

SUMMER 2013

# CONDO CONTACT

## Condominium's Role

IN MANAGING ASBESTOS AND  
DESIGNATED SUBSTANCES

## Practical Tips

ON HOW TO BE A GREAT  
CONDOMINIUM DIRECTOR

## THE NEED FOR A DISPUTE RESOLUTION BY-LAW

FOR ONTARIO CONDOMINIUM  
CORPORATIONS





## Representing **condos** throughout Eastern Ontario

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

- interpretation and application of the *Condominium Act, 1998*
- interpretation, application and enforcement of the corporation's declaration, by-laws and rules
- claims under the *Ontario New Home Warranties Plan Act* (Tarion)
- construction deficiency claims
- general corporate guidance.

nelligan | o'brien | payne

Lawyers/Patent and Trademark Agents  
Avocats/Agents de brevets et de marques de commerce

For more information contact us today.

**613-231-8342**   **nelligan.ca**



## 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

**Operations Manager**  
Alison Nash

This publication attempts to provide the CCI Ottawa Chapter membership with information on condominium issues. Authors are responsible for their expressed opinions and for the authenticity of all presented facts in articles. The CCI Ottawa Chapter does not necessarily endorse or approve statements of fact or opinions made in this publication and assumes no responsibility for these statements.

This publication also notifies members of the Ottawa Chapter of events and services. The products and services advertised are not necessarily endorsed by the Ottawa Chapter. Readers should conduct their own review of the products and services and seek legal and other professional advice on the particular issues which concern them.

Permission to reprint is hereby granted provided:

**1)** Notice is given by phone 1-866-491-6216 and/or in writing to the CCI Ottawa Chapter; and

**2)** Proper credit is given as follows:  
Reprinted from *Condo Contact*.  
Copyright by Ottawa Chapter of the Canadian Condominium Institute.

# Contents

Summer 2013

## 4 Editor's Message

By Nancy Houle

## 5 President's Message

By John Peart

## 6 Condominium's Role in Managing Asbestos and Designated Substances

By Shawn Doherty

## 10 Practical Tips on How to be a Great Condominium Director

By Maria Finoro

## 13 The Need for a Dispute Resolution By-Law for Ontario Condominium Corporations

By Jack Springer

## 15 CCI-O/ACMO Conference

By Andree Ball

### 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

## EDITOR'S MESSAGE



The flowers are in full bloom, the sun is shining, and the Canada Day festivities have come and gone in our Nation's Capital. All signs of a fun summer ahead.

While the summer is a great time to catch up with friends, family and enjoy a bit of relaxation, for CCI Ottawa, it's a time spent planning and focusing on our busy fall coming up. The CCI Ottawa Board is hard at work ensuring that CCI remains your source of education and connection to the local condominium community.

On the Educational front, CCI is continuing its twice yearly Directors Course that is sold out every April and November. In addition to that, CCI is working at an Advanced Level Course for those that want more specific and deeper knowledge to be an even better Condominium Director and have attended the current Director's Course. Look for more information on this exciting initiative to come soon.

As well, CCI looks to partner with ACMO in a variety of places across Ontario. After the amazing response to the inaugural CCI-Ottawa/ACMO Conference (see article on page 15), plans are already in the works to grow this conference for spring 2014! In the meantime, the CCI-Toronto/ACMO Conference in Toronto from November 15-16, 2013 promises to be the best yet, so mark your calendars if you are able to make the trip.

In an effort to ensure that the *CondoContact* continues to be a valuable and interesting resource to all of our members, we are always looking at ways to provide the most current and relevant articles. This issue is no different, with articles on "The Need for a Dispute Resolution By-Law (Part 1 of 2) (Page 13)", "Asbestos/DSS Survey (Page 6)" and "Practical Tips for a Condominium Director (Page 10)". We hope you enjoy this variety of topics.

CCI Ottawa has had the privilege of serving the condominium community in the Capital Region for over 30 years, and with the initiatives in the works...we will continue to serve the growing community in our area for another 30!

Kind Regards,  
**Nancy Houle**  
Editor, *CondoContact*

## CONDO CONTACT

CANADIAN  
CONDOMINIUM  
INSTITUTE  
OTTAWA  
& AREA CHAPTER

### 2012/2013 BOARD OF DIRECTORS

President

**John Peart, LLB, ACCI, FCCI**  
**Nelligan O'Brien Payne LLP**

Vice President

**Constance Hudak, MBA**

Secretary/Membership

**Andrée Ball**  
**Axia Property Management Inc.**

Treasurer

**Stephanie Courneyea, CGA**  
**McCay, Duff & Company LLP**

Education

**Steve Laviolette, P.Eng.**  
**Laviolette Building Engineering Inc.**

Newsletter

**Nancy Houle, LLB**  
**Nelligan O'Brien Payne LLP**

Director

**Diana Carr, P.Eng.**  
**Parsons Brinckerhoff Halsall Inc.**

Director

**Ian Davidson**  
**Condominium Management Group**

Canadian  
Condominium  
Institute

**CCI**

Institut  
canadien des  
condominiums

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



As the saying goes: *April showers bring May flowers*. Well, the same could be said for CCI's planting and blooming of ideas, except we use the sunny summer to set the stage for a bountiful fall harvest!

The CCI Ottawa Board is hard at work at ensuring that CCI is your connection to everything Condominium. Here are some highlights:

*Your condo connection...to education:* CCI Ottawa has one of the most successful Directors Course across Canada's 16 chapters. Plans are in action to expand the educational offerings to offer an advanced class in the near future.

*Your condo connection...to representation:* CCI Ottawa has been hard at work, along with the other 6 CCI Chapters in Ontario working on the upcoming changes to the Ontario Condo Act. We are proud of the role CCI has played in making substantial improvements to enhance the condominium living experience.

