Volume 21

CONDOCONTACT

CREATING A VIBRANT, WELL-INFORMED EASTERN ONTARIO CONDOMINIUM COMMUNITY

ELECTRIC CAR CHARGING STATIONS IN CONDOS

RECENT CHANGES TO THE *CONSTRUCTION LIEN ACT*

TO BOND OR NOT TO BOND THAT IS THE QUESTION

WHAT IS INDOOR AIR QUALITY (IAQ)?

Canadian Condominium Institute
CCI
Eastern Ontario Chapter
Institut canadien des condominiums

Davidson Houle Allen LLP Condominium Law

Our experienced condominium law lawyers assist and educate the condominium corporations, members of the board, owners, residents, and insurers on all legal issues that arise in the condominium setting, Including:

- Interpreting the Condominium Act
- Construction Deficiency Issues
- Tarion Warranty Claims
- Litigation
- Mediation and Arbitration
- Corporate Governance
- Interpreting Declarations, By-laws, and Rules
- Co-tenancy and Joint Ownership Properties
- Enforcement Issues
- Liens / Power of Sale
- Human Rights Complaints
- Employment / Labour issues
- Financing and Loans

Davidson Houle Allen LLP
Condominium Law

EASTERN ONTARIO'S CONDOMINIUM LAW FIRM

Need advice? We have answers. **Ottawa 613-231-8359 | Kingston 613-531-7905**

Visit our Condo Law News Blog at: **davidsoncondolaw.ca**

KELLER ENGINEERING

YOUR CONDOMINIUM ENGINEERS

www.kellerengineering.com

613.224.1594

OTTAWA

107-1390 Prince of Wales Drive

Ottawa, Ontario, K2C 3N6

KINGSTON

202-4 Cataraqui Street

Kingston, Ontario, K7K 1Z6

Volume 21

CONDOCONTACT

CANADIAN CONDOMINIUM INSTITUTE
CCI Eastern Ontario (CCIEO)

Canadian Condominium Institute | Institut canadien des condominiums
Eastern Ontario Chapter

P.O. Box 455
207 Bank Street, Ottawa, Ontario, K2P 2N2

Telephone: 613-755-5145

Fax: 613-755-4086

E-mail: info@cci-easternontario.ca

Website: CCI-EasternOntario.ca

Linked in: CCI Eastern Ontario

Twitter: @cciEastOntario

Like Us on Facebook!
Search: Canadian Condominium Institute – Eastern Ontario

Administrator: Angela Tracey
Email: atracey@cci-easternontario.ca
Tel: 613-755-5145
Fax: 613-755-4086

INSIDE

President's Message 5

Recent Changes to the *Construction Lien Act* and the Importance of Bonding for Condominium Corporations 7

To Bond or Not to Bond? That is the Question 10

Electric Car Charging Stations in Condos 12

Plan your Designated Substance Survey Now to Minimize Delays in the Future 17

What Is Indoor Air Quality (IAQ) and Why Are IAQ Assessments Required? 20

CCI-EO ACMO 2018 Kingston Condominium Conference 9

All Condominiums are Legally Required to File Condo Returns 8

Expert's Night & Meet the Candidates Free Seminar 11

2018 Schedule of Events 16

ACMO/CCI-EO Regional Conference Thank You 23

New Members 24

Board of Directors 24

Save The Date - CCI-EO ACMO 2019 Ottawa Condominium Conference 25

CCI-EO Advertising Agreement 26

Nancy Houle, LLB
President-CCI-Eastern Ontario
Lawyer/Avocate
Davidson Houle Allen LLP

Every year without fail, I can't help but wonder: where did the summer go? The leaves haven't changed colour yet, so make sure you take advantage of the long sunny days and summer activities. Whether it's a weekend at the cottage with your family or a stroll along the Kingston Waterfront, there's no shortage of things to do in the Eastern Ontario area! With that, I hope all of our readers have been, and continue to, take time to relax, enjoy the outdoors, and spend quality time with family and friends.

Although it's hard to say goodbye to summer, our line-up of events will give you lots to look forward to this fall. On September 26th we are hosting our much anticipated Expert's Night. Our diverse panel of engineers, lawyers, property managers, and other local professionals are ready to offer advice on issues facing your condominium as well as to answer any questions on your mind. While you're there, you'll also have the opportunity to meet and get to know the candidates who are presenting themselves for election for CCI Eastern Ontario's Board of Directors. [Watch for our blogs and e-blasts to ensure that you submit your name and information if you would like to be a candidate!]

"Although it's hard to say goodbye to summer, our line-up of events will give you lots to look forward to this fall."

You'll want to get to know the candidates just in time for CCI Eastern Ontario's upcoming AGM, which is being held on October 24th. In addition, make sure you plan to stick around after the AGM because the evening will also include a free educational seminar. More details to come soon! If you're not already subscribed to our e-blasts, contact our Administrator, Angela Tracey, and provide your email so you can stay up to date on the latest CCI-EO news.

Returning for its 5th year, the 2018 Kingston Condominium Conference is being held on November 23rd at the Ambassador Hotel and Conference Centre. And if you missed your chance to attend our popular Director's Course, you'll be happy to hear that it's back for the fall. Our two day Director's Course will take place on November 24th and 25th. Even if you've completed the online Director training, this is an event you won't want to miss! The Director's Course is comprehensive, delivered by professionals in the condominium sector, provides a unique opportunity for networking with other directors, and allows you to ask any questions you have along the way.

We look forward to seeing you again at our events in the fall. Until then, have a safe and happy summer!

A LEVEL OF SERVICE
ABOVE THE REST

It's more than a condominium. It's one of your biggest investments – and your home. Shouldn't every aspect of it be of the highest quality?

For more than 40 years, ACMO has worked to improve the quality of the condominium management profession. With access to Ontario-specific education and a strong network of professionals, condominium managers with the RCM designation provide a higher level of service to you, your fellow residents, and the industry as a whole.

Bring a higher standard home. Choose a manager with the Registered Condominium Manager designation. | ACMO.org

RCM

ACMO

Recent Changes to the *Construction Lien Act* and the Importance of Bonding for Condominium Corporations

Nancy Houle, LLB
President-CCI-Eastern Ontario
Lawyer/Avocate
Davidson Houle Allen LLP

Whether it's an aesthetic upgrade or major repairs and replacements due to defects or an aging building, almost every condo, at some point in its life, will experience a major construction project. Generally the project will involve engineers, sometimes architects, a general contractor and subcontractors to work or provide materials on parts of the project. As the work progresses, the Condominium Corporation makes periodic payments to the general contractor who then makes payments to the subcontractors.

