



Volume 25, Issue Number 2, Winter 2019
Property Management Issues

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Managing Conflict at Every Stage

Take a Deep Breath and Remember “Serenity Now”

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In life, a certain amount of conflict is natural and expected. We all have bad days, bad moods, and bad experiences which create an air of conflict.

In a condominium environment, you can also expect that natural conflict will develop; especially in a City like Toronto where we have such rich diversity. The challenge we face is that social diversity – cultural, socio-economic, family, values, religion – also sometimes comes with conflicting beliefs and behaviours.

Stack these different behaviours on top of each other and expect everyone to get along. Not always the most successful. While all condominium corporations have governing documents that help guide us on how to behave, it is not always possible to avoid conflict.

Early Intervention

It is important to be able at an early stage to spot an escalating conflict. One neighbour complains about smoking, while the other considers noise from the complainant a problem. A resident begins to behave badly after rule enforcement for a minor infraction. Staff members aren't getting along. These

are just a few examples of early stages of conflict that can mostly be addressed through early intervention.

Once you've recognized the conflict, take a moment to reflect on the attitudes of the conflicting parties. Can you see the concern from both points of view? Can you stay calm and determine the best course of action?

The goal would be to ensure that both parties have an opportunity to state their perspectives early in the conflict so that a third party – often the property manager – can try to help find a middle ground or way forward. It can be helpful to remind both parties that remaining calm and looking at the conflict in the best interest of the community will help to achieve resolution. We're reminded of an old Seinfeld episode about anger management. Take a deep breath and remember "Serenity now".

What about Shared Facilities?

An article about conflict resolution in condominium corporations would not be complete without a note about shared facilities – perhaps one of the most famous types of condominium dispute.

It can be very difficult to smooth out a shared facilities dispute once the fighting has already begun. Again, early intervention is key in preventing larger conflict. Consider the following:

- Has your shared facilities committee ever sat and talked about plans for the future?
- Do they have a mission statement or other agreed upon long-term vision/ plan?
- Do their advisors help them or hinder them? If you have property managers, lawyers, etc. giving them different advice is it productive? Is it better to have the shared committee agree on mutual advisors?
- What self-help remedies exist in the shared facilities agreement, if any? Use these self-help remedies to guide you in early conflict resolution.

What about warring Boards?

Is the condo commando causing grief at a Board level? Do you have two (or more) different demographics represented with different interests? How do you cope when it's all shouting at the Board table?

- Circle back to your governing documents to determine what rules of order exist. Ensure that the meeting Chairperson is educated and capable of ensuring the meeting follows these rules.
- Make sure you have open discussions about why it's important to have differing opinions at the Board level. Simply put, a Board is made up of multiple individuals precisely because they will have different points of view. It is ok to disagree with each other along as it is done respectfully.
- Ensure that all Board members understand the limits of their authority. That no one member can make decisions on their own. All action must be agreed upon by a quorum of the Board.

Can the Board cause conflict with Owners and Residents?

Absolutely! Board members have an obligation to enforce the provisions of the Condominium Act, Declaration, By-laws and Rules. But they must do so reasonably. It is not acceptable for Board members to act out on the Residents in other ways because of infractions. Remember this and be more successful in compliance enforcement.

As Conflict Develops

Don't be afraid to address it head on. Sometimes, people may be unaware of the results of their actions. It's like the wife giving her husband the silent treatment – does he even really know why she's mad at him? If you don't talk about the conflict you can't assume the other party will even know it exists and you can't take any steps to move forward and resolve it.

Again, always remember that being respectful is most important. If you approach the situation unreasonably you give the other party cause to believe that you are unreasonable and their position is the correct one. Work together to find the middle way through.

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Escalation

While conflict can escalate at any time, we should deal with it using the lowest cost approach along a line that looks like this:

Prevention > Negotiation > Mediation > Arbitration > Litigation

The only time you should not consider this stepped approach is where there is a dangerous or emergency situation in which case your property manager and lawyer should be involved as soon as the problem arises.

Even moving along the "line", at a certain point, it will be obvious that you will need to move to the next "stage" of the process. If prevention of conflict through

some of the ideas outlined in the earlier part of this article have not worked, using a negotiation approach is the next step. This can be informal negotiation between individuals or more formal, such as a board and unit owner meeting.

An understanding of the competing positions can be achieved at this stage, but you may find that you cannot make more progress towards resolving them and you may need to involve a third-party mediator to help. The underlying conflict has now become a dispute and your focus then becomes on the appropriate process to use in resolving it.

Mediation can be "formal" or "informal". An informal mediation is where an agreed upon third party, and this person could be your property manager, sits down with everyone and helps them discuss the problem and develop options to resolve it.

Sometimes that is all it takes, and a satisfactory outcome is achieved. If not, then formal mediation is required under section 132 of the Condominium Act, 1998 for many types of disputes including most unit owners and condominium corporations/boards. Before deciding on a more formal approach, you should get advice from your property manager and in many cases the corporation's legal advisor.

Mediation is negotiation facilitated by a third-party mediator and is a lower cost approach to dispute resolution. In mediation, there is more control over outcome by the parties and the mediator cannot

impose a solution. Mediation has high success rate as most people prefer the opportunity to work towards a mutually acceptable solution than having one imposed on them.

But sometimes despite all your efforts to prevent and manage, you will have to move to a more rights-based approach and involve a neutral decision maker (a judge or arbitrator) in order to bring about an end to the dispute.

If the dispute was one that must be mediated, then it most likely must proceed to arbitration if mediation did not settle it.

Arbitration is a much higher cost process and there is little control over the outcome by the parties. Unlike in mediation, the arbitrator has decision making powers and it is an evidence and law-based process. There is a winner and a loser as in litigation in court.

It is important to know what you want from arbitration or litigation before going there and especially what a "win" looks like from your perspective. Too often opportunities to resolve are missed or ignored in the rush to win.

Conflict Prevention and Management is Worth Trying

Both authors of this article believe that we are all missing opportunities to prevent and manage conflicts in condominium communities. We need to work harder together to achieve this goal instead relying on outside formal dispute resolution approaches.

Conflict is all around us. Many of us do not like conflict, but conflict is neither good nor bad. How we deal with it makes the difference.

A few key points to take away:

- Know your own personal reaction to conflict
- Respond to conflict in a respectful way
- Remember conflict management does not mean avoidance
- Be willing to have difficult conversations
- Remember that good listening is much more than being silent while the other person talks
- Listening is different than problem solving
- Use proactive approaches to conflict management
- Use Informal conflict management
- Use "Pull" not "Push" approaches to compliance with unit owners
- Early intervention can lead to early resolution
- Know when to call in your professional advisors

You cannot prevent or manage all disputes and balance is not always possible in every scenario but is an objective well worth working towards.
