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### **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.

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**ARTICLES MAY BE FORWARDED TO:**

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## MESSAGE FROM THE EDITORS



**Tim Kennedy**



**Rod Escayola**

It has been a very long, cold winter. Just as I was beginning to wonder if warm weather would ever return – Spring has finally arrived! Rest assured CCI has not been hibernating. As we trade our boots and shovels for sandals and golf clubs, I would encourage you to take some time and enjoy this newsletter, perhaps while enjoying a coffee on an outdoor patio.

In this issue you will find an article on pets and another on communication. We have also included dates and information for some upcoming events, such as *Living Well in a Condominium – What every Condo Owner Needs to Know* and the CCI/ACMO Conference being held here in Ottawa May 30, 2014 at Ottawa Conference and Event Centre.

Enjoy the sunshine!

Once again, we want to thank Maria for her assistance in preparing our Chapter's newsletter.

Tim and Rod

*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.*

## MOT DES ÉDITEURS

Ce fut un hiver long et froid. Au moment où je commençais à me demander si le temps chaud reviendrait- le printemps est enfin arrivé! Soyez assuré que l'ICC n'était pas en hibernation. Comme nous échangeons nos bottes et nos pelles pour des sandales et des bâtons de golf, je vous encourage à prendre le temps de profiter de ce bulletin d'information, peut-être tout en dégustant un café sur une terrasse extérieure.

Dans ce numéro, vous trouverez un article sur les animaux et un autre sur la communication. Nous avons également inclus les dates et les informations pour certains événements à venir, tels que *Bien vivre dans un condominium – ce que chaque propriétaire devrait savoir* et la Conférence ACMO/ICC qui se tiendra à Ottawa le 30 mai 2014 au Ottawa Conference and Event Centre.

Profitez du soleil !

Nous tenons à remercier Maria pour son aide avec la préparation du bulletin d'information de notre chapitre.

Tim et Rod

*Tim Kennedy est un associé du cabinet d'avocats Vincent Dagenais Gibson LLP / s.r.l.*

*Rod Escayola est un associé du cabinet d'avocats Gowlings à Ottawa.*

**INTERESTED IN WRITING AN ARTICLE?  
SEE DETAILS ON PAGE 7.**

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# P R E S I D E N T ' S M E S S A G E



Spring has finally sprung! Although Ottawa is a terrific place to spend the winter, with lots of skiing and skating, it is also a beautiful location to watch the trees bud, and flowers bloom! Inspired by nature, your CCI-Ottawa Chapter is also blooming, this spring, with new and exciting ideas and ventures.

I am pleased to advise that our chapter website [www.cci/ottawa](http://www.cci/ottawa) is being updated to provide an easier, and more user friendly platform, with plenty of new information and resources. The website is, and will be,

updated regularly with a summary of all educational events and local opportunities. Our Spring Director's Course is, once again, sold out, with registration for the fall session already filling up quickly! We have included additional seminars tailored to provide you with the information and resources you need.

This year, in August, we are bringing back the CCI Ottawa social event of the season: Cruising the Ottawa River. We look forward to local members, and perhaps new members, joining us on a boat cruise on the Ottawa River. It is a great opportunity to interact and network with other members of the condominium community, and enjoy the evening on a boat with food, drink and music.

On May 30, 2014, CCI Ottawa and ACMO will be holding the second annual condominium conference. It is anticipated that there will be more than double the number of attendees and exhibitors. Again, this is a great opportunity for education, marketing, and mingling. We hope to see many of you there. [For more information, please visit the CCI or ACMO websites.]

As membership renewal time is upon us, I also take this opportunity to highlight an important returning member benefit – our Professional Services and Business Partners Directory. This publication is a handy guide to finding the service providers you need for your condominium. For professional and business partners, it is an excellent opportunity to get your message out to the Ottawa membership. Look for it in the mail with your renewal. Remember, you can only receive the Directory or advertise in it if you are a member.

As you can see there is a great deal happening in our Chapter, but none of it would be possible without our condominium community. We look forward to you seeing you, or meeting you, at one or more of our upcoming events. Don't forget to stop and smell the tulips!

