



review

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making rules

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Message from the President

Spring

What a wonderful word! The days are becoming longer. We have all survived whatever Mother Nature threw at us over the Winter and we are looking forward to growth and renewal.

CCI is ahead of the curve when it comes to growth and renewal. As the new year began, we received a formal request to establish a CCI Chapter for the Province of New Brunswick. A steering committee for the new Chapter has been created and we look forward to working with this group over the coming months. We also anticipate receiving a request over the next several months to establish a CCI Chapter in Montreal. Our thanks to Patsy Ernst of the Nova Scotia Chapter for helping the incubation of the New Brunswick Chapter and to Michel Charlebois of ASCQ in Montreal for his assistance in moving the potential Montreal Chapter forward.

The fifteen current CCI Chapters across Canada report a busy Winter as well. Membership continues to increase and Chapter programs continue to be developed and rolled out. The CCI National executive has also been active. This includes increasing our interaction with the Chapters across Canada as well as the National committees. We want to ensure that each of the Chapters knows how important it is to the other Chapters and to CCI in general.

We have also broadened our interdisciplinary exposure by connecting with and exploring mutual strategies with the Canadian Bar Association, the Canadian Home Builders Association and the Canadian Real Estate Association. We have followed up with the Federal government contacts made last year by Deborah Howes and Peter Leong and plan to fur-

ther these discussions this year to increase government awareness in CCI and its members.

Mark your calendars as well for the 2006 CCI Spring meeting in Montreal, Quebec from May 25 to May 27. The meeting/conference is co-sponsored by The Association des syndicats de copropriété du Québec (ASCQ). The program is filled with workshops in both French and English. Watch for more information in the coming weeks.

We congratulate Denise Lash and her group on the November 23, 2005 launch of "Mondo Condo". Mondo Condo begins as a television show which is scheduled to go to air in September, 2006. Plans are also underway by Denise's group to develop other marketing opportunities around the television show.

So often we are asked: "What is CCI?" and "What Does CCI Do?" Thanks to Deborah Howes, FCCI, we have ready answers to these and many more questions about CCI. As a former National Director, President and Chair of CCI, Deborah has spoken to many groups over the years about CCI and its accomplishments. She has compiled her speaking notes and has allowed them to be published in this newsletter and put on the CCI website. When you read some of the CCI accomplishments over the past 24 years: National Website; Favourable Income Tax Ruling on Reserve Funds; Chapter Support; New Condominium Buyers Guide; Reserve Funds Review; Insurance Symposium; and on and on, you will be justifiably proud to be a member of CCI.

John Peart, CCI National President

Dealing with Difficult People



The auditor is halfway through his report to the owners at the Annual General Meeting. He has just commented on snow removal costs being somewhat over budget due to a bad winter when one of your owners, Mr. Smith, a long-term resident who apparently hasn't agreed with any decision that any Board has made in the history of the condominium, stands up and begins a long-winded complaint about the failure of the snow removal crew to remove the snow from his driveway in a timely fashion. Do you, as Chair:

- A.** Pull out the baseball bat that you purchased immediately after last year's AGM in anticipation of this year's AGM;
- B.** Sit down, put your head in your hands and resign yourself to yet another four hour meeting; or
- C.** Politely interrupt Mr. Smith and advise him that it is certainly an issue of concern and that you will make a note to bring it up with him again under the new business section of the meeting.

If you answered A, it is probably time to

retire from the Board. If you answered B, read this article, and if you answered C, you might consider a new career as a professional condominium chairperson. Most condominiums, both large and small, have that one person who, for various reasons, tend to monopolize the Annual General Meeting. Some are belligerent, some are know-it-alls, and some just won't let an issue drop until they hear the answer that they want. What does a director or manager do who is faced with this type of person when chairing a meeting? There is no absolute answer, but here are a few ideas:

Make some Rules. Start the meeting by laying down five simple rules:

- all questions are to be addressed to the Chair;
- only one person may speak at a time;
- state your name and unit number for the minutes;
- only one question or comment per person until all persons have had an opportunity to speak; and

- when speaking, one should be courteous and respectful of the other owners.

These Rules lay the groundwork for how the meeting will be conducted. By indicating that the residents must submit to one question or comment per person, you establish the authority to interrupt someone who starts to monopolize the meeting.

Stick to the agenda. Do not allow residents to vary from the scheduled agenda. If, as in the example first given, someone asks questions at an inappropriate time, politely defer answering the question until either the appropriate agenda item or new business. Make a point of writing down the question and when the time is appropriate, start the new business or other agenda item by asking that person to speak first.

Learn to interrupt, politely. If someone does start to run on with numerous unrelated questions, the Chair must not hesitate to interrupt them and point out that you have asked that only one question per person be made until such time as everyone has had the opportunity to

speak. Obviously, if there is no one else who wants to speak, you may have to deal with this person. In addition, don't be too strict in the sense that a question asked may give rise to a response which may logically give rise to a second related question.

Know when to say no. If the person keeps asking the same question over and over, simply state firmly that you have answered the question to the best of your ability and there are other issues that now have to be dealt with, or there are other persons who are waiting to ask questions, as the case may be.

Be honest. If you don't know an answer to a question, and no one on the Board or management is in a position to answer, be honest and say so. Indicate to the person that you will have to get back to them and make a point of writing down the question with the individual's name indicating that you will get back to them as soon as you have had the opportunity to look up the answer.

Be polite. A Chair must appear to be neutral and in control of the meeting. Loud voices, snide remarks, or sarcasm will not help at all and will only lead to further disruptions.

Put them in the spotlight. If you are using a large meeting hall and have a sound system, ensure that there is at least one microphone in the audience for residents to use when addressing questions to the Chair. Insist that residents use the microphone when asking questions. At the very least, ask speakers to stand up when asking questions. Someone who is forced to stand up in full view of the rest of the residents is less likely to run on or make rude remarks if they are under the spotlight. However, be considerate to elderly or disabled individuals who may not be able to easily reach the microphone.

Try a little humour. Sometimes a friendly jibe or funny comment can defuse a situation. On the other hand, do not make fun of the person speaking, and certainly don't make off-colour remarks.

