

CondoChronicle

NEWSLETTER OF THE CCI NEWFOUNDLAND AND LABRADOR CHAPTER

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CANADIAN
CONDOMINIUM
INSTITUTE
NEWFOUNDLAND AND
LABRADOR CHAPTER

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MESSAGE FROM THE BOARD OF DIRECTORS

CAROL BURKE | PRESIDENT
CCI NEWFOUNDLAND AND LABRADOR CHAPTER

Welcome to our latest edition of *Condo Chronicle*.

Our Chapter is hosting a Spring Seminar on April 30th entitled "**The Condominium Act, Update and Feedback.**" We hope to see many of you there to join this interactive session.

We congratulate Townsite Condominium Corporation of Corner Brook on being chosen as this Edition's Feature Condo and we thank them for their valuable contribution to our newsletter.

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

We have added a new article that will be a regular feature in our Newsletter, called "**The National Scene**" that will highlight events from CCI National and contain a sprinkling of news throughout Canada's condominium community.

Thank you for your continued support of our Chapter.

Carol Burke
President, CCI-NL



TOWNSITE CONDOMINIUMS – A WEST COAST PERSPECTIVE

As with all things in real estate, the immediate appeal of Townsite Condos is 'location, location, location.' The result of a repurposing of the former (Knights of) Columbus Club building in downtown Corner Brook, this 16 residential plus one commercial unit development is just steps away from West Street and its shops, hotels, restaurants, churches and other amenities. There are both one- and two-bedroom units in the building, varying significantly in size from 750 to over 1100 sq. ft. With high ceilings, upscale finishes and wide corridors, a spacious atmosphere is created. The structure underwent a huge makeover, growing from 1 to 2 storeys to accommodate the new residential units, but the existing bowling alleys in the basement were retained, becoming the commercial unit. This unique blend, does, however, offer some interesting challenges. The building itself is now 'as-if new' construction, it is structurally sound and the conversion was well completed by a local contractor.

Townsite is Corner Brook's first condominium project, opened in 2008. Two very small condo buildings in Steady Brook (just outside the City) support Marble Mountain's seasonal residential needs. Only one other major condominium development has been commenced in Corner Brook since Townsite, made up of townhomes and small multi-unit buildings, but that project is not yet fully complete and the developer continues to manage it. Thus, condominium life for owners is a new experience in this City.

New condo developments often attract purchasers with low monthly rates. Townsite was no exception. Initial owners attracted partly by low condo fees are now finding increasing rates difficult to accept. Some of these residents are senior citizens on fixed incomes who chose this lifestyle based on the expectation of living there without the challenges associated with real estate ownership and with little understanding of condo owners' responsibilities. A familiarization process has now begun and, as new unit holders arrive, they are quickly made aware of the realities of condo ownership. Periodic newsletters are circulated to all owners and residents to inform them of activities of the board of directors and to help advise them on the responsibilities associated with ownership. At one of the two semi-annual unit owners' meetings each year, an outside speaker is brought in to help explain some aspect (insurance, fire safety, etc.) of condo life. Owners appreciate this information process, so meetings are well attended.

Of the total of 16 residential units, currently 6 are owned by individuals who do not live in them, but most of those non-resident owners have purchased their condos to support family members living there, or the owners intend to live in their units themselves in the future. It is believed that no units have been purchased solely for investment purposes.

Because Corner Brook is a small city with a population of about 20,000, there are limited choices in contractors to provide the management support that the board requires. When the building was turned over to the first owners by the developer, the owner of the commercial unit took on management as a part-time responsibility.



After a couple of years of service, that owner was no longer prepared to provide management service to the building. A search was made for an experienced property management company which could take on the management function. The board quickly learned that the small body of existing property managers in our community were not aware of the unique issues associated with managing a condominium development (as opposed to a rental property). We decided that self-management was the only cost-effective option available. In early 2013, one unit owner, who had purchased a condo in St. John's years earlier and had participated in its board's activities, accepted the role of president. Three other owners make up the small team of four board directors. Interestingly, none of those board members actually live in the building because their units are currently rented or occupied by family members. Other resident owners offered to provide on-site representation and assistance in self-management. So far, that system works very well for this relatively small building, and costly management fees are avoided. Board members meet formally about 7-8 times per year, but electronic communication is quite frequent.

TOWNSITE CONDOMINIUMS – A WEST COAST PERSPECTIVE



So that transition to other self-management teams in the future can be made smoothly, the current team has developed a 'Management Manual' outlining most of the obligations relating to the proper annual maintenance of the building and listing contact information for many of the local contractors and resources available to assist the board. New board members will have a guide which should take away concerns about undertaking management responsibilities. Directors' liability insurance is also in place to provide coverage to those volunteering their efforts on behalf of all owners.

