



President's Message

Fall 2016 Edition

Happy Fall everyone! A few short weeks ago we held our 14th annual general meeting at which time we elected 14 CCI members to the Vancouver board of directors. This is quite an achievement for our chapter and a good omen for moving forward with our 2016/2017 initiatives. In no particular order the 2016/2017 CCI Vancouver chapter board of directors are:

Paul Murcutt	Lisa Frey	Darlene Kuik
Phil Dougan	Ian Calloway	Sat Harwood
Jamie Bleay	Kelly Macfayden	John Wallis
Tim Scoon	Azadeh Nobakht	Sean Ingraham
Steve Page	Alex Chang	

Prior to the AGM we held a well-attended seminar on "Uses and abuses of common property and limited common property". Sean Ingraham moderated a panel consisting of Jim Allison, Lisa Frey and Jamie Bleay. Over the course of 2 hours various scenarios were discussed with an emphasis on how strata councils can be better armed, through their knowledge of the Strata Property Act,

their bylaws and knowing where to look on the filed strata plan for common property and limited common property, to deal with uses and abuses of common property and limited common property.

Our new board of directors will now get to work in dealing with the business at hand. We have quite a number of tasks on our "to do list" and know that we will be in good hands when tackling what needs to be done over the course of the next 9 months. We would welcome anyone interested in helping out on one of our committees to contact CCI Vancouver at www.ccivancouver.ca. Our committees include:

1. Communication, which includes updating the website and putting together our newsletter;
2. Membership;
3. Education;
4. Finance;
5. Marketing.

Please feel free to circulate this edition of our newsletter to your fellow council members, neighbours and colleagues.

Jamie Bleay – President CCI Vancouver

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WELCOME NEW BOARD MEMBERS

ALEX J. CHANG



Alex is a lawyer with Lesperance Mendes that specializes in advising strata corporations and owners in all manner of condo issues including construction deficiency claims, bylaw enforcement, repair disputes, collections, and tenancy issues. He has acted for strata corporations and owners at all levels of court in BC and publishes articles regularly on

strata law matters.

<http://lmlaw.ca/alex-chang/>

Azadeh Nobakht



Azadeh is the co-founder and CEO of Power Strata Systems Inc. She is passionate about education and life-long learning, and enjoys applying her learnings along the way to make a positive impact on her life and her community. Having over a decade of experience in various disciplines of software and web development,

Azadeh co-founded Power Strata Systems Inc. in North Vancouver, B.C. in 2011. This venture began for her when she observed over and over again that many strata communities, regardless of size or location, suffered from similar issues and had many common requirements that could be helped with software solutions, likes of which had been used in other industries for decades. Azadeh's mission is to help build viable and effective strata communities, benefiting everyone involved, by providing strata councils and managers with the software management tools that enable them to effectively and efficiently administer and manage the day-

to-day operations of strata corporations. She is proud to see that her growing company now helps more than 400 strata corporations in B.C. Azadeh previously served on the CCI Vancouver Board from Fall 2012 till Spring 2015 and also as a member of the Membership Committee and Co-chair of the Communication/Marketing Committee. She has studied Business and Entrepreneurship and holds a Bachelor's Degree in Computer Science, as well as Associate Certificates in Web Application Software Development and Applied Web Development.

Ian Callaway



Ian Callaway [MA, MEd, BCFE, RHU] has lived in a strata complex for 11 years and serves as its President and Privacy Officer. He takes a strategic management approach to Bylaws and the Strata Property Act and produces exceptionally detailed minutes to document the strata's corporate history. Professionally, Ian is a leading authority on "issues" in

Disability Insurance having multiple publications and also having spoken at every major international Disability Insurance forum, the National Institute of Accountants, and the Canadian Bar Association as well as serving as the Chairperson for the International Disability Insurance's Research Training Council.

John Wallis



John Wallis has been the Director of Clients Relations for Phoenix Restorations for the past 10 years. His 20 year career in the insurance claims industry is an asset to his role in assisting his clients in the Property Management industry as well as CCI Members.

CCI - Vancouver Board of Directors – 2016/2017

Jamie Bleay - President
Paul Murcutt – Vice President
Sat Harwood – Vice President
Steve Page - Treasurer
Azadeh Nobakht - Secretary
Alex Chang – Member at Large
Darlene Kuik – Member at Large
Ian Callaway – Member at Large
John Wallis – Member at Large
Kelly McFadyen – Member at Large
Phil Dougan – Member at Large
Sean Ingraham – Member at Large
Lisa Frey – Member at Large
Tim Scoon – Member at Large

Welcome New Members

Jean-Francois Proulx dba 'Construction CRC'
HomeLife Genayre Realty Chilliwack Ltd.
Hub International Coastal Insurance
Silvano Todesco
Waste Management
RDH Building Science Inc.

Kelly McFadyen



Kelly McFadyen is an Account Manager with CWB Maxium Financial. Kelly’s top priority is working closely with strata boards and property managers to provide financial solutions for major repair and maintenance projects. Kelly works in partnership with Western Canada Regional Manager, Paul McFadyen.

Sat Harwood



Sat Harwood is a senior associate with Lesperance Mendes and has served as the Chair, Vice Chair and Treasurer of the Canadian Bar Association – Construction Law Subsection. He regularly assists individuals, companies and strata corporations on legal issues arising from the construction, ownership, rental, use or regulation of property. Sat has

appeared before the British Columbia Provincial Court and the British Columbia Supreme Court. His Litigation experience includes representing strata corporations in multi-million dollar “leaky condo” claims and other governance matters. Sat is also experienced in mediation, arbitration and alternative dispute resolution.



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Tim Scoon



Timothy Scoon manages sales and customer service for BC and Yukon for Suncorp Valuations. Tim has been in and around sales since 2004, and specializes in designing superior customer experiences. Suncorp Valuations is has completed work on 4 continents over the past year, and has a 13 member (and growing) team in Vancouver dedicated to strata insurance valuations and depreciation reports.

BENEFITS OF USING SOFTWARE FOR DOCUMENT MANAGEMENT IN STRATA CORPORATIONS

By Azadeh Nobakht, Power Strata Systems Inc.

Managing a strata corporation effectively requires access to a lot of information and resources. The majority of this information can be accessed through various documents that form the corporate history of the strata. The strata plan, bylaws and rules, schedule of unit entitlement, parking and storage assignments, information certificates, financial reports, and alteration agreements to name a few. The number of strata documents usually depends on the age, size and complexity of the strata. But even for the smaller strata corporations it is not uncommon to have hundreds of pages over the history of the strata.

For many strata corporations, the full archive of the documents is nothing but boxes of files stored in a storage room, and for recent and more important documents often binders get created by the council members. These binders normally hold a copy of the documents to which council requires easy access on regular basis. Bylaws, list of owners and their contact information, recent financial statements, and meeting minutes and notices are a few examples of such documents.

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Using paper documents stored in boxes and binders may not be the best way of maintaining the corporate history of the strata, especially in the digital era of the 21st century. This article will look at a few challenges, among many, faced by council members or even strata managers every day in dealing with “old school” document management methods and see how software can help:

Quick and Easy Access to Strata Records

Consider this scenario:

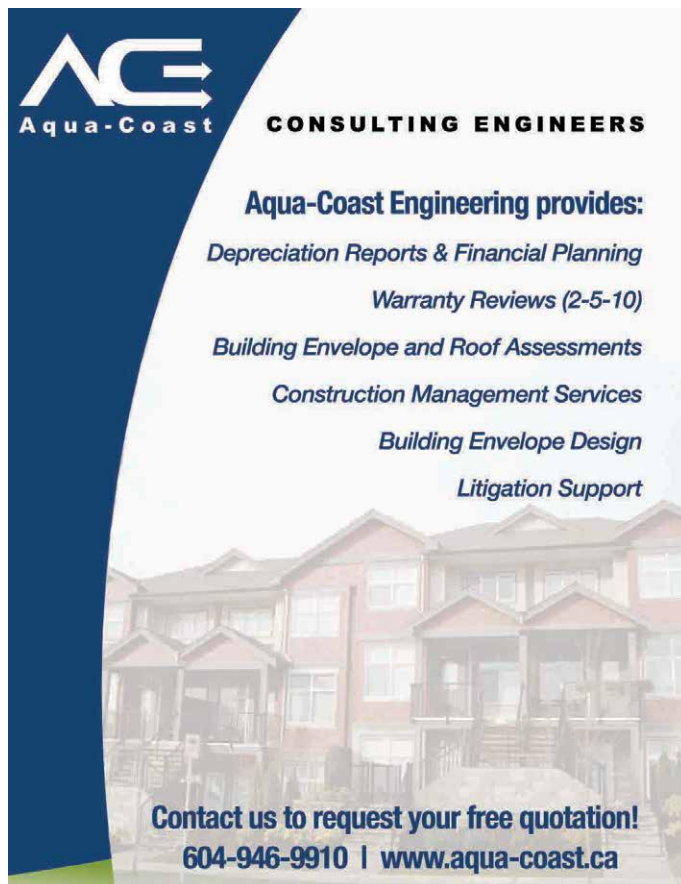
Premature deterioration of shingled roofing is reported to the council of a strata corporation. The roof was replaced 10 years ago and the council would expect it to last for at least another 10 years. At the council meeting the question was brought up whether the roof was still under warranty, but no one seemed to know the answer. It was time to go and look for the roof warranty which was probably stored in one of the file boxes in boiler room along with other old documents. A couple of council members spent hours, going through several boxes of old and dusty documents searching for the warranty with no luck. As a result, strata may find itself solely responsible for the cost of roof replacement even though the defective shingles had caused the problem.

This is just one example of how losing an important document can cost strata thousands of dollars. There are other stories about ruined file boxes as the result of a flood or fire in the building.

Another common cause of losing corporate history is a change in the management of the strata. Every time strata hires a new management company they face the risk of losing key information during the transition. This can also happen when council members resign, especially in a self-managed strata. Unfortunately this and similar scenarios happen more often than you think.

