



Given the combination of both a federal and provincial election in 2011, our offices have received a number of inquiries with respect to election signage and canvassers. This article shall provide a brief overview of these two important topics.

Election Signs

Federal Elections

Pursuant to the *Canada Elections Act*, a condominium corporation cannot prohibit owners from displaying election signs in their units. However, a condominium corporation can limit the size or type of election signs in the units. In addition, a condominium corporation may prohibit the unit occupants from displaying election signs in the common element areas. As a result, if the front yard is included within the unit boundary, unit owners may display election signs in the front yard. If, however, the front yard is not within the unit boundary, meaning it forms part of the common elements, the condominium may prohibit election signs in the front yard. Restated, a prohibition may exist on the common elements, but only a control within the unit.

Provincial and Municipal Elections

As a federal piece of legislation, the *Canada Elections Act* applies only to federal elections. Provincial and municipal elections are not governed by the *Canada Elections Act*. To complicate matters, no provincial legislation exists which describes the rights and responsibilities of condominiums or unit owners with respect to signs for provincial or municipal elections. In the absence of a piece of legislation, it appears that a condominium corporation can prohibit owners from displaying election signs in both the common elements and units. That said, the more conservative approach would be to restrict the size and location of the signs in keeping with the *Canada Elections Act*, namely within the unit. This would also provide a clear and consistent approach to signs within the condominium, regardless of whether the sign is for a federal, provincial or municipal election. Finally, some municipalities have ordinances on municipal election signs which should be consulted.

To summarize:

	Outright Prohibition Permitted?	Limitations or Restrictions
Federal Election Signs	Yes – for the common elements only	Declaration may contain an outright prohibition on signs on the common elements, but may only contain controls on the type and size of signs within the units. Rules may contain controls on the type and size of signs on the common elements and the units.
Provincial or Municipal Election Signs	Yes	Declaration may contain an outright prohibition and/or controls on the type and size of signs on the common elements and units. Rules may contain controls on the type and size of signs on the common elements and units. *Always consult municipal ordinances on municipal elections.



Canvassing

Canvassing by candidates or their representatives is a much clearer issue. Both the *Condominium Act, 1998*, and the *Canada Elections Act* speak directly to the issue of canvassing for elections. Section 118 of the *Condominium Act, 1998*, states:

“No corporation or employee or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly or an office in a municipal government or school board if access is necessary for the purpose of canvassing or distributing election material.”

The *Canada Elections Act*, section 81 states:

“No person who is in control of an apartment building, condominium building or other multiple-residence building or a gated community may prevent a candidate or his or her representative from (a) in the case of an apartment building, condominium building or gated community, canvassing, between 9:00 a.m. and 9:00 p.m., at the doors to the apartments, units or houses, as the case may be...”

As a result of these two pieces of legislation, it appears that a condominium must, at a minimum, provide canvassers access to the property between the hours of 9:00 a.m. and 9:00 p.m. The *Condominium Act, 1998*, does not set out specific times but indicates that it must be “reasonable”.

Conclusion

While a condominium cannot prohibit election signs relating to federal elections, it is possible that it may prohibit election signs relating to provincial or municipal elections. However, it is likely to cause less confusion if one policy is adopted for all election signs containing a control on the type and size of signs within a condominium corporation. As for canvassers, they should be given liberal access to the property between the hours of 9:00 a.m. and 9:00 p.m. to the common elements.

For more information, contact our condominium practice group chair, Robert M. Mullin, at (519) 837-2100 ext. 255, or at 1-800-746-0685.