We have been able to attract a snowclearing contractor who does a fine job in Corner Brook's challenging winter weather. A two-year fixed price contract has worked well for both parties. Other outside resources are retained as necessary, but unitholders also do basic maintenance, such as gardening, some snow shovelling and minor repairs in order to keep costs down.

Finding a person qualified to perform a reserve fund study requires retaining a contractor from either St. John's or elsewhere in the Maritimes, at significant additional cost because of the travel requirement. For a small condominium corporation with no local resources available to undertake a report, this is a major cost item, but it is required and will be done this year.

The sharing of commercial and residential spaces in the building's two parking lots is a unique feature of this building. The 16 residential owners have one space each assigned to them and identified with numbering, with 4 additional spaces being intended for residential 'guest' use.

The remaining unassigned spaces (about 32) are for the exclusive use of bowlers. This arrangement occasionally creates challenges, especially during the winter months, when some spaces are eliminated by or covered in snow. Signage helps, but the supervision of the parking spaces is an important role for management.

The second significant task from blending the commercial unitholder's interests with those of the residential unitholders is the sharing of the building's common expenses. The bowling alley has an entirely separate entrance from the residential entrance. Being in the

basement, the commercial unit shares none of the common area elements, such as the residential entrances, corridors, the stairwells and elevator. The only major common interest is in the exterior physical structure of the building and the parking spaces. Although Townsite's Condominium Declaration creates a cost-sharing regime which is intended to be fair, the formula is somewhat complicated and does not necessarily do complete justice to either interest, especially in the calculation of reserve fund contributions. For example, if the commercial unit does not benefit from the elevator, should adjustments be made to that unit's contribution to the reserve fund? The reserve fund study may help clarify the appropriate contributions.



Many new condominiums often experience low reserve fund balances in their early years. Townsite is no exception. Although contributions were made from the time that owners assumed responsibility (little was received from the developer), the early board did not understand that those funds were committed to capital replacement, and thus used some reserve funds when required to subsidize annual maintenance. The new board is now committed to increasing annual contributions substantially and the fund is beginning to grow. Fortunately, the building has not yet experienced a major capital cost item.

Unit owners at Townsite are quite happy with their purchases, even with the few operational challenges. Interest in ownership of condominiums on the West Coast continues and demand is growing. Any unit at Townsite that becomes available is sold immediately at close to its asking price. As additional condo developments are completed in our community, local resources to support condominium life will undoubtedly broaden. Other condo boards will be created and we will be able to assist one another on common issues and experiences. In the meantime, the support given to us by the CCI - NL Chapter, through its seminars and the opportunity to meet other condo owners with similar interests, has been a real comfort to the current board. ■

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Get the best value for your money on home and auto insurance

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WHAT DOES “WILFUL” MEAN ANYWAY?

BY DAVID CUMMING

One of the sections in the new *Condo Act* causing the most concern for both Directors as well as Corporation insurance providers is Section 54 – Repair After Damage. It states that the Corporation shall repair the units and Common Elements after damage other than substantial damage – substantial damage being defined as repairs costing nominally 1/4 of the value of the property (as specified under Section 62).

Section 54 (2): The obligation to repair after damage includes the obligation to repair and replace after damage but does not include the obligation to repair after damage improvements made to the unit, or wilful damage caused to a unit by a unit owner.

What does this section mean for the Corporation and, specifically, what does “wilful” mean? Does it mean that unless a resident is witnessed taking a hammer to the walls in their unit or the Common Elements, the Corporation is responsible for paying the costs for all repairs? Well – hopefully not....

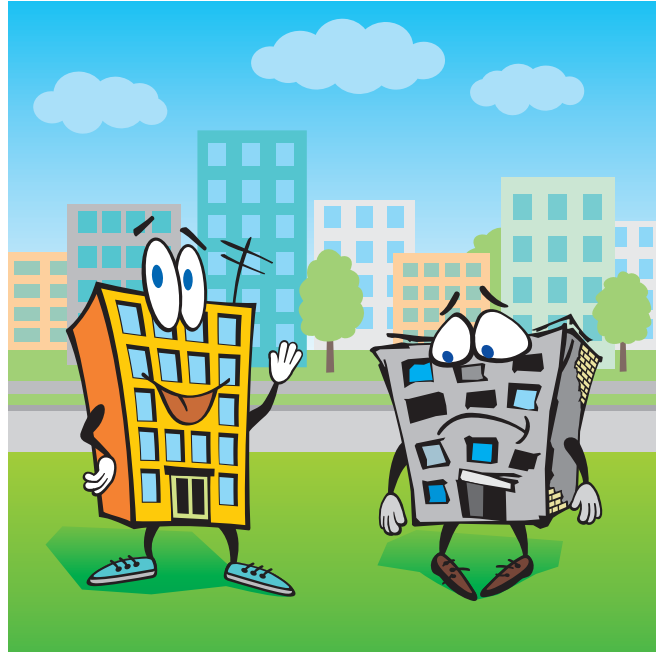
The word “wilful” does have a legal definition. From Black’s Law Dictionary:

The word “wilful” is a word of many meanings depending on the context in which it is used. A “willful” act may be described as one done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently.

