

CONDOVOICE

SOUTH SASKATCHEWAN CHAPTER

Quarterly Newsletter of the South Saskatchewan Chapter of the Canadian Condominium Institute

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President's Message

JIM MACKENZIE

*ACTING PRESIDENT, CCI SOUTH SASKATCHEWAN CHAPTER
CHAIRMAN, CANADIAN CONDOMINIUM INSTITUTE (NATIONAL)*

As I write this, the hard winter we just endured is still a very recent memory but the hints of summer are there. The weather has warmed, the leaves are appearing and the sounds and sights of the summer season have begun.

This gives us a chance to reflect on the year past and what has happened in the condominium industry. Saskatchewan continues to grow at a very rapid pace. The cities of our province have very perceptibly changed over the past few years, and as a result, the condominium industry continues to grow. New condominium complexes are under construction all across Regina and in notable numbers in Moose Jaw, Swift Current, Weyburn, Estevan, Fort Qu'Appelle and other communities.

As the industry grows, condominium education becomes even more important. Think back to your beginnings as a condominium unit owner or director. You likely were con-

fused and possibly overwhelmed by all there was to know. Still, thanks to experienced people, you learned and put yourself in a much better position to fully enjoy your status as a condominium unit owner.

CCI can help to make that transition from inexperienced to experienced a lot easier. Our annual fall conference is packed with educational opportunities as well as the chance to talk to seasoned professionals from the industry. Furthermore, we are developing other educational content that will help you to be a better director and to stay abreast of changes in provincial condominium legislation.

Our organization continues to need to do more and more – and we need your help. Are you good at networking? Perhaps you can help us to develop new memberships. Are you good at talking with government representatives? Perhaps you can help us to keep condominium issues front and centre at the local and provincial government levels. Are you interested in good governance? Perhaps you can join our local chapter board and, additionally, help our chapter to set its future directions.

We hope to see you at our upcoming educational events – and thank you again for your continued support. ♦

In this Issue...

- President's Message ... **1**
- Condominium Insurance – From the Condo Corporation's Perspective ... **2**
- Upcoming Events ... **4**
- Dealing With Difficult Owners Proactively Through Community ... **5**
- Professional Trades and Services Directory ... **6**



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Condominium Insurance – From the Condo Corporation’s Perspective

JIM MACKENZIE, MBA, DIP.B.A., FCIP (HONS)
FELLOW CHARTERED INSURANCE PROFESSIONAL

Condominium insurance is one of the most complex residential insurance situations. How do we determine what a condominium corporation’s insurance needs and how do we go about obtaining insurance to deal with them?

Each province has its own condominium legislation – e.g. Saskatchewan’s Condominium Property Act, 1995 and its subsequent revisions – which contains provisions on the insurance that condominium corporations must buy, and often contains discussion about coverage they may choose to buy.

Insurance on Buildings and Other Property

The obvious concern is the buildings and other property that the condominium corporation may own. Legally, most acts require corporations to insure the buildings against “major perils”. Typically these perils include fire, lightning, water escape, vehicle impact, falling object, and other types of damage. A corporation may choose to insure against more perils than these, but not fewer.

The various Acts require that the buildings be insured to their replacement cost. The board of directors has a duty to ensure that this has been done. Because of this duty, I recommend that a replacement cost appraisal be arranged that documents the buildings and outlines the expected rebuilding costs. While there can be no guarantee that such an appraisal will be perfectly accurate, this takes away a great deal of uncertainty. Professional appraisal firms exist in most provinces, and a few insurers will also perform this service for their clients. In a few cases insurers will even guarantee that there is adequate insurance to rebuild if such an appraisal is performed and insurance is purchased to the appraised value.

One thing to keep in mind is whether the corporation’s policy is insuring improvements or betterments. The declaration, by-laws or plan should clearly define this responsibility so that the corporation and unit owners both know what is expected of them. In most parts of , it is normal for unit owners to insure any improvements or betterments made since construction or conversion, but in southern , for example, it is more common for the condominium corporation to pick up this exposure. The corporation can probably insure this property more easily and less expensively. However, knowing what improvements have been made in each unit of a large complex can be a challenging endeavour indeed, yet knowing is necessary to calculate an accurate replacement cost figure for the buildings.

