

QUALIFYING CONDOMINIUM MANAGERS

BY MICHELLE ERVIN

It's the cautionary tale of Ontario's condominium management industry. In September 2011, the Toronto Star reported that the president of Channel Property Management had allegedly bilked condominium boards representing hundreds of unit owners in a handful of Toronto area buildings of an estimated \$20 million.

Civil suits were filed by affected condominium boards, and Toronto police began an investigation, but the president reportedly fled back to his native country, Bangladesh.

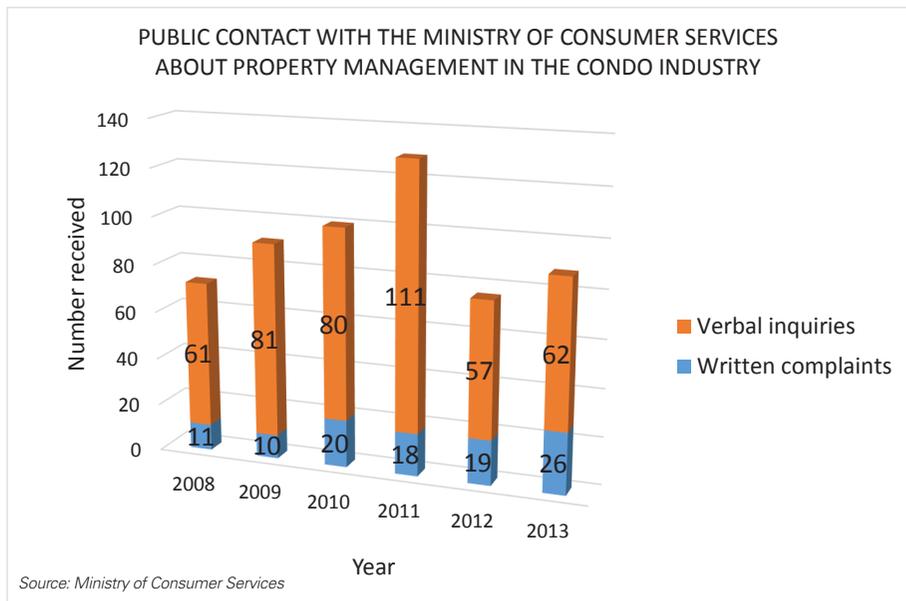
The scariest part of the story for condominium stakeholders is that, to this day, Ontario has nothing in place that would prevent the person alleged to have committed fraud from continuing to practice as a condo manager in this province. That is soon expected to change.

On July 18, Minister of Consumer Services Tracy MacCharles announced that the Ontario government would be proceeding with mandatory qualifications for condominium managers. The move came in advance of an expert panel's final report on recommendations for reforming the Condominium Act as part of an ongoing review.

In the past five years, the Ministry of Consumer Services has received an increasing number of written complaints regarding property management service in the condominium industry. From 10 written complaints in 2009 to 20 complaints in 2010, the ministry had already logged 26 written complaints in 2013 as of mid-July. General themes identified in the complaints were conduct, billing disputes, and privacy and safety issues.

When verbal inquiries are factored into the equation, numbers on public contact with the ministry about property management service in the condominium industry jump to as high as 100 per year and more.

Linda Pinizzotto, president of the Condo Owners Association (COA), comes from a real estate background and serving as a condominium board president.



By July 18, the Ministry of Consumer Services had received 26 written complaints and 62 verbal inquiries in 2013.

Pinizzotto founded COA in March, 2010, to advocate on behalf of Ontario's 1.3 million condominium owners.

"We literally get emails non-stop [about] problems that condo owners are experiencing," she said.

COA is one of the groups that pressed the provincial government to re-open the Condominium Act. The group has been involved in the ongoing legislative review, including participating in the working group devoted to consumer protection.

Among other changes, COA is looking specifically for licensing and regulation of the condominium management industry as a whole.