Sincerely,

Nancy Houle  
President-CCI-Ottawa

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## M O T D E L A P R É S I D E N T E



Le printemps est finalement arrivé! La ville d'Ottawa est une ville exceptionnelle pour passer l'hiver : on peut y faire du ski ou du patin sur glace. Mais rien ne se compare à la beauté qu'Ottawa projette lorsqu'elle met son manteau de printemps et se pare de fleurs. Inspiré par la nature, votre branche de CCI-Ottawa est aussi en pleine floraison ce printemps avec de nouvelles idées.

Je suis heureuse de vous informer que nous sommes à mettre à jour le site web de notre branche. Venez voir notre nouvelle image en visitant le [www.cci/ottawa](http://www.cci/ottawa). Ce nouveau site sera plus facile d'utilisation et présentera une vaste gamme de nouvelles informations et ressources. Le site web sera régulièrement mis à jour avec un bilan de tous les événements à venir pour la communauté.

Notre cours du printemps pour les administrateurs (le « Spring Director's course ») est déjà à pleine capacité et nous avons déjà beaucoup d'inscription à la session d'automne! Nous avons donc inclus des sessions supplémentaires pour vous fournir les informations et les ressources dont vous aurez besoin.

Cette année, au mois d'août, CCI-Ottawa tiendra son événement phare: la croisière sur la rivière des Outaouais. Nous espérons y voir beaucoup de nos membres locaux ainsi que de nouveaux membres. Ce sera une excellente occasion de dialoguer et de rencontrer les autres membres de la communauté. Venez profiter de la soirée, en bonne compagnie, avec nourriture, rafraichissements et musique. Le 30 mai, 2014, CCI Ottawa et ACMO tiendront leur deuxième conférence annuelle sur les condominiums. Nous nous attendons à ce que le nombre de participants et d'exposant soient plus du double de l'année passée. Il s'agira d'une occasion excellente pour se garder à jour et faire du réseautage. Nous espérons vous voir en grand nombre. [Pour de plus amples informations, veuillez visiter le site web de CCI-Ottawa ou d'ACMO]

Avec le printemps arrive aussi le temps du renouvellement de votre membership. J'en profite donc pour souligner un des nombreux avantages offert aux membre de CCI-Ottawa : - notre répertoire de services professionnels et d'associés d'entreprise. Cette publication est un guide pratique qui vous aidera à retrouver les fournisseurs de services qui pourraient vous rendre service. Pour les professionnels et les associés d'entreprise, il s'agit d'une excellente occasion de communiquer avec les autres membres de la communauté. Vous trouverez ce guide dans votre courriel de renouvellement. Souvenez-vous que vous pouvez uniquement recevoir le répertoire et y faire de la publicité que si vous êtes membre.

Comme vous pouvez le constater, il se passe beaucoup de nouvelles choses au sein de notre branche et c'est grâce à notre communauté. Nous espérons vous voir en grand nombre aux réunions et à plusieurs de nos événements. N'oubliez surtout pas de prendre le temps d'arrêter et de sentir les tulipes!

Chaleureusement,

Nancy Houle  
President-CCI-Ottawa



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09:00	Opening/Welcoming Remarks	13:00	Insurance – To claim or not to claim
09:15	Condo Act Update and Licensing Managers	13:45	Break with Exhibitors
10:00	Break with Exhibitors	14:00	Dealing with Bed Bugs
10:15	Hoarding – When is it a problem?	14:45	Coffee Break with Exhibitors
11:00	Coffee Break with Exhibitors	15:00	Legal Panel
11:15	Canadian Revenue Agency and Taxation of Condos	15:45	Closing Remarks

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Refunds will be provided for cancelled registrations where a minimum of 72 hours advance notice is provided to ACMO

# Barking Dogs Can Also Bite:

## Condo Corps may be on the hook for Dog Attacks on Common Property

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Rod Escayola – Lawyer, head of the Condominium Law Group at Gowlings' Ottawa office



In most cases, cohabitation between condominium residents and “a man’s best friend” go without a hitch. Society has accepted that pets form part of many families and owners are, for the most part, responsible and respectful of their neighbours. To assist with this peaceful cohabitation, many condominiums have put in place various restrictions on dog ownership and have adopted rules dealing with dog etiquette in units or on common property. Some condominiums prohibit dogs all together, while others put restrictions on the number, size or weight of dogs. In most (if not in all cases), condominiums also have rules to deal with dogs that become a nuisance.

