

FALL 2014

CONDO CONTACT

CREATING A VIBRANT, WELL-INFORMED OTTAWA AND AREA CONDOMINIUM COMMUNITY

INSIDE

President's Message3

Editors' Message4

Containing Insurance Costs -
The Case in Favour of the
"Bare Box" Standard Unit
By-Law5

Ontario Allows 6-Storey
Wood-Framed Buildings8

How Can I be Forced to
Sell My Condominium
Unit?10

CCI National NewsN-1

What is Mediation?12

Ask the Pros.....14

Bulletin Board15

Advertising Corner20

Containing Insurance Costs

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the "Bare Box" Standard
Unit By-Law



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President's Message



Over the past year, your Chapter Board Members have been working towards our goals of delivering more opportunities for education, and increasing our means of effectively communicating with members in the Ottawa condominium community. With a revamped website and newsletter, twitter and facebook accounts, and almost monthly seminars (in addition to the regularly scheduled Director's courses), we hope that we are providing our members with more opportunities to connect

with your Chapter and your condominium community.

We also hope that these initiatives may inspire many of our members to come out to the Ottawa Chapter Annual General Meeting, which will be held on October 22, 2014, commencing at 7:00 pm, at the Hellenic Community of Ottawa, 1315 Prince of Wales Drive, Ottawa. Not only will you have the chance to learn more about your Chapter and mingle with other members, you are also invited to attend a free seminar on how to read and understand your condominium corporation's financial statement, immediately following the AGM. Be sure to watch for your AGM package for further details!

If you can't make it to the AGM, don't despair! There are many other exciting seminars and events coming up. Check our Chapter website frequently for information on current, and upcoming events:

As I write this note, my eyes are drawn outside to the beginnings of what will soon be full bloom fall colours. At the same time, I see cranes and constructions sites with many new condos on the horizon. Perhaps I will seize the moment, head outside, and explore both the colours and the construction, both sites and sights, which will soon house new members of our condominium community. I hope to see you in my travels!

Sincerely,

Nancy Houle
President-CCI-Ottawa

CONDO CONTACT

CANADIAN CONDOMINIUM INSTITUTE OTTAWA & AREA CHAPTER

P.O. Box 32001
1386 Richmond Road
Ottawa, Ontario
K2B 1A1

Telephone: 1-866-491-6216

Fax: 1-866-502-1670

E-mail: cciottawa@cci.ca

Website: www.cci.ca/Ottawa

Twitter: @CClinOttawa

Operations Manager

Carolynne Vigon
carolynne@associationconcepts.ca
Tel: (866) 491-6216 x 124
Fax: 1-866-502-1670

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Editor's Message



Rod Escayola



Tim Kennedy

CCI Ottawa is gearing up to go paperless for our newsletters in the 2015 year. In the meantime, members can enjoy reading about condos anywhere at any time by accessing the member side of the website. Visit www.cci-ottawa.ca

This latest edition highlights that, while condominiums continues to be a popular lifestyle choice, there are many issues that come along with ownership. The Ottawa condominium market is a blend of new and old, much like the city itself. Whether one resides in a brand new or a pre-existing unit some of the issues are the same and there is hunger for practical information and sound knowledge on how condominiums function. At CCI we not only try to feed your appetite, but also quench your thirst!

In this edition of the CCI newsletter, readers will find some great articles that illustrate the vast scope of issues that face condominium corporations and unit owners such as: new construction and the use of wood in a high-rise setting, an article on issues that touch the lives of unit owners and boards regularly, like, insurance and standard unit by-laws, mediation, and how to deal with difficult owners...just to name a few. We hope you find this a refreshing read and as you will agree there is something for everyone.

Condominiums can be a great way to live and we hope these articles will assist in a better understanding of how a condo functions, which can lead to happier times.

*Tim Kennedy is a partner with the law firm Vincent Dagenais Gibson LLP/s.r.l.
Rod Escayola is a partner with the law firm Gowlings 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-Ottawa's quarterly newsletter *Condo Contact*. 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 products to condominiums and have a relevant article, let us know!

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

ARTICLES MAY BE FORWARDED TO:

The Editor, *Condo Contact*
Canadian Condominium Institute
Ottawa & Area Chapter
P.O. Box 32001
1386 Richmond Road, Ottawa, ON K2B 1A1
OR Email: cciottawa@cci.ca



Containing Insurance Costs

The Case in Favour of the “Bare Box” Standard Unit By-Law

By Charles Davies

Overview

The main purpose of a condominium’s Master Insurance Policy is to provide coverage for the value of the buildings and to ensure the corporation’s ability to restore their physical integrity in the event of significant damage. The policy is also routinely used to cover some or all of the cost of repairing damage to individual units, but this comes at a price as will be explained below.

Under the *Condominium Act* (specifically Section 56(1)(h) and Sections 99(4), (5) and (6)) responsibility for providing insurance coverage for unit interiors is apportioned between the corporation and individual owners. The corporation’s insurance will cover the cost of restoring a damaged unit up to the “standard unit” level and the unit owner’s insurance will cover the cost of restoring any “improvements”. To pick a simple example, if a “standard unit” bathroom floor tile is ceramic and the damaged unit had marble tile, the corporation’s insurance would pay the cost of restoring the bathroom to the standard level (ceramic) and the unit owner’s insurance would cover the additional cost of restoring it to the higher level of finish (marble).

The *Condominium Act* does not restrict how standard units are to be defined and various corporations have adopted different models, ranging from a “bare box” of concrete floors and ceilings and bare stud walls, up to the as-finished levels with all upgrades included. The most common definitions are based on

the standard finishes described in the builder’s sales brochure, and the builder is required to file these descriptions as a Schedule in the Declaration. In the absence of a Standard Unit By-Law this Schedule defines the standard unit for insurance purposes.

How Condominium Insurance Normally Works

All unit owners contribute to paying the premium for the corporation’s Master Insurance Policy through their monthly condominium fees. This policy provides the primary coverage for the building, including common elements and unit interiors up to the standard level of finish. Individual unit owners also purchase insurance for their own unit, which covers furniture, appliances and any other owner contents, work required to prepare the unit to undergo needed repairs, as well as repair and replacement of improvements beyond the standard unit level. The owner’s insurance typically also provides for covering the corporation’s insurance deductible where required.

When damage to a unit triggers a claim on the corporation’s policy, the corporation’s insurer takes the lead, in cooperation with the Property Manager, in assessing the damage and organizing the necessary demolition and restoration work. Details about the additional costs related to the restoration of any improvements are worked out between the corporation’s insurer and the unit owner’s insurer. As appropriate, the insurance companies similarly work out how to apportion

liability for the damage between them. These discussions between insurers are largely transparent to the owner and the corporation (although one or both may see an impact in future premium charges).

Influences on Insurance Rates

Depending on the number and cost of occurrences, and the assessed risk, insurance companies will periodically adjust insurance rates and perhaps the amount of coverage offered. For condominiums especially, insurance claims inevitably push rates up very quickly and many buildings that have experienced a number of them are paying as much as five times their original rate. In addition, deductibles can also increase significantly as a result of a building’s claim history and some condominiums in Ottawa are understood to have deductibles in excess of \$50,000 for things like water damage. In some cases, corporations may have difficulty obtaining any coverage at all and must self-insure.

In Ontario, only a handful of companies are currently offering condominium corporations insurance. Multi-unit condominium buildings are generally grouped by the insurance industry with commercial structures and are insured in the commercial insurance market. That market has higher risks and is less financially attractive to insurers, so there is little market pressure constraining insurance rates in this sector.

Continued on page 6

Conversely, individual condominium units are grouped by the industry with single family homes for actuarial purposes, and this residential market is far more competitive. Risks are spread over a very wide base and many companies are active in selling a wide array of products, which generally provides a greater constraint on rate increases. There is also more government oversight and regulation of the residential insurance market.

Insurance Cost Containment Strategies

Insurance companies set their rates based on many factors, but these essentially boil down to three calculations: competitive pressure; the assessed probability of one or more claims arising; and the potential cost of any claims. Condominium corporations have no control over the first factor, but can do something about the other two.

Clearly the best way to contain insurance costs is to avoid having claims, and Boards need to work closely with their Property Manager to ensure that proper maintenance is done to reduce the probability of costly system malfunctions. It is also important that individual owners pay attention to maintaining their units, appliances and fixtures in good condition. Simple things like replacing washing machine water supply hoses every five years and hot water tanks every seven to ten years can make a great difference.

