

Chapter 1

Section 1.10

Ministry of Public and Business Service Delivery

Follow-Up on 2020 Value-for-Money Audit: Condominium Oversight in Ontario

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2			2		
Recommendation 2	3			3		
Recommendation 3	3			3		
Recommendation 4	1			1		
Recommendation 5	4	4				
Recommendation 6	2	2				
Recommendation 7	3		2	1		
Recommendation 8	2		2			
Recommendation 9	4	4				
Recommendation 10	4	2	2			
Recommendation 11	2		1	1		
Recommendation 12	1		1			
Recommendation 13	2	1		1		
Recommendation 14	1		1			
Recommendation 15	3	1	1	1		
Recommendation 16	1			1		
Recommendation 17	1		1			
Recommendation 18	1		0.5	0.5		
Recommendation 19	5	5				
Recommendation 20	1		1			
Total	46	19	12.5	14.5	0	0
%	100	41	27	32	0	0

Overall Conclusion

The Condominium Authority of Ontario (Condo Authority), the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority), and the Ministry of Public and Business

Service Delivery (formerly the Ministry of Government and Consumer Services), as of November 4, 2022, have fully implemented 100%, 79% and 4%, respectively, of the recommendations which were specifically directed toward each of them. Combined, the Condo Authority, the Management Regulatory Authority, and the

Ministry have fully implemented 41% of the actions we recommended in our *2020 Annual Report*.

The Management Regulatory Authority was in the process of implementing an additional 14% of the recommendations and made little progress on the remaining 7% of the recommendations which were directed toward it. The Ministry was in the process of implementing an additional 42% of the recommendations and made little progress on 54% of the recommendations which were directed toward it. Overall, the Management Regulatory Authority and the Ministry were in the process of implementing an additional 27% of the recommendations and made little progress on 32% of the actions we recommended.

The Condo Authority has fully implemented recommendations such as adding an emergency planning preparedness component to the training material and regularly reviewing and verifying the information self-reported by condo corporations when filing their annual returns. The Management Regulatory Authority has fully implemented recommendations such as sharing the data on property managers and management companies collected by both authorities regularly and identifying the names of property managers and management companies that are not licensed. The Ministry has fully implemented our recommendation on reviewing and formally clarifying the mandate of the Condo Authority.

The Ministry was in the process of implementing recommendations such as reaching an agreement with the Condo Authority and the Management Regulatory Authority on appropriate performance measures regarding fulfilment of their mandate. The Management Regulatory Authority was in the process of implementing recommendations such as developing and using an inspection checklist to carry out full inspections of property managers and companies rather than only addressing the issues within a complaint and developing a plan to carry out proactive inspections of selected property managers and companies based on a risk-based framework.

The Ministry made little or no progress on several key recommendations such as setting thresholds and defining adequacy of reserve funds and providing the

Condo Authority with inspection, investigation and enforcement powers.

The status of actions taken on each of our recommendations is described in this report.

Background

The Condominium Authority of Ontario's (Condo Authority) responsibilities include educating condo corporation directors, maintaining a public registry of condo corporations, and overseeing and managing the operations of the Condominium Authority Tribunal, which resolves certain condo disputes. The Condominium Management Regulatory Authority of Ontario's responsibilities include licensing, handling complaints, inspection, and investigation and enforcement of condo managers and management companies.

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. The then 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 designation of two administrative authorities.

In 2020, we found that many of the reforms were still not implemented five years after they were passed. We found that the existing model for the condo sector did not provide effective consumer protection and did not address the risks that exist for condo owners and buyers.

Our audit also found that the mandate given to the Condo Authority under the Act was 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 lacked the ability to inspect or investigate potential abuses or misconduct by condo boards, or to 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 impacted the ability of condo owners and

purchasers to obtain assistance to best manage their ownership interests.

The Condominium Authority Tribunal (Tribunal) was 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. As of the end of September 2020, the Tribunal could hear disputes specifically related only to records maintained by condo corporations and condo owners' rights to access those records. 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—was 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).

The following were some of our significant findings:

- Initial developer-set condo fees were typically understated. Our audit found that 47 condo boards, representing approximately 73% of the 64 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.

- 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.

We made 20 recommendations, consisting of 46 action items, to address our audit findings.

We received commitment from the Ministry of Government and Consumer Services (now the Ministry of Public and Business Service Delivery), the Condominium Authority of Ontario and the Condominium Management Regulatory Authority of Ontario that they would take action to address our recommendations.

Status of Actions Taken on Recommendations

We conducted assurance work between April 2022 and October 2022. We obtained written representation from the Ministry of Public and Business Service Delivery, the Condominium Authority of Ontario and the Condominium Management Regulatory Authority of Ontario that effective November 4, 2022, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Purchase of Condominiums

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;

Status: Little or no progress.

Details

In our 2020 audit, we found that the *Condominium Act, 1998* (Act) did not require developers to use standard agreements for purchase and sale or declarations. The Act was changed in 2015 require additional information in declarations and disclosure statements; however, these changes were not in force at the time of our audit.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in 2023 and expects that by December 2024 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2024. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *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.*

Status: Little or no progress.

