

review

THE VOICE OF CONDOMINIUM

The newsletter of The Canadian Condominium Institute/Institut canadien des condominiums

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CCI South Alberta Hosts Successful National Conference

by Peter Leong

The semi - annual meeting of the National Board of Directors of the Canadian Condominium Institute was held in Calgary on the 22nd and 23rd of May and was hosted by our South Alberta Chapter. Bernie Winter and members of this chapter did a superb job in getting over 150 of the local members to attend the Saturday conference featuring Condominium Living, Reserve Funds, Arbitration and Mediation, Insurance and Legal Cases across the country. All National board members truly appreciated the efforts of Bernie and crew in arranging excellent hotel facilities, evening soirees and a Murder Mystery dinner. Thanks, South Alberta for a job well done and hosting the event during Calgary's warmest weather of the year.



The National Board of Directors meet twice a year; every November in Toronto and every May in another part of Canada. The November session includes the Annual General Meeting, the election of new directors and is accompanied by a general CCI-ACMO conference. The May meeting is held at a different location throughout Canada to provide local chapter members access to their National Directors and lends support to the local chapter. National Directors actively participate at these conferences as speakers and facilitate workshops on a number of issues.

We had a busy agenda this year. The National Board was able to accomplish a lot of business over the two days of committee and board meetings. The chapter workshop this year was held on "Training the Trainer" hosted by Pat Cassidy. There were 20 attendees and the discussions were lively and positive. We are sure that everyone was able to take something valuable back to their local chapter.

The National Board arrived at a number of resolutions. One of the more significant resolutions involved whether or not the local chapters should be giving advice to members and non-members. Providing advice on condominium issues can be fraught with all kinds of problems. People who call CCI asking for advice do not necessarily disclose the full story and the advice given could be misinterpreted and/or wrong. In other situations, giving advice may be deemed a policy stance of CCI which can be politically dangerous for the organization especially since CCI represents all stakeholders in the condominium community. In the end, the National Board decided that all chapters will be instructed not to give advice on condominium matters, should only provide general information and callers to CCI will be encouraged to seek out the services from the local CCI Directory of Professionals and Trades.

Another important resolution involved the establishment of a formalized procedure for handling Discipline Complaints. A formalized procedure will help the local chapters eliminate the guesswork on what steps need to be taken if a complaint is made about the conduct of a professional member of CCI holding an ACCI. A non-refundable \$250 fee will be charged to cover any administrative costs and initiate the process.

CCI's newest publication "Reserve Funding for Condominiums – Provincial Legislation and Commentary on Local Practice" was given final approval for publication. The book will go to print within the next month and will be available to all the local chapters to sell to their members. The book will provide a cross-country review of the legislative requirements on Reserve Funds, outline the basic components of a Reserve Fund Study and guidelines for hiring a Reserve Fund Study provider.

The National Board and the Toronto chapter reaffirmed their commitment to our U.S. counterparts, the Community Associations Institute (CAI). Representatives were sent to CAI's Dallas conference earlier in May to spread CCI's goodwill and forge closer ties. We are working on holding a joint CCI-CAI-ACMO conference in Toronto for 2005 or 2006.

A number of National Directors are up for election at our AGM in November and we will need members to become candidates. If you are interested, please communicate to the local chapter board or CCI - National.

The next May meeting (2004) is to take place in St. John's, Newfoundland. A Newfoundland Chapter is in its infancy and will be hosting the next Spring event in May 27-30, 2004. Our Fall AGM and conference will again be held at the International Plaza hotel on Dixon Road in Toronto on November 7th to 8th, 2004. Hope to see you in November.



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A Message from Your CCI National President



The concept of condominium includes the aspect of community. What is your view of who this community includes? Some people I speak with narrow their view or

focus of community to the owners or occupants of the condominium complex. This is a natural consequence of our interpretation and application of the law. Condominium owners make and live with rules, contribute to common expenses and choose the leaders of their communities. My view is that our condominium community includes all the persons who participate in or do business in condominium.

A narrow view brings limitations. Rarely do owner communities have all the internal expertise or resources to be totally self sufficient in their existence or operation. At some point the owner community must expand its borders to include others. They may need professionals to provide advice, services or representation and other businesses and persons to provide materials, services, equipment or support. This expansion of borders creates new mutually beneficial relationships. It also expands our view of condominium. Professionals and businesses rely on condominium communities to operate rewarding practices and enterprises. Without condominium developers, corporations and owners, there would not be a condominium industry or business component. Owner communities rely on professionals and businesses to fill the gaps in needed expertise, labour, materials and equipment. Without this outside support, owner communities would find it more difficult to carry out their mandates and meet the needs of their communities.

The founders of the Canadian Condominium Institute created CCI to reflect an expansive view of the condominium community, both in membership and purpose. CCI is the only national condominium organization to welcome into its membership all the persons or businesses active in and interested in condominium.

When we have members from all the various segments of the broad condominium industry, we are able to discuss all aspects of a

topic and work towards meaningful and productive resolutions. For CCI as an organization, an expanded membership means that professionals and businesses contribute their time, expertise and resources, along with those of condominium owners, to advancing the objectives of the Institute and making our Chapters successful.

CCI's objectives include educating, setting standards and sharing information. We are able to accomplish these objectives by providing some services internally, through the Chapters or the National office. We also create links or relationships with other organizations who may have a narrower focus or membership than CCI. This enables us to act as a link between these organizations. It also means we can provide expert content on condominium matters to other organizations within their particular mandates. Finally, participating in this broader condominium community enables all of us to work together to improve the condominium industry, each contributing a little and not bearing the total burden.

The National Board is currently examining possible new links or mutually beneficial relationships with other organizations. We continue to explore and develop relationships with the Canada Mortgage and Housing Corporation, the various provincial real estate councils, the provincial government departments, the Community Associations Institute (US), the provincial associations of condominium managers, and the Real Estate Institute of Canada.

