Unionized Security & Clean Staff:

How their unions can affect your condominium's bottom line

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Under the *Employment Standards Act* (the "**ESA**") and the *Labour Relations Act* (the "**LRA**"), security companies and cleaning companies, which are retained by condominiums to provide on-site security and cleaning services are deemed to be "building service providers".

Under the ESA and LRA, when a new building service provider replaces a previous one, the employment of the on-site employees of the replaced building service provider is deemed to continue under the new building service provider.

Prior to January 1, 2018, building service providers were only required to comply with the successor employer obligations under the ESA, and did not have any successor employer obligations under the LRA. Accordingly, prior to January 1, 2018, if a condominium changed security companies and the on-site employees of the predecessor security company were unionized, the new security company did not have to recognize the union of the employees of the predecessor security company. In such a situation, the employment of the on-site employees of the replaced security company would be deemed to continue under the new security company, but the new security company would not have to recognize the bargaining rights or collective agreement of the on-site employees of the replaced security company and as a result, the on-site employees would no longer being unionized under the new security company.

Bill 148

On January 1, 2018, Bill 148 (Fair Workplaces, Better Jobs Act, 2017) amended the LRA and the amendments apply the successor employer obligations in the LRA to building service providers. As a result of the amendments to the LRA, which came into effect on January 1, 2018, if a condominium changes its security company and the on-site employees of the predecessor security company are unionized, the new security company must recognize the union of the on-site employees of the predecessor security company as the condominium's site would be deemed to be a unionized workplace for security staff.

Thus, if a condominium changes its security company and the on-site employees of the predecessor security company are unionized: (1) the employment of the on-site employees of the replaced security company will be deemed to continue under the new security company; and (2) the new security company will have to recognize the bargaining rights and collective agreement of the on-site employees of the replaced security company – even if the on-site employees of the replaced security company do not work at the condominium under the new security company.

Key Takeaways

A condominium that has on-site security and/or cleaning staff that are unionized will be affected by the foregoing amendments to the LRA if the condominium decides to change its security company or cleaning company. In such a situation, other security companies and cleaning companies who do not have unionized employees may be hesitant to submit proposals because they will have to recognize the bargaining rights and the collective agreement of the employees of the predecessor building services provider since the condominium's site would be deemed to be a unionized workplace. Accordingly, a condominium that has on-site security and/or cleaning staff that are unionized may have a difficult time obtaining proposals from new building service providers, and if proposals are received, the cost of the services to be provided may be quoted at a higher rate in order to compensate the new building service provider for having to recognize the bargaining rights and collective agreement that will continue to apply to the on-site employees who work at the condominium under the new building service provider.

Accordingly, if your condominium has unionized employees on-site and your condominium is considering changing building service providers, it is imperative that you carefully review the proposals and contracts submitted for provisions that require the condominium to indemnify the new building service provider for any costs that it may incur as a result of

having to recognize the bargaining rights and collective agreement that will continue to apply to the on-site employees at the condominium.

Bill 47

It is important to note that Bill 47 (Making Ontario Open for Business Act, 2018) ("**Bill 47**"), which received Royal Assent on November 21, 2018, will amend some of the changes to the LRA and ESA that were introduced under Bill 148 (Fair Workplaces, Better Jobs Act, 2017). The amendments to the LRA and ESA introduced by Bill 47, which will come into force on January 1, 2019, are discussed in greater detail in the writer's article titled "Employment Law Changes Coming into Force on January 1, 2019".

However, it is important to note that Bill 47 will not amend the amendments to the LRA discussed in this article. Accordingly, come January 1, 2019, the successor employer obligations in the LRA will continue to apply to building service providers as discussed in this article.

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