

Can a Condo Board Prevent New Telecommunication Companies from Offering Services?

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Condominiums in Ontario are self-governed by an elected Board of Directors. This leaves condominium Directors with a significant amount of discretion and autonomy to make decisions relating, amongst other things, to the kinds of services that are utilized by each owner and resident.

Historically, condominiums would be “pre-wired” for a specific cable provider (usually Bell, Rogers or Telus) and the residents in the building would be bound by whatever specific service provider the initial condominium board (or the developer) agreed to contract with. Over the years, most buildings have begun to offer more than one service provider.

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The Issue

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Recently, there was an interesting decision that was heard by the CRTC concerning a condominium corporation that had refused a local exchange provider (Beanfield Technologies Inc.) access into the buildings to provide services to residents.

Beanfield argued that the condominium corporation never agreed to negotiate access in the buildings, nor did it ever propose a form of agreement that it would be willing to accept or terms for negotiations. Beanfield argued that there was a denial of access in the buildings, which hampered the development of competition and deprived residents of its services.

The CRTC agreed with Beanfield, and provided a very detailed Order allowing access within a specific time-period.

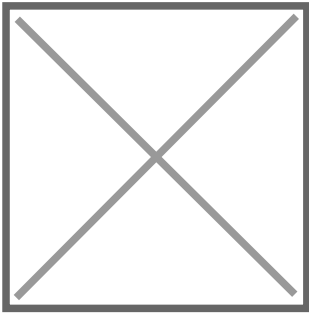
The decision can be found here:

[Telecom Decision CRTC 2016-324](#)

This case is an important reminder that just because a condominium Board may have discretion to make decisions on behalf of all owners and residents, the discretion is still subject to relevant legislation (including the *Telecommunications Act*), which is aimed to offer the public with viable telecommunication options.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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