Treat everyone the same. If you are not going to allow a difficult individual to get

away with monopolizing the meeting, don't allow your good friend and neighbour to do so either. There is nothing that fuels a disgruntled individual's anger more than believing they are being treated differently than everyone else.

Read the crowd. If someone is going a little overboard in their questioning, and is doing it in a relatively respectful manner, don't necessarily cut them off if it appears that a majority of the owners in the room are interested in the comments and your answers. On the other hand, if you see a lot of eyes rolling, see people shaking their heads and hear a collective groan each time this difficult individual opens their mouth, it is pretty safe to say that a majority of owners will back you up when you have to put the conversation to an end.

Extreme personalities. So far we have been talking about how to deal with difficult, but not excessively so, individuals. These tactics may or may not work if you are dealing with extreme personalities, or perhaps someone who has been drinking. If you anticipate that there could be a serious problem at a meeting, do not hesitate to hire security, preferably a uniformed off-duty police officer. If someone is obviously drunk, is making threats or is overly aggressive, consider adjourning the meeting in order to contact authorities and have the person removed. If you anticipate that it will be a difficult meeting, it is not a bad idea to book the meeting room in a local police station, library, or other public building where there will be security present, and as importantly, where you have a definite time limit for vacating the building.

Neighbours. Above all else, keep your sense of humour, keep calm, and remember, before calling the guy an idiot, he is one of your neighbours and will still be living beside you in the morning.

*Ron Danks B.A. (Hons.), LLB, ACCI, FCCI.
Ron is a lawyer with the Southern Ontario business law firm, Simpson Wigle LLP.*

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Closing dates for submission are as follows:

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Your comments, suggestions and articles are welcome.

Please send them to the attention of:

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Condo Cases across Canada

I have been asked, and it is my pleasure, to provide these brief summaries of recent court decisions across Canada, respecting condominium matters. 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.

By James Davidson, LL.B., ACCI
Nelligan O'Brien Payne, Ottawa



THE HOT TOPIC: IMPORTANT DECISION RESPECTING LIMITATION PERIODS IN ONTARIO

York Condominium Corporation No. 382 v. Jay-M Holdings Ltd. [January 20, 2006]

Ontario's new *Limitation Act* came into force on January 1, 2004. In addition to broadly revising the law of limitations in Ontario (the new limitation period for most claims is now two years from the date the claim is discovered or ought to be discovered), the new *Limitations Act* also introduced a fifteen-year "ultimate limitation" provision. Under this provision, "no proceeding shall be commenced in respect of any claim after the fifteenth anniversary of the date on which the act or omission on which the claim is based took place."

So, for instance, this means that claims with respect to building defects must be commenced within fifteen years from the date of the design/construction of the building. However, the key question is as follows: How does this new "15-year ultimate limitation" apply to buildings built (i.e. mistakes made) prior to the arrival of the new *Limitations Act*? In the case of **York Condominium Corporation No. 382 v. Jay-M Holdings Ltd.**, the Court was asked to decide this question. In that case, the condominium building was constructed in 1977-78. In May of 2004, the condominium corporation discovered that the demising walls were not fire rated. The condominium corporation commenced an

action against the builder and the municipality in 2005.

The Court found that the claim was barred because of the fifteen-year ultimate limitation. In other words, the Court found that the ultimate limitation period applied and had expired fifteen years after the date of construction of the building.

Editorial comment: In my view, respectfully expressed, this case was wrongly decided. [Hopefully this decision will be overturned by the Court of Appeal.]

In my view, the transition provisions contained in Section 24(5) of the new Limitations Act confirm that the ultimate limitation does not apply in the manner indicated by this decision. Section 24(5) of the new Limitations Act states as follows:

"(5) If the former limitation period did not expire before the effective date and if a limitation period under this Act would apply were the claim based on an act or omission that took place on or after the effective date, the following rules apply:

- 1. If the claim was not discovered before the effective date, **this Act** applies as if the act or omission had taken place on the effective date. (emphasis added)*

- 2. If the claim was discovered before the effective date, the former limitation period applies."*

Therefore, I believe that the result is as follows. If the claim was discovered before the arrival of the new Act (the "effective date"), the new 15-year ultimate limitation period does not apply. If the claim was discovered after the arrival of the new Act, the date of the act or omission is deemed to be January 1, 2004 – so that the 15-year ultimate limitation period runs from January 1, 2004.

In my view, the transition provisions are designed to preserve existing rights while phasing in the introduction of the new regime to ensure that plaintiffs don't suddenly lose rights (on January 1, 2004) that they previously enjoyed.



Other Ontario Cases

Amoah v. York Condominium Corp. No. 42 [November 15, 2005]

Corporation's lien rights confirmed

The condominium corporation had levied a special assessment, with payments to be made quarterly. The owner alleged that he had made the payments. The corporation denied that he had made the payments. The Court concluded that the owner failed to provide proper proof that he had made the payments. Therefore the corporation's lien was proper.

The Court also said that the condominium corporation was entitled to apply payments received from the owner to whatever month it decided, including the first month owing. Finally, the Court said that the condominium corporation was not obligated to accept partial payments and was not obligated to discharge the lien until it was paid in full.

Niagara North Condominium Corporation No. 125 v. Waddington [January 5, 2006]

After landlord unsuccessful in attempt to enforce "no-pets" provision in declaration, condominium corporation was denied right to bring its own application against tenant.

The respondent tenant has two cats. The declaration of the condominium corporation contains a "no pets" provision. The landlord previously failed on an application for an order that the cats be removed. [See Condo Cases Across Canada – Part 10]

The condominium corporation then brought its own application against the tenant – seeking an order for removal of the cats. The Court refused to hear the application. The Court said:

- The condominium corporation "knew all the particulars of the first application"
- The condominium corporation "never asked to be joined" in the first application

• "Although technically this may not be res judicata, as the applicant is a different party, the issues are identical. In these circumstances proceeding with the application would be an abuse of process."

This decision is under appeal.

