

SPRING 2019

# CondoChronicle

NEWSLETTER OF THE CCI NEWFOUNDLAND AND LABRADOR CHAPTER

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## MESSAGE FROM THE BOARD OF DIRECTORS

CCI NEWFOUNDLAND AND LABRADOR CHAPTER

Canadian Condominium Institute  
Newfoundland and  
Labrador Chapter

P.O. Box 23060  
Churchill Square  
St. John's, NL A1B 4J9

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Real Estate Broker/  
Property Manager  
Burke Realty  
carolburke@burkerealty.ca

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Condominium Owner/Realtor  
Burke Realty  
mleeman@nl.rogers.com

#### SECRETARY/TREASURER

**David Cumming**

Condominium Owner  
dwc1463@gmail.com

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[mark@godwit.ca](mailto:mark@godwit.ca)

**Susanne Ottenheimer**

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Corp  
sottenheimer@mun.ca

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Past President, CCI-NL  
Solicitor, Benson Buffett  
gpenney@bensoibuffett.com

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Condominium Owner/Director  
johnfroil@gmail.com

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condominiums

Newfoundland & Labrador Chapter

May 7, 2019

Friends,

We are very proud to host the National Leaders' Forum and Conference from May 29 to June 1, 2019, at the Delta Hotel in St. John's.

We are looking forward to welcoming our CCI friends from across Canada as well as our local condominium community. Our agenda is full of exciting speakers and topics that will surely be of interest to condo owners and directors. Please take the time to read all about it in this special edition of our Condo Chronicle.

This is a great opportunity to thank our generous sponsors, our local Chapter Directors, National Executive Committee members, Association Concepts, and our local volunteers who have come together to plan the St. John's Leaders Forum and Conference.

Finally, thank you to our Members for your continued support of our Chapter.

Regards,

Carol Burke, President  
On behalf of  
The Board of Directors  
CCI-NL

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*Cover photo from the city of St. John's.*



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# *Condominium Corporations with Different Sized Units – the Implications*

*By David Cumming*

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Many changes were made in the Condominium Act that came into force Dec. 1, 2011. The legislation governing condominium corporations is now far more complicated and this has caused some confusion among Condo Board members attempting to interpret the impact on managing their condominium property.

One of the concepts embedded in the Condominium Act resulting in uncertainty relates to voting on the basis of ownership of a percentage of the Common Elements - particularly when the units in a given property are different sizes (i.e. the units have different floor areas). Some provisions of the Act stipulate that amendments require the consent of the owners of a specified percentage of the Common Elements. For example:

## **To amend the Declaration or Description:**

- the Declaration (Art. 10) or Description (Art. 12) requires the consent of owners of at least 80% of the Common Elements.

## **To exercise corporate powers:**

- a Corporation may, with the consent of the owners of at least 66% of the Common Elements (Art. 18 (3)): carry out such things as borrow money, mortgage its property, grant leases of the Common Elements, make capital expenditures, levy special assessments for extraordinary Common Element expenses etc.

## **Achieving a quorum for meetings of the members:**

- a quorum to transact business at a meeting of the members of the Corporation is the presence, either in person or by proxy, of the owners of at least 30% of the Common Elements (Art. 20).

## **To amend By-laws or Rules:**

To further the confusion, By-laws may be enacted, amended or revoked upon a resolution of not less than 66% of the members without consideration of how much of the Common Elements are owned by the members (Art. 35). Likewise Rules for the use of the Common Elements may also be approved, amended or revoked upon a resolution of not less than 66% of the members (Art. 36).

To determine whether the required consent has been provided or whether a meeting quorum has been achieved, the Board must add up the number of owners who consent in writing or are present for a meeting in person or by proxy. For those Corporations with different size units, reference to a Schedule in the Declaration that specifies the percentage ownership of the Common Elements for each owner is generally available and the information therein referenced. If the requisite number of owners owning at least the minimum required percentage of the Common Elements consent, the Corporation must provide proof to the satisfaction of the Registrar in a form acceptable to the Registrar. Amendments to the governing documents are not effective until the amendment has been registered in Registry of Condominiums.

## **Impact of Unit Size on Condo Fees:**

Condominium fees are often higher for owners who own larger units. This can be a controversial issue since owners argue that since such services as snow removal, property management, janitorial services, refuse collection, pest control etc. are the same for all owners regardless of unit size, why do condominium fees increase with unit size? The rationale for linking increased unit size with increased condominium fees is that an owner of a larger unit owns more of the Common



Elements and is thus responsible for paying more for the upkeep and maintenance of those Common Elements. Ignoring large differences in unit size is not recommended as this may mean owners of the smaller units are paying for the upkeep and maintenance for part of the Common Elements they do not own and quorum requirements for past meetings may not have been duly met. Eventually, the Corporation may be challenged by some of the owners and this could potentially lead to conflict and discord between members and the Board.

