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CONDOMINIUM OVERSIGHT IN ONTARIO (*2020 ANNUAL REPORT* OF THE AUDITOR GENERAL OF ONTARIO) BACKGROUND MATERIALS*

Prepared for:

Standing Committee on Public Accounts

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PREAMBLE

This research package has been prepared by Legislative Research with input from the Office of the Auditor General (the Auditor). It provides a brief summary and relevant documents for the Committee's hearings on "Condominium Oversight in Ontario" in the Auditor General's *2020 Annual Report.* It is recommended that Members refer to the chapter (see Appendix item 1) when quoting the Auditor.

OVERVIEW

The Condominium Authority of Ontario (Condo Authority) and the Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority) are responsible for administering the *Condominium Act, 1998* (Act), the *Condominium Management Services Act, 2015* and their regulations. The Minister of Government and Consumer Services is responsible for administering the provisions of the Acts and regulations that have not been delegated to the authorities.

The Ministry of Government and Consumer Services (Ministry) conducted a review of the *Condominium Act, 1998* in 2012 and 2013, which resulted in changes to the Act in 2015. Subsequently, two administrative authorities—the Condo Authority and Management Regulatory Authority—were created in 2017.

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 affected through a condo corporation, an entity that manages the property.

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 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.

The audit conducted two surveys on the condo sector (one of condo owners and one of condo boards), noting that neither of the two authorities nor the Ministry collect sufficient information to understand the sector. Response rates to these surveys were between 20% and 31%.

MAIN POINTS OF AUDIT

The audit concluded that the mandates given to the Condo Authority and the Condominium Authority Tribunal (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 the following:

- Initial developer-set condo fees are typically understated. The majority of condo boards surveyed were required to 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 are mostly reactive.
- About 6,420 directors of condo boards (approximately 17% of the 37,568 directors active as of April 30, 2020) had not completed the training within the six-month timeline. These individuals ceased to be eligible to remain as directors under the Act, yet continued to serve.
- Just over a quarter (6,012 or 26%) of condo board directors who accessed the free online training program provided by the Condo Authority did not spend sufficient time in training to understand their rights and obligations.
- Condo owners face difficulties and barriers in accessing condo corporation information and are not on a level playing field with condo boards at the Tribunal.
- The mandate given to the Condo Authority under the Act is limited compared with the mandates of other administrative authorities in Ontario.

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.

AUDITOR GENERAL'S RECOMMENDATIONS AND POSSIBLE COMMITTEE QUESTIONS

Purchase of Condominiums

Condo Purchases Complicated by Lack of Standard Documents

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. Further, documents that the audit examined included language that provided developers with the sole discretion to change important attributes without notifying the potential purchaser.

Auditor's 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; and
- 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.

Possible Committee Question

1. Has the Ministry developed and implemented standard terms and forms for key documents related to the purchase of condo units?

Initial Developer-Set Condo Fees Are Typically Understated

Under the Act, a developer must provide new condo buyers with a budget that estimates how much the common expenses and condo fees will be for the first year after the condo is registered. However, the audit found that some developers have omitted, understated, or deferred maintenance costs to subsequent years, to understate condo fees in their budgets.

The audit report noted that the Ministry and the Condo Authority only warn potential buyers about this practice. However, the Ministry does not offer potential solutions on its website for owners who experience increases in condo fees.

The audit found that

- 47 of the 64 condo boards that responded to the audit's survey question indicated that they experienced increases in condo fees in the first two years after the condo's registration;
- 40% of boards indicated that the reserve fund study (conducted within the first year after registration) had resulted in increased expenses; and
- 75% of condo owners indicated they had experienced increased condo fees ranging from 10% to over 50% in the five years prior to August 2020.

Auditor's 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;
- 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
- 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.

Possible Committee Questions

2. What steps has the Ministry taken to require additional disclosure by developers of expected increases to common area expenses?

3. Has the Ministry implemented best practices from other jurisdictions regarding protections for buyers of new condos? If so, please elaborate.

Majority of Condo Boards Had to Increase Reserve Fund Contributions

Condo fees cover monthly operating expenses, and a portion is also set aside in a reserve fund. Funds in reserve are used to pay for major repairs and replacement of the building's assets and other common areas. The audit found that 69% of condo boards registered between 1980 and 2000 did not have adequate amounts set aside in their reserve funds. As a result of the reserve fund studies, the condo boards were required to pay higher contributions to their underfunded reserve funds, ranging from 3% to 258%, with an average increase of 50% over a period of one to ten years.