Follow up: Smithers v. YCC No. 60 [Divisional Court] (February 24, 2003) [Also summarized in Part 2 of Condo Cases Across Canada]

By-law not required for remuneration to officer or agent

The lower Court held that all payments to Directors (even payments made to the Directors "as officers") must be authorized by a by-law. [See Condo Cases Across Canada – Part No. 12]

On appeal, the Divisional Court held that the *Condominium Act* "permits the Board to remunerate an officer or an agent without a by-law". The Divisional Court said, however, that the Board must make very clear the capacity (director or officer or agent) in which the remuneration is being paid and received.

[Correction: In Part 12 of CCAC, I incorrectly noted the date of the lower Court decision in this case as September 27, 2005. The lower Court decision was actually rendered September 27, 2001. My apologies to our readers.]

Metropolitan Toronto Condominium Corporation No. 949 v. Staib [April 28, 2005 Ontario Superior Court] [November 25, 2005 Ontario Court of Appeal]

"No pets" provision in declaration not enforced where condominium corporation has been too slow in taking enforcement action

The corporation's declaration contained a "no pets" provision. One of the owners had a cat, and the Court concluded that the condominium corporation would have to have known about the cat for many years.

Although such "no pet" provisions in a



condominium declaration are generally enforceable, the Court declined to enforce the provision in this case because of the corporation's delay and because the owner had been compromised by the delay. [The cat had become too old to move to another home. It had become "unadoptable".]

The decision was upheld by the Court of Appeal.

The condominium corporation is seeking leave to appeal to the Supreme Court of Canada.

York Region Condominium Corporation No. 968 v. Schickendanz Bros. Ltd. [December 15, 2005]

Clause purporting to delay common expenses not valid

This case involved a common elements condominium corporation comprising a "ring road" serving numerous abutting parcels of land. Many of the abutting parcels (the "POTL's") had not yet been developed. The Declaration contained an exclusionary clause, stating that common expense contributions of the undeveloped POTL's was delayed until "at least fifty percent of the dwellings in such Future Residential POTL become developed dwellings".

The Court said that this exclusionary clause was contrary to Sections 7(5) and 84(3) of the *Condominium Act* and was accordingly not valid (notwithstanding the fact that all purchasers had been aware of the exclusionary clause).

This case is under appeal.

Alberta Cases

Owners: Condominium Plan No. 942 2336 v. Jeremy Chai Professional Corp. [November 9, 2005]

Alleged “brothel” found not to breach corporation by-law

This case involved a commercial condominium – a strip mall. The condominium corporation was concerned about the business operated out of one of the units. In particular, the condominium corporation alleged that the business was operating as an illegal brothel. There was evidence that the business was advertised as a massage parlour but that customers were expressly or impliedly solicited for sex once they arrived in one of the private massage rooms. This business was alleged to be “injurious to the reputation of the project”, and accordingly in violation of a by-law of the condominium corporation. The Court disagreed. The Court said that the activities in the unit were not proven to be illegal, nor were they determined to be injurious to the reputation of the project.

British Columbia Cases

Strata Plan VIS 4534 v. Seedtree Water Utility Co. [January 13, 2006]

Strata owners jointly liable for judgment against corporation

In British Columbia, all strata owners in the strata corporation are jointly liable to a judgment creditor of the strata corporation. [Section 166 of the *Strata Property Act*.]

In this case, the Plaintiff had obtained judgement against the Strata Corporation and sought to execute against a Strata Lot. The Court said:

“The judgment is secured in full against each strata lot. As among themselves, the owners are each only liable for their proportionate shares but the judgment creditor is entitled to payment in full before releasing any charge” (i.e. before releasing any strata lot from execution under the judgment).

Valana v. Law [December 13, 2005]

Jurisdiction of Small Claims Court in matter involving strata property issues

In this case, the claimant sued the defendant for damages allegedly arising from injuries suffered by the claimant’s dog as a result of an attack by the defendant’s dog. The defendant asserted a third party claim against the strata corporation, alleging that the strata corporation was negligent in the maintenance and design of the fence between the defendant’s limited common property (where the attacking dog was being kept) and the general common property (where the attacked dog was being walked).

The question was whether or not such a claim could be asserted against the strata corporation in Small Claims Court.

The Court said that the claim could be asserted in Small Claims Court. The Court said this claim did not fall within the range of lawsuits (set out in Sections 164 and 165 of the *Strata Property Act*) respecting which the Supreme Court is given exclusive jurisdiction.

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A Question of Obligation

By Lou Hollander, A Condominium Director



I am writing this article for our News Letter not as a director of our Condominium Corporation but as an owner since 1982. Unusually this year, we shall have four vacancies on our Board and four directors have to be elected at the next Annual General Meeting. Consequently, it will be all the more important for all owners to vote, either at the meeting or by sending in their proxies.

How To Choose A Director?

I have noticed over the years that many candidates sincerely make promises as to what they will do if elected. However, I have also noticed that promises are not kept!

There is a valid explanation for that happening; a new Board member is only one of maybe five or more directors. One of the great strengths of a Board I have served on has been that the directors have had an ever-changing diversity of backgrounds and points of view which then leads to constructive discussion on any issue without anybody needing to prove that they are right or are more knowledgeable than the others. For well over twenty years, with rare exceptions there has been a tradition of taking the time to reach a consensus, thereby avoiding a “divided” Board. If ever there were a “slate” or group of owners trying to get control of the Board by running together for election to promote their own agenda that would produce a divided Board and a neglect of the needs of the other unit owners.

Occasionally, owners try to get elected by criticizing the work of others, of the existing Board. That happened in our

Condominium about fifteen years ago when two owners went door-to door mounting a “smear” campaign against directors and management; it was very unfair because outlandish accusations were made without the directors being present to refute those assertions with their side of the stories being told. Unfortunately, there were enough gullible owners that year that were taken in and the two owners were elected! However, neither of them even lasted their full terms; furthermore, there were then so many arguments among the divided Board that little work was accomplished; it was just too difficult to achieve a consensus on any issue!

A newly elected director has to realize that there is a lot to learn; most directors understand that it takes 2-3 years on the Board to understand how a condominium works and the related issues. Of course, we have all heard those few owners at owner meetings who think they “know better”. Unfortunately, all too often, “they do not know what they do not know” because they have not taken the time to read the relevant consultant/lawyer analyses and recommendations nor attended the lengthy discussion.