If all the Corporation's units are the same size, this simplifies the situation as it is assumed that each owner owns the same percentage of the Common Elements. Approvals by the required percentage of the members without having to take into consideration unit size is

normally satisfactory. For some Corporations, small differences in unit size (say +/- 100 ft.<sup>2</sup>) are ignored however their governing documents make it very clear that all owners pay the same amount for any expenses pertaining to the Common Elements.

*David Cumming served on the Board of Directors of the Imperial Condominium Corporation for over 15 years – much of the time as President and now serves on the Board of the CCI-NL Chapter primarily responsible for Education. The opinions expressed in this article are those of the author and do not necessarily represent or reflect the views of the CCI Newfoundland and Labrador Chapter. Readers are encouraged to seek the advice of professionals to address specific issues or individual situations. This article may not be reproduced, in whole or in part, without acknowledgement to the author.*

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Your advertising support of our newsletter provides you and your company with opportunities to expand your business profile in the condominium community of Newfoundland and Labrador by showcasing your products and services to individual owners, Boards and Property Managers of local condominiums.

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Business card (3.5" x 2") .....	\$50.00
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1 Full Page (7.5" x 10").....	\$200.00
Full page loose insert, copies supplied by advertiser* .....	\$100.00
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Advertising requirements: \_\_\_\_\_

Please complete the above and remit, along with your advertising copy and your cheque payable to CCI-NL, for insertion in our next newsletter. Advertising copy can be emailed, preferably in PDF format, to [carolburke@burkerealty.ca](mailto:carolburke@burkerealty.ca). An invoice will be issued upon receipt.

The *Condo Chronicle* is one of the many benefits enjoyed by Members of the Canadian Condominium Institute Newfoundland and Labrador Chapter. Thank you for your advertising support.

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# From the National Scene: 7 Ways to Completely Sabotage Your Condo's Communication

By Sue Langlois , Director, CCI Toronto

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Communication (or more precisely, the lack of it) is often the #1 complaint voiced at condominium annual general meetings. Here are 7 ways you could be sabotaging your communication:

## #1. Use cork bulletin boards

Aside from being outdated, traditional bulletin boards are limited to one message at a time and need a person onsite to physically replace pieces of paper - not an efficient use of time or money. Invest in a digital elevator screen instead. It's by far the most powerful tool for reaching the most residents, the most often because nearly everyone has to ride the elevator to get to their unit. Townhome complexes? More challenging, but consider sharing a link or providing a picture-frame screen at each unit's front door.

## #2. Rely on email

Most people simply don't open their email. In condos, this will often depend on whether your information is "[selfie or \"healthy\"](#)", but MailChimp reports an average open rate across all industries as just 20.81%, which means nearly 80 percent get ignored! Email is important, but only if the reader is compelled to open it. That can be a challenge when it comes to informing residents about the topics that save the condo money.

## #3. Ignore your audience

Downsizing empty-nesters can have a different mindset than urban millennials. Owners often have a different point of view than renters. Discover your audience - learn who they are and how they perceive themselves and adapt your communication accordingly. Otherwise, ignore your audience and they'll ignore you.

## #4. Post PDF and Word documents

Posting hard-to-read pdfs or Word documents is a sure-fire way to get your audience to tune out. Marketing experts estimate that the average person sees between 4,000 and 10,000 ads each day, which means your full-page notice filled with numerous lines of tiny text is likely to get filtered out. It's easy to pull up a document from last year, change the date and re-use, but while that might work as an email backup with all the details included, it's far too much info for the average resident to notice or absorb to simply get the basic info they need to stay in touch with what's happening. Pare it down, and pair it with a pic.

## #5. Keep secrets

It's important to provide regular updates from the Board of Directors. One of the main complaints from condo residents is that they don't have a sense of what's going on in the building. They don't know what decisions are made by the board on a monthly basis, so are taken by surprise when they see signs of money being spent. That can get the rumour mill started... I once met a woman who was quite upset at the sight of workmen in her condo's underground garage; she assumed that there was structural damage and that her investment was at risk. Telling residents well in advance prevents grumbling and leaving things up to the imagination, which is usually a lot worse than reality!