Another strategy Boards may wish to consider is reducing the potential cost to their insurer of any claims that do arise. This can be done by adopting a Standard Unit By-Law designed to limit the size of potential claims on the corporation's Master Insurance Policy. Standard Unit By-Laws define what will be covered by the corporation's insurer (the standard unit) and what will be covered by the owner's insurer (anything above the standard unit is considered an improvement to be insured by the owners). Under a "bare box" version of this by-law the corporation's insurance responsibility is limited to restoring only basic structures and utility services, and unit owners assume insurance responsibility for full restoration of the interior and contents of their own units. By doing so, the corporation moves the onus for most insurance claims away from the commercial market – with its



'By the time we began communicating with owners, all Board members were well prepared with knowledge, understanding and commitment to the concept.'

low competition, higher risks for insurers, and few constraints on rate increases – to the residential market where competition is stronger, risks are spread among many players, and rates are more likely to be held down. It effectively makes condominium owners' insurance responsibilities more akin to those of single family homeowners.

What's in it for Owners?

The adoption of a "bare box" Standard Unit By-Law is unlikely to be immediately cost neutral for owners. Some will see no additional cost to their homeowner policy premiums; some will pay more. Every owner's situation is different. It is also not guaranteed that the corporation's insurer will immediately discount the rate it charges as there are many other factors that are considered, and

the value of the interior finishings of units may not represent a large proportion of the overall value of a building. Owners will therefore not likely see a material offsetting reduction in their condo fees. What, then, is the benefit to them?

Owners pay for both their own insurance policies and the corporation's Master Insurance Policy. They know how much their own insurance costs them but don't normally consider the amount they individually pay for the corporation's insurance through their condominium fees. This can be easily calculated using the "Percentage Contribution to Common Expenses" for each owner's unit, locker and parking space as set out in the Declaration, and knowing the current annual premium for the corporation's Master Insurance Policy.

If we assume that a corporation's insurance costs currently make up 5% of the annual operating budget, but are expected to perhaps double over a period of three to five years (not uncommon for a new building) then owners can anticipate insurance premiums alone to force a 5% increase in condo fees over the period, leaving aside any other cost drivers. Even if your corporation does not foresee such a steep rate of premium increase, it will almost certainly experience continuing inexorable growth in commercial market insurance costs, especially if there are claims.

It is this reality that underpins the logic of the "bare box" Standard Unit By-Law. The benefits are not short-term. They are longer term, and derive from the fundamental dynamics of the commercial and residential insurance markets – and the high probability that the commercial rates for condominium corporations will increase more steeply than the rates individual unit owners pay in the more competitive residential insurance market. In this situation, the longer the time horizon considered, the greater the expected benefit of the "bare box" Standard Unit By-Law for both the corporation and individual owners.

One Corporation's Experience Implementing a "Bare Box" Standard Unit By-Law

Obtaining owner approval for any new by-law or by-law amendment is a challenge. A

Standard Unit By-Law – be it “bare box” or any other kind – is likely to be more difficult than most because of the complicated subject matter and the variability of impact on individual owners. A Board considering bringing one forward for approval has to carefully think through its strategy, and be prepared to invest a lot of time and effort. Above all, it has to do its homework and ensure that all Board members understand the subject well, and are fully prepared to talk about it with owners and answer their questions.

The experience of OCSCC 882 in successfully adopting a “bare box” Standard Unit By-Law can perhaps illustrate the work that may need to be undertaken. Our Board met with insurance professionals (our own broker and others), our Property Manager and our legal counsel several times to ensure that it understood the benefits, costs and intricacies of the concept. Even so, we were still resolving small disagreements between professionals about some details and learning more about how our insurance regime really operates almost up to the AGM where the vote was held. More work early on to establish a clear picture of this would have been well worth it.

Once the five members of our Board decided, unanimously, to proceed with the by-law, we mapped out a communications and consultation strategy that included several information packages mailed to owners, successive ones addressing issues raised in owner feedback. We also held a series of information sessions where groups of owners could ask questions and debate the proposal well in advance of being asked to make a decision. These sessions were carefully structured, with a common Power-Point briefing package used to ensure reasonable consistency in the Board’s messaging, but with flexibility for the owners to pursue any line of questioning or discussion they wished for as long as they wished. Effective facilitation of these sessions was critical – we were fortunate in having a Board member with considerable experience in doing this, but another option might be to bring in expert assistance.

The entire process took about ten months from the decision to proceed to the actual vote, with half of that time committed to Board research, technical consultations and formulation of the first information package

explaining the issue and our recommendation to owners. By the time we began communicating with owners, all Board members were well prepared with knowledge, understanding and commitment to the concept.

Throughout the process of informing and engaging owners, we made it clear that the Board was not attempting to “sell” the by-law. We were open in saying that we believed it to be in the best interests of the Corporation to adopt it, but our job was to ensure that owners had all the information they needed to make a properly informed decision, and the decision was theirs to make. This was an important distinction that was appreciated by owners.

One of the recurring themes expressed by many owners was that they liked the idea of taking greater responsibility for their own insurance and having less responsibility to pay for the insurance of others. Another important factor was that our building is largely owner-occupied and a number of units that aren’t have family members as tenants. Most owners are here for the long haul, so they tend to look at this kind of question from the perspective of their long-term interests. A corporation with a different demographic profile would undoubtedly experience a different reception to this kind of by-law.

Preparing for the discussion and vote at the AGM had to be carefully done, including a very active proxy solicitation leading up to it. At the meeting it was important to allow the various opposing and supporting arguments to be fully aired, but equally important that the Board be well prepared to answer all of the concerns raised, and for the discussion to be impartially managed by the Chair to keep the tone respectful and dispassionate.

This fulsome discussion among owners had two important results: no matter which side of the question they were on, every owner left the meeting confident that the process had been fair and their views had been listened to and respected; and owners who had been undecided were comfortable making their decision (with one or two who had intended to vote one way deciding to vote the other after hearing the debate).

Ultimately, the by-law passed with a clear ma-

jority of owners voting in favour.

The work did not stop with the approval of the by-law. In updating their coverage a number of owners found that their insurance companies had quite varied understanding and responses to the insurance requirements of a “bare box” by-law. Also, individual insurance companies apply a wide range of definitions and approaches to the condominium insurance packages they offer. This made it difficult for some owners to determine whether their coverage was appropriate. The Board continued to support owners in working through these issues by researching and providing additional information packages to help owners in their conversations with insurers, and by scheduling sessions where owners who wanted to do so could privately review their policies with an independent professional and get advice. This latter service was generously provided at no cost by our Corporation’s broker.

In a few cases insurers actually balked at offering the higher coverage sought and we assisted owners in finding companies that were prepared to provide appropriate coverage. In most cases the original insurers did ultimately decide to provide the requested coverage after all, rather than lose the client.

This follow-on support to owners has been critical as this type of by-law makes it even more important for owners to be adequately insured. Our Board will now be considering how best to verify owners’ compliance with the insurance coverage requirements set out in our Declaration and By-Laws.

Chuck Davies is the president of OCSCC 882, a Charlesfort development consisting of 94 high-rise units and 3 townhomes in the McKellar Park area. He retired in 2013 following a 42-year military and Public Service career. OCSCC 882 recently adopted a “bare box” Standard Unit By-law to proactively control insurance costs. For further information contact daviescrd@gmail.com. ■



Ontario Allows 6-Storey Wood-Framed Buildings

*By Rod Escayola
Condominium Lawyer with Gowlings*

On September 23, 2014, the Ontario Ministry of Municipal Affairs and Housing has announced that the Province will allow the construction of much higher wood-framed buildings. Through changes to the Ontario Building Code, wood-framed buildings will soon be allowed to be built up to six storeys high, raising the limit from the existing four storeys limit.

According to the Ministry's press release, this will introduce safer, more flexible and more affordable design options for the construction of wood frame buildings. These changes are "expected to give builders a safe option that can help make building a home more affordable and support more attractive, pedestrian-oriented buildings that enhance streetscapes while continuing to protect the safety of residents and firefighters".