As I write this, CCI is approaching its fiscal and membership year end for 2003. Every Chapter has or will be mailing its membership renewals. I ask that you keep CCI strong by renewing your membership. As well as keeping our current members, we also need to grow. You can help with the growth. Sponsor one new member - an owner, a condominium corporation, a condominium professional, a business or individual who provides services to condominiums or a developer. All are welcome in CCI. We welcome all members' ideas, energy, participation, support and spirit.

Deborah Howes

CCI National President

From Edmonton to Dallas

CCI Continues its Relationship with CAI

I had the privilege of representing CCI at the Community Associations Institute's 52nd National Conference in Dallas in late April. National Director, Janice Pynn and Toronto Director, Denise Lash also attended the conference on behalf of the Toronto Chapter. In addition to attending the sessions at the conference, I had the opportunity to attend the meeting of and speak to the CAI Board of Trustees. While being somewhat larger and ten years older than CCI, CAI and its membership share many of the same concerns as the CCI National board.

CAI has about 15,000 members in approximately 45 chapters across the USA. It represents condominium corporations and home owner associations as both are so similar under US law. This is CAI's 30th anniversary. Last year it enjoyed just over 2% growth in membership. It won three gold awards for its national magazine, Common Ground, from a US association of non-profit societies. CAI's Board of Trustees is about the same size as CCI's (24 directors). While CCI has one part-time Executive Director, CAI has over 50 full time staff. CAI members pay their dues directly to the national office from which the chapters receive a rebate for their operations (CCI Chapters collect all membership dues and pay a per member fee to National). Most CAI chapters have an executive director to assist the volunteer chapter board.

Some of the issues and topics CAI is dealing with include their public image and branding, strategic planning and membership category restructuring. CAI provides strong support to and education for the chapters, ideas which I brought back to our board and committees. CAI is looking at a code of ethics for community directors and CCI will share its code with CAI to assist in their work. Current issues for their membership, and ours, are insurance rates and coverage, mould,

reserve funding, dispute resolution, and relationships between managers and condominium boards. CAI is launching three new initiatives this year, an aggressive membership recruitment campaign, the CAI Treasurer software and the CAI Bill of Rights and Responsibilities for Community Leaders and Owners. I have passed this information on to CCI's national board and committees to see how CCI's members might benefit from these initiatives. I also learned that CAI has many awards to recognize the achievements and contributions of its volunteers. Our national membership committee now has this information for its consideration of future CCI awards.

One of the workshops at the conference included discussion about the role of condominium boards as a broader governance role, with the manager doing the full operational work for the corporation. This creates less work and stress for directors and more enjoyable work and fewer meetings for managers. It is a concept which Canadian managers and condominium directors might also find desirable. I often hear from managers who,

while enjoying their work, are working too many nights and not seeing their families. I hear also from directors who, once elected, learned that the job of director was far more time consuming, demanding and detailed than they had anticipated. Perhaps the time has come for Canadian managers and condominium directors to begin to examine their relationships and their respective roles.

CAI and its executive were most generous and gracious in their hospitality. We have invited them to attend our National AGM and Conference in November in Toronto. In addition, CCI's national executive will continue to liaise with them on matters of mutual interest and benefit. We also continue to work on a joint project – CCI National, CCI Toronto Chapter, ACMO and CAI – to hold a joint conference in Toronto in the future. CAI has many resources which Canadian condominium corporations might find useful also. To learn about some of these resources you can visit the CAI website at www.caionline.org.

Deborah M. Howes, CCI National President

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Regina & Area Chapter

Following our Annual General Meeting and Seminar held last Fall, our Board of nine members (Lee-Ann Brown, Dave Harris, Randy Heathcote -chair, Evelyn Jonescu, Ross Keith, Dolores Lorenz, Peter Suderman, Dale Tilling and Ambrose Reschny) has been meeting monthly to deal with many on-going activities as well as trying to activate other initiatives. Two successes in the former category both relate to finally convincing municipal and provincial governments to remove some of the inequities faced by condo owners. In 2002, the City of Regina agreed to provide a grant to reimburse those condo corporations who had been paying double for waste removal – not only through heavy taxes but also through having to hire private collectors to do the job that the City does for other home-owners. This concession by the City was a result of many months of lobbying by CCI-Regina and Area. A second apparent success is more current: unlike other home-owners, condo corporations have been charged PST (provincial sales tax of 6%) on electrical usage in common areas.

Word has been received, again after many months of lobbying, that SaskPower will be exempting such areas from this tax.

Considerable effort has been put into educational activities. Our resolve to publish a quarterly

newsletter has resulted in the distribution, to over sixty members, of the first three issues, with the Summer 2003 issue in press. A subcommittee of the Board, under the chairmanship of Dolores Lorenz, planned a May seminar on the Role of a Board of Directors. As well, we have begun “revisiting” plans started several years ago to work with a regional college in producing and presenting a condominium course or courses. The fact that four of our Board members plan to attend the semi-annual Spring Conference and Seminars in Calgary in May attests to our efforts to become more informed.

We have been pleased to be part of the consultation process undertaken over the year by Saskatchewan Justice as they draft changes to the *Saskatchewan Condominium Property Act*. Several improvements suggested by CCI-Regina and Area and by the Chapter in Saskatoon have been incorporated in the draft submitted to government. Preparing a budget for 2003-2004, and planning a Fall seminar are two major tasks ahead of our Board before a summer recess. We have been encouraged by an increase in membership and look forward to more participation from those members on the Board and its committees.

*Evelyn Jonescu, Secretary
CCI-Regina & Area*

South Alberta Chapter

The South Alberta Chapter was very excited about hosting this year’s national conference in Calgary. Our Conference Committee made arrangements for the conference, “Owners are from Mars, Managers are from Venus,” held this year from May 22nd to 24th at the Sheraton Eau Claire, Calgary.

In September a new Board was elected for our Chapter, and we are working on some exiting initiatives that include education and increasing our membership base. It’s no secret that the Calgary economy and real estate market are booming, and Calgarians have embraced the condominium

lifestyle in the last few years.

The changing face of our local real estate market offers us many opportunities to spread the word about the CCI and everything we have to offer to professionals and consumers alike. Our Chapter had a booth at the recent Western Real Estate Conference in Banff, which generated a great deal of interest in CCI Chapters across the country.

