

CondoChronicle

NEWSLETTER OF THE CCI NEWFOUNDLAND AND LABRADOR CHAPTER

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**CANADIAN
CONDOMINIUM
INSTITUTE
NEWFOUNDLAND AND
LABRADOR CHAPTER**

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Front Cover Photo:
Empire Village Condominium

MESSAGE FROM THE BOARD OF DIRECTORS

CAROL BURKE | PRESIDENT
CCI NEWFOUNDLAND AND LABRADOR CHAPTER

Welcome to our latest edition of *Condo Chronicle*.

Congratulations to Empire Village Condominium Corporation for being chosen as this edition's *Feature Condo*. And, thank you to their President, Pearl Herbert and her Board for providing us with the information to present the article.

We encourage our membership to contact us if you have an advertisement or an article you would like to submit for possible publication in our newsletter. As well, we welcome our member Corporations to put forward their names to be submitted as a future *Feature Condo*.

We wish a fond farewell to some very valued members of our Board, Heather Whiffen, our past Secretary/Director, Carol Adams, Director and Pearl Herbert, Director. We wish them well and thank them for their service to our Board.

We welcome and are very grateful for the support of our new Secretary/Director, Ed Power and two new Directors Marylou Leeman and David Cummings.

On October 9th, we held a seminar on "Understanding your Reserve Fund Study – What to Expect". We had a very good turnout of members and a few non members, all of whom were very interested in absorbing more information on this popular topic.

Our Annual General Meeting was held on November 19th, 2012 and was followed by a seminar titled "Question Period for Condominium Owners" and both events were very well attended. We take this opportunity to thank all participants of our seminars throughout the year, our guest speakers, panel members, moderators and everyone who attended.

Thank you all for your continued support of our Chapter.

Carol Burke, President
CCI Newfoundland and Labrador Chapter

EMPIRE VILLAGE - A SELF-MANAGED CONDOMINIUM CORPORATION

CCI - NEWFOUNDLAND AND LABRADOR CHAPTER

PEARL HERBERT, A CONDOMINIUM OWNER AND PRESIDENT OF EMPIRE VILLAGE



Empire Village is a 35 unit, 50 plus, self-managed bungalow condominium. These are two bedroom, one family bungalows, each with its own driveway. Built between 1996 and 2000, thirty-four units are semi-detached and one is detached, and thirty-one have large basements. They are situated on two private roads and the City does not provide services. In the summer visitors are impressed by the colourful display of flowers growing on the grounds. There are flower beds as one enters Empire Village, the centre court consists of flower beds and grass, and owners are permitted to have ground based flower boxes for which they are responsible.

There is a Board of six elected directors. To self-manage, it is important to have a cohesive Board of Directors as the work needs to be shared between the board members. There are also other unit owners who have expertise in specific areas, such as accountancy, engineering and gardening, who do not wish to be on the board but are willing to volunteer for a committee

or a specific job such as looking after the flower gardens. There are two main social events each year. In July a barbeque, organized by the men, is held in the centre court and in December there is a dinner at a hotel.

The president needs to be organized as the work required for carrying out the condominium business needs to be coordinated. To help with this there is a *Director's Management Handbook* containing information about the condominium and "job descriptions" for the board members (president, vice president, treasurer, secretary, director for property and director at large.) These are flexible guidelines composed from information provided by past directors on what they did when they were a director, to assist those being elected to the board for the first time. There are also examples of the forms used and the "Director's Code of Ethics" (adapted from the CCI Code) that includes the need for confidentiality. When there is time there are plans to write an Owner's Handbook.

FEATURE CONDO

The president presides at all board and general meetings and is an ex-officio member of all committees. There is "errors and omission" insurance for the directors. Knowledge of the Condominium Act including the regulations, and the Declaration and By-laws for Empire Village is needed. There are also other government acts and policies of which the president and the board, need to be aware, such as Workplace Health, Safety and Compensation Commission (WHSCC) and the need to obtain a "Certificate of Clearance" for each contractor when they commence a job, at intervals during the work until they finish the job. Empire Village does not employ workers so does not have a payroll. By only employing contractors who meet the WHSCC requirements there are no assessment payments required by WHSCC.

The CCI NL seminars provide useful information for directors and owners of condominiums. Usually several of the Empire Village owners attend these sessions.

The treasurer has the most work, receiving, recording and paying bills, providing interim financial reports for the board meetings, and preparing for the annual audit of Empire Village's financial statements, as well as other requirements listed in the Condominium Act, Declaration and By-Laws. This is where the owner with accountancy experience is a very valuable volunteer. As an example of good financial controls, the three directors with signing privileges (each cheque needs two signatures) do not have a key to the post office mail box. Empire Village has no condominium office. A board member without cheque signing authority has the key to the mail box and reviews the monthly bank and investment statements before giving them to the treasurer.