In most cases, the job is completed, the suppliers and subcontractors are paid, and the condominium moves forward to consider its next project.

Unfortunately, this is not always the case! What happens if the general contractor suddenly abandons the project? The project is incomplete! Suppliers and subcontractors are unpaid! Winter is approaching!

This is where the *Construction Lien Act* and bonding come into play.

BONDING

Bonding is a very important factor to consider each and every time a construction project is being contemplated because it protects the corporation from exactly the type of situation described above.

Generally, the two types of bonds available to Condominium Corporations for standard construction projects are: (a) Labour and Material bonds and (b) Performance bonds.

Bonds function where a surety (typically an insurance company) promises to ensure performance of a contractor's obligations if the general contractor defaults on them. Having said that, not every failure to perform will allow a condominium to exercise on the bond. There are very specific circumstances in which a bond can be exercised, for example an abandonment of the project such as set out above. These circumstances will be clearly disclosed in the bond documents.

The way in which the surety would ensure performance of the general contractor's obligations depends on the nature and wording of the Bond.

The purpose of a performance bond is to guarantee satisfactory completion of the contract. In a typical performance bond, the Surety would generally have the following options if the condominium exercises on the bond:

a. Completing the work as required under the construction contract itself;

b. Arranging for another contractor to complete the work under the construction contract; or

c. Compensate the owner with an amount of money equal to the cost the owner must incur to complete the work stipulated in the construction contract.

In a typical labour and material bond, the surety provides security for specific circumstances where the general contractor fails to pay the subcontractors or suppliers. The primary purpose of this bond is to ensure that the owner's property is free of construction liens.

It is important that Condominium Corporations pay close attention to the provisions of the bond documents. These provisions will stipulate the nature and circumstances which would qualify for a general contractor to be considered in default.

It is also crucial to consider the value of the bonds. In many cases, the value of the bond may not constitute the full value of the contract. [Remember to think about HST.]

The bond documents will also confirm the obligations of the condominium, including any reporting and notice requirements that the Condominium Corporation will need to fulfill in order to exercise on the bond.

CONSTRUCTION LIEN ACT

For most Condominium Corporations, the *Construction Lien Act* really only comes into play, on a regular basis, in relation to the 10% holdback: when can it be released and when can it be held back in standard circumstances.

The reason for this holdback is, of course, really for the benefit of subcontractors and suppliers. Under the *Construction Lien Act* (the "Act"), contractors who provided services or materials in a project, but have not been paid by the general contractor, can register a construction lien as against the property of the owner. In the condominium context, this could result in a lien being registered on the title of every unit in the condominium.

While this is an important security in the construction industry, for unit owners who are trying to sell their unit, the construction lien (or in some cases, liens) registered on their unit can cause challenges in the sale of their unit. For these unit owners it becomes critical that the lien(s) registered on title to their units become discharged as soon as possible.

Generally construction lien(s) are discharged when the Condominium Corporation (as the owner) pays the lien holder with money retained in its holdback (portion of money retained by the corporation).

However, in situations where there is not enough money to pay out the lien holders or there are competing claims and the rights of the bonding company to consider, the registered liens on title can often remain for an extended period of time as the claims are worked out. This is when it is possible for the liens to become a problem for certain owners.

Fortunately, an amendment to the *Construction Lien Act* will allow unit owners (after July 1, 2018) to discharge/vacate the lien(s) registered to their specific unit. Under s. 44(2.1) of the Act, individual unit owners will be able, on a motion to the court, to obtain an order vacating the lien(s) attached to their specific unit by paying the portion of the lien amount(s) that is attributable to the owner's common interest as outlined in the corporation's declaration. This will provide unit owners who are selling their property a fast method of clearing such encumbrances to their unit.

Some of the other new amendments that will be helpful to Condominium Corporations include:

- A new dispute resolution mechanism that allows construction projects to continue without disruption while disputes such as payment, changes in services, and some other matters are resolved;
- Allowing the small claims court to have jurisdiction in matters under $25,000;
- Requiring a party who preserves a lien to provide notice to the condominium corporation *and* every unit owner in the corporation;
- New thresholds for substantial performance and timelines for preserving and perfecting liens; and
- New prescribed forms (such as the Notice of non-payment).

Portions of the amendments (such as the new prescribed forms) come into force on July 1, 2018 while other amendments (such as the new dispute resolution mechanism) come into effect October 1, 2019.

It is also important to note that the amendments contain grandfathering provisions. This means that the current *Construction Lien Act* continues to apply for contracts, procurement processes, and leases that were in effect prior to July 1, 2018.

Overall, a Condominium Corporation should consider using bonds to protect itself from the possibility of a general contractor defaulting from its obligations. Working in conjunction with the new amendments to the Act, this would best ensure that the challenges associated with such a default is ameliorated while also providing a way for the eventual completion of the project. ■

Nancy Houle is a founding partner at Davidson Houle Allen LLP. She has practiced exclusively in the area of condominium and joint-property ownership law since being called to the Bar in 2002. Her practice includes general corporate advice to condominium corporations, financing and secured transactions, building deficiency litigation, and proceedings involving disputes between condominium corporations and residents.

ALL CONDOMINIUMS ARE LEGALLY REQUIRED TO FILE CONDO RETURNS

Under the Condominium Act, 1998 (the Act) and Ontario Regulation 377/17, all condominium corporations are legally required to file condominium returns with the Condominium Authority of Ontario (CAO).

Any condominium corporations that have not yet filed their returns with the CAO and paid their annual assessments, must act immediately to avoid legal consequences for not complying with the Act, including late penalties.

