

Volume 25

CONDOCONTACT

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50 Years of Condominium Living

Reserve Fund

Planning and
Timelines

Reserve Fund Study

Timeframes

Reserve Fund Study Timing

– An Auditor's
Perspective

CCI Director

Interviews

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to The Horizon - Carleton
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Volume 25

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

Welcome to the new decade! It is hard to believe that it is 2020! Looking back over the past year, it was a busy one for CCI-EO! It was filled with some of our tried and true sessions and seminars, as well as the introduction of opportunities like our 'Drinks & Disasters' and 'Bleed your Lines, not your Bank Account' which provided a more intimate and engaging atmosphere for our members. We also introduced some new venues, like the Orange Gallery, which were a huge hit!

I'm also excited that many of our chapter's directors were able to attend the 2019 Spring Leaders' Forum last May and the Fall Leadership Forum in November, which are events that bring together all of the Chapters from across Canada for a few days of knowledge gathering, and sharing of best practices. It was exciting to share our many successes, and to learn about the updates and changes from CCI National, and the many great sub-committees that create the strong foundation of CCI.

Did you know that Eastern Ontario has been dedicated to educating condominium owners and directors longer than the 37 years that CCI has been around.

“In 2019, one condominium corporation in Ottawa celebrated its 50th year of being incorporated!”

In 2019, one condominium corporation in Ottawa celebrated its 50th year of being incorporated! More about that in the newsletter...

Looking forward to the year to come, we are hoping to continue to grow our 'Condo Strength' in 2020 (perhaps in a modified or hybrid version) as we know the true passion of CCIEO comes from our owner and director members. Owners and directors are the core reason CCI exists, and why we look forward to you helping us share the message of the value of being a member and being educated about key issues in the industry.

On a personal note it continues to be a privilege to serve as your president for our community of condos from all over Eastern Ontario. Our Chapter is built from great contributors who continually provide us with insight on how we can continue to grow and improve. Keep sending your ideas, the more we receive, the better value we can deliver!

The past couple of years have been challenging for the condominium communities in Ontario with the continued growing pains faced while navigating the changes to the Act. We believe now more than ever that CCI and our Eastern Ontario chapter are critical to supporting this amazing community through education and advocacy.

I look forward to seeing you at our events throughout the year, and to maybe having the opportunity to volunteer with you as a future member of the Board or a committee of CCIEO.

Sincerely,
Nancy Houle, president CCIEO



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Cheryl Wood, J.D., Lawyer
Davidson Houle Allen LLP



Michael Lewicki, Broker
Keller Williams Integrity Realty

As this is our first run as co-editors, we wanted to take a moment to thank the many people who helped us to put together the 2019 newsletters. Without the support of the directors, article contributors, volunteers, and the staff and admin department, we wouldn't have been able to have had such great content and topics to share with our members.

We also want to acknowledge our advertisers who continuously support our publication, which permits us to keep our costs down and in turn allows the Board to invest in events and seminars that provide opportunities to network with fellow members as well as the educational segments that have helped to form the backbone of CCI-EO.

Our contributors this year included many of our professional members writing articles directly related to their experiences working among the boards and our members. Our goal is to continue to provide great information that can help improve your condominium living experience, whether it be improving your

bottom line or improving your enjoyment of your units and common elements.

We're often asked where we get the ideas for articles and the answer is often from conversations with you, our members! We're always looking for future story ideas, so please don't hesitate to share your thoughts with us or maybe suggest someone you think could have some great information to pass along to our readers.

As we open the New Year, we'd like to thank you, our readers. Your continued support and readership is the reason why this newsletter continues to improve with each byline, each article, and each email of feedback you share with us.

We look forward to providing great content for the 2020 publishing year!

Sincerely,
Cheryl Wood, co-editor
Michael Lewicki, co-editor

UPCOMING EVENTS

Lawyers, Guns & Money
(seminar) – **January 22, 2020**

There is no stupid question...and there is beer!
(seminar) – **February 26, 2020**

Kingston Director's Course
(education course) – **February 29, 2020**

Green Energy Retrofits and Financing
(seminar) – **March 25, 2020**

Spring Director's Course
(education course) – **April 25-26, 2020**

2020 Ottawa Condominium Conference
(conference) – **June 6, 2020**

Go to <https://cci-easternontario.ca/news-events/upcoming-events> for more details.

Contributing to CCI **CONDOCONTACT** 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:

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50 Years of Condominium Living at CCC 1!