Last March, the Ontario Coalition for Fair Construction Practices wrote to all Ontario MPP to oppose this proposed change to the Ontario Building Code. In particular, they were concerned with the safety of mid-rise wood-framed buildings. At the time, they wrote:

"The massive fires that have recently destroyed several multi-storey wood buildings under construction in the last two



years include Kingston, Ontario where the crane operator had to be heli-rescued; Richmond, British Columbia; and Edmonton and Calgary, Alberta, demonstrate how dangerous and unsafe wood-frame buildings under construction are. The tragic loss of senior citizens [in Québec] in January 2014 demonstrates how dangerous these buildings can be in operation and how many lives can be put at risk as a result. There are significant safety issues, public and private liability and other consequences, especially with moving too quickly on potential Code changes."

Unfortunately, we do not need to go as far as British Columbia to be reminded of the devastating effects fires can have on wooden constructions. Many of you probably remember the blaze which destroyed a recent condominium townhouse complex in South Ottawa, on September 7, 2014. More than four dozen city firefighters responded to a three-alarm fire that caused in excess of \$4M in damages. Thankfully, no occupants were injured, but the owners and the condominium are now left picking the pieces.

The Province indicates that they have addressed these safety concerns by imple-

'I am left to wonder, however, how will these higher wooden structures impact the cohabitation of neighbours?'

menting new safety requirements to wood frame buildings, including the requirement to include in them stairwells with non-combustible materials and roofs that are combustion resistant. This is said to make Ontario's regulations the most rigorous in Canada. On this, Ted McMeekin, the Minister of Municipal Affairs and Housing, stated:

"Building Code changes to mid-rise wood construction will give builders and the public even safer, more flexible building options. Our made-in-Ontario model for mid-rise wood provides the highest requirements for fire safety in Canada."

The University of the Fraser Valley published a recent study on the topic of fire safety in buildings with proper sprinklers. This study, the Sprinkler Systems and Fire Outcomes in Multi-Level Residential Buildings, seemed to suggest that new six-storey wood-framed buildings would be safer than older, shorter wood-framed buildings, given that the amended building code (in British Columbia) requires them to be fully sprinklered to a higher standard than previously required, and to be constructed with a range of other built-in fire protection systems, such as non-combustible exterior cladding and the use of electromagnetic hold-open door devices that release in the event of a fire. The full report is available for review at www.ufv.ca

(Centre for Public Safety and Criminal Justice > Reports and Publications) and at www.surrey.ca.

Queen's Park expects that this change will generate new demands for forestry products, which currently supports more than 150,000 direct and indirect jobs in more than 260 communities across Ontario.

I'm not an engineer. As such, I would not comment on any of the above. I am left to wonder, however, how will these higher wooden structures impact the cohabitation of neighbours? Wood structures are notorious to allow more noise transfer and more smoke and odour migration. In a denser populated condominium community, will purchasers be made aware of the fact that these new buildings are wooden-framed and not concrete as may be thought at first glance?

Most condominiums' governing documents provide some protection to owners in prohibiting noise disturbance or any nuisance that affects owners' quiet enjoyment of their units. But experience has shown that the enforcement of such rules can be costly to the condominium corporation and very frustrating to the owners. Many of us may remember last year's very unfortunate case of the Ottawa autistic child, whose behavior and activities rendered cohabitation near impossible for the owner living below them.

Noise transmission is inevitable in many cases. We all have had to accept, at one point or another, some level of noise coming from a neighbour. What is the normal level of noise to be expected in a wooden structure? Would that be different than the one to be expected in a concrete structure? Perhaps a new chapter of condominium litigation is about to be written in Ontario. Only time will tell.

Perhaps some will be reassured to know that Ontario is not the first jurisdiction to increase the height of permitted wood-frame buildings. Most European Union countries and several North American jurisdictions allow six-storeys wood-frame buildings. In British Columbia, over 50 wood frame buildings have been built since it changed its building code in 2009 and over 200 more are in the works.

These changes to the Ontario Building Code will be in force on January 1st, 2015. ■

How Can I be Forced to Sell My Condominium Unit?

By Cheryll Wood
Nelligan O'Brien Payne LLP

In a condominium, owners need to remember that although they own their property, they have a duty to others in the condominium community. This includes complying with the *Condominium Act, 1998* (“the Act”) and the Corporation’s Declaration, By-laws and Rules. Not every owner respects the obligations that come with living in a condominium. As a result, in some extreme cases, the Condominium Corporation is required to seek the removal of an owner.

There are two main ways that a condominium owner may be required to sell their unit:

- 1) Power of Sale; and
- 2) Forced Sale.

In each of the above-noted situations, condominium owners may be required to sell their unit against their wishes. Although Condominium owners own their property, the Act provides condominium corporations with the ability to take steps, if required, to force an owner out.

Let me begin with some background.

Power of Sale

This article does not focus on the power of sale situation. However, it is important to know that there are some situations where the Corporation will have the right to sell an owner’s unit under power of sale.

Section 84 of the Act requires owners to contribute to the common expenses of the

Corporation. If an owner fails to contribute, the corporation has a lien right against the owner’s unit.

Section 85 (6) of the Act states that the lien may be enforced in the same manner as a mortgage. Thus, in the event that an owner fails to meet its obligations to pay common expenses, the Corporation can lien the Unit and, if required, it can seek to enforce the lien by way of power of sale.

Forced Sale

The second way an owner can be forced to sell their unit is by way of a forced sale. The Condominium’s Board of Directors is tasked with making sure that everyone complies with their obligations under the Act and the Corporation’s Declarations, By-laws, and rules. In some extreme cases, this results in the Board taking steps to force an owner out of their unit.

If an owner is in breach of his/her obligations under the Act, or the Condominium’s Declaration, By-laws or Rules, the Corporation is required to take enforcement steps. In some cases, this leads to an Application to the Court under Section 134 of the Act.

Section 134 (1) of the Act states:

134. (1) Subject to subsection (2), an owner, an occupier of a proposed unit, a corporation, a declarant, a lessor of a leasehold condominium corporation or a mortgagee of a unit may make an application to the Superior Court of Justice for an order

enforcing compliance with any provision of this Act, the declaration, the by-laws, the rules or an agreement between two or more corporations for the mutual use, provision or maintenance or the cost-sharing of facilities or services of any of the parties to the agreement. 1998, c. 19, s. 134 (1); 2000, c. 26, Sched. B, s. 7 (7). [Emphasis Added.]

Section 134(3) states:

Contents of order

(3) On an application, the court may, subject to subsection (4),

- (a) grant the order applied for;
- (b) require the persons named in the order to pay,
 - (i) the damages incurred by the applicant as a result of the acts of non-compliance, and
 - (ii) the costs incurred by the applicant in obtaining the order; or
- (c) grant such other relief as is fair and equitable in the circumstances. 1998, c. 19, s. 134 (3).

It is subsection 134 (3)(c) (in addition to the rules respecting contempt) that allows a Court to order a Unit owner to sell their unit if it determines that it is fair and equitable in the circumstances. This is an extraordinary remedy and often takes many years and several Court orders before escalating to an Order requiring an owner to vacate the unit. However, recent case law indicates that Court’s will make an Order for forced sale if they feel it is required.

Recent decisions from the Ontario Superior Court

There have been two orders in Ontario since May that have resulted in the eviction of an owner and/or the forced sale of the unit.

York Condominium Corporation No. 301 v. James

In this case, the Unit owner, Ms. James, was found to have behaved in a manner that ranged from disturbing to disgusting to threatening.

In September 2013, Justice Stinson made an Order that restrained Ms. James from:

- entering on the common elements (except for ingress and egress to her unit); having contact or communication with residents or any employees of the condominium;
- communicating with, harassing or having any contact with any member of the Board, management or security (and various others), except in cases of an emergency;
- coming within 25 feet of an affiant in the proceedings;
- entering or coming within 25 feet of the management office; and
- disturbing the comfort and quiet enjoyment of the units and common elements.

Ms. James breached this Order several times. Accordingly, on October 21, 2013, Justice Morgan ordered that Ms. James undergo a mental health examination. This order was also breached.

As a result of Ms. James' "unacceptable and anti-social behaviour", and her failure to comply with previous Court orders, the Judge ordered her to sell her unit. The Court said:

Unfortunately, the respondent suffers from a mental illness. I appreciate that it will be a hardship for her to vacate the unit and have the unit sold. However, it must be borne in mind that while the applicant is a corporate body, it is the men, women,

and children who live and work in the building and their visitors and guests who have been confronted with behaviour that ranges from disturbing to disgusting to threatening. I do not see remedies short of an order vacating the unit and ordering a sale as sufficient to address the uncontested breaches of the Act and the rules of the condominium corporation.