It certainly would be a disaster for a Condominium Corporation if directors were to “jump to conclusions” in the way that a few owners do. There is an old saying: “The more one knows about an issue, the more difficult it is to criticize.” Of course, the opposite is also true!

Why Run For The Board?

When I was first approached just over ten years ago to serve on the Board, my first response was; “No, I am too busy.”

One certainly should not run for the Board for the power or the glory! Even so, a few candidates in past years have given the impression they think that being elected to the Board somehow provides some kind of prestige, a type of “ego trip.” I believe the opposite; being a director requires a sense of humility, of wanting to cooperate (not to confront or criticize), of being sensitive to the needs of all owners (not of just a few friends), of being a good listener (not a good talker!).

I did agree to serve on the Board out of a sense of obligation. I believe that those owners that have the background and experience required to contribute to the well-being of their Condominium Home have such an obligation. I realize now that all directors are also busy in their private lives. But “if you want to get something done, give it to a busy person.” If you want to get it done well, elect individuals that have the appropriate experience (be sure to read their resumes) and have those personal characteristics that I mentioned earlier: humility, a good listener, a sense of cooperation, of not being on an “ego trip.”

We can be proud of our Condominium Home thanks to the efforts and teamwork of directors and management over the close to 30 years since the building was completed. All owners have an obligation to vote (if only out of self-interest), either at the Annual meeting or by sending in their proxies, to ensure that owners get elected to the Board who really care about our home, who have the right personal characteristics and experience and who have the right reasons for wanting to get elected.

Condominium Corporations and the Protection of Privacy

by: **Rob Giesbrecht, LL.B., ACCI, FCCI**



The *Personal Information Protection and Electronic Documents Act* ("PIPEDA") is the Canadian government's privacy legislation, and it has had a profound impact on the way organizations in Canada collect, use and disclose personal information about Canadians (electronically or otherwise). The fundamental principle underlying PIPEDA is that, except as permitted by PIPEDA, personal information cannot be collected, used or disclosed without the prior knowledge and consent of the relevant individual, and then only for purposes that a reasonable person would consider are appropriate in the circumstances. PIPEDA came into force in phases and has been in effect with respect to provincially regulated entities such as Condominium Corporations since January 1, 2004.

PIPEDA seeks to strike a balance between "the right of privacy of individuals with respect to their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances". Because PIPEDA refers to the use, collection and disclosure of personal information in the course of commercial activities by an organization, there has been some question as to whether the activities of a condominium corporation would be seen in such a light as to make PIPEDA applicable to condominium corporations. Since the legislation came into effect on January 1, 2004, there has been some debate among condominium lawyers as to the applicability of it.

A complaint that went forward to the federal Privacy Commissioner last year has resulted

in a recently published finding. PIPEDA Case Summary No. 301, published on the Privacy Commissioner's website in June of this year, dealt with a complaint by a condominium unit owner that the condominium corporation, or its property management company, did not provide him with the appropriate information regarding its privacy policy or the name of its designated privacy officer, contrary to the provisions of PIPEDA.

While the specifics of this complaint may seem to point out an overly technical and detailed oriented approach to the legislation, what is significant is that the Privacy Commissioner accepts, seemingly without question, that PIPEDA applies to condominium corporations. Accordingly, it would be prudent for every condominium corporation in Canada to consider its own situation with respect to the collection, use and disclosure of personal information relating to its unit owners and other individuals with whom it comes into contact.

In the specific Case Summary, the condominium unit owner in question had requested a detailed response from the property management company outlining what action and procedures it and the condominium corporation had taken to ensure compliance with PIPEDA. This request was made in February 2004, only one month after the legislation came into effect. In response, the property management company provided a general statement to the unit owner that all personal information was protected by management and that the condominium board was in complete compliance. The unit owner was not satisfied

with the level of detail contained in this response and made a formal complaint to the Office of the Privacy Commissioner. This complaint was ultimately resolved, without sanctions suffered by the condominium corporation. The condominium corporation was required to provide more information to the unit owners as to what type of information was to be collected and to address principles of accuracy, consent, access and challenging compliance. The corporation ultimately adopted a privacy policy that was satisfactory to the Office of the Privacy Commissioner and appointed a privacy officer, and communicated this information to its owners.

What lessons does this case summary have for Canadian condominium corporations? First and foremost, the lesson is that, until further findings or court decisions arise under PIPEDA, we should assume that PIPEDA applies to all condominium corporations. That being said, every condominium corporation in Canada should consider the adoption of a privacy policy and the appointment of a privacy officer. In addition, and perhaps a more difficult task, condominium corporations should consider reviewing their procedures for dealing with and documenting personal information. In addition, condominium corporations that have employees should consider whether to extend the protection of their privacy regime to those employees (for technical reasons, PIPEDA does not necessarily apply to the employees of a provincially regulated organization, unless that organization voluntarily extends the protection to its employees).

There are ten basic principles set out under PIPEDA, which are themselves modeled on a model code for the protection of personal information developed by the Canadian Standards Association:

Principle 1 – Accountability. An organization is responsible for the personal information under its control and must designate an individual or individuals to be accountable for that organization's compliance. Policies and procedures to protect personal information, to receive and respond to complaints and enquiries and to train staff must be developed.

Principle 2 – Identifying Purposes. An organization must identify the purpose for which it is collecting personal information and must document these purposes.

Principle 3 – Consent. Generally speaking, unless the consent of an individual can be implied from the circumstances, the knowledge and consent of the individual to the collection, use or disclosure of personal information must be obtained.

Principle 4 – Limiting Collection. Only personal information which is necessary for the identified purposes can be collected.

Principle 5 – Limiting Use, Disclosure and Retention. Personal information that has been collected cannot be used or disclosed for purposes other than those for which it was collected, without the consent of the individual. Personal information can only be retained for so long as it is necessary to fulfill the purposes for which it was collected.

Principle 6 – Accuracy. An organization must take care to ensure that the personal information collected by it is as accurate, complete and up to date as is necessary for the purposes for which it is to be used.

Principle 7 – Safeguards. An organization must create appropriate security safeguards to protect collected personal information against loss or theft or unauthorized access, use or disclosure.

