



# **Rules & Regulations Schedule “A”**

## **Workplace Violence, Harassment and Discrimination: Prevention Policy and Procedure**

### ***YRCC 616 – Observatory II***

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# I. Introduction

Every Worker has the right to work in a respectful, healthy, and safe environment where violence, harassment, bullying, and discrimination are not tolerated.

The Occupational Health and Safety Act (“**OHSA**”) creates a statutory duty for York Region Condominium Corporation No. 616 (the “**Corporation**” or “**YRCC 616**”) to prevent and protect against harassment in the workplace. Accordingly, this document sets out the following policy and procedure (the “**Policy**”), which is effective immediately.

Please note that nothing in this document limits the right of any person to pursue any remedies available under any Canadian legislation.

## II. Policy

### 1. Corporation Commitments

The Corporation is committed to providing a safe and healthy workplace that is free from violence or threats of violence and in which all individuals are treated with respect and dignity and are not subjected to harassment. The Corporation recognizes that workplace violence and harassment are health and safety and human resources issues and will take reasonable steps to discourage and prevent workplace violence and harassment and to protect any and all employees at the workplace.

Workplace harassment will not be tolerated from any person in the workplace, including without limitation, owners, residents, guests, directors, officers, property management, employees, contractors, suppliers, agents, and any other members of the public.

### 2. Purpose of this Policy

This Policy is intended to:

- a) Create and foster a work environment free from workplace violence, harassment, and discrimination;
- b) establish and detail the responsibilities of all persons in the Corporation to maintain a workplace free of violence, harassment, or discrimination;
- c) ensure that incidents of workplace violence or harassment are reported to the Property Manager and/or the Board of Directors of the Corporation (the “**Board**”); and
- d) ensure that complaints of violence, discrimination, or harassment are handled in a timely and equitable manner by the Corporation.

### 3. Scope and Application of this Policy

This Policy applies to all Workers (as defined below) who experience workplace violence or harassment from any source, including from employees, contractors, owners, residents, visitors, delivery persons, volunteers, and any other person.

Section 1 of the OHSA defines a “**workplace**” as any land, premises, location, or thing at, upon, in or near which a Worker works. A workplace could be a building (whether in a unit or on the common elements), indoor or outdoor recreational amenity, garage, or road.

For the purposes of this Policy, the “workplace” includes all places where the Corporation’s business occurs and includes, but is not limited to:

- a) the Corporation’s common elements, including the building and surrounding perimeter, parking garages and lots, sidewalks, and driveways (the “**Condominium Property**”);
- b) the condominium units (the “**Units**”); and
- c) all Corporation functions and recreational or social events, whether taking place at or upon the Condominium Property or elsewhere.

Every person on the Condominium Property is responsible for acting in compliance with this Policy. Every person is encouraged to raise any concerns about workplace violence, harassment, or discrimination and to report such incidents on a timely basis to the Property Manager, Board, or other designated person. All Workers are encouraged to report workplace violence and harassment.

### 4. Definitions

#### a) *Worker*

The OHSA definition of “**worker**” includes the following:

- i. A person who performs work or supplies services for monetary compensation; and
- ii. Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation.

For the purposes of this Policy, the term "Worker" shall have the same meaning as under the OHSA, and includes directors, officers, members of the property management team, employees including day cleaners, any contractors, and suppliers and agents of the Corporation.

#### b) *Workplace Violence*

For the purposes of this Policy, “**workplace violence**” means the exercise or attempted exercise of physical force by a person against a Worker, in a workplace, that causes or could cause physical injury to the Worker, or a statement or behaviour that it is reasonable for a Worker to interpret as a threat to exercise physical force against the Worker, in a workplace, that could cause physical injury to the Worker. Workplace violence includes, but is not limited to:

- i. physical acts of violence including hitting, shoving, kicking, and sexual assault;

- ii. the attempted use of physical force against or by an employee or other person working for the Corporation that could have caused physical injury;
- iii. an action or statement (or series of actions or statements) reasonably believed to be a threat of physical harm or a threat to the safety or security of the workplace; and
- iv. unless otherwise authorized by law, the bringing of a weapon of any kind to the Corporation's workplace or possessing a weapon of any kind while carrying out the Corporation's business or threatening to bring a weapon to the Corporation's workplace.

