

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

STANDING COMMITTEE ON PUBLIC ACCOUNTS

VALUE-FOR-MONEY AUDIT: CONDOMINIUM OVERSIGHT IN ONTARIO

(2020 ANNUAL REPORT OF THE OFFICE OF THE AUDITOR GENERAL OF
ONTARIO)

1st Session, 43rd Parliament
1 Charles III

ISBN 978-1-4868-6711-0 (Print)
ISBN 978-1-4868-6713-4 [English] (PDF)
ISBN 978-1-4868-6715-8 [French] (PDF)
ISBN 978-1-4868-6712-7 [English] (HTML)
ISBN 978-1-4868-6714-1 [French] (HTML)

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

The Honourable Ted Arnott, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

A handwritten signature in cursive script that reads "Tom Rakocevic".

Tom Rakocevic, MPP
Chair of the Committee

Queen's Park
February 2023

STANDING COMMITTEE ON PUBLIC ACCOUNTS
MEMBERSHIP LIST

1st Session, 43rd Parliament

TOM RAKOCEVIC
Chair

DONNA SKELLY
Vice-Chair

WILL BOUMA

FRANCE GÉLINAS

RICK BYERS

LOGAN KANAPATHI

LUCILLE COLLARD

TODD J. MCCARTHY

STEPHEN CRAWFORD

LAURA SMITH
Thornhill

RUDY CUZZETTO

LISE VAUGEOIS

JESSICA BELL and TERENCE KERNAGHAN regularly served as substitute members
of the Committee.

TANZIMA KHAN
Clerk of the Committee

ERICA SIMMONS
Research Officer

CONTENTS

INTRODUCTION	1
ACKNOWLEDGEMENTS	1
OVERVIEW	1
AUDIT OBJECTIVE AND SCOPE	2
MAIN POINTS OF AUDIT	3
ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE	3
Purchase of Condominiums	4
Condo Management	6
Condo Board of Directors	8
Disputes	11
Condominium Sector Oversight	12
Condominium Management Regulatory Authority of Ontario	14
CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS	16

INTRODUCTION

On October 27, 2021, the Standing Committee on Public Accounts held public hearings on the audit of Condominium Oversight in Ontario (*2020 Annual Report of the Auditor General of Ontario*), administered by the Ministry of Government and Consumer Services (now the Ministry of Public and Business Service Delivery), the Condominium Authority of Ontario (Condo Authority or CAO) and the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority or CMRAO).

The Committee endorses the Auditor's findings and recommendations, and presents its own findings, views, and recommendations in this report. The Committee requests that the Ministry of Public and Business Service Delivery provide the Clerk of the Committee with written responses to the recommendations within 120 calendar days of the tabling of this report with the Speaker of the Legislative Assembly, unless otherwise specified.

ACKNOWLEDGEMENTS

The Committee extends its appreciation to officials from the Ministry of Public and Business Service Delivery, the Condominium Authority of Ontario, and the Condominium Management Regulatory Authority of Ontario. The Committee also acknowledges the assistance provided during the hearings and report writing deliberations by the Office of the Auditor General, the Clerk of the Committee, and staff in Legislative Research.

OVERVIEW

The Ministry conducted a review of the *Condominium Act, 1998 (Act)* in 2012 and 2013, which resulted in changes to the Act in 2015. Subsequently, two administrative authorities—the CAO and the CMRAO—were created in 2017.

The CAO and the CMRAO are responsible for administering the *Condominium Act, 1998 (Act)*, the *Condominium Management Services Act, 2015* and their regulations. The Minister of Public and Business Service Delivery is responsible for administering the provisions of the Acts and regulations that have not been delegated to the authorities.

A condo is a type of property ownership, where owners own their individual residences ("units") and have joint ownership and responsibility for shared areas such as hallways, entrances, courtyards, elevators, and gyms ("common areas"). The collective ownership is effected through a condo corporation, an entity that manages the property. Condo fees cover monthly operating expenses, and a portion is also set aside in a reserve fund.