Still there is no shortage of reported legal cases where pets and condominium corporations are adversaries. Many cases deal with barking dogs that become a nuisance, but there is an increasing number of cases dealing with dog attacks on common property. A recent decision confirmed that when

such attacks occur, the victim can claim from *both* the dog owner and the condominium corporation.

### **The liability of a dog owner**

In Ontario, the *Dog Owners’ Liability Act* imposes on dog owners what is called “strict liability”. Section 2 of this Act could not be clearer: “The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal”. When there is more than one owner, they are all jointly and severally liable.

Strict liability means that the dog owner will be held responsible for damages resulting from the attack by his or her dog even if the owner is not at fault. All that the victim of the attack has to demonstrate is that this specific dog attacked him/her (or his/her domestic animal), and that this other specific person is the owner of the attacking dog. The fact that the owner had no knowledge of the dog’s propensity to

attack will not reduce the owner's responsibility. You are the owner: you are responsible for the damage it causes in the context of an attack – period.

Having stated this, the damages (money) to be awarded may be reduced by a court if the victim of the attack contributed to their loss by their own fault or negligence. For example, a court may reduce the amount of money to be awarded if the victim of the attack provoked the dog, or if he/she failed to take reasonable precautions to avoid the attack or injuries.

It is also interesting to note that the person who gets attacked while committing a criminal act (or with the intent of committing a criminal act) will not benefit from the protection of this Act – unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of the persons or property.

If a court concludes that a dog has bitten or attacked a person or a domestic animal, or if the court concludes that the dog's behaviour is such that the dog is a menace to the safety of people or of other domestic animals, a court may order the elimination of the dog or may impose specific control measures on the dog (such as confining the dog to the owner's property, restraining the dog with a leash or muzzle or posting warning signs). In some cases, the courts can order that the dog be neutered or spayed and can even prohibit a specific owner from owning a dog for a defined period of time.

### **The Liability of a Condominium Corporation**

The first part of this article dealt with the liability as imposed on the dog and the owner of the dog. However, as indicated in the introduction, a condominium corporation may also be on the hook when a dog attacks while on common property. The corporation's liability is triggered by the *Occupiers' Liability Act*.

In a nutshell, the "occupier" of premises owes a duty to take reasonable steps to ensure that persons entering on the property are reasonably safe while on the premises. The definition of an "occupier" includes:

- The person in physical possession of the premises;
- The person who has the responsibility for, and the control over, the conditions of premises;
- The person who controls the activities carried on the property or the persons allowed to enter the premises.

It is worth mentioning, at the outset, that section 26 of the *Condominium Act*, confirms that for the purpose of determining liability under the *Occupiers' Liability Act*, it is the condominium corporation (and not the individual owners) who is deemed to be the "occupier" of the common elements. That is to say that it is the corporation who has the legal obligations to ensure that the property is reasonably safe

for its visitors. This makes sense since, while all owners "own" the common elements, it is the corporation who is in the best position to control the conditions of the premises and to control the activities and the individuals allowed on common property.

It is also interesting to note that the *Occupiers' Liability Act* does not protect individuals who are committing or who intend on committing a criminal act. In fact, it does not protect individuals who are trespassing or individuals who have willingly assumed certain risk. Posting a sign that there is a dangerous dog and that trespassers do so at their own risk, may therefore reduce the risk of an occupier under this Act – the trespasser having assumed the risk.

All this to say that, pursuant to the *Occupiers' Liability Act*, a corporation could be found liable for damages resulting from a dog attack on common elements if the corporation has failed to take reasonable steps to ensure the safety of other individuals on the property.

This was recently confirmed in the decision of *Elbaum v. York Condominium Corp. No. 67*. In this case, a 89 year old condominium owner was seriously injured when she was attacked by an unleashed dog while she was walking on the common elements of the condominium corporation. She sued the dog owner pursuant to the *Dog Owners' Liability Act*, but also sued the condominium corporation for negligence pursuant to the *Occupiers' Liability Act*. At the time of drafting this article, the court had not yet ruled on the merits of the case (i.e. on whether the defendants were responsible or what damages should be awarded). The reported decision strictly dealt, for the time being, with whether the victim of a dog attack can also sue a condominium corporation if the attack took place on common property. And the answer is yes.

