CondoChronicle Newsletter of the cci newfoundland and labrador chapter

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A CONDO DIRECTOR'S SURVIVAL GUIDE PLANNING AND CONDUCTING YOUR ANNUAL GENERAL MEETING

NATIONAL SPRING CONFERENCE **WINNIPEG, MANITOBA**



CondoChronicle

CANADIAN CONDOMINIUM INSTITUTE NEWFOUNDLAND AND LABRADOR CHAPTER

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Front Cover Photo: Fort Amherst, St. John's NL on June 30th 2014, Photo by Robert Leeman



MESSAGE FROM THE BOARD OF DIRECTORS

CAROL BURKE | PRESIDENT CCI NEWFOUNDLAND AND LABRADOR CHAPTER

Welcome to our latest edition of Condo Chronicle.

Over the past winter and spring our Chapter has been quite busy with several projects including the revamping of our website, linking to Social Media, and the ongoing development of an educational course of study that would be of interest to condominium directors.

We held two successful seminars in the spring and are now in the process of planning our fall seminars. Based on encouragement from our membership, our last Seminar, "Leaders' Forum", was created for condominium directors as a vehicle to discuss issues or concerns with fellow Corporations. It was an overwhelming success and we plan to make it an ongoing series among our seminars.

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 our newsletter. As well, we welcome our members who are Condominium Corporations to put forward their names to be submitted as a future *Feature Condo* in our newsletter.

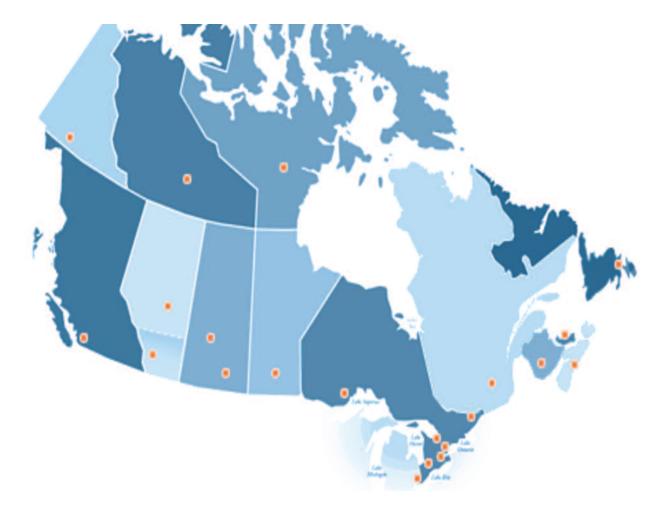
Two of our Directors attended the National meetings in June in Winnipeg, Manitoba, highlights of which are featured in an article in this edition.

Thank you all for your continued support of our Chapter.

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

CANADIAN CONDOMINIUM INSTITUTE (CCI) HISTORY & SUCCESSES

BY DAVID CUMMING



A tour 2013 AGM in November, attendees asked questions regarding the history of the CCI, its main successes, and the benefits of belonging to the CCI. This article provides information for existing CCI-NL members and prospective new members: an overview of why this organization was formed and why professionals who service the condominium industry and those who manage and live in condominiums should be members.

The first meeting of the CCI was held on November 25, 1982 in Toronto for the purpose of providing a focal point for providing education, information, awareness and access to expertise for people involved in all facets of the condominium industry. Since its formation, CCI Chapters have been formed in every province with a common goal of creating a successful and viable condominium community. Red dots represent locations of CCI Chapters (the NL Chapter joined in 2003):

The CCI:

- is the only national organization that serves as a clearing house and research center on condominium issues and activities across Canada;
- assists its members in providing education, information dissemination, seminars and technical assistance. If local CCI members do not have the answer to a particular question, there is expertise available nationally that can be accessed.
- encourages and provides objective research for practitioners and government agencies regarding all aspects of condominium operations;
- lobbies municipal, provincial and federal governments for improvements to legislation; and
- advocates for higher standards in all services to the condominium client.

CCI HISTORY & SUCCESSES

One of the first important accomplishments of the CCI came early in its history. In October 1984, the CCI retained a lawyer and, along with the Association of Condominium Managers of Ontario (ACMO), submitted a joint brief to Revenue Canada regarding a special ruling under the *Income Tax Act* allowing condominiums to be exempted from taxation on reserve funds due to their non-profit status. The CCI and the ACMO were successful in this initiative and a subsequent Technical Bulletin was published stating residential condominiums should be filing their corporation's income tax as a non-profit institution. Due to this success, condominium corporations across Canada do not pay income tax on the investment income accumulated within their reserve fund.

