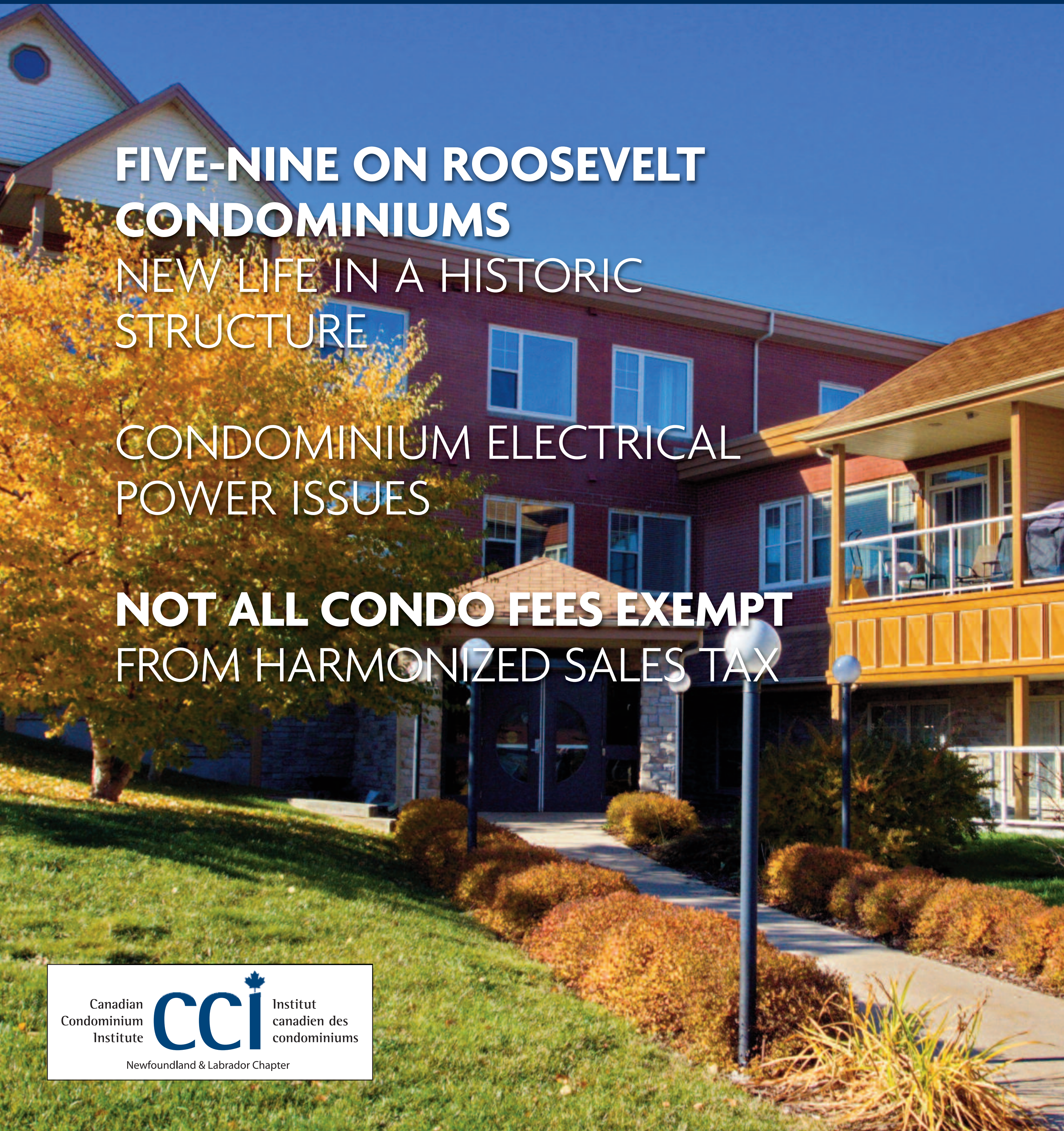
FALL 2018

CondoChronicle

NEWSLETTER OF THE CCI NEWFOUNDLAND AND LABRADOR CHAPTER



FIVE-NINE ON ROOSEVELT CONDOMINIUMS
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CONDOMINIUM ELECTRICAL POWER ISSUES

NOT ALL CONDO FEES EXEMPT
FROM HARMONIZED SALES TAX

Canadian Condominium Institute
CCI
Institut canadien des condominiums
Newfoundland & Labrador Chapter

CondoChronicle

CANADIAN CONDOMINIUM INSTITUTE NEWFOUNDLAND AND LABRADOR CHAPTER

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

Canadian Condominium Institute CCI Institut canadien des condominiums

MESSAGE FROM THE BOARD OF DIRECTORS

CCI NEWFOUNDLAND AND LABRADOR CHAPTER

Welcome to our Fall edition of ***Condo Chronicle***.