Such issues can be prevented simply by using a software system to store and archive strata records. These systems are capable of searching thousands of documents and find the information you are looking for in just a few seconds. Alerts can be set up to warn you before a warranty or a contract is expired. On top of that, creating backup of the information stored in a software system is very easy and can be automated, so in the case of flood, fire, or hardware failure you do not need to worry about losing the strata records. This makes using software the best and most reliable option to keep track of corporate history of the strata.

Accuracy of Strata Records



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The Information Certificate (Form B) is among the first documents that realtors order when they list a strata unit to sell. This is one of the most important documents that buyers should review and it discloses the key information regarding the strata corporation and the strata lot. Having access to accurate records plays the utmost importance in producing an error-free Form B. You might have heard the story of owners who bought a strata unit with two parking stalls, only to be told at the move-in time that there was only one parking stall assigned to the unit.

Issues like this can cost strata corporations and strata owners hundreds of thousands of dollars in legal fees, not to mention hours of time wasted in hearing sessions and the amount of stress it can impose on all parties. Obtaining information from reliable sources (in this case The Land Title Office) as well as maintaining immaculate and accurate records play an important role in preventing mistakes like this.

Manually maintaining information on paper documents can be prone to errors. For example, duplicate assignment of parking stalls or storage lockers is a common problem seen in strata records, simply because there is no system in place to verify data and report issues. Processing large amounts of data in a fraction of a second to find and report potential issues and prevent them from happening in future is one of the strong points of software systems.

Compliance with Legislation

Strata corporations must follow the record-keeping provisions in the Strata Property Act (SPA) and Regulations as well as the privacy rules contained in the BC Personal Information Protection Act (PIPA). Section 35 of SPA lists the records that must be prepared and retained by a strata corporation. Section 4.1 of the Strata Property Regulation completes the list and provides the time period that each record must be retained by the strata. Then section 36 of SPA defines who is entitled to access each record, and finally section 34 of Personal Information Protection Act (PIPA) states:

“An organization must protect personal information in its custody or under its control by making reasonable security arrangements to prevent unauthorized access, collection, use, disclosure, copying, modification or disposal or similar risks.”

Failure to do so will jeopardise strata’s compliance with the legislation and can have costly consequences for the strata or the agent.

In other words, strata corporations and management companies must be very careful about what information is disclosed and to whom. This can be very challenging when dealing with thousands of pages of strata documents that may contain personal information of owners. It is almost impossible to create folders, binders, and boxes of paper documents that can be easily disclosed to certain groups of people upon request without contraventions with the law. Disclosing too much information might be in contravention with Personal Information Protection Act, while disclosing too little can contravene the right of owners to access strata records under the Strata Property Act.

Software systems can monitor and control the information the users have access to. They can protect strata records against unauthorized access by assigning different access levels to various user groups and by encrypting sensitive information. Therefore it will be easy to share some documents (e.g. the bylaws) with all owners and tenants in a strata while other more sensitive documents (e.g. accounts receivable) are available only to the strata manager and the council. Access to sensitive information can be automatically and swiftly blocked if council members resign.

Conclusion

Strata corporations are often multi-million dollar organizations, so the cost of mistakes can quickly skyrocket. To prevent mistakes, it is crucial to have a proper document management system in place where



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personal information and the strata records are protected from unauthorized access while the council and strata manager have easy and quick access to reliable and accurate records.

The council and the strata manager can try to do it all “the old way”. However, just like any other organization, a strata corporation can benefit from using the right software tools to better perform in its day-to-day operation.

Lastly, it goes without saying that software systems cannot be expected to act as magic wands to fix all problems. However, they can certainly provide an effective and efficient tool to the council and the strata manager to manage the strata information which can prevent a lot of problems or at least help identify issues in time for less-costly resolutions.

CIVIL RESOLUTION TRIBUNAL EARLY INTAKE OF STRATA PROPERTY DISPUTES

On Wednesday, July 13, the Civil Resolution Tribunal Act came into force and British Columbia officially launched Canada’s first online tribunal, the Civil Resolution Tribunal (CRT). For now, the CRT is only able to accept strata disputes, but expects to start accepting small claims disputes early in 2017.

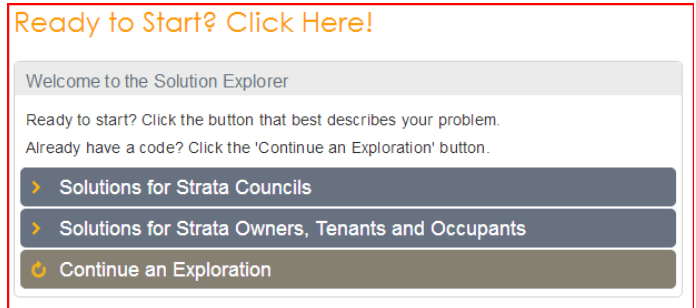
The launch went smoothly and there were no problems with the CRT’s technology: both the Solution Explorer and the online application for dispute resolution worked very well.

The CRT received only a few applications during the first few days, but the flow of new disputes has become fairly steady since then. Those low case volumes have allowed us to keep up with the volumes, while using feedback from users to improve the technology and fine-tune our processes.

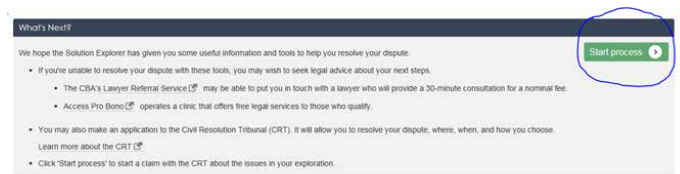
Although the number of applications has been lower than expected, more than 1,600 people have already used the Solution Explorer, the first step in resolving a strata property dispute. People with a strata issue can use the Solution Explorer to learn more about their problem and how to resolve it. There is no fee to use the Solution Explorer and no personal information is collected.

You can access the Solution Explorer from the CRT website: www.civilresolutionbc.ca/self-help/. As indicated in the graphic below, users can choose problem areas for

strata councils, or strata owners or tenants. If you have to exit the Solution Explorer before you finish, the Solution Explorer provides a code you can use to return later and continue the exploration.



If you complete your Solution Explorer exploration, and still need the CRT’s help to resolve your dispute, you can begin your online application from the What’s Next section of the Solution Explorer’s dispute summary page:



The CRT is very thankful to its stakeholders, including many members of CCI, who helped to test earlier versions of the Solution Explorer. Your input has supported the CRT in developing a quality product that was ready for use by the general public.

As part of the CRT’s intake process, staff reviews each application to ensure that it meets the requirements of the Act and that the CRT has jurisdiction to handle the dispute. CRT employees also check for obvious errors and items that require clarification by the applicant. Once the review is complete, the CRT issues a Dispute Notice.

The CRT has issued Dispute Notices to applicants for most of the disputes it has received to date. The Dispute Notice advises the respondent that a dispute has been filed against them. The applicant is responsible for providing (serving) a copy of the Dispute Notice to the respondent. For most cases, the CRT is now able to issue a Dispute Notice within 24 hours of receiving an application.

The CRT now has several disputes in which the respondents have filed responses to the Dispute Notices. When a response is filed, the CRT will generally refer the dispute to a CRT case manager for the next stage in the dispute resolution process: Facilitation. During Facilitation, the case manager explores options for settlement with the parties and, if settlement appears unlikely, readies the dispute for the CRT’s Tribunal Decision Process (which involves a hearing and decision by



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a CRT member).

The CRT has assigned most of the disputes where a response has been filed to Facilitation. However, during the current early intake period, the CRT is not fully staffed and the technology is not fully built. As a result, there will be delays before the CRT is able to fully engage with the parties in Facilitation.

The CRT will use the early intake cases to train staff and test the various Facilitation tools and strategies available under the Civil Resolution Tribunal Act. The CRT's experience with those first cases will identify which Facilitation approaches work best in particular situations.

If there are disputes that are not resolved during Facilitation, the next step is the Tribunal Decision Process. The CRT is currently developing tools and templates, and is continuing to train tribunal members, to prepare for the adjudicative process.

The CRT anticipates that many of the hundreds of people who have used the Solution Explorer will eventually submit applications for dispute resolution. After two months of operation, the CRT is ready and has the capacity to accept those disputes. Over the next few months, the CRT will further develop its capacity to help the parties resolve those disputes, through Facilitation

and, if required, the Tribunal Decision Process.

By Richard Rogers/ Civil Resolution Tribunal

TIPS FOR PREPARING FOR YOUR CLAIM AGAINST THE YOUR NIGHTMARE STRATA NEIGHBOUR

A dreaded scenario of condo home ownership is the nightmare neighbour. This is a neighbour that causes a severe nuisance by creating excessive noise, vandalizing common property or harassing others. They make living in peace impossible. Strata corporations struggle with such owners because the process for enforcing the bylaws through the courts is lengthy and expensive.

How the courts have dealt with nightmare neighbour situations has been receiving increased media attention in recent years with courts granting injunctions and even forcing owners to sell their units. In the most recent case of *The Owners, Strata Plan NW 1245 v. Linden*, 2016 BCSC 619, the court imposed strict injunctions against an owner and his partner because they were found to "have frequently caused excessive noise and engaged in harassing conduct that has unreasonably interfered with the rights of their

neighbours to quiet enjoyment of their own units.”

Notwithstanding the increased attention these cases have been getting, the bar for forcing an owner out of a strata is very high in BC. The court will only force owners to sell their strata lots if the owner has already breached an injunctive order by the court to obey the bylaws and there are no less draconian remedies available (see for example: *The Owners, Strata Plan LMS 2768 v. Jordison*, 2013 BCCA 484 and *The Owners, Strata Plan VR 390 v. Harvey*, 2013 BCSC 2293).

In this writer’s view, the Strata Property Act should be amended to be consistent with other Canadian jurisdictions where strata corporations can force the sale of strata lots in the first instance when an owner fails to demonstrate an ability or willingness to live within the framework of rules required to ensure peace within their strata community.

