




**NADLAN-HARRIS PROPERTY
MANAGEMENT INC.**

FALL 2025



Nadlan - Harris is excited to share our 2025 Fall Newsletter with the Board of Directors!

This newsletter highlights key updates, goals, and upcoming initiatives as we embrace this season of reflection, planning, and continued progress. We encourage you all to take a moment to review it, as it's filled with valuable information for the coming months ahead.

*"Autumn is a second spring when every leaf is a flower."
— Albert Camus*

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Sewer back-ups cost condo corporation

Court case underscores compliance obligations

Tuesday, July 29, 2025

By Laura Gurr and Liam Thompson

The recent decision of the Ontario Superior Court of Justice in *Benmergui v YRSCC No 1510, 2025 ONSC 545*, provides a sobering illustration of the consequences facing condo corporations that fail to respond adequately to serious habitability concerns affecting unit owners. The court's decision underscores the mandatory compliance obligations under ss. 117 and 134 of the Condominium Act, 1998 and expands the remedies available when corporations fail to act with requisite urgency.

The applicant, Ms. Benmergui, experienced four separate sewage back-ups in her newly purchased unit between July and November 2024. The first occurred prior to her moving into her unit. Despite repeated pleas for assistance, the respondent corporation failed to treat the matter as an imminent health hazard. Although the corporation engaged contractors and engineers at various stages, the investigations were piecemeal, communication was delayed, and no clear remediation plan emerged until after litigation was initiated.



On a motion, the court determined that the corporation had failed to comply with its obligations under s. 117 of the Act by permitting a dangerous condition to persist. The court found that by August 2024 – after three of the four backups – the corporation should have been in “full court press” mode to identify and rectify the root cause. Its failure resulted in the applicant being unable to return to her home for more than six months.

The court granted the applicant interim relief under s.134(3)(c), ordering the corporation to pay for comparable alternate accommodations, including first and last month’s rent, until the underlying issues were resolved. While s. 134(3)(b) contemplates reimbursement for damages already incurred, the court interpreted s. 134(3)(c) as allowing forward-looking relief that is “fair and equitable in the circumstances.”

The corporation’s attempt to rely on *Brasseur v YCC No 50, 2019 ONSC 4045*, was rejected. In contrast to the good-faith efforts made by the corporation in *Brasseur*, the court held that YRSCC 1510 “permitted the unreliable and, frankly, dangerous sewage system to persist.” While not held to a standard of perfection, it is clear that multiple sewage backups causing a unit to become uninhabitable, requires more action than a proverbial shoulder shrug.

The applicant was awarded partial indemnity costs of \$14,500.00. The court declined to award substantial indemnity, finding no “grave positive misconduct” but emphasized that the application was necessary to obtain even the limited relief to which the corporation had eventually consented.

This case reaffirms that condominium corporations must treat serious unit-level intrusions – particularly those affecting health and habitability – as emergencies requiring immediate, comprehensive action. A passive or dismissive approach, even if not malicious, may attract liability under s. 117 and prospective equitable orders under s. 134(3)(c).

Legal practitioners advising condo boards should ensure that these obligations are understood, particularly in the context of recurring or systemic building failures.

Although not discussed in *Benmergui*, the protection that a robust declaration provides to a condominium corporation can also not be understated.

Laura Gurr and Liam Thompson are lawyers with Cohen Highley LLP in London. Cohen Highley has offices in London, Kitchener, Windsor, Strathroy and Stratford. Laura and Liam both provide risk management and regulatory compliance advice to Condominium Corporations and Property Management Companies.

<https://www.reminetwork.com/articles/sewer-back-ups-cost-condo-corporation/>



Short-term rentals: what to know in 2025

Lack of regulation may lead to increased conflict with local bylaws, heightened insurance risk, and strain on condo community resources

Tuesday, July 15, 2025

By Denise Lash

Several Ontario cities, including Toronto, Ottawa, and Mississauga, have implemented licensing regimes for short-term rentals. These typically require: registration of short-term rental units, proof that the unit is the owner's principal residence, collection and remittance of Municipal Accommodation Tax (MAT), and compliance with zoning bylaws.

For condo corporations, the implications are clear: failing to regulate short-term rentals within the building may lead to increased conflict with local bylaws, heightened insurance risk, and strain on community resources.



