



Winter 2023

# Comfort Chronicle

WHY NOT BE COMFORTABLE

IN THIS ISSUE

## Legal Issues to Consider for 2024?

As is our custom, Comfort Chronicle's winter issues remind corporations of laws and policies they should be thinking about for the new year. We have reminded Boards of the need for Standard Unit Bylaws etc. and hope they are all in place. In this issue we remind Boards of lesser considered issues that are essential for condo operation

**Workplace Violence & Harassment Policies.** Boards are reminded that condo corporations are employers. The Ontario Occupational Health & Safety Act (OHSA) requires that employers assess and create relevant policies and programs to ensure compliance. These should have two aims: prevent violence and harassment and respond effectively to issues when they arise. It is recommended that a portion of a Board meeting be set aside annually to ensure compliance.

Boards must become educated in what steps are required to meet the 'prevention' mandate. If unsure they may wish to consult their corporation's lawyer.

**Accessibility for Ontarians with Disabilities Act (AODA) (2005).** Condo Corporations are service providers through the contractors that perform functions throughout the corporation's property.

This means that "all services must be provided in a manner that: respects the independence of persons with disabilities; provide goods and services to persons with disabilities and other persons unless alternatives are necessary to ensure people with disabilities can use/benefit from them; gives such disabled persons an equal opportunity with others to obtain, use and benefit from them."

This includes such things as ensuring notices can be easily read by residents with visual disabilities; AGMs include sound systems to accommodate those with hearing disabilities; promptly and completely remove from sidewalks etc. to accommodate those with mobility disabilities.

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### IMPORTANT DATES

Christmas & Boxing Days

Monday, December 25 &  
Tuesday, December 26, 2023  
(Management Office Closed)

New Years Day

Monday, January 1, 2024  
(Management Office Closed)

NEW  
ACT  
NEW  
ERA

## New Years Resolutions

Following the theme of being prepared for the new year, Boards are also advised to consider planning for:

**Annual Budgets** – Since corporations' year ends are the same each year, Boards and Management should note all deadlines relevant to their preparation, approval and distribution on their corporations' annual calendar.

**Audit and AGM** – Boards should similarly note the upcoming date of the corporation's AGM which will, in turn, dictate the

scheduling of the annual financial audit as well as the dates for sending out all the appropriate AGM notices.



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**Reserve Fund Study** – The corporation's

annual calendar should note whether there are any Reserve Fund Study requirements for 2024. Are changes required to the Reserve Fund Plan?

**Investments Review** - It is usually advisable to go through the corporation's investment portfolio annually to ensure there have not been any changes or that no changes are required to conform to the *Act*. If there will be reserve fund renovations in 2024, ensure funds will be available for same.

## Running Effective Board Meetings

In case no one noticed, Boards have a myriad important aspects inherent in their positions. This means that every time the Board meets, the minutes taken must accurately reflect decisions made.

We have previously considered the role of the Property Manager in ensuring each member has a complete meeting package well in advance of each meeting. While important, an accurate record of the Board's decisions and process as well as specific motions and resolutions adopted at meetings is essential. Accurate and thorough minutes are so important that they are often set out in the corporation's general Operating By-law.

Remember that such minutes form part of the corporation's record and, as such, must be made available for perusal by owners. They are also an effective tool to prove that Board decisions are correctly reached.

General statements rather than voting details are enough (unless requested by the Board). Potential conflicts of interest must be properly dealt with according to the corporation's governing documents and that treatment should also be reflected in the minutes.

If the Board relies on a subject matter expert (SME) or a report when making a decision, the report or the SMEs written presentation should be attached to the minutes as protection in the event of owner inquiry.

It should be noted, however, that there are some matters that should not be part of the minutes. If the corporation's lawyer attends to discuss pending/ongoing litigation etc. everything said should be considered privileged so not included. Unless presented in letter for for the Board's consideration and response with an accompanying official motion/resolution, do not include any criticisms or compliments.

Do not include "In camera" meetings in the regular meeting minutes. If necessary, minutes of such a meeting will be approved only by those who attended the meeting and once approved, should be kept separate and marked "personal and confidential."

Once approved by the Board Secretary, minutes constitute evidence of decisions, actions and appointments so completeness and accuracy is critical.



## Communication for Governance and Community

Over the years the Chronicle has featured articles about the benefits of communication within condos as well as suggestions regarding effective methods for same.