Until the provincial government amends the law, a necessary first step in forcing a nightmare neighbour out of a strata community is to apply to the Supreme Court of BC for injunctive orders. So how can a strata corporation, property managers and owners prepare the evidence in a manner that maximizes its chances for success while minimizing the strata corporation’s legal costs? Here are some tips:

Tip 1: Document Everything

This is perhaps the single most important thing a strata corporation can do. Injunctive orders are sought by way of Petition, which means that evidence is submitted through sworn written statements, called affidavits. Cases are typically decided on the basis of these affidavits and the documents attached to them as exhibits.

Preparing the affidavit evidence is often the most time intensive and expensive aspect of preparing a Petition. This is particularly the case if the nuisance has a long history or there are many potential witnesses in the building being affected. In the absence of a clear record of complaints, lawyers must spend a great deal of time interviewing witnesses to try to piece together a chronology of complaints. That can be costly.

Basing evidence purely from memory is also not ideal from an evidentiary standpoint. Affidavit evidence based solely on memory may be less detailed, less credible and more easily rebutted than evidence that is corroborated with a contemporaneous record.

Owners should be encouraged to keep diaries or save correspondence that documents their complaints in as much detail as possible including:

- What happened?
- When and where did the incident happen?
- What time did each nuisance occur and when did it stop?
- How did the nuisance or harassment make the owner feel? Angry? Intimidated?
- How did the owner respond to the nuisance?
- Have they taken any steps to avoid the neighbour causing the nuisance or minimize the effect of the nuisance? If so, how effective have those steps been?

The owners should also be asked for copies of any pictures, video or audio recording of the nuisance. For example, if your nightmare owner vandalized common property, take a picture. If they are screaming in the middle of the night, create an audio recording.

Property managers must also play a role in documenting complaints by keeping the following records on behalf of the strata corporation:

- All written complaints regarding breaches of the bylaws;
- Written notices to the owner detailing the complaints, including the date and time of the alleged bylaw infractions and giving the owner an opportunity to respond;
- Minutes of the council’s decision regarding the complaints; and
- The letter to the owner that sets out the council’s decision regarding the infraction.

Keep all of these records in one place so that they are easy to find and organized when your lawyer requests them.

Tip 2: Enforce the Bylaws

The primary methods of bylaw enforcement under the Strata Property Act are warnings and fines. These methods should be tried before rushing off to court to get an injunction. The court may be hesitant to grant an injunction if the strata has not attempted less drastic means of enforcement such as warning the owner or fining them. Furthermore, sometimes these methods can be effective and allow the parties to avoid having to go to court.

The Strata Property Act has specific requirements for how owners are to be put on notice for contravention of the bylaws before they can be fined. These requirements should be followed as strictly as possible.

It is also worth noting that Strata corporations may seek an order for judgement for fines at the same time as it seeks an injunction. Following this guide will increase the chances of the strata's claim for fines will be upheld by the court.

Tip 3 : Stay Above the Fray

This is perhaps the hardest tip to follow because it is natural to want to respond to those that wrong us. However, strata corporations should be aware that in nearly every case where a strata corporation seeks an injunction against an owner for harassment, that owner claims that they are being persecuted by the strata corporation or its residents.

Such allegations, even when founded, are not necessarily fatal to a strata corporation's case. After all, throwing dirt at others does not make anyone clean. However, if substantiated, such allegations could colour a strata's claim or

undermine the credibility of its evidence. Thus, strata corporations, property managers, councils and owners should try to respond to their nightmare owners in as reasonable and balanced manner as possible.

Remember that the Strata Property Act provisions for bylaw enforcement and governance are meant to promote fairness and impartiality.

Council must consider the responses received from the owner regarding a complaint and must give the owner a hearing if requested.

Bylaws should be applied and enforced fairly and equally to all, including the council.

Council members who are involved with the complaint should recuse themselves and leave the council meeting before the council makes a decision regarding the complaint, including whether to impose fines.

By acting fairly, impartially, avoiding conflicts and following the Strata Property Act, the strata corporation is more likely to inoculate itself against allegations of bias and persecution.

Risk and cost is unavoidable in all litigation, including petitions to seek injunctions against nightmare neighbours



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in strata communities. However, by following the above tips, strata corporations, owners and property managers can help maximize the chance of obtaining an injunction against their resident nightmare owner and limit costs.

This article is meant to be a general guide. Strata corporations and owners should always seek legal advice early when dealing with a potential nightmare owner.

By Alex Chang/Lesperance Mendes Lawyers

EARTHQUAKE INSURANCE: HOW WELL ARE YOU PROTECTED?

Earthquake insurance has been a hot topic in recent years in Canada. According to a recent geological survey of Canada, BC is due for a large earthquake with an estimated 30% probability of it happening in the next 50 years. The Globe and Mail recently publicized an article predicting that a major earthquake could trigger a deep financial crisis. Media coverage of earthquakes in distant countries has left the world shocked and many British Columbians have started to ask what the risk is, here on our doorstep, for good reason.

Here in BC, it is estimated there are approximately 40,000 strata corporations containing in excess of 600,000 strata lots; that's over 25% of our population living in a strata.

Your strata policy

Earthquake insurance is available to purchase by strata corporations in BC and the vast majority of such corporations obtain that additional coverage to protect themselves and their ownership; however, a significant consideration under that special coverage is the deductible. In the Canadian marketplace, earthquake deductibles are typically shown as a percentage, but a percentage of what? The deductible amount is a percentage of the total insurance value stated on the certificate of insurance or policy declarations and ranges between 10% and 20% in the lower mainland.

Case Study

Strata Plan EPS1234, Happy Street, Vancouver. 100 units.

Total Insurance Value	\$60,000,000
Earthquake deductible	10%
Total Deductible for strata	\$6,000,000

As illustrated, the deductible amount can be considerable for a strata corporation and there is a more

than likely chance that 1) the earthquake insurance policy for your strata will not be triggered as the damage will be below the deductible and 2) there will not be enough available to the corporation to pay that deductible or damage in the event of a loss.

As per the Strata Property Act, an insurance deductible is a common expense. As an owner, in the event there is not sufficient funds available for the strata to pay the deductible, you would be assessed your portion of this significant deductible based on your individual unit entitlement. The same assessment could also be made for damage that falls under the stratas deductible.

In this particular case study and assuming there is nothing in the contingency reserve fund to help with the repair costs, the average assessment for an owner would be \$60,000!, but don't forget your actual assessment would be calculated using your specific unit entitlement, meaning the assessment could be even higher.

How can you protect yourself from this financial impact?

Fortunately, there are a few options available to reduce the financial impact of an earthquake assessment.

1) Earthquake Deductible Buy Down

Today, a strata corporation can buy down the deductible to as low as 5%. This cuts the financial risk to at least half for owners. We strongly recommend stratas consider this relatively new product whilst going through their next insurance renewal.

2) Personal Insurance

Whilst the new Earthquake deductible buy down product provides some relief, there is still an exposure for owners. Many people believe they will get relief from the Federal and/or Provincial governments and, whilst in some cases, limited relief maybe deployed, the only certain way to protect yourself is to purchase adequate earthquake insurance with your personal insurance policy. Sufficient coverage is essential; you should discuss with your personal insurance broker on how best to protect yourself. If your personal insurance policy is not set up correctly, you may not have any, or sufficient coverage to protect yourself from the financial loss of an earthquake.

Remember; for your building the best insurance advice you can get is from a specialized strata insurance broker and they may also be able to refer you to a capable personal lines broker who understands the risks of a strata corporation. To get further details here are some helpful resources:

<http://www.ibr.ca/ns/home/types-of-coverage/optional->

coverage/earthquake-insurance

<http://www.theglobeandmail.com/report-on-business/financial-sector-faces-systemic-risk-tied-to-earthquake-report/article31241078/>

www.publicsafety.gc.ca

www.ibabc.org

Article written by Paul Murcutt CAIB - VP, Unit Leader,
Real Estate Division – BFL CANADA

SANTOS V. THE OWNERS, STRATA PLAN LMS 1509, 2016 BCSC 1775

Case Comment:

This case exemplifies the significance of the duty to repair and maintain a strata building under the Strata Property Act. Despite owner opposition, despite an enormous process tag, despite managerial dysfunction, the Court ordered the Strata to repair its building and ordered a \$16.8 million levy and appointed an administrator (at \$175 / hour) to make sure the work got done!

Built in 1994, the buildings of LMS 1509 leaked almost from the start. After reports and investigations, in 2008 an estimate was put before the court for \$40 million to repair the complex of 250 units. At that time the court considered the repair cost to be more than the building was worth as a knock down and the repair was refused.

The buildings were not sold to a developer, but continued to leak and efforts to fix the leaks continued, without success. This included, by the way, a \$10 million levy payable over 4 years (and by rough math that is \$10,000 per unit, per year for four years!). This did not solve the problem.

The Court said, as the Act provides that the court may make any order necessary to see a duty under the Strata Property Act actually performed, the court is free to both order the special levy to raise the funds required, and, as in this case, to overcome deadlock among factions in the ownership, by appointing an administrator too. It was not a case of choosing one or other remedy.

The owners who had opposed the special levy were ordered to pay the costs of the owners who had brought on the petition.

This case continues a line of cases that have said, if the work is necessary, and the cost of repair is not in the order of magnitude of the entire value of the whole property,

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the Strata Corporation must repair and maintain its buildings. That duty, with this case, takes another step towards being an absolute legal certainty, and serves a warning to buildings and owners who are unreasonably fighting expenses related to the duty to repair. This case was expensive for all the owners, but most expensive for those who did not support the repairs.

By Phil Dougan/Access Law Group

OVER AND OUT: WHEN A STRATA LOT SELLS, DOES A TENANCY END?

By Lisa N. Mackie

Published: Summer of 2016 CHOA Journal

Skedaddle Estates is an 80-unit residential strata corporation in Burnaby, British Columbia. Like many strata corporations, Skedaddle Estates passed a rental restriction bylaw limiting the number of permitted rentals in the community to 10 at a time. This past Spring, one of the permitted rental strata lots sold, and the Strata Council questioned whether or not the sale would automatically terminate the residential tenancy. The Council wondered: when the sale is over, must the tenant move out?