Carleton Condominium Corporation No. 348 v. Chevalier

In this case, problems with the Respondents, Mr. Chevalier (the owner) and an occupant of his unit Mr. Basmadji, had begun in 2005. The Condominium obtained several Court Orders in an attempt to control the behaviour of the respondents. Initially, the Corporation was granted an Order restraining the respondents from engaging in various conduct that would damage or alter common elements or pose a risk to the health and safety of others.

The Order was not complied with, and, as a result, the Corporation returned the Application seeking the immediate eviction of Mr. Basmadji from the premises. This Order was granted by Justice Beaudoin in April 2013.

In July 2013, the Corporation brought a motion seeking a finding of contempt as Mr. Basmadji continued to attend the premises and the Court was advised that Mr. Basmadji had struck a contractor with a crowbar. Justice Beaudoin did not make an order for contempt (as he questioned the Respondents capacity), however, he used the discretion afforded by the rules (Rule 60.11 (5)) and made several orders including one that allowed the Corporation to bring a motion to evict Mr. Chevalier should Mr. Chevalier continue to allow Mr. Basmadji on the premises.

Mr. Chevalier continued to allow Mr. Basmadji on the premises. As a result, the Corporation brought a return of Application in June 2014. Justice Beaudoin found that the Respondents had no intention of complying with previous court orders. Justice

Beaudoin stated:

In this case, it is obvious that previous court orders have been insufficient to control the unacceptable and antisocial behavior of the Respondents. Their actions have presented a series of health and safety issues for other residents, management, visitors and contractors at the Condominium Corporation.

It is apparent that the Respondent, Yves Chevalier, suffers from a mental illness. I appreciate that it would be a hardship for him to vacate his unit which will probably be sold. Nevertheless, I am advised by the (Office of the Public Guardian and Trustee) that he is not without resources. There have been at least three previous court orders for costs which have been added to the common expenses for his unit. These have been paid by the (Office of the Public Guardian and Trustee) on behalf of the Respondent. Further orders for the costs will continue to jeopardize his remaining assets and make his continued occupancy of the unit impossible in any event.

As you can see, the remedy of a forced sale is not come upon lightly. It is usually a last resort that the Court orders when no other attempts at resolving or controlling the behaviour of a particular owner is successful. Both of the decisions discussed above note that communal living requires the respect and consideration for ones neighbour. This includes complying with the Corporation's Declaration, By-laws and Rules. [Note: In order to avoid any surprises, when purchasing a condominium unit, prospective buyers should carefully review the Corporation's Declaration, By-laws and Rules to make sure that this particular condominium is the correct fit for them.]

Living in a condominium has many great benefits and can be a great place to live. A condominium community needs to work together to ensure the success of the condominium corporation as a whole. In the event that an issue arises with an owner, the Corporation does have remedies available to it. ■

What is Mediation?

*By Marc Bhalla, Hons. B.A., Q.
Med from CONDOMEDIATORS.ca*

The Condominium Act may make it mandatory; your condominium may have a by-law that speaks to it; and the courts may encourage parties to try it - but what exactly is mediation, anyway?

Just as many condominium residents lack understanding of what a condominium community is or how it works, the same can be said for mediation. Many parties engaged in conflict do not understand what mediation is, how it works or what it can do for them.

The fact that mediation is not a set process to be applied the same way to every conflict can complicate matters as well; it is not the case that every mediation unfolds the same way. There are also different “styles” of mediation that apply to varying degrees and can get intermingled to suit the situation - consider a group of teenagers at a soft drink station, each filling their cup. While one may choose only one drink option, another may choose to combine a couple of different flavours to suit their taste.

While each mediation session is unique, there are some common principles and elements which can help one better



understand what mediation is and the opportunities it provides.

1. **Mediation is a private process.** It is confidential and without prejudice. This means that everything said in the course of a mediation session, with limited exception^[1], does not leave the mediation session and that various offers, proposals and disclosures made in the course of a mediation cannot be used against participants outside of the mediation (i.e. in court, if the dispute proceeds to trial).

The idea is to bring the parties together

to express and explore in a safe environment; to allow for the sharing of perspectives and the joint consideration of ideas for the purpose of gaining insight and generating options which may offer a more appealing way of resolving the dispute.

2. **Mediation is driven by the parties.** The extent to which the parties have control over how the process unfolds is contingent upon the mediator and – often – the behaviour of the parties; however, a core principle of mediation surrounds parties controlling the outcome. That is, any resolution achieved in the course



Message from the President

BY GEOFF PENNEY, BA, LLB, ACCI
CCI NATIONAL PRESIDENT

Greetings to all CCI members across the country. Today is the first day of Fall and thankfully summer like temperatures appear to be hanging on for the time being. With any luck the fine weather will continue for all of us for a little while longer. I hope all of our members had a safe and enjoyable summer and now feel rejuvenated to get back to business.

The onset of Fall also marks the beginning of AGM season amongst our various Chapters. Special greetings from the National Executive have been prepared for each Chapter and are forwarded as each AGM date approaches. Last year I was pleased to know that our greetings were shared at various AGMs. This is the Executive's way of recognizing the efforts of your local chapter boards and to let all of our members know about various national efforts and projects that have been completed or are ongoing. I do hope that you all will make an effort to attend your Chapter's AGM and participate. Your Chapter Board will be reviewing its activities and accomplishments over the last year and will also discuss initiatives planned for the upcoming year. Thank you again to all Chapter volunteers for dedicating their time and effort this year.

The CCI National meetings and AGM are coming up again in early November. We will again offer excellent seminar and Leaders' Forum topics and hold our awards presentation. However for those who have attended in the past, you will notice some changes

this year. After many years of holding our CCI National meetings in conjunction with the CCI-Toronto/ACMO Condominium Conference, this year we have decided to strike out on our own. While CCI National has certainly enjoyed and benefited from meeting in conjunction with the CCI-Toronto/ACMO Condominium Conference, we felt the time was right to focus more on the particular interests of our national chapter members. We will also have more flexibility in terms of scheduling our meetings and determining an appropriate location. This November we will be moving to hotel and meeting facilities closer to the downtown Toronto core rather than using those out towards Pearson Airport. We hope this will allow for greater choice of restaurants and activities for members. It also offers more opportunities to members who travel from outside the GTA to enjoy their free time. As our National CCI meetings will not conflict with the CCI-Toronto/ACMO conference, once the CCI National schedule has concluded, members who have registered are able to attend the CCI-Toronto/ACMO conference as well. We would appreciate feedback on the new format as it may contribute to our plans for upcoming years.

Our National Committees continue to drive the work of our organization and have been meeting recently to continue work on their various projects and mandates. The membership of these committees comes directly from each of our sixteen chapters and is composed of individuals with diverse backgrounds.

This ensures excellent cross-representation of opinions, experiences and skills which has made our committee structures so successful. There is also a direct link between the committees and the chapters themselves which facilitates sharing of ideas and a greater sense of involvement at the chapter level. Committees now meet face to face twice during the year in addition to regular teleconferences. I would encourage any of our members with time and ideas to share to consider participating in one or more of the national committees.

This is my last message to CCI members as President of the National Executive. I will move into the position as National Chair following the AGM in November. In conclusion, I'd like to express my sincere thanks to my fellow executive directors, committee chairs and members and general members everywhere. It has been a pleasure working with you and for you over the last two years. I am pleased and humbled to think that I have played some small part in the continuing and expanding success of CCI. I wish you all well.

Condo Cases Across Canada

BY JAMES DAVIDSON, LL.B., ACCI, FCCI
NELLIGAN O'BRIEN PAYNE, OTTAWA



It is my pleasure to provide these brief summaries of recent condominium Court decisions across Canada. I don't provide summaries of every decision rendered. I select a handful of decisions that I hope readers will find interesting. I hope readers enjoy this regular column of the CCI Review.

Note to readers: In B.C., condominium corporations are "strata corporations" and in Quebec, condominium corporations are "syndicates".

Note: This publication contains only a handful of this quarter's summaries. CCI members who would like to see the rest of this quarter's summaries can find them at the Condo Cases Across Canada website: www.condocases.ca The current password is "condocases".