Details

In our 2020 audit, we found that the *Condominium Act, 1998* did not require developers to use standard

documents when providing information to purchasers of new condo units, such as the disclosure statement.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in 2023, and expects that by December 2024 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2024. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

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;*

Status: Little or no progress.

Details

In our 2020 audit, we found that under the *Condominium Act, 1998*, a developer must provide new condo buyers with a budget that estimated how much the common expenses and condo fees would be for the first year after the condo was registered. However, some developers had omitted, understated or deferred maintenance costs to subsequent years, to understate condo fees in their budgets.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in late 2022, and expects that by December 2023 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *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;*

Status: Little or no progress.

Details

In our 2020 audit, we found that the *Condominium Act, 1998* stated that if the costs incurred by the condo corporation for common area expenses in the first year after registration were more than what the developer had disclosed in the budget statement, the condo board could claim the difference from the developer. However, the board must make the claim within only 30 days of receiving audited financial statements for the year. Several changes to the Act were made following the 2012–13 review to address this, including giving condo corporations 90 days to make a claim against the developer. However, the changes to the Act were not yet proclaimed when we completed the audit.

In our follow-up, we found that the Ministry stated that implementing this recommendation may

require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in late 2022, and expects that by December 2023 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *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.*

Status: Little or no progress.

Details

In our 2020 audit, we found that other provinces had 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 understated common area expenses; in British Columbia, developers that understated expenses had to pay a penalty.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration.

Subject to government direction, the Ministry intends to begin policy work in late 2022, and expects that by December 2023 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

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;*
Status: Little or no progress.

Details

In our 2020 audit, we found that the regulations relating to reserve funds did 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. Our experts in reserve fund studies indicated that by increasing the budget window to 45 to 60 years, condo corporation budgets would include most of the expensive items.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in late 2022, and expects that by

December 2023 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *set thresholds and define adequacy of reserve funds;*
Status: Little or no progress.

Details

In our 2020 audit, we found that 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 was adequate for a reserve fund. The Ministry sought further input on the area of reserve funds in 2020 but had not made any decisions regarding implementing the changes.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in late 2022, and expects that by December 2023 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare

a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *work with the Condominium Authority of Ontario to raise awareness and communicate this issue in a clear and understandable manner.*

Status: Little or no progress.

Details

In our 2020 audit, we found that if reserve funds studies had used the 30-year time frame for assessing expected expenses, condo fees would go up more dramatically than if, from the start at registration, the condo owners had been paying for fees based on a 45-year or 60-year budget period for the reserve fund. We found that some condo boards and the owners might be unaware that they had been paying too little.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in late 2022, and expects that by December 2023 it will develop and bring forward a policy proposal for the government's consideration. Should the first and/or second action recommended under **Recommendation 3** be implemented, the Ministry would work with the Condominium Authority to develop clear public educational materials to communicate the changes.

While awaiting regulatory changes, the Condo Authority had developed, published and promoted the "Guide to Ensuring Healthy Reserve Funds" in March of 2022 to assist directors to better understand how to set aside sufficient funds. This guide includes, for example, basic information about what reserve funds and reserve fund studies are; best practices for maintaining a healthy reserve fund; and the responsibilities of condominium boards during the reserve fund study process.

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.

Status: Little or no progress.

Details

In our 2020 audit, we found that the *Condominium Act, 1998* provided that the original contributions to the reserve fund should be the greater of: (1) the amount reasonably expected to be enough, and (2) 10% of estimated common expenses. Most developers only used (2) to calculate reserve fund contributions, and this resulted in underfunding and made condo fees appear lower for potential buyers of condo units. Industry advocates had proposed to the government that the developer's original budget for the reserve fund should be supported by a preliminary reserve fund study. However, at the time of our audit, the Act did not impose this requirement to protect buyers of new condos.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry indicated that it will need to hold extensive consultation with the public and stakeholders to develop a proposal for the government's consideration. Subject to government direction, the Ministry intends to begin policy work in late 2022, and expects that by December 2023 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether

to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

Condo Management

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that both the *Condominium Act, 1998*, and the *Condominium Management Services Act, 2015*, allowed the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) and the Condominium Authority of Ontario (Condo Authority) to share information between them to exercise their duties. In January 2019, the two authorities signed an agreement that specifies the needed information to be shared, and how and when they are to be shared. Notwithstanding the legislation and the datasharing agreement, the two authorities did not have a process to crosscheck the information collected by each of them at the time of our audit.

In our follow-up, we found that in January 2021, the Management Regulatory Authority and the Condo Authority signed a data-sharing implementation agreement. This agreement builds on the data-sharing agreement that was signed in 2019 between the two entities.

The implementation agreement establishes how information will be shared and updated and how the data on property managers and management companies will be used within their own systems. It also sets out the types of data that will be sent between the two organizations. The Management Regulatory Authority sends nightly updates of changes to licensed condominium managers and condominium management provider businesses that occurred that day. The Condo Authority sends nightly updates based on Annual Returns and Notices of Change when a new record is created, or an existing record is modified and filed with the Condo Authority.

- *reconcile and confirm the completeness and accuracy of the data;*

Status: Fully implemented.