*Your condo connection...to professionals:* CCI Ottawa's Annual Professional Services and Trade Directory accompanies this mailing to allow our condo boards to ensure that the suppliers they deal with are condominium specialists. Putting professionals and boards together is a cornerstone of CCI.

These are only a few of the ways CCI Ottawa continues to be YOUR condo connection. Education, resources and access to information are pivotal to your community growth. We look forward to continuing to offer these and many other opportunities in the coming year.

John Peart  
President – CCI-Ottawa

## LIST OF ADVERTISERS

Affiliated Property Group.....	12
Atrens Counsel .....	20
Axia Property Management.....	18
Borden Ladner Gervais LLP .....	16
Buchan, Lawton, Parent Ltd. ....	7
Carma Industries .....	18
Cohen & Lord Insurance Brokers .....	7
DanCan Electric.....	7
Elia Associates .....	9
Forestell Designed Landscapes .....	16
Garrett Restoration Services Ltd. ....	12
Heenan Blaikie LLP.....	15
Infra Resto Corp.....	16
Keller Engineering .....	9
Larlyn Property Management.....	7
Mathieu Fleury .....	16
M. Jack Springer, CD1 .....	7
McCay Duff & Co .....	18
Nelligan O'Brien Payne .....	2
Sentinel Mgmt.....	9

# Condominium's Role

## IN MANAGING ASBESTOS AND DESIGNATED SUBSTANCES

By Shawn Doherty, P.Eng.

It is the condominium corporation and its associated boards that are responsible for maintaining the up-keep and manage the life expectancy of its condominium complex. To facilitate this task, the Board will often propose to complete various renovations, upgrades and hire outside contractors to conduct regular maintenance work. It is understood that some of these buildings are older and may contain hazardous materials in the various building materials such as lead paint, asbestos, etc. Prior to completing any of these maintenance and renovation tasks, the Board needs to understand their duty as a project owner under the *Occupational Health and Safety Act* (OHSA).

### Designated Substance Survey

Prior to conducting a renovation program regardless of the age of the building, in which a contractor is hired to complete the work, a designated substance survey (DSS) is to be conducted for the work area. The condominium Board (working on behalf of the corporation) is to provide the contractor a list of the identified designated substances as well as their respective locations as per Section 30 of the OHSA. It is worth noting that this also applies to a unit owner who hires a contractor to conduct a renovation within their respective unit. The goal of the Act is to protect the workers that are going to be working in the environment from any designated substances that may be present. As part of the DSS, one would be identifying the presence of designated substances such as asbestos, lead, mercury, silica, etc.. In addition, a review for mould, PCBs and ozone-depleting substances, etc. is included.

If not conducted by the owner, responsible contractors, have more frequently been collecting their own bulk material samples to identify the presence/absence of asbestos prior to disturbing materials, as they become more familiar with these regulations, to protect their workers / subcontractors and to be in compliance with Paragraph 4, Section 30 of the OHSA. It is worth noting that the owner (i.e. unit owner or condominium board) may still be liable for any additional costs incurred by a contractor based on the discovery of asbestos or other designated substances during the project. In addition, such a discovery would cause a delay to any construction program.

Even worse, if a DSS was not conducted and the contractor



did not collect their own samples prior to disturbing materials, there is the potential for the uncontrolled release of asbestos fibres and other designated substances within the condominium complex during renovations. This could result in an order and/or fine by the Ministry of Labour.

### Asbestos Discovered / Comprehensive Asbestos Survey is Triggered

The results of a DSS can have a notable impact on the condominium moving forward, predominantly, if asbestos was identified within the standard materials. In the event that asbestos was identified within material during a DSS conducted for the specific area to be renovated, the condominium board then has to commence asbestos management for the entire complex as per *Ontario Regulation 278/05 Designated Substance – Asbestos on Construction Projects and in Buildings and Repair Operations* since the corporation now “knows” of the presence of asbestos. As such, the Board would have to conduct the following:

**1) Asbestos Survey** – Conduct an asbestos survey of the entire complex to: determine the presence/absence of asbestos; determine the asbestos concentrations; identify the location of asbestos; and assess the asbestos risk based on its condition. It is noted that each individual unit is not typically accessed as part of such a study. However, the condominium board should understand that as a minimum all common elements should be assessed and approximately 10% of the residential units should be accessed to get a representative cross-section of the standard construction materials. For a condominium row house complex, a





**Larlyn**  
**PROPERTY MANAGEMENT LTD.**  
 PARTNERS IN MANAGEMENT SOLUTIONS

## ***Family Owned and Operated since 1975***

### ***A Legacy of Integrity, Trust & Care***

Property management counts. When it comes to protecting your assets and serving your owners, you have to go with a proven partner.

- The only condominium management firm to obtain ISO 9001:2008 certification
- Exclusive VIP vendor programs, Director and Resident website portals
- Free Director Orientation Workshops
- Personalized Service from Experienced Experts

*Reap the rewards of our vast national resources and purchasing power while enjoying all the benefits of superior local knowledge, accountability and control.*

**For more information contact Michael Holmes, President.  
 613-656-1245 ext. 3304 or mrholmes@larlyn.com  
 Suite 200, 38 Auriga Drive, Nepean**



[www.larlyn.com](http://www.larlyn.com)



***Specializing in Condominium Management***

## **cohen & lord** **insurance brokers ltd.**

**Andy Swant**  
 B.A., C.R.M., F.C.I.P.  
 Partner

1550 Carling Ave., Suite 204, Ottawa, ON K1Z 8S8  
 Tel: 613-238-4444 Fax: 613-238-8764  
[aswant@cohenandlord.com](mailto:aswant@cohenandlord.com)