James Davidson LLB, ACCI, FCCI, Nelligan O'Brien Payne, Ottawa

THE HOT TOPIC – Courts Ordering Sale of Units

We are seeing more and more cases where the Courts are willing to order the eviction of an owner and/or the sale of the unit. Most recently, we've had a case from B.C. and two cases from Ontario. Here are the summaries:

Bea v. The owners, Strata Plan LMS2138 (British Columbia Supreme Court) May 12, 2014

Court orders sale of unit due to owner's contempt of Court

The owner made several petitions, in each case repeating the owner's challenge to the strata corporation's parking arrangements. All of the petitions were dismissed, with cost awards in favour of the strata corporation. The repeating petitions were held to be an abuse of the Court's process, given the fact that the Court had previously decided the matters in dispute.

The Court had also previously ordered that the owner pay a fine of \$10,000 due to the owner's contempt. The owner refused to pay the fine. Ultimately the Court ordered that the owner's unit be sold. The Court said:

As I have noted more than once, this represents a departure from precedent insofar as punishment for contempt of court is concerned. It is, however, as I see it, an appropriate evolution that is in line with sanctions that have been imposed in analogous circumstances for similar egregious behavior.

In this case, it appears certain that Mrs. Bea is destined to lose her property in any event through the enforcement of the many judgments for costs registered against it. The question is whether the owners should be put through the additional expense and frustration of proceeding in that way in the face of the Beas' unremitting pattern of abuse of the court process, and the ever mounting costs of dealing with them. I think not. The time to end their abuse of the court's process is now.

Carleton Condominium Corporation No. 348 v. Chevalier (Ontario Superior Court) June 25, 2014

Court orders eviction of owner

The unit owner, Mr. Chevalier, had repeatedly violated the Condominium Act, 1998 and the declaration, by-laws and rules of the condominium corporation. He had also contravened previous Court orders. His tenant, Mr. Basmadji, had also contravened the Act, declaration, by-laws and rules. The Court had previously ordered his eviction.

The Court ordered that Mr. Chevalier vacate the unit. The Court said:

In this case, it is obvious that previous court orders have been insufficient to control the unacceptable and antisocial behavior of the Respondents. Their actions have presented a series of health and safety issues for other residents, management, visitors and contractors at the Condominium Corporation.

It is apparent that the Respondent, Yves Chevalier, suffers from a mental illness. I appreciate that it would be a hardship for him to vacate his unit which will probably be sold. Nevertheless, I am advised by the (Office of the Public Guardian and Trustee) that he is not without resources. There have been at least three previous court orders for costs which have been added to the common expenses for his unit. These have been paid by the (Office of the Public Guardian and Trustee) on behalf of the Respondent. Further orders for the costs will continue to jeopardize his remaining assets and make his continued occupancy of the unit impossible in any event.

York CC No. 301 v. James (Ontario Superior Court) May 5, 2014

Court orders sale of unit due to owner's misconduct, despite owner's mental illness.

The Court ordered that the owner's unit be sold due to her "unacceptable and anti-social behaviour", and her failure to comply with previous Court orders. The Court said:

continued...

Condo Cases Across Canada Cont'd.

Unfortunately, the respondent suffers from a mental illness. I appreciate that it will be a hardship for her to vacate the unit and have the unit sold. However, it must be borne in mind that while the applicant is a corporate body, it is the men, women, and children who live and work in the building and their visitors and guests who have been confronted with behaviour that ranges from disturbing to disgusting to threatening. I do not see remedies short of an order vacating the unit and ordering a sale as sufficient to address the uncontested breaches of the Act and the rules of the condominium corporation.

The Court also ordered that the owner's misconduct be restrained.

Other BC Case – Legend Holding Group Ltd. v. Chen (British Columbia Supreme Court) June 13, 2014

Strata lot owner has no right to install new service through another strata lot

An owner on the 6th floor wished to install drainage pipes in a drop ceiling space within one of the strata lots on the 5th floor. This was to allow the 6th floor owner to operate a new colon cleaning spa in that owner's strata lot. The strata corporation was in support of this proposed installation, but the owner of the 5th floor strata lot refused. The question for the Court was whether or not Section 69 of the Strata Property Act (which states that each strata lot is subject to easements for services in favour of all other strata lots) applies only to original services or also to proposed new services.

The Court said that Section 69 applies only to original services, and refused the requested order forcing the 5th floor owner to allow installation of the drainage pipes. The Court said:

In my view, the provisions of s.69(3)(d) and (e) make it clear that the facilities for which the easement exists are facilities already in existence or any replacement of those facilities necessitated by their deterioration. . . . It does not extend to authorizing the installation of a completely new facility.

Alberta Case – Bank of Montreal v. Rajakaruna (Alberta Court of Queen's Bench) July 10, 2014

Appeal dismissed. Mortgagee not entitled to summary judgment for foreclosure. Furthermore, mortgagee's claim dismissed in its entirety.

The Bank of Montreal made application for summary judgment of its foreclosure action against a condominium owner. The condominium corporation had claimed amounts from the owner (namely, a fine for alleged excessive noise

caused by the owner's tenants, and a witness fee for the condominium manager's teleconference attendance at a related hearing of the Residential Tenancy Dispute Officer). The mortgagee (the Bank) paid those amounts to the condominium corporation, and then sought to collect them from the owner under the terms of the mortgage. The Bank's motion for summary judgment was dismissed (see Condo Cases Across Canada, Part 44, November 2013). The Bank appealed. The appeal was dismissed. Furthermore, the Appeal Court summarily dismissed the Bank's claim. The Appeal Court held that the Bank was not entitled to add the amounts in question to the mortgage. The Court said:

Even if the Applicant can bring further evidence to validate the legitimacy of the Noise Fine, there is no way that the Bank can rely on the Noise Fine to constitute a property claim pursuant to the Mortgage. . . . The acceleration of assessment scheme contemplated by the Bylaws is unsupported at law and cannot be relied upon for establishing a property claim existed. If the Bank was able to prove the validity of the Noise Fine, the remedy for the Condominium Corporation would be to bring an action and seek judgment, not to cause an acceleration of assessments owed.

. . . .

The Bank has had two opportunities to bring the required evidence before the Court, and has failed to establish that the Witness Fee was properly charged under section 44(a) of the Bylaws. The Bank has also failed to establish whether the charge falls within the scope of section 44(a) in terms of the purpose for which it was incurred or expended, or whether the charge falls within the scope of section 44(a) in terms of establishing the Condominium Corporation actually was charged for this expense. As such, I find the Bank has failed to satisfy its evidentiary burden on the balance of probabilities.

Ontario Case – Robinson v. York Condominium Corporation No. 365 (Ontario Human Rights Tribunal) July 18, 2014

Changes to security system did not increase electro-magnetic radiation. Owner's human rights claim dismissed

The Applicant was a resident in the high-rise condominium. She suffered from electro-magnetic sensitivity, which the Human Rights Tribunal described as a "very complex medical condition that is extremely disabling". She claimed that changes made to the building's security system had caused her suffering to increase, due to increased electro-magnetic radiation in and around her unit. She made a claim for accommodation to the Ontario Human Rights Tribunal.

The Tribunal dismissed the claim. The Tribunal said that the evidence did not indicate that the changes to the security system had increased electro-magnetic radiation in any way that could have affected the Applicant's symptoms.

continued. . .

Condo Cases Across Canada Cont'd.

Morley v. London Condominium Corporation No. 2 (Ontario Human Rights Tribunal) March 17, 2014

Condominium corporation ordered to pay \$1,000 for breach of confidentiality

The owner and condominium corporation had reached a settlement of the owner's human rights claim. In the minutes of settlement, the corporation agreed to install a new entrance ramp to the owner's unit. The settlement agreement also included a provision requiring that the settlement not be disclosed to third parties (with certain exceptions, including disclosure "required by law").

In a newsletter, the condominium corporation disclosed to all owners the fact that the condominium corporation had installed the ramp at its expense. The Tribunal said that this was a breach of the confidentiality provision in the settlement agreement and ordered the condominium corporation to pay the owner \$1,000.

[Editorial Note: In my respectful view, the Tribunal's decision fails to recognize the condominium corporation's statutory duty to account to all owners for the corporation's spending of the owners' money.]