Details

In our 2020 audit, we found despite the data-sharing agreement being in place, the two authorities, the Management Regulatory Authority and the Condo Authority, did 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.

In our follow-up, we found that the Management Regulatory Authority and the Condo Authority developed an automated daily reconciliation process to verify licensing information added to the Condo Authority database, at time of filing of return or notice of change, against the Management Regulatory Authority public registry data to confirm the completeness and accuracy of licensee data in each database. This process allows both entities to have access to data in real time and investigate cases of potentially unlicensed entities in a timely manner.

The Condo Authority uses the information it receives from the Management Regulatory Authority to flag any records as “unverified” and follows up with the filer to check if the information entered is correct. The Management Regulatory Authority is also notified via automatic email notifications from the Condo Authority regarding any unverified managers or businesses through condo returns and notices of change.

These automatic notifications include the name of the condominium, the name of the unlicensed individual or firm, and contact information for the condominium's president and secretary.

- *identify the names of property managers and management companies that are not licensed;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Condominium Management Regulatory Authority of Ontario did not proactively identify unlicensed individuals and companies that are listed on the Condo Authority's public registry as condo managers.

In our follow-up, we found that the Management Regulatory Authority and the Condo Authority databases are updated each night that ensures that the two authorities share data about active condo managers and condo management provider businesses. The Condo Authority and the Management Regulatory Authority now use this data to automatically identify whenever an unlicensed condo manager or management firm is listed at a condominium corporation based on the status in each database.

For example, for the period from August 2021 to March 2022, the Condo Authority identified information relating to 23 unverified management service providers that were flagged from the data exchange process.

- *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.*

Status: Fully implemented.

Details

In our 2020 audit, we found that almost 40% of the 316 unlicensed individuals were also listed as active condo directors. However, the Management Regulatory Authority did not verify whether these individuals, who were also listed as active condo directors, were being

compensated for providing condo management services, which would require a licence.

In our follow-up, we found that the Management Regulatory Authority from April 2021 to June 2022 had identified 46 potential unlicensed managers or management companies based on filings submitted to the Condo Authority; the Management Regulatory Authority had resolved 45 of these cases.

As well, from April 2021 to June 2022, the Management Regulatory Authority had identified 31 cases of expired licences. In 24 cases, the person had left the industry; in four cases the person reinstated their licence with the Management Regulatory Authority and in three cases the person was on parental/maternity leave.

In total, during the period of our follow-up, the Management Regulatory Authority had resolved 76 out of 77 of the new cases identified since automated data sharing with the Condo Authority was implemented in early 2021.

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Management Regulatory Authority 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 had been taken to resolve the complaints.

In our follow-up, we found that in February 2021, the Management Regulatory Authority made enhancements to its information technology system to track complaints based on standardized classifications and outcomes. The Management Regulatory Authority tracks all complaints received and records all

interactions with complainants, respective condominium managers, and management provider businesses. On a quarterly basis, the Management Regulatory Authority management team reviews a summary report titled Update on Complaints Resolutions and Type on the number and types of complaints received and resolution of complaints based on preset categories.

- *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.*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Management Regulatory Authority did 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 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%, for a number of reasons such as not following up with complainants or closing the case too soon before ensuring the underlying issues had been resolved.

In our follow-up, we found that the Management Regulatory Authority in September 2021 developed new formal policies, in consultation with its Advisory Committee, that identify the types of actions that should be taken for specific types of complaints. All files now follow a standard complaint-handling process, which involves initially assessing the file including outreach to the complainant, gathering information from the licensee, and reviewing the file before issuing a decision. The Management Regulatory Authority also substantially revamped the complaints section of its website in alignment with its complaints-handling policies and procedures along with provided training to its staff.

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;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that the Management Regulatory Authority did not use an inspection checklist to conduct a full inspection for every case to determine whether these managers and companies were in compliance with key requirements specified in the *Condominium Management Services Act, 2015*.

In our follow-up, we found that the Management Regulatory Authority, following a review of the risk-based compliance approaches used by other regulatory bodies, such as the Technical Standards and Safety Authority and the Alcohol and Gaming Commission of Ontario, has developed and implemented two standardized inspection checklists: one for document management for condominium management providers and the other for administering owners' meetings and voting processes.

The Management Regulatory Authority is currently developing checklists for other key areas as identified under the *Condominium Management Services Act, 2015*, including the declaration of conflicts of interest to a client's Board of Directors and written contracts with all clients. It expects to complete this work by December 2022.

- *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;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found 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.

In our follow-up, we found that the Management Regulatory Authority is in the process of developing a policy for risk-based proactive inspections. The risk-based inspections would target specific activities and individuals or companies based on a balance of the likelihood and impact of any potential wrongdoing. The Management Regulatory Authority intends to focus its efforts and resources on higher-risk areas.

The Management Regulatory Authority is planning to continue consultations and complete the implementation plans by December 2022. It has begun a pilot project of inspections based on standardized approaches and checklists.

- *conduct regular proactive inspections and take appropriate disciplinary actions if required.*

Status: Little or no progress.