The creation, ownership, and governance of condos in Ontario is regulated by the Act. However, every condo corporation is a self-governing entity with its own declaration, rules and bylaws. Condo developers initially develop the declaration, which subsequently becomes the responsibility of condo owners through their elected boards of directors.

The Condo Authority's responsibilities include educating condo corporation directors, maintaining a public registry of condo corporations, and overseeing and managing the operations of the Condominium Authority Tribunal (Tribunal), which resolves certain condo disputes.

The Management Regulatory Authority's responsibilities include licensing, handling complaints, inspection, and investigation and enforcement of condo managers and management companies.

AUDIT OBJECTIVE AND SCOPE

The objective of the audit of the Ministry of Public and Business Service Delivery was to assess whether it has effective and efficient processes in place to

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

The objective of the audit of the Condo Authority was to assess whether it has effective and efficient processes and systems in place to

- carry out its mandated responsibilities—including public education, training for directors of condominium boards, handling dispute resolution, and maintaining a public registry—in accordance with the *Condominium Act, 1998*, and its regulations; and
- measure and publicly report on the effectiveness of the services it provides to protect condominium owners, condominium buyers, and condominium corporations.

The objective of the audit of the Management Regulatory Authority was to assess whether it has effective and efficient processes and systems in place to

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

MAIN POINTS OF AUDIT

The audit report concluded that the mandates given to the Condo Authority and the Tribunal do not sufficiently protect condo owners against common issues that they may encounter in daily condo living. Further, many of the 2015 amendments to the *Condominium Act, 1998*, that could provide more consumer protection have not been proclaimed into force.

Other audit findings include:

- Initial developer-set condo fees are typically understated. The majority of condo boards surveyed were required to subsequently increase reserve fund contributions by an average of 50%.
- The Management Regulatory Authority took limited action on nearly half of the owners' complaints reviewed in the audit, and its inspection efforts were mostly reactive.
- About 6,420 directors of condo boards had not completed the necessary training within the six-month timeline. As a result, these individuals ceased to be eligible to remain as directors under the Act yet continued to serve.

The audit concluded that the existing model for the condo sector does not provide effective consumer protection and does not address the risks that exist for condo owners and buyers.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

The Ministry of Public and Business Service Delivery told the Committee it is committed to reviewing the Auditor General's recommendations and that those recommendations will help the Condo Authority and Management Regulatory Authority evolve. The Ministry noted that it is focused on supporting the administrative authorities and bringing forward any necessary emergency legislative and regulatory amendments.

The Committee heard that the Ministry had to shift focus to address emergency issues arising from the COVID-19 pandemic including enabling temporary deferrals of condo annual general meetings, enabling virtual meetings of condo boards, and ensuring the Condo Authority was providing ongoing information and services to support the sector. The Ministry pointed to its progress in expanding the Condominium Tribunal's jurisdiction to cover nuisance-related disputes, communicating to the Condo Authority the expectation that it carry out its statutory mandate, and work on reaching an agreement with both authorities on further performance measures by the end of 2021.

The Ministry explained that the *Condominium Act, 1998* is a complex statute that provides a framework for and governs most aspects of condo creation, purchasing, and ownership. It noted that some audit recommendations would significantly change the Act's self-governance model to enable more regulatory oversight and intervention, requiring more time for significant consultation and legislative and regulatory amendments.

The Condo Authority told the Committee it has fully accepted the Auditor's recommendations and is working with the Ministry and CMRAO on shared recommendations. It expects to complete recommendations that do not require government policy or regulatory changes by March 31, 2022.

The Management Regulatory Authority stated it has made substantial progress addressing the Auditor's recommendations. Its main focus has been transitioning the sector from an unregulated to a regulated environment, which includes developing regulatory infrastructure and building connections with stakeholders. Its progress includes working to develop inspections checklists by 2022, implementing internal policies and services standards (for both license and complaints processing times), and building capacity to monitor and report on complaint outcomes.

Purchase of Condominiums

The audit found that the *Condominium Act, 1998* does not require developers to use standard agreements for purchase and sale (contracts) or declarations. Also, the Act does not require developers to use standard documents when providing information to purchasers of new condo units, such as the disclosure statement.