### **So, what is a corporation to do to protect itself?**

As indicated above, the level of responsibility to be applied to a dog owner is different from that to be imposed on a condominium corporation. In the case of the dog owner, strict liability applies (that is to say that the responsibility is triggered strictly on the basis of ownership of the dog). In the case of a corporation, however, a judge will have to determine whether the corporation has taken all reasonable steps to ensure the safety of the individuals entering the common elements.

Such reasonable steps to be taken by the corporation could include adopting and enforcing rules with respect to dog ownership. Such rules could limit the size or weight of dogs, or impose on owners the obligation to always have their dogs on a leash while on common property. The corporation should also always take seriously and act on any complaints dealing with dog misbehaviour or dealing with breaches of a dog-related rule. Certainly, the corporation should act at once



when it is dealing with a dog it knows is dangerous or has a propensity to attack.

It is to be noted that “the jury is still out” on whether a corporation can adopt a blanket rule prohibiting *all* pets. A board may make rules promoting the safety, security or welfare of the owners and may make rules preventing unreasonable interference with the use and enjoyment of the common elements and units. However, the rules must be reasonable and consistent with the *Condominium Act*, with the declaration and with the by-laws.

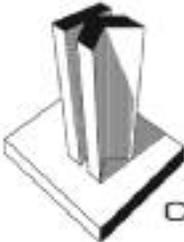
There are cases where judges question whether it is “reasonable” to promote the safety, security or welfare of the

owners by prohibiting all pets. “How dangerous can a single goldfish be?”, asked a judge of the Superior Court of Justice in a Niagara Condominium case. Others also question whether a dog’s weight should be the sole determining factor in determining its hazardousness. Remember that part of the test for a court to enforce a rule is whether the rule is reasonable.

It has generally been accepted that a pet prohibition in the declaration may be easier to enforce than the same prohibition found in the corporation’s rules.

Finally, it may be worth reminding readers that, in addition to the restrictions presently found in the corporation’s rules and declaration, owners have to abide by other regulation. The province of Ontario, for instance, prohibits the ownership, breeding, training, transfer, sale or gift of pit bulls (with some exceptions). As for the city of Ottawa, it has its own *Animal Care and Control By-law*, prohibiting the ownership of more than 3 dogs within the city’s limits.

As always, an ounce of prevention is worth a pound of cure. Corporations should review their declaration, by-law and rules and should actively take steps to remind their residents of their obligations in this respect. Corporations should also consider revising or adopting new rules dealing with pets to pro-actively deal with these matters and minimize the risk to the corporation and to the owners.



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# C.C.I. – Calm Clear and Informed Effective Communication

Tim Kennedy – Vincent Dagenais Gibson LLP



One of the most common issues that are raised by lawyers, Condominium Corporations and Property Managers is that of communication. We live in a time where mobile devices, such as I-pads, I-phones and email enable individuals to be accessible twenty-four hours a day, seven days a week. We are becoming a society that is coming to expect immediate responses at all hours of the day. It would be easy to conclude that communication would not or should not be an issue.

It is and always will be an issue. The ability to “reach out and touch someone” does not equal effective and clear communication. One only need consult the vast number of articles written on communication to understand that leaving a message, writing a letter or sending an email, does not mean that a message has been effectively communicated to the other party.

Many conflicts within condominiums are not about what was or was not done, but are about how people communicate. It has been this author’s experience that the use of email as a means of communication can be of great assistance but it can also result in misunderstandings. Emails might be received or not, they may be viewed and responded to on a mobile device that does always allow for a complete well thought-out response. One of the shortcomings of email is that they can be sent quickly and easily oftentimes without a clear message and responses can be anywhere from instantaneous to days.

Sometimes good communication requires a conversation – by telephone or God forbid, face to face. Sometimes a meeting to resolve a problem can be far more efficient and far more effective than an endless chain of emails.