## **DanCan Electric Ltd.**

Commercial-Industrial-Residential-Firealarm-Electric Heating

**1466 Cyrville Rd., Gloucester, Ont., K1B 3L8**



**Leif Janichen**  
 President

**Telephone: (613) 741-4070 FAX: (613) 745-2947**  
**E-mail: [leif@dancan.on.ca](mailto:leif@dancan.on.ca) Webpage: [www.dancan.on.ca](http://www.dancan.on.ca)**



**M. Jack Springer, CD1**  
*Arbitrator*

18 Albert Street  
 Kemptville, Ont K0G 1J0

Phone: (613) 258-6512  
 Cell: (613) 899-0696

Email: [arbitration@jackspringer.ca](mailto:arbitration@jackspringer.ca)  
 website: [www.jackspringer.ca](http://www.jackspringer.ca)

*Condominium, Construction and  
 Commercial dispute resolution*

MEMBER



**BUCHAN, LAWTON, PARENT LTD**  
**Consulting Engineers** OTTAWA - TORONTO

- Technical Audits/Reserve Fund Studies
- Building Testing and Quality Assurance
- Building Condition Assessments & Troubleshooting
- Design, Specification & Project Management

Unit 5, 5370 Canotek Road tel: (613) 748-3762  
 Ottawa, Ontario K1J 9E6 fax: (613) 748-3817  
[blpottawa@blp.ca](mailto:blpottawa@blp.ca) **[www.blp.ca](http://www.blp.ca)**

minimum of one unit per condominium block should be assessed to account for possible variation in construction materials to ensure compliance with O.Reg. 278/05.

**2) Asbestos Management Plan (AMP)** – Following the completion of the survey, the condominium board would complete an AMP. This provides the board direction on: how to manage the asbestos; conducting asbestos removals; administrator training (if desired); annual inspections; communication with employees/contractors/unit owners (discussed later), etc.

Moving forward, the condominium board is now responsible for providing communication and taking additional precautions when conducting standard repairs and/or conducting renovations. They should understand that asbestos does not necessarily have to be removed and can be managed in place if it is in good condition. As per the AMP, inspections can be conducted to identify damaged asbestos and then complete the required repairs/removals of the damaged materials. The use of the AMP provides a tool to manage the asbestos and minimize future risks.

Some of the tasks that the Board is obligated to do is:

- Formally inform all building occupants/residents/employees of the presence of asbestos;
- Formally inform any contractor / worker, that is hired to do work in an area that is close to or associated with asbestos, of its location and concentration;
- Ensure that any asbestos-containing materials likely to be disturbed as part of a renovation are removed in accordance with the regulations;
- Conduct annual inspections to assess for damaged asbestos and re-assess asbestos associated risks;
- Train in-house staff that may deal with asbestos on ACM awareness.

It is to be noted that an asbestos consultant / professional can be hired to assist with these services.

### **Be Proactive**

To ensure proper compliance with the regulations and to minimize potential delays with renovation programs due to the discovery of asbestos during a work program (or other designated materials), it is recommended that condominium boards refer to the following statement from O.Reg. 278/05:

- Asbestos management is required once the owner of building knows or **ought** to know that asbestos containing materials has been used in the building.

Understanding that asbestos was commonly used in construction materials up to the 1970s and sporadically in the early to mid 1980s, any owner of a building constructed

prior to or within that period ought to know that asbestos may have been used in the building materials. Consequently, it is recommended that the condominium board conduct an asbestos survey to be in compliance with O.Reg. 278/05. Concurrently, a condominium board can be proactive and complete a designated substance survey of the complex, thus providing themselves with a document that can be used for future renovations to satisfy Section 30 of the OHSA.

Completing the asbestos survey and DSS would provide the condominium with a comprehensive document that would be sufficient in satisfying Section 30 of the OHSA prior to completing any renovations and also be sufficient for notifications to contractors prior to completing any work in the building (that may be in close proximity to asbestos).

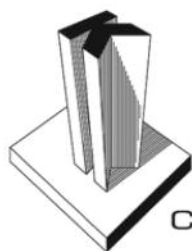
The Board should also be aware of increased costs for conducting repairs and / or renovations as the cost for removing asbestos, depending on the materials to be renovated, can be exhaustive. They can communicate with a professional or consult their AMP to determine the level of removal efforts required for the asbestos-containing materials identified within the complex. This information (i.e. potential cost increases due to the presence of asbestos and lead paint) can be provided to engineers conducting the reserve fund studies. The reserve fund can then be managed more accordingly based on the potential increased costs (or at least highlight the potential for increased costs in the future).

As such, the completion of the DSS and asbestos surveys allows the condominium to meet compliance while allowing the Board to prepare financially for renovations/repairs understanding the additional costs that may be incurred.

To finalize, the completion of a DSS prior to a renovation and the completion of an asbestos survey when a building owner knows or ought to know of the presence of asbestos will allow the condominium to meet compliance with Section 30 of the OHSA and O.Reg. 278/05. However, the completion of the studies in a proactive manner will allow the condominium board to financially plan for dealing with these hazardous materials in the future.