The first half of our year was consumed with a new effort for our Board. We produced a Condo Course for Realtors that we ran four times this past winter and we are also running again in September.

It was an all consuming effort for our Board, but now that the course has become routine for us, and our registration system is now totally automated, most of the hard work is behind us. We wish to thank Gloria Montano, a past Director with CCI for her many hours of volunteer service in bringing our Chapter into the electronic age. We also wish to thank Dave Cumming for developing and producing the Condo Course for Realtors.

We would also like to thank Geoff Penney and Felicia Tupper, lawyers with Benson Buffett for the fantastic seminar, *Cannabis and Condos* that was so very well attended and received on August 21.

We are looking forward to seeing many of you at our upcoming Annual General Meeting on October 30, 2018.

And finally, mark your calendars for May 29 - June 2, 2019 when our Chapter will be hosting the CCI National Spring Forum and Convention at the Delta Hotel in St. John's which will bring members from Chapters all across Canada to our City.

Thank you all for your continued support of our Chapter.

Sincerely,
Carol Burke
President, CCI-NL
Email: carolburke@gmail.com

FIVE-NINE ON ROOSEVELT CONDOMINIUMS

NEW LIFE IN A HISTORIC STRUCTURE

BY MARK GRAESSER

Five-Nine on Roosevelt comprises 24 apartment units in a redeveloped building on the northern (upper) side of Pleasantville. It is situated on generous grounds on all sides, with wooded buffers on two sides and views toward Quidi Vidi Lake and the hills beyond.

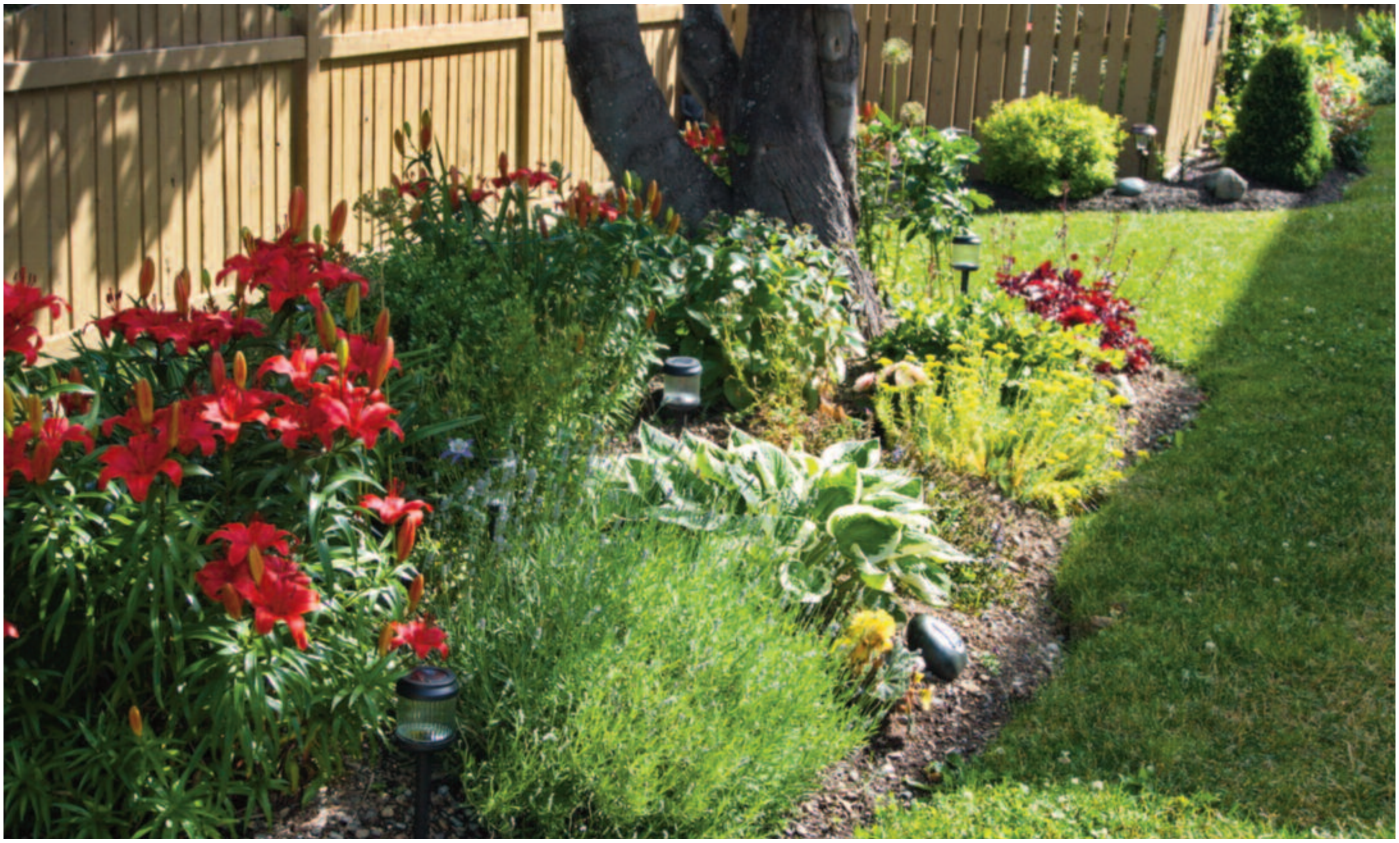
The building was constructed in 1957 as a high school for American dependents in the waning years of the Fort Pepperill Air Force base. It is a brick-clad steel and concrete structure, reputedly built to provide shelter from a nuclear attack if necessary. By 1960 the building was vacated by the Americans and granted to the provincial government. In 1968 it was re-purposed as the Children's Rehabilitation Centre, providing hospital and outpatient therapy for victims of polio and other disabilities. When this function was transferred to the newly built Janeway Hospital in 2001, the building again became vacant. In 2006 the Gilbraltar Development Corporation acquired the property, and re-developed it as a complex of varied and stylish condominium apartments. These have been occupied since late 2007. The owner governed corporation assumed control in mid-2008.

