



CMRAO Inspections:

Guide to Records Management Inspections for Management Providers

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This document is not legal advice. If there is any conflict between this document and the applicable legislation or rules, the legislation or rules take precedence.

Overview

As part of its consumer protection mandate, the Condominium Management Regulatory Authority of Ontario (CMRAO) is authorized to conduct inspections of licensed condominium managers and condominium management provider businesses (“providers”).

The CMRAO conducts inspections of licensees in relation to several keys of the *Condominium Management Services Act, 2015* (CMSA) and its Regulations.

Section 6 of Ontario Regulation 4/18 states:

Client records

6. A licensee who holds records on behalf of a client shall,

(a) ensure that the records are maintained securely, accurately, and with care and due regard for the client’s obligations under section 55 of the *Condominium Act, 1998*;

(b) upon request by the client, make the records available for inspection by the client as soon as reasonably possible; and

(c) at the request of a client, transfer to the client any records held by the licensee, or a copy of the records, as soon as reasonably possible.

The CMRAO is conducting inspections of condominium management providers to ensure compliance with this aspect of the CMSA.



About this Type of Inspection

This document provides licensed provider businesses with an overview of the CMRAO's process for inspections of the provider's records management practices. This document also contains several checklists that the provider business is required to complete, as well as a questionnaire about the provider's records management practices. During the inspection, the inspector will interview the provider and request that the provider retrieve samples of key records that it maintains on behalf of its clients. The CMRAO will choose a client of the provider from which to review samples of records.

This inspection involves reviewing the provider's records management processes to confirm that they align with section [13.2 of Ontario Regulation 48/01](#) under the *Condominium Act, 1998*. The provider will be asked to complete a listing of all electronic platforms that they use for storing client records. The provider should be prepared to answer questions related to:

- how records are stored;
- where records are stored;
- organization methods, such as common titles for folders, and file indexing methods;
- any software platforms that are used to store, maintain, and distribute records.

To begin the inspection, the CMRAO will contact the provider's principal condominium manager with a notice of inspection and to set up a meeting with the provider, the CMRAO, and the inspector. The provider will be asked to designate a contact person for the duration of the inspection. The meeting will address the inspection process and give the provider an opportunity to ask questions.

After the initial meeting, the inspector will contact the provider's designated contact person and provide them with a fillable copy of the checklists and questionnaire contained in this guide. The inspector will also schedule an interview with the provider's contact person and any other members of the provider's organization. The interview may be held virtually or in person. **The provider should complete the checklists before the interview with the inspector.** During the interview the provider will be asked to demonstrate the software they use as well as retrieve several sample records for the inspector. In some instances, the provider may also be asked to provide the inspector with physical access to buildings, filing cabinets, etc. to review how paper records are stored.

Inspection Process at a Glance:

1. The CMRAO notifies the provider that they have been selected to participate in an inspection.
2. The provider acknowledges receipt of the notification and appoints a contact person for the inspection.
3. The CMRAO, the provider, and the inspector meet to review the inspection process.
4. The inspector contacts the provider with instructions on how to complete forms and checklists.
5. The provider returns the forms and checklists to the inspector.
6. The inspector interviews the provider, during which they ask the provider to retrieve sample records.
7. The inspector submits their inspection report to the CMRAO.
8. The CMRAO reviews the inspector's report and prepares a summary of findings and recommendations.
9. The CMRAO submits its findings and recommendations to the provider.
10. The CMRAO and the provider meet to review the findings and timelines for implementing any recommendations.

Checklists



When a provider is selected for an inspection, they will be asked to complete the following checklists in relation to one or more of their clients. The provider may add more rows as necessary.

Paper Records

The CMRAO will select a client condominium corporation to represent a sample of the provider’s records management practices. For the selected condominium corporation, please use the table below to describe the types of records that are currently stored in paper form. Please add rows to the table as needed.