Further, the audit found that the regulations relating to reserve funds do 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. The audit noted that this can eventually cause serious financial difficulties for condo boards and owners in later years as necessary expenses for major repairs and replacements have likely not been allocated evenly over the life of the building.

Auditor's 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;
- set thresholds and define adequacy of reserve funds; and
- work with the Condominium Authority of Ontario to raise awareness and communicate this issue in a clear and understandable manner.

Possible Committee Questions

4. What steps has the Ministry taken to ensure that reserve fund studies of condo buildings will include the cost of repairs beyond 30 years?

5. Has the Ministry determined adequate thresholds for reserve funds?

6. What progress has the Ministry and/or the Condominium Authority of Ontario made in raising awareness and understanding around the issue of inadequate reserve funds for condo buildings?

Condo Buyers at Risk of Higher than-Expected Fees

The audit found that buyers of new condos are at risk of facing higher-than-expected fee increases because reserve funds start out underfunded. The Act provides that the original contributions to the reserve fund (as reflected in the developer's budget) should be the greater of (1) the amount reasonably expected to provide sufficient funds for major repair and replacement of common elements and assets of the corporation, and (2) 10% of estimated common expenses, not including what is set aside for the reserve fund. The audit found that most developers only use the latter formula to calculate reserve fund contributions. This practice results in underfunding of reserves and makes condo fees appear lower and more attractive to potential buyers of condo units.

Auditor's 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.

Possible Committee Questions

7. Has the Ministry removed the option for developers to base reserve fund contributions on 10% of operating expenses?

8. Has the Ministry explored other options to end the practice of developers understanding condo fees?

Condo Management

Hundreds of Unlicensed Individuals and Companies Provide Condo Management Services

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.

Other audit findings include the following:

- almost 40% of the 316 unlicensed individuals were also listed as active condo directors. The Management Regulatory Authority does not verify whether these individuals are being compensated for providing condo management services, which would require a licence;
- 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;
- Other than legislation and the data-sharing agreement, the two authorities do not have a process to cross check the information collected by each of them, or to identify and investigate anomalies such as unlicensed condo managers and management companies.

Auditor's 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;
- reconcile and confirm the completeness and accuracy of the data;
- identify the names of property managers and management companies that are not licensed; and
- 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.*

Possible Committee Questions

9. What steps have the Management Regulatory Authority and Condominium Authority taken to confirm the completeness and accuracy of the public registry and to regularly share data with each other?

10. Has the Management Regulatory Authority and/or Condominium Authority followed up with condo boards regarding unlicensed managers and companies?

Nearly Half of the Owners' Complaints in the Auditor's Sample Received Limited Action by the Management Regulatory Authority

The Management Regulatory Authority received a total of 1,500 complaints between April 2018 and March 2020. The audit found that while it 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. As a result, the Management Regulatory Authority was unable to confirm that appropriate and consistent action was taken to resolve the complaints. Further, the Management Regulatory Authority does 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.

The audit reviewed a random sample of the complaints and found that the Management Regulatory Authority addressed 51% of the 200 complaints appropriately, but took no action or limited action on the remaining 49%. The audit report noted that some complaints related to serious allegations and found that the Management Regulatory Authority should have done more to resolve or address them.

Auditor's 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; and
- 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.

Possible Committee Questions

11. What steps has the Management Regulatory Authority taken to develop a process to track, summarize, and review the types of actions and outcomes for all complaints?

12. Has the Management Regulatory Authority established a policy to prescribe certain actions based on the nature of a complaint?

Management Regulatory Authority Inspected Less than 1% of Licensed Condominium Property Managers and Companies

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* and its regulations.

From November 2017 to March 30, 2020, the Management Regulatory Authority inspected less than 1% of the total number of condo managers and companies in Ontario. These inspections were triggered by multiple complaints containing a wide range of allegations, such as failure to pay bills, financial theft, inappropriate solicitation of proxies, and failure to provide documents in a timely manner.

Auditor's 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;
- 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 noncompliance, statistical trends and other risk factors; and

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

Possible Committee Questions

13. Has the Management Regulatory Authority developed a plan to conduct proactive inspections of property managers and companies? If so, please describe.

