

The CMRAO's First Year of Operations: Handling Complaints



Sandy Vizely, Deputy Registrar
CMRAO



The Condominium Management Regulatory Authority of Ontario (CMRAO) was designated through provincial legislation, the *Condominium Management Services Act, 2015* (CMSA), to license and regulate the condo management profession in the interest of the public. Regulation by the CMRAO means condo management professionals are licensed, meet minimum education and experience requirements, and comply with a code of ethics.

The complaints process is an important interface between the CMRAO, the condominium community and the condominium management sector. It gives people a place to take their concerns about the conduct of CMRAO licensees.

Though the CMRAO has only been in operation for one year, we have received over 350 complaints so far. From the beginning, two particular areas have stood out: records management and the use of proxies. To help licensees understand their legal obligations and to ensure that we are delivering on our consumer protection mandate, the CMRAO has developed resources (available on the [CMRAO website](#)) to ensure that licensees understand their role, as well as the legislative and ethical requirements in these specific areas.

What the CMRAO is Hearing About Records Management

We have received complaints about managers and management companies that are:

- a** not keeping adequate business records; and/or
- b** not turning over a client's records upon termination of a contract.

Condo corporations should clearly articulate records management functions in the management agreement. That said, all managers and management companies have an ethical obligation to make and keep all records that would reasonably be required for the purposes of providing management services.

The CMSA and General Regulation require that licensees transfer all documents and records to the client no later than 15 days after the management contract has been terminated. If a document does not exist at the time that the contract is terminated, then the licensee has 30 days to create that record and transfer it to the client. This requirement pertains to "all documents and records relating to the client."

Beyond what is explicitly identified in the CMSA and General Regulation, licensees have an obligation to promote and protect the best interests of their clients. For this reason, and as a professional courtesy to fellow managers, the process of transferring records should generally begin before the contract is officially terminated. Ideally, there should be a smooth transition from the outgoing management company to the incoming management company.

The Use of Proxies

When it comes to proxies, the CMRAO's role is to ensure that managers are following processes that align with the CMSA and its regulations.

Section 53 of the CMSA states:

A licensee, or any person acting on behalf of a licensee, shall not solicit an instrument appointing a proxy for a meeting of owners where the subject matter of the meeting includes,

- a** any matter directly related to the licensee;
- b** the removal or the election of one or more of the directors of the client; or
- c** any other prescribed matter.

The key word here is “solicit.” To solicit **does not** include collecting or holding proxy forms, notifying or reminding owners to submit forms, making information available on how to submit forms, putting forms in meeting packages, or providing a form upon request. All of these activities are acceptable and do not contravene any legal requirements for handling proxies. Managers can also solicit proxy forms, as long as the proxy cannot vote at the meeting—meaning, the only purpose is to establish quorum.

Condo managers should be neutral administrators in the use of proxies and should treat owners equally and equitably. If a board member directs a manager to contradict the CMSA, the manager should refuse and advise the board member accordingly. Failing to do so could lead to disciplinary action or action against the manager’s licence. If you are a manager and have questions regarding the use of proxies, please contact the CMRAO.

Protecting Consumers through a Complaints Process

The CMRAO’s complaints process provides an impartial assessment of concerns regarding condominium management services provided by licensed managers and management companies. Complaints can be submitted using a simple form on the CMRAO’s website.

Condo managers and management companies have an obligation to protect the interest of their clients. Complainants should also understand that the CMRAO treats their complaints seriously and gives licensees every opportunity to respond fairly to any allegations against them. This includes telling the licensee what was submitted, and by whom.

Through effective regulation, the CMRAO is strengthening the condo management profession while helping to protect consumers in Ontario’s complex and rapidly growing condominium sector.

Sandy Vizely is the Deputy Registrar for the CMRAO and oversees the organization’s day-to-day operations, which includes managing the licensing and compliance team. www.cmrao.ca ■



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