The Committee asked about the Ministry's progress on implementing a standard contract and about enforcement measures if a developer fails to use the contract. The Ministry stated it has a plan to consult on standard agreements and explore different agreements for various types of condos. It noted the Ministry did introduce standard Tarion addenda with some standard provisions and that an information sheet is provided to pre-construction condo purchasers that explains common issues with pre-construction condos.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 1. The Ministry of Public and Business Service Delivery should improve protections for buyers of new condominium units by**
 - a) implementing standard terms and forms for documents relating to the purchase of new condo units, such as the agreement for purchase and sale, declaration, and disclosure agreement;**
 - b) requiring developers to adopt standard terms and forms and clearly identify if documents differ from the standard; and**
 - c) proclaiming the amendments as outlined in the *Protecting Condominium Owners Act, 2015*.**

The audit found that some developers have omitted, understated, or deferred maintenance costs to subsequent years, in order to minimize condo fees in their budgets.

The Committee asked the Ministry how it will ensure that condo residents are better informed about condo fees. The Ministry explained it is working with the CAO and the CMRAO to strengthen consumer protection using existing governance frameworks, such as the one for the training and accreditation of condo managers. It is also improving accountability and transparency regarding consumer information. The CAO also prepared a condominium guide that developers must give condominium purchasers in certain situations, which includes a warning that common expenses may increase over time.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 2. The Ministry of Public and Business Service Delivery should improve protections for new condominium purchasers by**
 - a) requiring developers to disclose current and projected common area expenses for up to 45 to 60 years;**
 - b) increasing the length of time a condo board has to make a claim against developers to recover the increased amounts spent on common area expenses compared to a developer's budget statement; and**
 - c) implementing best practices to improve developer accountability (e.g., making funds available to condo corporations if developers understate condo fees by a set percentage and administering penalties if developers deliberately and systematically understate actual condo fees).**

The audit found that 69% of condo boards registered between 1980 and 2000 did not have adequate amounts set aside in their reserve funds (reserve funds are used to pay for major repairs and replacement of the building's assets and other common areas).

The Ministry stated that changes to the reserve fund requirements would require legislative and/or regulatory proposals. The CAO has prepared a guide that includes information about reserve funds.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 3. The Ministry of Public and Business Service Delivery, in order to ensure the safety and adequate maintenance of condominiums, should require condominium corporations to set aside adequate resources by**
 - a) extending reserve fund studies of condo buildings to include the cost of repairs and replacements for 45 to 60 years;**

- b) **setting new and sufficient minimums for and defining adequacy of reserve funds; and**
- c) **working with the Condominium Authority of Ontario to improve public communication about the importance of reserve funds.**

The audit found that new condo purchasers typically experience higher-than-expected condo fee increases because reserve funds start out underfunded. The audit noted that most developers use a practice which results in underfunding of reserves and makes condo fees appear lower and more attractive to potential buyers of condo units.

The Ministry stated that implementing the audit report's recommendation would require legislative and/or regulatory proposals and involve consultations with the public to assess impacts on the housing supply and potential costs to condo owners. The Ministry noted it will begin work on this in 2022 and develop a proposal by 2023.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 4. The Ministry of Public and Business Service Delivery, in order to ensure sufficient funding of condominium reserve funds, should amend current provisions, which allow developers to set reserve fund contributions, by requiring those contributions to be supported by a third-party reserve fund study.**

Condo Management

The audit identified 316 individuals and 156 companies that did not hold licences to provide condo management services but were listed in the Condo Authority's public registry as providing condo management services. Further, the audit found that the Management Regulatory Authority does not proactively identify unlicensed individuals and companies that are listed on the Condo Authority's public registry as condo managers.

The Committee heard that the CMRAO has implemented a system to reconcile its data with the CAO's condominium management information to enable proactive identification of unlicensed practice. The CMRAO and CAO also signed a data sharing protocol while respecting client privacy. The CMRAO stated it is addressing the cases identified in the audit and already has investigated a significant number. By the end of 2021, the CMRAO said that it will have completed the investigation of all individuals and businesses that identified themselves as condominium managers in the CAO corporation return filings, and taken appropriate compliance actions.