The Laws of the Land

It will come as no surprise to strata agents and strata lot owners alike that living in a strata corporation means living under certain laws of the land. The Strata Property Act, S.B.C. 1998, c. 43 (the “SPA”) is the principal legislation that governs the creation and operation of strata corporations in our province. This legislation operates in conjunction with the regulations made pursuant to the SPA, the strata corporation’s bylaws and rules, as well as several other provincial and municipal laws that regulate how persons can use and enjoy their strata properties.

In a kingdom that is a strata corporation, it is the Strata Council (the neighbourhood’s proverbial Royal Family), who is first tasked with administering these laws. Strata governance invariably entails regulating all aspects of communal living, from pet noise to drifting smoke, curtain colours, to garden gnomes. Although the SPA is silent on such hard-hitting issues as garden gnomes, it is quite comprehensive with respect to other matters that impact day to day strata living; and in particular, rental permissions and prohibitions.

To Rent or Not to Rent

Subject to obtaining the ¾ vote approval of the kingdom,

a Strata Corporation can (1) ban rentals of residential strata lots; (2) restrict the number or percentage of residential strata lots that can be rented; and (3) limit the period of time for which residential strata lots may be rented. However, if there is “an exception to every rule”, then the SPA is in turn, no exception. In certain circumstances, the laws of the land do not apply to everyone. For example, the SPA affords special exemptions when renting to a “family member” (as defined under the regulations to the SPA), and when the owner is eligible to rent their property on the basis of hardship. An improperly worded rental bylaw can also render itself unenforceable and give owners a window of new rental opportunities. Lastly, the owner developer can reserve the right to rent any or all strata lots in the community by way of the Rental Disclosure Statement filed at the creation of the strata development. These exemptions are conveniently found in the same statutory neighborhood (sections 141 - 144, SPA), so Councils needn’t venture very far to find them. Despite this convenient location, however, determining how and when a residential tenancy ends entails strolling into other laws and examining the tenancy agreement between the parties.

The Ties that Bind

Whether a rental property is in a strata corporation or rental building, the rights and obligations of residential landlords and tenants in British Columbia are derived from two main sources: the law (i.e. the common law and statute); and the contract (i.e. the residential tenancy agreement between the parties).

Although there are many statutes that impact a residential tenancy relationship, the Residential Tenancy Act, S.B.C. 2002, c. 78 (the “RTA”) and its Regulations are the chief statutes that govern most residential rental accommodations in our province. The RTA administers all aspects of the residential tenancy relationship: how a tenancy starts; how a tenancy proceeds; and how a tenancy ends. The RTA’s purview over rentals in strata communities cannot be understated. No matter how much the neighbourhood Royal Family may wish to reign over strata lot rentals, the RTA holds the trump card. Indeed, the SPA tips its statutory hat to the RTA by prohibiting a Strata Corporation’s ability to interfere with residential tenancies. Unless otherwise permitted under the SPA, Strata Corporations are prohibited from screening tenants, establishing screening criteria, or inserting terms in tenancy agreements (section 141, SPA). The RTA also adds another layer of red tape by restricting a strata lot owner’s ability to end the tenancies they enter into.

All Good Things Must Come to an End

While strata lot owners have control over whom they rent or sell their strata property to, the RTA ultimately dictates

how the rental comes to an end.

Section 44 of the RTA lists the various ways to end a residential tenancy. For example, the landlord or tenant may each give written notice to terminate the agreement, or they may mutually agree to end the tenancy by way of another written agreement. The tenancy may end by virtue of the fact that the tenancy agreement is for a fixed length of time which requires the tenant to vacate at the end of the fixed term on a specified date. Alternatively, the tenancy may be ended by order of the Residential Tenancy Branch, the administrative tribunal that administers the RTA and decides disputes between landlords and tenants under that legislation. Although the RTA allows strata lot owners to end their tenancies when they sell their strata lot, the legislation adopts various protections for tenants which are intended to cover their ability to continue residing in the rental home even after the sale.

Move Over

Does the sale of a strata lot automatically terminate the residential tenancy? In a word: no.

Under section 49(5) of the RTA, the strata lot owner is only permitted to end the tenancy if the following criteria are met:

- (a) the landlord enters into an agreement in good faith to sell the rental unit;
- (b) all the conditions on which the sale depends have been satisfied; and
- (c) the purchaser asks the landlord, in writing, to give notice to end the tenancy on one of the following grounds:
 - (i) the purchaser is an individual and the purchaser, or a close family member of the purchaser, intends in good faith to occupy the rental unit;
 - (ii) the purchaser is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

As part of the 2 Month Notice to End Tenancy, the tenant is also eligible for compensation in an amount equivalent to one month's rent on or before the move-out date. This is typically provided by waiving the last month's rent ordinarily payable by the tenant. Last but not least, the 2 Month Notice to End Tenancy must be issued using the mandatory form published by the Residential Tenancy Branch and available online.

Let's Make a Deal

In the absence of meeting all of the criteria to issue a 2 Month Notice to End Tenancy, it is always open to the landlord and tenant to negotiate an earlier end to their tenancy by way of a Mutual Agreement to End Tenancy. Any agreement to terminate a residential tenancy early must be made in writing and signed and dated by the tenant and the landlord (or the landlord's agent). The address of the rental property must be clearly identified on the agreement, along with both the move-out date and time. A sample Mutual Agreement to End Tenancy is published by the Residential Tenancy Branch and made available for use by landlords and tenants. It is important to note that this sample Agreement only contemplates the voluntary termination of the tenancy, and does not include any other agreements that may be reached between the parties on matters relating to the early termination (such as offering a financial incentive to leave early). So long as the terms of the Mutual Agreement to End Tenancy do not contradict the RTA or conflict with any other governing laws, the landlord is at liberty to make a deal to end the tenancy.

This Land is My Land

Whether or not a residential tenancy ends with the sale of a strata lot depends on a number of factors, including the tenancy agreement, the tenant's willingness to vacate, and the purchaser's intention to live in their new home. Although Strata Councils have a duty to manage their rental restriction bylaws, these laws of the land do not override the rights and obligations afforded to landlords and tenants under the RTA. In short, while strata lot owners may come and go, their residential tenants may be here to stay.

To stay on top of developments in residential tenancy law, strata agents and strata lot owners can visit the Residential Tenancy Branch website.

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CCI VANCOUVER 2016 STRATA OF THE YEAR

"Run it like a business", says LMS1816 Harbour House president Ian Callaway, when asked about his council's philosophy to managing their unique strata corporation. Ian and the rest of the Harbour House councils have employed these techniques on their journey to becoming the CCI's "Condo of the Year".

Harbour House is a 22 year-old, 3 building, 82-unit strata corporation located in Vancouver near Victoria Drive and adjacent to the Fraser River. It features picturesque river views and a variety of nature-like amenities such as gardens and ponds.

Despite its serene location, Harbour House is no stranger to conflict, as many of us who live in strata corporations can appreciate (writer included). It is Harbour House’s ongoing and evolving work in overcoming these challenges and building a strong community not just in spite of, but because of, its divergent challenges, contributed to its selection as the CCI Vancouver Strata of the Year 2016.

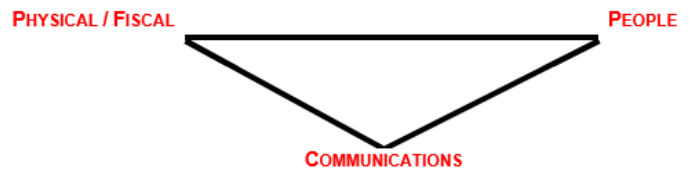
Ian himself, it turns out, actually started his interactions with council by wearing his “owner’s hat”. Within a few weeks of purchasing his unit, Ian discovered a serious, but non-disclosed, plumbing issue. He started asking questions, followed by more questions, many of which challenged the status quo, revealed procedural defects, precipitated retaliations, and ostracized him from the majority of owners. With considerable persistence, Ian prevailed, after which a number of former adversarial owners stated, “Now I understand why you kept asking those questions, and if you hadn’t, we would be in a real mess.” Having gained considerable support with his knowledge, organization, and commitment, Ian was

elected to council and shortly thereafter voted in as President.

How does one ensure community harmony through adversity? Despite recognizing that residents range from the “doers” to the “perennial malcontents”, Ian’s advice was to “treat everybody the same”— regardless of someone else’s mindset at any given time. That is also, he hints at, the secret to prevailing over the noisy voices who can take up a disproportionate amount of council’s time over self-serving interests, superfluous issues, and/or personal attacks.

In addition to the people component, central to Harbour House is implementing a business-like philosophy. As part of this practice Ian also advocates for getting to really know the building, its plans, and its costs—matching the physical to the fiscal!

Like a triangle, the third vital is communications. Ian cites Harbour House’s deft use of communications technology as another way of keeping owners engaged and informed.



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For example, he has a separate cell phone to field strata-related phone calls and emails (the sheer number of both might shock you - or not). While in the past emails were the “mode-du jour”, now cloud-based technology is also used to share and store relevant documents in a place where council and residents can easily access them.

Whether communicating by e-mail as in the past, or with more recent cloud-based technology, council and residents now have almost immediate access to information about Harbour House. This cuts down on surprises and confers a greater sense of ownership in the strata community. Not only do these modes of communication add to the ease of generating an agenda for the next council meeting, but they can help reduce the frequency of council meetings. After Ian attended a CCI seminar reinforcing the concept of stratas as corporate entities, Ian pointed out to the council that when considering many corporate businesses, those that tend to be “exceptionally communicative” often issue quarterly, rather than monthly, reports. Considering both the time demands of volunteer council members and Harbour House’s detailed and lengthy meeting minutes, the council ratified to hold more detailed quarterly council meetings, and in the intervening months much shorter meetings that might focus more on issues such as Bylaw Infractions and/or other matters requiring timely discussion.