Common Concerns for Condo Corporations

Short-term rentals introduce a range of issues, including:

Security: A steady flow of unfamiliar guests can compromise building safety and increase the risk of theft or unauthorized access.

Wear and tear: Common elements such as lobbies, elevators, and pools may see accelerated deterioration from heavy guest usage.

Noise and nuisance: Weekend parties or late-night disturbances can frustrate full-time residents and erode a sense of community.

Insurance and liability: Some insurance providers may deny coverage or increase premiums if short-term rentals are prevalent or not properly disclosed.

Governance tensions: Investor-owners may oppose restrictions, leading to political divisions within the board and ownership.

Legal Tools and Enforcement Options

Condominium corporations in Ontario have several options to control or prohibit short-term rentals:

Rules: Under the Condominium Act, 1998, corporations can pass rules to promote the safety, security, and welfare of owners and property.

Declaration amendments: Stronger and more permanent restrictions can be embedded in the declaration, but these require 80 per cent owner approval—a higher but more binding threshold.

Enforcement: Boards can issue compliance letters and, if necessary, seek court orders under Section 134 of the Act. Courts have generally upheld well-drafted and properly implemented rules restricting short-term rentals.

Case Law Note

In *Ottawa-Carleton Standard Condominium Corporation No. 961 v. Menzies* (2016), the Ontario Superior Court of Justice concluded that operating a unit as a hotel-like business through repeated short-term rentals breached the “single family use” provision in the condominium’s declaration and violated a rule prohibiting leases shorter than four months.



Drafting Effective Rules

Effective rules should be:

Clear and enforceable: For example, setting a minimum duration for leases.

Aligned with municipal bylaws: Ensure rules don't contradict local licensing requirements.

Reasonably justified: Boards should document the rationale for the rule (e.g., increased complaints or insurance issues).

Well-communicated: Inform owners ahead of implementation, and be prepared to address investor concerns.

Communication and Community Engagement

The key to successful implementation is buy-in. Boards should hold virtual or in-person townhall meetings to explain the risks and proposed solutions, share examples of how other buildings have handled the issue, and consider owner surveys to gather input before formalizing rules.

Transparency builds trust—and trust makes enforcement more effective when the time comes. Boards should also be prepared for pushback from owners who rely on short-term rentals for income. In these situations, clear and empathetic communication is essential. Boards can explain that the long-term risks—such as rising insurance premiums, legal liabilities, and community dissatisfaction—ultimately affect everyone. Engaging legal counsel early on can help ensure that rule changes are both effective and legally sound.

Some corporations are also turning to technology to support enforcement. Digital guest registration systems, access control logs, and security camera data can help identify patterns of short-term rental activity. These tools provide boards with objective evidence and can strengthen their ability to take timely, justified action when rules are breached.

Short-term rentals are here to stay, but that doesn't mean condo corporations must accept instability in their communities. By staying informed, updating governing documents, and engaging owners early, boards can strike a healthy balance between protecting community integrity and respecting owner rights.

<https://www.reminetwork.com/articles/short-term-rentals-what-to-know-in-2025/>



Canadian rent prices continue to cool

Wednesday, July 9, 2025

The average asking rent for residential properties across the country fell 2.7 per cent year-over-year in June after nearly a decade of surging rents. According to the latest National Rent Report from Rentals.ca and Urbanation, this marks the ninth consecutive month of annual declines, providing some relief for renters.

“Rent decreases at the national level have been mild so far, with the biggest declines mainly seen in the largest and most expensive cities,” said Shaun Hildebrand, President of Urbanation. “However, it appears that the softening in rents has begun to spread throughout most parts of the country.”



Condo apartments experienced the steepest annual decline at 4.9 per cent, while houses and townhomes fell by 6.6 per cent. Purpose-built rentals proved more resilient, dipping a modest 1.1 per cent. Over three years, purpose-built rentals have actually grown strongest, with rents rising 24.6 per cent, compared to just 1.6 per cent for condos and a 0.2 per cent decline for houses and townhomes.

The decline in rent prices was also evident across unit sizes. One- and two-bedroom units saw year-over-year drops of 3.5 per cent, while studios slipped only 0.4 per cent, though studio rents have soared an impressive 19.3 per cent over three years. In contrast, three-bedroom purpose-built apartments bucked the trend, jumping 4.4 per cent annually to an average of \$2,755, making them June's strongest-performing segment.