Types of Records	Storage Location	List of people and/or positions that have access to these records

Electronic Records

For the selected condominium corporation, please use the table below to list and describe the different electronic records management systems that the provider uses to maintain records on behalf of the corporation. Please add rows to the table as needed. Common examples would include platforms that are used to produce and store financial records, track communications with owners, as well as general purpose file management systems such as Sharepoint.

Types of Records	Name and Description of the Software/ Platform Used to Store Records	Methods used to protect against unauthorized access (e.g., passwords)	Description of how files are “backed-up” and protected against loss or damage	List of people and/or positions that have access to records on this platform

Records Management Questionnaire

In consultation with the condominium industry, the CMRAO has published a Guide for Licensees regarding records management practices. The following questionnaire was developed based on practices identified within this Guide for Licensees. Please answer the following questions and return the questionnaire to the inspector. If available, please include documentation to support your answer, such as copies of standard operating procedures, company training materials, or excerpts from contracts with condominium corporations.

1. Please describe the provider’s approach to maintaining records on behalf of clients. In your answer, please consider the degree to which these practices vary across clients. Are the practices generally consistent, or do they vary greatly across clients?

2. How does the provider support its clients with regards to adhering to legislated requirements for responding to requests for records from owners? In your response please include how the provider applies fees, adheres to timelines, uses proper forms, and methods of delivery.

3. Does the provider have processes in place to ensure the appropriate redaction of records for the protection of private and confidential information? If yes, please describe the process.

4. Does the provider have a standard practice regarding turnover of records to a client at the end of a contract?

5. Does the provider have a standard operating procedure and/or checklist that it uses when accepting records from an outgoing management provider when the provider starts a contract with a new client?

6. What is the provider's process for closing bank accounts and turning over funds at turnover?

Sampling of Records

The inspector will interview the provider in relation to the records management practices for a selected condominium corporation. During the interview, the inspector will request to see samples of specific records. The interview will be conducted virtually over MS Teams and the provider will be asked to share their screen with the provider as they retrieve records from electronic platforms. The purpose of this process is not to scrutinize the contents of the records. Rather, the inspector will review the way that records are stored and check if the provider is able to access these records when requested. Examples of records that the inspector may ask to view include:

Governing Documents

- Declaration
- By-laws & amendments
- Rules and amendments

Budget and Financial Records

- Approved annual budget of the corporation for current or previous fiscal years
- Copies of monthly financial statements of the corporation
- Current and future plans for future funding of the condominium corporation's reserve fund
- Record of annual auditor's report for each fiscal year

Building Operations

- Performance audits, if applicable
- Signed service contracts

Insurance

- Copies of current or expired insurance policies

Legal

- The returns and notices that the corporation has filed with the Registrar of the Condominium Authority of Ontario ("CAO")
- Copies of Periodic Information Certificates (PICs), New Owner Information Certificates (NOICs), and Information Certificate Updates (ICUs) created on behalf of the Corporation

Owners Meetings

- Meeting minutes of owners' meetings
- Copies of Preliminary Notices and Notices of Meeting(s)
- Prescribed disclosure statements of Board Members and candidates for the Board of Directors
- Copy of draft and/or finalized meeting minutes of an AGM

Board Meetings and other Board Documents

- The meeting minutes of board meetings, including board resolutions
- Record of successful completion of the Director's Training Course

Owners and Occupants

- Up-to-date record of owners and mortgagees, including name, unit number, and address for service



Appendix: Selected Excerpts from Legislation and Regulations

Condominium Management Services Act, 2015

Duty re: records

54. (1) Subject to the regulations and subsection, (2) 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.

Copies

(2) Subject to the regulations, a licensee may make and retain a copy of a document or record mentioned in subsection (1) if the licensee requires the copy for purposes relating to the contract or such other purposes as are prescribed.

No pressuring

(3) No licensee shall retain anything that the licensee is required to transfer to a client under subsection (1) as a means of pressuring the client to fulfil contractual obligations to the licensee.