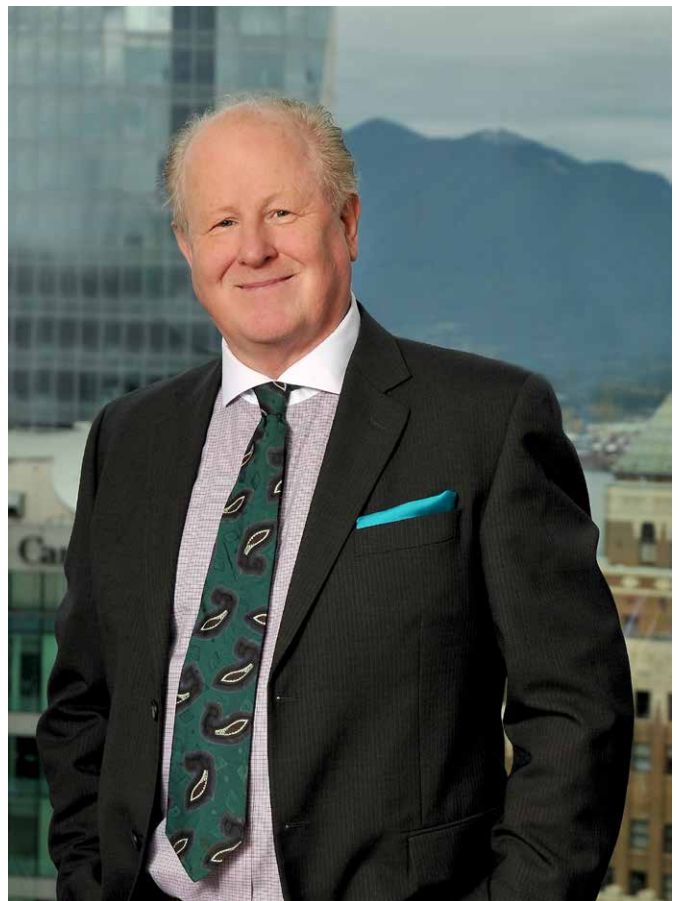
Another creative idea implemented by the Harbour House councils which I particularly admired was erecting twin monitors in the parking garage. The monitors display important information and photos of upcoming projects. This increases transparency, makes residents feel welcome, and subliminally reminds “uninvited” persons that they are in someone’s home.

Another strategy Ian suggests for other strata councils to build greater community spirit and cohesion is to get to know everyone on a face-to-face basis. Whenever possible, Ian strikes up a conversation with other people who live in the strata community -- whenever and wherever he encounters them (even the recycling area!) Not only does such face-to-face recognition add to security—who is and is not a resident—but he also notes that such impromptu chats identify many individuals having talents they can lend to the strata community, even if they don’t have the ability to join the council at a given time.

Last but not least, to take its knowledge even farther, Harbour House’s council is a strong proponent of strata education, also included as a budgetary line-item, based on all council members attending multiple educational opportunities throughout Harbour House’s fiscal year. Encouraged by Ian, council members frequently attend CCI

Vancouver seminars and other educational opportunities such as sessions put on by CHOA (Condominium Home Owners Association of BC). If you thoroughly know the “Act”, Ian says, and stay up on best practices, then it makes it much easier to make tough, but objective, decisions when they arise.

Towards the end of our meeting, Ian let it slip that in addition to his busy professional career and moonlighting as a strata president, he had been very active in amateur hockey as a team manager. A repeated analogy Ian uses is to compare a strata corporation to a sports team—both have coaches (council), have players (Owners) making up the team (strata corporation), play within the rules (“the Act” and Bylaws), and are there to win (be financially efficient). One of the key challenges within this team concept is helping owners understand the differences and responsibilities between a strata lot and both limited and common property: “gosh, can’t I change this and why doesn’t the strata pay for it?” Another challenge is getting one resident to understand how their actions impact other residents. As much as Ian promotes a business approach to running a strata, I can’t help but think one or two of his sports team management techniques must come in handy too!





Message from the President

BY BILL THOMPSON, BA, RCM, ACCI, FCCI
CCI NATIONAL PRESIDENT

You know that feeling that you get when you arrive home after an extended vacation? You know the one that I am talking about. You feel excited to be home, yet sad that the vacation is over. You know that you have a million things to do, and that reality is just around the corner. You are excited to tell your friends and family about your adventures, yet disappointed that the adventure had to come to an end.

I can only imagine that this is very similar to the feelings that must be racing through Geoff Penney's and Peter Harris' minds. They have been on an adventure with CCI. They have challenged their comfort zones and pushed their limits while serving on the National Executive for CCI.

This AGM, their adventure on the National Executive is coming to an end. Both Gentlemen (and they truly are gentlemen), will be stepping off of the Executive at the end of an extremely long and dedicated tenure, leading CCI through its rebirth and transformation from the original model, to the new streamlined Executive. They have given their wisdom, their passion, their time and a large part of their lives for the benefit of the Canadian Condominium Institute, and for that we will always be in their debt.

Their extended adventure has taken them across the country to virtually every province and allowed them to meet and befriend so many people and have so many exciting adventures, that they must

certainly be conflicted in their emotions right now. These gentlemen played hard, worked hard, and should be commended for their dedication, commitment and pure passion for CCI. Although they are leaving the National Executive, they are still valuable members and resources to CCI and will be called on often in the future I am sure. Thank you guys for everything that you have done, and will continue to do, in the best interest of CCI. It has been a pleasure working with you. You are both consummate professionals.

Another notable change coming up is the retirement of Diane Gaunt. Diane has been a foundational influence at CCI, having served CCI, first through Taylor Enterprises and recently through Association Concepts as our Executive Director. During Diane's time with CCI she has seen the growth of CCI from a fledgling association with barely a few chapters and membership counting in the hundreds, to today we have sixteen chapters across the country and have members in virtually every province. Diane has been with us since there were perhaps ten thousand condominium units across Canada, to the current estimated 2.6 million units! She has seen us struggle to get in front of government and has helped us to become the leading resource for all things condominium to the public and government alike.

Her knowledge of our past has constantly been available to us to remind us where we have been,

and that "the way has already been tried", when she saw us spinning our wheels in futile efforts. Her guidance and constant nudging have kept many Past Presidents on track, and kept our volunteer forces engaged and passionate for decades.

I want to thank Diane, on behalf of all of the members for the help and leadership that you have given to us over all of these years. Diane, we wish you happiness and exciting times in your retirement, but hope that you will drop in from time to time when you find yourself looking to reconnect with some of your friends.



I also want to remind everyone that we will be saying thank you to all of these CCI difference makers on Friday October 28th at the Awards dinner which will follow the Annual General Meeting in Collingwood. Please attend if you can, and thank these wonderful people in person.

continued...

Message from the President Cont'd.

As we all know, the only constant in life is change. Change is inevitable, but it is also invigorating! Those of us who can embrace change with a smile and take on the challenge of change with an open mind will always succeed. That, in itself, is exactly what our retiring leaders have done so admirably. They have managed the changes that were inevitable for CCI to survive and to thrive in this constantly changing world.

Lastly, I want to say "Thank You" to all of the members, as I end my term as President of the National Executive. It has been my pleasure, and my honour, to represent you for the last two years. There have been some tough decisions made and some easy ones, but I enjoyed the experience and hope that you did too. I can tell you though, that I am the bigger winner here, as I received way more back than I could have possibly given. The friendships, the experiences, the perspective, and the honour of acting as your President will be with me forever. That will never change.

As the current process goes, this will be my last message to the membership, as we welcome our new President Doug Forbes. Doug is a very capable, experienced, open minded individual who will no doubt entertain you with his messages over the next two years, as he fulfills his term. Welcome Doug and I hope that you enjoy the experience as much as I have.

It feels like I should say "Good Night Johnboy" right about now...



Bill Thompson

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 – The decision-making authority of condominium Boards

In a recent case, the Ontario Court of Appeal has confirmed that the "business judgment rule" applies to decisions by condominium Boards. This means that the Courts will show deference – and therefore won't overturn a Board's decision – as long as:

- *the matter decided was within the Board's mandate or decision-making authority;*
- *the Board arrived at its decision in good faith, with fair process; and*
- *the decision was "within a range of reasonable choices".*

To me, this means that condominium corporations must make reasoned decisions, or in other words they must have sound reasons for their decisions. If they do (and as long as a given decision doesn't fall outside a spectrum of reasonable choices), then the Court will generally respect and uphold the decision – whether or not the Court might have come to a different decision.

Here's my summary of the case:

3716724 Canada Inc. v. Carleton Condominium Corporation No. 375 (Ontario Court of Appeal) August 30, 2016

Appeal allowed. Court of Appeal finds no oppression and defers to decision of board of directors

The lower court held that the condominium corporation acted oppressively in imposing a condition for approval of the owner's requested changes to the common elements. The lower Court ordered the corporation to approve the requested changes, and also held that there should be no vote of the owners pursuant to sections 97 and 98 of the Condominium Act, 1998. [See Condo Cases Across Canada, Part 54, May 2016.] The condominium corporation appealed, and was successful. The Court of Appeal found that there was no oppression; and applied the "business judgement rule" to the board's decision. The Court of Appeal said:

Therefore, to summarize, the first question for a court reviewing a condominium board's decision is whether the directors acted honestly and in good faith and exercised the care, diligence and skill that
continued...

a reasonably prudent person would exercise in comparable circumstances. If they did, then the board's balancing of the interests of a complainant under s. 135 of the Act against competing concerns should be accorded deference. The question in such circumstances is not whether a reviewing court would have reached the same decision as the board. Rather, it is whether the board reached a decision that was within a range of reasonable choices. If it did, then it cannot be said to have unfairly disregarded the interests of a complainant.

...

In this case, the Board's decision had the effect of rendering the respondent's proposal less profitable. But that does not mean that the Board unfairly disregarded the interests of the respondent. The Board was entitled, indeed required, to consider the impact of the changes on the interests of other unit owners. And as the deemed occupier of the common elements of the condominium, it was also entitled to consider the security implications for users of the common elements. It did not ignore or treat the interests of the respondent as being of no importance. It simply - in good faith and after a fair process - determined that legitimate and reasonable competing interests were more important. Its decision not to approve the requested changes to the common elements unless the respondent hired a security guard was within a range of reasonable choices.

