

November, 2016

Fact Sheet: Ontario Region Privacy and confidentiality do's and don'ts for directors

This Fact Sheet is a list of tips for handling issues of privacy and confidentiality in Ontario housing co-ops. It is based on the paper of November 17, 2016 from CHF Canada's Ontario Region lawyer, Bruce Lewis.

Golden rule

1. **Do** treat information about others – and about the co-op – the same way you would want your own information treated.

Board meetings

2. **Do** be clear about which parts of a meeting are confidential and record them separately in confidential minutes.
3. **Do** remember that members have a right to know about co-op business. Things should only be considered confidential if there are good reasons:
 - a) Board item is about a specific individual, or
 - b) Board item is about co-op staff, or
 - c) Board item is about co-op business where disclosure could hurt the co-op's negotiating or legal position.
4. **Do** limit disclosure of personal information to the directors at board meetings.
 - a) In a general arrears report, there may be no need for the directors to be told which specific units are in arrears or which members are in receipt of subsidy.

- b) On the other hand, if considering action against any member, or if an arrears or other situation has become significant, the board should be given all relevant personal information.

Materials for board meetings

5. **Don't** distribute sensitive confidential information before the board meeting. After the meeting, staff should gather up any and all copies to be destroyed.
6. **Do** make sure all board papers are gathered up at the end of each board meeting.

Meeting room

7. **Do** make sure that doors, windows, etc. of the meeting room are closed when confidential material is being discussed. Also, that the board cannot be overheard by passers-by through the closed doors and windows.

Co-op business outside of board meetings

8. **Don't** let anyone overhear conversations between directors that involve confidential information.
9. **Do** check twice on who will receive e-mails before pressing the send button. E-mail accidents are common; great care should be exercised.

Confidential information to directors

10. **Do** make sure individual directors understand that they have no right to obtain confidential information from staff unless it is directly related to their duties as an officer or it is at a board meeting. In case of doubt, the question should be referred to the board.
11. **Don't** use information that you have as a director for any other purpose. For instance, using an unlisted phone number from the internal directors' phone list for a purpose not related to board business.

Information to co-op members

12. **Do** keep the membership informed about board activities by posting minutes, bulletins, etc. as well as at members' meetings. This reduces the pressure on individual directors to discuss confidential board matters with members.
13. **Do** consider how much disclosure there should be when a performance agreement has been signed.
 - a) Often the person who made a complaint will want to know what was done about it. Any performance agreement should address what information can be given to that person and others.
14. **Don't** discuss board business relating to any individual or any other confidential information with anyone outside the board.
 - a) This includes the staff, your spouse, your best friend, former directors, committee members, etc.
 - b) Only the board as a whole can decide when it may be necessary to tell non-directors about confidential information.
15. **Don't** get into discussions with members about other members. Tell the member to write a complaint and deliver it to the office.
 - a) Members often complain to individual directors about other members. It is very hard for a director to have these conversations without potentially becoming biased or giving out information the director may already have.
 - b) Members often complain to individual directors about the co-op. These complaints often involve comparisons with how the board treated other members. The director cannot explain the difference without giving out confidential information.
 - c) Directors should avoid getting into this sort of discussion.
16. **Don't**, if a director does get involved in this kind of discussion, in any way imply or acknowledge that the director may agree with a statement about another member, or that the director has information that may be relevant.

17. **Do**, if a member is appealing an eviction decision, consult the co-op's lawyer about what information can be given out by the board in advance of the meeting or at the meeting.

Security Camera Footage

18. **Do** have clear policies about who has access to the footage and when it will be provided to others.
- a) Generally, footage should only be provided to police, or used by the co-op as reasonably necessary to enforce by-laws.
 - b) Generally, staff should review footage and control access to it.
 - c) Make sure the footage is physically secure and password protected.
 - d) Make sure staff know how to save relevant footage before it is erased.
19. **Don't** allow members to review footage except with consent of all those involved.
- a) Members often ask to see the footage about an incident in which they were involved. Usually it will also show other people.

Unauthorized Disclosure

20. **Don't** disclose confidential information to anyone for any reason unless authorized by the board.
- a) Whether you agree or disagree with board decisions or policies, you must not disclose confidential information.
 - b) This means you cannot tell your friends confidential information about things the board is doing even if those persons legitimately disagree with the board.
 - c) This also means you cannot disclose any confidential information to the funding or regulatory authorities. The board is the proper channel of communications.

Accidental Disclosure

21. **Don't** gossip about other people in the co-op. Even if you don't have personal information about a co-op member, other people will think you do. Part of being on the board is to simply refuse to get into discussions about other co-op members.
 - a) This includes gossiping with non-members, such as people at your workplace who you think do not know any co-op members.
22. **Don't** leave board papers lying around. Your visitors may accidentally see them. Your children may be very interested in their neighbours.
23. **Don't** store confidential information on a computer to which other people have access.
24. **Do** dispose of information securely when you don't need it any longer.