## #6. Put ads in your building

Most condo boards value a sense of community, and a sure-fire way to sabotage that is to plaster advertisements all over the elevator. While many boards like to think of ads as a good way to offset the cost of an elevator screen, the reality is that the few bucks brought

in by a couple of advertisers is not worth the projected image of the building being more commercial than homey. Especially when the advertisers are realtors. Imagine coming home every night only to be reminded to move out!

#### **#7. Show the same old notices**

If the same notices are showing over and over, the audience gets bored and stops looking. It's a huge job to keep content fresh and engaging and it's beyond the scope of most managerial job descriptions. In most cases,

a property manager does not have the time or skill set to "feed the beast" and design and create notices on a regular basis. It's all they can do to keep up and provide the "dailies" like window washing, garage power washes, etc. Keep content fresh and it'll be a big help especially these days when there's a shortage of condominium property managers. An added bonus: Educated residents save the condo corporation even more time and money!

Keep alert for the signs of sabotage, and you'll be on your way to improving communication in your condo. Don't forget, you can always call me for help.



*Photo from the City of St. John's*

How many condominium complexes do you see in this picture?



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# Hot Water Heaters – Be Vigilant and Pro-Active!

By David Cumming

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Insurance has been the topic of several CCI-NL seminars over the last few years. The section of the Condominium Act that pertains to insurance has been the source of much stress and consternation for Board members and Property Managers alike.

**Ref: Art. 56 (1) of the Condominium**

**Act:** *The Corporation shall obtain and maintain insurance, on its own behalf and on behalf of the owners, for damage to the units and common elements that is caused by major perils...*

**Ref. Art. 56 (6):** *Subject to a reasonable deduction, the insurance under this section shall cover the replacement cost of the property damaged by the perils to which the insurance applies.*

**Ref. Art. 54 Repair after Damage:**

The Corporation shall repair the units and common elements after damage but does not include the obligation to repair and replace after damage improvements made to a unit relative to the Standard Unit Description required under **Art. 35 (1) (g)**, or wilful damage caused to a unit by the unit owner.

The Corporation's obligation to repair assets after damage combined with the obligation to maintain insurance on the units and common elements has resulted in an increase in insurance claims made by Corporations. Insurance costs have been steadily increasing such that

insurance is now one of the highest cost line items in the annual budget of many Corporation's. Another negative consequence noted is that some insurance providers are reluctant to provide insurance to some Condominium Corporations.



The failure of hot water heaters is known to be one of the most common sources of water damage to common elements and units. In a previous article in Condo Chronicles on this topic (Spring 2015), Corporations were advised to take steps to mitigate the risk from hot water heater failures by recommending that owners proactively replace their water heaters every 5 years or so. Several Corporations have also initiated unit inspections where such things as the date that unit water heaters were installed is noted and recorded. If the water heater is over 5 years old, a written notice is sent to the owner giving the owner a specified time period, say 30 days, to replace the hot water heater.

So what options does the Corporation have if the owner does not replace the hot water heater by the end of the notice period? Some Corporations who employ a handyman have been proactive and entered the unit to replace the hot water heater in order to protect the common elements as well



as the assets of other owners. This water heater replacement cost is passed on to the owner of the unit. Not all Corporations have the resources available to replace an owner's hot water heater, however.

If a hot water tank fails and there is significant damage to the common elements as well as the interior of some units, it usually ends up with the Corporation making a claim on the Corporation's insurance policy. Too many claims and the cost of insurance escalates.

If the Corporation's insurance policy contains a deductible clause that limits the amount payable by an insurer, the portion of the cost to repair the damage that is excluded from the insurance coverage shall be a common expense that would have to be paid by all owners - **Ref. Art. 58 (1)**. If a Corporation has had several claims over the previous 5 to 10 years, the Board may opt to increase the limit of the deductible clause to reduce the annual insurance premium. It doesn't really seem fair, however, that all the owners share the cost of the insurance deductible after damage due to the failure of one owner's hot water tank that was not replaced by the prescribed period after a written notice.

**Art. 58 (2)** in the Act may offer another option:

*...where an owner, a lessee of an owner or a person residing in the owner's unit with the permission or knowledge of the owner through an act or omission causes damage to the owner's unit, the amount that is the lesser of the cost of repairing the damage and the deductible limit of the insurance policy obtained by the corporation shall be added to the common expenses payable for the owner's unit.*

From Black's Law Dictionary the word 'omission' has a legal definition:

**Omission:** *Failure to complete a duty or task, usually as a result of apathy, complacency or neglect.*

Thus, if it can be demonstrated that an owner was given clear written notification that the hot water tank was due to be replaced but failed to act to change the tank by the specified deadline resulting in damage due to the tank's failure, it may be possible to successfully prosecute the owner for payment for the amount of the damage up to the limit of the deductible clause. I return to the title of this article and urge Board members to '**Be Vigilant and Pro-active**'!!