BC Cases – Barrett v. The Owners, Strata Plan LMS 3265 (British Columbia Supreme Court) August 12, 2016

Court orders that schedule of unit entitlements be amended to include finished basements and finished lofts in calculation of habitable areas

The unit entitlements were originally calculated on the basis of habitable square footage in accordance with section 1 of the Condominium Act. Unfinished basements, lofts and certain other portions of the units were not included in the unit entitlement calculations. Over time, the basements and lofts in many of the strata lots were finished; but the schedule of unit entitlements was never amended to reflect any corresponding increase in the habitable areas of those strata lots.

The petitioners were the owners of six strata lots that didn't have basements or lofts. Because common expenses are based upon unit entitlements, the petitioners asserted that the schedule of unit entitlements should have been revised (to reduce their entitlements) because of the increased habitable areas of the strata lots with finished basements. The Court agreed. The Court ordered that the schedule of unit entitlements be amended pursuant to section 246 (8) (a) of the Strata Property Act. The Court also ordered, pursuant to section 164 of the Strata Property Act, that a previous resolution passed to approve a special levy for roof replacement was to be varied to reflect the amendments to the schedule of unit entitlements.

Frank v. The Owners Strata Plan LMS 355 (British Columbia Supreme Court) June 30, 2016

Installation of roof deck railings was a repair, not a change

The owner had the use of a roof deck, which the Court determined to be limited common property pursuant to the Strata Plan. The owner discovered that the exterior parapet walls framing the roof deck were lower than the height required under British Columbia's Building Code. With the concurrence of the strata council, the owner began a process of obtaining the necessary permits from the City of Vancouver to install railings of the proper height. However, a dispute ultimately arose between the strata corporation and the owner respecting approval of the new railings and responsibility for the costs to install the new railings.

The Court determined that installation of the railings was necessary work. Therefore this work was not a significant change requiring approval by three quarters vote under section 71 of the Strata Property Act. The Court in fact determined that the railing installation was a repair falling within the responsibilities of the strata corporation. In addition, the Court held that the strata corporation's actions (in failing to adequately co-operate with the owner during the entire process) were significantly unfair. The Court held that the owner "had a reasonable expectation that he had the right to use and enjoy his limited common property as a roof deck".

Alberta Cases – Condominium Corporation No. 072 9313 (Trails of Mill Creek) v. Schultz (Alberta Court of Queen's Bench) June 17, 2016

Court sets aside fines and costs levied by condominium corporation against owner who contravened "adults only" by-law

The condominium corporation had an "adults only" by-law. The owner purchased a unit and moved in with a minor son. The board demanded compliance with the by-law, asking that the minor leave the condominium by July 6, 2014. The owner was not able to meet that deadline. The owner made attempts to sell without initial success. The corporation ultimately started this application to evict the minor. Before the Court's decision was rendered, the unit was sold and the eviction issue then became moot. However, the Court still had to decide further issues, namely the rights of the condominium corporation to fines and costs. The board had imposed fines (for non-compliance with the by-law) beginning January 1, 2015.

The Court held that there was no proper purpose for the board's imposition of fines. The Court said:

continued...

The fines levied here appear to be pointless except, possibly, from the standpoint of deterrence. Otherwise the decision seems to be punitive and to serve no useful purpose. It might have been different if Ms. Schultz was unwilling to comply.

The Court therefore dismissed the condominium corporation's application for fines and for recovery of costs

Haymour v. Condominium Plan No. 802 2845 (Alberta Court of Queen's Bench) July 12, 2016

Claims of former owner dismissed

Pursuant to previous Court orders, the condominium corporation had sold the owner's unit in order to recover outstanding arrears of condominium fees. The former owner then filed a caveat against the unit, and was permitted to bring an action to attempt to prove the claimed interest under the caveat, but subject to strict directions from the Court about the process of the action. The defendants in the action ultimately brought this motion to summarily dismiss the claims of the former owner, and they were successful.

Waymarker Management (Silver Creek) Inc. v. Tibu (Alberta Court of Appeal) April 25, 2016

Appeal Court confirms restraining order against condominium owner

There had been a "history of unpleasant encounters" between one of the owners in the condominium and the employees of the condominium's manager. As a result, the Queen's Bench judge had issued a permanent restraining order against the owner, ordering that she have no contact with the manager's employees.

The owner appealed. On appeal, the restraining order was upheld, but with some softening of the restrictions in order to permit the owner to pursue her property rights. The Court of Appeal said:

Accordingly, we conclude that the restraining order must remain in full force and effect subject to the deletion of the arrest and detention provisions and that the order should also be varied to include a provision that, save in the case of an emergency, the appellant shall communicate with employees of Waymarker, including Mr. Cyr, only in writing. If for any reason employees of Waymarker are required to enter the appellant's condominium, she is to be absent and notified in writing once their tasks have been completed. To that extent only, the appeal is allowed.

Ontario Case – Wu v. Carleton Condominium Corporation No. 383 (Ontario Small Claims Court) April 20, 2016

Condominium corporation had not improperly withheld records

The owner sued the condominium corporation pursuant to section 55 of the Condominium Act, 1998, for alleged failure to produce requested records. The Court dismissed the owner's claim. The Court said that the condominium corporation had provided all of the requested records apart from email addresses. In relation to the email addresses, the Court said that they should not be provided to the owner. The Court said:

I conclude that electronic addresses are not part of an address of service within the meaning of section 55.

The Court also said that the corporation had properly redacted minutes (provided to the owner) as required by section 55 (4) of the Act.

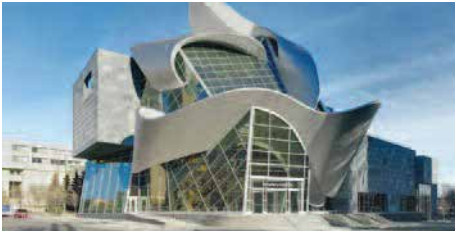
Newfoundland and Labrador Case – Summer Services Limited v. Karwood Commercial Condominium Corporation (Newfoundland and Labrador Supreme Court) June 8, 2016

Board failed to act honestly and in good faith in refusing consent for air conditioning

The applicant was the owner of a unit in a commercial condominium. The condominium Declaration required the Board's written consent for any alterations or repairs to a unit or for any service upgrades to a unit for air, water or electricity.

The owner asked for the Board's consent to install air conditioning. The Board gave approval, but conditional on the owner bringing itself into compliance with provisions of the Declaration respecting the permitted uses of the unit. [The Board alleged that the owner was in violation of the Declaration in that the owner's use was in competition with the core business of another owner.] The Court held that the particular condition could be imposed provided this was done with honesty and in good faith. The Court said that the Board had not acted honestly and in good faith. In particular, the Court concluded that the Board's true reasons for refusing consent were not as expressed to the owner. Therefore, the Court ordered that the owner's application for air conditioning be approved. ❁

CHAPTER CHATTER



North Alberta Chapter — As the excitement builds for Captain Connor and our new arena, CCI North Alberta flies a little under the radar building our membership base and continually looking at ways to improve our product for all facets of the condominium industry.

2015-16 was a very productive year for the Chapter with just a few of the highlights listed below.

- A 20% increase in membership this past year with a total of 536 paid members.
- Substantial increases in membership engagement with our website registrations, online message forum participation and our recently created MailChimp electronic newsletter.
- Attendance at Educational events increased by 40% not including our most successful Conference and Trade Show to date which had over 500 attendees, more than double from the previous year.
- Continued involvement with the government during the ongoing Regulation amendments and with RECA through the Condominium Manager Licensing Advisory Committee.

Over the summer we held two strategic planning sessions for 2016-17 with the assistance of facilitators Nadine Riopel and Gord Sheppard. It was great to have some outside expertise to help us make some tough decisions as well as keep us focussed on the goals at hand.

Mother Nature forced us to postpone our Annual Golf tournament once but we would not be denied a second time, enjoying a fine fall afternoon at the Derrick Golf and Winter Club. Kudos to Golf Chairman Curtis Siracky for all his efforts for a record turn out and as a result we were able to make a \$1000 donation to the Edmonton Food Bank along with a large amount of food items.

As we got back into the swing of things in September, we saw some administrative changes in the office. The Board of Directors approved a new structure in the office, creating an Executive Director position (Alan Whyte) and two part time roles of Office Administrator (Collen Peters) and Bookkeeper (Christine Schultz). Joyce Schwan our beloved Administrator these past three years, is currently on a medical leave and we wish her a speedy recovery. Our recently held AGM featured a hotly contested election for the Board of Directors with 14 candidates vying for 7 positions. We welcome back David Vincent and Shantel Kalakalo to the Board along with three members who have all had previous Chapter Board experience in Barb Surry, Dawn Mitchell and Hugh Willis. Newcomers Chris Vilcsak and Nigel Gamester bring a brand new perspective and round out the remainder of the elected slate for 2016-17. At this time we would like to thank former Board Members Jim Wallace, Susan Milner, Curtis Pruden and Jason Matthews for all of their efforts during the time they spent on the Board.

Like our hockey team, we look forward to continue to build on the momentum we have created for even more successes in this upcoming season. We will compare report cards in the (late) spring of 2017!

*Alan Whyte, Executive Director
CCI North Alberta Chapter*



Eastern Ontario Chapter — As the season's change, the Nation's Capital and the Eastern Ontario region shines with the changing of the leaves and very vibrant colors.

CCI Eastern Ontario has been a very busy chapter and we need to thank the hard working CCI-EO board of directors for their time, commitment and dedication to making this chapter so successful. The board has

been listening to its members and offering many different educational, networking and social opportunities. The big change was the elimination of fees to members for seminars. CCI-EO offers 6 seminars a year and the board felt it was important to get as many members out free of charge. We have had a successful line up of courses and the number of attendants keeps growing. Just last week we hosted a "Night with the experts". Seven industry professionals rotated on a speed dating theme and had the chance to talk and discuss the burning issues with 75 members who were engaging and eager to discuss and listen to the concerns they are facing.