Principle 8 – Openness. An organization must make information about its policies and practices readily available and must disclose the name of the individual who is accountable for the organization's privacy policies and practices.

Principle 9 – Individual Access. If requested, an organization must tell an individual about what information has been collected about that person and give them access to it. Individuals are to be given the opportunity to challenge the accuracy and completeness of their information and have it corrected if appropriate.

Principle 10 – Challenge and Compliance. Individuals are entitled to complain if they feel that any of the foregoing principles have not been followed by an organization.

Condominium corporations are urged to consider the foregoing principles when adopting policies and appointing privacy compliance officers. Just as important, however, as taking these first steps, is to develop additional procedures and policies that will protect against inadvertent or accidental disclosure of information.

Boards of condominium corporations, and the property managers hired by them, are often privy to personal information about unit owners that might be considered sensitive or embarrassing. For instance, as the condominium corporation and its management are responsible for collecting common element fees, arrears history and other details relating to an individual's financial situation will often come before a board and its management. Care should be taken to ensure that only the information that is absolutely necessary for the due administration of the condominium corporation's affairs is collected, used or disclosed.

In addition, personal activities of condominium unit owners within their units often give rise to complaints by neighbors. Domestic disturbances, erratic behavior, excessive noise through partying, questionable hygienic or cleanliness practices, and other by-products of the uniqueness of the human spirit, often give rise to intervention by a condominium board. While the board and its management have a legitimate need to review this personal information, care must be taken to ensure that only that information that is required for the corporation's administration is collected and that this information is protected against inappropriate disclosure.

Unfortunately, many condominium corporations find that there is at least one among their owners who insists on reviewing all minutes of meetings of the board of directors (whether this person is a busybody, a vigilante or a one-person posse fighting against the power crazy board is entirely up to your individual point of view). Through this person's examination of the minutes, it may be possible that personal information about another owner is disclosed. Such disclosure has almost certainly not been made with the owner's consent.

To guard against inappropriate disclosure, corporations should consider adopting minute keeping procedures that will ensure that personal information about when a unit owner who, for instance, is in arrears of

common expense payments or, perhaps, has an embarrassing personal habit that disturbs his or her neighbors, is not, through overly detailed minute keeping habits, exposed to the scrutiny of nosy neighbors. While the fact that complaints have been received or common expense payments are in arrears are matters that a board must deal with and that a board may very well want to reflect in the minutes, the particulars of every such matter do not need to be set out in detail. For instance, a corporation could develop a system of numbering complaints or arrears situations in a way that makes them anonymous, while still allowing the board and its management to track the progress of these situations. The minutes could therefore reflect that arrears case 07/05 had been dealt with, without those who are reading the minutes knowing whose arrears they were.

Another important facet of a condominium corporation's compliance with the privacy legislation lies in director training. All too often, we have heard of directors who become privy to personal information about other owners and then chat about this in the elevator or in lobbies with their neighbours. While this type of disclosure of personal information is often innocent, that does not mean it is appropriate. A condominium corporation should adopt policies and procedures to ensure that its directors (and its employees and managers, for that matter) are trained regularly on the issues surrounding the protection of personal information. It may be that the condominium corporation wishes to have its directors sign an Oath of Confidentiality when they are elected and re-elected to the board. In this way, the issue is brought to their attention from time to time. At the very minimum, steps should be taken to ensure that every member of the board of directors educated about the issues surrounding privacy.

The foregoing is intended as an overview only and cannot replace professional advice from your own jurisdiction. It should be noted that the provinces of British Columbia, Alberta and Quebec have enacted privacy legislation that is substantially similar to PIPEDA and that legislation, accordingly, will apply in those jurisdictions instead of PIPEDA. The general principles are, however, substantially the same across the country.

*Rob Giesbrecht, LL.B., ACCI, FCCI
Rob is a partner in the Winnipeg law firm, Pitblado and is currently President of the CCI Manitoba Chapter*

Toronto Chapter

The Toronto Chapter is pleased to welcome Mario Deo to the Toronto Chapter Board of Directors as a result of elections held at the Annual General Meeting on December 1st, 2005. Mario is a lawyer with the firm Fine & Deo and has been involved with CCI Toronto for a number of years as a course instructor and conference presenter/sponsor. The Toronto Board is looking forward to working with him, as he brings forth a wealth of knowledge of the condominium industry.

Congratulations go out to Stephen Karr for receiving the FCCI designation, making him a Fellow of the Institute. Stephen received this recognition recently at the CCI National Awards Dinner Ceremonies and is a very deserving recipient. In addition to having served as the President of the Toronto Chapter from 1995-1997, Stephen remains an active member, instructing at the Advanced Course. Recognition was also recently given to Swan Lake Condominium for their newsletter in CCI-Toronto's "Condominium Corporation Newsletter of the Year Award" contest. Numerous directors on the Newsletter Committee of Swan Lake, were on hand at the Chapter Annual General Meeting on December 1st to receive their award.

The Education Committee of CCI Toronto was pleased to present the new "Condo 101" course on Saturday January 21st, 2006 and was even more pleased with the excellent turn out. Interest in this 1/2 day introductory condominium course for Directors and Purchasers was proven with an attendance of over 50 participants. Thanks go out to session presenters, Gina Cody, Mario Deo, John Oakes and John Warren.

The spring of 2006 is looking to be another busy season for CCI Toronto. The chapter will once again participate in Springfest to be held on April 27th, 2006, with both an exhibit booth in the Trade Fair, as well as sponsoring an Educational Session. The Basic course was held on Wednesday evenings from February 22nd to April 5th and registrations are now being accepted for the four-night Advanced Course being held on Tuesdays commencing April 18th.

Check our website at www.cci-toronto.org for information on spring seminars as further details become available.

Lynn Morrovat, CCI-Toronto and Area Administrator

South Saskatchewan Chapter

Our new administrator is in place and has taken on the job with great efficiency which has allowed the rest of the Board to get down to the details of the Spring Conference in 2007.

The Membership Committee has been working hard as Condo Corporation have been springing up here in great numbers and we of course would like them all to join our chapter.

The Education Committee is working hard at getting topics and speakers for our monthly seminars, to entice owners for an evening of education and exchanging ideas and problems with other condo owners.