The Committee asked how the CMRAO ensures condo managers are qualified. The CMRAO explained that the requirements to become a condo manager include an education program which covers legal obligations and building maintenance. Condo managers are also subject to the CMRAO's code of conduct. If there is any violation of the code of conduct or incompetence, the

CMRAO investigates the complaint and takes action. Since the audit it has identified common complaints and taken steps to proactively prevent complaints. For example, in instances of financial fraud, the CMRAO has revoked licenses and publicized the cases.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 5. The Condominium Management Regulatory Authority of Ontario should work with the Condominium Authority of Ontario to implement a process to ensure that only valid licence holders perform condo management services.**

The Management Regulatory Authority received a total of 1,500 complaints between April 2018 and March 2020. The audit found that while the CMRAO summarized the types of complaints and the turnaround time, it did not systematically summarize the types of actions taken and their outcomes across all complaints.

The CMRAO told the Committee it tracks all complaints received and records all interactions that staff have with complainants, condo managers, and management provider businesses. Further, it implemented an impartial complaints process that evaluates the merit of each complaint to decide the best course of action, including informal resolution, inspections, investigations, a disciplinary process or other corrective actions. The CMRAO has also enhanced data collection through its case management system. Some types of complaints and actions taken are now tracked, with the option to generate reports.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 6. The Condominium Management Regulatory Authority of Ontario should support the appropriate and timely resolution of issues raised by condo owners by**
 - a) monitoring the types of actions taken and outcomes of all complaints;**
 - b) producing complaint process summaries for management of the Condominium Management Regulatory Authority of Ontario periodically; and**
 - c) establishing a formal protocol for an action-oriented response based on the complaints and/or issues raised.**
- 7. The Condominium Management Regulatory Authority of Ontario should have the authority to remove unlicensed property managers, properly investigate and resolve complaints, and investigate property managers.**

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

The Management Regulatory Authority stated it has reviewed the risk-based compliance approaches of other regulatory bodies and is currently developing options for a risk-based proactive inspections program. It has developed standardized checklists for inspections of key areas under the CMSA which are expected to be completed and implemented in January 2022. The Management Regulatory Authority expects to implement a risk-based proactive inspection program by January 2023.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 8. The Condominium Management Regulatory Authority of Ontario, in order to ensure that condominium property managers and companies comply with the *Condominium Management Services Act, 2015*, should**
 - a) finalize standardized checklists for inspections of property managers and companies;**
 - b) implement a risk-based proactive inspection program based on inspection results, areas of non-compliance, statistical trends, and other risk factors;**
 - c) conduct regular proactive inspections and take appropriate disciplinary actions if required; and**
 - d) maintain an accurate public registry of property managers.**

Condo Board of Directors

The audit found that about 6,420 directors had not completed the mandatory condo director training program within the required time frame. Further, the Condo Authority failed to adequately follow up with ineligible directors.

The Committee asked what actions are being taken to address the province's ineligible condo board directors. The Ministry stated that monitoring the status of those directors is part of the CAO's responsibility. The CAO explained that it does not have enforcement powers. Instead, it supports condo boards to ensure directors are able to fulfil the governance and management responsibilities of the condominium. The Ministry stated that the audit report's recommendation regarding ineligible directors would impact the principle of condo corporation self-governance.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 9. The Ministry of Public and Business Service Delivery should strengthen director training provided by the Condominium Authority of Ontario by**
 - a) expanding the type of information the Condominium Authority can collect and publish relating to directors who have not completed the mandatory training within time requirements; and**
 - b) enabling the Condominium Authority to require ineligible individuals to stop acting as directors of their condo boards.**

The audit found that the mandatory online training program provided to board directors by the Condo Authority can be completed in as little as 15 minutes when completing the entire online program of 21 topics (without quizzes between each topic). The audit report noted that this may limit the training program's effectiveness.

