



## **When Police Arrive at Your Condo**

By Denise Lash on October 28, 2010

There may be time in which condominium corporations will be approached by the police and the board will be called upon to assist in some manner.

We were recently contacted by one of our clients to advise as to whether the board of directors and management should assist the police in carrying out an investigation of one of its residents.

Putting aside the moral and ethical considerations, boards of directors and property managers have the responsibility to ensure that they do not obstruct the police officers from carrying out their duties under the Criminal Code and, at the same time, ensuring that the condominium corporation's assets and common elements are maintained under the Condominium Act.

The first thing to do when the police arrive, is to ask them to identify themselves. If they are plainclothes officers, ask to see their badges. Then ask to see the warrant (whether an arrest warrant or a search warrant). The arrest warrant will name the individual the police are seeking to arrest and may also provide the address of the condominium suite. If the address is noted on the warrant, make sure the address is correct. In the incident we were dealing with, the police wanted access to the locker as well as the suite, however, the warrant had incorrectly noted the wrong locker and the police had to go back and get a new warrant reissued. Just imagine if the condominium corporation had provided access to the locker without the correct warrant being produced and goods were removed from the locker. This could expose the corporation, board members and property management to potential liability if any goods were removed.

In certain instances the police may obtain an assistance order which would require the corporation to assist the police with a police investigation such as providing access to certain common areas for surveillance by the police.

If the police do not present a warrant, Section 495 of the *Criminal Code* allows an officer to arrest a person without a warrant in certain situations, such as when an officer is apprehending someone in the commission of an offence or when an officer has reasonable grounds to believe that the safety of a person or persons are at risk.

If the police officers have identified themselves and stated one of these grounds as their reason for requesting entry to the common elements, or it is apparent from the circumstances (as it may well be in the case of officers pursuing a person in the commission of an offence), access should be given to the police.

In our case, the police arrived without a warrant, then obtained a warrant with the wrong locker number and then went back to get a second warrant. With the first warrant, the police officers were given access to the common areas for the purpose of entering the suite.



Once the second warrant for the locker was obtained, the police were given access to the locker area. In both cases, the corporation did not provide any keys to either the suite or the locker and did not assist the police in gaining entry.

Most condominium corporations retain keys to units for the sole purpose of carry out the duties of managing the units and common elements. This does not include opening the door for the police. The police officers have the right to use reasonable force to gain entry to the unit to make an arrest or to conduct a search. This would include breaking the locks on the door, which may involved damage to the door or its frame. Although the corporation may have to bear the cost of any resulting repairs, it is likely better to incur these costs, on the rare occasions that these situations arise, rather than risking exposure to liability for improperly assisting an arrest or search. The same holds true for vacant or unoccupied suites.

There is a competing school of thought, however, which contends that when it is known or reasonably suspected that the unit is vacant or unoccupied and the officers have made it clear they they intend to forcibly enter the unit in any event, the corporation can provide access to the unit rather than allowing needless damage to be incurred. Corporations may have to exercise their judgment in determining the most reasonable course to follow in a given situation.

The safest policy for management and the board of directors to adopt is to provide access to the common elements but leave access to the suite to the police.

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