*Marlene Swinton, President,
CCI South Alberta Chapter*

Toronto and Area Chapter

The various committees of the CCI-Toronto Chapter have had a very successful and busy spring season. The Education Committee was responsible for presenting another packed session of CCI's Basic Course, which drew a crowd of over 75 participants. The Public Relations Committee, which oversees the production of the *Condo Voice* magazine, worked extremely hard on developing a 'new look' for the magazine, which was unveiled with the Spring 2003 issue. The Membership Committee continues to develop the structure of a major membership drive to be launched soon and is also liaising with CCI National on the implementation of new requirements for ACCI members. The Legislative Committee, now headed by Armand Conant, is continuing work with other Ontario CCI Chapters to develop a list of recommended changes to the *Condominium Act*, which will be presented to the Ministry, once completed. The Special Projects Committee continued to follow up on Hydro related issues, after the successful lobbying efforts of CCI Toronto, ACMO and Brookfield Residential Services resulted in having condominiums included in the Hydro rebate and rate cap program. The Committee is happy to report that as of April 2003, many Condominium Corporations began

receiving the promised rebates on their Hydro invoices. Future projects facing the Committee will be working with the City of Toronto on Waste Management issues, and reviewing the new Regulations for Ozone Depletion. The Committee was also responsible for the presentation of the fourth in a series of successful President's Seminars. The CCI/CAI/ACMO Task Force continues to liaise with our counterpart in America – CAI (Community Associations Institute). In May 2003, two CCI Toronto delegates joined CCI National President, Deborah Howes at the CAI Conference in Dallas, Texas. Information sharing and networking was the focus of this visit, but the idea of bringing a CAI conference to Toronto within the next few years remains a goal of the Committee. The CCI-Toronto Conference Committee continues to meet regularly with ACMO and CCI National Committee members and plans are well under way for a spectacular fall conference. Mark your calendars now for November 7th and 8th – at the International Plaza Hotel in Toronto.

Lynn Morrovat
CCI-Toronto Administrator

Windsor Essex County Chapter

This past Spring, our Chapter held its Level 200 Condominium Course for a more in-depth study of condominium living. Topics presented were law, financial management, property management, directors' responsibilities, insurance requirements, physical building management, reserve fund studies and effective meetings. The course was well-received by our members. S. Middlemist, President of Essex Condominium Corporation No. 78 had this to say about the course:

"...a must for all responsible condominium board members. Myths are debunked; facts are presented clearly in a Q & A format. Well worth the time commitment and the cost of registration."

In response to our members' requests, we are planning more seminars and courses. Please contact us with any topics you would like addressed at a seminar or in a newsletter.

With the second anniversary of the new Act passing on May 5th, attention should be given to the Reserve Fund Study. For all condominiums existing before May 5th, 2001, the reserve fund study must be conducted within 3 years of that date. We will be holding a session on what to do with the Reserve Fund Study once it has been prepared called "After the Reserve Fund Study". You won't want to miss this one. Launching our newsletter, website and directory have been a success. Please check us out at www.cci.ca/Windsor

For more information on how you can become a member of the CCI Windsor-Essex County Chapter, please call (519) 978-3237 or visit our website.

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

Vancouver Chapter

The growth of the Vancouver Chapter has been steady since it was awarded its charter in 2002, thanks in large part to the hard work of the volunteer board members. With any luck we hope to be able to double our membership by the end of this year.

Over the Spring our board has been focusing on increasing our membership, compiling a Spring newsletter, receiving input from our members about topics they would like to have addressed at upcoming seminars, securing speakers for our upcoming seminars and working on course materials for a level 100 Condominium Course.

Our Chapter sent four of its board members to the National meetings held in Calgary in May.

The first time attendees to a National meeting were impressed with the benefits from watching the events that had been so carefully choreographed by the volunteers from Calgary, Edmonton and beyond.

*Jamie Bleay, President
CCI-Vancouver*



Huronia Chapter

Our chapter travelling roadshow remains very popular throughout Northern Ontario. On the 13th of February, Gerrit attended an evening session in Sault Ste Marie and discussed how communications can improve harmony in Condo. The session was hosted by ACC #1, with our eminent organizer, Maj-Liisa doing the arranging.

Our April Director's course in Barrie was sold out and well received. Excellent speakers shared a tremendous amount of information on solving and avoiding problems.

In North Bay, on the 10th of April, Fern Lafrenierre and Don Pask arranged a luncheon session attended by 30 directors, realtors and managers. "Ask the Experts" was the theme and generated many questions. Lucie Laperriere, a local lawyer and Lloyd Bristow, President of Bayshore Property Management ably assisted Gerrit in responding to the many issues raised.

Back in The Sault, The Sault Condo Association, under the guidance of Maj-Liisa Donaghue, organized an "Ask the Experts" session on the 15th of May. Gerrit joined local lawyer Elaine Pitcher, Bob Woods, a P.Eng and Catharine White, Realtor in fielding many questions.

An all day director's course was held in Orillia, in May, organized by Milton Zwicker a local lawyer with many expert presenters. On the 7th of June another full day session was presented in North Bay.

The demand for knowledge continues, unabated and CCI - Huronia is pleased to be the conduit.

*Gerrit Roosenboom
President, CCI-Huron*

Atlantic Chapter

Despite the truly awful Winter weather in the Atlantic region this past Season, the Chapter continued with its activities. The CM 300 Course was held in February with 65 enthusiastic participants. The course material was updated and localized by Pat Cassidy and Laurie Smith of our Board and the material was presented by a dedicated group of volunteers including CCI members Lisa Power and Laurie Smith, Peter MacKeigan, a registered arbitrator and solicitor with considerable experience in the development aspect of corporations and Don Grant from a local insurance brokerage. Our heartfelt appreciation goes out to all of these individuals as well as the other CCI members who gave freely of their time to make this event such a success.

Since our last report, two newsletters have been produced and another issue is imminent. Three members of the Board attended the conference in Calgary and experienced the famous Western hospitality.

The Chapter is starting the planning process for next year and is implementing a concerted attempt to contact many of the new corporations in NS in the hopes of increasing our membership.