Quebec Case – Deschenes v. Dauray (Quebec Provincial Court) May 12, 2014

No misrepresentation in relation to locker or flooding issues

The Plaintiff, Deschenes, purchased a condominium unit from the defendant Dauray. Deschenes then sued both the defendant, and the Syndicat for alleged misrepresentations made during the sale negotiations. Dauray was also a member of the Syndicat's board of directors during the negotiations. Deschenes alleged that:

- Dauray misrepresented that the unit was assigned an exclusive use locker; where, in actuality, the locker in question was only "borrowed" for use, until such time as the Syndicat required the use of the locker. The evidence was that Dauray had shown the locker to Deschenes on several occasions and had given Deschenes keys to the locker at the time of closing; and
- Dauray had also represented that, although there had been issues with flooding at the complex in the past, the Syndicat had recently undertaken renovations, and the issues were resolved.

Deschenes also argued that Dauray was acting in his capacity as a director of the Syndicat when he made these representations.

At a later date, after Deschenes moved in, he was asked to remove his items from

the locker. In addition, the Syndicat learned that the renovations which had been performed were deficient and, consequently, the Syndicat was required to levy two special assessments. As a result, Deschenes sued Dauray for lost market value of his unit and for inconvenience. He also sued Dauray and the Syndicat for recovery of the amounts paid for the special assessments.


The Plaintiff's claims were dismissed.

The Court accepted Dauray's evidence that, although he had shown the plaintiff the locker and had given the plaintiff keys to the locker, he had also told the plaintiff that the locker was "borrowed", and was not for the exclusive use of the unit. Furthermore, there was no indication in any of the written documentation that the unit included an exclusive-use locker.

The Court also found that there was no reason for Dauray to suspect, at the time of the sales negotiations, that the renovations made by the Syndicat were deficient, as they appeared to have solved the flooding problems at that time. Consequently, it could not be said that Dauray had made false representations respecting the flooding problems.

The evidence (in this particular case) also failed to show that Dauray was acting in his capacity as a board member when he made the representations regarding the building renovations. 🍁

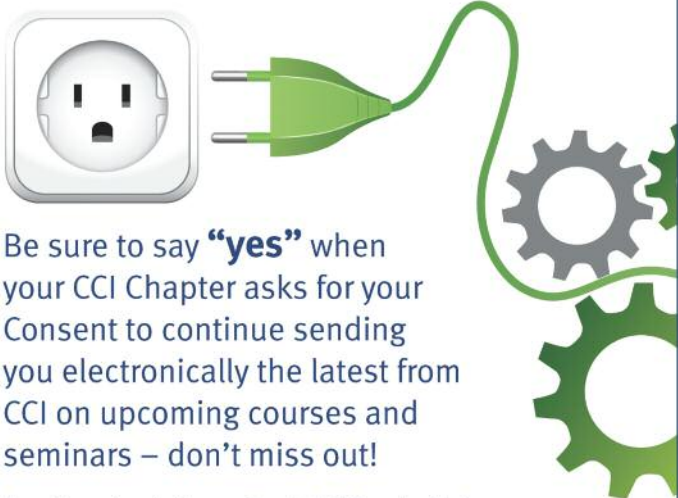
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CHAPTER CHATTER



Golden Horseshoe Chapter – Our Annual General Meeting was held on September 18, 2014 at Dundurn Castle in Hamilton. We welcome Kim Coulter, Maria Durdan and Maria Desforjes who were re-elected to the Board. We had a great turn out at the Annual General Meeting. Following the meeting there was a tour of the castle followed by a Wine and Cheese gathering.

The yearly Board Planning Session has been set for January 9, 2015 to plan their focus for 2015 and to evaluate the sub-committees that were put in place in 2014. The Committees were re-organized and chairs appointed to each Committee and they were provided with both short and long term goals. All the Committees have been accomplishing great progress.

The first Annual Conference and Trade Show in the Kitchener-Waterloo area was a great success this year. It was held at Bingeman's in Kitchener. The Trade Show area was a sell out and there were record numbers in attendance. The Conference Committee is already planning the next conference to be held at the Hamilton Convention Centre May 30, 2015.

We are excited to announce that the Communications Committee has changed the appearance of the Condo News! Quite exciting! The first edition is coming out this fall.

We have had three successful L300 courses that were held in 2014, one in Accounting, Insurance and the latest was Dispute Resolution which was sold out with excellent reviews. There is one more

Level 300 Course scheduled for the late fall in Engineering. This upcoming year the Education Committee will be scheduling three Level 300 courses. Our two Level 200 courses have been scheduled for the fall, one in Kitchener and one in Burlington.

I must say that we do have a great group of Committee Members working towards the same goal! The Golden Horseshoe Chapter has transformed itself into a very successful Chapter which is well governed and efficiently administered. Another exciting year still to come!

*Maria Desforjes, RCM, ACCI
Secretary, Golden Horseshoe Chapter*



North Saskatchewan Chapter –

There is a lot more changing in Saskatchewan right now than the colour of the leaves. In June we saw the introduction of an updated and substantially more consumer focused set of Condominium rules. The updated Condominium Property Act, 1993 and Condominium Property Regulations, 2001 came into effect on June 16, 2014. There are new estoppel requirements with the requirement to provide more information to potential purchasers including the last year of meeting minutes, new review and audit requirements, reduced time between reserve fund studies to every 5 years and mandatory insurance provisions for certain bare land condominium complexes.

We hosted our annual conference in the fall this year. On September 13 we had over 120 members

and 9 sponsors fill the conference room for a full day of condominium education. We were grateful that Catherine Benning and Sherri Hupp from Saskatchewan Department of Justice were able to join us for our fall conference to provide our members with an overview of the changes to the Act and Regulations. We also had the police department speak on noise complaints and drugs, an accountant walk us through financial reporting requirements, a very informative presentation on condominium websites and using technology to communicate with owners, and a panel of experts to speak about bare land developments and issues surrounding those developments. It was a very successful and informative day.

We held our first President's Club meeting in the spring. We had a lawyer attend to do a brief presentation on directors fiduciary liability which stimulated a great conversation. The evening was a success and we are planning our second President's Club meeting for late October focusing on the new financial reporting requirements for condominiums.

In August we met with members of the South Saskatchewan CCI Chapter and worked through the course materials from Toronto's Condominium 100 Course and got a very good start on completing a Condominium 100 course for our Saskatchewan members. We hope to roll out the Condominium 100 course in early 2015.

We are also in the process of finalizing plans for our AGM which will be held in November. Please watch our chapter notices for more information. We are asking anyone that is interested in getting involved in the North Saskatchewan CCI whether as a volunteer, or board level, please contact us to discuss the opportunity.

*Jamie Herle, President
CCI North Saskatchewan Chapter*

continued...

Chapter Chatter Cont'd.



Huron Chapter – 2014 has been a busy year for CCI Huronia and the Board of Directors has been working hard. We are growing our membership and have improved our educational programming and newsletter. We have revamped the newsletter and given it a fresh new look. We continue to deliver our newsletter to the majority of our membership in electronic format.

Our President's Club events have switched to a dinner and presentation format which have been welcomed by many participants.

Our Annual Conference was expanded to a full day event. As part of our conference programming this year we held the Great Debate between candidates running for municipal council in the upcoming election on issues that affect condominiums at the municipal level and introduced a legal panel which provided the audience with an update on recent case law. Our "Who Wants to be a Condo Millionaire" quiz game show tested the contestants knowledge on specific condominium questions and our Rapid Fire Panel returned for another season. Our Exhibitors Hall was bustling with our many exhibitors and registrants and we were all able to take a well deserved break during our wine and cheese reception. Those that stayed for dinner enjoyed a delicious meal and were entertained by a mentalist.

Our two day Director's Course was sold out in Huntsville and our recent Condo Forum in North Bay was a great success once again.

We are working on revamping and updating our website. Our new website will be launching shortly. Be sure to check it out for updated information on all our upcoming events.

continued...

How I Conquered the ACCI Exam

MICHELLE KELLY, B.COMM., LL.B., ACCI

In early 2014, with some nudging from colleagues and clients, I decided to apply for the ACCI designation. I hoped that the ACCI designation would help me distinguish myself from other lawyers and demonstrate my dedication to the industry. I wrote and passed the exam on my first attempt. In doing so, I joined an impressive group of lawyers, of which I am extremely proud to be a part.



While I had heard rumours that the exam was difficult before I wrote it, I did not fully appreciate how difficult it was until after I passed it and began to receive congratulations from people across the country, some of whom I had never met. I also learned that it was common for people to fail their first attempt. I was asked to write this article to describe the process I used to conquer the ACCI exam.