In 2019, Carleton Condominium Corporation No. 1 turned fifty. The Horizon House, now “The Horizon” was *the first high-rise condominium corporation built in Canada!*

In order to celebrate this milestone, the CCC 1 community had a big celebration and took the opportunity to modernize the Condominium with an updated name – The Horizon –, a new logo, new website, and a new sign highlighting it as the first high-rise in Canada.



The celebration saw a turn out of over 100 people, including a member of the first Board of Directors at CCC 1, the local city councillor, and the former Mayor of Nepean. It was a fantastic gathering of this “vertical Village”.

Tonis Kasvand, the Board President at the time of the celebration, helped to coordinate the event with the Board. He’s lived at CCC 1 since 1993 and has seen the changes over time as this condominium and community have changed.

According to Tonis, the condominium has seen its fair share of repairs over the years. The swimming pool had to be completely re-done and was opened three weeks before the celebration. Other major items such as the electrical system and the pipes are being closely monitored to ensure that they’re maintained.

Tonis gave some advice for condominiums that are starting to turn 50:

- Definitely keep up on maintenance – you can’t put things off. Take care of issues as soon as possible.



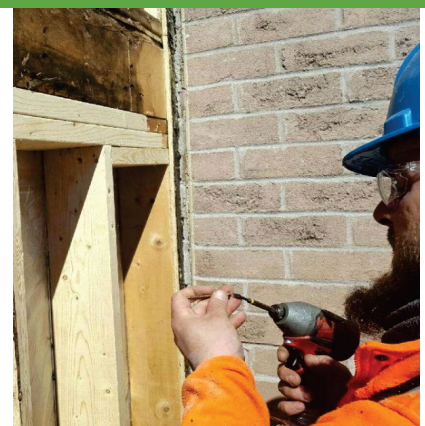
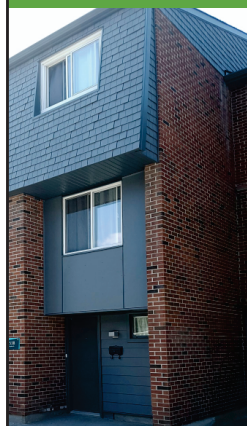
- Have independent people looking at problems in the building; don't just rely on employees – bring in outside parties.
- If someone complains it is not the end of the world – if we want to move forward and get things done, we need constructive criticism.

As the earliest condominiums start to hit this milestone, it is a great time to ensure that your reserve fund is on track and ready to handle some of the major repairs and replacements that arise with the older buildings, and don't miss out on celebrating. It is a great opportunity to get your community together! ■


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Reserve Fund Planning and Timelines



James Davidson, LLB
Lawyer
Partner, Davidson Houle Allen LLP



As our readers will know, condominium corporations must arrange for reserve fund studies at least every three years (with the study including an inspection of the common elements and assets at least every six years).

After each study, the condominium corporation is then required to prepare a reserve fund plan *“that the board determines will ensure that, within a prescribed period of time and in accordance with the prescribed requirements, the fund will be adequate for the purpose for which it was established”* (per Section 94 (8) of the *Condominium Act*).

That raises the following question: What are the prescribed requirements?

The answer is that the prescribed requirements can be found in Section 33 of Regulation 48/01 (the general Regulation under the *Condominium Act, 1998*).

Section 33 of Regulation 48/01 contains a 15-year “grace period” (which may have started as late as May 2004) for condominium declared prior to May 5, 2001. However, that grace period is no longer relevant, because it has now expired for all such pre-May-2001 condominiums.

So, there is now only one such “prescribed requirement”, which applies to all condominiums in Ontario. According to Section 33 of Regulation 48/01:

The prescribed period of time for the purpose of subsection 94 (8) of the Act shall be the fiscal year of the corporation following the fiscal year in which the reserve fund study is completed.

On a strict interpretation, here’s what this means:

After a condominium corporation receives a reserve fund study, the corporation (the Board) must prepare a reserve fund plan that (the Board is satisfied) will leave the corporation with an adequate reserve fund by the end of the next fiscal year following the year in which the study is received.

In my view, a reserve fund is “adequate” when the planned annual contributions to the fund can remain constant, increasing only by inflation. [The meaning of the term “adequate” is supposed to be clarified in the next phase of amendments to the Act....if and when they ever arrive. The amendments are expected to agree with this definition.]

Put another way: In my view, a reserve fund is adequate when the reserve fund is at a point where no further special assessment contributions or increases (beyond inflation) are required.

So, the bottom line is as follows: Section 33 of Regulation 48/01 currently requires the following:

After each reserve fund study, the Board must plan for any required special assessment contributions and/or increases beyond inflation (so as to result in an adequate fund) to occur by the end of the next fiscal year. Thereafter, the plan should only call for inflationary increases to the annual contributions.