Details

In our 2020 audit, we found that the Management Regulatory Authority did not have a plan to conduct proactive inspections to monitor and assess whether property managers and companies were complying with the key requirements of the *Condominium Management Services Act, 2015* and its regulations.

In our follow-up, we found that the Management Regulatory Authority has initiated a program of regular risk-based proactive inspections and expects to implement more widely by December 2023.

Condo Board of Directors

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;*

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that about 6,420 directors had not completed the training within the required time frame, and therefore were ineligible to remain as directors. The Condo Authority did not have the regulatory authority to flag on its public registry any of the ineligible directors that were serving at the time or inform the Boards they were serving on.

In our follow-up, we found that the Ministry reported that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry began policy work in 2021, which is to continue through 2022. Subject to government direction, the Ministry expects that by December 2023 it will develop and bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be

directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *require the ineligible individuals to stop acting as directors of their condo boards.*

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that over 6,000 directors that did not complete the required training were still serving on condo boards as of April 30, 2020. However, the Condo Authority was unable to inform the directors and their impacted boards of these individuals' ineligibility to continue to serve.

In our follow-up, we found that the Ministry reported that implementing this recommendation may require legislative and/or regulatory amendments. The Ministry began policy work in 2021, which is to continue through 2022. Subject to government direction, the Ministry intends to implement this recommendation by December 2023 by bringing forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

In supporting the implementation of this recommended action while awaiting regulatory changes, the Condo Authority had developed an automated reminder system to help condominium corporations ensure accurate information is on file with the Condo Authority. The automated system, among other functions, reminds board directors of their obligation to complete the mandatory training before deadlines, and

advises the possible consequences where the majority of directors for the corporation appear to have missed the mandatory director training on time.

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);*

Status: Fully implemented.

Details

In our 2020 audit, we found that the mandatory online training program provided to board directors by the Condo Authority could be completed in as little as 15 minutes. The Condo Authority did not track or analyze the available data regarding time taken to complete the training.

In our follow-up, we found that the Condo Authority reviewed and analyzed the director training completion time data received from the learning management system. It determined that the inconsistencies in the time data spent on a training module such as some directors being able to complete the training module under 15 minutes was mainly due to the improper tracking of time by the learning management system. The Condo Authority found the clock restarted when the user stopped and returned to the module at a later time. To fix this deficiency, in November 2021 the Condo Authority added technical enhancements to each director training module in the learning management system. These enhancements include the ability to track and accumulate the time spent on each training module in different sessions without restarting the clock when a session is ended, and the ability to force

the user out of a module if they were idle and spent more than 15 minutes on one page, such that the clock will restart and exclude idle time in the total time spent on the module.

The Condo Authority made changes to the learning management system by adding a 10-second delay on every page and a one-second delay per tab within the page to prevent learners from advancing through the director training without reading the training material. Also, to demonstrate their learning, the Condo Authority added quizzes throughout the modules that must be answered correctly before the user can move ahead to the next module.

To enable the Condo Authority to monitor and analyze training time completion data on an ongoing basis, it developed a director training business intelligence dashboard in November 2021. Using the dashboard, the Condo Authority can analyze historical data trends from 2017 to the present day. Based on data from the dashboard, the technical enhancements made by the Condo Authority reduced the percentage of learners completing the training in under 60 minutes from 11.4% for the period April 2017 to October 2021 to 5.1% for the period November 2021 to June 2022.

- *annually solicit input from directors and condo owners on improvements that can be made to training material;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Condo Authority did 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.

In our follow-up, we found that the Condo Authority has developed two new annual surveys to solicit annual feedback from condo directors and condo owners on director training. The goal of the surveys is to improve the director training materials, identify which topics require more in-depth training and solicit input on whether directors have recently taken the training. The Condo Authority issued the new annual surveys in September 2022 and will continue to do so

annually thereafter. Once feedback from the surveys is received, the Condo Authority plans to analyze the feedback to determine any needed director training improvement commitments for the upcoming fiscal year.

- *annually review and improve the director training materials;*

Status: Fully implemented.

Details

In our 2020 audit, we found that 42% of condo board directors 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%).

In our follow-up, we found that the Condo Authority created a Framework for Annual Review and Improvement of Director Training Materials in 2021 to improve the director training materials. Under the Framework, the Condo Authority will administer two surveys that will be conducted each year (as discussed in the second action item in **Recommendation 9**) and analyze the survey results to identify improvements for director training materials.

The Condo Authority retained the services of external subject matter experts and partnered with an external adult learning specialist vendor to develop new training materials, which it launched in 2022. The new Advanced Optional Director Training program consists of best practice guides and online training modules on six priority topics described in the next recommendation. The Condo Authority issued the two annual surveys in September 2022, and reviewed the feedback in October 2022. The feedback from these surveys confirms that the Condo Authority's improvements to the director training responded to the needs identified by condo directors and owners. The Condo Authority will continue to use the framework to review and improve director training materials on an ongoing basis.

- *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.*

Status: Fully implemented.

Details

In our 2020 audit, we found that the director training materials did not include practical applications such as case studies and real-life examples. We also noted the materials did not cover emergency planning and preparedness for epidemics or pandemics to better equip directors for when such emergencies arise.