Our Newsletter has been an example of incredible insights from professionals in the community and the industry. Our Newsletter editor has been very instrumental in addressing the issues with huge success. Our spring issue took on a change and became themed based. The spring issue was based on smoking and odours in Condos. The summer issue was based on Ageing and on Ageing Condominiums. Both issues were so well received that we are going to continue on the themed issue idea and the fall publication will be focused on the concerns of New Condominium and all that they face.

In November we our hosting our Weekend Director's Course. This event always sells out and provides comprehensive information and guidance to Condo directors and management groups. Attendants walk away with knowledge and a new understanding of the importance of staying educated and informed. We offer this weekend course twice a year, plus we have added on a full 1-day Director's Course in Kingston. Again, the goal is to reach out and help inform and educate our members.

Our winter line up of courses will meet the continued needs of our membership. January will kick off the New Year with the very popular "Lawyers, Guns and Money". In February, the new seminar "Security, Not just a Lock on the door" will be launched. This seminar tackles many topics, including security in the building, around the building, safety in the parking area, issues with Airbnb and much more.

continued...



Mark Your Calendars

for the 2016 National AGM & Awards Banquet

Date: Friday, October 28, 2016

Location: Westin Trillium House, Collingwood, Ontario

The National AGM will take place in conjunction with the 2016 Fall CCI National Leaders' Forum, which is scheduled for October 27-28, 2016. Don't miss the updates of the activities of the National Executive Board and of the national committees and chapters. The meeting will provide an opportunity for members to network with other members of CCI.

The National Awards Dinner will take place following the AGM, where CCI will present and honour recipients of the CCI 2016 national awards – the FCCI and DSAs, Chapter of the Year, and Chapter Newsletter of the Year.

More information may be found on the CCI national members' website – www.cci.ca

October 26-29, 2016
Westin Trillium House
Collingwood, ON

Oktoberfest

CCI-N 2016 FALL LEADERS' FORUM

Partnering Chapter

Canadian
Construction
Institute

CCI
National
Construction
Institute

Chapter Chatter Cont'd.

Our March seminar is titled "No Reservations about Reserve Funds" and April's seminar is targeted on "Accounting and Budgeting".

We are also very involved with and work closely with ACO – this past spring offering a very successful ACO/CCIEO conference in May in Ottawa and we are preparing for another successful Conference in Kingston in November.

CCIEO went Green this year and that has allowed us to double our reach, and hopefully reach more members and their boards in the future.

Social media is our newest avenue and we are working hard to stay ahead on Twitter and LinkedIn. Please follow us.

"Get involved, stay informed"

*Julie Klotz, Administrator
CCI Eastern Ontario Chapter*

MARK YOUR CALENDARS!!

We are already getting ready for our **Spring 2017 Leaders' Forum**, when we will be packing our bags and heading to the home of our newest chapter:

FREDERICTON, NEW BRUNSWICK!

Plan to join us at the **Delta Fredericton** from **June 7-10, 2017** to enjoy CCI education AND some Maritime Hospitality!



You won't want to miss it!

UPCOMING EVENTS

Eastern Ontario Chapter:

October 19 – AGM and Seminar – Ottawa
November 19&20 – Fall Directors Course – Ottawa
November 25 – ACO/CCI Kingston Conference - Kingston

Golden Horseshoe Chapter:

October 22&29 – Level 200 course – Kitchener
November 26 – Level 300 Course – Stoney Creek

Huronian Chapter:

October 29 – Insurance Seminar - Collingwood

London & Area Chapter:

Nov 5&12 – Condominium Course – London

Manitoba Chapter:

October 20 – Lunch n Learn: Preventative Maintenance: Pay A Little Now or A Lot Later! – Winnipeg
November 17 – Seminar: Insurance – Water is the New Fire - Winnipeg

New Brunswick Chapter:

October 25 – Directors' Forum - Fredericton
November 5 – AGM and Seminar – Fredericton

Newfoundland & Labrador Chapter:

November 22 – Seminar: Mediation Workshop for Directors – St. John's

North Alberta Chapter:

October 19 – Seminar: Better Budgeting – Edmonton
November 9 – Seminar: Ask The Experts – Insurance Panel – Edmonton
November 17 – Lunch n Learn: Flood Prevention - Edmonton

North Saskatchewan Chapter:

October 20 – AGM and Seminar – Saskatoon
November 17 – Seminar: Topic TBA – Saskatoon

Nova Scotia Chapter:

October 22 – 200 Level Course – Halifax

South Alberta Chapter:

October 20 – Level 200 Course - Calgary
October 26 – Lunch n Learn – Calgary
November 24 – Lunch n Learn - Calgary

Toronto & Area Chapter:

October 20 – TwitterChat: Security in Condos
November 11&12 – CCI-T/ACO Conference - Toronto

Windsor Essex County Chapter:

November 16 – Seminar: Director/Owner Responsibility: Financial Management in Condos – Windsor

Chapters are adding new events all the time, check back with your local chapter to get an updated list of events in your area!

October 26-29, 2016

Westin Trillium House
Collingwood, ON



Oktoberfest

CCI-N 2016 FALL LEADERS' FORUM

Hosted by



WED.
OCT 26, 2016

smash

PING PONG CLUB
MATECLUB

Meet & Greet
Time: 6:00pm - 9:00pm

Join the group as we venture into the Blue Mountain Village to SMASH Ping Pong Club. After the buses take you up to the hotel, join us and challenge one of the group to a table tennis match or just enjoy each other's company.

PRICE: Free

THURS.
OCT 27, 2016



Oktoberfest at Side Launch Brewing Company
Time: 7:30pm - 10:30pm

Put on your Lederhosen or Dirndls... The Huronia Chapter will bring Oktoberfest to life as CCI takes over the Side Launch Brewing Company! Enjoy a beer tasting and a traditional Oktoberfest experience for dinner and entertainment. PROST!!

PRICE: \$70.00 + 13% HST

NOTE: Dinner is a traditional pig roast. If you require an alternate meal, please note on your registration. It must be requested two weeks prior to the event.

FRI.
OCT 28, 2016



CCI National Cottage Party Awards Dinner
Time: 7:30pm - 10:00pm

Welcome to Cottage Country! Spend an evening by the lake while celebrating the best of the best that CCI has to offer. Good food, good music, dancing and fun...what more can you ask for?

PRICE: \$80.00 + 13% HST

SAT.
OCT 29, 2016



CCI Huronia Seminar: Insurance Problems and Solutions
Time: 8:00am - 11:30am

Interactive discussion with experts from across the country on how to address current insurance challenges for condos as well as an overview of the findings of the National Government Relations committee's survey of insurance from coast to coast.

Speakers include:

Paul Murcutt (BFL Canada - Vancouver),
Pamela Pyke (Marsh Insurance - Winnipeg),
Mark Shedden (Atrons Counsel - Toronto) and
Geoff Penney (Benson Buffett - St. John's).

Light continental breakfast will be served.
PRICE: \$30.00 + 13% HST

Transportation to/from Toronto Pearson to Collingwood will be provided. More details will be emailed to chapters.

All registrations for the CCI-N 2016 Fall Leader's Forum will be done online this year.

To Register, please visit the below link (or copy and paste it into your browser):

<https://cci-portal.ca/events/fallforum2016chapters>

Canadian Condominium Institute - National Office, 2800 - 14th Avenue, Suite 210, Markham, ON L3R 0E4

Tel: 1-866-491-6216 | **Fax:** 416-491-1670 | **Email:** info@cci.ca



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Cameron Carter
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Vancouver, BC V6B 2M1
Tel: 604-221-8258
Email: margarita@normac.ca

Suncorp Valuations
Timothy Scoon
890 West Pender Street, Suite 310
Vancouver, BC V6C 1J9
Tel: 604-689-2099
Email:
Tim.Scoon@suncorpvaluations.com

Appraisals & Valuations, Depreciation Reports

Pacific Rim Appraisals Ltd.
Victor Sweett
5811 Cooney Road, Suite 305
Richmond, BC V9R 5G9
Tel: 604-248-2450
Fax: 866-612-2800
Email: depreciationreports@
pacificrimappraisals.com

Associations & Organizations

Homeowner Protection Office
Wendy Acheson
4555 Kingsway, Suite 203
Burnaby, BC V5H 4T8
Tel: 604-646-7050
Fax: 604-646-7051
Email: hpo@hpo.bc.ca

Balconies & Sunrooms

Lumon Canada Inc.
Darlene Kuik
2707 Progressive Way, Suite 102
Abbotsford, BC V2T 0A7
Tel: 604-744-5440
Email: Darlene.kuik@lumon.com

Computer Software & Telecommunications

Power Strata Systems Inc.
Azadeh Nobakht
1515 Pemberton Avenue, Suite 106
North Vancouver, BC V7P 2S3
Tel: 604-971-5435
Fax: 604-971-5436
Email: azadeh@powerstrata.com

Condo/Strata Report Services

Constructive Condo Reporting Corp.
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Email: jfproulx@constructivecrc.com

Engineering & Engineering Consultants

Aqua-Coast Engineering Ltd.
Aaron A. MacLellan
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Tel: 604-946-9910
Fax: 604-946-9914
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Email:
glenn@glennduxbury-inspections.com

Sense Engineering Ltd.
Ted Denniston
3035 Crescentview Drive
North Vancouver, BC V7R 2V2
Tel: 778-869-3035
Email: ted@senseengineering.com

Engineering & Engineering Consultants, Depreciation Reports

Morrison Hershfield
Jacquelyn White
4321 Still Creek, Suite 310
Burnaby, BC V5C 6S7
Tel: 604-454-0402
Fax: 604-454-0403
Email: jwhite@morrisonhershfield.com

RDH Building Engineering Ltd.
Paul Kernan
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Engineering Consulting