The treasurer chairs the Finance Committee composed of volunteers. Fortunately the unit owners of Empire Village are very prompt in providing their postdated cheques when requested.

This year, the Declaration (dated 1996) and the By-laws (2001) were amended to be in accordance with the Condominium Act that came into effect December 1, 2011. A standard unit is now described which will be very helpful. In July 2012, a general meeting of the owners and Empire Village's lawyer was held for the purpose of voting to accept these amendments. As an indication of the interest Empire Village's owners show in their condominium, over 80% of them attended the meeting, and used the opportunity to ask questions and receive information from the board and the lawyer. The amended documents have been registered at the Registry of Deeds and Companies and each owner has received copies for their unit.

At this time Empire Village is undergoing its first required Reserve Fund Study. The board, especially the treasurer, has been concerned that the condominium fees might have to increase substantially in order to meet the funding requirements as set out in the study. With the majority of unit owners being retirees on a fixed income, the thought of any increase in the condominium fees causes stress but the security that will come from knowing that money will be available when major repairs and maintenance are required will alleviate some of the stress.

The director for property is an important board member in obtaining quotations for any work that is needed and supervising that all the work, including regular contract work, is satisfactorily completed. Currently there are two board directors who are sharing the work as one of them goes south for 3 or 4 months in the winter.

Being a 50 plus condominium has some challenges for attracting board members that condominiums of all age groups may not encounter. Some owners do not volunteer to be nominated to the board as they go away, down south, for 4 to 6 months of the year. Other owners may not be physically or cognitively well enough to be on a board or to take any responsibility.

Empire Village residents are largely the owners themselves and they have developed the habit of looking out for each other. The board is concerned too about the wellbeing of all residents. For example, when an owner goes away for an extended period, the board asks for information as to who has their door key and whether or not somebody is regularly checking their unit. (If the unit is not regularly checked and an incident occurs, the owner's insurance company may not cover any loss or damage).

Another concern is ensuring that all owners are informed about the affairs of the condominium, including those who are unable to attend annual and general meetings. The new Condominium Act does allow for a designate to be named but this becomes difficult when members living in the area are in the same age group and younger family members have moved to the mainland.

Empire Village is a good place to live for those who do not want to live in an apartment or a town house. It will survive as a self-managed condominium as long as there are owners, or their designates, who are cognitively and physically able and willing to volunteer on the board and share the responsibility of managing a multi-million dollar complex. ■

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Phil has most recently expanded her practice to Newfoundland and looks forward to serving her existing clients here and she welcomes you to call her to discuss your Reserve Fund Study.

BITS AND BITES



Canadian Condominium Institute, Annual General Meeting, Held in Toronto November 2, 2012. Pictured, the National Executive Committee, from left, President Jim McKenzie, Vice President Geoff Penny, Director at Large Bill Thompson, Director at Large Stephen Cassidy, and Executive Director Diane Gaunt.



Educational Seminar held October 9, 2012 at the Capital Hotel, St. Johns, entitled "Understanding your Reserve Fund Study".

The Atlantic Connection. Following the AGM held in Toronto, we attended a Gala Dinner/Awards Banquet celebrating CCI's 30th Anniversary. Representing the Atlantic Provinces, pictured from left are Chapter Presidents Carol Burke, Newfoundland and Labrador, Carol Conrad, Nova Scotia, and Phill Williams, New Brunswick.



PROTECT YOUR CONDO FROM WATER DAMAGE

BY KEITH L. HOWSE, V.P. OPERATIONS, STEERS INSURANCE

CONDO LIVING IS THE IDEAL WAY FOR MANY CANADIANS TO OWN A HOME – WHETHER YOU'RE A FIRST-TIME HOMEBUYER OR LOOKING TO DOWNSIZE.



Based on in-depth discussions with customers and brokers, we know that some of the most common questions condo owners have are about water damage. So this guide has been developed for condo buyers or owners, with useful information, tips and important questions for a better understanding of the subject.


Before you buy...

It's important for you to understand how much protection you have under your condo corporation's insurance policy and your own policy. Here are some questions you can ask your real estate salesperson, lawyer or property manager:

- What does the corporation's insurance cover and, more importantly, what does it not cover?
- Does the corporation's policy cover just the structure and common areas of your building or complex, or more? (e.g. damage to your unit's walls)
- If there is major damage to your building, is it possible that you would have to make an additional contribution to cover the deductible of the condo corporation's insurance policy?
- What is the deductible in the corporation's insurance policy?