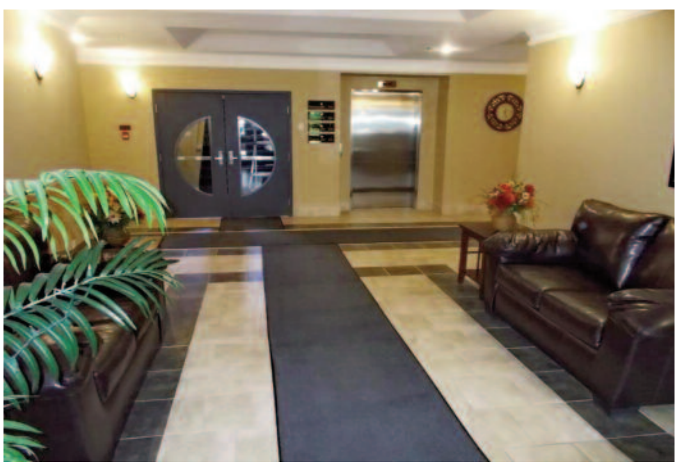
Arranged on three levels in two wings, the units in Five-Nine on Roosevelt range from 800 to 1,875 sq. ft. in area. The majority contain two bedrooms in 1,000 to 1,300 sq. ft. Configurations vary, as the architect fit units within former classroom, laboratory, and cafeteria spaces. Three loft style units have two levels in the former gymnasium. Again, reflecting the original institutional standards, ceilings range from 9 to 16 feet in height, creating an unusually spacious feel for condo apartments. Many units have large pantry, and storage areas. Condo fees are prorated according to the area of the unit.

Apart from two entrance lobbies, the principal common amenities are a modest fitness room which doubles as a meeting space, and storage lockers for all units. Parking is exterior, with one or two spaces per unit. The building is surrounded by lawns and trees, some a legacy from the original development and others added by Gibraltar. The Corporation and individual owners (by arrangement with the Board) have augmented the landscaping with new trees, shrubs, and perennial borders.

Given its location and treed surroundings, the building has a semi-rural and secluded feel, and a principal amenity is immediate access to the Virginia River walking trail leading to Quidi Vidi Lake. A scenic walk downtown takes about 30 minutes.