*Mr. Doherty is currently the group lead of the Hazardous Materials Group within the Earth and Environment Division within the Ottawa office of Exp Services Inc. Mr. Doherty acted as the project manager for the Designated Substance Surveys and asbestos abatement programs for several hospital redevelopments in the Ottawa area, managed several surveys for local school boards and has provided hazardous materials services for several property managers and condominium corporations in the Ottawa area.*





**KELLER**  
Engineering  
Associates  
Inc.

Consulting Engineers

- ☐ Building Envelope Engineering
- ☐ Structural Engineering
- ☐ Post-Construction Engineering
- ☐ HVAC Engineering

**Services**

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Reserve Fund Studies    | <input checked="" type="checkbox"/> Litigation Support Services     | <input checked="" type="checkbox"/> Tenant Fit-up        |
| <input checked="" type="checkbox"/> Technical Audits        | <input checked="" type="checkbox"/> Workmanship Problems            | <input checked="" type="checkbox"/> Maintenance Planning |
| <input checked="" type="checkbox"/> Building Investigations | <input checked="" type="checkbox"/> Thermography                    | <input checked="" type="checkbox"/> Refrigerant Planning |
| <input checked="" type="checkbox"/> Insurance Claims        | <input checked="" type="checkbox"/> Structural Design & Code Review | <input checked="" type="checkbox"/> AutoCAD Services     |
| <input checked="" type="checkbox"/> Project Management      | <input checked="" type="checkbox"/> Energy Audits                   |  |

**Specialties**

- |               |             |                         |                   |
|---------------|-------------|-------------------------|-------------------|
| * Foundations | * Roofs     | * Parking Garages       | * Monitoring      |
| * Claddings   | * Masonry   | * Waterproofing Systems | * In-situ Testing |
| * Windows     | * Balconies | * Roof Anchors          |                   |

Tel (613) 224-1594    [www.kellerengineering.com](http://www.kellerengineering.com)    Fax (613) 224-1642



Residential & Condominium  
Property Management Services

**Cindy E. Johnston**

2446 Bank Street, Suite 707  
Ottawa, Ontario, K1V 1A8

Tel: 613-736-7807  
Fax: 613-821-3571  
Emergency: 613-593-7060

[cindy@sentinelmgmt.ca](mailto:cindy@sentinelmgmt.ca)  
[workorders@sentinelmgmt.ca](mailto:workorders@sentinelmgmt.ca)  
[www.sentinelmanagement.com](http://www.sentinelmanagement.com)



**ELIA ASSOCIATES**

CRITICAL THINKING IN CONDOMINIUM LAW  
BARRISTERS AND SOLICITORS | PC

**CONDOCENTRIC.ca**

**SERVING ALL OF ONTARIO**

Call us toll free: 866.446.0811 - Email: [info@elia.org](mailto:info@elia.org)

*Comprehensive, Cost Effective & Creative Legal Solutions.*

# Practical Tips

## ON HOW TO BE A GREAT CONDOMINIUM DIRECTOR

By Maria Finoro, RCM, ACCI

*(reprinted with the permission of the CCI Golden Horseshoe Chapter)*



Have you volunteered or been persuaded to become a condominium director? You may eagerly accept the job since you believe it will be an excellent addition to your resume or are told that it won't be overly time consuming. Besides, how difficult can it really be to work together with some of your neighbours? Moreover, the property management company does all of the work, don't they?

Being a condominium director can be a very rewarding experience as you help decide how best to maintain the market value of your corporation and ensure it is a home that you are proud of and happy to come home to. However, the position must be taken very seriously because you can be held personally responsible for your decisions. Your responsibility is not just for your own unit, but for all the homes in the entire community which is valued in the millions of dollars! Being on the Board and attending meetings can't just be considered a monthly social event; there is serious business that must be dealt with! Nevertheless, the role need not be overwhelming if you invest a portion of your time to it.

Here are some tips on how to be a responsible and conscientious condominium director:

### **1. Maintain a current Director Binder including the following documents which you can refer to at board**

#### **meetings or when a particular issue is being discussed:**

- A. The corporation's declaration, description plans, bylaws, cost-sharing/reciprocal agreements, easements and the rules;
- B. *The Condominium Act, 1998* and Regulations which is provincial legislation that governs all condominiums in Ontario;
- C. The budget and monthly financial statements including reconciliation of both operating and reserve funds, accounts receivable and statement of investments;
- D. The Reserve Fund Study including the Form 15 which is issued to owners;
- E. All contracts including grounds/snow, janitorial, waste collection, elevators and property management. Understand the terms and conditions and know when they come up for renewal;
- F. Insurance Certificate showing proof of insurance coverage for the Corporation.

To save on paper, you may consider having at least one Director maintain this information or save it all on computer files. Just ensure the documents are accessible to all directors at all times. For example, there is nothing more frustrating

or time consuming when you are dealing with a contract and you don't know when it expires, what the job requirements are. Or, you cannot remember how much was budgeted in the fiscal year and whether it is supposed to be an operating or reserve expenditure. There is no question that the Property Manager should provide you with this information so it's readily available at all times.

## **2. Become familiar with your condominium property.**

Schedule a property inspection in the spring and fall with your property manager. One should not make a decision on a contract or project without looking at the area of the property requiring attention. Familiarity with the property will also help the Board prioritize work that needs to be done.

Making a costly decision on how to deal with a particular issue on the common area is a challenge if you have never even seen the area in discussion. If possible, when obtaining quotations for a project, meet with the contractors or engineer onsite and look at the area in question and don't hesitate to ask questions. Ask to see sample products. Ensure you understand what needs to be communicated to your owners. Seeing a quote and a design on a piece of paper can be very different than seeing the actual product at the location it is installed.

## **3. Attend condominium related seminars, conferences and courses that are offered locally through the Golden Horseshoe Chapter of the Canadian Condominium Institute.**

Attending condominium related events is a great opportunity to network with other directors and share experiences as well as meeting experts in the industry. You can never learn enough! Even though you contract the services of various professionals, it is easier to make decisions and understand your professional team when you have gone to "condo school".