Once I decided to apply for the ACCI, I filled out the ACCI application, gathered two references, and submitted it to CCI. When I received confirmation that my application was approved, I was provided with a list of suggested reading materials and information on the exam itself. Since I had to write the exam within 60 days of my approval, I immediately began to gather the suggested reading materials. I found that most of the documents could be purchased from the CCI bookstores. When I had difficulty locating an item, I contacted the CCI administrators, who told me where to locate it.

Once I had gathered all of the materials, I had about 35 days to write the exam. Like most people, I have a busy work and family life. To be sure that I would complete reading the materials before writing the exam, I decided to make a study schedule. I was able to stick to the schedule for the most part. I studied for about 15 hours a week for the next 4 weeks. I reviewed the textbooks, guides, and Code of Ethics. I reviewed the legislation in my province (Ontario) and the case summaries prepared by Jim Davidson for CCI (Condo Cases Across Country).

I wrote the exam a couple of days after I finished studying. I had only a few days to spare before the 60 days was up! After I completed the exam I immediately received my results. I was thrilled to learn that I had passed each section of the exam.

I hope that this article encourages others to consider taking the exam. While there is no one right way to study for it, I encourage others to carefully review all of the source materials at least once before attempting the exam. Even the most experienced professional can be caught off guard by an unfamiliar case or provision in the legislation, especially if the question asks about the law in another province or territory.

Michelle Kelly is a partner at Sutherland Kelly LLP in Guelph. She assists with all aspects of condominium law, including development, management, and litigation. She acts for condominium corporations, owners, and developers throughout Ontario, with a particular focus on the Golden Horseshoe. 🍁

Chapter Chatter Cont'd.

In the next few weeks, CCI Huronia's Board of Directors will begin planning for 2015 which we anticipate will be an even better year. If you are interested in volunteering your time and expertise, CCI Huronia is looking for volunteers to help the Board achieve our goals. Contact info@cci-huron.com and let us know how you can help.

*Sonja Hodis
President, CCI Huronia Chapter*



CCI Would Like to Celebrate this Year's New ACCI Professional Members:

Maria Bartolotti

(Alberta – Property Management)

Josee Deslongchamps

(Ontario – Property Management)

Maria Durdan

(Ontario – Law)

Sandra Johnston

(Alberta – Property Management)

Michelle Kelly

(Ontario – Law)

Craig McMillan

(Ontario – Property Management)

Rick Murti

(Alberta – Law)

Karyn Sales

(Ontario – Law)

Adrian Schulz

(Manitoba – Property Management)

Alan Whyte

(Alberta – Property Management)

The ACCI is Canada's first, and only, multi-disciplinary designation for professionals in condominium. Backed by CCI's reputation, ACCIs demonstrate their competence to current and potential Members and to others in their professions. Holding an ACCI in your profession marks you as a leader and helps you stand out. 🍁

UPCOMING EVENTS

Golden Horseshoe:

October 18 & 25 – Level 200 Course (Burlington)

November 29 – Level 300 Engineering (Milton)

Huron Chapter:

October 6 – President's Club – The Condo Corporation vs Winter Weather

Manitoba Chapter:

November 20 – Luncheon – Amending Declarations/Bylaws/Rules & Regulations

January 22/2015 – Luncheon – Help Me, I'm a Condo Director

North Alberta Chapter:

October 9 – Luncheon – Winterizing Your Condominium

October 16 – Condo 101

November 5 – AGM

November 13 – Luncheon – Investment Options for Condo Corporations

November 15 & 16 – Condominium Management 101

November 19 – Seminar – FAQ on Insurance

November 20 – Condo 101

January 8/2015 – Luncheon – Making Your Condominium More Saleable

January 21/2015 – Seminar – Condo Communications

January 24 & 25 – Condominium Management 100

Northwestern Ontario Chapter:

October 4 – Condo Cases In Review – What Every Condo Owner Needs to Know

Nova Scotia Chapter:

October – CM 100 – Fundamentals Management Principles

Ottawa Chapter:

October 22 – AGM & Seminar – Reading and Understanding Your Condo's Financial Statements

November 29-30 – Fall 2014 Condo Directors Course

South Alberta Chapter:

October 23 – Condo Management 101

October 28 – Luncheon

November 22 – Condo Management 100

November 25 – Luncheon

January 27/2015 – Luncheon

South Saskatchewan Chapter:

October 28 – Bare Land Condominium – What You Need to Know

November 15 – Annual Fall Conference & AGM

New Date! - New Location!
New Format!

★ **Reception** ★
Business Meeting
& Awards Celebration! ★

**CCI NATIONAL 2014 ANNUAL
GENERAL MEETING**

Date: Wednesday, November 5, 2014

Time: 5:00 pm – 7:00 pm

Location: Courtyard by Marriott
Downtown Toronto
475 Yonge Street, Toronto, ON



Full information at www.cci.ca

Upcoming Events Cont'd.

Toronto & Area Chapter:

October 8 – Condo Course 102

October 22 – AGM

October 29 – Seminar – There are No Stupid Questions!

November 7-8 – Annual ACMO/CCI-T Condo Conference

November 11, 18, 25, December 2 – Condo Course 200

November 20 – Seminar – Electrical Vehicles in Condos

Vancouver Chapter:

October 14 – Insurance Seminar

November 29 – Seminar: Strata Property Act – 15 Years Later

January 13/2015 – Seminar: Council Meetings

February 7/2015 – Seminar: Contracts for Major Project; Selecting a Contractor

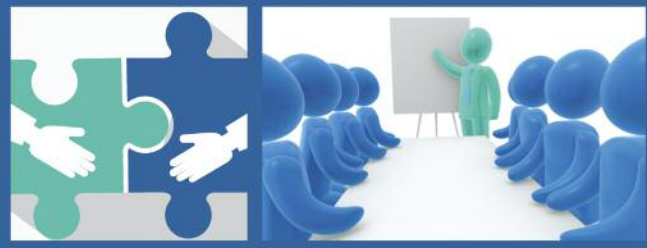
This is just a snapshot of all the great events being held across the country...to register for any of these or see more fabulous educational offerings, please contact your local chapter.

For more information on more upcoming events in your area, please visit the chapter website.

2014

LEADERS' FORUM

NOVEMBER 5-6, 2014
TORONTO, ONTARIO



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BY CHAPTERS FOR CHAPTERS

NEW DATES ** NEW LOCATION ** NEW FORMAT
Courtyard by Marriott Downtown Toronto | 475 Yonge Street, Toronto

DON'T MISS THE 2014 FALL LEADERS' FORUM

**Invitation to all CCI Chapter Board
Members & Chapter Volunteers:**

TWO DAYS OF

- ▶ Education Sessions on Best Practices for Your Chapter
- ▶ Networking and Group Round Table Discussions Sharing Information Among 16 CCI Chapters from Coast to Coast
- ▶ Formal Business Meetings
- ▶ ... and much more!

For more information, the complete program details may be found on the CCI National Website, www.cci.ca

‘...the goal of mediation is not to reach settlement but rather to generate options.’

of a mediation can only be achieved with the agreement of the participants.

Part of what allows for the sharing of information, exchange of ideas and brainstorming of options that take place in the course of mediation is the fact that participants cannot be held to anything against their will. This is where mediation stands out in comparison to arbitration or litigation, as a resolution of the dispute cannot be imposed.

While mediators are usually neutral and withhold opinions or judgements, even in instances where a mediator provides an evaluation of the dispute such is not binding upon the parties as they remain free to address the conflict as they like.

3. **Mediation offers no guarantees.** While rates of settlement are often utilized to encourage parties to mediate or promote the capabilities of a mediator, as the outcome of a mediation is ultimately controlled by the participants, there can be no certainty going in that a resolution will be reached.

While mediation offers no guarantees, it can add value even when the conflict is not ultimately resolved at mediation. A greater understanding of the perspective of the other side and the chance to narrow issues or establish an interaction plan can go a long way in

saving the additional cost and time that will be required to see the matter through to its conclusion.