About two-thirds of the units are owner occupied, most of the owners regarding Five-Nine as their long-term home. A





majority of owners as well as some long-term renters are retirees leading an active lifestyle, and many spend extended periods elsewhere, especially in the winter. Owners, but not tenants, are permitted to keep pets. There is a neighbourly sense of camaraderie, but no sense of institutional closeness among the residents.

Governance

Virtually all of the Five-Nine original owners were first time condo owners when the corporation was handed over by the developer ten years ago, so they and their successors faced a substantial learning curve. There was a high turnover of board members initially, and there was uncertainty about such basic matters as record keeping, insurance, and the respective roles of the board and the management company. However, governance stabilized with a five-member board serving staggered three-year terms. Most current members have been re-elected for one or more terms, so there is considerable collective depth of experience. On the other hand, current board members are concerned about over-reliance by owners on a small, core governance group.

Five-Nine management is a hybrid of the professional management and self-managed, co-operative models. From inception the corporation has contracted with Martek for professional management services. Martek's primary role has been to implement financial operations and to assist with contracting for major services such as snow removal, lawn care, elevator and alarm systems maintenance, etc. Martek has also assisted with finding suitable professional advice and contractors to deal with major repairs.

The board monitors these functions and maintains a close independent eye on finances. With no resident manager, all day-to-day on-site functions are handled by the board, with individual directors taking care of specific duties. Relations with owners and tenants are handled directly by the board, as are most relations with service providers. Volunteer owners and tenants assist with landscaping and minor maintenance tasks.

Most of the board's work occurs in the period from May to December. During that time, meetings are held monthly. During the winter months several board members spend extended periods out of the province. The by-law includes a provision allowing for formal decisions to be made by email if necessary, but most immediate issues can be handled by one or more directors who remain in residence.

In general, the corporation has been well managed, with few specific complaints from owners as the board has worked through significant repair issues and resulting financial challenges. In large part, this may be because the board has operated in a highly transparent manner. Board minutes (excluding matters where privacy must be respected) go to all owners following approval, and substantial written explanations go to owners with the annual budget and prior to votes on by-law amendments or a special assessment.

Issues

The corporation established a reserve fund in 2008, and funded it according to guidelines contained in a 2012 reserve fund study. However, that study failed to anticipate early deterioration of some components of the redevelopment within the following five years. In particular, the asphalt shingled roof reached a condition in 2017 which will require its replacement in 2018. The reserve fund balance was insufficient to cover this expense, so owners agreed to a special assessment to cover a portion of the cost.

This was a cautionary experience for the board. In commissioning an updated reserve fund study in late 2017, the board selected a provider who completed a more comprehensive and rigorous study than the 2012 version. The outcome was a tripling of annual contributions to the reserve fund, which necessitated a sizable increase in fees for 2018 and future years. The fund will now be in a much stronger position to cover expected capital costs, some of them newly identified in the recent study.

A rather different issue confronted the board in 2016, when an investor-owned unit was listed on Airbnb for short-term rental. Any pattern of a hotel style occupancy would be completely inimical to the quiet, secure atmosphere expected by most owners and long-term tenants. Fortunately, the declaration and by-laws explicitly prohibit rentals for periods less than three months, and the use of units for any commercial purpose. These rules were promptly enforced by the board; the unit was de-listed , with the owner required to absorb the board's legal costs. ■

Mark Graesser has been a resident of Five-Nine on Roosevelt since 2008, and president of the corporation since 2010. He taught political science at Memorial University for thirty years. He now divides his time between St. John's and Nelson, New Zealand. In both locations he is engaged in hiking and conservation activities, as well as historical research and writing.

CONDOMINIUM ELECTRICAL
POWER ISSUES

BY DAVE CUMMING, EDUCATION DIRECTOR, CCI-NL

Condominium owners who own units in multi-story residential buildings generally pay commercial power rates for the common elements electrical power bill since utilities, lights, heat, ventilation, elevator etc. generally operate on a separate meter and the rate charged is the commercial rate to be paid by the Corporation. Some owners have challenged the idea of residents paying commercial rates for part of their power expenses.

