

Guarding against condo fraud: 5 steps for owners to take now

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by Ray Mikkola

Details of the alleged \$20+ million condominium fraud—both mortgage fraud and construction fraud—alleged to have been perpetrated by Manzoor Moorshed Khan, president of Channel Property Management, continue to emerge in the media.

The number of condominiums affected by the alleged fraud now stands at nine and counting, but Mr. Khan's company reportedly managed 40 condos in Greater Toronto. The truth is that this type of fraud and mismanagement could have taken place at almost any condominium corporation in Ontario.

The results so far have been alarming and serious for the owners of the affected condominiums. Certainly, it will be very difficult to sell any of these units, at least not for what would have passed for the "fair market price" which these units could have commanded a short time ago. Banks are likely unwilling to lend on the security of these units.

This may become the lasting legacy of this story: hundreds of unit owners struggling for many years with very high common expenses, in condominium developments which have been publicly tarnished by the story, and each proposed purchaser and lender being reminded of the burden of this misadventure by clearly set out provisions in status certificates signed by the victim condominium corporations.

How can condominium owners take steps to avoid this fate?

While fraud cannot be avoided altogether, here are five steps that owners can take to make fraud and mismanagement less likely to occur in their condominium communities.

1. **Exercise your vote carefully.** Owners must understand that for the most part, the Board is in charge. This is mandated by the *Condominium Act*. Owners are in charge of electing directors. Cast a thoughtful and knowledgeable vote.

Get to know the candidates who are seeking your vote. Ask questions about their backgrounds, expertise, and abilities. Ask for resumes. Ask them if they are willing to attend courses that describe the duty of directors and the management and governance of condominium corporations if they are elected. Ask them to speak for a minute or two at the meeting at which they are seeking election. If the candidates do not meet your standards, consider running yourself. You are, after all, looking out for your investment.

2. **Consider paying your directors.** Being a director is an important and responsible job. It is not rubber-stamping. Select the most qualified directors you can find. Governance and oversight are key parts of the job.

As a practical matter, it would not be possible for owners to have any direct role in managing the day-to-day operations of a condominium.

3. **Ask the Board to issue a regular newsletter.** You may wish to stay abreast of issues by attending Board meetings, or asking that non-legal, information meetings take place to keep owners and residents abreast of new developments at the condominium. Talk to directors to advise them of your ideas and concerns. Stay involved. Just because you are not on the Board does not mean that you have no interest in the conduct of your condominium corporation's affairs.
4. **If you have concerns about how your condominium is being run, speak to the Board.** Review the condominium's records—you are entitled to have your condominium corporation operate as an "open book," with few exceptions. If you lose confidence in the Board, you are entitled to call a meeting to remove one or more of the directors if at least 15 per cent of your fellow unit owners feel the same way. A majority of the owners may vote to remove one or more director at that meeting. This is more power than is given to voters following most other elections.
5. **Finally, review and become familiar with your condominium corporation's documents: the declaration, by-laws and rules, and the *Condominium Act*.** They all impact on the enjoyment of your home and the value of your investment.

Knowledgeable, involved, and engaged owners are more likely to elect like directors. In my view, they are much less likely to become the victims of fraud and mismanagement.

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