PLEASE CONTACT THE CAO AT:
416-901-9356 or **toll-free: 1-(800) 854-9014**

2018 Kingston Condominium Conference

5 Educational Sessions
Over 15 Exhibitors

SAVE THE DATE

Canadian Condominium Institute
Institut canadien des condominiums
Eastern Ontario Chapter

ACMO

Friday
November 23, 2018
Kingston Conference

Ambassador Hotel and Conference Centre,
1550 Princess Street, Kingston, ON K7M 9E3

Registration starts at 8:30am

info@cci-easternontario.ca

To Bond or Not to Bond? That is the Question

Mike Hergott,
Senior Vice President
Arthur J. Gallagher Canada Limited

To bond or not to bond has been a debate by many owners of construction projects for years. Often the argument against bonding contractors is that it adds additional cost to the project. This "additional cost" coupled with an accompanying view that a contractor is unlikely to default or become insolvent during the project, appears a convincing argument. However, often the subscribers to this rationale are not appreciating the full function of what purpose bonds serve when the "going gets tough."

Subscribers to the "against bonding debate" tend to be met with surprises on a project when they face significant increases in construction costs and burden from increased administration and legal requirements in the event of a defaulted construction contract. The situation can deteriorate further when we consider that it is not just a failure to perform the contract, but also that it creates more issues when a hired contractor fails to pay its subcontractors on the project.

Requiring contractors to post bonds on projects provides the owner assurance in a number of areas. The common construction contract bonds that are requested are for performance obligations and labour and material payment obligations. These in turn guarantee the performance of the contract obligations regardless of the contractor's financial position or capabilities, as well as ensures that direct subcontractors involved in the contract will be paid for the work. For a condo corporation, this is particularly helpful in protecting the project budget and to protect the reserve fund's long term health with regards to capital intensive projects or maintenance.

Specific to condo corporations, outside of the potential costs arising from a contractor's failure to perform or satisfy its payment obligations, there is additional exposure for directors and officers of the corporation. The obligation and duty of the directors and officers extends to protecting the balance sheet of the corporation by adhering to the duties of loyalty, care and prudence. Anything that they do, or do not do, in terms of fulfilling these obligations and discharging these duties that results in financial harm to the corporation they are obligated to safeguard, can be grounds for a claim against them by unit holders on behalf of the corporation.

For example, consider a non-bonded contractor that defaults under the contract. The corporation could face significant completion issues as well as increased expenses in finishing the project and seeking to recover from a potentially insolvent or defunct contracting operation. Ultimately, these events, and often significant additional costs, could lead to allegations against the directors and officers. In today's litigious environment, these allegations can quickly arise referring to directors' and officers' failure to conduct proper due diligence, receive reasonable assurances as to the contractor's capabilities (i.e. bonds) and the contractor's capacity to complete the work is what led to the loss for the unit holders and the corporation as a whole.

It is wise for owners of construction projects considering the use of bonds to seek legal advice with respect to the exposures that can face the corporation and its directors and officers. Owners should also make efforts to ensure they fully understand the functionality of bonds, not only to help in making their decisions, but to also be able to demonstrate due diligence as directors and officers in validating their decisions. Engaging in conversation and becoming educated buyers of this product can be easily arranged by speaking to an insurance broker who specializes in construction and is practiced and involved routinely in the use of construction contract bonds. ■

Mike Hergott, Senior Vice President, Arthur J. Gallagher Canada Limited

Canadian Condominium Institute
Institut canadien des condominiums
Eastern Ontario Chapter

YOU'RE INVITED TO...

EXPERT'S NIGHT & MEET THE CANDIDATES

FREE SEMINAR FOR OUR MEMBERS • NON-MEMBERS $50 PLUS TAX

WEDNESDAY, OCT. 2, 2018
REGISTER 6:30-7PM, SEMINAR 7-9PM

LOCATION
Hellenic Meeting & Reception Centre
1315 Prince of Wales Dr, Ottawa, ON.

SIGN UP AVAILABLE ONLINE:
https://cci-portal.ca/events/septemberseminar2018

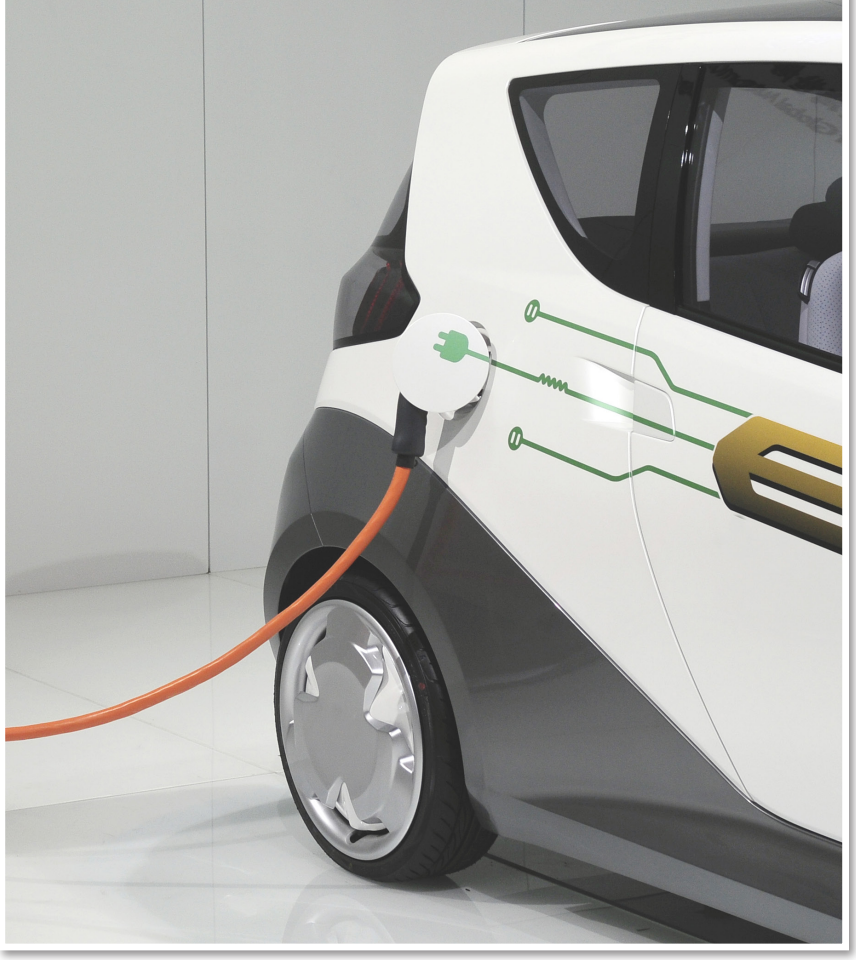
REGISTRATION IS A MUST

Name: _____
Organization: _____
Phone: _____
Email: _____
Manager's Email: _____

Please send to:
Canadian Condominium Institute - Eastern Ontario Chapter
P.O. Box 455, 207 Bank Street
Ottawa, ON. K2P 2N2
Email: info@cci-easternontario.ca
Phone: 613-755-5145 • Fax: 613-755-4086

http://cci-easternontario.ca/

Electric Car Charging Stations in Condos



Rod Escayola
Gowlings WLG

On March 26, 2018, the province released new regulations aimed at facilitating the installation of electric vehicle charging stations in existing condo corporations.

