the owner's unit or common interest, and that the corporation creates or receives.
24. Records that relate to an addition, alteration or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners and that the corporation creates or receives.
25. Instruments appointing a proxy for a meeting of owners that are delivered to the corporation before the meeting if required or permitted by the bylaws.
26. Recorded votes for a meeting of owners that are submitted at the meeting.
27. Agreements entered into by or on behalf of the corporation that have expired.
28. A copy of all insurance policies that the corporation has obtained and maintains.
29. A copy of all insurance policies that the corporation has obtained and that have expired.
30. A copy of all redacted versions of records listed above.

## Appendix 10: Consumer Protection Powers Given to Delegated Administrative Authorities

Prepared by the Office of the Auditor General of Ontario

Key Consumer Protection Power/Responsibility	Condo Authority	Management Regulatory Authority	Various <sup>1</sup>	Electrical Safety Authority	Ontario One Call	Real Estate Council of Ontario	Tarion Warranty Corporation	Technical Standards and Safety Authority	Vintners Quality Alliance Ontario
Require credentials (for example, education)	x <sup>2</sup>	✓	✓	✓	n/a	✓	✓	✓	✓
Evaluate credentials	x	✓	✓	✓	n/a	✓	✓	✓	✓
Licence (allow to operate)	x	✓	✓	✓	n/a	✓	✓	✓	✓
Monitor (require information routinely)	✓	✓	✓	✓	n/a	✓	✓	✓	✓
Receive complaints from public and resolve disputes	x <sup>3</sup>	✓	✓	x	✓	✓	✓	✓	x
Inspect/investigate	x	✓	✓	✓	✓	✓	✓	✓	✓
Enforce rules or legislation (or refer for enforcement/prosecution), including discipline	Limited <sup>4</sup>	✓	✓	✓	✓	✓	✓	✓	✓
Appoint administrator or receiver (that is, of licensee or entity serving consumer)	x	x	✓	x	n/a	x	x	x	x
Educate public (and other stakeholders)	✓	✓	✓	✓	✓	✓	✓	✓	✓
Consult with public (and other stakeholders)	✓	✓	✓	✓	✓	✓	✓	✓	✓
Advise government on policy/legislation change	✓	✓	✓	✓	x	✓	✓	✓	✓

1. Includes Bereavement Authority of Ontario, Ontario Motor Vehicle Industry Council and Travel Industry Council of Ontario and Retirement Homes Regulatory Authority.  
 2. The *Condominium Act, 1998* requires directors to complete training. See **Section 4.3.1** for details.  
 3. The Condo Authority is responsible for overseeing and managing the operations of the Tribunal, which has authority for dispute resolution in limited areas such as records. See **Section 4.4.1** for details.  
 4. Limited for boards—the Condo Authority can only enforce the requirements in the *Condominium Act, 1998*, to file information returns or pay the assessment fee levied by the Condo Authority.

## Appendix 11: Comparison of Authorities' Organizational Key Functions and Human Resources

Prepared by the Office of the Auditor General of Ontario with data from the Condominium Authority of Ontario and Condominium Management Regulatory Authority of Ontario

Function and/or Position Title	# of Staff <sup>1</sup>		Potential to Streamline, Combine or Share Similar Functions Between the Two Authorities?
	Condo Authority	Management Regulatory Authority	
Board of Directors	7	7	Yes—only one Board would be needed. Estimated annual savings of between \$61,000 and \$158,000 would cover Board expenses.
Registrar/CEO	1	1	Yes—only one Registrar/CEO would be needed. Estimated annual savings of between \$193,000 and \$205,000 would cover one CEO's salary.
Finance	1 (Director, Finance and Controllership)	No	No
Information Services—Inquiries (Condo Authority)	2	0	
Licensing, Education and Compliance—Complaints (Management Regulatory Authority)	6	4	Yes—the two groups could combine to provide a single contact point for members of the public with inquiries and/or complaints. Additional cross-training would be needed. Significant cost savings are not expected.
Information Services—Deputy Registrar and Senior Program Advisor (Condo Authority)			Yes—only one Deputy Registrar would be needed. Estimated annual savings of between \$136,000 and \$170,000 would cover one Deputy Registrar's salary.
Licensing, Education and Compliance—Deputy Registrar and Senior Regulatory and Compliance Specialist (Management Regulatory Authority)			The roles of the remaining 2 staff could combine to oversee compliance and regulatory matters under one Authority.
Licensing, Education and Compliance—Licensing and Information Officer and Learning Specialist <sup>2</sup>	n/a	2	No
Information Services—Policy and Program Analysts	2	0	Yes—the roles of the 2 staff need to be reviewed for overlap with the functions of Communications and Outreach; and Corporate Governance and Office of the Registrar (see following two rows). Estimated annual savings of \$130,000.
Communications and Outreach	4	2	Yes—the two communication groups could combine their efforts to increase consumer awareness of a new authority. Significant cost savings are not expected.
Strategic Initiatives and Governance (Condo Authority)	3	1	Yes—the two groups could combine. Estimated annual savings of \$90,000 would cover one staff person to perform governance-related duties for the CEO.
Corporate Governance and Office of the Registrar (Management Regulatory Authority)			

Function and/or Position Title	# of Staff <sup>1</sup>		Potential to Streamline, Combine or Share Similar Functions Between the Two Authorities?
	Condo Authority	Management Regulatory Authority	
Information Technology (IT) <sup>3</sup>	16 <sup>4</sup>	2	Yes—the two IT groups could combine. Significant cost savings are not expected.
Strategic Business Intelligence and Data Analytics	3	0	Yes—the roles of the 3 staff could be extended to cover similar functions for the Management Regulatory Authority. Significant cost savings are not expected.
Tribunal Chair	1	n/a	No
Tribunal Mediation and Adjudication	26 <sup>5</sup>	n/a	No
Tribunal Operations	5	n/a	No
Information Services—Tribunal Analysts	3	n/a	No
<b>Total<sup>6</sup></b>	<b>49</b>	<b>15</b>	
<b>Total Estimated Annual Cost Savings</b>	<b>\$610,000–\$753,000</b>		

1. Unless stated otherwise, staffing numbers are full-time equivalents.
2. The mandate for setting education requirements for condo managers was to be transferred from the Ministry of Government and Consumer Services to the Management Regulatory Authority effective November 1, 2021.
3. IT was a shared resource between the two authorities until December 1, 2019.
4. The 16 IT staff support online services in the areas of condo returns, inquiries, the information database, director training and dispute resolution.
5. All 26 are part-time appointees and are not employees of the Condo Authority. They hear cases appearing before the Tribunal. They are selected based on criteria such as experience in law, adjudication and arbitration; and education.
6. Excluding Board members and part-time appointees to the Tribunal.



## Office of the Auditor General of Ontario

20 Dundas Street West, Suite 1530  
Toronto, Ontario  
M5G 2C2  
[www.auditor.on.ca](http://www.auditor.on.ca)