Lee Ann Brown, President, CCI-South Saskatchewan Chapter

Nova Scotia Chapter

Hello from Halifax ! We at CCI-NS are busy getting our spring newsletter ready for publication these days and it's easy to feel like spring because we've had a very mild winter.

Our first seminar of the year was held on January 11 at The Woodbury condominium. It was entitled 'Alternative Dispute Resolution' and our presenter was CCI member and well-known Halifax lawyer, Gus (Augustus) Richardson, QC. His talk in the early evening was well received by the two dozen registrants who attended. The presentation focus was the use by condominium corporations of either binding arbitration or mediation as a less expensive and speedier method of solving problems rather than the alternative litigation route. A lively question and answer session finished up the evening.

Our next seminar is set for the end of February when we will present the CM 200 course. This will be an all day event and we have almost 30 registrants already. Our board members, Patrick Cassidy, Lisa Power and former board member and past president, Laurie Smith will again do this session.

On April 4, a morning seminar at the NS Real Estate Association auditorium entitled 'Condominium Knowledge Realtors Must Have' is scheduled. Our board members Patrick Cassidy and Judy Foran will lead this. With all the new condo construction going on in our area over the last 5 years, the need to bring Realtors attention to some important issues when dealing with buyers and developers has become obvious.

Like CCI everywhere, we are trying to respond to the needs of the condominium community.

Norma Cameron, President, CCI-Nova Scotia Chapter

Vancouver Chapter

It has been a busy time for us so far this year. Mandatory Strata Manager licensing has come into effect starting on January 1, 2006. Our latest seminar *Strata Management Licensing – The Owners Perspective* was well attended by both Strata Council Members and Property Managers. Our speakers were Larry Buttress from the Real Estate Council of BC, David Moore from the Sauder School of Business at UBC and Gerry Fanaken, CEO of Vancouver Condominium Services.

Our newsletter "CCI Condo News" and website have been updated and are being very well received by the BC Strata (Condo) Community. Our membership numbers are growing and we are above our membership over this time last year. The Ambassador Program is helping raise the awareness of what CCI stands for and we are looking forward to continued growth this year.

You can contact us through our website at www.cci.ca/Vancouver or by email at contact@ccivancouver.com

Kevin D. Middleton, Vice-President, CCI-Vancouver Chapter

CHAPTER CHATTER

Northern Alberta Chapter

We are pleased to report that we have our new administrator, Natalie, in place and that she is doing a sterling job of getting the office 'in line' as well as 'on line'.

We are forging ahead with our initiative to bring condominium education and the advantages of membership with the Canadian Condominium Institute - NAC to communities from Red Deer to our South to Fort McMurray and Grand Prairie to our North. We are mindful that the thirst for reliable knowledge about Condominium Ownership makes our market ripe for private educators and consultants to offer courses as alternatives to the CM 100, CM200 and CM 300 courses as well as our informative lunch time and evening seminars. Education has been our strongest mandate and revenue source over the years and we anticipate that it will continue to remain so in the future. By making our name known we are hoping to encourage alliances rather than foster competition.

We have run two major education events since my last report. Both were extremely successful and have given rise to a detailed checklist of things that need to be done for a 'glitch free' seminar - it remains a work in progress as we define and uncover new 'glitches'. As always, and in addition, the CM100 and CM200 courses are popular education events and we are looking for ways to encourage Condominium Owners, Board members and industry professionals who have been previously reluctant to pay for their education to see that ignorance carries a higher price than knowledge.

There is a controversial proposal from the Alberta Real Estate Board (ERB) to licence Condominium Managers. Although the Board heard from a representative of the ERB the details of the proposal and its impact for CCI and its members remains somewhat unclear. In an effort to create a forum for knowledge exchange and thoughtful debate the Education Committee has been asked to arrange a forum (possibly in the same question answer format as the Presidential debates in the USA) for interested members to get first hand knowledge of the facts and their possible ramifications. I am told that the ERB proposal is a reflection of a trend across Canada and would be interested in hearing the experiences of other chapters in this regard.

Karim Mawani, President, CCI-North Alberta Chapter

Huronia Chapter

CCI – Huronia wrapped up 2005 with a half-day 2006 planning session, and re-aligning committees, responsibilities and procedures. There was a full board turnout for the breakfast session held at the Days Inn in Barrie. Directors came away with a new sense of commitment, enthusiasm and potential achievement. Most committees have already met with a hefty emphasis on the education and membership agendas. In March, we launch our first President's Club meeting and are very excited to have Gerry Hyman as our first guest speaker. Directors Sonja Knauff and Jon Juffs have worked diligently to ensure this inaugural session is a success. Our Basic Directors Course kick-off in late March and will run for six consecutive Tuesday evenings. There are also five confirmed seminars to be held throughout our region with more in the planning stages. We are gearing up to have good representation at the approaching Montreal semi-annual conference. All in all, this is shaping up to be a bumper year in our Chapter as we look forward to meeting with our Chapter Liaison.

Bob Skeaff, Huronia Chapter

Northwestern Ontario Chapter

We are currently in the midst of a membership drive. We are looking to increase the membership of professionals. We are using two methods; one is the Ambassador program with the other being the presentation of seminars geared to specific groups. Our first seminar will be held on March 25. The morning session will be a review of the first five years of the *Condo Act* and of recent law cases of interest, while in the afternoon, we will be presenting a "claims protocol" dealing with such subjects as when to put in a claim, liability issues of not putting in a claim and what adjusters need to know about the corporation (declaration and by-laws). We have also hired a part time administrator. We anticipate that this will go a long way in assisting us to meet our goals and deadlines and look forward to working with Brenda. Ongoing projects include the development of the Web page, planning the upcoming educational seminars and getting out a newsletter.