## **4. Hire and rely on qualified service providers that are experts in condominium matters.**

These experts include your accountant, engineer, lawyer, property manager and insurance broker. They can provide you with advice that will assist your board in making prudent decisions. If a board makes a decision based on an expert's opinion and the board or corporation is sued, the liability rests with the expert. There is a cost involved to hire experts but ultimately, why would any volunteer director choose to make major decisions without proper advice from the experts?

## **5. Be familiar with other legislation and how they directly affect your condominium including city bylaws, the *Human Rights Code*, the *Accessibility for Ontarians with Disabilities Act*, the *Occupational Health and Safety Act*, etc.**

Being a director is definitely challenging as one must deal with the three P's - People, Pets, Parking plus a myriad of other issues on a regular basis. Conversely, the sense of camaraderie and working towards a common goal is a rewarding pursuit. A director must be willing to dedicate their own time to attend Board meetings, review and understand the financial statements, keep current with condominium legislation and be ready to make difficult decisions. In cases where the condominium has hired a management company, the property manager is the direct liaison between Boards and the owners and the service providers, however they ultimately take direction from the Board. The management company provides the administrative, financial and operational services but they do not have the authority to make decisions; this is the job of the elected directors.

## **6. Review the template status certificate for your corporation on occasion.**

Even though the status certificate is typically prepared for by the management company, the Board should know what it says because this is what is issued to purchasers. Review the entire package that is issued with the status certificate. You may want to consider including recent newsletters, the welcome package or specific information relating to your condominium that may be of benefit to the new owner, such as how to book the elevator or party room, or when to put garbage out for collection.

In conclusion, having the right tools will go far to assist you in becoming a successful director. The above are just a few ideas but they will help you get settled in your job. Prudent directors are able to pool their collective wisdom rather than convince others that his/her individual point of view is the only answer. Due to unavoidable prejudices and opinions, it sometimes takes a concerted effort by everyone to listen judiciously to contradictory or varying opinions without automatically rejecting them outright. Blending your own ideas with the thoughts of the other directors will lead to a better outcome for the community as a whole.

*Maria Finoro is President of M.F. Property Management Ltd., and has over 30 years of experience in the property management field. She currently sits on the CCI Golden Horseshoe Chapter Board of Directors.*





Associate of the Canadian Condominium Institute

## ..the wait is over!!

We are excited to announce the ACCI exam is now available for two professions across the country!!

If you are a **Lawyer or Property Manager**, the new, updated and online exams are now available for you!! More professions will be added as exams are updated.

The **ACCI designation** is a National accreditation program that will

- set you apart from all the other professionals in your area
- demonstrate your expertise and knowledge in the area of condominiums.

Promote the ACCI to all your chapter's Professional Members. Having more ACCIs will raise the bar for the Condominium Industry in your area!

*For more information and to apply for the ACCI, please go to [www.cci.ca/acci](http://www.cci.ca/acci) or contact the CCI National Office at 416-491-6216 / 1-866-491-6216*



Canadian  
Condominium  
Institute

**CCI**

Institut  
canadien des  
condominiums

your condo connection  
...to professionals



## Need Building Repairs?

Brick \* Block \* Stone \* Concrete \* Wood Frame

Balconies - Parking Garages - Foundations

Chimneys - Sidewalks - Driveways - Curbs

Texture Coatings - Sealers - Caulking

Waterproofing above and below ground

Wet Basement Solutions inside and out

Structural Stabilization and Underpinning

Pressure Grouts \* Epoxies \* Roof Anchors

"Specializing in Highrise Buildings"

Residential \*\* Commercial \*\* Condominium

"Engineer Endorsed and Approved"



# Garrett



RESTORATION SERVICES LTD.

[www.garrettrestoration.com](http://www.garrettrestoration.com)

Phone: (613) 845-0315

20 Henfield Ave., Nepean, Ontario. K2J 1J8



## Affiliated Property Group

Appraisal  
services

Inspection  
reports

Engineering  
assessments

### SPECIALIZING IN:

RESERVE FUND PLANNING

PROPERTY APPRAISALS

REPLACEMENT COST REPORTS

ENGINEERING AND THERMOGRAPHY SERVICES

BUILDING CONDITION AUDITS

BUILDING INSPECTIONS

**BILINGUAL STAFF SERVING OTTAWA & AREA / GATINEAU**

**Tel: (613) 234-3000 Fax: (613) 728-6554**

**[www.apgottawa.com](http://www.apgottawa.com) office@apgottawa.com**

**25B NORTHSIDE ROAD, OTTAWA K2H 8S1**

# THE NEED FOR A DISPUTE RESOLUTION BY-LAW FOR ONTARIO CONDOMINIUM CORPORATIONS (PART 1 OF 2)

By Jack Springer, CD1



In reading the excellent case summaries provided by James Davidson (Nelligan O'Brien Payne LLP) in the Spring 2013 issue of the *CCI Review*, I noted, with interest, that the Ontario Superior Court has stayed a court action<sup>1</sup> because a dispute was governed by the mandatory mediation and arbitration provisions contained in Section 132 of the *Ontario Condominium Act 1998* (hereafter called the Condo Act). There have not been many cases to my knowledge where this has happened, but I am willing to forecast that this will become more predominant in the months and years to come.

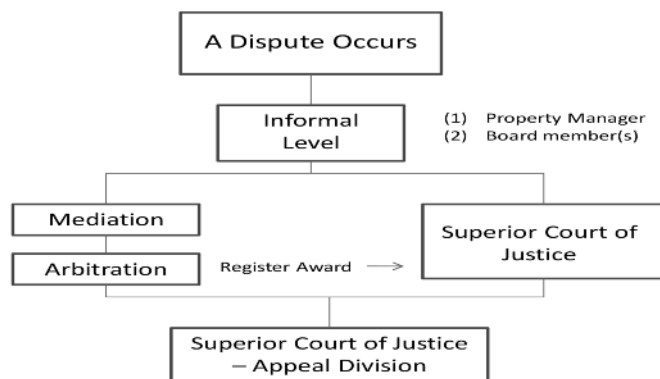
In this article I hope to convince the Boards of Directors and Managers of Ontario's condominium corporations that enacting a By-law to address the dispute resolution provisions of the Condo Act, which include both court and mediation/arbitration processes, would be a prudent management decision.