As the Spring weather finally begins to make an appearance, we wish all CCI members an enjoyable summer and a successful next year.

*Anne Merry, Vice-President
CCI-Atlantic Chapter*

Manitoba Chapter

Due to overwhelming demand, the Manitoba Chapter developed "The Manitoba Condominium Course" as part of our ongoing education commitment. The course was offered this spring in three one-day sessions that could be taken individually or as a package. It provided in depth, hands on presentations of all significant areas of responsibility, designed for Condominium Directors, unit owners and others. The sessions were well attended and well received and we are looking forward to scheduling the next sessions.

Starting in the fall we will also begin a new "Lunch & Learn" series of four events. Speakers and dates are in the process of being finalized and we are most excited about this program. Registrations are out for our annual Golf tournament and we are looking forward to a great event.

A provincial election was called for June 3, 2003 and we issued letters to our members and to the candidates identifying condominium property tax concerns. We asked candidates to respond to specific questions and their answers were forwarded to our members in a special election issue.

*Edie Lipson, President
CCI-Manitoba*

North Alberta Chapter

Well, it seems that spring has finally arrived here in Alberta, complete with blizzards in May!!! With the warmer weather comes the start of exterior maintenance and repair projects for condominium corporations. Given the strong economy, particularly in the construction industry, it has been difficult to find contractors for the past few years, and this year is expected to be no exception.

For the North Alberta Chapter Board, spring is a time for planning. The strategic planning session held by the Board has identified a number of initiatives for the coming year. These include the expansion of the educational offerings to include more evening seminars on "hot topics" as well as a golf tournament to be held in September. The Membership and Public Relations Committees have been working on projects targeted at significantly increasing memberships along with increasing public awareness of CCI and what we have to offer. It promises to be a busy and eventful year for all of our volunteers.

*Lise Warick, B.Comm, ACCI
President
North Alberta Chapter*

North Saskatchewan Chapter

Well we have been a very busy chapter over the last several months.

In April of 2002 we began consultations with the Department of Justice to amend the *Condominium Property Act (1993)*. Over the course of the year the Department polled many interested parties, including active participation from both the South and North Saskatchewan Chapters about amendments to the *Act*. Given the new *Acts* in Alberta, Ontario, Nova Scotia and British Columbia I believe that our Department here saw potential for litigation given the physical age that corporations in Saskatchewan are approaching and recognized the need to make some pro-active amendments.

The draft legislation as we understand it is now being passed into the Legislative Assembly for passing and then we will move back to the Department to work out the requisite regulations over the next year or so, with the goal that the amended act and regulations would be proclaimed within the next two years.

The amendments to the *Act* will provide guidance on reserve funds and reserve fund studies, as well

as more clarity for insurance provisions, rights of mortgage holders, and tax assessment/apportionment. It would appear that the Department of Justice aimed at developing a consensus for amendments and gathered a wide range of views, we are quite pleased with their pro-active approach. More detailed information on the pending amendments can be found in our latest newsletter.

On April 26, 2003 we held our Spring seminar and were very pleased to have a turn-out of over 125 attendants! The seminar was a panel format discussion on "Owner's & Director's Rights and Responsibilities" with a some peripheral discussion on what the new *Act* will mean.

We look forward to a bit of break over the summer and then gearing up/planning for AGM and seminar in September 2003.

*Respectfully submitted,
Chetan Thakore, President
CCI-North Saskatchewan*

Golden Horseshoe Chapter

The chapter held its Level 100 Condominium Administration course in April in Burlington and Kitchener with 50 and 45 attendees respectively. From our board members and guest speakers we had an excellent program with very good feedback from the attendees.

We will again be holding the Level 200 course in Burlington and the Kitchener/Waterloo area in October. Our information seminar on conducting meetings originally scheduled for June 12th has been moved to June 26th, still in Milton. Our web site has all the details on these events; www.ghccci.org. Our membership is currently at 515.

Recognizing the vast inequities in how condominium properties are taxed, the chapter is commencing an initiative to lobby the Ontario government for changes. We would welcome support from the other CCI chapters in Ontario and any other interested parties.

In May, chapter representatives attended the CCI conference held recently in Calgary. The dialogue and conference sessions were very good and our hosts, the South Alberta Chapter were fantastic.

*Kim Coulter, ACCI, President
CCI-Golden Horseshoe Chapter*

ACCI Professionalism



The ACCI Task Force recommended to the Board at the AGM last year a number of revisions to the ACCI and FCCI guidelines so to enhance the reputation and professionalism of the designation. Included with each recommendation was an improved process in which to follow.

I. Approved Recommendations

a) The National Guidelines on ACCI were amended to include the professions of Appraisers, Architects, Certified Engineering Technologists, and Land Surveyors; and now include the professions of Law, Accounting, Condominium Management, Insurance, Real Estate, Engineering, Reserve Fund Study Provider and Alternative Dispute Resolution;

b) The ACCI application form has been amended to include these professions in the category listing which an applicant can check when applying;

c) In the coming year, CCI National will make it a priority to create exams for these professions and to invite members of these professions to challenge the exam to obtain ACCI status.

II. Investigate and recommend whether professionals can hold multiple designations

Approved September 24, 2002 that professionals can hold more than one ACCI designation but must apply in the usual manner for each, and must maintain each in the usual manner.

This means professionals can obtain multiple ACCI designations if they so desire, as long as the professionals apply for each additional designation,

write the required exam, pay the same fees for each additional designation, and re-qualify for each designation required.

Recommendations

a) The National Guidelines on ACCI has been amended accordingly.

b) The ACCI application form has been

III. Determine the Abbreviation of the Profession to be used with the ACCI Designation

amended as well.

a) Approved September 24, 2002 that professionals can use the expanded ACCI designation (which includes the professional abbreviation) in the format as approved by National.

b) National also approved allowing professionals to use the approved designations ACCI or ACCI (category) on their business cards and letterheads, etc. Persons holding multiple designations may be referred to as an ACCI only.

c) As professionals qualify for multiple ACCI designations, National will issue a new ACCI certificate which identifies all the designations, including the categories held by the individual.

d) Because the Canadian Condominium Institute deals exclusively with Condominiums, for the purpose of the ACCI designation, National has agreed to change the wording of "Property Manager" to "Condominium Management".