Regional insights

Provincially, British Columbia and Alberta led the declines at -3.1 per cent, followed by Ontario at -2.3 per cent. Saskatchewan was the outlier, with rents up 4.2 per cent—the only province posting an annual increase—and still offering Canada's lowest average rent at \$1,396. Over the past three years, Alberta (+32.8%) and Saskatchewan (+36.2%) have seen the fastest rent growth in the country.

Among major cities, Calgary experienced the steepest drop in rents at -7.9 per cent, while Vancouver rents fell 7.0 per cent and Toronto's by 4.7 per cent. Ottawa and Edmonton were the exceptions, recording modest increases.

Shared accommodations

Average asking rents for shared units dropped 5.1 per cent to \$939. Vancouver saw the steepest decline at -11.6 per cent, while Ottawa bucked the trend, leaping 12.8 per cent to \$1,058 due to a shift toward pricier co-living spaces.

Despite recent declines, affordability remains a concern, especially in the context of long-term increases. While the market appears to be cooling, many households are still feeling the pressure of elevated rents.

<https://www.reminetwork.com/articles/canadian-rent-prices-continue-to-cool/>



Confessions of a Condo Lawyer



As a condo lawyer, I'm not often asked what keeps me up at night but if I were, I'd have a list. A tidy, alphabetized list of recurring legal nightmares that arrive, uninvited, in my inbox – often on a Friday at 4:59 p.m. – and occasionally in my dreams.

If only the notion of “quiet enjoyment” applied to my sleep!

1. The Post-Renovation Revelation

“Just letting you know an owner removed a load-bearing wall over the weekend. Should we be concerned?”

Yes. If your definition of “concerned” includes liability exposure, insurance nightmares, and the possibility of an unplanned open concept building collapse.

2. The AGM Free-for-All

Annual General Meetings are meant to be routine – approval of the minutes, appointment of the auditor, a year-in-review update from the board, and the election of directors.

Instead, they sometimes descend into utter chaos fueled by last-minute floor nominations, proxy mayhem, missing quorum by one unit, and someone attempting to amend the agenda to discuss their laundry list of unit-specific issues.

It's democracy. Just louder and far less efficient.



3. Legacy Documents That Time Forgot

When a board asks us to review their governing documents, there's a pause because we know what's coming.

Declarations, Bylaws and Rules drafted in the 80s, referencing the Condominium Act 1978, with clauses that treat email like experimental technology.

They're not documents. They're archaeological artifacts.

4. The Reserve Fund Expenditure

The phone call asking if the corporation can pay for this year's AGM refreshments from the reserve fund. Followed up with "we already did".

Refreshments may make a major difference in the AGM's atmosphere but they cannot repair or replace some problematic owners!

5. The "Quick Question" That Isn't

The email begins innocently: "Quick question, can we charge back the cost of the hallway carpet cleaning to the owner whose ex-girlfriend's guest's dog had an accident 18 months ago?"


The answer to the reoccurring question "can we charge this back" depends on facts, documents, and a close reading of your indemnity clauses. But the real answer? There's no such thing as a "quick question" in condo law.

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These aren't complaints. Well maybe lightly disguised ones. But mostly, they're the reason we exist: to guide boards and managers through the messier realities of shared ownership, competing rights, and governing rules written before Wi-Fi existed.

And if we occasionally wake up wondering whether that standard unit by-law got registered -well, that's just part of the job.

https://www.lashcondolaw.com/confessions-of-a-condo-lawyer/?utm_medium=email&hsenc=p2ANqtz-8YnxNkFjdKZgXIm4R0wwS8BqdPwWvpnJKLIW4AnS_qoIGkeXphq498ldAdpClbi_S7iVYpPzLOIfxosHNW6gZtNBTK7A&hsmi=371635483&utm_content=371634787&utm_source=hs_email

A scenic autumn landscape featuring a paved road with a yellow center line leading into a forest of trees with vibrant orange and red foliage. In the foreground, a wooden dock extends into a calm lake reflecting the warm colors of the trees. The scene is bathed in soft, golden light, suggesting a sunrise or sunset.

As we step into this new season, we remain grateful for your continued support, leadership, and shared vision.

Thank you for being an essential part of our journey.

We look forward to a productive and inspiring fall together.

**With appreciation,
The Nadlan Harris Family**