

July 28, 2019

Via e-mail: [bills@paymenttree.ca](mailto:bills@paymenttree.ca); [bills@merchantapplication.com](mailto:bills@merchantapplication.com); [billsiudak@outlook.com](mailto:billsiudak@outlook.com)

Bill Siudak  
Unit 4A - 67 Caroline Street South  
Hamilton, ON

Dear Mr. Siudak:

**RE: Wentworth Condominium Corporation No. 171  
File No. 17490-0**

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I write further to my letter of June 25, 2019.

### **Website**

It has come to my attention that you have created a new website using the domain "bentleyplace.info". You selected this domain without the approval of the Condominium. Your use of the Condominium's trademark is likely to confuse or mislead the owners and cause them to believe that your website is an official website authorized by the board of directors. It is not. As such, you have infringed the Condominium's trademark and other intellectual property rights.

The website also contains sensitive information about the Condominium's affairs, such as minutes from meetings of the board of directors. Your disclosure of this sensitive and privileged information may cause significant harm to the Condominium. You are hereby put on notice that the Condominium may look to you for contribution and indemnity for any loss, cost or damage that it incurs because of your unauthorized publication of sensitive and privileged information.

Furthermore, the website contains several defamatory comments. Some of the comments are yours and some are by others. You should be aware that you can be personally liable for defamatory comments made on your website as the host. This is a type of vicarious liability in which you are liable for the actions of another because you knowingly assist, encourage or act as a conspirator to the commission of a wrong. Moreover, the courts have upheld significant damages awards for defamation carried out on the internet in recognition of the immediacy, permanency and how quickly malicious statements can spread on the internet. In a recent case, a former business associate was awarded \$700,000 from his former business associates. As such, I encourage you to seek legal advice about the defamatory comments posted on your website.

The Condominium may take legal action against you for passing off, defamation, and various other causes of action unless you do the following within three (3) days of this letter:

1. Add a clear, unambiguous disclaimer to the top section of the home page (bentleyplace.info) to indicate that the website belongs to you and is not an official website of the Condominium:

This is a personal website belonging to Bill Siudak. It is NOT an official website of Wentworth Condominium Corporation No. 171 (known as "Bentley Place"). The website is NOT authorized by or affiliated with Bentley Place. The views and opinions expressed are those of the authors and do not reflect the official policy or position of Bentley Place.

A similar disclaimer must be added to each page on the website, such as the comment board section, and on the top of any email communications you send to the owners.

2. Remove all minutes of meetings of the board and owners and the property management contracts from the website; and
3. Remove all defamatory comments, including those of your subscribers, and add a paragraph to the website that reminds people not to make defamatory comments.

## **Harassment**

The Condominium continues to receive reports from the other owners, directors, contractors, and others about your conduct toward them. Specifically, many owners have reported feeling harassed by your frequent newsletters. Other people have raised concerns about the offensive, libelous remarks made by you in your newsletters.

As you may know, condominiums in Ontario have an obligation to protect people from harassment according to various pieces of legislation, including the *Occupational Health and Safety Act* (the "OHSA"), *Condominium Act, 1998* (the "Condo Act"), and *Human Rights Code* (the "Code"). Harassment is defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Examples include: making comments that demand, ridicule, intimidate or offend; bullying; and repeated offensive communications.

Your communications are full of offensive comments and allegations of "fraud", "kickbacks", and improper motives. Some of these comments are defamatory and the targets of your comments may pursue their own legal remedies against you to recover their damages. Also, many owners report that the communications are unwelcome as they never provided you with their email address. Moreover, the recipients report feeling harassed by the frequency of the communications. As such, your conduct toward the other owners, directors, manager, and contractors clearly constitutes harassment.



The courts have repeatedly confirmed that condominiums have a duty to protect its owners, employees, directors and property managers from harassment (see for example *Toronto Standard Condominium Corporation No. 2395 v. Wong* (2016) ONSC 8000 or *York Condominium Corporation No. 163 v. Robinson* (2017) ONSC2419).

Your conduct is also contrary to section 117 of the Condo Act which prohibits a person from carrying on an activity if it is likely to damage the property or cause injury to an individual. The courts have confirmed that the term “injury” includes psychological harm from repeated harassment.

The Condominium hereby insists that you cease and desist from harassing the other owners, the directors, the former directors, the manager and the contractors with offensive communications. To protect these people from further harassment, the Condominium has decided to implement the following communication protocol for you:

1. You are not to approach the directors in person or contact them by telephone or email, except for discussions at board meetings while you are a director for the Condominium;
2. All communications with the directors and manager must be in writing, except in the case of a *bona fide* emergency, such as a fire or flood, in which case you may call the manager after calling emergency responders (if appropriate);
3. You are not to send unsolicited emails to the other owners and residents. You may communicate with the owners and residents if you have their explicit consent so long as your comments are not offensive, demeaning or defamatory and you cease communicating with them as soon as they revoke their consent;
4. You must not send any communication that contains offensive comments, defamatory remarks, or threats designed to intimidate or harass the recipient; and
5. All communications must clearly state that they are your opinion and are not authorized by the Condominium or the board of directors.

Any communication received from you that does not meet the above requirements will be ignored.

If you continue to harass the other owners, residents, directors, manager, or contractors, the Condominium may take further legal action against you, which may include further legal letters to you with the cost of such letters charged to you as a result of your failure to comply with the Condo Act and Declaration. If you continue to harass people the Condominium may have no choice but to initiate an application to the court to protect these groups from further harassment.

This letter is not meant to dissuade you from expressing legitimate concerns about issues at the Condominium, but to remind you that you must communicate in a manner that is respectful and appropriate. Harassment will not be tolerated.



Yours truly,  
ROBSON CARPENTER LLP  
per:

A handwritten signature in black ink, appearing to read 'MK', is written over a light grey circular stamp.

Michelle Kelly, B.Comm., LL.B., ACCI

MK/