IV. Abbreviations

a) National has approved the following professional abbreviations to use with the ACCI designation:

| | | | |
|-----------------------------|---------------|--|--------------|
| i) Law | ACCI (Law) | vii) Appraiser | ACCI (Appr.) |
| ii) Accounting | ACCI (Acct) | viii) Architect | ACCI (Arch.) |
| iii) Condominium Management | ACCI(CM) | ix) Certified Engineering Technologist | ACCI (CET) |
| iv) Insurance | ACCI (Ins) | x) Land Surveyor | ACCI (LS) |
| v) Real Estate | ACCI (RE) | xi) Reserve Fund Study Provider | ACCI (RFSP) |
| vi) Engineering | ACCI (P.Eng.) | xii) Alternative Dispute Resolution | ACCI (ADR) |

b) In addition, National has approved the following format for use by professionals who hold multiple ACCI designations: ACCI (1st profession abbreviation, 2nd profession abbreviation, 3rd profession abbreviation) separated by commas.

An example would be ACCI (Law, ADR) or ACCI (P. Eng., FRSP).

V. Renewal of Status

In addition to some refinements to the application the approval process and the annual reporting process, National will now adopt and implement a “renewal of status” process for ACCI members which includes a continuing education component, application for renewal status, and a re-commitment to the Code of Ethics.

That National revised the ACCI guidelines to:

- a) require ACCI members to apply for renewal of their ACCI status every two years
- b) require ACCI members seeking renewal of the ACCI status to declare that he/she had completed a minimum of 18 hours of continuing education through:
 - i. attending courses or seminars or conferences related to condominium or their profession;
 - ii. writing articles or instructing or speaking at seminars or conferences in condominium or their profession;
 - iii. active participation in the CCI Chapter or National which involves use of his or her professional skills, such as writing articles for the newsletter or answering information calls, or actively serving on the Chapter of

National Board or a Chapter or National committee.

- c) require an ACCI member seeking renewal of the ACCI status to pledge to abide by the CCI Code of Ethics for Professional Members.
- d) require the Chapter to review the application for renewal and make a recommendation to National.
- e) That National implement the ACCI renewal process beginning on July 1, 2003 with the following steps:
 - i. notification to all current ACCI members
 - ii. for all professional members who were granted ACCI accreditation before December 1, 2002, the renewal application date will be every two years from July 1, 2003
 - iii. for all professional members who were granted ACCI designation after December 1, 2002, the renewal application date will be two years commencing July 1, 2003.

VI. a) That National

- i. revise the ACCI and FCCI guidelines to require chapters to include in their lists and annual report to National information about:
 - a) the profession in which the ACCI was granted
 - b) the year the member was granted ACCI or FCCI designation
 - c) the address of ACCI or FCCI member
 - d) an indication of whether the information from the previous year has changed, and if the information has changed, an explanation for the change;
- ii. make Form 1 part of the National Procedures Manual.
- b) That National approve the ACCI Guidelines (4 documents) –
 - i. Guidelines for Application for Professional Associate Accreditation;
 - ii. Application for Professional Association Accreditation;
 - iii. Chapter Recommendation for ACCI Accreditation and
 - iv. Information for Chapters on Guidelines for ACCI Examinations and Approvals)

VII. FCCI Designation

Several changes were required to FCCI Guidelines and Nomination form to make them consistent with the type of information and process used in the ACCI process. The Guidelines were amended in para #2 – Nomination to include the requirements to include the nomination fee, and in para #1 – Information to include reference to Form 1 for annual reporting. The Nomination Form has been expanded to include information about the ACCI designation of the candidate; the reason for nomination; the inclusion of the nomination fee, and a section for internal office use to easily record and track the status of the nomination and the result.

VIII. Exam Component



- a) Retain the exam component of the ACCI guidelines.
- b) Revise the ACCI Application form to:
 - i. Include all professional categories
 - ii. Require the applicant to pledge to abide by the Code of Ethics for Professionals
 - iii. Inquire if the applicant has previously applied for ACCI status, when and where
 - iv. Inquire if the applicant already holds an ACCI and if so, in what profession.
- c) Revise the application process at the Chapter level to include an interview with the candidate as a pre-requisite to writing the exam.
- d) Revise the application process to include a minimum standard of education qualification, namely the basic Board of Directors/Managers course offered by the Chapter or in the province.
- e) Revise the ACCI Guidelines to require that, if the professional allows his/her ACCI designation to lapse for more than twelve months for any reason, he/she must re-apply and re-qualify for the ACCI designation as if he or she was a new candidate.
- f) Revise the ACCI Guidelines to increase the portion of the application fee forwarded to National from \$25.00 to \$50.00.

CCI's Newest Fellow Bernie Winter



On May 24, 2003 at the semi-annual National meeting and South Alberta Chapter conference, President

Deborah Howes recognized Bernie Winter as the newest Fellow of the Institute. Before the full house of conference attendees, a surprised Bernie Winter graciously accepted the award. CCI normally presents these awards annually at the National Awards dinner held in Toronto.

Bernie has been involved in condominium and property management since 1975 in Calgary. She has also been a realtor in condominium. She is the owner of CondoCheck, a condominium buyer service, and Bernie Winter Seminars, providing motivational seminars. She is a recognized instructor for the Real Estate Council of Alberta, the Alberta Appraisal Institute, CCI, and the Alberta Real Estate Training Centre. Bernie is a regular columnist for the Calgary Herald.

Bernie has been active in CCI, both nationally and in the South Alberta Chapter since 1996. She co-chairs the national education committee and participated in two recent national initiatives: our project with CMHC to release the Condominium Buyers Guide and the national CCI Reserve Funding book. She is a past president of the South Alberta Chapter and is still active on its committees. Bernie also served on the Minister's working committee on changes to the Alberta Condominium Property Act. In 2002 Bernie received Calgary's Woman of Vision award.