14. Has the Management Regulatory Authority developed an inspection checklist to carry out inspections using a risk-based framework?

Condo Board of Directors

Over 6,000 Ineligible Condo Directors Still Serving on Boards

The *Condominium Act, 1998* requires that condo board directors complete designated free training on governance, roles and responsibilities, and topics relating to management of condos within six months of the date of their appointment, election, or re-election.

The audit found that

- about 6,420 directors had not completed the training within the required time frame;
- the Condo Authority did not follow up or notify 20% of these directors or their boards that they were no longer eligible to remain on their boards;
- the remaining 80% had accessed the online training program but had not completed their training within the mandated time requirements;
- the Condo Authority sent an email to approximately 3,080 directors and their condo boards regarding ineligibility, but did not follow up to determine if the ineligible directors stepped down; and
- the Condo Authority does not have the regulatory authority to identify on its public registry any of the approximately 6,420 ineligible directors still serving, or inform the boards they serve on.

Auditor's 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; and
- require the ineligible individuals to stop acting as directors of their condo boards.

Possible Committee Questions

15. What steps has the Ministry taken to expand the Condominium Authority's role to oversee directors' training?
16. Has the Ministry expanded the Condominium Authority's role to allow it to prevent or remove ineligible individuals from serving on condo boards?

Directors Can Complete Mandatory Online Training without Reading Materials

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). This indicates that condo directors can complete the training without needing to read the materials and may limit the training program's effectiveness.

Further, the audit found that the Condo Authority does not track or analyze the available data regarding time to complete the training. The audit determined that 26% of condo directors completed their entire training in less than three hours and 7% took less than an hour (whereas the Condo Authority estimates completion times should take between three to six hours).

Auditor's 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);
- annually solicit input from directors and condo owners on improvements that can be made to training material;
- annually review and improve the director training materials; and
- 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.

Possible Committee Questions

17. What steps has the Condominium Authority taken to analyze and review data regarding the effectiveness of online training for condo directors?
18. Has the Condo Authority explored methods to both improve and ensure that condo board directors read and understand the materials?

Public Registry of Condo Corporations Does Not Provide Condo Owners with Accurate and Key Information

The audit found that the Condo Authority's registry contains limited information on 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, was not publicly available.

The audit also found a number of inconsistencies and inaccuracies in the condo manager and company names listed on the public registry maintained by the Condo Authority. At the time of the audit, the Condo Authority had not reviewed the data to remove variations in the names of property managers and companies.

Auditor's 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;
- 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;
- 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; and
- publish the collected and verified information on the registry.

Possible Committee Question

19. Has the Condo Authority worked with the Ministry to improve the information within the public registry?

Information on the Interests of Directors Who Serve on Multiple Condo Boards Not Transparent

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. There are 11,354 condo corporations registered in Ontario, but neither the Ministry nor the Condo Authority know which condos are commercial, residential, mixed use, or owned by investors operating rental businesses. The Condo Authority also does not collect information to identify the type of owners living in the condo corporations.

The audit argued that this information is essential to understand the landscape of Ontario's condo sector and its key stakeholders, and so that the Ministry can monitor the condo sector to ensure all ownership interests are protected.

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

Possible Committee Questions

20. Has the Ministry established a process to enable the Condo Authority to fully collect and publish information on condo board directors? If so, please describe.

21. Does the Condo Authority have plans to collect data and analyze condo corporations by type?

Disputes

Condo Owners Must Use Private Mediation or the Courts for the Majority of Issues, including Common Expenses and Board Misconduct

The audit found the scope of the Condominium Authority Tribunal (Tribunal) was limited by the *Condominium Act, 1998* and its regulations. Since the creation of the Tribunal it only heard disputes relating to a condo corporation's records, including disputes concerning an owner's right to access the records of their condo corporation. After the audit, the Ministry expanded the scope of the Tribunal to also hear issues related to pets, parking, storage, and personal property. Nonetheless, the only recourse for condo owners for other key issues, such as condo board governance, condo fees for use of common areas, reserve fund issues, and issues related to condo living such as infestation and noise, is to seek private mediation or arbitration, or file a lawsuit in the courts (or ultimately seek to change their condo board or stand for election).

Auditor's 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.

