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Oversized Trucks & Shrinking Parking Spaces

What Can a Condominium Corporation Do to Maintain Order?

As the urban landscape continues to evolve and public transit expands, many condominium corporations face increasing challenges related to oversized trucks in inadequately sized parking spaces (now being designed smaller and narrower). This can create logistical problems, safety concerns, and disputes among residents. To effectively address these matters, it is crucial for boards and management to understand the corporation's legal rights and responsibilities while balancing the interests of all unit owners and residents. This article will provide insights into how corporations can navigate and resolve issues concerning the presence of oversized trucks in shrinking parking spaces.

The growth in the size of trucks can be attributed to various factors, including consumer demands for more spacious and versatile vehicles and advancements in engineering and manufacturing techniques. Trucks, while becoming more fuel efficient and, in some cases, fully electric, are becoming larger, posing significant challenges in denser and built-up condominium properties.

Parking spaces have been shrinking because developers desire to maximize the number of parking units that can be sold or otherwise satisfy municipal parking requirements, including using "compact" parking spaces coupled with the dimensions of trucks, creates several problems for condominium communities.

Assuming the trucks can even fit under the ceiling height of the underground garage, the limited space makes it difficult for trucks to maneuver, leading to potential damage to surrounding vehicles and infrastructure. Additionally, oversized trucks may block sightlines, impeding visibility for both drivers and pedestrians. Moreover, these oversized trucks may encroach upon drive aisles and walkways and disrupt the overall aesthetics of a condominium community.

What Can a Corporation Do?

A corporation's declaration, by-laws and rules govern the specific rights and restrictions associated with parking. Boards and management must be famil-



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iar with these documents to address issues related to parking.

There are several ways that one can attempt to address the issues that arise as a result of the presence of oversized trucks in a condominium community, including

- **Review and Revise Governing Documents Related to Parking:** Whether above-ground parking or in underground garages, boards should assess their existing parking rules and policies and consider updating them to address potential issues arising from the presence of oversized trucks. This may include:

- The allocation of parking spaces to ensure that oversize trucks can be parked in a manner so as not to interfere with drive aisles and walkways;
- Limiting the number of vehicles that can be parked in a parking space;
- Imposing vehicle size limitations, remembering that for underground garages, the building structure will place a height limit on vehicles, including trucks; and
- Providing enforcement mechanisms if there is a breach of the governing documents.

- **Enhance Communication and Education:** The board and management can play a vital role in educating residents about the challenges posed by oversized trucks and the importance of responsible parking practices. This can be achieved through newsletters, community meetings, or informative signage, raising awareness about the need to park vehicles in designated areas and respecting other unit owners' rights.

Enforcing the Rules

Notwithstanding the above, a corporation may need to take steps to enforce its parking rules and policies against a unit owner if a vehicle does not comply with the rules and policies. The decision in *Toronto Standard Condominium Corporation No. 2745 v. Islas, Barahona and Martinez* ("Islas") serves as a good reminder to corporations about the need to act reasonably in doing so.

In this case, the corporation commenced a CAT application because a tenant's truck encroached into the common elements drive aisle of the underground parking garage when the oversized truck was parked in the rented parking space. Notwithstanding that neither the tenant

nor unit owner participated in the application, the adjudicator found that once the tenant removed the motorcycle that had also been parked in the parking space, any encroachment on the common elements was negligible. In making this finding, the adjudicator refused to make an order about any continuing non-compliance and only ordered the unit owner to reimburse the corporation for their filing fees at the tribunal.

Effective, measured and balanced enforcement measures are necessary to maintain order and fairness in parking facilities. Corporations should consider the following enforcement strategies:

- **Warning Notices:** In cases where a resident violates parking provisions of the corporation's governing documents, issuing written warning notices is the first

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step. These notices should outline the specific violation and provide a reasonable timeframe for the resident to rectify the breach. These warnings should indicate that if the breach is not immediately rectified and/or there are subsequent breaches, then the matter will be turned over to the corporation's lawyers for compliance, with all costs being charged back to the unit (if the vehicle owner is not the unit owner, then a copy of the letter, or a separate letter, should be sent to the owner).

- **Commencing an Application at the Tribunal:** Where warning letters have not resolved the non-compliance, the condominium corporation may need to commence an application at the CAT to bring about compliance.
- **Towing and Vehicle Removal:** In extreme situations where repeated violations persist despite warnings and a real safety or security concern is present, the corporation may need to tow or remove the vehicle. However, this

step should only be taken as a last resort after exhausting all other measures and consulting with legal counsel. In addition, many towing companies will not tow vehicles until certain formalities have been completed.

Corporations must be careful not to take overly technical positions and place unreasonable expectations on bringing about compliance. As noted in the *Islas* decision, sometimes a dispute can be resolved with "both a bit of patience and cooperation."

Condominium communities face unique challenges when dealing with oversized trucks in our changing buildings with shrinking parking spaces. By understanding their legal rights and responsibilities, implementing appropriate parking regulations, enforcing parking

regulations consistently, and promoting open communication and education, these issues stand a good chance of being effectively addressed. By taking proactive measures and seeking professional advice when needed, condominium corporations can help create a harmonious living environment that meets the needs of all residents while managing parking challenges effectively. ■

Armand Conant heads up the condo law group of Shibley Righton LLP and represents corporations of all types across Ontario. Armand is a Past President of CCI (Toronto) and Past chair of its Legislative Committee, on which he remains. Armand is a recipient of AC-MO's Special Recognition Award, President's Award and Associate Member of the Year award, and CCI(Toronto)'s Distinguished Service Award.

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