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- Are you responsible for the full cost of repairing damage to another unit or for the full deductible on the corporation's policy if, for instance, your dishwasher leaked or your bathtub overflowed and ruined the ceiling and contents of the condo below?
- How is a "standard unit" defined by your condo corporation? Does it cover things like fixtures, ceilings and floors?

Once you've moved in...

- In most cases, you are responsible for insuring any improvements within your unit, as well as contents such as furniture, clothes and electronics.
- In the event of a water leak in the building, who is the condo contact person and what phone number should you call? You may also want to ask your condo board proactive questions which can help everyone in the building to better handle water damage related issues, such as:

1. Has an emergency plan been prepared?
2. Would it be worthwhile to do a risk management assessment for the building or complex?
3. Does the building's management routinely inform all on-call staff regarding the location(s) of the main water shut-off(s)?

Water damage prevention checklist

- Contact a professional when your plumbing needs repair or replacement.
- Avoid distractions to prevent water overflows.
- Make sure your washing machine is shut off when not in

use and check that your washer's discharge hose is fastened firmly in place.

- Don't turn on your dishwasher and leave your unit while it is still running.
- Garbage can clog your toilets, so be sure you never dispose of waste such as kitty litter or grease in them.
- Drop some food colouring into the toilet tank to check for leaks – if the colouring appears in the bowl, there's a leak.
- Ensure the toilet is not running whenever you leave your home.
- Leave your key with your building security office or ask a trusted neighbour to check your home every few days when you are away.

In the event of a water leak

- When a leak or burst pipe occurs, quick response is essential. Call the emergency phone number to inform your building management team even if it's 3:00 a.m., and have a professional contractor come in immediately.
- Fast and proper water removal can help minimize your losses and prevent mold.
- Do not touch electrical wires, appliances or devices.
- You will need an inventory list separating damaged property from undamaged property for filing a claim.
- Take photographs of your damaged property.
- Keep your receipts for any cleanup costs incurred (e.g. wet/dry vacuum rentals, cleaning supplies, etc). ■

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RAPID GROWTH OF CONDOMINIUM DEVELOPMENT IN THE ST. JOHN'S AREA

BY CHRIS JANES, MBA
SENIOR MARKET ANALYST
ATLANTIC MARKET ANALYSIS CENTRE
CANADA MORTGAGE AND HOUSING CORPORATION



The St. John's area condo market is still considered an early stage market that is developing rapidly with new projects announced on a regular basis. The increased condo construction activity since 2006, has been driven by demographic fundamentals and economic prosperity from the local oil industry. The condo market still represents less than five per cent of total MLS® sales and total new housing starts, with more condos now being sold via MLS® in the St. John's area. Direct or exclusive sales were the preferred alternative for condo developers in the past and their direct marketing programs were effective, but increased development and competition has resulted in MLS® now being the preferred sales avenue.

Current condo market trends indicate that mid-priced (\$350,000 to \$450,000) neighbourhood condos are preferred by people who want to simplify their lives by eliminating external household chores and maintenance, while remaining connected to their existing medical services, shopping patterns and neighbours, if possible. Seniors, baby boomers and single young professionals are the main demographic segments driving condo market growth throughout the St. John's area. The aging population and general demographic trends will have widespread implications on the type of future household formation and at present, condos represent the most underdeveloped market segment from this perspective.

Demand for condo living continues to be driven by positive net-migration to the St. John's area, increased economic activity and employment, smaller households, and to a large extent, the aging population. Most individuals within the 55 plus year old demographic prefer condo living because of their active lifestyles and their desire to simplify living. Many of them are "snow birds" who choose to reside in warmer climates during the winter months, particularly Florida, and prefer a condo for ease of seasonal use and security. The other key demographic segment of the St. John's area condo market is the single young (under age 35) professional. They tend to be very busy establishing themselves in their careers, have an active lifestyle and prefer the convenience that condos provide them.

Condos not only attract buyers who are new to condo ownership, but also existing condo owners who are "moving-up" within the market as the development of more luxurious condo projects continues. In fact, the luxury segment (\$450,000 plus) has performed very well in the St. John's city central core area and this trend remains. Recent market trends will also continue to support existing basic condo MLS® resales in the \$200,000 to \$350,000 range and the \$350,000 to \$450,000 level for the mid-range existing and new construction condo market. This mid-range price point is considered the "sweet spot" for the St. John's area condo market. In terms of condo prices, there is a mindset among mortgage free homeowners in the 55 plus year old demographic that they will only transition from a single-detached house to a condo if they can sell their existing home for an amount equal to or greater than the cost of a new or existing condo. In other words, they will only justify such a move if they can remain mortgage free. In fact, most people within this age group desire to make the transition with extra cash in their pockets from the sale of their home. With the St. John's area condo market continuing to expand in terms of supply, there are and will be more options for buyers and the market should ultimately tilt in their favour as it matures. ■

