

Workplace Violence and Harassment Memo

Date: 3/1/2016

Re: New Occupational Health and Safety Requirements

Condominium corporations, like other business entities, are now subject to Ontario's new workplace violence and harassment obligations under the *Occupational Health and Safety Act (OHSA)*. Ontario employers must ensure that their workplace risk assessment, employee training, policies and procedures comply with the new obligations to address various workplace harassment and violence scenarios. The *Ontario Ministry of Labour (MOL)* has released a set of *Health and Safety Guidelines* to assist workers, supervisors and employers in understanding their new obligations under the workplace violence and harassment amendments to the *OHSA*.

Harassment/Violence Definitions

"Workplace harassment" is defined to mean engaging in a course of vexatious comment or conduct against a worker in a workplace, which is known or ought reasonably to be known to be unwelcome. "Workplace violence" means the exercise or attempt to exercise physical force by a person against a worker in a workplace that causes or could cause physical injury to the worker. Moreover, "workplace violence" includes a statement or behavior that is reasonable for a worker to interpret as a threat to exercise such physical force and potential injury in a workplace.

Domestic Violence

A new provision requires employers who become aware, or who ought to be aware, that a domestic violence situation is likely to expose a worker to physical injury in the work place, to take all reasonable precautions to protect their workers.

Known Violent Offenders

Employers must also inform their workers about a person who has a history of violent behavior, even if that involves disclosing personal and private information. Such disclosure is required if a worker is likely to encounter that person in the course of his or her work, and if the risk of workplace violence is likely to expose the worker to physical injury. Disclosure of such personal information must be limited so as only to be reasonably necessary to protect the worker from physical injury.

Conduct Risk Assessment

Employers which have a workplace must conduct a risk assessment to determine if any part of the employer's operation is vulnerable to acts of violence. Evaluate perceptible risks of violence or harassment to employees and any past incidents. The risk assessment must take into account circumstances that would be common in similar workplaces, as well as those specific to the workplace. Once complete, the employer must advise the Health and Safety Representative of the results of the assessment and provide a written copy of the assessment.

Establish Policy

Where more than five workers are regularly employed at a workplace, Ontario employers will now be required to prepare and post a *Workplace Violence and Harassment Policy*. The policy must be reviewed as often as is necessary and must be reviewed at least annually. The policy must contain a reporting and complaint investigation mechanism. The policy must be posted in a conspicuous location within the workplace.

Maintain Procedures to Implement Policy

Employers are obligated to establish procedures containing measures and procedures to implement the *Workplace Violence and Harassment Policy*. The procedures must control the risks identified in the risk assessment. Employees must be able to summon immediate assistance when or if workplace violence is likely to occur. Workers must be required to report incidents of workplace violence or harassment.

Train Employees

Employers are also obligated to provide information and instruction to their employees on the contents of the policy and procedures. Employees should be instructed as to what they must do to minimize the risk of workplace violence and harassment situations and they should be informed of their obligations and consequences for non-compliance.

Workplace Refusal

A worker has the right to refuse work if workplace violence is likely to endanger the worker. There is no requirement for an employee to prove that workplace harassment or violence created a harmful workplace environment, nor is the employee obligated to prove that the employee's dignity or psychological or physical integrity was damaged. A refusing worker must remain in a safe place that is as near as is reasonably possible to his or her work station and must remain available to the employer or supervisor for the purpose of a workplace investigation. While the *OHSA* requires employers to assess the risk of workplace violence, the *MOL Guidelines* state that the *OHSA* does not require employers to assess the risk of workplace harassment. The *MOL Guidelines* also note that while a worker can refuse to work if they have reason to believe that they may be endangered by workplace violence, work cannot be refused on the grounds of workplace harassment.

Workplace Investigation

Where a worker reports unsafe working conditions to the employer, an investigation must be conducted. If the worker has reasonable grounds to believe that work conditions remain unsafe, the employer or the worker must cause an inspector from the *Ministry of Labour* to attend at the workplace to conduct an investigation. Section 52 of the *OHSA* also requires an employer to prepare a notice to the *Ministry of Labour* in the event that a worker is disabled from their regular duties, or requires medical attention, or has suffered workplace violence. When an incident of workplace violence occurs, the *MOL Guidelines* state that employers should first notify police and/or emergency responders for immediate assistance.

Management is currently working through the process of developing a *Workplace Violence and Harassment Policy*, and procedures to follow in order to ensure that all employees of the Corporation have a clear understanding of how to proceed if they feel threatened with violence or are being harassed, and will release all applicable information upon approval by the Board of Directors.

If you have any questions or concerns in the interim, please contact property management. Thank you for your attention to this matter.

Yours truly,
Del Property Management Inc.