HOWEVER: The province has told us that this “one year adjustment period” is also supposed to be increased to three years (by anticipated amendments to the legislation).... which in my view makes much more sense.

As a result, most reserve fund planners are using three-year adjustment periods in their spreadsheets – meaning that special assessment contributions and/or increases beyond inflation may be planned to occur over a period of three fiscal years (following each study). Given the anticipated amendments to the legislation, I agree that this makes good sense (and is *likely* acceptable under current condominium law).

IN ADDITION: In some cases, even a three-year adjustment period may be “insufficient”, in cases where this may cause *undue hardship* to a significant number of owners. In such cases, it might be reasonable to contemplate a longer adjustment period for special assessment contributions and/or increases beyond inflation, bearing in mind that this is not technically in strict compliance with the legislation. These are situations that can be considered, with the assistance of the reserve fund planner and/or legal counsel, in a given case.

Finally, whenever a reserve fund is or may be inadequate, this must be mentioned in Paragraph 12 of the status certificates. This would apply, for instance, as soon as the condominium corporation receives a draft study (or receives any other information) indicating that one or more special assessments and/or increases beyond inflation might be required in future.

James Davidson is one of the founding partners of Davidson Houle Allen LLP. Jim has been practicing condominium law for over 35 years. He represents condominium corporations, their directors, owners, and insurers throughout Eastern Ontario. His experience also includes building deficiencies, shared property interests, co-ownership and construction law. Jim is proud to be an associate (ACCI) and also a fellow (FCCI) of the Canadian Condominium Institute. ■



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Reserve Fund Study Timeframes



Steve Christison, P.Eng
Senior Building Envelope Engineer
Keller Engineering



Section 31 of O. Reg. 48/01 of the *Condominium Act, 1998* states that a Reserve Fund Study must be completed within three years of the preceding study; however, the process of preparing this study can take up to a third of this period.

On average, a reserve fund study report will take six months from the date of the initial request for proposal to the completion of the final copy. Many factors – including the availability and findings of either the Board, or the writer of the report, or both – can prolong the process further.

The general process of preparing a reserve fund study consists of several steps, each of which can potentially prolong the process of writing the study.

1 Issuance of Request for Proposal

When the request is made can have as much impact on the timing of the report delivery as any other factors. If the fiscal year end date of the condominium and the time of the year in which the study is requested are incompatible, condominiums may find themselves with insufficient time to see a full RFS process through properly. Many condominiums have a year end date of December 31st and therefore usually prepare their next year's budget in November. If multiple Boards and property managers expect a final report in the same time period, this can put a crunch on writers. Additionally, long lead times can occur during the summer construction season when consultants may be focused on construction projects.

Timing of the RFP should be strategic in order to coincide best with the corporation's fiscal calendar.

2 Review of Request for Proposal

Requests for proposals commonly include strict deadlines on the supplier; however, the Board's availability to meet to approve the proposal influences the process of awarding the contract. Seemingly an insignificant factor, often the Board's availability has the greatest impact on the timing of start of the reserve fund study. Most Boards only meet monthly, and many Boards will take prolonged winter or summer breaks to accommodate members who take vacations or are non-resident during the winter. Often supplier proposals will sit, unactioned, for several months, losing valuable time to complete the study. General availability of the Board should always be considered when determining the timing of the request for proposal.

3 Inspection Constraints

In the province of Ontario, Reserve Fund Studies take two forms: (1) Reserve Fund Studies with a site inspection, commonly referred to as either Class 1 or 2 studies, and (2) Reserve Fund Studies without a site inspection, commonly referred to as Class 3 studies. Of the two forms, studies involving site visits are at a greater risk of delay.

The site visit can significantly prolong the preparation of the reserve fund study. The primary purpose of the site visit is to

determine the age and condition of the common elements. The initial visit may generate recommendations that further investigation (such as the balconies, garages, mechanical equipment, or the cladding) be performed to determine the true scope and costs of repairs and replacements. Because the results of these additional investigations could have significant financial consequences for the reserve fund and all future financial plans, the report writer may recommend waiting until the results are in to present a draft study. Further, it might prove necessary to recommend that some common elements be repaired or replaced immediately. The writer may ask that the contract amounts for immediate work be input into the reserve fund study to ensure the most accurate report. Such issues can delay the finalization of a reserve fund study.