**b) Harassment**

In this Policy, "harassment" means a course of vexatious conduct or comment that is known, or ought reasonably to be known, to be unwelcome. Harassment includes behaviour that is likely to undermine the dignity or self-esteem of an individual, or create an intimidating, hostile, or offensive environment, and can involve unwelcome words or actions that are known or should be known to be offensive, embarrassing, humiliating, or demeaning to a person or group of workers.

Workplace harassment includes behaviour that intimidates, isolates, or discriminates against the targeted person(s), as well as any discriminatory behavior prohibited by the Ontario Human Rights Code. Some examples of behaviour constituting harassment include, but are not limited to:

- demeaning, degrading, embarrassing, or humiliating words or comment, whether made verbally or in writing;
- bullying;
- displaying demeaning, derogatory, or offensive pictures, material or gestures;
- advances that are unwelcome or ought reasonably to be known to be unwelcome, including requests for sexual favours or other verbal or physical conduct of a sexual nature;
- unwelcome comments or inquiries about a person's romantic relationships or sex life;
- unwelcome sexual flirtations, advances, or propositions; and
- unwanted touching.

With respect to workplace harassment, the comments or conduct typically happen more than once. They could occur over a relatively short period of time (during the course of one day) or over a longer period of time (weeks, months, or years).

Harassment also includes, but is not limited to, sexual harassment. "Sexual harassment" means:

- i. Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or

- ii. Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant, or deny a benefit or advancement to the worker, and the person knows or ought reasonably to know, that the solicitation or advance is unwelcome.

Workplace sexual harassment may include:

- rough or vulgar humour or language related to sexuality, sexual orientation, or gender;
- leering or inappropriate staring;
- invading personal space;
- unnecessary physical contact, including inappropriate touching;
- demanding hugs, dates, or sexual favours;
- making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- verbally abusing, threatening, or taunting someone based on gender or sexual orientation; or
- threatening to penalize or otherwise punish a person if they refuse a sexual advance.

Where the conduct or behaviour includes inappropriate sexual touching, this may also constitute a criminal offence such as sexual assault. In such cases, the police should be notified.

The following conduct DOES NOT constitute harassment and is not subject to this Policy:

- the normal and reasonable exercise of supervisory and management rights and responsibilities including, but not limited to, job assignments, working hours, performance reviews, work evaluations, and disciplinary action(s);
- differences of opinion, minor disagreements, and/or the occasional workplace conflict which does not get out of hand;
- the occasional demonstration of frustration or annoyance, where such behaviour is understandable and is without threat of violence, intimidation, or other reprisal;
- mutually acceptable social relations; and
- isolated incidents of rudeness.

Workers are encouraged to report any incidents of workplace harassment to property management. All workers are expected to adhere to this policy and will be held responsible by the Corporation for not following it. No worker shall be penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

## **5. Zero Tolerance**

The Corporation values its employees and expects that its workplace will be free of workplace violence and harassment. The Corporation will not tolerate incidents of workplace violence or harassment

perpetrated against a Worker by any employee, contractor, visitor, or any other person at the Condominium Property or otherwise involved in the Corporation's business.

With respect to acts of workplace violence or harassment, the Corporation may, where appropriate:

- a) remove the perpetrator by security, the police, or through other means;
- b) discipline any employee, up to and including dismissal with cause, and/or report the conduct to the police;
- c) terminate the contract of any contractor or service provider and/or report the conduct to the police;
- d) sanction any Unit owner or resident as permitted by the Condominium Act and/or the rules of the Corporation and/or report the conduct to the police; and
- e) report the conduct of any other person to their employer, supervisor, and/or principal, or such other person as deemed appropriate in the circumstances, and/or to the police.

**All physical assaults involving a Worker on the Condominium Property will be reported to police. All other incidents or threats of workplace violence will be reported to police as appropriate.**

## **6. Domestic Violence**

Any Worker experiencing violence outside of the workplace that may create a risk of danger to themselves or others on the Condominium Property is required to report such violence to Property Management, so that the Corporation can take reasonable preventative steps.

