

**Ministry of Government and
Consumer Services**

**Ministère des Services
gouvernementaux et des
Services aux consommateurs**



Office of the Deputy Minister

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April 30, 2021

Christopher Tyrell

Clerk of the Standing Committee on Public Accounts

Legislative Assembly of Ontario

Toronto, ON M7A 1A2

comm-publicaccounts@ola.org

Dear Mr. Tyrell,

Thank you for your letter dated March 1, 2021, requesting an update on the recommendations contained in the 2020 Annual Report of the Auditor General following the Value-for-Money Audit of Condominium Oversight in Ontario. This audit included a review of the Ministry of Government and Consumer Services' oversight of the two condominium administrative authorities, the Condominium Authority of Ontario (CAO) and the Condominium Management Regulatory Authority of Ontario (CMRAO), as well as the operations of the two authorities themselves. The audit also resulted in a number of recommendations related to policy changes that may require legislative or regulatory amendments. I am pleased to provide information on the ministry's efforts to respond to the Auditor General's recommendations.

The ministry welcomes the recommendations to strengthen the operations of the CAO and CMRAO and those directed at the ministry's oversight. The CAO and CMRAO are young organizations that are still building and evolving their services, and the Auditor General's recommendations provide an opportunity for them to make improvements in key areas early in their mandates. We look forward to continuing to work with the two authorities to deliver their mandates and strengthen services to the condominium sector.

The ministry takes its oversight of the CAO and CMRAO seriously. We are committed to examining areas where we can improve our oversight processes to provide greater assurances that the CAO and CMRAO are meeting their mandates. The Auditor General outlined some areas for ministry review resulting in work that has already begun. For those recommendations directed at the two authorities, the ministry has requested them to each develop an implementation plan to ensure each recommendation is addressed in a timely and responsive manner.

- The CMRAO made its plan public in early March 2021 and can be accessed via the following link: www.cmrao.ca/newsroom/auditor-general-of-ontario-report/CMRAOAGImplementationPlan.pdf
- The ministry and the CAO are working together on finalizing the CAO's implementation plan, which involves some complexity due to dependencies on the government to make legislative or regulatory amendments in certain instances. We anticipate that CAO's plan will be posted on its website (www.condoauthorityontario.ca) within the next several weeks.

As part of its oversight responsibilities, the ministry has a structure in place to ensure regular communications with the CAO and CMRAO that will also enable us to monitor the authorities' progress in implementing the Auditor General's recommendations. This includes regular meetings at the staff and executive levels.

In addition, we have also established a plan to implement the recommendations directed at the ministry. This plan was shared with the Office of Auditor General of Ontario on January 19, 2021 and is attached for your reference. We note that several recommendations have longer timelines (i.e., beyond two years) associated with them, as some of them would require the development of potential changes to legislation or regulations which would involve extensive consultations with the public and stakeholders. Also, in discussions with the Office of the Auditor General of Ontario, we have indicated that where legislative or regulatory amendments are needed to implement recommendations, the ministry commits to bringing forward a proposal for the government's consideration, but is unable to make commitments that the amendments would be made, as these decisions are the exclusive purview of the government or Legislature.

The ministry has already taken action to implement the following Auditor General's recommendations:

- **Recommendation 12:** In October 2020, regulatory amendments under the Condominium Act, 1998 were made to expand the jurisdiction of the Condominium Authority Tribunal to cover additional common condo disputes. The ministry will be working towards bringing forward for the government's consideration proposals to expand the Tribunal's jurisdiction in phases.
- **Recommendation 15:** On January 6, 2021, and subsequently on February 19, 2021, the Minister wrote to the Chair of the CAO to clarify the mandate of the CAO. This addresses one component of Recommendation 15 that recommends that the ministry "review and formally clarify the mandate of the Condominium Authority of Ontario (Condo Authority)."
- **Recommendation 17:** On January 1, 2021, requirements in the Condominium Act, 1998 for condo developers to provide a copy of a condominium guide to all purchasers of pre-construction or new condo units were brought into force. The ministry will be working towards bringing forward for the government's consideration proposals to bring additional provisions into force in phases.

The Ministry of Government and Consumer Services and the two authorities share a common goal to strengthen services to condominium communities and regulation of condominium managers and management service providers. Implementing the recommendations made by the Auditor General will help advance our efforts in these areas.

I trust you have found this information useful. Should you or any member of the Standing Committee on Public Accounts have questions about the information provided, I would be happy to respond.

Please accept my best wishes.

Sincerely,

A handwritten signature in black ink that reads "Karen Hughes". The signature is fluid and cursive, with the first name "Karen" and the last name "Hughes" clearly distinguishable.

Karen Hughes
Deputy Minister

c: Robin Dafoe, CEO and Registrar, CAO
Ali Arlani, CEO and Registrar, CMRAO
Michèle Sanborn, Assistant Deputy Minister, MGCS

OAGO Report Recommendations – Expected Timelines For Implementation

Report Year: **2019/20**VFM Report Title: **Condominium Oversight in Ontario**

		Ministry of Government and Consumer Services expected timeframe for Implementation						
Number	Recommendation and action item	1 Yr	2 Yrs	3 Yrs	4 Yrs	5+ Yrs	If over 2 years, please provide a rationale	Additional Detail
<i>e.g. Rec 1</i>	<i>The Ministry of Health and Long-Term Care:</i> • <i>ensure that all inspections are tracked and monitored for timeliness;</i>	<i>X</i>						
	• <i>perform ongoing secondary reviews of complaints and critical incidents received by the Program's central intake unit to ensure that reasons for not conducting an inspection are justified and documented;</i>		<i>X</i>					
Rec 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; and			*	X		The ministry intends to focus implementation of those recommendations for Year 1 and 2 that will improve certain services to the public (e.g., access to dispute resolution through the Condominium Authority Tribunal (Recommendation 12), and establishing CAO and CMRAO performance measures (Recommendations 15 and 20). Other recommendations, such as Recommendation 1, are complex	The ministry will begin policy work in Year 3, subject to government direction, and the ministry would develop a proposal for the government's consideration in Year 4. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an