Until recently, legislation had not entirely caught up with evolving technologies and the growing fleet of electric cars available on the market. This often lead to frictions between environmentally-conscientious owners wishing to drive electric cars and corporations having to manage existing common assets – including limited parking spaces and common electricity.

Things are now easier in Ontario with the adoption of a new set of regulations dealing with the installation of charging stations on common elements. The new regulations (which came into effect on May 1, 2018) provides for two distinct situations:

- When the corporation wishes to install a charging station;
- When an owner is the one proposing to install a charging station.

INSTALLATION BY THE CORPORATION

Section 97 of the Act already dictates how corporations may make changes to common elements or to services provided to owners. Most changes require a form of notice to owners and, in some cases, they allow for (or even require) a vote from owners. The installation of electric charging stations will be exempt from section 97 in certain circumstances but will follow a similar pattern.

Option 1: no vote by owners

Corporations will be able to "unilaterally" install an electric charging station on 60-day notice to owners if the following 2 conditions are met:

The cost of installation is not greater than 10% of the annual budgeted common expenses for the current fiscal year. The cost to be considered in this calculation is limited to the cost of buying and installing the equipment and does not include cost related to the use, operation, repair, maintenance and insurance of the system; AND,

In the reasonable opinion of the board, owners would not regard the installation of the charging station as causing a material reduction or elimination of the use or enjoyment of units or of common elements or assets of the corporation.

If both these conditions are met, the board can proceed to install the charging station 60 days after having given proper notice to owners. Owners do not get to vote on this.

What goes in the notice to owners?

The notice to be provided to owners must describe the installation, provide an estimated cost of installation and indicate how it will be paid for. It must also contain a statement confirming that, in the reasonable opinion of the board, owners would not regard the proposed installation as causing a material reduction or elimination of owners' use or enjoyment of their unit, the common elements or the assets.

Option 2: Possible vote by owners

If either of the above two conditions is not met (i.e., if the cost of installation is more than 10% of the annual budgeted common expenses or if the board is of the view that owners may regard the installation of the charging station as materially impacting the enjoyment of their unit, common elements or assets of the corporation), the board can instead follow a second path which specifically allows owners to requisition a meeting to vote on the proposed installation.

Under this option, the corporation would give notice to owners of its intention to install a charging station and would specifically advise them of their right to requisition a meeting of owners to vote on the issue. For such a meeting to take place, it needs to be requisitioned within 60 days by at least 15% of the units. The corporation is able to proceed with the installation of the charging station only if:

- the owners of at least 15% of the units have not requisitioned a meeting within 60 days of the notice;
- If a meeting is requisitioned, no quorum has been met at the first attempt to hold said meeting;
- If quorum has been met at the meeting, the owners do not vote against the proposed installation.

What goes in the notice to owners?

The notice to owners must describe the installation; must contain a statement of the estimated cost and must indicate how the corporation will pay for it. The notice must advise owners of their right to requisition a meeting of owners within 60 days to vote on the issue. Finally, the notice must contain a copy of section 46 of the Act.

INSTALLATION BY OWNERS

Section 98 of the Act already dictates how owners may make changes to common elements. Such modifications can only be made with the approval of the board of directors and if other requirements are met. For instance, the corporation and the owner wishing to make the modification to common elements must enter into a "Section-98 Agreement", which must be registered on the unit's title. In certain cases, notice must be given to the other owners and their approval must be obtained prior to the change being implemented.

The new regulations carve out an exception to section 98 when the proposed modification provides for the installation of a charging station. The following is the process to be followed by owners wishing to ask permission to install such charging stations on common elements.

The owner must apply in writing

First, the owner must make an application in writing to the corporation. The application must be signed and properly delivered to the corporation. The owner must include, at his/her costs, all of the required drawings, specifications or information regarding the proposed installation. It is to be noted that corporations must cooperate and provide the owner, as soon as possible, any information, permission or authorization required by the owner to be able to put together the application (for instance plans, drawings and information on the electrical grid).

Limited reasons to reject a proposal

The corporation will have 60 days to respond to this request. This time frame can be extended if both the owner and the corporation agree to it in writing.

The corporation can only reject the request if, based on the opinion or report of a qualified professional, the installation would be contrary to the Act or to the Electrical Safety Code or if it would adversely affect the structural integrity of the property or would pose a serious health and safety risk to someone or a serious risk of damage to property. If the corporation rejects the proposed installation, it must provide a copy of the report on which it based its decision.

In any other case, the corporation must accept the proposed installation. The corporation can also propose an alternate installation (for instance, proposing to install the charging station elsewhere or in a different manner) provided that the proposed alternative would not impose on the owner unreasonable additional costs.

The parties must enter into an agreement

The owner and corporation then have 90 days to enter into a "Section-98 Agreement" specifying who is responsible to install, maintain, insure and repair the installation as well as who owns it and who can use it. The terms of the agreement must be "reasonable" and "necessary" to facilitate the installation of the charging station. While many of the terms of the agreement are left to be agreed to by the owner and the corporation, there is an expectation that the owner will be responsible for the cost of the installation. This agreement must be registered on the title of the owner's unit. The agreement does not take effect until it is registered.

The corporation may add any costs, charges, interests and expenses resulting from an owner's failure to comply with the agreement to the common expenses payable by the owner.

Arbitration and mediation

Any disagreement between the corporation and the owner with respect to the proposed installation of a charging station must be submitted to mediation and arbitration. An owner will have 6 months to submit any such disagreement to mediation or arbitration and failure to do so within this timeframe will result in the owner's application to be deemed to have been abandoned.