## **7. Responsibilities and Obligations**

It is the responsibility of:

- a) ***The Corporation***
  - to take reasonable preventative measures to discourage and prevent workplace violence and harassment on the Condominium Property;
  - to develop a process for the reporting and investigation of workplace violence and harassment;
  - to develop procedures to address any workplace violence risks that may be identified;
  - to ensure that all employees are trained in this Policy;
  - to post this Policy in a conspicuous place in the workplace;
  - to ensure that this Policy is communicated to contractors and other persons who attend at the Condominium Property;
  - to ensure the process for reporting and responding to incidents of workplace violence and harassment is communicated, maintained, and followed; and



- to ensure that this Policy is reviewed at least annually.
- b) ***The Property Manager***
- to understand and abide by the requirements of this Policy;
  - to communicate and review this Policy with the employees they supervise or manage;
  - to verify that all contractors and others who attend at the Condominium Property are aware of this Policy;
  - to adequately train employees in procedures that address workplace violence and harassment;
  - to encourage employees to report complaints or incidents of workplace violence and harassment;
  - to respond to all complaints or incidents of workplace violence and harassment in a professional manner appropriate for the circumstances of the complaint or incident and in accordance with this Policy; and
  - to promptly report all complaints or incidents of workplace violence and harassment they receive or witness to the Board.
- c) ***Employees (Including Day Employees, Contractors, Managers, and Supervisors)***
- to comply with this Policy at all times;
  - to immediately notify their supervisor or other designated person of any incident of workplace violence and harassment, whether the employee is the victim or not;
  - to immediately notify the Board, the Property Manager, or other designated person if he or she reasonably suspects that domestic violence against a Worker may take place on Corporation Property;
  - to participate in training regarding this Policy and any other Corporation procedures related to workplace violence and harassment; and
  - to fully cooperate in any investigation of complaints or incidents of workplace violence and harassment or breaches of this Policy.
- d) ***Unit Owners, Tenants, Residents, and Occupants, and their Visitors, Agents, and Invitees***
- to comply with this Policy at all times;
  - to immediately notify the Property Manager or the Board of any incident of workplace violence and harassment involving an employee or contractor of the Corporation;
  - to immediately notify the Board, the Property Manager, or other designated person if he or she reasonably suspects that domestic violence against a Worker may take place on Corporation Property; and
  - to fully cooperate in any investigation of complaints or incidents of workplace violence and harassment or breaches of this Policy.

## **II. Procedures**

### **8. Reporting and Investigating Workplace Violence, Harassment, and Discrimination**

The Corporation may commence an investigation into any circumstances which it believes may constitute a violation of this Policy, notwithstanding that a complaint has not been made by an employee, contractor, or other person.

The existence of complaints, both informal and formal, and any details pertaining to the complaints, including identifying information respecting the parties involved, shall be kept confidential, and shall not be disclosed by anyone except as necessary to conduct a proper investigation, to implement corrective action, or as otherwise required by law.

#### **a) Workplace Violence**

##### *Responses to Violence*

All incidents of workplace violence, as defined above, must be immediately reported to the Property Manager, where safe to do so. If the incident involves the Property Manager, the report shall be made to the Board.

If a Worker is faced with a violent act, robbery, or other serious criminal activity while on the Corporation Property or while conducting the Corporation's business, the Worker shall not attempt to intervene or stop the violent act, robbery, or crime. The Worker shall remain calm and remove him/herself from the situation where safe to do so. The Worker shall take immediate steps to ensure his/her own safety and then proceed to contact the police and the Property Manager or the Board as soon as reasonably possible.

Any person subjected to workplace violence should, where appropriate, go to a safe location at the workplace to report the incident. In the event of an emergency, the person should contact the police, fire department, or ambulance, as required, before reporting the incident to the Property Manager or Board.

If an incident of workplace violence involves a person who is not an employee or contractor of the Corporation, the Corporation will report the incident to that person's employer and/or such other person as deemed appropriate in the circumstances.

#### **b) Harassment and Discrimination Complaint Timelines**

A harassment and discrimination complaint should be made:

1. within six (6) months of the incident to which the complaint relates; or
2. if there were a series of incidents, within six (6) months of the last incident in the series.

### **c) Self-help**

Where a Worker believes they have been subjected to harassment or discrimination (the “Complainant”), he or she may, if and where comfortable doing so, advise the alleged perpetrator that the behaviour is unwelcome and should stop.