One issue that is unique to Condominium Corporations is the fact that Boards and Property Managers often meet on a monthly basis. When a Property Manager or Board Member received a complaint or an issue is raised by a unit owner or another party via email, the common response is an acknowledgement of that communication and something along the lines of “I will ensure that it is brought to the attention of the Board and we will respond to you in short order”. However, the unit owner may not be aware that it may be 30 days or 15 days before a response is received because the matter will not be addressed until the next meeting of the Board. This often results in irate unit owners that come to the conclusion that the Board or Property Manager is not being responsive to their requests.

Here are a few points to encourage effective communication:

## **C.C.I.**

**CALM** – Be calm. If you are upset because something has or has not happened, take some time to cool-off.

**CLEAR** – Be clear. What is the issue? What do you want to happen? Don’t ramble or get side tracked and run off on tangents or other issues. Try to be focused.

**INFORMED** – Be informed. Understand that a condominium is a different world. Some things cannot be accomplished the same way they are in the business world. Understand that some things take time to resolve, so you may not have a fast resolution. Understand that some things are not always governed by common sense. The *Condominium Act*, your declaration, bylaws and rules may dictate a result.

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MEMBERSHIP TO JUNE 30, 2014

How/from whom did you hear about CCI?: \_\_\_\_\_

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Management Company: \_\_\_\_\_ Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_ Suite #: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

Condo Corporation Address: \_\_\_\_\_ Suite #: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

President: \_\_\_\_\_

Treasurer: *Name* \_\_\_\_\_ *Address/Suite* \_\_\_\_\_ *Email* \_\_\_\_\_

Director: *Name* \_\_\_\_\_ *Address/Suite* \_\_\_\_\_ *Email* \_\_\_\_\_

Director: *Name* \_\_\_\_\_ *Address/Suite* \_\_\_\_\_ *Email* \_\_\_\_\_

Director: *Name* \_\_\_\_\_ *Address/Suite* \_\_\_\_\_ *Email* \_\_\_\_\_

Please forward all correspondence to:  Management Company address  Condo Corporation address

Fee:  1-49 Units ..... \$130.00 + 16.90 HST = \$146.90

150-249 Units ..... \$195.00 + 25.35 HST = \$220.35

50-149 Units ..... \$170.00 + 22.10 HST = \$192.10

250 + Units ..... \$210.00 + \$27.30 HST = \$237.30

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Full Year Fee:  \$220.00 + 28.60 HST = \$248.60

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## ■ INDIVIDUAL CONDOMINIUM RESIDENT MEMBERSHIP

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Address: \_\_\_\_\_ Suite #: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

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For more information, please contact Maria Medoro at the CCI Ottawa Chapter Office at 1-866-491-6216 x111 or [cciottawa@cci.ca](mailto:cciottawa@cci.ca).

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# Upcoming 2014 Events

## Condo Queries

June 2014

## CCI Ottawa Boat Cruise

August 2014

## Why you should attend your AGM

September

Also, on **November 29-30, 2014**, we will have our **Fall Directors Course**.

The best place to educate new Directors, as well as refresh your own knowledge if you are a long-serving Condo Director, this course has become THE source of education for those involved in condominium in the Ottawa region. Always a sell-out, so make sure you reserve your spot early!

**For more information and to register for any of these events, please visit the CCI Ottawa website at:**  
<http://www.cci.ca/ottawa/NEWS-EVENTS/events.asp>

CCI-Ottawa Chapter

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# The CCI Ottawa Chapter

## Living Well in A Condominium – What Every Condo Owner Needs to Know



**Tuesday May 27, 2014 • 7:00pm**

**Hellenic Meeting and Reception Centre, 1315 Prince of Wales Drive, Ottawa, Ontario (Adonis Room)**

### FEATURE PRESENTATION

### LIVING WELL IN A CONDOMINIUM

### WHAT EVERY CONDO OWNER NEEDS TO KNOW

This is a “must attend” session for every condo owner or prospective condominium purchaser! After attending this session attendees will have a better idea of the rules of the condo and more importantly why those rules are in place. You will gain an understanding not only of the roles of the manager and the board but also about your role as an owner.

**Steve Laviolette, P.Eng.**

Laviolette Building Engineering Inc.

Mr. Laviolette is the senior partner of Laviolette Building Engineering Inc. (“Laviolette”), a firm which performs a wide range of architectural, structural and civil engineering services for commercial and residential clients. Laviolette has particular specialties in post-construction Building Envelope Engineering and providing engineering services to condominium clients. Services for condominiums include Performance Audits, Reserve Fund Studies, building condition and performance investigations, and the remedial design and inspection of property element repairs and replacements.

