



***Transcript of Presentation to Standing Committee on Finance and Economic Affairs***

***October 22, 2015***

***Queen's Park***

Good morning Chair and Committee members.

My name is Catherine Murdock, and it is my great pleasure to be asked to present to you here today on behalf of the Association of Condominium Managers of Ontario, known to our members and to condominium owners and Board members across Ontario as ACMO. Our Association strongly supports the move to license condominium managers and pro-actively recommended this move even before the current review process began.

Since 1977 ACMO has developed the most advanced, detailed and widely recognized educational platform for training condominium managers in the country and has represented the growing condominium sector in Ontario in the process.

The RCM designation is held by over 850 of the province's estimated 2,700 condominium managers, and it is on behalf of those 850 members, and indeed the entire condominium community, that we are pleased to appear before you today.

Since the Government of Ontario and the Ministry of Government and Consumer services began the unique and inclusive process of consulting with stakeholders on potential revisions to the Condominium Act, ACMO has been an active participant in bringing thoughtful views to the process with the aim of better protecting condominium owners and allowing the legislation to better serve condominium owners and Boards.

I am joined today by Dean McCabe, the Chair of ACMO's Legislative Review Team, who participated in stakeholders' roundtables and working groups throughout the consultation process to provide the input of condo professionals who work with the legislation every day, and who joined Minister Orazetti in announcing to all Ontarians on May 27<sup>th</sup> that Bill 106 was being introduced to update the Condominium Act and to license condominium managers.

Good Morning MPP's and Committee Members.

Great work has been done in the drafting of this proposed legislation. It is work which took into consideration many viewpoints and concerns and weighed them against the greater good of

condominium owners who need to be able to rely on the legislation that governs their homes and communities to protect them and balance their rights with the rights of other owners.

This is where you really begin.

Prior to attending this morning's hearing, ACO participated in a meeting of the Joint Legislative Review Committee with representatives of the Canadian Condominium Institute, several of the top condo lawyers in the province, engineers and auditors who service the condo sector and condo owners and Board members. From those consultations we have combined a series of 28 issue forms which address a variety of issues both minor and major. These issue forms form the body of our written submission to the committee which has been distributed this morning.

**I cannot stress enough that our purpose in presenting these forms is to assist the Government in seeing how those that work with this legislation and interpret it in their daily workplace and communities will be affected by its contents and in preventing unintended consequences that could – and will arise – if Bill 106 is passed in its current form. While we recognize that much of the work remaining will be focused on the regulations, and we look forward to continuing to participate in consultations during the drafting of regulations, we would like to draw the committee's attention to just a few of the possible issues that could be prevented with minor alterations to the Bill that we do not feel in any way alter the intended protections offered to Owners.**

Section 19 of the current Condominium Act states that, on giving reasonable notice, the corporation or a person authorized by the corporation may enter a unit or a part of the common elements of which an owner has exclusive use at any reasonable time to perform the objects and duties of the corporation or to exercise the powers of the corporation.

This protection, given to the Corporation, allows the Corporation to carry out the duties given to it in various places. From the responsibility to repair and maintain the common elements to the responsibility to protect other owners by making necessary repairs if a unit owner fails to make the repairs themselves. In addition the definition of "reasonable notice" in the current legislation has developed to include immediate entry into a unit in the event of an emergency causing damage to other units.

The new proposed wording removes this from the Act and instead downloads the power to the declaration or a by-law to provide this authority. As the Ministry has learned during the consultation process, this approval process of 50% of unit owners or 80% in the case of a declaration change can be difficult. We strongly believe that the majority of unit owners deserve to know that Management and the Board will Act quickly and decisively to protect their property and that includes entering other units to stop water damage, remove mould or take action to prevent dangerous conditions from going unchecked.

We would ask that the committee review Issue Sheet number 4 in our submission and recommend corrective wording.

It will come as no surprise to those that have followed the consultation process, that ACMO supports the licensing of managers and creation of a Designated Administrative Authority or DAA built to oversee the regulation of our profession and dedicated to ethical and disciplinary oversight to ensure consumer protection and elevate confidence in a profession filled with hard working individuals who work with volunteer Board members to provide safe communities and sound investments for condo owners.

ACMO's education program has formed the basis of the construction of the educational component of the stage 2 licencing requirements in the recommendations from the Experts Panel and the Manager Qualifications Advisory Group, and ACMO looks forward to partnering with the newly formed DAA to provide reliable, knowledgeable professionals to fill the growing need of condo communities in Ontario.

The Condominium Management Services Act (CMSA) presented as part of Bill 106 recognizes the need and sets the stage for the future of our profession. It is clear that condominiums have called for regulations on how a condo's records are turned over when a condo Board chooses to change management providers. The standards in our own ACMO 2000 program, an ISO style best practices designation, have recently been amended to reflect the same criteria.

Section 53 of the CMSA states that, subject to the regulations, every licensee that provides condominium management services to a client shall immediately transfer to the client all documents and records relating to the client upon termination of any contract for the condominium management services provided.

Issue sheets 26 and 27 detail some concerns over the possible interpretation of the words ALL and IMMEDIATE that could create serious unintended consequences for both the Management company and the Condominium Board. The immediate turnover of all records would effectively prevent the manager from preparing the financial statements for the final month of their management tenure and leave the Board relying on financial information that will take longer to prepare and will not be as accurate if provided by a company that was not responsible for managing during that transition period. In addition the use of the word ALL could be strictly interpreted to mean that the management companies are not entitled to retain even copies of any material produced during their tenure as the management representatives for the condo. This right to retain copies of documents created by the management company should be protected by clarifying the wording of this section of the CMSA.

Finally, Ladies and Gentleman of the Committee, our Legislative review team raised a concern over a matter that we believe speaks to the very foundation of condominium ownership. The indemnification provision is a key feature of a declaration and an important part of the protection afforded to unit owners. In essence, it is part of the 'social contract' involved in purchasing into a condominium community. Unit owners should be held responsible for their misdeeds or negligence, and other unit owners are entitled to be protected from the misdeeds or negligence of others. This indemnification provision was omitted from the drafting of the current Act in 1998 but has been recognized as being in force in Declarations which are drafted to contain such a provision. It is the belief of many in the condominium community that the Act itself should contain an indemnification provision to universally protect all owners, and if the

Government feels that the Act is not the proper place to insert such a universal provision, then Section 177 of Bill 106 should be amended to state that all declarations are deemed to include such a provision.

In closing, and in advance of any questions which we can answer for the committee members, let me say on behalf of ACMO and the 850 Registered Condominium Managers across Ontario that we believe the process that has unfolded to date will make for a stronger condominium sector in Ontario and stronger condo communities in every one of the 104 provincial ridings across the province.

This is not MADE in TORONTO legislation for a made in Toronto problem. It is legislation that has been drafted after listening to the views of stakeholders, service providers, condo owners and Board members as well as professional condominium managers from all corners of the Ontario. It is inclusive legislation that leaves those who have participated in its drafting obliged to work together to make it successful. The willingness of this Committee to hear ACMO's deposition and review our submission and consider how to alter the currently proposed Bill 106 to prevent unintended consequences is proof of that fact.

Thank You.