Things to keep in mind

These changes came into effect on May 1st, 2018;

These changes only deal with the installation of charging stations on common elements;

All costs associated with the charging station installed by the corporation are common expenses to be paid by owners on the established prorated basis;

This is just a summary. For further details, it is important to consult sections 24.3 to 24.6 of O.Reg 48/01, adopted pursuant to the Condo Act. ■

Rod Escayola is a partner at Gowling WLG focusing his practice on condominium law. Rod is also a director at his condo and the co-founder of the Condo Directors Group, which provides directors with a forum to network and learn from each other. The preceding article is adapted and reprinted with permission from CondoAdviser.ca.

DUCT CLEANING

ADVANCED AIR QUALITY

A family business you can trust.

DUCT CLEANING • MAKE-UP AIR SYSTEM CLEANING

ROBOTIC VENTILATION SYSTEM INSPECTIONS

613-831-9695

www.advancedairquality.ca *ducts@advancedairquality.ca*

DRYER VENT CLEANING

ADVANCED AIR QUALITY

A family business you can trust.

DRYER FIRE STATS

- There are over 15,500 dryer fires per year in North America
- Yearly dryer fires in North America result in over 88 Million Dollars in damages
- There are over 300 injuries due to dryer fires annually
- There are over 15 deaths due to dryer fires annually

DRYER VENT CLEANING • DRYER VENT INSPECTIONS

BATHROOM EXHAUST CLEANING

613-831-9695

www.advancedairquality.ca dryers@advancedairquality.ca

Canadian Condominium Institute | CCI | Institut canadien des condominiums
Eastern Ontario Chapter

SCHEDULE OF EVENTS
A YEAR AT A GLANCE

CCI Eastern Ontario would like to present our upcoming educational seminars/events for 2018. Please visit our website for details and registration information at www.cci-easternontario.ca

JANUARY
Volunteer Beer & Cheer
January 15

Lawyers, Guns, & Money
January 31

FEBRUARY
Baby or Boomer: Concurrent Panels on New and Aging Condominiums
February 28

MARCH
What's Hot on Pot?
March 21

APRIL
Condos & Cold Ones: A Night of Casual Conversation for Condo Directors
April 4

Spring Directors Course
April 28-29

MAY
Rules Rule!
May 23

JUNE
6th Annual ACMO/CCI EO Conference Tradeshow
June 9

OCTOBER
Expert's Night & Meet the Candidates
October 2

Annual General Meeting
October 24

NOVEMBER
Fall Director's Course
November 24-25

Evening seminars are FREE for our members. Not yet a member? Sign up today.

Have Something to say?

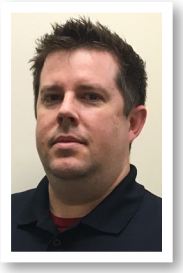
Join CCI Eastern Ontario on Twitter & LinkedIn to participate in the conversation, remain informed and to gain access to our experts, providers and members.

LinkedIn CCI Eastern Ontario

@cciEastOntario

Visit our website CCI-EasternOntario.ca to gain access

Plan your Designated Substance Survey Now to Minimize Delays in the Future



Shawn Doherty
P.Eng
EXP

Scott Lessard
B.Sc.
EXP

Condominium complexes range from high-rise apartment style buildings to residential row house complexes and span a variety of construction dates. Several condominiums are also complemented by parking garages, recreational facilities and even commercial spaces on main floors that are constructed with a variety of different building materials. No matter the complexity of the building construction or age of the complex, each condominium requires continued maintenance and periodic renovation programs. Above and beyond your general maintenance and renovations programs, condominiums are even subject to emergency events such as fires, burst pipes or leaky windows that often require immediate attention. These events typically need a quick response by a restoration and/or general contractor, whom then are required to respond to a building of unknown conditions and potential hazards.

Surprises During Renovations/Repairs Lead to Unanticipated Delays and Costs

Small renovation programs and emergency repairs may be required on short notice and need to be completed within a short time frame to minimize disturbance to the occupant and/or prevent future impacts through exposure to the outside environment. In the case of a repair, unanticipated delays can lead to additional damages and repairs to the building (if working on building envelopes, roofs, windows), which eventually can lead to additional costs. Often, delays to a renovation program and/or repair are caused by the discovery of hazardous materials such as asbestos, lead paint and even mould within the work area.

It is common that the unanticipated discovery of hazardous materials will cause a diligent contractor to halt a construction job until more information is collected. The contractor will then need to: alter their work program; potentially sub-contract a hazardous material abatement contractor and consultant; and, request an additional cost for their work. All the while, the partially completed renovation / emergency repair to the building remains half-finished, exposed to the environment and continues to disturb the occupants while adjustments to the renovation program are considered. More importantly, one needs to consider the following: “Were contractors and building occupants potentially exposed to hazardous materials during the unknown disturbance of the hazardous materials?”. However, there are legal requirements on behalf of the building owner / condominium to conduct designated substance surveys (DSS) prior to the renovation program. Completing the DSS prior to the renovation will in turn minimize delays during the actual renovation.

Planning Ahead to Identify Hazardous Materials

When planning for building renovations and maintenance programs and even when responding to emergency situations, it is essential to understand that building materials can contain various types of designated substances and/or hazardous materials. Although older buildings can contain the most commonly known and “feared” hazardous materials such as asbestos and lead (within paint), newly constructed buildings can still contain hazardous materials such as silica, mercury-containing equipment, ozone-depleting substances and special attention substances such as mould.

Understanding that several older condominiums have been subject to an asbestos survey to meet compliance under Ontario Regulation 278/05 "Designated Substance – Asbestos on Construction Projects and in Buildings and Repair Operations", it is apparent that there is a misconception that buildings constructed after the mid 1980's are not subject to the regulations associated with completing a DSS. However, Section 30 of the Occupational Health and Safety Act stipulates that a building owner shall identify the presence of designated substances within the building and prepare a list that will be provided to the contractor prior to the start of a renovation (and preferably as part of the tender program). And, within recent years, building envelope projects have been delayed by regulatory authorities for not following the proper controls / techniques to minimize exposure to hazardous materials (i.e. drilling through concrete and creating a silica hazard). The most common question posed by the Ministry of Labour during these visits is: "Where is your DSS?"

Currently, the Ministry of Labour is putting the onus on the building owner (in this case, the condominium board) to complete their due diligence prior to commencing and engaging a contractor for a renovation / repair program. With that being said, one generally plans more accordingly when preparing a tender for a large-scale building renovation (i.e. building envelope repairs, roof replacement, fire safety upgrades), etc.