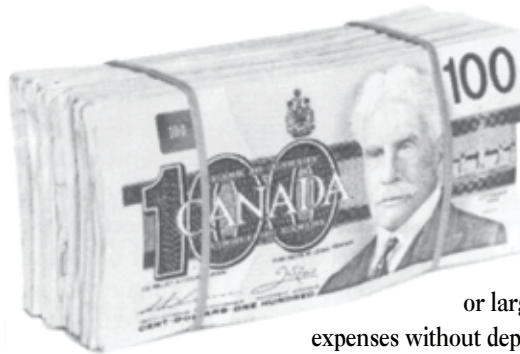
4 Information Analysis/Issuance of Report

Often planners look to present a draft study that balances the requirement of the condominium to repair or replace common element assets against its current financial position. Depending on the financial position of the condominium, multiple plans may be provided for consideration and the Board must meet to approve one of these. At this stage, how soon the final reserve fund study is produced depends on when the Board is available to meet and the amount of time or additional information required to make these decisions.

While beginning the process of creating a reserve fund study just two years after the completion of the most recent study may seem excessive, depending on the age and the condition of the condominium, an assumed length of eight to ten months from issuance of the RFP to the provision of the final report is not unreasonable to ensure the corporation meet the requirements spelled out in the Condominium Act.

Mr. Christison specializes in asset management studies, building envelope thermography, structural and building envelope rehabilitation design and project management, field monitoring and testing, condition assessment of building envelope systems, restoration and maintenance planning. ■

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Reserve Fund Study Timing – An Auditor’s Perspective



Jeremy P. Ouseley, CPA, CA, LPA, MAcc
Certified Public Accountant
Ouseley Hanvey Clipsham Deep LLP



When preparing for an audit, the auditor of a condominium corporation will request a copy of the latest reserve fund study and will ensure that salient details are disclosed in the financial statements in accordance with the requirements set out in the *Condominium Act, 1998* (the “Act”) and the Regulations thereto (O. Reg. 48/01).

A study, *Guidelines for Ontario Condominium Corporations*, prepared by a committee of the Chartered Professional Accountants of Ontario (CPAO) in 2013, states “the auditor, in addition to meeting the reporting requirements of the CPA Handbook, must include statements in his or her audit report when the information in the financial statements contravenes the requirements of Sections 67(4) and 67(5) of the Act or does not fairly present the required information on the reserve fund as set out in Regulation 48/01, Section 16”.

Section 67(4) of the Act stipulates that “the auditor shall include in the report the statements that the auditor considers necessary if the corporation’s financial statements are not in accordance with the requirements of this Act and the regulations made under it”. Section 67(5) of the Act stipulates that “the auditor shall state in the report whether the statement of reserve fund operations and any other prescribed information relating to the operation of the reserve fund and contained

in the financial statements do not fairly present the information contained in the reserve fund studies that the auditor has received”.

In the event a corporation contravenes the requirements of Sections 67(4) or 67(5) of the Act, the CPAO study suggests wording for an “other matters” paragraph in the independent auditor’s report. For example, when the reserve fund study has not been completed on time, the following disclosure may be appropriate: “In accordance with Section 67(5) of the *Condominium Act, 1998* (the Act), we report that the Corporation has not complied with the requirements of Section 94 of the Act and Regulation 48/01, Section 31 related thereto as the Corporation has not finalized a reserve fund study within three years of the preceding study and has not issued a notice of future funding of the reserve fund within the prescribed times.”

In summary, if the prescribed timelines are not met, the auditor is required to report this issue in the independent auditor’s report.

Jeremy Ouseley CPA, CA, MAcc, is a member of the professional team at Ouseley Hanvey Clipsham Deep LLP. As a Licensed Public Accountant, he is responsible for assurance engagements on a wide variety of clients in the not-for-profit and private sectors. Prior to joining OHCD LLP, Jeremy worked with PwC LLP (Ottawa) where he earned his CPA, CA designation and gained valuable experience with a large multi-national firm. ■

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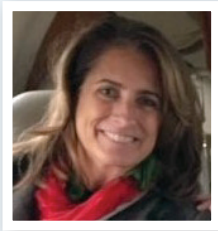
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CCI Director Interviews

(Part 1 of 3)



Constance Hudak



Shelly Seaby



Nancy Houle

What do you do?

Constance Hudak: I am a Board Director twice over - and I am President of two condominium Boards: the townhome complex where I live and the high rise tower where my son lives in an apartment we own.

I am retired from a commercial crown corporation where I was part of the executive team. My last deliverable prior to retirement was the successful implementation of a multi-million dollar Human Resources and Payroll system for a highly unionized environment of 100,000 employees which was launched on time, on budget, with full support of unions, and is still operating today after a series of successful regular updates. Yes, it can be done! I have an Hons BA and an MBA.