I adamantly believe – and have told parties in mediations which I have facilitated – that the goal of mediation is not to reach settlement but rather to generate options. It is then up to the parties to consider their options against their other potential courses of action to address the conflict. If all in conflict agree that an option presented is their most appealing choice, settlement is appropriate. That being said, I also believe that mediation “fails” if settlement is reached with a party finding that an option other than settlement is more appealing. For that reason, it is helpful for parties to prepare for mediation by understanding how else they can address the conflict and reflecting upon how appealing such options are. This best equips one to seize the mediation opportunity and make an informed decision as to what is in their best interest.

The concept of mediation can be confusing, in part because it is a flexible process and also because description of the process can seem contradictory – mediation is an informal discussion that takes place in a formal setting; it can save you time and money, yet has the potential to add cost and delay to the resolution of your dispute; it is a party-driven process facilitated by some-

one who may interrupt you, guide what happens and otherwise control the process, and so on. What is clear, however, is that mediation presents opportunity. It presents an opportunity for those engaged in conflict to have a say in how the dispute is resolved; to save the cost, time and uncertainty of having someone else impose a decision; and the potential to provide insight, understanding and collaboration to think outside the box, examine creative options and improve the ongoing and future interactions. It is up to the parties to seize the opportunity, with the help of the mediator, and to try to make the most of it.

[1] Disclosures of imminent criminal activity or the genuine threat of harm to individuals are typically exempted from confidentiality provisions in mediation agreements out of public interest and to maintain the ethical integrity of participants.

This article is re-printed with permission from the CCI Toronto & Area Chapter as it originally appeared in the Summer 2014 issue of the CondoVoice magazine. ■



Ask the Pros

Authored by the Editors

Perhaps the biggest challenge for most condo directors is finding answers to the countless questions and challenges that are thrown our way. I know: I'm a condo director myself. Thankfully, we have our fellow directors to consult and bounce ideas of one another. But, let's face it, there is nothing like getting the advice from a professional. In fact, the *Condominium Act* provides directors with legislated protection if you relied on expert advice.

For this reason, we have decided to revive the "Ask a Pro" section. Here, you will be able to write your questions and get answers from the pros. Whether you have a question for a property manager, a lawyer, an accountant, an engineer or an electrician, let us find the answer for you. Feel free to also send your questions to our LinkedIn page (Canadian Condominium Institute - Ottawa and Area Chapter), to our Twitter account (@CClinOttawa) or to our email address: cciottawa@cci.ca

Q: How does a board of directors update their condominium's rules? Do owners need to vote on new rules?

A: It is not mandatory for owners to vote on a new rule, except for a rule that has been previously amended or repealed in the past two years. Owners can vote on a new rule if there is a requisition meeting requested by an owner to consider and vote on the rule. Otherwise a proposed rule will be in effect thirty days after the board gives notice of the new rule in accordance with the *Condominium Act*, 1998 (the "Act").

If the board determines that it is in the best interests of the condominium corporation to introduce a new rule, here are some of the steps that should be taken:

- Prepare a draft of the proposed rule(s), preferably in consultation with the condominium corporation's lawyer to ensure that it will be in compliance with s. 58 of the Act and to ensure that it will not be inconsistent with the Act or the condominium's Declaration or By-Laws.
- Consider the proposed draft rule at a duly called board meeting. If the rule is specific to address a particular problem at the condominium, the board could consider including a discussion at the meeting, to be documented in the board meeting minutes, to explain why the board feels that this rule is reasonable and why it is being introduced. This step could be of assistance down the road if the rule were to be challenged as being unreasonable.
- The board approves the proposed rule by resolution at the meeting
- Notice of the proposed rule must be given to owners in accordance with the requirements of the Act. The rule will become effective thirty days after the notice was given (or a later date chosen by the board), unless the board receive a requisition within those thirty days, for a meeting to consider the proposed rule. If a requisition is received, the rule becomes effective if the owners approve it at the requisitioned meeting of owners.

This process applies for any amendment or repeal of a rule as well.

If your corporation is currently relying on rules that were introduced by the declarant, and attached to By-Law No.1, then the board should consider whether any of the proposed new rules would be inconsistent with those existing rules. If so, then there are options to consider, including reintroducing the entire set of rules first under s. 58, along with any new rules, and then passing a By-Law to repeal the rules attached to By-Law No. 1.

Answered by Kristen Bailey Lawyer 613-231-8327



CCI Ottawa would like to present our upcoming educational seminars/events for the upcoming year. Please visit our website for details and registration information at www.cci.ca/ottawa



NOVEMBER

CCI OTTAWA AGM Plus Free Seminar on “Reading & Understanding Your Condo’s Financial Statements”

November 24th, 6:30 p.m.

Nepean Sportsplex , Capones Ballroom, Entrance 4
1701 Woodroffe Avenue, Nepean ON, K2G 1W2

NOVEMBER

Fall 2014 Condominium Directors’ Course

November 29 & 30, 2014

9:00 a.m. - 4:00 p.m.

Hellenic Centre

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NOTICE OF ANNUAL GENERAL MEETING

Please Note New Date and Venue:

Monday, November 24, 2014 at 6:30 pm

**Nepean Sportsplex, Capones Ballroom, Entrance 4,
1701 Woodroffe Avenue, Nepean ON, K2G 1W2**



Members are encouraged to join us at the 2014 AGM to learn more about the exciting initiatives the CCI-Ottawa Chapter has undertaken during the past year. The election for the 2014/15 Board of Directors also takes place at the AGM giving members the opportunity to participate in this important process. The Call For Nominations is included with this notice – this is an excellent opportunity for members to become more involved with our vibrant chapter.

Following the AGM, a special complimentary session for attendees will take place on...

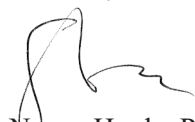
“Reading & Understanding Your Condo’s Financial Statements”

Led by Chapter Treasurer, Stephanie Courneyea, CGA

This inter-active session will include an overview on understanding the Statement of Financial Position, Balance Sheet, Looking for red flags on the Statement of Operations, and Interpreting financial results, followed by a Q&A session.

The Board of Directors of the CCI-Ottawa Chapter thank you in advance for your continued support, and look forward to seeing you on November 24th.

Sincerely,



Nancy Houle, President

On behalf of the CCI-Ottawa Board of Directors

CONFIRMATION OF ATTENDANCE

- ☐ Yes, I will be attending the seminar on Reading & Understanding Your Condo’s Financial Statements
☐ No, I will not be attending the seminar on Reading & Understanding Your Condo’s Financial Statements

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CCI Ottawa Chapter
PO Box 32001, 1386 Richmond Rd., Ottawa, ON K2B 1A1

The CCI Ottawa Chapter Fall 2014 Condominium Directors' Course



Saturday November 29, 2014 9:00 am - 4:00 pm & Sunday November 30, 2014 9:00 am - 4:00 pm
Hellenic Meeting and Reception Centre, 1315 Prince of Wales Drive Ottawa Ontario

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4. Accounting and Finance
5. Property Managers/Effective Directors
6. Experts Panel – Question Forum

For more detailed information, please visit the Chapter website at:
www.cci.ca/ottawa/NEWS/EVENTS

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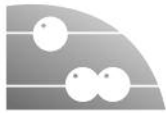
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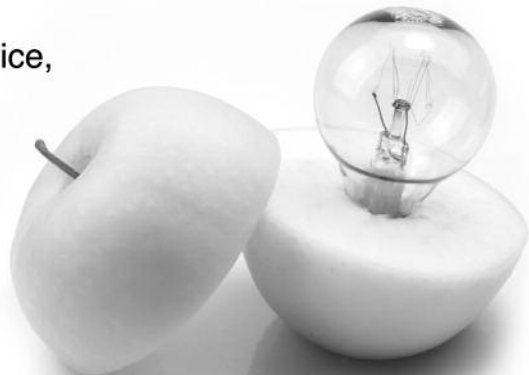
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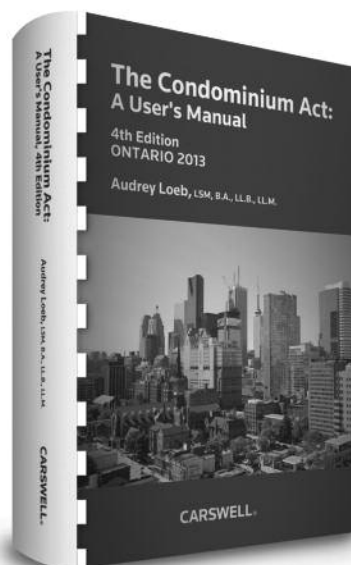
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