I believe that the Condo Act clearly provides the 'what' you can do to resolve a potential dispute. The difficulty is in defining the 'how it will work' part. This is where having a Dispute Resolution By-law can define the 'how' so that resolution of future disputes occurs with simplicity and clarity by all parties involved.

**Developing a Dispute Resolution Framework.** The Dispute Resolution Framework at Figure 1 presents a picture of the process, and I will show that it is consistent with the Condo Act. In this framework the dispute resolution process is fairly easy to understand. Initially the dispute becomes identified when two or more parties disagree on an issue. The first step in resolution of the dispute starts with an informal level. If the dispute continues, it will then take one of the two paths through mediation and arbitration or directly to the Ontario Superior Court of Justice. This model also shows that an arbitration decision (called an Arbitration Award) can be registered with the Ontario Superior Court of Justice, making it enforceable by the courts. Then, should one or more parties not like the decision of either the Superior Court of Justice or the arbitration, it can be appealed to the Superior Court of Justice - Appeal Division. Note that going through arbitration is an equivalent step to going through the first level of the Superior Court of Justice.

**The Informal Dispute Resolution Level.** The first level to attempt to resolve a dispute is called the Informal Level. The Informal Level deals with and resolves in excess of 99% of all disputes or potential disputes.

Figure 1: Dispute Resolution Framework.



As one would guess, the first tier involves those people that first become aware of the dispute and who attempt to immediately resolve it. In a condominium corporation, the first interface will generally be the property manager or his/her staff, who is at the site the most often and either sees or is made aware of the problem resulting in the dispute.

The second tier in the informal level is usually one or more members of the Board of Directors. When the property manager cannot resolve the issue, it is reported to the Board and one or more Board members then would attempt to get the issue resolved. Often this step will include one or both parties engaging their legal counsel concerning the issue and perhaps completing administrative steps, such as sending letters and notices, to notify the other party to the dispute of the position being taken.

The informal level of dispute resolution is very important as it can resolve the issue or may entrench the positions of the parties for a long time. In most cases where disputes arise the people involved are reasonable and once the declaration, by-laws, or rules are explained there is an agreement reached and the dispute is settled. While one or both sides may not be happy with the outcome, they reach an agreed action that resolves the dispute.

Unfortunately, not all potential disputes are handled in this manner by one or both parties to the dispute. Determination, egos and stubbornness being what they are, disagreements can become entrenched to the point where one or both sides may be unwilling to change their positions. When this state is reached the dispute passes into the formal dispute resolution level.

**The Formal Level.** Figure 1 above shows how the dispute will pass from the Informal Level to either the Superior Court of Justice or to the mediation/arbitration process. How is this decision reached? The Condominium Act outlines at Section 132 that all matters related to the declaration, by-laws and rules

are deemed to have a clause requiring mandatory mediation and arbitration. While this may seem clear, the Condominium Act also has over a dozen other sections that have the words "... the Ontario Superior Court of Justice may..." In layman's terms this means that unless specifically directed to be decided by the Superior Court of Justice, the disputes should proceed through mediation, and if necessary, arbitration. Ergo, we have seen the decision to 'stay' the case mentioned in the introduction.

**Mediation and Arbitration.** Once the dispute has been evaluated and is not one of the issues that should proceed to the Superior Court of Justice, it would be assigned to go through mediation and, if necessary, arbitration.

*Mediation:* Mediation is the use of a qualified, impartial person to conduct discussions with both parties, together and separately, with the aim of assisting the parties in reaching an agreed solution. The ADR Institute of Ontario (known as ADRIO at [www.adrontario.ca](http://www.adrontario.ca)) is mandated to maintain qualification of mediators in Ontario.

*Arbitration:* Is the use of one or more independent and impartial adjudicator(s) who is/are empowered to make a binding determination concerning the dispute at issue. Arbitrations in Ontario are governed by the Ontario Arbitration Act 1991 and arbitrator qualifications are maintained by the ADRIO.

*Appeal:* The final stage in the dispute resolution framework is the appeal stage. Should any party to either a court case or arbitration award believe that there are justifiable reasons of law why the decisions were unfair to them, there is the right to appeal to the Ontario Superior Court of Justice - Appeals Division.

*Conclusion:* The resolution of disputes for Condominium Corporations can best be described using the Dispute Resolution Framework presented above. However, given that the *Condominium Act 1998* provides the 'what' needs to be done and says little about 'how to do it', the development of a Dispute Resolution By-law would provide a clear and straightforward approach to resolving your disputes.

In the next issue, I will provide an article discussing the information such a By-law should include in the various levels of the Dispute Resolution Framework.

1. Grey Standard Condominium Corporation No. 50 v. Grey Standard Condominium Corporation No. 46 (Ontario Superior Court) January 7, 2013.



# ACMO/CCI-OTTAWA CONFERENCE

By Andrée Ball, General Manager, Axia Property Management Inc.

It was long awaited by many but it finally took place on May 31st, 2013. ACMO and CCI-Ottawa joined forces to bring to the Ottawa condominium community a conference filled with remarkable guest speakers and a collection of exhibitors. The conference was held at the Hampton Inn located at 200 Coventry Road. It was attended by close to 200 delegates, ranging from Board Members, Property Managers as well as many other important members of the condominium industry.

