

In the book, *Condominium Conquest – Urban Governance, Law, and Condoization in New York and Toronto* (UBC Press, 2019), Randy Lippert identifies some instances when compliance complaints turned out to be more about “ethnicity, race or national origin,” than about the conduct itself. In a Toronto condominium, for example, the issue turned out to be more focused on the fact that the family in question were immigrants: “They’re from the Middle East,” a board member complained, “They haven’t got the concept yet that this is an apartment building.” In a New York condominium case, the complainant suggested, “Why don’t you move back to China?” Lippert also notes that cases about the number of occupants in a unit are sometimes based on cultural insensitivity, which can give rise to racialized stereotyping.

It is a small grace that Lippert notes that racialized issues in condominiums appear to be few in number. Our own experience attests to that. We recall only one case about which racism was evidently a genuine issue: a case in which the condominium president referred to one row of its townhomes as “the ghetto” based on the presence there of black residents. We have also heard a few stories from condominium managers, like the one where the condominium board member only found out what a mezuzah was after demanding that it be removed from the doorway of a Jewish unit occupant. There is a similar story about the placement of a swastik – a Hindu symbol of good fortune that is sadly but reasonably confused with the commonly used Nazi symbol of hate. The manager was glad to have resisted her first, “gut reaction” to want to remove it; she and others in the condominium had the opportunity to overcome cultural misunderstanding before, and without, causing unnecessary offense. Possibly the unit occupant also learned something about caring cultural communication.

There are just a few condominium-related court or tribunal cases in Ontario where racism or racial discrimination is a significant factor, and none in which the board, manager or community were actually guilty of or complicit in that kind of discrimination. But those cases raise important points to consider – that sometimes, racism can be a felt thing, even if it isn’t a done thing; and sometimes, it can be a done thing that affects the condominium or condominium living, even if it wasn’t done by the condominium. In both cases, condominiums and their boards can have better or worse responses.

In [Morris v. Wilson Blanchard Management Inc., 2013 HRTO 105 \(CanLII\)](#), for example, the Ontario Human Rights Tribunal found hateful and threatening racist graffiti had been painted on a wall adjacent to the condominium. The allegation was that there was some on the condominium’s walls as well, and the time taken by the condominium board to determine the facts and their obligations was felt by the offended individuals as complacency and disregard. The tribunal found the evidence did not support the allegation of discrimination. Nonetheless, the unit owner suffered real harm, including fear, frustration and the sense of being demeaned solely on account of race. One has to wonder what could have been said or done, but wasn’t, to help resolve those feelings while the corporation undertook the task of determining its legal obligations; and one can also ask: Why weren’t those things either thought of, said, or done?

It is not the job of a condominium board to coddle and comfort every upset individual within its community. It also needn’t walk on tenterhooks, as it were, seeking to avoid every possible offense. However, it is a fundamental responsibility of every person in Ontario, and, in particular, of every person having power or responsibility for someone else, to be aware of and sensitive to the nature and effects of racism, and to act in ways that help eliminate, rather than perpetuate, them, even those that aren’t caused by anything that person does.

In addition, decisions made, or things done, not done, or even merely tolerated, by a condominium board could lead to significant legal liability. Racial discrimination is one of several heads of discrimination prohibited under the Ontario Human Rights Code. Further, incaution regarding the fair and dignified treatment of unit occupants and owners could easily lead a board to make decisions that are inconsistent with the Condominium Act, 1998, including its obligations to act in good faith, and with reasonable diligence and care. But a risk of legal liability should not be needed as motivation to do the right things.

Another point that Lippert notes about condominiums is that when they first became the subject of Canadian laws and policies, they were imagined not to be developed as investment commodities – the way that too many people think of them today – but as communities. Consciously ensuring that racialized ideas, attitudes, stereotypes and assumptions do not affect the decisions made in and by our condominiums is one important way that a strong community spirit and experience can be fostered. And how could that not be a good thing?