



Eric Plant, RCM, MSc, Hons BA
President
Brilliant Property Management Inc.

Is Fraud Really a Problem in Condominiums?

It is no secret that our industry can be a magnet for fraudulent activity. If you've spent any time in the industry, you may have seen it firsthand or heard about it on the news. From the large-scale con jobs to more minor discreet thefts, condominiums seem designed to be targeted for this kind of activity.

It is not that there is something inherently bad about the people in our industry or the board members who hire us. The real problem lies in the way condominiums are set up. Like any government, when you combine elected representatives with the power to tax their subjects, with little to no oversight, and throw in some significant and technical projects, you tend to get mixed results. If the daily stories in the news about government waste and failure aren't enough to convince you, consider that condominiums have far less oversight than even the smallest municipal governments.

Still, with so many intelligent people putting so much of their hard-earned

money into purchasing and maintaining their condominiums, one may expect it to be a relatively safe investment. Sadly, one would be wrong. Wherever there is money, there are always people looking to get their hands on it, and the self-governed world of the condominium is the lowest of the low-hanging fruit. We're like a hen in the fox house.

Below are the most common schemes and what you as a manager can do to avoid having your buildings swindled.

Who is Responsible for Fraud?

Sadly, it can be anyone in a position of power. The biggest perpetrators are often board members or managers, usually acting in conjunction with contractors. While it is difficult to know if anyone is involved in a crime, there are a few signs to look out for, such as a lack of open and transparent communication, individuals coercing others to vote a certain way, and condo governments who make it difficult for outsiders to gain access to information or get involved.

The Kickback

The kickback is the easiest crime to commit and difficult, if not impossible, to trace once it is done. The kickback involves one or more members of the condominium governance (let's say a board member) giving a job to a contractor in exchange for a cash payment. To afford to pay the board member, the contractor prices the job higher than usual or reduces the quality of the work. The kickback is hard to trace because, on the surface, everything appears normal, and all illegal activity is off of the condominium's books. Here's an example of a kickback situation:

A condominium needs a large perimeter fence rebuilt. The manager gets three bids, but the board president brings a fourth at the next board meeting. The price is a little bit higher, but the president assures the other board members that the quality of the work is excellent and that the extra money is well worth it. He also aggressively questions the manager's bids and his knowledge of this type of work. The rest of the board knows little on this



topic and wants to avoid confrontation and agree to go with the president's bid. The work is done, and the president walks away with a generous cut. A couple of years later, the fence is already falling apart and requires significant repairs.

The Rigged Bid

A larger form of the kickback, the rigged bid, is when a board member or manager falsifies bid documents to select a vendor of their choice – often one who will then engage in a kickback

scheme. Rigging a bid can be as simple as informing your preferred contractor what price they should come in or can also be far more complicated. An engineer or consultant on a large job may also be involved in a rigged bid, and can do so without participation from the condominium. The rigged bid is especially devastating to a condominium because it is often done on the most significant projects. Condominiums may take a long time to recover from inflated prices, and poor workmanship

can cause serious financial or safety issues later on. Here is an example of the rigged bid:

A condominium contemplating an extensive elevator modernization seeks an engineer to help them run the project. The engineer invites four companies to bid but discourages the board and management from selecting their own companies. The bids all come in far higher than expected, but the board has already paid for the engineer's services and reluctantly chooses the lowest bidder. That low bidder pays the engineer a "fee" for getting the job, and the next time the engineer runs a bid, he gives the job to another one of his "preferred" companies, ensuring all of them get their share of work as long as they play along.

The Insider

The insider is a catch-all phrase that refers to the board or management treating particular owners differently than others. This could mean failing to charge back an owner for work done in their unit, allowing them free use of lockers or parking spaces, or even doing extra work in their suites after damage. Alternatively, it could also mean treating some owners worse than others by delaying necessary repairs, lying about chargebacks, or enforcing the rules more sternly than they do for others. Below is an example of this:

Hannah woke up one day to find her bathtub overflowing with a dirty liquid. Her floor and baseboards were damaged, as well as some other items in her home. Worse, the unit below had damage to its ceiling and walls. The board brought in a plumber who snaked the drain and resolved the problem. While he was in her unit, he mentioned that the block was deep in the main stack, which was not linked to her drain. Hannah then received a letter from the manager stating that she owed the building thousands of dollars for the damage downstairs. When she asked why the manager claimed the block was in her drainpipe, she was responsible for the damage to both units. Not surprisingly, the plumber's report was vague on details.

The Thief

The most basic form of fraud in condominiums is theft and can flourish where cash is a valid form of payment and records are not to date. Some basic examples include managers pocketing cash payments for keyfobs, lockers,



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parking spaces, or anything else of low value that can be kept out of the condominium's books. Although the numbers are often small, they can add up to big numbers over time.

For example, Jim had been making cash payments to the management company for a second parking spot for years. When a new company took over, Jim found another car in his spot. When he approached the new manager, he learned that the spot was given away because the records showed it was vacant. It was only after the new manager looked into the issue that they discovered that Jim's payments had never been recorded, and the old manager was pocketing his payments.

The Dictator

Once in power, managers and directors who engage in criminal activities tend to want to stay in control. Losing their position means an end to their profits and the potential to be caught by future boards or management companies. For this reason, directors will do their utmost to stop any opponents from coming to positions of power. This can be done

in various ways, including manipulating proxies, making it difficult for other candidates to run or attend meetings, or in extreme cases postponing AGMs altogether. While this is a clear violation of the *Condominium Act*, it is tough for homeowners to remove a director like this. Here's an example of a dictatorship:

Heidi had been on the board for over a decade. After the last few projects had gone wrong, several owners decided to run for the board. Heidi had been involved in some serious kickback schemes along with the manager for years and was willing to break the rules to stay in power. After delaying the AGM repeatedly, it was finally scheduled for the Friday of a long weekend. While the opposition showed up with a batch of proxies, they were shocked to find that Heidi had dozens of her own – more than enough to carry the election. It took weeks for the opposition to see the proxies, and when they did, they noticed that a lot of the proxies were dated the day of the meeting, and most were signed in the same fading blue pen.

There are countless other ways for board members, managers, consultants and vendors to commit crimes in a condo-

minium, and sadly few are traceable by the auditor. In 2017 the government of Ontario created amendments to the *Condominium Act* to try and protect homeowners – including licensing for managers and training for directors – but few of their changes addressed the fundamental problem of people actively trying to bilk the system. Investigations into fraud remain virtually non-existent due to the cost and resources required to do so.

The primary weapons to fight fraud in a condominium are simple but challenging to implement unless the people in power are willing to speak up. These include open and transparent communication, efficient record-keeping, and robust procedures for procurement, all things that a strong property manager can control. As RCMs, we have a duty to prevent these types of behaviours, and if we do, the industry as a whole will benefit. ■

Eric Plant, RCM, is a director at Brilliant Property Management Inc. and is a member of the ACMO Board of Directors. He can be reached at eric@brilliantproperty.ca or brilliantproperty.ca



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