Insurance against Bodily Injury and Property Damage Liability

Corporations must also insure against bodily injury and property damage losses. Typically this is done by purchasing a commercial general liability policy. This coverage protects against injuries or damage caused to third parties on the property or in the common areas. It does not replace insurance for the unit owners’ own personal liability, however. \$2,000,000 coverage has become the new baseline coverage for most corporations these days, and it is not uncommon to see limits of \$10 million and more on very large ones.

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The information and opinions contained in this publication are brief summaries of complex topics provided by the authors. The Chapter is without liability whatsoever. Readers should always obtain expert advice on their specific situations.

To help understand how much liability insurance is needed, consider the following:

- The larger the complex, the bigger the exposure. If neglect to repair a water main results in 30 units being flooded, the loss to unit owners' belongings could be very large.
- The nature of the common property. Complexes with parking garages, recreational equipment, exercise facilities, swimming pools, and such have more potential for situations that could attract lawsuits.
- The climate. Areas of that experience large amounts of snow and extended freezing weather have a greater exposure to slip-and-fall claims.

Some provinces have provision for so-called bare land condos or vacant land condos, which are essentially situations where the unit owners have full control over their buildings. In these cases, some provinces allow the unit owners to secure their own insurance on the units if the by-laws or declaration are amended to permit it. Generally the condominium corporation may still insure the buildings if it prefers. (It may be able to attract better terms given that it is buying insurance in bulk, for example.)

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Directors' and Officers' Liability Insurance

Another exposure that is worth attention is directors' and officers' liability. While it is up to each complex's board of directors to decide if it wants such coverage (to my knowledge, no province currently requires it), it is well worth considering. Directors are legally liable for their failings while performing their duties; since few directors are paid by their condominium corporations to be on the board, and it is often very difficult to attract new directors, having insurance coverage in place makes it safer for people to choose to serve.

Directors and officers (for convenience I will refer to directors only, but continue to mean both) have a fiduciary responsibility toward the owners of the units; that is, they must look out completely for the interests of someone else (the corporation) because of their position. This requires directors to act faithfully, loyally and honestly, and if they don't, they are strictly liable for the consequences of their failures – they would be considered to be automatically responsible and the onus of proof would be on them to show that they were not. Other duties also exist for directors; for example, condominium acts often have specific provisions of what directors must do.

Thankfully, the courts have been reasonable about applying these duties. Directors are only required to exhibit the skill they have as a person of their knowledge and expertise. They are not expected to know what an engineer or doctor or lawyer would know, unless they were themselves one. (They may be expected to get professional advice when it is reasonably clear that it is necessary, though.) Directors typically are not responsible for mere errors of judgment, nor are they required to give continuous attention to the affairs of the corporation, but they are expected to act in the interests of the corporation as a whole at all times while acting in their role.

Directors cannot be insured against intentional or illegal activity (for obvious public policy reasons). Also, while directors have a duty to adequately insure the corporation, failure to honour that duty cannot be claimed against directors' and officers' liability insurance.

Deductibles

One thing often overlooked in insurance is the deductible. Simply put, this is the portion that the insurance buyer must pay before the insurer will contribute to a loss. As values have increased, deductibles have increased as well. How-

Continued...

ever, I notice many clients who have deductibles that are inappropriately low given the value of their buildings.

In many cases unit owners can be required to pay deductibles in certain circumstances (although a by-law or declaration change may be needed). If a corporation chooses to do this, care must be taken to ensure that the building deductible is not so high that it becomes a burden to unit owners. It is important to advise unit owners of the deductible so that they can check their unit owner policies to see if there is coverage to buy the deductible down to one they can more reasonably afford. (Some very large complexes can have deductibles of \$10,000, \$25,000, \$50,000 or even higher.)

Find out what savings can be realized by taking a higher deductible. A good insurance broker can be a great help in finding a deductible that is a reasonable compromise between good coverage and low premium.