The Committee asked how the Ministry would ensure better compliance with the training requirements. The CAO explained it was established to support condo communities, not regulate them. The CAO maintains a database of director training on its public registry to inform and protect consumers. It has trained a total of 40,000 condo directors in Ontario through its mandatory director training program. The CAO's system sends reminders to directors and to their condo corporations in advance of the training deadline. If this deadline is missed the CAO sends a final notice to the director and to the condo corporation advising that the director did not complete the mandatory training within the timeline.

The CAO told the Committee that since the audit it analyzed training times and its findings were used to propose a number of changes to the Learning Management System (the online training program for condo board directors) including forced delay to ensure a director is reviewing the material, an idle timeout feature to avoid false completion, and a solution to ensure users cannot proceed unless they answer knowledge-based questions correctly.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 10. The Condominium Authority of Ontario should improve education for condominium board directors by**
 - a) gathering and incorporating feedback from condo directors and owners on an annual basis regarding improvements to training materials;**
 - b) reviewing training materials for effectiveness on an annual basis; and**

- c) including an emergency planning and preparedness component to training materials as well as case studies for key topics of condo operations.**

The audit found that the Condo Authority's registry contains limited information about directors who sit on the boards of condo corporations. In addition, key information, such as election dates, appointment, and directors' roles within a board, among other things, are not publicly available.

The Committee asked what information is included in the public registry. The CAO explained it collects information outlined in legislation. To ensure information on the public registry is up-to-date, the CAO follows up with condo corporations. It has also issued a guide to assist condo corporations in meeting their timelines set out under legislation and launched a compliance function to improve accuracy of information. In 2021-2022, the CAO added over 40 new validations/notifications across multiple data points to ensure that data self-reported by condo corporations is verified, including the names of licensed condo managers and management companies. It also hired a Compliance Officer to identify compliance gaps and implement solutions.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

11. The Condominium Authority of Ontario should work with the Ministry of Public and Business Service Delivery to provide accurate and useful information on the public registry by

- a) implementing a search functionality to enable public searches for relevant information by entering municipal addresses of condominiums and the names of directors;**
- b) collecting more comprehensive information about condo board directors (e.g., elected or appointed, owner or occupant) and their responsibilities;**
- c) regularly reviewing and verifying condo corporations' self-reported information in annual returns, including the names of licensed condo managers and management companies; and**
- d) publishing verified information on the registry.**

The audit found that neither the Ministry nor the Condo Authority collects necessary and basic information on condo board directors, or the type of condo corporations they serve.

The Committee asked if non-owners should be permitted to sit on condo boards. The CAO stated that section 29 of the *Condominium Act, 1998* pertains to the requirements for an individual to run as a candidate—there are no current provisions relating to ownership or residency status but it is part of the candidate disclosure requirement. The Ministry stated it would develop a proposal to expand the CAO's authority to collect and publish information about condo

directors, and another proposal to evaluate whether increased protections for condo owners who reside in their units is required.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 12. The Ministry of Public and Business Service Delivery, in order to promote transparency and inform condo purchasers and owners, should**
 - a) enable the Condominium Authority of Ontario to collect and publish relevant information to identify condo corporations where non-resident directors or directors with commercial interests form the majority on condo boards;**
 - b) analyze this information and determine if increased protections are required for condo owners who reside in their units; and**
 - c) require members of the board of directors to either own a unit or live in a unit.**

Disputes

The audit found the scope of the Condominium Authority Tribunal (Tribunal) was limited by the *Condominium Act, 1998* and its regulations.

The Committee heard that the Ministry is actively looking to expand the Tribunal's mandate. It noted that one consideration is the Tribunal's capacity to deal with an expanded range of disputes and explained that its plan is to increase the Tribunal's jurisdiction in phases. The Tribunal's mandate was previously expanded to include prohibition restrictions pertaining to pets, parking, vehicle storage in units and common elements. The Ministry received approval to empower the Tribunal to resolve nuisance-related disputes as of January 2022.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 13. The Ministry of Public and Business Service Delivery should work with the Condominium Authority of Ontario to include key areas (including, but not limited to, condo fees, repairs to common areas, board misconduct, fraudulent board elections, short-term rentals, property management, and reserve funds) within the Condominium Authority Tribunal's jurisdiction.**

The audit found that in 51% of cases related to access to records before the Tribunal from November 2017 to March 2020, condo owners were not able to access some or all of the information they sought.