False information

55. (1) No licensee shall falsify, assist in falsifying, or induce or counsel another person to falsify or assist in falsifying any information or document related to the licensee's providing of condominium management services.

Furnishing information

(2) No licensee shall furnish, or induce or counsel another person to furnish, any information or documents related to the licensee's providing of condominium management services if the information or documents are false or deceptive.

Same, assisting

(3) No licensee shall assist in furnishing, or induce or counsel another person to assist in furnishing, any information or documents related to the licensee's providing of condominium management services if the licensee knows that the information or documents are false or deceptive.

O. Reg. 123/17: General Regulation (regulation under the *Condominium Management Services Act, 2015*)

Transfer of records

35. (1) A licensee that is required to transfer documents and records to a client under subsection 54 (1) of the Act shall do so, subject to subsection (2) of this section no later than 15 days after the termination of the contract described in subsection 54 (1) of the Act.

(2) If a document or record that a licensee is required to transfer to a client under subsection 54 (1) of the Act does not exist at the time the contract described in that subsection is terminated and the contract requires the licensee to create the document or record, the licensee shall create it, copy it, and transfer it to the client no later than 30 days after the termination of the contract.

(3) A licensee shall take reasonable measures to keep copies that it makes and retains under subsection 54 (2) of the Act secure.

(4) A licensee shall not use or disclose a copy of a document or record that relates to a client under a contract described in subsection 54 (1) of the Act and that it makes and retains under subsection 54 (2) of the Act except if –

(a) it is necessary to do so to,

(i) fulfil any obligations of the contract with the client,

(ii) prove the licensee has fulfilled the obligations of the contract with the client,

(iii) comply with a requirement of the Act or the regulations, or

(iv) comply with a request of the registrar made pursuant to the Act or the regulations,
or

(b) the person to whom the information in the document or record relates consents to the use or disclosure, as the case may be.

O. Reg. 3/18: Code of Ethics and Discipline and Appeals Committees (regulation under the *Condominium Management Services Act, 2015*)

Current documents

6. A licensee shall ensure that forms and documents used by the licensee in offering or providing condominium management services are current.

Services from others

17. (1) A licensee shall not provide services to a client and shall advise a client to obtain services from another person if the licensee is not able to provide the services with reasonable knowledge, skill, judgment, and competence or is not authorized by law to provide the services.

(2) A licensee shall not discourage a client from seeking a particular kind of service if the licensee is not able to provide the service with reasonable knowledge, skill, judgment, and competence or is not authorized by law to provide the service.

Condominium Act, 1998

Records

- 55.** (1) The corporation shall keep adequate records, including the following records:
1. The financial records of the corporation.
 2. A minute book containing the minutes of owners' meetings and the minutes of board meetings.
 3. A copy of the declaration, by-laws, and rules.
 - 3.1 The returns and notices that it has filed with the Registrar under Part II.1.
 4. All lists, items, records, and other documents mentioned in subsections 43 (4) and (5).
 5. The report described in subsection 44 (8) that the corporation receives from the person who conducts a performance audit.
 6. The records required under subsection 46.1 (3) and 83 (3).
 7. A record of all reserve fund studies and all plans to increase the reserve fund under subsection 94(8).
 8. A copy of all agreements entered into by or on behalf of the corporation.
 9. The report that the corporation receives from an inspector in accordance with subsection 130 (5).
 10. All instruments appointing a proxy or ballots for a meeting of owners that are submitted at the meeting.
 11. All other records, if any, that are prescribed.
 12. Any additional records specified in the by-laws of the corporation.

O. Reg. 48/01: General Regulation (regulation under the *Condominium Act, 1998*)

Records

- 13.1** (1) The following records of a corporation are prescribed for the purpose of paragraph 11 of subsection 55 (1) of the Act:
1. A copy of the status certificates that the corporation has issued under section 76 of the Act.
 2. A record of the statements and information provided to the board or the corporation under sections 11.6 and 11.10 of this Regulation for the purposes of clauses 29 (1) (f) and 29 (2) (f) of the Act.
 3. All material and records provided to or obtained by the corporation under section 11.8.
 4. Records that relate to employees of the corporation and that the corporation creates or receives.
 5. Records that relate to actual or contemplated litigation and that the corporation creates or receives.
 6. Records that relate to claims under an insurance policy in relation to the corporation and that the corporation creates or receives, including insurance investigations involving the corporation.