We are grateful to each of the guest speakers who brought a wealth of knowledge to the conference: Jim Davidson, Nancy Houle and Christy Allen of Nelligan O'Brien Payne LLP, Mike August of Total Power, Rod Escayola of Heenan Blaikie SRL, Scott Wilson of Axia Property Management Inc., Dean McCabe of Wilson Blanchard, Diana Carr of Halsall Associates and David Chick of Domicile Developments.

This conference would not have been possible without all the wonderful sponsors. We wish to thank all the gold, silver and bronze sponsors. We especially would like to thank the platinum sponsor for this event, Novatech DKI.

The organizing committee which was comprised of Diana Carr of Halsall Associates, Debbie Wilson of Apollo Property Management, Annette Fleury and Andrée Ball both of Axia Property Management Inc., could not be more delighted with the outcome of the day. The committee is hoping to grow this event for next year, which is scheduled to take place during the course of May 2014. We look forward to seeing you next year!



From left to right: Diana Carr, Andrée Ball, Debbie Wilson and Annette Fleury

## Our Condo Expertise



**Heenan Blaikie**  
your team for all of your condo  
legal needs

Visit our new blog at [www.condoreporter.com](http://www.condoreporter.com)

**Heenan Blaikie – Ottawa**

Rodrigue Escayola • 613 236.3235 • [rescayola@heenan.ca](mailto:rescayola@heenan.ca)

**Heenan Blaikie**

Heenan Blaikie LLP • Lawyers | Patent and Trade-mark Agents • Ottawa Toronto Montreal Vancouver Québec Calgary Sherbrooke Trois-Rivières Victoria Paris Singapore • [heenanblaikie.com](http://heenanblaikie.com)



*"My goal in achieving the professional ACCI designation is to remain strategically competitive, current with respect to developments affecting the condominium industry and to benefit from the support of a strong and pro-active group of professionals working together to improve the matters of interest to condominium owners. My ACCI designation will allow me to continue to deliver a diversity of quality services to the clients in my condominium portfolio."*

**name:** Josée Deslongchamps, RCM, ACCI  
**profession:** Senior Property Manager, DES Services Inc.  
**location:** Ottawa, ON  
**chapter:** CCI Ottawa Chapter

Canadian  
Condominium  
Institute

**CCI** Institut  
canadien des  
condominiums

National

your condo connection  
...to professionals

For more information on  
how to obtain your ACCI  
or on why you should  
hire an ACCI professional,  
please visit:

[www.cci.ca](http://www.cci.ca)



**Forestell**  
Designed Landscapes

(613) 447-1194

[www.forestell.com](http://www.forestell.com)  
[info@forestell.com](mailto:info@forestell.com)



**INFRA  
RESTO** CORP



**FIRE HYDRANTS & VALVES**

INSPECTION TESTINGS, RESTORATION, REPLACEMENT, LEAK REPAIRS

Tel: (613) 834-7089

Fax: (613) 824-8193

[www.infraresto.ca](http://www.infraresto.ca)

Email: [info@infraresto.ca](mailto:info@infraresto.ca)

**Mathieu Fleury**

City Councillor/Conseiller municipal  
 Ward / Quartier 12 Rideau-Vanier



Team Fleury would like to hear from YOU!

If you are a condominium resident and/or member of your condominium board in the **Lowertown, Sandy Hill** or **Vanier** neighbourhoods, please contact our team to invite us to your next board meeting or AGM. We would like to hear your feedback and discuss upcoming projects in our community.

Notre équipe aimerait connaître **VOTRE** opinion!

Si vous habitez la **Basse-Ville**, la **Côte-de-Sable** ou **Vanier** et que vous êtes résident d'un immeuble d'habitation en copropriété ou membre de son conseil d'administration, nous aimerions être invités à la prochaine réunion de votre conseil d'administration ou AGA. Le but est de discuter des initiatives sur le sujet dans votre quartier afin de connaître votre opinion.



[mathieu.fleury@ottawa.ca](mailto:mathieu.fleury@ottawa.ca)



@mathieufleury



[www.mathieufleury.ca](http://www.mathieufleury.ca)



613-580-2482

**LET BLG MANAGE  
YOUR LEGAL NEEDS.  
SO YOU CAN MANAGE  
YOUR CONDOMINIUM.**

To learn how we can help you, contact any of the following professionals:

Jane Bachynski | 613.787.3533 | [jbachynski@blg.com](mailto:jbachynski@blg.com)  
 Emma Blanchard | 613.369.4755 | [eblanchard@blg.com](mailto:eblanchard@blg.com)  
 Kirk Boyd | 613.787.3563 | [kboyd@blg.com](mailto:kboyd@blg.com)  
 Janet Bradley | 613.787.3749 | [jbradley@blg.com](mailto:jbradley@blg.com)  
 John Melia | 613.787.3517 | [jmelia@blg.com](mailto:jmelia@blg.com)  
 Kevin Nearing | 613.787.3520 | [knearing@blg.com](mailto:knearing@blg.com)

Calgary | Montréal | Ottawa  
 Toronto | Vancouver | Waterloo Region  
 Lawyers | Patent & Trade-mark Agents  
 Borden Ladner Gervais LLP  
 is an Ontario Limited Liability Partnership.  
**blg.com**

**BLG**  
 Borden Ladner Gervais  
 It begins with service

The CCI Ottawa Chapter

# Fall 2013 Condominium Directors' Course



**Saturday, November 9th • 9:00am – 4:00pm & Sunday, November 10th • 9:00am – 4:00pm**  
**Nepean Sportsplex, 1701 Woodroffe Avenue, Ottawa: Capone's Ballroom**