The CAO explained it has updated its public information about records, including a review of the CAO's Guided Steps to Records Issues, to provide clarity about the types of records owners are entitled to access under the *Condominium Act, 1998* and Ontario Regulation 48/01. The update included an outline of the different classes of records owners are entitled to see, a step-by-step overview of the process to request core records and non-core records, and a checklist to assist applicants in filing complete and accurate records. The Ministry stated it would develop a proposal for the government in 2023-24 to expand and enable the right of condo owners to access all reasonable information about the functioning of their condo corporation.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 14. The Condominium Authority of Ontario, in order to provide access to information and transparency, should work with the Ministry of Public and Business Service Delivery to expand and enable the right of condo owners to access information about their condominium corporation and the names of members of the board of directors.**

The audit found that condo owners overwhelmingly represented themselves at the Condominium Authority Tribunal—owners hired lawyers or agents in 16% of cases whereas condo boards hired lawyers or agents to represent them in 91% of cases.

The Ministry sent a letter to the CAO asking them to host consultations in the Summer/Fall 2021 on best practices that the Tribunal could implement including for legal representation. The CAO is researching the legal expense insurance available from insurance providers for condominium owners. It has also been tasked with consulting on equal legal representation as part of policy consultations on the next expansion of the Tribunal's jurisdiction.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 15. The Ministry of Public and Business Service Delivery should work with the Condominium Authority of Ontario (including the Condominium Authority Tribunal) and the Ministry of the Attorney General to implement best practices around equal legal representation.**

Condominium Sector Oversight

The audit found that condo owners and buyers are not adequately protected under the existing legal framework. The audit stated that the mandate of the Condo Authority under the Act is limited compared with the mandates given to other administrative authorities in Ontario.

The Committee stressed that condo residents do not have adequate protections. The Ministry has reviewed the CAO's mandate and wrote to the CAO Chair in 2021 to clarify the expectation that the CAO fulfil its statutory mandate. The

Ministry is reviewing the CAO's performance measures as part of a broader review. It will begin work in 2023 to assess and/or recommend action to provide the CAO with inspection, investigation, and enforcement powers.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

16. The Ministry of Public and Business Service Delivery should provide protection for condominium owners and buyers by

- a) **providing the Condominium Authority of Ontario with inspection, investigation, and enforcement powers to ensure compliance with the law; and**
- b) **working with the Condominium Authority of Ontario to determine performance measures regarding fulfilling its mandate.**

The audit found that the Ministry has fewer enforcement tools under the *Condominium Act, 1998* than those provided in other Canadian jurisdictions.

The Ministry stated it will review provisions in other jurisdictions and conduct a cost-benefit analysis of strengthening the powers for regulating the condo sector in 2024.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

17. The Ministry of Public and Business Service Delivery should strengthen the powers and penalties for regulating the condo sector.

The audit found that many of the legislative changes made in 2015 that would offer condo owners and purchasers improved protections were still not in force as of July 2020.

The Committee asked why many of the amendments are not proclaimed. The Ministry explained that the amendments made by the *Protecting Condominium Owners Act, 2015* may need to be brought into force in phases. In February 2020 the Ministry heard from consultations that some of the 2015 amendments have been superseded by other changes, for example, potential requirements regarding procurement.