Condo Cases across Canada



I have been asked, and it is my pleasure, to provide these brief summaries of some of the recent Court Decisions, across Canada, respecting condominium matters. I can't provide summaries of every decision. I have selected a handful that I hope readers will find interesting. I look forward to preparing this regular column for the CCI Review, and I hope you enjoy these legal updates.

By James Davidson, L.L.B.
Nelligan O'Brien Payne

The Hot Topic – British Columbia Decisions Respecting the Meaning of “Significantly Unfair”

Section 164 of British Columbia's Strata Property Act says that a court in British Columbia can make an Order to prevent or remedy actions of the Strata Council if those actions are, or may be, “significantly unfair” to an owner or tenant.

The words “significantly unfair” have been considered in recent British Columbia court decisions. By way of summary, the courts have said that conduct is “significantly unfair” if it is oppressive or unfairly prejudicial. Oppressive conduct is described in the cases as conduct which is “burdensome, harsh, wrongful, lacking in probity or fair dealing, or has been done in bad faith”. Unfairly prejudicial conduct is described as being “unjust and inequitable”.

The courts have also noted that Strata Corporations must act in the best interests of all owners, and that those interests may sometimes conflict with the interests of a particular owner or group of owners. With this in mind, the courts have said that conduct which is significantly unfair must go beyond “mere prejudice or trifling unfairness”.

It appears to me that British Columbia courts are essentially interpreting the words “significantly unfair” as more or less equating to “oppressive”, so that Section 164 of the Strata Property Act

more or less equates to the oppression remedy found in other jurisdictions and in other corporate regimes.

The following are some recent examples:

Reid v. Strata Plan LMS 2503
(February 28, 2003)

Actions of Strata Council not “significantly unfair”. Owners permitted to make limited use of patio.

This was a dispute involving three owners, the Strata Corporation, and a patio.

Two units – owned by Ms. Flotten and Mr. and Mrs. Nomura – face each other across the patio, and the patio comprises a common property entryway to those units. The back wall of a third unit – owned by Mr. Reid – also borders the common entry. There are three picture windows in that back wall. In other words, the patio is the view from Mr. Reid's rear windows.

Mr. Reid complained to the Strata Council that Ms. Flotten and the Nomuras were placing personal belongings, including patio furniture and planters, on the patio. Initially, the Strata Council agreed, and sent letters to Ms. Flotten and the Nomuras asking them to remove the items. However, the

Strata Council ultimately resolved to grant the Nomuras and Ms. Flotten permission to place the following items on the patio: four potted cedar trees, one potted holly bush, one half-barrel planter, one garden bench, one tripod planter, three rectangular window boxes, one potted fuschia tree and various small planters filled with annuals clustered around the larger planters and the perimeter. This permission was given on the following terms and conditions. Ms. Flotten and the Nomuras were to be responsible for the care and upkeep of these items and for keeping the area tidy and clean. They would also be liable for any damage to the patio which occurred as a result of the placement of these items. Finally, it was made clear that the permission was granted on a temporary basis and could be withdrawn at the discretion of the council.

Mr. Reid applied to court for a declaration that the Strata Council's decision was significantly unfair to him, and for an order reversing that decision.

The court said that the decision of the Strata Council was not “significantly unfair” within the meaning of Section 164 of the Strata Property Act. The court also said that the items placed on the patio did not constitute a “significant change” so as to require a three-quarter

vote of the owners – within the meaning of Section 71 of the Act. The items were permitted to remain on the patio.

Gentis v. Strata Plan VR 368
(January 23, 2003)

Actions of Strata Corporation not “significantly unfair”. Owner not entitled to use deck.

Shaughnessy Place is a Strata development that contains 76 Strata units over 6 floors. Each unit in the complex has two or three patio decks.

The Strata Corporation agreed to allow the owner of Suite 601 to use an adjacent roof area as an additional deck/patio, and a sliding door was installed in one of the walls of the unit in order to allow access to this additional patio. This was subject to many conditions which were ultimately recorded in a lease between the Strata Corporation and the owner. The lease included the following statement:

“In the event of a change of registered ownership, the Strata Council of that time shall have the option to renew this lease arrangement and of access to the area in question.”

The owner sold the suite and sought approval to include the transfer of the lease with the sale of the unit. This was refused by the Strata Council. In the meantime, the purchasers, Dr. and Mrs. Gentis, were advised in the purchase agreement that the particular deck “may not be allowed to remain”.

Following the sale, Dr. and Mrs. Gentis requested continued use of the deck, and the Strata Council again refused. However, the council was prepared to allow access to the area for watering and maintaining flower boxes. This was unsatisfactory to the Gentis’. They arranged for a meeting of the owners, in the hopes of obtaining a special resolution to designate the deck as limited common property (for their use). The meeting was held and the resolution was defeated by a significant margin of 51 opposed and 14 in favour.

The Gentis’ then petitioned the court for a declaration that the Strata Council’s refusal was significantly unfair, and an order that they be permitted to continue to use the deck.

The court concluded that the Strata Council’s decision was not significantly unfair. The court said:

- The council’s decision was based on consideration of legitimate factors;
- The vote of owners, although “not dispositive of the issue”, is additional evidence that the Strata Council’s decision represented the interests of a majority of the owners;
- The Gentis’ will not be disadvantaged by the loss of this deck;
- The Gentis’ were warned of the uncertainties surrounding their continued use of the deck. They could not have formed a reasonable expectation that they would be permitted to continue to use the deck.

Other Case From British Columbia

Strata Plan LMS 837 v. Abbotsford
(City) (April 17, 2003)

Leaky Condo Case: Excessive Delay Prevents Condominium Corporation from Adding a Defendant.

This is one of British Columbia’s “leaky condo” cases. The Strata Corporation brought a motion to add some defendants to the court action. One of the defendants, Spectrum Skyworks Inc., opposed the application.

The court refused to add Spectrum as a defendant. The court said that the Strata Corporation should have identified Spectrum as a defendant at a much earlier date. The court said that there was “an extensive delay in seeking to identify and add Spectrum as a defendant”. The court said that Spectrum had been prejudiced by the delay, particularly because intervening work had been done and Spectrum was not advised or consulted about that work.