Another struggle was mounted by the CCI in 1995 when the Canadian Institute of Chartered Accountants brought in proposed new guidelines for condominium common assets to be capitalized and depreciated which would have had huge implications for condominium auditors' reposts to be 'qualified'. At that time, common elements were not included in the financial statements as these assets were owned by the unit owners. The CCI lobbied successfully against the proposed changes to the new reporting recommendations which would have cost thousands of dollars to condominium management.

Education: The CCI has established a consistent format for educational programs across Canada – a 3-tiered approach. Courses have been developed in several areas of condominium operation and management including dedicated courses for lawyers, accountants, real estate agents, property managers as well as condominium board members. The CCI-NL Chapter is currently revising course material recently received from the Nova Scotia Chapter in preparation for providing courses (tier one -CM100) initially for condominium Directors.

Communications: A vehicle for national communications was established through the monthly CCI newsletter: 'CCI Review'. In 2002, the CCI launched a new newsletter initiative called "Condo Cases Across Canada" with the goal of informing members about condominium related cases before the courts. Every Chapter has a goal of publishing two local newsletters per year and thus far CCI-NL has started publishing at least one newsletter every year called the 'Condo Chronicle'.

Associate of the Canadian Condominium Institute (ACCI) Accreditation: The CCI has established a professional accreditation process in a number of fields such as law, insurance, real estate and reserve fund study provider. The ACCI designation is currently the only nationally recognized professional designation in the condominium field and recognizes the bearer as an individual who has been in the field for three years or more, is a member of the CCI, has subscribed to a Code of Ethics and has passed a competency exam relevant specifically to condominium issues in their area of expertise.

Accreditation is subject to the member meeting eligibility requirements, submitting an application to the local Chapter, successfully completing a written exam prepared by the CCI and pledging to abide by the CCI Code of Ethics. The ACCI designation is renewed every two years. Two of the current CCI-NL Board Members have successfully acquired an ACCI designation in their profession. When a condominium Board retains the services of a professional with an ACCI designation, it engenders confidence that the individual has achieved a level of skill, professionalism and knowledge of condominiums as it relates to their profession.

National Award System: Over the years, the CCI has established a number of awards to recognize and honour current or former CCI members whose service to the Institute or condominium community best exemplifies the goals and aspirations of the CCI. These awards include Fellow of the Canadian Condominium Institute (FCCI), Distinguished Service Award, Lorne Young "Chapter of the Year Award", H. Penman Smith Award of Excellence for the most outstanding newsletter, Ron Danks National Volunteer Leadership Award and finally the establishment of the CCI Hall of Fame for those CCI members recognized as making an outstanding and substantial contribution.

The CCI celebrated its 30th year in 2012 and a document was produced providing details of the history, the successes and background information about the people behind the CCI nationally. For an electronic copy of this 67-page, 8.9 MByte document, please contact David Cumming at dwc1463@gmail.com. ■





Upcoming Events

Directors' Forum – Round Table Discussions

September 10, 2014 2:00 – 5:00 p.m. The Holiday Inn

This will be a continuation of our Round Table Discussions held this past spring. Details will be posted to our website and included when notices are mailed out later this summer.

Annual General Meeting

November 24, 2014 7:00 p.m. The Holiday Inn

Followed at 8:00 p.m. by a Seminar - "Issues and Answers"

"Issues and Answers" will be an interactive information session developed and hosted by local Condominium Corporation Presidents. Details will be posted to our website and will be included when notices are mailed out later in the fall.



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

A CONDO DIRECTOR'S **SURVIVAL GUIDE**

BY DAVID CUMMING

SO, YOU'VE BEEN ELECTED AS A DIRECTOR OF A CONDOMINIUM! CONGRATULATIONS!!



A long with the other elected Directors, you now share legal responsibility for the capable management of all aspects of a multimillion dollar property asset. The reality is, however, that very few newly elected Directors have the experience, training or education to effectively carry out this role. It is a very steep learning curve. To prepare for this new role you should:

- become very familiar with the new Condo Act as well as the Declaration and By-Laws of your particular condo;
- review the minutes of the last two Board meetings to get up to speed on the current issues;
- review the minutes of the last AGM as well as the latest financial statements;
- obtain a current list of Owners and residents along with their contact information;
- request a tour of the common elements not normally open to Owners (electrical room, service rooms, mechanical equipment rooms etc.) so that when issues related to the upkeep and repair of these facilities are discussed by the Board, you better understand the issues.