The Ministry stated that when it considers proclaiming the amendments it also reviews emerging issues and the cumulative impact of the changes. It is continuing to work with the CAO and CMRAO to look at the proposals. In January 2021, amendments relating to a requirement for developers to give a condominium guide to purchasers were brought into force. The Ministry also empowered the Tribunal to resolve nuisance-related disputes effective January 2022.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 18. The Ministry of Public and Business Service Delivery should protect condominium owners and purchasers by seeking proclamation of the provisions of the *Condominium Act, 1998* not yet in force.**

The audit found that the CAO and CMRAO could be combined into one authority, with an estimated annual cost savings of up to \$753,000. The Ministry requested that the CAO include discussions on how to position the Tribunal outside of its current scope as a part of larger consultations.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 19. The Ministry of Public and Business Service Delivery should determine the feasibility of combining the Condominium Authority of Ontario and the Condominium Management Regulatory Authority of Ontario by**
- a) assessing the costs and benefits of a single point of contact for condo owners and purchasers; and**
 - b) positioning the Condominium Authority Tribunal outside of the new Authority.**

Condominium Management Regulatory Authority of Ontario

The audit found that the Management Regulatory Authority had not established targets and does not measure its performance effectiveness against targets for key activities such as licensing, resolving licensee complaints, and conducting inspections and investigations of condo managers and companies.

The CMRAO stated it regularly analyses and monitors performance of key activities, including licence application and renewal application processing times, and complaints resolution. It introduced new service standards for handling complaints and committed to resolve 80% of complaints within set service standards. The Ministry stated that it is reviewing the CMRAO's performance measures as part of a broader review.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 20. The Condominium Management Regulatory Authority of Ontario should measure its performance and increase public awareness of its effectiveness by**
- a) establishing targets for key performance indicators;**
 - b) reviewing its performance and publishing results in an annual report; and**

c) taking corrective action when results do not reach targets.

21. The Ministry of Public and Business Service Delivery should reach an agreement with the Condominium Management Regulatory Authority of Ontario on appropriate performance measures regarding fulfilling its mandate.

CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS

The Standing Committee on Public Accounts recommends that:

- 1. The Ministry of Public and Business Service Delivery should improve protections for buyers of new condominium units by**
 - a) implementing standard terms and forms for documents relating to the purchase of new condo units, such as the agreement for purchase and sale, declaration, and disclosure agreement;
 - b) requiring developers to adopt standard terms and forms and clearly identify if documents differ from the standard; and
 - c) proclaiming the amendments as outlined in the *Protecting Condominium Owners Act, 2015*.

- 2. The Ministry of Public and Business Service Delivery should improve protections for new condominium purchasers by**
 - a) requiring developers to disclose current and projected common area expenses for up to 45 to 60 years;
 - b) increasing the length of time a condo board has to make a claim against developers to recover the increased amounts spent on common area expenses compared to a developer's budget statement; and
 - c) implementing best practices to improve developer accountability (e.g., making funds available to condo corporations if developers understate condo fees by a set percentage and administering penalties if developers deliberately and systematically understate actual condo fees).

- 3. The Ministry of Public and Business Service Delivery, in order to ensure the safety and adequate maintenance of condominiums, should require condominium corporations to set aside adequate resources by**
 - a) extending reserve fund studies of condo buildings to include the cost of repairs and replacements for 45 to 60 years;
 - b) setting new and sufficient minimums for and defining adequacy of reserve funds; and
 - c) working with the Condominium Authority of Ontario to improve public communication about the importance of reserve funds.

- 4. The Ministry of Public and Business Service Delivery, in order to ensure sufficient funding of condominium reserve funds, should**

amend current provisions, which allow developers to set reserve fund contributions, by requiring those contributions to be supported by a third-party reserve fund study.

5. The Condominium Management Regulatory Authority of Ontario should work with the Condominium Authority of Ontario to implement a process to ensure that only valid licence holders perform condo management services.
6. The Condominium Management Regulatory Authority of Ontario should support the appropriate and timely resolution of issues raised by condo owners by
 - a) monitoring the types of actions taken and outcomes of all complaints;
 - b) producing complaint process summaries for management of the Condominium Management Regulatory Authority of Ontario periodically; and
 - c) establishing a formal protocol for an action-oriented response based on the complaints and/or issues raised.
7. The Condominium Management Regulatory Authority of Ontario should have the authority to remove unlicensed property managers, properly investigate and resolve complaints, and investigate property managers.
8. The Condominium Management Regulatory Authority of Ontario, in order to ensure that condominium property managers and companies comply with the *Condominium Management Services Act, 2015*, should
 - a) finalize standardized checklists for inspections of property managers and companies;
 - b) implement a risk-based proactive inspection program based on inspection results, areas of non-compliance, statistical trends, and other risk factors;
 - c) conduct regular proactive inspections and take appropriate disciplinary actions if required; and
 - d) maintain an accurate public registry of property managers.
9. The Ministry of Public and Business Service Delivery should strengthen director training provided by the Condominium Authority of Ontario by
 - a) expanding the type of information the Condominium Authority can collect and publish relating to directors who