Shelly Seaby: I am a condominium manager with a Registered Condominium Manager (RCM) designation. Since November 2017, I have taken the role of Resource & Compliance Manager at Condominium Management Group in Ottawa.

Nancy Houle: Legal counsel practicing exclusively in the area of condominiums and other shared property arrangements.

How did you become involved with condominiums?

Constance Hudak: I am Vice President of the local Chapter, its education Chair and representative to the National organization of CCI.

Shelly Seaby: My parents owned a condominium in a building that was self-managed. In the midst of a career change, I assisted with management at their condominium, completed requirements for RCM and decided to pursue a career in condo management.

Nancy Houle: Oh boy! Purely by accident. I wanted to work with a specific firm in Ottawa, and a job opening came up in the condominium law group. To be honest, I had never heard of condo law before that time. I thought I would take the job as a stepping stone and then move to another area, but once I started practicing, I fell in love with the uniqueness and intricacies of this niche area of law.

What are the key challenges that you see for condominiums right now?

Constance Hudak: How to attract the younger generations of condominium buyers to become involved. Many younger buyers

become condominium owners because a) it's affordable, and b) because it is sold as a "hassle-free" lifestyle – they don't have to do anything outside of their unit. However, for many of these new owners, it also means that they assume that the condominium runs itself. They will be in for a rude surprise very soon and the value of their investment will begin to decline.

Shelly Seaby: The first challenge is complying with the present and future requirements of legislation. As new legislative requirements are introduced, the workload and reporting will continue to increase.

The second is the current shortage of qualified Condominium Managers not only in Ottawa area but throughout Ontario. Within the next year the number of licensed managers will further diminish as many are expected to retire. There has to be a concerted effort to attract new recruits to this field as a career option.

Nancy Houle: From a people perspective: The way people are treating each other. We are seeing an increased need for violence and harassment policies and rules in a home environment. This bullying and aggression towards fellow owners, the Board, and members of the management team is unacceptable.

From a practical perspective: Overall costs of running a condo – insurance, snow removal, water, utilities, repair and maintenance, are all increasing, and it is becoming harder and harder for unit owners to pay these bills.

What do you hope to accomplish on the Board this year?

Constance Hudak: To grow the training audience – to find the right communications tool that will reach new condominium owners.

Shelly Seaby: To encourage Board Directors to attend CCI-EO seminars through direct or property manager communication.

Nancy Houle: I would like to see our board accomplish the following:

- Increase membership and find a way to engage directors of newer condominium corporations. We're grateful for our longstanding members, but we would love to increase participation at all levels.
- Increase attendance and participation in our fantastic programs and seminars. We've seen some challenges with the changes to training

requirements and the online training. We want to make sure all directors know that the online training is just dipping your toes in the ocean. There's so much more out there that directors need to know.

What is your favourite program or seminar that CCI-EO puts on?

Constance Hudak: We offered a new style of event last year – The OPEN MIC – it is a forum for Board Directors to raise problems and issues and ask for help and help from other Directors who have dealt with similar issues. We will have more of them this year.

Shelly Seaby: Favourite program would be the panel discussions in which a variety of professionals speak from different fields.

Nancy Houle: My favourite one, most recently, was the session on dysfunctionality – held at the Orange gallery.

The creative environment promoted creative thinking.

The topic of dysfunctionality can be seen or approached negatively, but it can also be viewed as an opportunity for growth. The Directors at that session were engaged and positive in coming up with ideas for promoting functionality when dysfunction rears its head. It was just a great session.

What's your favourite hobby or activity?

Constance Hudak: Golf, Curling and spending the summer at the lake.

Shelly Seaby: Travelling with family. Preferable to a warm climate!

Nancy Houle: Aside from following my son on the golf course, do-it-yourself home renos of all shapes and sizes! For Christmas, my husband gave me a set of matching DeWalt socks and toque!

If you had a superpower, what would it be?

Constance Hudak: I wish I could rebuild my knee and return to downhill skiing – I taught skiing in Vermont for 5 years and the whole family was always on the black double diamonds all the time. Nothing can match that rush of speed.

Shelly Seaby: Hmmm.... I would have to have two super powers. First to slow down the weekends and second to cut out travel time - 'beam me up Scotty!'

Nancy Houle: In the context of the condo world: To unilaterally change the Condo Act, 1998 as I see fit!

I'm kidding...

Or... maybe not! ■

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