In our follow-up, we found that the Condo Authority added six best practice guides and online training modules in February 2022 in areas that were identified in our *2020 Annual Report* to supplement the director training with more in-depth information to better inform and educate condominium board directors to carry out their duties in managing their condo corporations. These guides and modules cover the following topics:

- emergency planning and preparedness;
- procurement;
- finance;
- overseeing condominium managers;
- issues management; and
- board governance.

As part of the development process, the Condo Authority established advisory panels from the condominium sector and solicited and integrated feedback from these advisory panels on the guides through survey and virtual hosted sessions. It also worked with an adult learning expert and subject matter experts to assist in drafting these best practices guides and developing the online modules for directors.

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that only condo corporations could be searched within the public registry, not condo directors. In addition, to access even basic information from the public registry, the searcher had to know and enter at least the number or operating name of the condo corporation. This is because the database did not provide the ability to search by municipal address.

In our follow-up, we found that the Condo Authority enhanced its public registry to allow users to search by director name and municipal address. Users can now search the public registry using the first and last name of an active director. Upon providing the name of a director, the public registry will then list all condominium corporations where an active director with the exact same name is listed. Searches can also be conducted using the city and postal code to find the municipal address for the applicable condominium corporation.

- *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;*

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that the condo owners did 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; or the terms for each of the directors;

In our follow-up, we found that the Ministry is the lead for implementing this recommendation as it may require legislative and/or regulatory amendments.

Extensive consultations with the public and stakeholders will need to be conducted. The Ministry began the policy work in 2021, which is to continue through 2022 and 2023. Subject to government direction, the Ministry intends to implement this recommendation by December 2023 by bringing forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *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;*
Status: Fully implemented.

Details

In our 2020 audit, we found a number of inconsistencies and inaccuracies in the condo manager and company names listed on the public registry maintained by the Condo Authority. 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 our follow-up, we found that the Condo Authority developed 40 validations in late 2021 to ensure self-reported information it receives is accurate and current. The main new validations include verification of:

- licensed Condo Management Service Providers filed with the Condo Authority;
- director training data; and
- director term start date data.

- *publish the collected and verified information on the registry.*

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that the Condo Authority's registry contained 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, when directors were elected or re-elected; whether they were elected by condo owners or appointed by the condo board; the director's roles within the board; whether directors were owners, occupants or neither; or the term for each of the directors.

In our follow-up, we found that the Ministry is the lead for implementing this recommendation as it may require legislative and/or regulatory amendments. Extensive consultations with the public and stakeholders will need to be conducted. The Ministry began the policy work in 2021, which is to continue through 2022 and 2023. Subject to government direction, the Ministry intends to implement this recommendation by December 2023 by bringing forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

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;

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that neither the Ministry nor the Condo Authority collected necessary and basic information on condo board directors, as well as on the type of condo corporation they serve. In turn, they did not know which directors on which boards run investor-owned condos, as well as how many boards any given director served on and the number of units a director owns.

In our follow-up, we found that the Ministry reported that implementing this recommendation may require legislative and/or regulatory amendments. Extensive consultations with the public and stakeholders will need to be conducted. The Ministry began policy work in 2021, which is to continue through 2022 and 2023. Subject to government direction, the Ministry intends to implement this recommendation by December 2023 by bringing forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- analyze this information to evaluate whether increased protections are required for condo owners who reside in their units.

Status: Little or no progress.

Details

In our 2020 audit, we found that in 15 out of 20 condo boards we sampled, the majority of the directors was represented by the industry. The interests of investors and commercial business owners can differ from and compete with the interests of resident condo owners. However, neither the Ministry nor the Condo Authority knew which condo corporations were commercial, residential, mixed used or wholly owned by investors operating rental businesses.

In our follow-up, we found that the Ministry stated that implementing this recommendation may require legislative and/or regulatory amendments. Extensive consultation with the public and stakeholders will need to be conducted. Subject to government direction, the Ministry intends to begin policy work in 2023, and implement this recommendation by December 2024 by bringing forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2024. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

Disputes

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.

Status: In the process of being implemented in phases, including by bringing forward a proposal for the government's consideration by December 2023.

Details

In our 2020 audit, we found that the Condominium Authority Tribunal (Tribunal) had only heard disputes relating to a condo corporation's records. In October 2020, the Ministry expanded the scope of the Tribunal to also hear issues relating to pets, parking, storage and personal property. However, 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 funds 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.

In our follow-up, we found that this recommendation would require regulatory amendments. The Ministry, in June 2021, consulted with key stakeholders on further expanding the Tribunal's jurisdiction to include disputes related to nuisances such as unreasonable smoke, odour, light, vibration and noise. In September 2021, the Ministry received government approval of the required regulatory amendments. Effective January 1, 2022, the Tribunal's expanded jurisdiction related to nuisances came into force via Regulation 654/21, which amended O. Reg. 48/01 (General) under the *Condominium Act, 1998* (Act).

In August 2021, the Minister requested the Condo Authority to host public consultations in the fall of 2021 on the following topics:

- further expanding the Tribunal's jurisdiction to encompass additional types of disputes;
- the effectiveness and efficiency of the Tribunal processes;
- best practices the Tribunal could consider; and
- the Tribunal as part of the Condo Authority.