Progressively, engineers / consultants with increasing knowledge of the applicable regulations and legal requirements are being hired and will request a DSS as part of the renovation planning program. The education of building engineers with regards to the presence / absence of hazardous building materials is progressing and continues to this day. The completion of a DSS can seem like an unneeded cost at the start of the work program, but it can save costs and time during the renovation and, more importantly, it is a legal requirement. Conversely, it is often the case that a team of knowledgeable experts is not assembled and/or there is no proper planning during the smaller renovations/emergency repairs due to the lack of time and/or budget for the project. Coincidently, hazardous materials are often discovered during these rush programs, which can then lead to delays and added costs.

Completing the Designated Substance Survey

Understanding that condominium buildings contain designated substances and that all condominiums will require renovations and be subject to unplanned repairs at some point, having a readily available DSS and inventory of the hazardous materials of your building ensures that your first step in your future renovation program is already complete. In addition, during an emergency event (i.e. burst pipe / flood), the general contractor does not need to halt / delay their repairs to collect asbestos samples if the DSS is readily available.

Although the DSS does not generally include destructive openings when collecting a designated substances inventory of your building, these surveys will typically include the following:

- A room by room inspection of all common rooms of the building (includes all common elements and approximately 10% of the residential units);
- Collection of bulk materials from building surfaces for asbestos analysis and paint samples for lead analysis;
- Inspection within ceiling and/or wall hatches to assess the presence / absence of designated substances behind the visible surfaces;
- A review of the exterior of mechanical equipment for the presence/ absence of designated substances.
- A detailed report identifying the location, concentration (if applicable), type of asbestos, conditions and quantity of designated substances as well as the recommendations on how to appropriately handle these materials; and,
- Upon request,
    - o A roof can be assessed by completing roof cuts,
    - o Destructive test openings can be completed if renovation details are provided and a more thorough assessment is requested.

When requesting a survey from a consultant, it is prudent to stipulate your requirements (i.e. detailed building summary tables, site plans vs. no site plans, stop positive analysis vs. analysis of all asbestos samples, etc.). This report needs to be provided to a contractor prior to commencing the renovation program and needs to be easy for a contractor to understand. If a DSS is not provided to the contractor or deemed incomplete, the building owner can be held liable for any damages incurred by the contractor as a result of the discovery or exposure to designated substances. Similarly, the DSS serves as a great tool for a restoration contractor who is responding immediately to an emergency. In addition, the site supervisor should be familiar with the details of this report to ensure the proper material handling methodology is adhered to during the regular building maintenance tasks on-site and that hazardous materials are not disturbed during their regular maintenance.

Although the focus of a DSS is often on asbestos and the general public often associates asbestos with pipe / mechanical insulation materials, the DSS will identify and provide recommendations for handling less commonly associated hazardous materials such as, but not limited to: asbestos sealants / caulking within building envelopes; asbestos within drywall compounds and/or plasters, potential silica in concrete or other masonry materials; lead in paint; ozone depleting substances in refrigeration systems; surficial mould and/or potential water damage, etc.

Protecting the Condo Occupants (Financially and Health & Safety)

Understanding that managing the aforementioned materials requires additional precautions (by law) that also results in additional costs, it can be considered prudent to complete the inventory, when feasible, in preparation of future renovations. The additional costs that may be

associated with a renovation due to the presence of designated substances can then be properly allocated within the reserve funds. For example, knowing that

- Proposed renovations to the roof will require disturbance of asbestos tars; or,
- Repairs to the building envelope will require disturbance of asbestos sealants / adhesives and silica dust prevention; or,
- Upgrades to the fire safety will require disturbance of asbestos plaster;

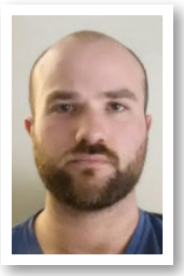
years in advance allows one to plan more gradual increases to condo fees rather than a sharp special assessment.

Irrespective of proposed renovations and/or maintenance programs, the DSS may also identify concerns that could lead to Health and Safety / Air Quality issues. Such issues may arise due to damaged asbestos material and/or mould and/or the simple mismanagement of these materials, if not properly identified. The impacts of the presence of poorly managed designated substances and poor building maintenance will be addressed in a subsequent article "The Impacts of Poor Building Maintenance on Your Air Quality". ■

Mr. Shawn Doherty, P.Eng. is the Lead of the Hazardous Materials Group at EXP. An Environmental Engineering Graduate of Carleton University, Mr. Doherty has been practicing in the Environmental and Hazardous Field for over 17 years. In recent years, Mr. Doherty has completed several asbestos and designated substance surveys and has prepared several asbestos management programs for condominium corporations within the Ottawa area. His experience in the condominium field has allowed him to develop an understanding of the regulations and how they apply to condominiums.

Mr. Scott Lessard, B.Sc. is an Environmental Science graduate of Concordia University and has been working in the Air Quality and Hazardous Materials field for 6 years. Mr. Lessard joined the EXP team in 2016 and, in addition to the asbestos surveys and DSS, brings expertise in detailed air quality investigations, radon testing and mould investigation.

What Is Indoor Air Quality (IAQ)
And Why Are IAQ Assessments Required?



Nick Tobin, Project Coordinator
EHS Partnerships Ltd.

Indoor Air Quality (IAQ) can be defined broadly as the quality of the air within a building or other manmade structure.

Many IAQ assessments are complaint driven. For example, a building occupant may express a concern regarding a nuisance odour, dry eyes, sinus congestion, or frequent sneezing or coughing.

IAQ assessments may also be conducted as part of a policy geared towards pro-actively ensuring client, tenant, or worker comfort. In the case of property management professionals, anticipating tenant/owner needs and having the required baseline indoor air quality data available before a complaint is even made can be a driver for pro-active IAQ monitoring.

TYPICAL ISSUES

Terms such as "Sick Building Syndrome" have been used to describe a host of adverse symptoms that are often linked to indoor air quality issues. These symptoms can range from allergy-like symptoms such as dry eyes, sinus congestion, coughing, headaches, fatigue, and dizziness. These concerns can arise because modern buildings are designed to be "tight", which means that very little air naturally infiltrates them and outside air is needed to replace stale air.