CONDOMINIUM LIEN ENFORCEMENT – PAID IN FULL

GEOFF PENNEY | OTTENHEIMER BAKER
BARRISTERS AND SOLICITORS



All condominium unit owners must pay their share of monthly common element fees and any assessments levied by the condominium corporation. Collectively these fees fund and support the operations of the corporation and the maintenance and repair of its common elements. In an efficient and well managed corporation fees are diligently collected by the corporation and payment by unit owners is closely monitored. However, there are inevitably cases where a unit owner falls into arrears of their monthly contributions. Despite repeated attempts by the Board or the corporation's manager, these arrears continue to go unpaid and accumulate. All the while other unit owners subsidize the delinquent owner's use and enjoyment of the common elements.

Fortunately there are steps that a corporation can take to secure payment of outstanding fees and assessments. The new *Condominium Act*, 2009 gives condominium corporations increased ammunition to address condominium arrears. This article will discuss condominium liens, how they are enforced and how banks and lending institutions have become a very important ally to condominiums in the collection process.

The Former System

Under the previous and now repealed *Condominium Act*, the non payment of a share imposed on a unit owner for the maintenance, repair and renewal of a common element or a sum that he is required to pay gave rise to a lien against the interest of the owner. In order to enforce the lien a document was prepared and then registered

in the Registry of Deeds. Sounds simple enough, however the utility of such liens was a little short sighted.

If the threat of the corporation having a lien over an owner's unit was not sufficient to make him pay up (which it rarely was) then the corporation could exercise a power of sale of the unit and hope to collect the arrears from the proceeds. There was only one problem – the condominium corporation's lien ranked behind any mortgage on the unit and any previously registered charge. This meant that even if the corporation proceeded with a power of sale there may not be enough equity to satisfy the lien after the mortgage and other charges were paid. The corporation could quickly find itself at a "dead end" in following this process. In most cases the lien would simply stay in place until the unit was sold or refinanced, both of which required the release of the lien. It was only at this point that some unit owners would finally pay the arrears in order to secure the release. It would not be unusual to see many years go by since the date that the lien first arose.

Improved Enforcement with the new *Condominium Act*, 2009

The *Condominium Act*, 2009 effectively addresses the shortcomings of its predecessor. Under section 51, the non payment of fees or assessments still gives rise to a lien in favor of the corporation. In addition the *Act* clearly states that the corporation's lien will include all interest owing and all reasonable legal costs and expenses incurred with respect to collection efforts. In order for the lien to be effective as an encumbrance over the unit, it has to be properly registered in the Registry of Deeds.

So what happens if the owner does not pay the arrears even after he is advised that a lien has been placed on his unit? Well, the corporation now finds itself in a very strong position. Under the new *Act* the corporation's lien has priority over any existing mortgage or charge (except for a charge for property taxes). This means that if the corporation were to initiate power of sale proceedings, it would collect first.

Not only does the *Act* give the corporation lien priority, it also gives a bank or lending institution (the mortgagee) the option of paying the amount of the lien to

the corporation and then adding that amount back to the owner's mortgage and charging additional interest. This is certainly a win-win situation for the corporation and the mortgagee. Of course this enforcement strategy is only applicable if there is a mortgage on the unit in question. This can be determined through a search at the Registry of Deeds.

The Process in Action

In practice, it was thought that it would take a little prodding and explanation to get banks and other institutions on side with the concept of paying condominium liens. After all it is a new concept for this Province. However lien priority has been in place in condominium legislation in other provinces for years. Since we are dealing in most cases with national lenders, local bank branches can be advised to consult with their mainland offices on questions of policy and procedure.

In the writer's professional experience, in cases where I have initiated this process to date, banks have been

quite receptive to this concept. Once advised that a lien has been placed on a unit, banks are generally interested in having these released to maintain their priority charge. They are therefore willing to pay out the liens. As a result sizeable condominium liens (one being several thousands of dollars) have been paid to the corporations in question, including all legal fees and expenses, incurred.

The Take Away

Condominium corporations should be familiar with the lien process offered by the new *Condominium Act*, 2009. Arrears should not simply be permitted to accumulate. A corporation which permits this to happen or does nothing to collect arrears is not complying with its duties and obligations as set out in the *Act* and its declaration and bylaws. It is in the best interests of the entire corporation that arrears are promptly collected so that expenses can be paid and accounts are maintained. The new lien procedure goes a long way to assist corporations in ensuring that any arrears and associated expenses are paid in full. ■

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