The Authority conducted the consultations in October 2021 utilizing a variety of methods to collect

feedback on expansion of the Tribunal's jurisdiction from the condominium sector, including:

- issuing a mass email blast to the more than 41,000 contacts in the Condo Authority's database;
- posting information regarding the consultations on the Condo Authority's social media channels and website;
- promoting a survey that was made available on the Condo Authority's website; and
- hosting three public virtual roundtables in October 2021.

The Condo Authority submitted a final report on the analysis of the public consultations to the Minister in February 2022. Based on the analysis, some stakeholders suggested that the government should give the condominium sector time to adjust and proclaim the yet-to-be-proclaimed sections gradually or sequentially. Others suggested that the government proclaim all outstanding sections of the Act as soon as possible but in a phased manner and provide advanced notice to reduce impact or disruption to the sector. Subject to government direction, the Ministry intends to bring forward a new policy proposal for the government's consideration by December 2023, and in phases thereafter. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing regulatory changes to implement this recommendation in phases. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare draft regulatory amendments for government approval.

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;

Status: Fully implemented.

Details

In our 2020 audit, we found that the Act listed records that condo corporations must retain. For many of these listed records, the Act allowed condo corporations to determine whether the records must be kept in order to meet its obligation to keep adequate records but did not provide specific details or requirements.

In our follow-up, we found that in July 2021, the Condo Authority had revised the content in its Guided Steps to Common Issues related to Records on its website, and supplemented this new content by developing and issuing a Guide to Condominium Corporation Records. This guide provides an overview of the types of records that all condominium corporations are required to keep under the *Condominium Act, 1998* and what they might contain. This guide is to help owners and condominium corporations understand what records requesters are entitled to so requesters can get the records they are looking for.

The Condo Authority also issued two new step-by-step guides in July 2021:

- Requesting Core Records provides an overview of the process that owners, purchasers and mortgagees must follow to request copies of or access to core records maintained by their condominium corporation; and
- Requesting Non-Core Records provides an overview of the process that owners, purchasers and mortgagees must follow to request copies of or access to non-core records maintained by their condominium corporation.
- *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.*

Status: Little or no progress.

Details

In our 2020 audit, 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 before the Tribunal from November 2017 when the Tribunal was formed to March 2020. 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 our follow-up, we found that the Ministry is the lead for implementing this recommendation as it may require legislative and/or regulatory amendments. Extensive consultation with the public and stakeholders will need to be conducted. Subject to government direction, the Ministry intends to begin policy work in late 2022, and implement this recommendation by December 2023 by bringing forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

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.

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that the Tribunal's rules allowed condo owners and boards to be represented by lawyers and agents. However, it was generally more

difficult for a condo owner to afford a lawyer than it was for a condo board, as the board can use the condo corporation's funds to pay for a lawyer. We found that British Columbia's Civil Resolution Tribunal required both parties to represent themselves throughout the dispute resolution process (unless the BC tribunal orders otherwise).

In our follow-up, we found that the Ministry reported that implementing this recommendation may require legislative and/or regulatory amendments. The Minister in August 2021 requested the Condo Authority to host public consultations in fall 2021 on matters relating to the Condominium Authority Tribunal, including tribunal best practices.

The Condo Authority conducted the public consultations in October 2021 and submitted a consultation summary to the Ministry in February 2022. The Condo Authority is working with the Ministry on its plan to implement best practices. From these public consultations, the Ministry determined that there was generally no consensus among stakeholders who participated on the proposal of equal legal representation. There were also concerns expressed with respect to who would bear associated legal fees.

The Ministry indicated that it has undertaken a preliminary review of British Columbia's Civil Resolution Tribunal model and that further work would be required with Ontario's justice sector. The Ministry stated that it intends to implement this recommendation by December 2023 to bring forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2023. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

Condominium Sector Oversight

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);*
Status: Fully implemented.

Details

In our 2020 audit, we found that the mandate of the Condo Authority under the *Condominium Act, 1998* was limited compared with the mandates given to other administrative authorities in Ontario. Although the nature and extent of condo ownership had changed, the Ministry had not revisited its existing approach for oversight of the condo sector.

In our follow-up, we found that the then Minister of Government and Consumer Services wrote to the Chair of the Condo Authority in January 2021 to clarify the expectation that the Condo Authority fulfill its statutory mandate under the *Condominium Act, 1998 (Act)*. The Minister expected the Condo Authority to carry out its statutory mandate in accordance with the Act, the administrative agreement and applicable laws. The Minister stated the Condo Authority is accountable to the Minister for its performance in carrying out its statutory mandate.

- *providing the Condo Authority with inspection, investigation and enforcement powers;*
Status: Little or no progress.

Details

In our 2020 audit, we found that the mandate of the Condo Authority did not include investigation and enforcement powers similar to those given to other administrative authorities. We noted that certain US states had condo agencies whose mandates include investigation and enforcement of, for example, condo boards and election matters.