Choose Your Source Carefully

Finally, don't forget to consider where you are buying your insurance. Some markets are friendlier to condominium

business than others. Some brokers and agents understand condominiums better than others. Dealing with providers that understand the unique needs of condominiums can go a long way to making for a better experience. ♦

UPCOMING EVENTS!

Registration details to be sent closer to the dates, but we wanted you to **SAVE THE DATES** now! CCI-South Saskatchewan is planning a fall jam-packed with great information and education!

SATURDAY, SEPTEMBER 14, 2013

Condo By-Laws: Education and Enforcement

9:00am – 12:00pm

Speakers: TBC

We all know there are those owners and tenants in a condominium that just don't live according to the rules. Instead of being frustrated, please join us for this educational half-day session, where we will walk through why Condo Associations have Condo by-laws, and give tips for their enforcement. The session will be led by professionals who will share their expertise and experiences, and we will make sure to leave some time for your questions. Continental Breakfast will be served.

SATURDAY, NOVEMBER 2, 2013

Fall Conference and AGM

9:00am – 3:00pm

Speakers: TBC

Our Annual Fall Conference returns bigger and better than ever! Seen as the premiere source of education for condominium directors in Regina and the South Saskatchewan area, CCI strives to tailor the topics and speakers to meet the needs of our Associations. Topics such as Insurance, Working with Property Management, Estoppel Certificates, and of course: The Condominium Property Act will surely be discussed. This all-day event will be a hit with your entire Board of Directors!

All events will be held at the Queensbury Centre,
Regina Exhibition Park

For more information, please visit the
CCI South Saskatchewan website: www.cci.ca/ssc

Does your Condominium Association need help with:

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Dealing With Difficult Owners Proactively Through Community

By STEPHEN CASSADY
247CONDO.COM

At the heart of condominium, I keep reminding myself “It is all about the people.” And I do that because so often it is easy to get lost in the idea that condominium living is about the building, the by-laws, the policies, the regulations, the rules, the policing, the arbitration, and the process.

Many times the corporation – the binding framework that we have all bought into – takes over as the spirit and the focus of the community. And when it does, it sets the community agenda to that akin to an ever growing police state: order can only come from rule, and rules must be expanded extensively.

And it is easy to fall into the police state approach to condominiums because as boards we seem to spend the majority

of our time attempting to resolve issues – flooring approvals, maintenance needs, financial budgeting, and owner conflicts. It seems pretty easy to think if there were rules to limit every action, then there would be less for the board to deal with. If it’s outlawed in the rules, then the board wouldn’t be burdened with resolving conflict at every meeting – it would be self-apparent to the owners what is and isn’t allowed, and peace would rule.

Sadly, as many boards have found out, that rules are hard to enforce, and the more rules that exist it seems the more the board is required to address cumbersome owners. The attempt to legislate problems away through the bylaws failed. So I keep going back to the thought “It is all about the people.” And that is the secret to problem resolution – focus the actions of the corporation on the people. Owners recognize they are part of a community, but in many cases there is no opportunity to interact with the community in a positive way. Sadly, the only time owners interact with boards and management companies is when there are complaints the owner is lodging, or when having complaints lodged against them. The most successful boards in managing conflict are those that focus a lot of time interacting with their owners, and taking measured action to make their owner’s living experience encompassing of the other owners and of the building. It has been proven over and over that just like patients are less likely to sue doctors if the patients have an emotional or familiar relationship with the physician, it does follow those owners that have emotional or familiar relationships with other owners, the board, and the building are less likely to cause conflict – rules or no rules.

Indeed, the number one expression that I hear from owners who are in conflict with their board or another owner is their isolation from their condominium community. They use terms including “uncaring, unreachable, difficult, unknown, faceless, distant, and elitist.” They use terms that express their actions might have been reconciled had they felt a stake in their community. But without any stake in the community, an owner has no basis to feel care or concern for anything but their own actions.

So take thought that building bbqs, community events, movie and game nights, tours, organized festivals, seasonal decorating, organized fitness and bike tours, business clubs, and anything else you can think of to hold in your corporation will do a lot more in reducing tension between owners than any amount of rules and regulations can. At the end of the day, owners with emotional or familiar relationships with their neighbours will be your best resource, and least disruptive stakeholder, in the corporation. ♦



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