Buildings today are highly insulated and sealed-off from the outside air in order to create a stable atmosphere conducive to human occupancy; this building system helps control indoor air quality by minimizing outdoor contaminants in the indoor air. However, because building envelopes are designed to be tight, the fresh air needed to mitigate air quality issues can be restricted. This brings into play another key component to the building system; the heating, air conditioning, and ventilation (HVAC) system. This system is designed to mitigate air quality issues and optimize occupant comfort by conditioning and recirculating indoor air while supplying an element of conditioned outdoor air.

Another main contributor to indoor air quality issues are the building occupants themselves. Building occupants can adversely affect IAQ by emitting bio-effluents such as carbon dioxide, breathing, creating humidity from exhaling and perspiring, introducing body odours, and creating dust from shedding tissue such as skin and hair. Furthermore, many common products such as perfumes, cleaners, polishes, paints, cosmetics, etc., emit volatile organic compounds (VOC) which can cause irritation in relatively low concentrations to individuals with odour sensitivities. Activities such as vacuuming and dusting can elevate particulate (dust) concentrations in the air and building renovations can increase levels of airborne silica, asbestos, lead, and a variety of other hazardous substances. Even newly installed building materials can contribute to air quality issues by emitting volatile organic compounds through off-gassing.

Mould growth can occur from water damage resulting from a leak in the plumbing or building envelope, from condensation, or from excess humidity in the air. Emissions from vehicles can pose an issue if they infiltrate the building envelope or HVAC system from a parking lot, garage or other source.

Many indoor air quality issues are not dire and can be remedied by increasing ventilation or identifying and removing an offensive odor. However, when an IAQ complaint persists despite your best efforts, it may be time to have your Indoor Air Quality assessed professionally.

WHAT CAN BE DONE?

A general Indoor Air Quality assessment typically consists of a walkthrough

and visual inspection of the subject area. For qualitative IAQ issues, the walk-through is typically followed up by a survey in which IAQ comfort parameters are quantified via specialized instruments.

During the walkthrough, the assessor is making note of any signs of water intrusion and mould growth as well as noting temperature, humidity, and any apparent odors. If a specific complaint has been made regarding a particular area, the assessor can narrow their investigation of the problem area by taking occupant complaints into consideration.

The time of year will also be considered to account for the natural fluctuations in temperature, relative humidity, and mould spores which can result from seasonal differences in weather. During the investigation, various instruments will be used to measure general comfort parameters such as temperature, relative humidity, and carbon dioxide levels. As well, contaminants such as carbon monoxide, airborne particulate, volatile organic compounds (VOC's), and airborne mould spores will be measured.

When preparing an IAQ assessment report, the IAQ professional will compare the IAQ data collected to a variety of industry accepted guidelines and standards. The American Society of Heating and Air Conditioning Engineers (ASHRAE) standards are those most often utilized by IAQ professionals as measures for indoor air quality. ASHRAE defines acceptable indoor air quality as "air in which there are no known contaminants at harmful concentrations as determined by cognizant authorities and with which a substantial majority (80% or more) of the people exposed do not express dissatisfaction".

Health Canada has also published information on the investigation, assessment, and remediation of fungal (mould) contamination in buildings. These publications are often used by the IAQ professional as guidelines when conducting fungal investigations and when interpreting mould spore data as part of an IAQ assessment.

Utilizing these standards and guidelines will increase the probability that building occupants will find the indoor air quality comfortable or satisfactory.

EMERGING CONCERNS

The public is becoming increasingly aware of the hazards posed by radon gas exposure. Radon gas is a colourless, odorless, radioactive substance that is now known to cause lung cancer in building occupants when it is present above a certain concentration indoors. Radon gas occurs naturally in the environment due to the decay of certain minerals in the ground. Radon enters buildings through the ground

via cracks in the buildings foundation and openings such as drain pipes, sump pits, and basement windows.

The best way to know whether Radon is present in a building is to first set up an approved radon measurement device after consulting a certified professional or the relevant guidelines. Then the sample should be analyzed by a properly accredited laboratory.

Another emergent concern is cannabis use. Cannabis use has always been an air quality issue in residential buildings due to its health effects and pungent odor. There is a possibility that cannabis use may increase due to proposed changes in cannabis legislation in Canada. Indoor Air Quality complaints resulting from increased cannabis use and second-hand exposure may become more prevalent in condominium buildings due to these legislative changes. Continuing to enforce existing smoking policies and making it clear to occupants that cannabis smoke is subject to these policies can potentially alleviate IAQ concerns.

MANAGEMENT OF IAQ CONCERNS

Communication is a key aspect of managing IAQ concerns so it is beneficial to have a policy in place that addresses IAQ concerns in an efficient and systematic fashion. A designated internal contact for IAQ concerns should also be put in place for individual buildings/complexes and tenants/owners should be made aware of this contact. Providing sufficient training for this contact is important so that they can understand IAQ and be able to collect the required information from complainants.

For example, the contact should ask the tenant/owner: "Is the complaint confined to a specific area?", "What kind of symptoms are you experiencing?", and perhaps most important of all, "Do you have any idea what may be causing the issue?". This process demonstrates that building management values the tenant/owner's input and wants to make them an integral part of the investigation. Furthermore, the tenant/owner may correctly identify the root cause of the issue which reduces the cost of any required investigation. These efforts help communicate to your building occupants that you value their health and comfort and take Indoor Air Quality issues seriously.

Additionally, being able to rely on a third-party occupational/environmental health and safety consultant for expert advice and guidance is important as well. ■

This article was written by Nick Tobin (ntobin@ehsp.ca), Project Coordinator, at EHS Partnerships Ltd. in Ottawa. EHS Partnerships Ltd. is a multi-disciplinary Occupational Health and Safety consulting firm with offices in Calgary, Edmonton, Ottawa and San Jose. Their website is www.ehspartnerships.com

CCI IS ON FACEBOOK!

Keep up to date on what's happening across the country with CCI-EO by becoming a fan.

Search:
- Canadian Condominium Institute – Eastern Ontario
- National Office

The more fans…the more condominium information that we'll get out there.

BECOME A FAN TODAY!!

Find us on Facebook

ACMO

The ACMO/CCI-EO Regional Conference held in Ottawa on Saturday, June 9, 2018 was a great success again this year! ACMO and CCI members shared their knowledge and expertise as speakers with over 300 attendees and coupled with the tremendous support of exhibitors and sponsors alike, it certainly wasn't an event to miss! Special Recognition is extended to both the Conference Diamond Sponsor, Keller Engineering and Conference Platinum Sponsors, Elia Associates and Novatech DKI.