Case From Alberta

Condominium Plan No. 8111679 v. Elekes (March 6, 2003)

Owner entitled to keep satellite dish.

The condominium corporation sought an order requiring the owner to remove his satellite dish. The court refused the application, and allowed the owner to keep the satellite dish. The court said:

- The corporation’s rules prohibited installation of any “television antenna or mobile telephone radio or short-wave antenna, tower or similar structure”. This does not specifically refer to satellite dishes. A satellite dish is not an “antenna” and is not a “similar structure”.
- Furthermore, even if the rule did prevent the installation of a satellite dish, the Board in this case would be unable to enforce the rule against this owner, due to the Board’s previous conduct. The Board had acted in a manner that was oppressive and unreasonably prejudicial to the owner. For example,

- Other owners had been permitted to install satellite dishes;
- The Board did not attempt to amend the by-law dealing with satellite dishes, even after it became apparent that a majority of the residents were in favour of such an amendment (to permit satellite dishes).

The court said that a corporation’s failure to enforce a provision prohibiting satellite dishes is “akin to a pre-existing non-conforming use, on a common element to which no objection by other owners has been taken.”

The Corporation was ordered to pay costs to the owner. Furthermore, the owner did not have to contribute his share of the special assessment which would be levied to pay those costs.

[Editorial Note:

There is a growing line of condominium decisions stating that condominium corporations must be fair, consistent and timely in applying the corporation's by-laws and rules. Failing such, the by-law or rule may be rendered unenforceable.

According to this case, condominium corporations wishing to prohibit satellite dishes should also be examining their by-laws or rules to ensure that they make specific reference to "satellite dishes". Otherwise, the Rule may not apply to satellite dishes at all.

I note that the court also more or less ignored the condominium corporation's additional argument that "even if the by-laws do not specifically address satellite dishes, they still have the authority to regulate the common property". The court adopted the following reasoning:

"Restrictions being in derogation of the common law right to use land for all lawful purposes will not be extended by implication to include any use not clearly expressed...nor will they be aided or extended by judicial construction".

In other words, restrictions upon an owner's ordinary right to use his or her land must be very clear. But this assumes that condominium owners have the "ordinary right" to make modifications to the common property, which of course is not the case. Owners generally cannot modify the common elements without approval. There have also been many other court decisions stating that the installation of a satellite dish is a common element modification.]

Case From Saskatchewan

Dunn v. Condominium Plan 89PA14638
(January 31, 2003)

Condominium Corporation did not follow proper procedures to impose penalty.

In Saskatchewan, Section 99 of the *Condominium Property Act, 1993*, allows a condominium corporation to seek judgment for a penalty as a result of a contravention of the corporation's by-laws.

The condominium corporation brought an action in Small Claims Court, for recovery of penalties as a result of an owner's unauthorized modifications to the property. The Small Claims Court judge awarded judgment in the sum of \$200.00 for each of three violations, totaling \$600.00, plus \$60.00 for costs.

The owner appealed. The Saskatchewan Court of Queen's Bench upheld the appeal and overturned the decision of the Small Claims Court judge. The appeal court held that the condominium corporation was not entitled to recover the penalties because the condominium corporation had failed to properly follow the procedures in the corporation's by-laws dealing with claims for such penalties.

Cases From Ontario

Smithers v. York Condominium Corporation No. 60 (February 24, 2003)

No By-law Required to Authorize Remuneration for Officers or Agents.

This case confirmed the following: In Ontario, condominium corporations must pass a by-law to authorize remuneration for directors. However, the condominium corporation is not required to pass a by-law with respect to remuneration for officers and agents.

East Gate Estates Essex Condominium Corp. No. 2 v. Kimmerly
(February 3, 2003)

Owner's landscaping changes exceeded Board's authorization, and had to be reversed.

The Board of Directors gave approval for one of the owners to install a flower garden in the front of the unit, subject to certain restrictions on the dimension of the garden. The installed garden exceeded the approved dimensions.

The court ordered the owner to bring the landscaping into conformity with the approval. The court said:

"In this instance the Board provided an authorization for landscaping which was exceeded. There has been no movement from their position that there must be rectification. It matters not as shown by the photos...that the landscaping appears to be beautifully done, or that all other unit holders find it pleasing. Where the elected Board concludes it is unacceptable for an area of the common elements which they are elected to govern their word is final. In a democracy, the manner in which to overturn such a determination is through the election process and there is no evidence the condo Board ever rescinded their initial approval."

[Editorial Note:

This case expresses the role of the Board of Directors. Many decisions must be made by the Board. The Board members are liable and accountable for those decisions. Owners who don't like the decision can seek election, whereupon they accept the liability for decisions made as Directors.]

Apartments International Inc. v. Metropolitan Toronto Condominium Corporation No. 1170 (April 2, 2003)

Appeal of "hotel use" decision.

On appeal to the Ontario Court of Appeal, the decision of the applications judge was upheld. The Appeal Court held as follows:

- The rules of the condominium corporation properly prohibited the use of the units for "transient or hotel purposes".
- The condominium directors were statutorily obliged to enforce the rules.
- There was no unlawful conduct on the part of the directors.
- The owner failed to establish any triable issue on the question of economic loss.

York Condominium Corporation No. 482 v. Christiansen (January 31, 2003)

An important case about condominium collections: Lien right applies only to unit in default. However, rents from one unit can be applied to arrears from another.



In this case, Christiansen owned many units in the condominium. Some of the units were in arrears for common expense payments. Some were not. The court was asked to consider the following questions:

- Can a condominium corporation place a lien against one of the owner's units for recovery of arrears relating to another of the owner's units?
- Can the condominium corporation collect rents from one of the owner's units and apply those rents to arrears relating to another of the owner's units?

The court's decision was as follows:

1. A condominium corporation cannot lien one unit for arrears related to another unit. The lien right is a special form of security that can be applied only to the unit in default.
2. On the other hand, the condominium corporation has the right to attach the rents from any of the owner's units, and to apply those rents to arrears relating to the owner's other units.