I have made a comparison of common element electrical charges for a typical four story/16 unit condominium located in downtown St. John's. Calculating the energy costs using a Domestic Service Rate (same as what unit owners are charged for the power to their units) and a General Service (i.e. commercial) power rate including demand charge for the month of January 2018. Note that even though the commercial power rate includes a demand charge, the energy charge is lower than the domestic rate such that it appears that the owners can be better off using the commercial rate with demand charge for the common elements power.

Difference between using General Service Rate and Domestic Service Rate for January 2018 hydro bill:

Domestic Service Rate – General Service Rate = $883.02 - $879.06 = **$3.96**

Thus in this example, the Corporation is paying **$3.96** less in January 2018 for the common elements power bill computed using the commercial rate that includes a demand charge.

Note that over the last several years, this particular Corporation has adopted several initiatives to reduce energy costs including turning off heaters in common elements that were not needed, cycling ventilation fans to turn off at night, setting thermostats in the common elements to 18 deg. C, changing incandescent light bulbs to lower energy LED bulbs in the interior common elements areas etc. It is more important than ever to take steps to reduce your Corporation's power demands as Muskrat Falls will start feeding power to consumers within the next year or so and this is expected to result in an overall escalation of power costs.

To obtain advice on reducing your Corporation's power charges, contact the NL Power Energy Team @ 1-800-663-2802 and ask to speak with an Energy Representative. ■

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.

	General Service	**Domestic Service**
Basic Service Charge	for 3 phase - $27.20	$16.04
Demand Charge 10.3 kW @ 9.16/kW	$94.35	N/A
Energy Charge - First 3,500 kWh	$367.89 @ 10.511 cents/kWh	$371.14 @ 10.604 cents/kWh
Energy Charge - Next 3,700 kWh	$286.60 @ 7.746 cents/kWh	$392.35 @ 10.604 cents/kWh
Subtotal	$776.04	$779.53
1.5% discount if paid in 10 days	-$11.64	-$11.69
Add 15% HST	$114.66	$115.18
Grand Total:	**$879.06**	**$883.02**

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HST MISCONCEPTION A SLEEPING GIANT
NOT ALL CONDO FEES EXEMPT FROM HARMONIZED SALES TAX

BY STEPHEN CHESNEY

Income tax considerations have received a lot of attention lately in Canadian condominium corporations. Meanwhile, it looks like another type of tax has been flying under the radar and could become a potentially significant liability for condominium corporations, boards of directors and management companies who may be unaware of or even ignoring the issue.

HST or harmonized sales tax is a term not normally associated with condominium corporations. That may be due to some misleading articles and misinterpretations of the current law in Canada over the past decade. This article will focus on clarifying in general terms the HST rules as they relate to condominium corporations in Canada. The objective is to raise awareness so that owners, boards of directors and management can consider whether they may be affected by the issue. If so, then they should most certainly seek out professional advice.

The largest source of the confusion has been with some previous pronouncements that “condominium fees in Canada are exempt from HST.” This statement is much too general: the law does exempt condominium fees, but only “residential” condominium fees. Therefore, what people often do not realize is that, generally, condominium fees on commercial units are not exempt and are in fact taxable.

Complicating the matter are other types of revenues that are also taxable and have become more prominent over the past few years. Revenues such as guest suite and party room rentals, roof rentals for telecommunications equipment and certain types of parking rentals may also be subject to HST. This is not a complete list; there are additional revenues that condominium corporations earn and will need to be considered as well. These “other” or “ancillary” revenues can add up to thousands of dollars per year and are often overlooked when condominium

continues on page 10

CANADIAN CONDOMINIUM INSTITUTE
NEWFOUNDLAND AND LABRADOR CHAPTER (CCI-NL)

Notice of Annual General Meeting

October 30th at 6:30 p.m.,Venue: TBA

St. John's, NL

The AGM will be immediately followed at 7:30 p.m. by a Seminar that is free for members. The topic and details of the Seminar is as follows:

We look forward to seeing you there.

A complete AGM package will follow.

Please RSVP on or before October 18th, 2018
Email: carolburke@gmail.com or call 682-1118

corporations assess whether they are required to collect and remit HST.

So what are the rules to determine whether a condominium corporation must register and charge HST on these previously mentioned sources of revenue? The legislation has a "small supplier" rule, which applies to non-profit organizations. Since condominium corporations are generally considered non-profit organizations, they do not have to register and collect HST if their revenues, referred to as "taxable supplies," are less than $50,000 for the year. Therefore, each condominium corporation has to add up all of these taxable supplies. If the total exceeds $50,000 on an annual basis the condominium corporation has to apply for a tax registration number and begin to collect and remit HST.