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Financial & Accounting

CWB Maxium Financial Services
Paul & Kelly McFadyen
5725 Owl Court
North Vancouver, BC V7R 4V1
Tel: 1-888-1077
Fax: 1-888-735-2851
Email: paul.mcfadyen@cwymaxium.com

Dong Russell & Company Inc.
Stanley Dong
2443 Alder Street
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Tel: 604-730-7472
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RHN Chartered Professional Accountants
(Richmond)
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13900 Maycrest Way, Suite 105
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Fax: 604-273-9390
Email: vduplin@rhncpa.com

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Karl Neufeld
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Garibaldi Highlands, BC V0N 1T0
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Insurance

BFL Canada Insurance Services Inc.
Paul Murcutt
1177 West Hastings, Suite 200
Vancouver, BC V6E 2K3
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Email: pmurcutt@bflcanada.ca

Hub International Coastal Insurance
Sarah Thompson
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hubinternational.com

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Restoration & Mould

Phoenix Restorations Ltd.
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Tel: 604-945-5371
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Email: johnw@phoenixrestorations.com

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Strata Management & Real Estate

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Waste Management

Waste Management
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CCI VANCOUVER 2016 - 2017 SEMINAR SCHEDULE YEAR AT A GLANCE

A list of past Strata Education Seminars is available on the CCI Vancouver website at ccivancouver.ca

2016	
May 28th	½ Day Seminar <i>(part of CCI-National Spring Leaders' Forum)</i> Repair and maintenance and updating your depreciation report, and An update on the Civil Resolution Tribunal <i>(open to CCI Members and the public)</i>
September 24th	½ Day Seminar and AGM The Use and Abuse of Limited (and) Common Property
November 17th	Evening Seminar Airbnb – private profit in a Strata Corporation
2017	
January 19 th	Evening Seminar Avoiding Property Management Spats in your Strata Corporation
February 18th	½ Day Seminar Human Rights Complaints: Smoking, hardwood floors pets and...
April 27th	Evening Seminar How-to CRT
May 27th	½ Day Seminar Insurance

More information for each seminar will be available on the CCI Vancouver website as each seminar date approaches. If you would like to be notified of seminar details via e-mail, please subscribe to our e-news on the website.

All topics and dates are subject to change.

Canadian Condominium Institute - Vancouver Chapter
P.O. Box 17577 RPO The Ritz, Vancouver, BC V6E 0B2
Phone: 1.866.491.6216 Ext. 114 | Fax: 1.866.502.1670
ccivancouver.ca | email: contact@ccivancouver.ca



Canadian Condominium Institute – Vancouver Chapter Advertising Opportunities in Condo News Publication

Condo News is a quarterly publication of CCI Vancouver Chapter circulated to all members of CCI Vancouver via e-mail. Read the President's Message, case law updates, strata articles, interesting feature articles and much more. All **Condo News** issues (archived and current) are available to CCI Vancouver Members for downloading in PDF format from the Members Only area of the chapter's website. Advertising and article submission opportunities are available only to members of CCI Vancouver.

Advertising Submissions

- Please provide your photo quality advertisement in either an electronic format or camera-ready, suitable for scanning. (Inkjet print-outs are not acceptable).
- Scanned images must be in a high resolution of at least 300 dpi.
- Electronic files must be submitted in .tiff or .pdf format.
- PDF files should not be converted from colour to black & white.
If the ad is to be in black & white, the original file must be in black & white. If the ad is to be in colour, the original file must be in colour.
- Ad copy submitted should be sized to the ad requirements (see ad sizes below).

Advertising Rates 2016 / 2017

Size	Members Black & White	Members Full Colour
Business Card - 3.33" w x 1.83" h	\$ 75.00	\$ 100.00
¼ Page - 3.5" w x 4.75" h	\$ 150.00	\$ 350.00
½ Page 7" w x 4.75" h (Landscape) 9.5" w x 3.5" h (Portrait)	\$ 350.00	\$ 750.00
Full Page - 7" w x 9.5" h	\$ 600.00	\$ 1,150.00
Back Cover		\$ 1,200.00

Rates are based on a per issue basis.

Contact us at contact@ccivancouver.ca for special discounted rates for 4 quarterly issues.

Please send advertising submissions to the chapter's e-mail address: contact@ccivancouver.ca

Payment must be received by CCI Vancouver Chapter prior to printing.

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For more information email: contact@ccivancouver.ca

or go to www.ccivancouver.ca

Note: Charges will appear on credit card statement as Association Concepts.



CCI VANCOUVER 2016 / 2017 EDUCATIONAL SPONSORSHIP OPPORTUNITIES

CCI Vancouver regularly hosts well-attended Educational Seminars providing knowledge, information and networking opportunities to equip strata council members and individual owners with the skills and knowledge necessary to conduct the affairs of a strata corporation.

Sponsorship opportunities are available for these events providing Business Partner members with an excellent opportunity to gain industry-wide recognition while supporting CCI Vancouver.

Continental Breakfast Sponsorship (½ Day Seminars) Includes:

\$500

- Sponsor's logo on event promotional e-blasts
- Logo linked to the sponsor's website on the seminar page of the CCI Vancouver website
- Name and logo on event signage
- Two complimentary guest registrations
- Opportunity to introduce the seminar speakers at the beginning of the seminar
- Recognition from time to time during the course of the seminar
- Recognition in the post-event write up in the next issue of Condo News Publication

Coffee Break Sponsorship Includes:

\$300

- Sponsor's logo on event promotional e-blasts
- Logo linked to the sponsor's website on the seminar page of the CCI Vancouver website
- Name and logo on event signage
- Two complimentary guest registrations
- Recognition from time to time during the course of the seminar
- Recognition in the post-event write up in the next issue of Condo News Publication

\$2900

Special Sponsorship Package for all 6 Seminars Includes:

~~\$3,300~~

- **\$500 discount**
- Sponsor's logo on event promotional e-blasts
- Logo linked to the sponsor's website on the seminar page of the CCI Vancouver website
- Name and logo on event signage
- Two complimentary guest registrations
- Recognition from time to time during the course of the seminar
- **Half page colour ad in one issue of Condo News Publication (Sponsor needs to provide the ad) (\$750.00 value)**
- Recognition in the post-event write up in the next issue of Condo News Publication

Half Day Seminar

September 24 Continental Breakfast Coffee Break
 February 18 Continental Breakfast Coffee Break
 May 27 Continental Breakfast Coffee Break

Evening Seminar

November 17 Coffee Break
 January 19 Coffee Break
 April 27 Coffee Break

Contact Person _____
 Company Name _____
 Address _____
 Phone () _____
 E-Mail Address _____
 Fax () _____

For Registration or more information email: contact@ccivancouver.ca
 or go to www.ccivancouver.ca

Note: Charges will appear on credit card statement as Association Concepts.

MAKE CHEQUE PAYABLE TO CCI VANCOUVER AND MAIL TO:

P.O. Box 17577 RPO, The Ritz, Vancouver, B.C. V6E 0B2

or BY CREDIT CARD:

Credit Card: Visa Mastercard

Credit Card Number _____

Expiration Date _____ / _____

Name on Card _____

Signature _____

MEMBERSHIP APPLICATION

MEMBERSHIP TO JUNE 30, 2017

How/from whom did you hear about CCI?: _____

CONDOMINIUM CORPORATION MEMBERSHIP

PLEASE COMPLETE ALL AREAS Townhouse Apartment Style Other _____

Condominium No.: _____ No. of Units: _____ Registration Date: _____

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: _____

Director: _____

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

Annual Fee: 1-50 Units: \$110.00 51-100 Units: \$150.00 101-200 Units: \$200.00 201+ Units: \$250.00

NEW! Complimentary Access: No Charge
(This one-time access is for Condominiums that have never held membership in the Chapter. This entitles your condominium to the member rate for all events for the remainder of this membership year. There are no voting rights under this category)

INDIVIDUAL MEMBERSHIP

Name: _____

Address: _____ Suite #: _____

City: _____ Province: _____ Postal Code: _____

Phone: () _____ Fax: () _____ Email: _____

Annual Fee: \$110.00

This section must be completed in order for the membership application to be processed. CCI communicates with its membership via e-mail regarding updates on condominium legislation, CCI events and opportunities, newsletters, and member communications; in accordance with the Canada anti-spam law that came into effect July 1, 2014 you must indicate whether you wish to receive electronic correspondence from us.

I AGREE to receive electronic correspondence I DO NOT wish to receive any electronic correspondence

Signature _____ Date _____

METHOD OF PAYMENT:

Cheque Charge to:  

Card #: _____ Exp Date: ____/____/____

Signature: _____

PLEASE NOTE: Charges will appear on your credit card statement as Association Concepts Inc.

Cheques should be made payable to:



Canadian Condominium Institute - Vancouver Chapter
P.O. Box 17577 RPO The Ritz, Vancouver, BC V6E 0B2
Tel: 1-866-491-6216, Ext. 114 • Email: contact@ccivancouver.ca

MEMBERSHIP APPLICATION

MEMBERSHIP TO JUNE 30, 2017

How/from whom did you hear about CCI?: _____

PROFESSIONAL MEMBERSHIP

Name: _____		Occupation: _____	
Company: _____			
Address: _____			Suite #: _____
City: _____	Province: _____	Postal Code: _____	
Phone: () _____	Fax: () _____		
Email: _____		Website: _____	
Annual Fee: <input type="checkbox"/> \$180.00			

BUSINESS PARTNER MEMBERSHIP



Company: _____			
Name: _____		Industry: _____	
Address: _____			Suite #: _____
City: _____	Province: _____	Postal Code: _____	
Phone: () _____	Fax: () _____		
Email: _____		Website: _____	
Annual Fee: <input type="checkbox"/> \$400.00			

This section must be completed in order for the membership application to be processed. CCI communicates with its membership via e-mail regarding updates on condominium legislation, CCI events and opportunities, newsletters, and member communications; in accordance with the Canada anti-spam law that came into effect July 1, 2014 you must indicate whether you wish to receive electronic correspondence from us.

I AGREE to receive electronic correspondence I DO NOT wish to receive any electronic correspondence

Signature _____ Date _____

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