In arriving at this decision, the court specifically considered the rights and interests of mortgagees. The court said that the lien rights are clearly confined, under the terms of the Act, to the unit in default – and the court said that this properly protects the mortgagee. However, the court said that the language of Section 87 of Ontario's Condominium Act does not similarly restrict or confine the corporation's rights respecting collection of rents.

The court agreed with the following statement: "It is important to understand the centrality of the common expenses in the operation of the condominium corporation for the benefit of all of the owners" (and also the mortgagees). The court accordingly saw no reason to place restrictions or limitations upon the corporation's rights respecting collection of the rents. The court said:

"The attainment (of rents) is much less drastic and intrusive into the rights of the mortgagee (as compared to lien rights). It does not affect the mort-

gagee's security. It does not carry with it the possibility that an accumulation of the debts of the other units may wipe out the equity and leave the mortgagee with a deficit. There are not the same reasons to confine the right to the very unit in respect of which the owner is in default as exists in the case of the lien. Given the statutory priority of the common expenses over the mortgage, there is every reason to read the section so as to enable the corporation to recover what is due to it."

The court accordingly decided that the corporation had the right to attach the rents "regardless of whether any arrears existed in respect of a particular unit, so long as there were arrears owing by that owner in respect of any unit".

The court also said that the corporation was not bound to apply the rents to the debt owing on the unit which generated the rent (if there were arrears owing with respect to that unit). The court said that the general rule is that "the earliest debt is paid first", unless the owner has clearly allocated the payment to a particular debt. The court said that collected rents cannot be allocated in this manner (because they are not payments made directly by the owner). Therefore, the condominium corporation properly applied the rents to the oldest debts from any of the owner's units.

Finally, the Court held that excessive amounts shown on the liens did not serve to invalidate the liens.

[Editorial Note:

This decision comes as powerful news to condominium corporations looking to collect against owners who own multiple units in the condominium. It seems to me, however, that this decision may be a source of concern to condominium mortgagees. The bottom line for mortgagees is that arrears accumulating against any number of other units may eliminate the rents on the secured unit as a source of recovery for the mortgagee. It seems to me that this may be important new information to be considered by condominium mortgagees at the time of the lending commitment.]

Pelletier v. Couture [2003] J.Q. no 3355 (April 4, 2003)

Owner Complaining About Noise Failed to Prove Construction Defect.

One of the owners in the condominium complained about noise from the unit above. The owner alleged that the noise was partly due to lack of proper insulation in the floors.

The court held that the complaining owner failed to demonstrate that the flooring was defective or that it was the cause of the noise problems. The court said that the complainant had failed to provide adequate expert evidence of such. The complainant also failed to show that there was "serious and irreparable prejudice" to the complainant as required by Section 1080 of the Civil Code. The claim was dismissed.

Summerside v. Le Turnberry, [2003] J.Q. no. 2285 (March 14 2003)

Owner complaint about air infiltration.

The plaintiff complained that defects resulted in excessive air infiltration into the unit.

After hearing from the experts involved, the court concluded that, although there was some cold air seeping into the units, the problem did not require the extensive renovations that had been undertaken by the owner (which had involved the demolishing and eventual reconstruction of the walls). The court allowed the claim, but awarded damages in the amount of \$3,500.00 (instead of the \$50,000.00 claimed).

The owner was simultaneously ordered to pay the Condominium Corporation the sum of \$5,350.00 related to the replacement of windows in the unit (carried out by the Corporation). The Condominium Corporation was also awarded recovery of arrears of common expenses (owed by the owner) as well as costs and interest.

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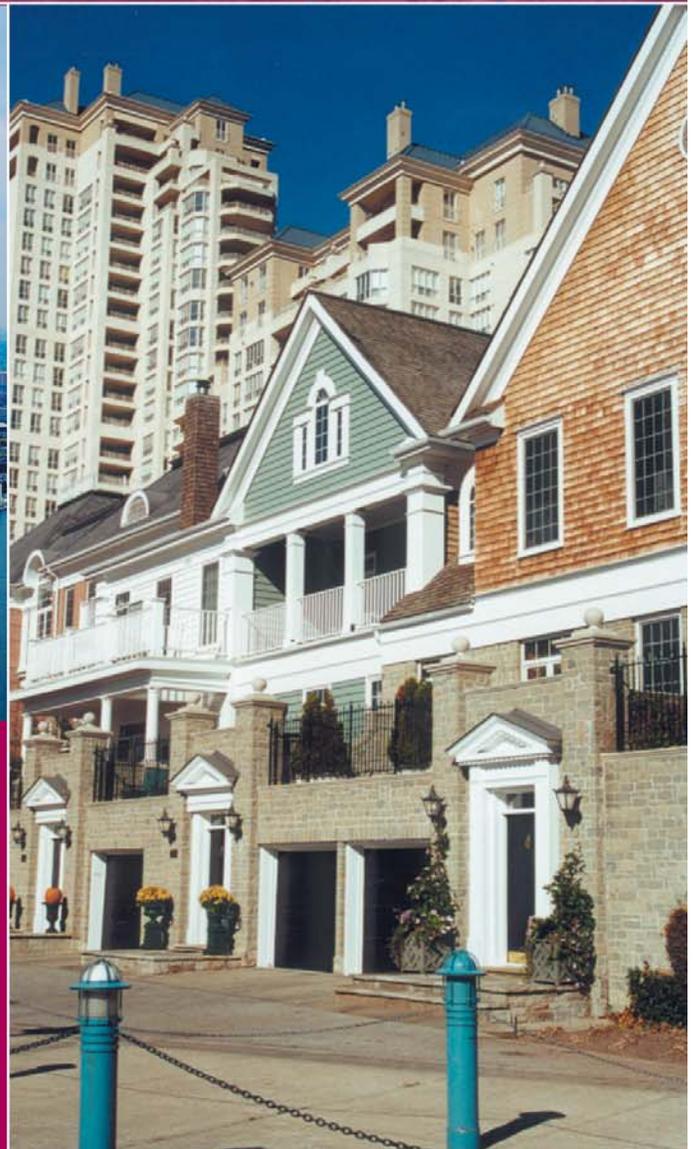
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