7. Records that relate to specific units or owners and that the corporation creates or receives.
8. A copy of all existing and expired warranties and guarantees that the corporation receives and that relate to the property or to any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
9. All reports and opinions of an architect, engineer, or other person whose profession lends credibility to the report or opinion, that the corporation receives, and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
10. All drawings and plans that the corporation receives and that relate to physical features of the property or of any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
11. All reports and opinions of an appraiser that the corporation receives and that relate to the property or to any real or personal property that the corporation owns or that is the subject of an agreement mentioned in section 113 or subsection 154 (5) of the Act entered into by or on behalf of the corporation.
12. Records that relate to a right, title, interest, encumbrance, or demand of any kind affecting land in relation to the corporation, but not including the interest of an owner in the owner's unit or common interest, and that the corporation creates or receives.
13. Records that relate to an addition, alteration, or improvement to the common elements, a change in the assets of the corporation or a change in a service that the corporation provides to the owners under section 97 or 98 of the Act and that the corporation creates or receives.

Note: On the day section 88 of Schedule 1 to the *Protecting Condominium Owners Act, 2015*, comes into force, paragraph 13 of subsection 13.1 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 180/17, s. 17 (2))

- 13.** Records that relate to a modification under section 97 or 98 of the Act and that the corporation creates or receives.
- 13.1** Records that relate to the installation of an electric vehicle charging system carried out in accordance with section 24.3 or with sections 24.4 to 24.6 and that the corporation creates or receives.
14. All instruments appointing a proxy for a meeting of owners that are delivered to the corporation before the meeting if required or permitted by the by-laws.
15. A record of all recorded votes described in subclause 52 (1) (b) (iii) of the Act for a meeting of owners that are submitted at the meeting.

16. A copy of all agreements mentioned in paragraph 8 of subsection 55 (1) of the Act that have expired.
17. A copy of all insurance policies that the corporation has obtained and maintains.
18. A copy of all insurance policies that the corporation has obtained and that have expired.
19. A copy of all redacted versions of a record described in subsection 55 (1) of the Act or any of paragraphs 1 to 18 of this subsection.

Method of retention of records

13.2 (1) For the purpose of subsection 55 (2.1) of the Act, a corporation shall keep its records that are in paper form,

- (a) on any part of the property that the board determines is appropriate for the storage of records; or
- (b) at a location that is not part of the property and that the board determines is,
 - (i) a location that enables the corporation to carry out its duties under section 55 of the Act and this Regulation with respect to records,
 - (ii) an appropriate location for the storage of records, and
 - (iii) any place of business in Ontario of the condominium management provider or the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services or any location that is reasonably close to the property. O. Reg. 180/17, s. 17 (1).

(2) For the purpose of subsection 55 (2.1) of the Act, a corporation shall keep its records that are in electronic form by entering or recording them by a system of electronic data processing or by any other information storage device, where the system or device –

- (a) is capable of reproducing any required information from the records in an accurate and intelligible form within a time that is reasonable and that complies with the requirements of section 55 of the Act and this Regulation with respect to records;
- (b) includes a password or other reasonable methods of protecting against unauthorized access; and
- (c) automatically backs up files and allows the recovery of backed-up files or otherwise provides reasonable protection against loss of, damage to and inaccessibility of information. O. Reg. 180/17, s. 17 (1).



The CMRAO is committed to providing valuable information and useful resources to help condominium managers understand and meet their legal and professional obligations. For further information or any questions, please contact the CMRAO.

Connect with Us!



Toll free: 1-866-888-5426 | Local: 647-363-6490



www.cmrao.ca



info@cmrao.ca



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