The Complainant should record the date of any such discussion with the alleged perpetrator. Following the discussion, if the behaviour complained about does not stop or should different harassing behaviour ensue, the Complainant should maintain a detailed record of any subsequent harassing behaviour. This record should include the date, time, and place of any subsequent incident, along with a description of the involved behaviour and the name(s) of any potential witnesses.

### **d) Formal Complaint**

A formal complaint of harassment may be filed at any time within the timelines set out in this Policy by using the Form annexed hereto as Appendix ‘A’.

Complaints or incidents of violence, harassment, and discrimination will be promptly investigated as quickly and confidentially as possible in the circumstances. Complete confidentiality may not be possible in all circumstances and cannot be absolutely guaranteed.

### **e) Investigating Workplace Violence, Harassment, or Discrimination**

The Corporation will ensure that an investigation, appropriate in the circumstances, is conducted when the Board or property management or other designated person(s) becomes aware of an incident of workplace harassment or has received a complaint of workplace harassment.

The investigation shall be conducted as follows:

1. a written, signed statement from the Complainant in the form annexed hereto as Appendix ‘A’, with particulars of the alleged inappropriate incident(s), shall be provided to:
  - the Property Manager; or,
  - if the complaint involves property management, to the Board; or,
  - if the complaint involves a particular Board member, the complaint shall be addressed to the other Board members for handling, and the alleged perpetrator shall recuse him/herself from participating in those portions of Board meetings related to the complaint;
2. the perpetrator(s) shall be given the opportunity to respond, in writing, to the specific allegations raised by the Worker; in some circumstances, the Worker who allegedly experienced the workplace harassment will be given a reasonable opportunity to reply;
3. the Board or the Property Manager will appoint an investigator, internal or external to the workplace, to investigate the matter.

Property management will determine who will conduct the investigation into the incident or complaint of workplace harassment. If the allegations of workplace harassment involve a director or a member of

the on-site property management team, the Corporation will refer the investigation to an external investigator to conduct an impartial investigation.

The investigation must be completed in a timely manner and generally within ninety (90) days or less, unless there are extenuating circumstances (i.e., illness, complex investigation) warranting a longer investigation.

Such investigation shall include:

1. an appropriately documented interview with the Complainant;
2. an appropriately documented interview with the alleged perpetrator(s) (if the alleged perpetrator is not a worker of the Corporation, the investigator should make reasonable efforts to interview the alleged perpetrator);
3. an appropriately documented interview with any witnesses with relevant information to provide (making reasonable efforts to interview any relevant witnesses who are not employed by the Corporation, if any are so identified);
4. collection and review of any relevant documents and evidence;
5. any other step the investigator(s) deems necessary to investigate the complaint or incident fully and fairly.

At the conclusion of the investigation into an incident or complaint, the investigator shall prepare a written report summarizing the complaint, the steps taken during the investigation, the allegations of the Worker who allegedly experienced the workplace harassment, the response from the alleged perpetrator(s), and the evidence gathered.

The report must set out the findings of fact, including the evidence relied upon in support of such factual findings, and come to a conclusion about whether workplace harassment was found or not, and such report will be provided to the Board forthwith.

The results of an investigation and any report created for the purposes of the investigation, are not a report respecting occupational health and safety for the purposes of subsection 25(2) of the OHSA.

Within ten (10) days of the completion of the investigation, where the investigator concludes that violence, harassment, or discrimination have not occurred or have not been proven, the Board or property management will advise the Complainant and the alleged perpetrator(s), in writing, of the finding. The report will be kept in a secure file but not in the personnel files of either the Complainant or the alleged perpetrator.

Within ten (10) days of the completion of the investigation, where the investigator concludes that violence, harassment, or discrimination have occurred, the Board or the Property Manager will advise the Complainant and the perpetrator in writing of the finding and any action(s) to be taken as a result of the investigation. The investigation report will be included in the personnel file of the perpetrator (as applicable) and will be kept in a secure manner.