"You can't just have licensing for an employee, you have to also have licensing for the property management company," Pinizzotto said.

The condominium manager may be the person overseeing the building, she explained, but it's the property management company that holds the contract with the

condominium board.

Condominium owners won't find any resistance to this from the Association of Condominium Managers of Ontario (ACMO). In fact, quite the opposite. The non-profit organization has spent the past 36 years promoting the professionalization of the condominium manager.

Eight hundred of an estimated 2,500 to 3,500 condominium managers overseeing 9,000 condominiums across Ontario now possess ACMO's Registered Condominium Manager (RCM) designation, said recent past-president of ACMO, Dean McCabe. (It's difficult to get an accurate count of how many condominium managers are practicing in the province without a mandatory licensing system.)

The RCM designation requires that candidates complete courses in condominium law, physical building management, financial planning, and administration and human relations. This

includes a culminating exam at the end of each of the four courses, as well as a final exam that incorporates all four areas of study. Before earning the designation, candidates are also required to clock two years of on-the-job experience.

ACMO has partnered with Humber College in Toronto, Mohawk College in Hamilton and Fanshawe College in London to deliver the educational component of its RCM program.

The non-profit's initiatives don't end there. Like Pinizzotto, ACMO recognizes the need for property management companies to adhere to professional standards. Condominium property management companies can apply to become ACMO 2000-certified, which holds firms to ISO-like standards as well as a code of ethics.

Public complaints regarding firms are independently investigated by ACMO's Condominium Management Standards Council. Members who are found to be guilty of misconduct may face disciplinary action through ACMO's ethics program, including having their designation revoked.

"The challenge that we have is that doesn't stop them [condominium managers] from going to work the next day," McCabe said. "They can still go in, sit down in the same desk, at the same office, and continue to manage."

And even where discipline may be effective, ACMO doesn't have jurisdiction over condominium managers and property management companies that don't voluntarily participate in its programs.

Given the level of risk exposure, McCabe believes there ought to be an independent authority responsible for ethical oversight.

"In a building of 100 units, there are only five people on the board that get a say who the manager is," he said. "Those other 95 people need to at least be assured that there's a basic requirement and compliance with ethical and professional standards in order for them to receive the kinds of protections that

consumers should have in Ontario."

It was at a press conference in Liberty Village, amid the din of condominium construction in the area, that Minister of Consumer Services Tracy MacCharles formally confirmed that the provincial government will pursue mandatory qualifications for condominium managers in Ontario.

"Many condo residents have said that having a qualified, well-trained manager in their building not only protects property values, it can actually affect their daily quality of life," MacCharles said at the press conference.

The minister said she was able to make the announcement in advance of an expert panel's final report on recommendations for reforming the Condominium Act as a result of the consensus on this issue across all stakeholder groups.

Despite getting the go-ahead on this change, recommendations for what the qualifications should be and how should be enforced will still have to wait for the final expert report due at the end of the summer.

Details may be scarce so far, but Min. MacCharles, and her deputy minister, Giles Gherson, did offer some hints as to what this new regulatory environment might look like.

Oversight is to be provided by a "new, independent regulatory body" that is expected to be "largely self-funded through licensing, registration and education fees," according to MacCharles.

Gherson indicated that the panel was exploring the idea of a two-stage licensing process, which would create a threshold for entering the profession, followed by an opportunity after a specified period of time to become fully licensed.

He anticipated, based on looking to regulatory regimes in other sectors,

such as the real estate industry, that both condominium managers and property management companies will require a license.

MacCharles added that it's also anticipated that there will be some form of transition to the new standards, particularly in consideration of experienced industry professionals. Not to mention, it could be a few years yet before this reform is rolled out.

"It's not going to happen overnight," she said. "We have to engage the property managers themselves about what this should be, how it should look, and all the pieces around it, so it's going to take a while."