A necessary aspect of effective communication includes encouraging residents to communicate with Boards regarding issues they may be having. Such communication should form part of regular Board meetings. Owners' communications should be promptly answered by Property Management, either by providing initial assistance or advising them that their concern will be addressed at the next Board meeting (give date specifics) with a written response to follow.

For general notices, Boards must consider how residents are most easily reached. This item might be included in Management's annual Resident Information Form update procedure (you do have one don't you?).



Successful condos run on sound board decisions and a smart communication strategy.

Consider all the technological advances in communication. What is the most effective platform for your corporation? Once the appropriate format/s have been decided Boards must consider content. The first rule of communication content is that it must be suitable to its audience. This means that content should do more than distribute information; it should also enhance the condo community. It should be noted too that courts have been shown to be thoughtful about the tone and medium of corporation messages as it often indicates the Board's degree of commitment to the message.

Why not use this holiday season to brush up on your Corporation's communication skills.

## Seasonal Reminders: Slips and Falls

The Occupier's Liability Act, R.S.O. 1990, c.O.2 (OLA) sets out the duty of care that occupiers owe to individuals who enter their premises. Condo corporations are 'not-for-profit' entities and are deemed to be the "occupiers" of the common elements.

This means that the condo corporation is responsible under OLA to "take such care as in all the circumstances ... that is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises." Section 117 of the *Act* also defines the corporation's duty of care.

It must be stated here that while there is a duty of care on the part of corporations to maintain sidewalks, parking lots etc., the courts recognize that constant perfection is not realistic.

In fact, courts have held that the standard here is one of reasonableness. This does not, however, relieve corporations from taking their duty of care seriously.



Generally, Boards should establish and maintain winter protocols. Because landscaping/snow removal contractors normally have many corporations within their portfolio, on-site staff may need to inspect, sand/salt pedestrian areas and even shovel where required. Once completed, record who, when and where these tasks were performed.

Corporations that have hired a property management company should ensure that the manager actively supervises the snow removal contractor and procedures.

Condo corporation residents also have a duty of care to act responsibly in changing weather conditions. When walking, walk slowly hanging on to anything nearby if required. Wear footwear appropriate to the conditions and, when possible, stick to areas that have just been cleared. If driving, do so slowly and cautiously. Owners who do not feel confident walking in harsh weather may want to consider staying comfortably warm in their unit.

While legally the condo corporation has an obvious duty of care, residents must also take responsibility for their own actions. When each element of the corporation acts responsibly slips and falls can be significantly reduced.

## Making your Condo a Community

The upcoming holiday season is the perfect time to make a conscious decision to make your corporation a community. Studies have shown that community equals stronger corporations. Why, you may ask. Think about it. If Board members, Management and residents all feel they have a personal stake in the corporation's success they will be more mindful of maintaining and respecting the corporation's property. How do you go about achieving this?

Boards may want to begin by creating a social event to mark the holiday season. Some corporations hold a wine and cheese evening while others create a potluck dinner. Because the composition of every corporation is different, Boards and Management should consider this when considering the correct social format. If there is a great variety within the community, Boards may need to consider several options to see what receives the best response. If social events won't work, what about planned outings outside the building? As an example, residents of a corporation organizes regular bus trips to a local casino.

When establishing steps forward think about making room for everyone to share their interests with others. Be prepared to start small and expect a small response. Since this will be done within the corporation framework Management and Board members must be included in the planning.

Since the going will be slow be patient and don't give up or expect everything to go well without problems. There will be differing opinions, many moving parts, mistakes and maybe even early failures. Remember too, you will never get 100% participation so don't be afraid to settle for less. Anything is an improvement and community feeling can expand as positive experiences spread through word of mouth.

Don't forget to have fun. Building community is about meeting and connecting with your neighbours.

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**Comfort Property Management** is a proud Premier Sponsor of the annual Condo Conference! We believe in supporting our community and the people working hard to educate and bring about positive change in the industry.

Moreover, it is our twentieth anniversary! Comfort Property Management is excited and proud to announce that it has been twenty years that we have been serving our clients. We thank you for the opportunity of working with you and your community and we commit to growing and learning while we provide the highest quality service at a comfortable price.

As we conclude another year, we also want to wish all our corporations a happy, healthy, and memorable holiday season full of fun, family, and friends. May 2024, bring all of us a mutually successful year.