Possible Committee Question

22. What steps has the Ministry taken to expand the Condominium Authority Tribunal's jurisdiction?

Owners Face Difficulties in Accessing Important Information Relating to Their Condo Corporations

The audit found that condo owners did not get some or all the information to which they sought access in 21 (51%) of the 41 cases related to access to records before the Tribunal from November 2017 to March 2020. The audit found that the Tribunal's decisions focused on form over the substance of the condo owner's requests for information, noting that 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.

Auditor's 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; and
- 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.

Possible Committee Question

23. What has the Condo Authority done to expand owners' rights to access information about their condo corporation?

Owners Lack Level Playing Field with Condo Boards at Tribunal

The Auditor's review of the 56 Condominium Authority Tribunal decisions issued between November 2017 and March 2020, found that condo owners were self-represented in 84% of the cases. In contrast, condo boards hired lawyers or agents to represent them in 91% of the cases. The audit stated that this disparity in representation between condo owners and condo boards puts the average owner at a disadvantage and creates an uneven playing field for dispute resolution.

Auditor's 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.

Possible Committee Question

24. What steps have the Condo Authority and the Ministry taken to implement best practice guidelines?

Condominium Sector Oversight

Significant Gaps in Mandate Weaken Authority's Ability to Help Condo Owners

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

Auditor's 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);
- providing the Condo Authority with inspection, investigation and enforcement powers; and
- reaching an agreement with the Condo Authority on appropriate performance measures regarding fulfilment of its mandate.

Possible Committee Questions

25. Has the Ministry initiated a review of the Condo Authority's regulatory framework?

26. Does the Ministry have plans to expand the powers of the Condo Authority?

Ministry Enforcement Powers Used Infrequently and Are Weak

The audit found that the Ministry has fewer enforcement tools under the *Condominium Act, 1998* than some other Canadian jurisdictions. It stated that enforcement powers relating to developer misconduct in other Canadian jurisdictions are more rigorous than those in Ontario. Further, the audit noted that in the past 10 years, the government has not prosecuted any individual or corporation for an offence under the Act.

Auditor's 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.

Possible Committee Question

27. Does the Ministry have plans to review the *Condominium Act, 1998* with a focus on improving powers related to developer misconduct?

Condo Owners Less Protected Because Key Laws Not in Force

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. These protections include

- regulations to require standardized condo declarations to make them easier for purchasers to understand;
- requirements for developers to disclose whether expenses will increase in the first year after registration of the condo, as well as any expenses that the developer knows about that will arise after the first year after registration;
- requirements to ensure adequate reserve fund allocations; and
- requirements for budget statements to contain amounts for the reserve fund, not just operating expenses.

Auditor's 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.

Possible Committee Question

28. What steps has the Ministry taken to ensure that the 2015 amendments to the *Condominium Act,1998* are proclaimed into force?

Opportunities Exist to Increase Effectiveness of Two Authorities' Operations

The audit found that the two authorities could be combined into one authority, with an estimated annual cost savings of up to $753,000. The audit report noted that the Ministry's initial 2012–2013 review of the *Condominium Act, 1998* recommended a single organization that would have responsibility for education, a public registry, dispute resolution, and licensing of condo managers.

Auditor's 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; and

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

Possible Committee Question

29. Has the Ministry started a review to determine if combining the Condo Authority and the Management Regulatory Authority is feasible and/or desirable? If so, what is the current status of this review?

Condominium Management Regulatory Authority of Ontario (Management Regulatory Authority)

Performance Targets Not Established for Most Key Activities

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.

Auditor's 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;
- collect the data relevant to the targets established;
- assess its performance against the targets periodically;
- provide the Minister of Government and Consumer Services and the public with its performance results; and
- take corrective action when actual results do not meet targets.

Possible Committee Questions

30. Has the Management Regulatory Authority established performance targets for key activities? If so, what do they include?
31. Does the Management Regulatory Authority have plans to publicly publish its performance results?

Auditor's 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.

Possible Committee Question

32. What steps have been taken for the Ministry to establish an agreement with the Management Regulatory Authority on determining appropriate performance measures for the fulfilment of the Authority's mandate?

APPENDICES

1. Auditor General, "Condominium Oversight in Ontario" in *2020 Annual Report*.
2. Auditor's News Release.
3. Auditor's Summary of Report (one-pager).