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OAGO Report Recommendations – Expected Timelines For Implementation

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							and would require extensive consultation with the public and stakeholders to develop a proposal for the government's consideration.	unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.
	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.			*	X		Please see comments above.	Please see comments above.
Rec 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		*	X			Please see comments for Recommendation 1.	The ministry will begin policy work in Year 2, subject to government direction, and the ministry would develop a proposal for the government's consideration in Year 3.

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	Consumer Services look to implement the following: require additional disclosure by developers of expected increases to common area expenses;							While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.
	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; and		*	X			Please see comments for Recommendation 1.	Please see comments above.

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	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.		*	X			Please see comments for Recommendation 1.	Please see comments above.
Rec 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;		*	X			Please see comments for Recommendation 1.	The ministry will begin policy work in Year 2, subject to government direction, and the ministry would develop a proposal for the government's consideration in Year 3. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to

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								address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.
	set thresholds and define adequacy of reserve funds; and		*	X			Please see comments for Recommendation 1.	Please see comments above.
	work with the Condominium Authority of Ontario to raise awareness and communicate this issue in a clear and understandable manner.		*	X			Please see comments for Recommendation 1.	Please see comments above.
Rec 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		*	X			Please see comments for Recommendation 1.	The ministry will begin policy work in Year 2, subject to government direction, and the ministry would develop a

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	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.							proposal for the government's consideration in Year 3. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.
Rec 8	To better educate boards of directors on carrying out their duties and increase compliance with the training	*	X					The ministry will begin policy work in Year 1, subject to government direction, and the

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	requirement under the <i>Condominium Act, 1998</i> (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; and							ministry would develop a proposal for the government's consideration in Year 2. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.

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	require the ineligible individuals to stop acting as directors of their condo boards.	*	X					The ministry will begin policy work in Year 1, subject to government direction, and the ministry would develop a proposal for the government's consideration in Year 2. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.

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Rec 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; and	*	X					The ministry will begin policy work in Year 1, subject to government direction, and the ministry would develop a proposal for the government's consideration in Year 2. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a

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								final determination on implementation.
	analyze this information to evaluate whether increased protections are required for condo owners who reside in their units.			*	X		Please see comments for Recommendation 1.	The ministry will begin policy work in Year 3, subject to government direction, and the ministry would develop a proposal for the government's consideration in Year 4. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022.

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								Government will need to make a final determination on implementation.
Rec 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.	X	X	X	X	X		The ministry has plans to bring forward for the Minister's consideration proposals to expand the Condominium Authority Tribunal's (CAT) jurisdiction in phases to cover additional condo disputes (the government most recently passed regulatory amendments, in October 2020, to expand CAT's jurisdiction). The ministry plans to develop a proposal for the government's consideration by the end Year 1, and subsequent proposals each year thereafter. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to

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								address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.
Rec 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.	*	X					The ministry will begin policy work in Year 1, subject to government direction, and the ministry would develop a proposal for the government's consideration in Year 2. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative

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								environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation.
Rec 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);	X						
	providing the Condo Authority with inspection, investigation and enforcement powers; and			*	X		Please see comments for Recommendation 1. This component of Recommendation	The ministry will begin policy work in Year 3, subject to government direction, and the

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							15 is complex and is a shift in the Condominium Act, 1998 framework, and would require extensive consultation with the public and stakeholders to develop a proposal for the government's consideration.	ministry would develop a proposal for the government's consideration in Year 4. While the ministry is planning the necessary policy work, the ministry notes 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, and may impact work planning post-2022. Government will need to make a final determination on implementation.
	reaching an agreement with the Condo Authority on appropriate	X						

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	performance measures regarding fulfilment of its mandate.							
Rec 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.				X		Please see comments for Recommendation 1.	The ministry will conduct a cost/benefit analysis looking at other jurisdictions, as specified in the recommendation, in Year 4.
Rec 17	So that the <i>Condominium Act, 1998</i> 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.	X	X	X	X	X		On January 1, 2021, provisions relating to a Condo Guide were brought into force. Further, the ministry has plans to bring forward for the government's consideration proposals to bring additional provisions into force in phases. While the ministry is planning the necessary policy work, the ministry notes that 2021-2022 will be challenging as the province may be facing an unpredictable policy/legislative

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								environment due to the need to address the pandemic response and recovery, and a provincial election will be occurring in 2022. This will impact policy work, policy approvals, and ultimately government decision making, which may also impact work planning post-2022. Government will need to make a final determination on implementation
Rec 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:				X		Please see comments for Recommendation 1.	The ministry to conduct a cost/benefit analysis, as specified in the recommendation, in Year 4.

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	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; and b) positioning the Condominium Authority Tribunal outside of the new authority.							
Rec 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.	X						

I have reviewed the above recommendations and agree with the expected timelines for implementation.

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OAGO Report Recommendations – Expected Timelines For Implementation

January 18, 2021

[DATE]

Karen Hughes

[DEPUTY MINISTER]

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