In our follow-up, we found that the Ministry indicated that this recommendation is complex and any changes to address this recommendation may require

legislative and/or regulatory amendments. To proceed with the recommendation, the Ministry would need to undertake extensive consultation with the public and stakeholders. Subject to government direction, the Ministry intends to begin policy work in 2023, and implement this recommendation by December 2024 by bringing forward a policy proposal for the government's consideration. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory and/or statutory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing changes to implement this recommendation by the end of December 2024. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare a bill for introduction in the Legislative Assembly, in the case of statutory amendments, or draft regulatory amendments for government approval.

- *reaching an agreement with the Condo Authority on appropriate performance measures regarding fulfilment of its mandate.*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that the Condo Authority had provided performance measures to the Minister in accordance with the administrative agreement regarding fulfilment of its mandate. However, the Minister had not yet approved these performance measures.

In our follow-up, we found that the Ministry is planning to establish a new framework for performance measurement that would apply to most administrative authorities under the Ministry's oversight. In the meantime, the Ministry expects to be working with the Condo Authority in 2022 to bring forward the Minister's approved performance measures for the Condo Authority by December 2022. The Ministry is also planning to work with the Condo Authority on any changes at such time as a broader performance framework is introduced for administrative authorities.

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.

Status: Little or no progress.

Details

In our 2020 audit, we found that enforcement powers relating to developer misconduct in other Canadian jurisdictions were more rigorous than those in Ontario. For example, in British Columbia and Alberta, condo legislation enabled the government to appoint an inspector or investigator to look into potential offences or non-compliance by developers. Both British Columbia and Alberta had the authority to levy administrative penalties for non-compliance with the legislation. Ontario did not have such powers. As well, in British Columbia, fines for offences were significantly higher than in Ontario.

In our follow-up, we found that the Ministry has committed to conduct a cost-benefit analysis by the end of 2024. As part of this analysis, the Ministry indicated that it is planning to conduct jurisdictional research, policy analysis, risk analysis and targeted internal consultations, as appropriate. It also plans to conduct external broader stakeholder and public consultations as necessary.

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.

Status: In the process of being implemented in phases, including by bringing forward a proposal for the government's consideration by December 2023.

Details

In our 2020 audit, we found that, as of July 2020, many of the legislative changes made in 2015 offering

condo owners and purchasers improved protections were still not in force. In addition, many other important changes to protect condo owners were not in force; such changes include, for example, a condo corporation's financial statements to include more information, such as the budget and the statement of cash flows, and a condo corporation to prepare an annual budget after its first fiscal year that meets requirements to be set in regulations. The government indicated it plans to work quickly to develop regulations and implement key provisions. However, no decisions had been made on the prioritization or timing of work associated with implementing the remainder of the legislative changes that were not in force.

In our follow-up, we found that the Ministry indicated that implementing this recommendation may require developing regulatory amendments to support the proclamation of provisions under the *Protecting Condominium Owners Act, 2015 (Act)*. In January 2021, Condo Guide-related provisions of the Act came into force, as a result of a proposal brought forward by the Ministry in late 2020. This proposal did not involve proposing new regulations. In September 2021, the Ministry sought government approval for a proposal to proclaim into force certain provisions of the Act that would amend sections 116 and 117 of the *Condominium Act, 1998*. As part of this initiative, the Ministry also sought approval amend two regulations under the *Condominium Act, 1998* to expand the jurisdiction of the Condominium Authority (Tribunal) to include certain disputes related to nuisances such as unreasonable smoke, odour and noise; and to prescribe nuisances, annoyances and disruptions that are to be prohibited under the *Condominium Act, 1998*. The changes came into force January 1, 2022.

Subject to government direction, the Ministry intends to bring forward a new policy proposal, for the government's consideration by December 2023 and in phases thereafter. Implementation of this recommendation is dependent primarily on the government's policy decision about whether to proceed with developing regulatory changes. The Ministry is targeting to seek the government's policy decision on whether to proceed with developing regulatory changes to

implement this recommendation in phases. If the government decides to proceed with proposing changes, the Ministry would be directed to prepare draft regulatory amendments for government approval.

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;*

Status: Little or no progress.

Details

In our 2020 audit, we found that opportunities existed to increase the efficiency and effectiveness of the operations of the two authorities by consolidating them into one authority.

In our follow-up, we found the Ministry has not yet begun any work on this recommendation. Subject to the Minister's direction, the Ministry intends to, by December 2024, conduct jurisdictional research, policy analysis, risk analysis and complete targeted internal consultations, as appropriate; and conduct external targeted and broader stakeholder/public consultations as necessary.

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

Status: In the process of being implemented by December 2024.

Details

In our 2020 audit, we noted that input from the condo management industry at the time of the 2012–2013 review of the *Condominium Act, 1998* strongly favoured

having one authority for licensing and regulating condo managers, and another to resolve disputes.

In our follow-up, we found that the Minister requested the Condo Authority in August 2021 to host consultations in the fall of 2021 on matters relating to the Tribunal, including positioning the Tribunal as part of the Condo Authority.