Armand Conant, partner and head of the condominium law group at Shibley Righton LLP, co-chaired the working group on governance and participated in the working group on dispute resolution as part of the Condominium Act review. Now that the working groups have submitted their reports, he said the expert panel is grappling with the details as it prepares to make recommendations for reform.

Some of the issues Conant said will need to be worked out include how self-managed condominiums and smaller management companies will be treated under the new rules. He pointed out that the industry is varied; it's not all large property management companies based in Toronto.

"At the end of the day, I think we're all in agreement on one thing: If that manager on your site does something contrary to the licensing or ethics standards, that individual would lose the right to be able to practice as a condo property manager," Conant said. "That's the goal."

And it wouldn't only offer protection to consumers, the lawyer said, it

would offer protection to condominium managers, too.

“The vast majority of managers in Ontario are hard-working, dedicated, honest, often underpaid, people,” Conant noted.

Condominium managers ultimately act on behalf of condominium boards, Conant continued. In cases where a board demands that a condominium manager take an action that contravenes the Condominium Act, the manager may face the threat of being fired for one who will, if he or she refuses the board's direction.

A board intent on breaking the rules would be hard-pressed to find a condominium manager who would bow to that pressure once professional standards are in place, he said.

When the expert panel's final report becomes available, there will be another opportunity for stakeholders to comment on recommendations for reforming the Condominium Act, including those on mandatory qualifications for condominium managers. The Ontario government is then expected to introduce a bill at Queen's Park in the spring of 2014. That is, unless the current government falls in the meantime and the review gets shelved or scrapped by a new government. Conant is cautiously optimistic, though, as all three major political parties have indicated their support for the legislative reform.

Brian Horlick, president of the Canadian Condominium Institute's Toronto and Area Chapter (CCI-T), commended the provincial government for moving forward on mandatory qualifications for condominium managers. But, Horlick added, the sooner these changes can be

implemented, the better.

Given the “explosive growth” in condominiums, qualified property managers have become a scarce commodity, he explained. That context, coupled with zero barriers of entry into the field, particularly concerned him.

“If you were a lawyer, you have to go to law school, you have to article, you have to pass the bar,” Horlick said. “But anybody – I mean anybody – can open up a condominium management company tomorrow; you hang up a shingle and you're in business.”

Not all of the problems occurring in the unregulated industry are as dramatic as alleged multi-million-dollar fraud cases. They can be as simple as poor record-keeping.

“People are paying common element fees every month, so every single unit owner is giving them [the condominium manager] 12 cheques [or] 12 pre-authorized payments [and] they've got to go into the right accounts,” Horlick offered by way of example.

The Toronto and Area Chapter president said CCI would be looking specifically for the mandatory qualifications to include education and experience, and for them to “have teeth.”

Not only is accounting, legislative and physical building knowledge important, but so are measures such as checking for criminal records or declarations of bankruptcy, he said.

Horlick anticipated that the good property management companies will have already met and exceeded any mandatory qualifications that are eventually introduced.

“They know that the success of their

company is heavily dependent upon the quality of their people, so they're doing the right things,” he said.

Michael Le Page, president of the Mississauga-based Maple Ridge Community Management, believes in just that. His company, which manages more than 100 condominiums in southern Ontario, requires its managers to possess or be pursuing their RCM designation.

In addition to being sanctioned to deliver ACMO's program in-house at an on-site training centre, Maple Ridge also introduced its own LEAD (Leadership, Evolution and Development) program.

As part of the LEAD program, managers receive instruction on everything from business writing and public speaking, to financial statement reading and fraud detection, to software training and time management.

“I think there's an innate responsibility for us to develop and get better,” Le Page said. “I continually invest in my firm to try to bring us along.”

The industry veteran supports anything the government can do to improve the quality of property management in Ontario, saying he anticipates Maple Ridge's initiatives will surpass any mandatory qualifications that are introduced. If not, he'll move quickly to make adjustments or implement new training as required.

“We'd like to see our profession shine a little bit more, and we want to become a profession that people strive to enter.” □