

OUT OF THE CHAIR AND INTO THE FIRE: NEW DIRECTIVE ON ONTARIO'S FIRE CODE

by Rachel Fielding and Gareth Stackhouse

High-rise buildings pose vertical challenges for firefighters. Recent fires in high-rise buildings have caused fire officials to crack down on the enforcement of the Ontario's *Fire Code* (which is Regulation 231/07 made under the *Fire Protection and Prevention Act*, 1997 the "FPPA").

One of the reasons for this increase in enforcement is a fire which occurred last year at a high-rise building at 1315 Neilson Road in Toronto. This fire resulted in four deaths and several injuries. The cause of the fire was determined to be the combustion of three "comfortable chairs" made of polyurethane foam, a material that shares combustion properties with kerosene and gasoline. The fire was so strong that some of the residents in the building were required to be brought down the side of the building on ladders because the hallways were so full of smoke. The owners of 1315 Neilson Road were charged with three FPPA violations, one of them being permitting combustible materials to accumulate in a means of egress, and fined \$100,000.00 (being the maximum fine).

Recently, Toronto Fire Services Chief Jessop spoke at an Association of Condominium Managers of Ontario luncheon and discussed how the *Fire Code* is applied to high-rise condominium corporations and the issues with combustible furniture in corridors, lobbies, and other common areas. One of the Chief's key points was that Toronto Fire Services will not, for lack of better words, be "messing around anymore" and that the *Fire Code* will be strictly enforced. *Fire Code* violations will lead to fines and other penalties.

The applicable parts of the *Fire Code* relating to "comfortable chairs" include Part 2.4.1.1.(2) of Division B which states that:

"Combustible materials shall not be accumulated in any part of an elevator shaft, ventilation shaft, means of egress, service room or service space, unless the location, room, or space is designed for those materials".

A "means of egress" is a defined term and includes any "continuous path of travel for the escape of persons from any point in a building...". This could be any common element area in a condominium which is part of a fire escape route, including all corridors and lobbies. Underground parking garages also need to be kept clear of any combustible items stored in any parking areas, such as tires, or cardboard boxes.

During his speech, Chief Jessop stated that the Toronto Fire Services is now being vigilant about enforcing the *Fire Code* to prohibit furniture with polyurethane foam (or other combustible furniture) from being placed in corridors, lobbies, and other areas used to enter and exit a building. The Chief also stated that there may be some exceptions to the rule, such as whether or not the building has a complete fire



[David Thiel](#)
Partner

t: 416.941.8815

dthiel@foglers.com



[Carol Dirks](#)
Partner

t: 416.941.8820

cdirks@foglers.com



[Gareth F.G. Stackhouse](#)
Associate

t: 416.840.0665

gstackhouse@foglers.com

[Rachel Fielding](#)
Associate

t: 416.864.7402

rfielding@foglers.com

sprinkler system or if the furniture is placed in a room, such as a library, which is enclosed with fire separation walls and fire doors. Toronto Fire Services now has new mandate to inspect every high-rise building in the City of Toronto at least once a year, which means that many condominiums can expect more visits from Toronto Fire Services and should be prepared for them.

Our office has defended condominiums and property management companies charged with violating the *Fire Code* and the FPPA and can report that the Crown Prosecutors and the Courts are being very strict in the application of the statutory penalties for fire code offences. The interpretation of who is an "owner", for the purposes of being held responsible under the FPPA is broad and includes anyone who has "care and control" over the property, which can extend to management companies.

An "owner" who violates the FPPA could be fined as much as \$100,000. There is also potential liability for directors (fine of up to \$50,000.00) where a director has knowingly caused a corporation to violate the *Fire Code* and the FPPA. There are also FPPA penalties for failing to comply with a Fire Inspector's Order.

When in doubt about any *Fire Code* matter condominiums and property managers should always consult with the Toronto Fire Services, the condominium's own fire protection contractor or legal counsel. The Toronto Fire Services have published an Engineering Technical Bulletin regarding "*Furniture in Public Corridors*" and you can view a copy of this June 11, 2018, document [here](#). Hopefully, this awareness and enforcement will help prevent a repeat of a tragedy such as the Neilson Road fire.