Thank You!

KELLER ENGINEERING

ELIA ASSOCIATES PC CONDOMINIUM LAWYERS CONDOCENTRIC.ca

NOVATECH DKI

Arrangements for 2018 are currently underway - stay turned for more details and we look forward to seeing you there!

New Members

WELCOME TO THE FOLLOWING NEW CCI EASTERN ONTARIO CHAPTER MEMBERS

PROFESSIONAL MEMBERS

Andrea Daly

Brad Kuchera

Jessica Weick

Neil Scilley

INDIVIDUAL MEMBERS

Francine Roberts

Margaret Thom

BUSINESS PARTNERS

City Locksmith Lock and Key Service Inc.

Condominium Insurance Solutions Powered by Benson Kearley IFG

Dodds' Janitorial

Godfrey Roofing

Complete Condo Management

CORPORATE MEMBERS

CCC 994
OCSCC 815
OCSCC 1019
OCSCC 1022

CONDOCONTACT

CANADIAN CONDOMINIUM INSTITUTE
Eastern Ontario Chapter

2017/2018 BOARD OF DIRECTORS

SAVE THE DATE!

CCI-EO ACMO 2019 Ottawa Condominium Conference

Saturday, May 11th, 2019

Will be held at the Conference & Events Centre in Ottawa

Contributing to CCI **CONDO**CONTACT
EDITOR'S CONTACT INFORMATION

A benefit of CCI membership is the opportunity to share perspectives with one another by contributing and reading articles in CCI Eastern Ontario's quarterly newsletter *CondoContact.*

If you are a condominium director, owner or manager, and have a unique tale to tell or advice to relay to other condominium boards, let us know! If you are a professional or represent a trade company offering services or product to condominiums and have relevant articles, let us know!

The subject matter should be current, concise and helpful. Topics should relate to management and operations of condominiums and not be of a commercial nature.

Articles may be forwarded to:
Canadian Condominium Institute
Eastern Ontario Chapter
P.O. Box 455, 207 Bank Street,
Ottawa, Ontario, K2P 2N2
Email: info@cci-easternontario.ca

Canadian Condominium Institute CCI Institut canadien des condominiums Eastern Ontario Chapter

Did your corporation undertake any important projects recently?

Do you have a success story?

Did you learn lessons the hard way?

Whether you are a director or a property manager, please do share these valuable stories. Feel free to contact me and I will assist you in writing your article.

By sharing your experience we learn from the past and improve our collective futures.

info@cci-easternontario.ca

Canadian Condominium Institute CCI Institut canadien des condominiums Eastern Ontario Chapter

Canadian Condominium Institute CCI Institut canadien des condominiums
Eastern Ontario Chapter

EASTERN ONTARIO CHAPTER
P.O. Box #455, 207 Bank Street, Ottawa, ON K2P 2N2
Tel: 613-755-5145 • Fax: 613-755-4086
Email: info@cci-easternontario.ca • Website: cci.easternontario.ca

your condo connection

"CONDO CONTACT" QUARTERLY NEWSLETTER

Advertising Agreement

Your Name: Date:

Company Name:

Company Address:

City: Province: Postal Code:

Tel No: ( ) Fax: ( )

Email:

Advertising Distribution

	1 ISSUE ONLY		4 ISSUES	TOTAL
	Members	**Non- Member**	**Members only**	
Inside Front Cover Full page, Full colour	☐ **$600**	☐ **$750**	☐ **$2,040**	
Outside Back Cover Full page, Full colour	☐ **$600**	☐ **$750**	☐ **$2,040**	
Inside Back Cover Full page, Full colour	☐ **$600**	☐ **$750**	☐ **$2,040**	
Business Card (Full colour)	☐ **$80**	☐ **$100**	☐ **$275**	
¼ Page (Full colour)	☐ **$160**	☐ **$200**	☐ **$545**	
½ Page (Full colour)	☐ **$320**	☐ **$400**	☐ **$1,085**	
Full Page (Full colour)	☐ **$480**	☐ **$600**	☐ **$1,630**	
HST (13%) 899667364			**HST**	**$**
			Total	**$**

ADVERTISING MATERIAL:
Artwork is to be provided in order of preference:
Electronic file in PDF format (Adobe Acrobat distilled "FOR PRESS" files). Disable any colour management settings and embed all fonts

Artwork Deadlines **Distribution**

Spring: April 1st..... April/May

Summer: July 1st..... July/Aug

Fall: October 1st..... October/Nov

Winter: January 1st..... January/Feb

Standard AD Sizes

Full page: 7" horizontal x 9 ½" vertical

½ page vertical: 3 ½" horizontal x 9 ½" vertical

¼ page: 3 ½" horizontal x 4 ¾" vertical

½ page horizontal: 7" horizontal x 4 3/4|" vertical

Personnel: Angela Tracey
Canadian Condominium Institute, Eastern Ontario Chapter

Authorized Signature:

Artwork Enclosed? ☐ **Yes** ☐ **No**

Use Previous AD ☐ **Yes** ☐ **No**

Start Issue: _____ **End Issue:** _____
(Indicate "Spring, Summer, Fall or Winter" issue)

Payment Details

☐ Check enclosed

☐ Credit card: Visa MasterCard

Card #: _____ Expiry date: _____

Name on Card: _____

Return this form with payment and camera ready advertising material to: CCI- Eastern Ontario
P.O. Box #455, 207 Bank Street, Ottawa, ON K2P 2N2

Supporting Your Community.

Serving all of Ontario with offices in Oakville, Barrie, Toronto and Ottawa

Toll-Free: 1.866.446.0811 | **Email:** info@elia.org

/condocentric @condocentric /condocentric

ELIA ASSOCIATES PC
BARRISTERS & SOLICITORS

Condominium Lawyers

Simply the Best Condominium Insurance Choice

Over 35 years serving professional condominium managers and providing the best protection for corporations and condo owners.

For a Corporation Quote
877.627.6222
atrens-counsel.com

For Unit Owners Protection
Visit condogold.ca

Atrens-Counsel
Insurance Brokers
Part of Arthur J. Gallagher Canada Limited