Paul Muller, NW Ontario Chapter

CHAPTER CHATTER

London & Area Chapter

It's always enjoyable to write an article soon after an excellent seminar, and it was just that. While some would consider the topic of insurance a rather "unexciting" one, others might consider it "a necessary evil". January 24th, brought us out to hear the experts for the seminar "Insurance – don't get caught with your pants down!" They included Joe Hoffer, LL.B. of Cohen Highley LLP who chaired the evening's event, and Jeffrey Bell, LL.B., also of Cohen Highley LLP, Sean Baker, BA, FCIP, CRM of Aon Reed Stenhouse and Susan Size, ACCI, CMOC of Thorne Property Management Ltd. who served as the panel of experts. They all did an amazing job of providing in-depth information about personal, corporation and liability insurance. We thank them for their professional expertise and their very excellent presentations.

On March 28th, the seminar "Technical Audits/Reserve Funds: What the ###! Are you talking about?" is one you don't want to miss. The panel will discuss the mysteries involved in the subject. Understanding the present conditions of your common elements can make the difference between making an informed decision on repairing and maintaining in a prioritized fashion and having the appropriate funds available when necessary. Reserve now, you won't be disappointed.

We will be appearing at the Southwestern Ontario's largest showcase of products and services for in and around the home and garden at the London Spring Home and Garden Show, which takes place at the Western Fairgrounds on April 21st-23rd. This will be our opportunity to provide awareness of our programs that address all areas of the condominium community. We hope you will visit with us there.

"There are no stupid questions!" has become an annual seminar event, when the professionals/trades of the condominium community address all of your burning questions. May 16th is the seminar date. We invite you to introduce your friends and colleagues who live and work in the condominium arena to CCI.

Now is an excellent time to plan and budget for you and/or your directors to attend our 2-day Condominium Course, which will take place on Saturdays October 14th and October 28th. For more information on the course, please contact the Administrator or visit our website www.cci-sw.on.ca.

Time does pass us by very quickly and we hope you have made it possible for CCI to be a part of your days. Education about condominium lifestyle will help you preserve your investment.

We wish you an excellent spring and look forward to your presence at upcoming events.

Trish Kaplan, Administrator, CCI-London & Area Chapter

North Saskatchewan Chapter

We continue to work on growing our chapter and being the "Voice of Condominium in North Saskatchewan". We have been a very busy chapter the last year. We currently have approximately 60 members, I can re-call 6 years ago having about 14 members, thus we are headed in the right direction !

The New Act and Regulations came into force in Saskatchewan as of February 1, 2005. The highlights of the amendments include clarity on the insurance provisions, mortgagee rights, and requirements for reserve fund studies. In concert with the "in force" date of the New Act and Regulations, our chapter held a seminar on February 22, 2005. The seminar was a huge success, drawing 185 attendees.

Over the summer hiatus we were able to recruit several new Board members as we were going to be faced with some vacancies on the Board. We held our Annual General Meeting on October 20, 2005. In conjunction with our AGM we held a seminar on "By-laws: Review, Revising and Enforcement". We had 85 attendees at the AGM and Seminar. Over the course of the year we have developed and sent out several newsletters, each built around a specific topic or grouping of topics.

As a result of our recruiting over the summer hiatus we were able to secure several new Board members as well as retain several long standing Board members. We are enthusiastic about our blend of Board member's. We have some new ideas coupled with the continuity resultant from long standing members. We are still looking for some other Board members to round out the Board and our committees. Our current Board is made up of **Kimberley Park** – Vice President/Education Committee Director, **Elaine Pegg** – Treasurer, **Aaron Norum** – Assistant Treasurer/Membership Committee Director, **Lexi Jamieson** – Secretary, **Arleen Nicholls** – Newsletter Editor, **Tony Lazurko** – Membership Committee Director, **Naheed Bardai** – Legislative Committee Director, **Gail Armstrong** – Membership Committee Director, **Don Adams** – Education Committee Director, **Lynne Clark** – Education Committee Director, and **Chetan Thakore** continues to serve as President.

Our committees continue to be active, focusing on growing our membership and expanding our educational offerings. We are currently planning our next seminar for Spring 2006 on "Board Governance" which we hope will expand into a series. Our newsletter will come out after the seminar with a focus on the same topic to re-inforce the message of the seminar.

I would be remiss not to credit the full Board which has been cohesive and diligent in its efforts to maintain/grow the Chapter in the face of various challenges. We continue to hope to have a more active membership base in the future.

Respectfully submitted,

*Chetan Thakore
President, North Saskatchewan*

CHAPTER CHATTER

Windsor-Essex County Chapter

The Ultimate Condominium Course held on February 4th and 18th 2006, with record numbers in attendance, was a smashing success. This 2-day comprehensive Program examined key topics including building maintenance and reserve fund planning; property management; law; insurance and risk management; financial planning and accounting. Expert speakers from all areas involving condominium living taught the essentials of operating a successful condominium to a captivated audience. Condominium directors and professionals alike found this Course extremely useful for their daily involvement in condominium living. More great Programs are planned for the Spring so stay tuned.

Our local website is capable of providing link-ups to business members who wish to take advantage of this marketing service. We also have great advertising opportunities for our business members in our Directory and Newsletter circulations. This is just in time for our many new professional members from the real estate industry who have recently joined our Chapter.

Our 2006 membership drive is on. Chapter membership is on the rise consistent with the increase of condominium developments in the area. For more information on how you can become a member of the CCI Windsor-Essex County Chapter or to become more involved in our Chapter, please call (519) 978-3237 or visit our website at www.cci.ca/Windsor

Andrea M. Thielk, BA, LLB, JD, ACCI (Law)
President, CCI Windsor-Essex County Chapter

Golden Horseshoe Chapter

April 22, 2006. Mark it in your calendars and do not miss out on the chapter's 2006 focus project, Condominium 2006- Making Life Easier. Over the winter, the GHC Board has been working full out organizing this one day conference and trade show. The conference will be looking at how the *Condominium Act* made things a lot harder for condominium board members, owners, managers and professionals and highlighting how to make your life and condominium living a little easier.

With the plenary session that will discuss the good, the bad and the ugly about the *Condominium Act*, we also have three concurrent sessions and over 45 speakers dealing with everything from human rights, addressing our aging population, insurance, board responsibilities, decorating for small spaces, landscaping and more. The ever popular case law round up will conclude the formal part of the day which will be topped off with a wine and cheese reception and door prize draw.

Along with the conference will be a trade show where companies and professionals providing services to the condominium community will be present.