The Corporation shall take the appropriate corrective action where violence, harassment, or discrimination are found. Where the perpetrator is a Worker of the Corporation, the Corporation will take any necessary disciplinary action(s). The severity of any disciplinary action or sanction, which may include dismissal from employment for cause or other available sanctions, will be consistent with the seriousness of the conduct at issue, such that more significant discipline will follow more serious conduct or repeated violations of this Policy.

## **9. Handling Complaints**

The Board shall set out any interim measures that may be taken after the complaint is received and during the investigation.

Where the harassment arises from owners, residents, guests or the public towards a worker, the Corporation may modify its service (such as using the telephone or email as the primary means of contact) or refuse to serve the harasser.

Where the harassment arises from a director, a member of the property management team or an employee, the Corporation may require that person to take corrective steps (including, without limitation, apologies, education, counselling, shift changes, reprimands, suspension, job transfer, or termination). The Board shall, in its absolute and sole discretion, determine the corrective steps to be taken by considering the nature and severity of the behaviour, as well as the circumstances.

Where the harassment arises from a contractor or supplier, property management shall advise that person's direct supervisor and request that corrective action be taken, including safety measures, to address the harassment.

The Board may also require broader corrective steps to be taken, particularly where the investigation of an incident or complaint shows that workplace harassment is prevalent or commonplace. An example of such a corrective step is providing training for everyone in the workplace on what is unacceptable behaviour in the workplace.

## **10. Record Keeping**

The Corporation will keep records of the investigation including:

- a copy of the complaint or details about the incident;
- a record of the investigation including notes;
- a copy of the investigation report (if any);
- a summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and to the alleged harasser, if a worker of the Corporation or a unit owner or resident within the Corporation;
- a copy of any corrective action taken to address the complaint or incident of workplace harassment.

All records of the investigation will be kept confidential. The investigation documents, including this report, should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.

Records will be kept for the length of time required by the Condominium Act, 1998.

## **11. Other Remedies**

Notwithstanding this Policy and Program, where applicable, a Worker retains his or her right to file a complaint with the Ontario Human Rights Commission or to pursue recourse through the Criminal Code and/or the Ontario Criminal Injuries Compensation Board. This Policy is not intended to discourage or prevent a Worker from exercising any other legal rights pursuant to any other law. However, this Policy does not limit or fetter the Corporation's right to respond to same if required.

## **12. No Retaliation**

Workplace violence, harassment, and discrimination are serious matters. This Policy prohibits retaliation against employees or others who have made good faith complaints or provided information regarding a complaint or incident of violence, harassment, or discrimination.

Workers who engage in retaliation or threats of retaliation against a Worker who has made a good faith complaint will be subject to corrective action, including dismissal from employment for cause, the termination of a contract, or sanctions as permitted by the Condominium Act and/or the Rules of the Corporation.

Reprisal may include:

- any act of retaliation that occurs because a person has complained of, or provided information about, an incident of harassment;
- intentionally pressuring a person to ignore or not report an incident of harassment; and
- intentionally pressuring a person to lie or provide less than full cooperation with an investigation of a complaint or incident of harassment.

Any person who makes a false complaint or otherwise abuses this Policy, will be subject to a formal investigation, and subject to discipline or sanction, as the case may be, as deemed appropriate in the circumstances. Such discipline or sanction shall not be considered a reprisal or breach of this Policy.

## **13. Policy Review**

This Policy and Program will be reviewed by the Board from time to time as appropriate.

# Appendix “A”

## 14. Workplace Harassment Complaint Form

*Instructions: When an incident of workplace harassment has occurred, a report using this form shall be completed and given to property management or the Board of Directors, or such other designated person. Please complete this form to the best of your ability.*

### Information of Complainant

Name

Phone

e-Mail address

### Information of Alleged Harasser(s), if known

Name (s)

Phone (s)

e-Mail address (s)

### Details of the Complaint of Workplace Harassment

*Please describe in as much detail as possible the bullying and harassment incident(s), including: (a) the names of the parties involved; (b) any witnesses to the incident(s); (c) the location, date, and time of the incident(s); (d) details about the incident(s) (behaviour and/or words used); (e) any additional details (attach additional pages as required).*

### Relevant Documents/Evidence

*Please attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, may also be submitted. If you are not able to attach documents and they are relevant to your complaint, list the documents below. If someone else has relevant documents, note that below.*

**Signature:**

**Date:**

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