While many condominium corporations will fall well under this threshold, there is an exceedingly large number of condominium corporations that will find themselves above the threshold for exemption and that may have never even considered the implications. To examine the potential tax liability, it's necessary to understand the system of collecting and remitting HST.

If a condominium corporation is in Ontario and exceeds the threshold for exemption, it would have to collect tax of 13 per cent HST on all commercial condominium fees and any other taxable supplies. However, they may be able to claim "input tax credits," which are essentially some of the HST that they have paid out on their expenses, such as various operating costs and other repair and replacement projects.

There is a lot of uncertainty as to what input tax credits condominium corporations can claim. The considerations vary depending on the situation. Some of the questions that arise are: What percentage of total HST paid by the corporation can be claimed as an input tax credit? How should expenditures such as reserve fund charges be handled when they may or may not relate directly to the taxable revenues?

Where a condominium corporation has residential and commercial units or activities, it would be considered a mixed-use entity for HST purposes. There are various rules in the law that need to be considered with respect to claiming input tax credits for mixed-use entities, so it's critical to seek professional advice. Ultimately, the condominium corporation must remit the net HST to the government, usually on a quarterly or annual basis.

So why call this a "sleeping giant" of an issue? Because it appears as if there are many condominium corporations in Canada that are clearly well above the small supplier threshold and are not registered and are not collecting and remitting the tax. In some cases, they may have exceeded the threshold for years without considering the tax.

There are also various strategies that a corporation can take to come into compliance with the law, such as making a voluntary disclosure. Therefore, if a corporation appears to be in a position where they are required to collect and remit HST they should immediately seek professional advice.

Whatever direction a board or management chooses, continuing to ignore the issue and hoping it will go away is a risky strategy. If this goes unreported the corporation could be held liable for the unreported tax as well as penalties and interest. The government normally has a specific period of time to reassess a tax return, but a corporation is always liable for HST it has never reported. This could amount to many thousands of dollars and it can be resolved by registering and collecting the tax. While accounting for and collecting the HST are added burdens on management, a sudden assessment for unreported and uncollected taxes represents a much larger burden to the corporation. ■

Stephen Chesney is a Chartered Accountant and partner with the firm Parker Garber & Chesney, LLP in Richmond Hill and currently specializes in the auditing of Ontario condominium corporations.

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CONDO CHRONICLE

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MEMBERSHIP APPLICATION

MEMBERSHIP TO JUNE 30, 2019

How/from whom did you hear about CCI?: ______________________

■ CONDOMINIUM CORPORATION MEMBERSHIP: *Please complete all areas*

❒ Townhouse
❒ Apartment Style
❒ Other

Condominium No.: No. of Units: Registration Date:

Management Company: Contact Name:

Address: Suite #:

City: Province: Postal Code:

Phone: ( ) Fax: ( ) Email:

Condo Corporation Address: Suite #:

City: Province: Postal Code:

Phone: ( ) Fax: ( ) Email:

President :
Name *Address/Suite* *Email*

Treasurer :
Name *Address/Suite* *Email*

Director #3:
Name *Address/Suite* *Email*

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

Annual Fee: ❒ **1-10 Units:** $100.00 ❒ **11+ Units:** $125.00

■ PROFESSIONAL MEMBERSHIP

Name: Occupation:

Company:

Address: Suite #:

City: Province: Postal Code:

Phone: ( ) Fax: ( ) Email:

Annual Fee: ❒ Professional Membership $125.00

■ SPONSOR/TRADE SERVICE SUPPLIER MEMBERSHIP

Company:

Name: Industry:

Address: Suite #:

City: Province: Postal Code:

Phone: ( ) Fax: ( ) Email:

Annual Fee: ❒ Sponsor/Trade Membership ... $125.00

■ INDIVIDUAL CONDOMINIUM RESIDENT MEMBERSHIP

Name:

Address: Suite #:

City: Province: Postal Code:

Phone: ( ) Fax: ( ) Email:

Annual Fee: ❒ Individual Membership $75.00

Cheques should be made payable to: **Canadian Condominium Institute - Newfoundland & Labrador Chapter**
PO Box 23060, RPO Churchill Square, St. John's, NL A1B 4J9 • Email: ccinewfoundland@cci.ca