“Willfulness” implies an act done intentionally and designedly...

A wilful act is different than a negligent act:

A willful differs essentially from a negligent act. The one is positive and the other negative. Simple negligence arises merely from heedlessness, and consists simply of



facts of nonfeasance, and is therefore incompatible with willfulness, which comprises acts of aggressive wrong,

Thus it appears that if a resident causes damage that can be demonstrated to be the result of a wilful act, the owner pays for the repairs whereas if the damage is due to an owner’s negligence, then the Corporation is responsible for paying for the repairs.

Section 55 (1): The corporation shall maintain the common elements and each owner shall maintain the owner’s unit.

My interpretation of the *Act* is that while the Board is responsible for maintaining the Common Elements using qualified contractors, the owners are responsible for carrying out routine maintenance in their unit. Yet it seems that the Corporation appears to be responsible for paying for any damage to a unit resulting from owner negligence.

The Board of Directors has a duty to mitigate the risks to the property and costs to the Corporation. So what did our Board do to mitigate the risks to our Corporation and put the onus on the owners to correct deficiencies that could result in damage to their unit and the Common Elements? ■

01

Step 1:**Identify the potential risks of damage in the units.**

After some discussion within the Board, it was decided that the major sources of risk included:

- 1) leaking hot water heaters – hot water heaters should be replaced after 5 years according to our normal plumbing service provider,
- 2) leaking washing machine water hoses – heavy rubber hoses and steel braided hoses cost about the same but, again according to our normal plumbing service provider, the steel braided hoses are slightly more reliable and are thus recommended especially for multistory buildings, and
- 3) dryer exhaust vent ducting made of plastic rather than flexible aluminum (potential fire hazard).

02

Step 2:

An inspection of all our units was carried out by two Directors to determine whether any units had any of these identifiable sources of risk. The Directors prepared an inspection report for each unit based on their findings.

03

Step 3:

This inspection report was sent to each unit owner that included recommendations providing a date to change their hot water heater, washer hoses or dryer exhaust vent material if necessary and requesting that the owner send an e-mail when the recommended corrective actions were taken. The onus was placed on the owners to make any recommended changes as it was deemed that our small Corporation (20 units) did not have the resources to proactively effect these changes.

So, if an Owner received our inspection report recommending changes to the hot water heater, washer hoses and/or dryer exhaust vent to prevent future damage and simply ignored these recommendations

and damage resulted – would the act of ignoring the written recommendations of the Board be considered a wilful act as opposed to negligence?

I believe a case could be made that knowingly ignoring the contents of the inspection report is a wilful act however all our owners eventually did make any recommended changes.

In addition to specifically checking the hot water heater, washer hoses and dryer exhaust vent ducting in each unit, the Directors also made a general survey of the condition of each unit and added their findings to the inspection reports often noting minor deficiencies that routine repair and maintenance could address. Most units were generally found to be in good repair – especially those that were owner occupied.

We did come across one unit, however, that was in very poor condition where the resident leasing the unit kept a dog in the unit all day while they went to work. The dog did considerable damage to the unit. The owner lived on the west coast of Newfoundland and his unit was managed by a third party. This owner had no idea that his unit was in such poor shape and was very grateful to our Board for bringing this situation to his attention. The owner took steps to ensure that the unit was repaired at the expense of the lessee.

The inspection process was thus deemed to be a very worthwhile initiative as the members of the Board demonstrated a proactive posture to mitigate the overall risks to our property to the benefit of all owners. The Board plans to carry out unit inspections every few years in future.

Other CCI members are encouraged to submit articles to this Newsletter on issues they feel would be of interest to the general condominium community. Please e-mail the article to David Cumming at dwc1463@gmail.com.