**Christy Allen, B. Comm, LL.B**

Nelligan O’Brien Payn

Christy Allen is an associate lawyer at Nelligan O’Brien Payne, and a member of the Condominium Law Practice Group. She provides a full range of corporate and litigation services to condominium directors, managers, owners, and insurers. She also represents co-tenancy associations, and gives advice with respect to co-tenancies’ governing documents.

**Seating is limited, so be sure to register soon!**

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### RESERVATIONS A MUST!

**Avoid Disappointment – Register Today!**

#### REGISTRATION FORM

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Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_

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#### Course Registration Fee

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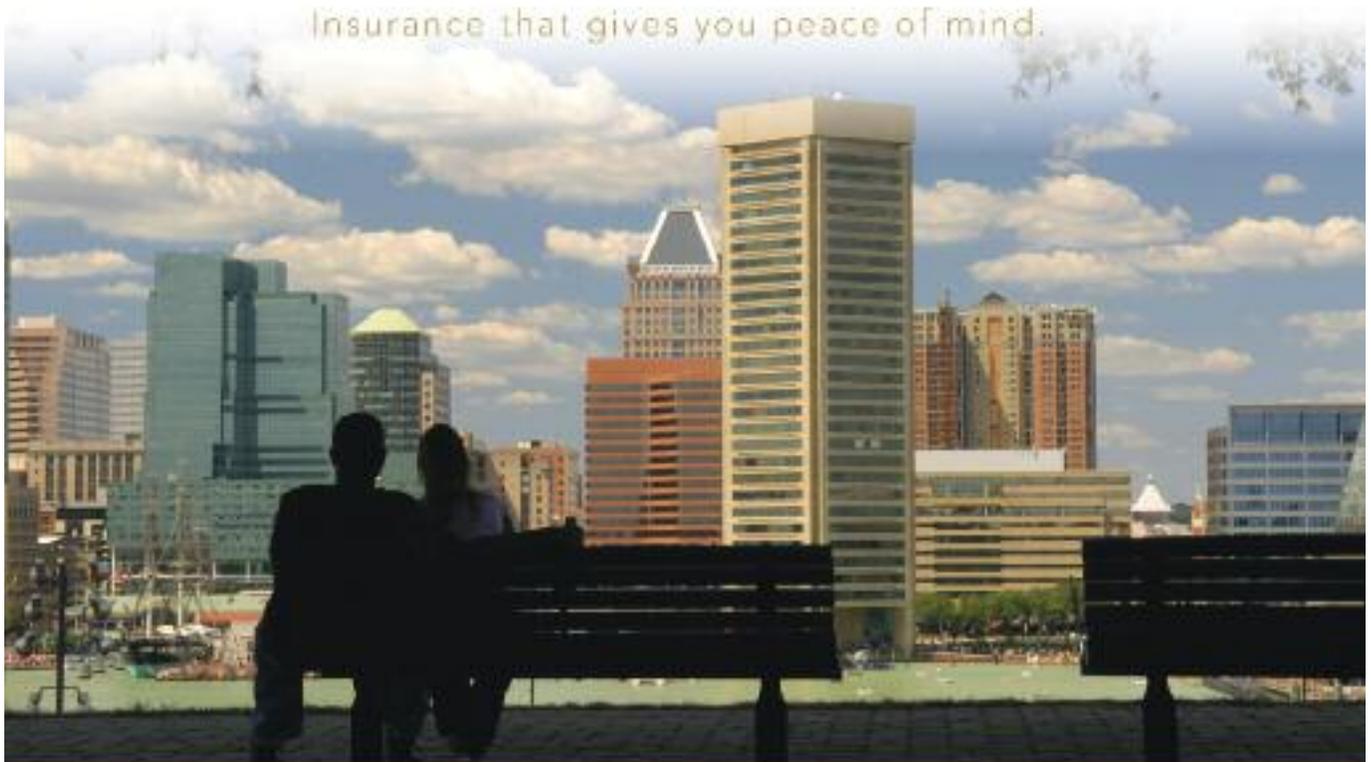


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