With the generous support of our sponsors, the conference entry fee is very reasonable. More information on the conference and trade show along with registration forms for both are available on our web site at www.ghccci.org.

As if the conference and trade show are not enough, in June, the chapter will be presenting an evening seminar about the seedier aspects of condo living; recognizing and preventing grow house operations, prostitution rings, crack houses.

Kim Coulter, ACCI
Chapter President

ACCIACCIACCIACCI (Associate of the Canadian Condominium Institute)

If you are a professional member of the Canadian Condominium Institute you should seriously consider applying for your professional accreditation. Successful candidates are entitled to use the designatory letters "ACCI" as recognition of their high degree of skill, professionalism and outstanding achievements.

Candidates for the ACCI accreditation must be a professional member of CCI, have at least three years of professional condominium experience, have contributed to the condominium community by teaching courses, writing articles, participating in seminars or providing other services and successfully complete the ACCI examination.

For further information please contact your local CCI Chapter.



Canadian Condominium Institute
Institut canadien des condominiums

CCI National Accomplishments and Activities

By Deborah M. Howes, FCCI, Past President

As National President and Chair I had the opportunity to speak to many groups about CCI and its accomplishments and activities. Set out below are my speaking notes about those accomplishments and activities, updated to November 2005.

1982 CCI formed with 5 Chapters (15 Chapters in 2005)

Obtained Revenue Canada ruling that taxes not apply on reserves of Condominium Corporations

Began holding mid-year Board meeting around the country to:

- support existing chapters
- build new chapters

Holds annual meeting in Toronto

Publish 4 National Magazine "Review" per year

- gives cross Canada insight
- issues of National importance
- legal cases section

National Website

- updated again 2005 for members only section/discussion forum

National Bylaws changed to ensure every Chapter has at least one National Director

National Board meets 4 times per year (2 conferences/2 in person)

- utilizes technology for virtual meeting, minutes/committee reports
- operates through committees of directors and members at large

Supervisor of health of CCI through

- annual audit financial statements (National and Chapters), annual Chapter reports, quarterly Chapter reports



National Directors speak at midyear Chapter seminars, annual CCI-ACMO Conference, other Chapter Events National Executive (and some past Presidents) travel the Country to meet with Chapter Boards and speak at Chapter events

Provides support to Chapters by:

- national policy and procedure manual
- Executive Director support to Chapter Administrators and Officers
- Welcoming observers to National Board Meetings
- Annual Training call or meeting for Administration and new National Directors
- Annual Chapter clinic on various topics (so far: membership, newsletter, privacy, ambassador program)
- letters to Government on legislation changes (eg. Saskatchewan)
- annual calendar of events for Chapters and National Board

Encourages best practices in chapters and Condominium Industry through shared information and practices (eg. Golden Horseshoe Chapter - Tenants in Condominiums, Students in Condominiums)

Recent accomplishments

- CMHC- New Condominium Buyers Booklet
- CCI- Reserve Funds Review across Canada
- two times bringing Government Representatives to meet with CCI Board
- meeting with Federal Minister of Housing
- relationship with M. Charlebois in Montreal-working to new Chapter
- Chapter development in New Brunswick (meetings September 2005) and new government contacts
- meetings in Grande Prairie to explore new Chapter (group chose to stay with North Alberta Chapter)
- partner with Tony Wadsworth re: Risk Management Protocol – arises from National Chapter survey on Insurance issues
- with Toronto Chapter roll out National Ambassador Program as membership recruitment tool
- begin with CCI North and South Alberta Chapters got from AB Real Estate



Foundation from CM100-300 (education for directors and professionals) – now basis of National program

- successful Insurance Symposium 2005 – including open dialogue with insurance industry

- with Toronto developed National Code of Conduct for CCI Directors – applicable to Condominium Boards [thanks Bob Gardiner]
- adopted slogan statement "Voice of Condominium"
- developed National Privacy Policy – applicable to Chapters and Condominium/Strata Corporations
- have professional designation – ACCI in wide number of professions and recently added continuing education requirements and certification
- have a number of awards presented at Annual Awards Dinner (Hall of Fame, Chapter of the Year, Best Newsletter, Fellows, Distinguished Service Award)

Ongoing Initiatives- 2005 on

- media training for National Board – began in Fall 2005 and will continue as part of greater outreach- also helps every Chapter
- Licensing of Condominium Managers
- Relationships with Federal and Provincial Governments
- Relationship with CMHC, National Home Builders, and Canadian Federation of Municipalities
- gather better statistics on Condominiums in Canada
- Condominium Primer
- Chapter Relations Committee (best practices for Chapters, Chapters operations binder, mentor policy for Chapters)
- 2007 Human Rights Symposium
- National Executive to meet with every Chapter
- mid year meetings:
 - 2006 Montreal
 - 2007 Regina
 - 2008 Vancouver
- 25th Anniversary of CCI (2007)
- 40th Anniversary of Condominiums in Canada (2006/07)



Mark Your Calendars

The Association des syndicats de copropriété du Québec (ASCQ) looks forward to welcoming CCI Members to the Joint ASCQ - CCI Spring Condominium Conference

Welcome to MONTREAL 2006

Conference Hotel:

Le Nouvel Hôtel & Spa
1740 René-Lévesque boul. West
Montreal, QC
Toll Free: 1-800-363-6063/514-931-8841
Website: www.lenouvelhotel.com

Please mention you are with the group: ASCQ/CCI
Special Room rate: \$124 (Standard),
\$144 (Studio), \$227 (Loft Apt)

MAY 25-26-27

- Seminars
- Educational tours
in many condo projects

For Program Details, visit the ASCQ website www.ascq.qc.ca



CCI/ACMO 10th Annual Conference

November 3-4, 2006

Doubletree International Plaza Hotel, Toronto, ON



Mark your calendars now for this exciting annual Conference and Trade Show that promises an enlightening array of education sessions and outstanding networking opportunities.

Delegate Registration for the Conference begins late June 2006 - watch for further details coming soon! Visit the Condominium Conference website for further information on Exhibit and Sponsorship opportunities. (www.condoconference.ca)

Don't miss this year's exciting sessions on topics of interest to anyone in the condominium community!