have not completed the mandatory training within time requirements; and

- b) enabling the Condominium Authority to require ineligible individuals to stop acting as directors of their condo boards.

10. The Condominium Authority of Ontario should improve education for condominium board directors by

- a) gathering and incorporating feedback from condo directors and owners on an annual basis regarding improvements to training materials;
- b) reviewing training materials for effectiveness on an annual basis; and
- c) including an emergency planning and preparedness component to training materials as well as case studies for key topics of condo operations.

11. The Condominium Authority of Ontario should work with the Ministry of Public and Business Service Delivery to provide accurate and useful information on the public registry by

- a) implementing a search functionality to enable public searches for relevant information by entering municipal addresses of condominiums and the names of directors;
- b) collecting more comprehensive information about condo board directors (e.g., elected or appointed, owner or occupant) and their responsibilities;
- c) regularly reviewing and verifying condo corporations' self-reported information in annual returns, including the names of licensed condo managers and management companies; and
- d) publishing verified information on the registry.

12. The Ministry of Public and Business Service Delivery, in order to promote transparency and inform condo purchasers and owners, should

- a) enable the Condominium Authority of Ontario to collect and publish relevant information to identify condo corporations where non-resident directors or directors with commercial interests form the majority on condo boards;
- b) analyze this information and determine if increased protections are required for condo owners who reside in their units; and

-
- c) require members of the board of directors to either own a unit or live in a unit.
13. The Ministry of Public and Business Service Delivery should work with the Condominium Authority of Ontario to include key areas (including, but not limited to, condo fees, repairs to common areas, board misconduct, fraudulent board elections, short-term rentals, property management, and reserve funds) within the Condominium Authority Tribunal's jurisdiction.
14. The Condominium Authority of Ontario, in order to provide access to information and transparency, should work with the Ministry of Public and Business Service Delivery to expand and enable the right of condo owners to access information about their condominium corporation and the names of members of the board of directors.
15. The Ministry of Public and Business Service Delivery should work with the Condominium Authority of Ontario (including the Condominium Authority Tribunal) and the Ministry of the Attorney General to implement best practices around equal legal representation.
16. The Ministry of Public and Business Service Delivery should provide protection for condominium owners and buyers by
- a) providing the Condominium Authority of Ontario with inspection, investigation, and enforcement powers to ensure compliance with the law; and
 - b) working with the Condominium Authority of Ontario to determine performance measures regarding fulfilling its mandate.
17. The Ministry of Public and Business Service Delivery should strengthen the powers and penalties for regulating the condo sector.
18. The Ministry of Public and Business Service Delivery should protect condominium owners and purchasers by seeking proclamation of the provisions of the *Condominium Act, 1998* not yet in force.
19. The Ministry of Public and Business Service Delivery should determine the feasibility of combining the Condominium Authority of Ontario and the Condominium Management Regulatory Authority of Ontario by
- a) assessing the costs and benefits of a single point of contact for condo owners and purchasers; and
 - b) positioning the Condominium Authority Tribunal outside of the new Authority.

- 20. The Condominium Management Regulatory Authority of Ontario should measure its performance and increase public awareness of its effectiveness by**
- a) establishing targets for key performance indicators;**
 - b) reviewing its performance and publishing results in an annual report; and**
 - c) taking corrective action when results do not reach targets.**
- 21. The Ministry of Public and Business Service Delivery should reach an agreement with the Condominium Management Regulatory Authority of Ontario on appropriate performance measures regarding fulfilling its mandate.**