David Cumming has served on the Board of Directors of the Imperial Condominium Corporation for over 10 years – much of the time as President. 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. ■

CCI National held its AGM and fall Leaders' Forum on November 5-6, 2014 in downtown Toronto. Along with AGM and Council business, our host treated us to some delightful social events. A highlight of the conference came in the form of several very interesting and informative sessions put forward by the Chapter Members. If anyone would like to see copies of the following session highlights, they are available on our web site:

- 1. Leaky BC Stratas:** Faulty engineering helped create a nightmare for condominium owners resulting in 4 billion dollars damages throughout 900 buildings.
- 2. Condo Fraud:** Examples of deposit and management fraud with tips on how Corporations can protect themselves.
- 3. Toronto's Falling Glass:** Product and installation defects that caused balcony glass to come crashing down.
- 4. High River Alberta Flood:** 5 billion dollars in damages and 75,000 people evacuated.

Our next Leaders' Forum is being hosted this year by the Windsor, Ontario Chapter and is taking place on June 4-5, 2015.

Carol Burke

President, CCI-NL



Leaders' Forum Workshop



CCI National President, Geoff Penney, giving his report to the members at the AGM.



National AGM Attendees

2015

LEADERS' FORUM

JUNE 4-5, 2015
WINDSOR, ONTARIO
Caesars Windsor
 377 Riverside Drive E., Windsor, ON

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BY CHAPTERS FOR CHAPTERS

DON'T MISS THE 2015 SPRING LEADERS' FORUM

Invitation to all CCI Chapter Board Members & Chapter Volunteers:

For more information, the complete program details may be found on the CCI National Website, www.cci.ca

TWO DAYS OF

- ▶ Education Sessions on Best Practices for Your Chapter
- ▶ Networking and Group Round Table Discussions Sharing Information Amongst 16 CCI Chapters from Coast to Coast
- ▶ Formal Business Meetings
- ▶ ... and much more!

THE COMMON EXPENSES CONUNDRUM

BY CHRIS JAGLOWITZ



Many people who work with condominiums raised an eyebrow after reading a recent Toronto Star story entitled "Maintenance fees take a toll on Toronto condo owners." www.thestar.com

The piece highlights the divergent philosophies about the interplay between common expenses and market

values and the growing trend towards gathering, tracking and comparing common expenses data from building to building. Most notably, it cites the example of a local condominium that reduced its common expenses by 30% (probably by slashing contributions to the reserve fund) and is now witnessing a boom in unit resale values compared to nearby condos.

Condo boards have an obligation to spend the owners' money carefully, but convincing the reserve fund preparer to lower the estimates so as to decrease the funding plan isn't a terribly difficult or courageous thing to do. It's more like kicking the can down the road. The current penny-wise condo board and engineer likely won't still be around when it becomes patently obvious that there is insufficient money in reserve to fund major repairs and replacement. The real courage will be shown by those purchasers buying into this condominium years from now based on the low common expenses but who might find themselves confronted with a strikingly under-funded reserve. This is the inevitable danger of basing market values too heavily on the common expenses, no matter how you slice and dice the numbers.

In these days following introduction of the HST and as utility costs sky-rocket, it's easy to be sceptical about whether severe austerity creates lasting positive effects. It's even easier if you live in Toronto and witnessed the end of mayor Rob Ford's single-term slash and burn campaign to "stop the gravy train" that is thankfully being reversed and undone in several key areas. It is probably only a matter of time until similarly-extreme economic doctrines in condominiums are discredited and rejected. No one would doubt that reducing common expenses is attractive, popular and seemingly positive, but the long-term results are easy to predict....

This piece first appeared on The Ontario Condo Law Blog (www.ontariocondolaw.com), published by Gardner Miller Arnold LLP, Barristers & Solicitors, Toronto, Ontario www.gmalaw.ca. Used with permission. ■

Upcoming Chapter Events

NOTICE OF SEMINAR

Condominium Act Update & Feedback

Thursday, April 30, 2015, 7:00 p.m. – 10:00 p.m. at The Holiday Inn
180 Portugal Cove Road, St. John's, NL

For further information on our seminars, contact us by email at: carolburke@gmail.com

Coming Soon:

CM (Condominium Management) 100

Our Chapter is currently developing a series of general condominium management courses (designed mainly for Directors, but open to anyone involved with Condominiums) that we hope to begin in the Fall of 2015.

It will be divided into five chapters:

- 1) General Condominium Concepts,
- 2) Explaining the Governing Authority, Condo Structure as well as the Role and Responsibilities of the Board,
- 3) Describing the various Condo Management Styles,
- 4) Overview of Condo Management Issues, and
- 5) Organizing and conducting Effective Meetings.

We anticipate a lot of interest from our members in this initiative!

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CONDO CHRONICLE

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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!

MEMBERSHIP APPLICATION

MEMBERSHIP TO JUNE 30, 2016

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 : _____

Treasurer : _____

Director #3: _____

Name Address/Suite Email

Name Address/Suite Email

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