## RESERVATIONS A MUST!

**Avoid Disappointment – Register Today!**

- Completely updated to reflect the important legislation in the Condominium Act, 1998
- A must for all condominium directors, professionals and condominium owners who are potential directors or simply want a better understanding of the way condominiums function
- Course taught by experienced professionals
- A practical, hands-on course developed to reduce the risks of condominium ownership by equipping condominium corporation directors with the specialized management skills they need

### Session Topics:

1. What is a Condo/  
Overview of the Condo Act
2. Status Certificates/Changes to  
Common Elements/Insurance
3. Property Managers/Effective  
Directors
4. Property Asset Management/  
Reserve Fund Planning
5. Accounting and Finance
6. Specific Legal Issues

**For more detailed information, please  
visit the Chapter website at:**

**<http://www.cci.ca/ottawa/NEWS-EVENTS/events.asp>**

### REGISTRATION FORM

Fall 2013 Directors Course

Name: \_\_\_\_\_  
Company: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_  
Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Manager's Email: \_\_\_\_\_  
Registrant's Email: \_\_\_\_\_

#### Course Registration Fee

CCI Member – First Registrant .....	\$285.00
CCI Member – Additional Registrant .....	\$240.00
Non-Member .....	\$570.00



13% HST \_\_\_\_\_

**TOTAL** .....\$ \_\_\_\_\_

Please complete a registration form for each person registering.

**Registration includes all sessions, coffee breaks, two light lunches,  
and a complete binder of handout materials.**

Please note any Dietary Restrictions \_\_\_\_\_

Cheque Enclosed \$ \_\_\_\_\_ or Charge my: ☐  ☐ 

Card No. \_\_\_\_\_ Exp. Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name on Card: \_\_\_\_\_

Signature: \_\_\_\_\_

Please make cheques payable to: \_\_\_\_\_ HST/GST #89966 7364 RT0006



**Canadian Condominium Institute – Ottawa and Area Chapter**  
P.O. Box 32001, 1386 Richmond Road, Ottawa, ON K2B 1A1  
Email: [cciottawa@cci.ca](mailto:cciottawa@cci.ca)  
Phone: 1-866-491-6216 Fax: 1-866-502-1670





**Property Management Inc.**  
**Gestion Immobilière Inc.**  
*Since 1979*

**1283 Algoma Road, Suite 200**  
**Ottawa, Ontario**  
**Telephone 613-738-9700 • Fax 613-738-0070**  
**[www.axiamanagement.com](http://www.axiamanagement.com)**

- Condominium Management
- Commercial Services
- Rental Management for Investors

*Big enough to offer a staff of seasoned qualified professionals  
- small enough to ensure personalized service.*

## **MCCAY DUFF LLP**

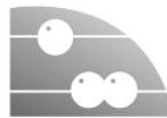
Chartered Accountants

**SERVING THE NATIONAL CAPITAL REGION SINCE 1946**

We are an independent firm of Chartered Accountants providing auditing and consulting services to Condominium Corporations for **over forty years**. We pride ourselves in our ability to exceed client expectations by providing efficient and cost-effective services with an individual approach to each condominium.

Our dedicated group of professionals also provide a full range of accounting, auditing, estate and tax planning to individuals, corporations, charities and not-for-profit organizations.

For information about our services visit us,



**[www.mccayduff.com](http://www.mccayduff.com)**  
or by phone, **613-236-2367**



increase your **CARMA**, reduce your costs

- Transparent billing
- Control rising utility costs
- Customized solutions
- 35 years of experience

**CARMA**  
submetering and billing solutions

Call today at  
**1-888-298-3336** or  
**[CarmaIndustries.com](http://CarmaIndustries.com)**

© 2013 CARMA Industries Inc. All rights reserved.

Green building tools for energy management and sustainability

THE FUTURE IS

NOW

DON'T MISS IT!

PLAN TO ATTEND THE 17TH ANNUAL  
CONDOMINIUM CONFERENCE

15 + 16 NOVEMBER, 2013

TORONTO CONGRESS CENTRE,  
650 DIXON ROAD, TORONTO, ON M9W 1J1

Don't miss this annual conference which incorporates two days of educational sessions for Condominium Directors, Managers and other Professionals working in the industry – with a two day trade show and numerous networking and social activities!

Exhibit and Sponsorship Opportunities are still available for Professional and Trade members of either CCI or ACMO. Visit the conference website at: [www.condoconference.ca](http://www.condoconference.ca) for further details or to view tradeshow floor plans. Don't miss this once a year opportunity to expand your business opportunities!

**Keynote Presentation by Neil Pashrica**  
(author of the Book of Awesome!)

**Session Topics**

Dispute Resolution  
Insurance  
Communication  
Customer Service  
AODA and Human Rights  
Legislative Updates  
Community Development and Urban Planning  
Reserve Funds  
Managing Major Projects  
Defining Quiet Enjoyment  
Annual Planning Guide  
Maintaining a Work/Life Balance  
Working with Police in Your Condo Community  
Taxation Implications for Condos  
Condo Governance and the Role of the Board  
Condo of the Year Success Stories  
Motivation and Finding Passion in Your Job

DON'T MISS THE FUTURE! VISIT [WWW.CONDOCONFERENCE.CA](http://WWW.CONDOCONFERENCE.CA) OR CALL 416.491.6216 FOR FULL CONFERENCE DETAILS



IN  
PARTNERSHIP  
WITH





# CONDO GOLD

Insurance that gives you peace of mind.



**The value and protection your unit owners deserve.**

Call for a free info package for your building.

**1.877.627.6222**

**[www.condogold.ca](http://www.condogold.ca)**



**Atrens-Counsel Insurance Brokers Inc.**