*David Cumming served on the Board of Directors of the Imperial Condominium Corporation for over 15 years – much of the time as President and now serves on the Board of the CCI-NL Chapter primarily responsible for Education. The opinions expressed in this article are those of the author and do not necessarily represent or reflect the views of CCI Newfoundland and Labrador Chapter. Readers are encouraged to seek the advice of professionals to address specific issues or individual situations. This article may not be reproduced, in whole or in part, without acknowledgement to the author.*



## Calendar of Events

September 13, 2019:  
Lunch and Learn, St. John's  
(Topic and Location TBA)

November 6 - 10, 2019:  
National Leaders Forum and AGM,  
Toronto

November 20, 2019:  
CCI-NL AGM and Seminar  
(Location and Topic TBA)



# MEMBERSHIP APPLICATION

## CONDOMINIUM CORPORATION

ccinewfoundland@cci.ca • www.cci.ca/Newfoundland

Membership through June 30, 2019

How/from whom did you hear about CCI?: \_\_\_\_\_

### CONDOMINIUM CORPORATION

Condo Name/Number: \_\_\_\_\_

Number of Units: \_\_\_\_\_ Registration Date: \_\_\_\_\_

Development Style: ☐ Townhouse ☐ Apartment Style ☐ Other: \_\_\_\_\_

Address: \_\_\_\_\_ Suite #: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

☐ I agree to receive electronic correspondence. ☐ I DO NOT wish to receive electronic correspondence.

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

### MANAGEMENT COMPANY (if applicable)

Primary Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Suite #: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

☐ I agree to receive electronic correspondence. ☐ I DO NOT wish to receive electronic correspondence.

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

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

### Electronic Correspondence:

This section must be completed in order for the membership application to be processed.

CCI communicates with its membership via e-mail regarding updates on condominium legislation, CCI events and opportunities, newsletters, and member communications; in accordance with the Canada anti-spam law, you must indicate whether you wish to receive electronic correspondence from us.

### BOARD MEMBERS

Board Member 1 Name: \_\_\_\_\_

Board Member 1 Email: \_\_\_\_\_

☐ I agree to receive electronic correspondence. ☐ I DO NOT wish to receive electronic correspondence.

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

Board Member 2 Name: \_\_\_\_\_

Board Member 2 Email: \_\_\_\_\_

☐ I agree to receive electronic correspondence. ☐ I DO NOT wish to receive electronic correspondence.

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

Board Member 3 Name: \_\_\_\_\_

Board Member 3 Email: \_\_\_\_\_

☐ I agree to receive electronic correspondence. ☐ I DO NOT wish to receive electronic correspondence.

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

### FEES & PAYMENT

Fees: 1-10 Units - \$100.00  
10+ Units - \$125.00

Cheques should be made payable to:  
Canadian Condominium Institute - Newfoundland and Labrador Chapter  
P.O. Box 23060 Churchill Square, St. John's NL A1B 4J9





# MEMBERSHIP APPLICATION

## INDIVIDUAL / PROFESSIONAL / BUSINESS PARTNER

ccinewfoundland@cci.ca • www.cci.ca/Newfoundland

Membership through June 30, 2019

How/from whom did you hear about CCI?: \_\_\_\_\_

MEMBERSHIP TYPE	Annual Fee	Fee Owning
Individual Membership	<input type="checkbox"/> \$75.00	\$
Professional Membership	<input type="checkbox"/> \$125.00	\$
Business Partner Membership	<input type="checkbox"/> \$125.00	\$

### CONTACT INFORMATION

Name: \_\_\_\_\_

Company Name (if Professional or Business Partner): \_\_\_\_\_

Address: \_\_\_\_\_ Suite #: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Business Website: \_\_\_\_\_

#### This section must be completed in order for the membership application to be processed.

CCI communicates with its membership via e-mail regarding updates on condominium legislation, CCI events and opportunities, newsletters, and member communications; in accordance with the Canada anti-spam law, you must indicate whether you wish to receive electronic correspondence from us.

☐ I agree to receive electronic correspondence.

☐ I DO NOT wish to receive electronic correspondence.

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

#### METHOD OF PAYMENT:

Cheques should be made payable to:  
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