The Condo Authority conducted the consultations in October 2021 and submitted a consultation summary to the Ministry in February 2022. Based on comments from these consultations, the Ministry found that most stakeholders who participated supported that the Tribunal should remain part of the Condo Authority. They noted that having the Tribunal as part of the Condo Authority:

- is cost-efficient;
- prevents an additional layer of bureaucracy;
- creates synergies in terms of education by enabling the Condo Authority to integrate training/lessons learned from the Tribunal; and
- provides a single point of contact for the public/users.

However, some respondents during the consultations expressed concerns regarding potential conflict of interest and the independence of the Tribunal. Subject to Minister's direction, the Ministry intends to, by December 2024, conduct jurisdictional research, policy analysis, risk analysis and complete targeted internal consultations, as appropriate; and conduct external targeted and broader stakeholder/public consultations as necessary.

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Management Regulatory Authority had not established targets and, therefore, did 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.

In our follow-up, we found that the Management Regulatory Authority established performance measures and targets for key service areas for licensing and complaints. These performance measures were published in its 2021/22 business plan. For processing licensing applications, the Management Regulatory Authority has committed to processing licence applications within the following service standards:

- 95% of Limited License applications processed within five business days;
- 95% of General License applications processed within 10 business days; and
- 90% of management provider businesses applications processed within 30 business days.

For complaints, the Management Regulatory Authority has committed to resolving 80% of its complaints within the following service standards:

- initial assessment of complaint: 10 business days including initial contact with complainant within five business days;
- information gathering: 30 business days; and
- review and decision: 20 business days.

- *collect the data relevant to the targets established;*

Status: Fully implemented.

Details

In our 2020 audit, we found that although the Management Regulatory Authority tracked activities internally, it had 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.

In our follow-up, we found that the Management Regulatory Authority in early 2021 made

enhancements to its customer relationship management system to ensure that the required data is captured to measure performance against published service standards. It collects data in its customer relationship management system for each complaint filed and each licence application submitted. In August 2021, the Management Regulatory Authority began tracking data in order to measure performance against service standards for each stage of the complaints handling process. It also began tracking data to measure performance against the licensing service standards in September 2021.

- *assess its performance against the targets periodically;*

Status: Fully implemented.

Details

In our 2020 audit, we found that without performance targets, neither the Management Regulatory Authority, the public nor the Minister of Government and Consumer Services could measure the Management Regulatory Authority's efficiency and effectiveness in achieving its mandate.

In our follow-up, we found that the Management Regulatory Authority has been assessing performance against the published targets since August 2021 (for complaints) and September 2021 (for licence applications).

With respect to its complaints processing service standards, for the period August 2021 to January 2022, the Management Regulatory Authority underperformed in having met its initial five-day response to complainants only 78% of the time, which is below the established 80% service standard. For the period August 2021 to February 2022, the Management Regulatory Authority similarly underperformed in the remaining complaints processing areas:

- initial assessment stage within 10 business days of receiving complaint with actual performance of 64% compared to the established service standard of 80%;
- complete information gathering stage within 30 business days of completing initial assessment

stage with actual performance of 77% compared to the established service standard of 80%; and

- complete review and decision stage within 20 business days of completing Information gathering stage with actual performance of 76% compared to the established service standard of 80%.

With respect to its licence application service standards, for the period September 2021 to March 2022, the Management Regulatory Authority was performing at one to two percentages below its established standards of 95% for processing licence applications.

- *provide the Minister of Government and Consumer Services and the public with its performance results;*

Status: Fully implemented.

Details

In our 2020 audit, we found that 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.

In our follow-up, we found that the Management Regulatory Authority publicly reports its performance results and service standards as part of its 2021/22 annual report. The annual report was published in August 2022 and is available on the Management Regulatory Authority website.

- *take corrective action when actual results do not meet targets.*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Management Regulatory Authority had not established targets and, therefore, did 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.

In our follow-up, we found that the Management Regulatory Authority, in response to underperforming

with regard to its initial five-day response to complainants' service standard, adjusted its business process such that the initial response to complainants would be performed at the point of intake. Previously, this function was performed by complaint co-ordinators after they were assigned the file. This process change was implemented in January 2022 and has resulted in improved performance against the standard to 97%, compared to a standard of 80%, as of March 2022.

For the remaining complaint service standards, the Management Regulatory Authority upgraded its customer relationship management system by implementing a new dashboard in September 2022 that its complaint staff can use to monitor the status of a complaint so that they can better track and organize their files.

For the licensing service standards, the Management Regulatory Authority analyzed cases that had missed the service standards and used the information to establish a standardized list of reasons in October 2022 that will be used to track why a licence application missed the standards.

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.

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that although the Management Regulatory Authority had provided performance measures to the Ministry in accordance with the administrative agreement regarding fulfilment of its mandate, the Minister had not yet approved these performance measures.

In our follow-up, we found that the Ministry is planning to establish a new framework for performance measures that would apply to most administrative authorities under the Ministry's oversight. In the meantime, the Ministry expects to be working with the Management Regulatory Authority in 2022 to bring forward the Minister's approved performance measures for the Management Regulatory Authority by December 2022. The Ministry is also planning to work with the Management Regulatory Authority on any changes at such time a broader performance framework is to be introduced for administrative authorities.