Learn from other more experienced Directors, attending Canadian Condominium Institute (CCI) Seminars and read periodicals published by the CCI.

Board of Directors: To reduce the burden on a small number of Board members, it is an advantage to attract the maximum number of people to the Board that your governing documents permit. If there are both commercial and residential Units in your corporation, it is best to have representation on the Board from both Classes as their issues are different. The same can be said for Owners who live in their Units and Owners who lease their Units. Their perspective can be different: The primary objective for Owners who live in their Unit is to foster a safe quiet living environment while Owners who lease their Unit generally focus on maximizing their profit margin. Note that every time there is a change in Directors, a new list of Directors must be filed with the Condominium Registry as specified in Sect. 17 (3) of the Act.

The burden on Directors has increased substantially since the new Condo Act has come into effect making it important to share the load. Delegation is essential. Assign meaningful roles to all Directors – Secretary, Treasurer, External Communications, Fire Marshal, Managing Short Term Projects...

Duties of Directors: Under Sect. 32 of the Condo Act, Directors have an obligation to act honestly and in good faith. If you require guidance with expertize not available on your Board, do not hesitate to seek advice from professionals. The Condo Act protects you from liability if you are relying in good faith on the advice of a lawyer, engineer, accountant or even a commercial company such as a roofer with many years experience – any person whose profession lends credibility to a report or opinion. If the Board takes actions that deviate from advice received from credible sources, you are potentially exposing the Corporation and the Directors to an unacceptable level of risk and liability.

Communication: It is critical to maintain good communications with all residents. Post notices in prominent locations and keep residents up to date on the current status of maintenance activities and other ongoing issues. E-mail is an most important tool here especially for Owners leasing their Units who live off site. Prepare and send out a Newsletter periodically.

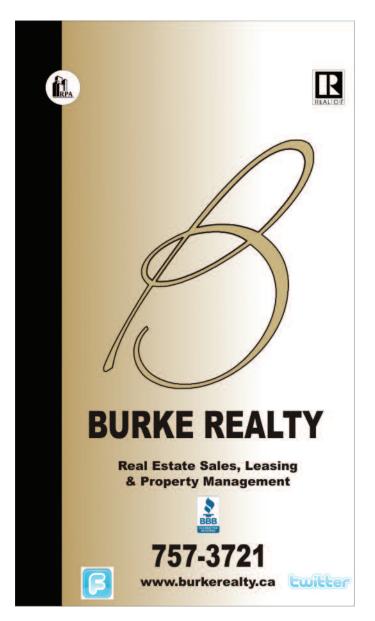
Are Condominium Corporations Democratic?:

Members of the Board are elected by the Owners and the Board conducts it's affairs in a democratic fashion. Condo Corporations on the whole, however, are not run as a democracy. During a meeting of the Owners, occasionally an Owner will say something to the effect: 'We all pay condo fees, therefore we should all directly participate in the decision-making process.' How should the Board respond to this?

The Owners who volunteer to serve on the Board are legally responsible for all facets of the Corporation while the Owners who do not serve on the Board have no such responsibility. Imagine a scenario whereby your Corporation was operated as a democracy and general meetings were held every month with all Owners invited to vote on every major expense and initiative. What if the Board promotes an initiative with potential safety ramifications that is rejected by the majority of Owners as being too expensive? The Owners who lease their Units are particularly sensitive to supporting expenditures that would reduce their profit margin. Six months later, an incident occurs that tragically results in the injury of a resident or contractor that likely could have been averted if the initiative proposed by the Board had been approved and implemented. At the next general meeting, as the Owners leave the meeting room they turn to the Directors and say: 'Too bad about that law suit - good luck with that.' The Board has a duty to mitigate the risk to the Corporation as well as Board members and this duty can be compromised if Owners are given power without responsibility.

Before making decisions, the Board is encouraged to accept input from several sources including the Owners, the Property Manager if they have one, feedback from contractors, credible professionals, reviewing the inspection reports, the Reserve Fund Study, etc. Whatever the issue under discussion at the Board level, the same question must be answered: 'What is the prudent and responsible course of action that is in the best interest of the majority of the Owners.' Once the Board makes a decision - it is final. The only recourse open to Owners is to replace some or all of the Directors under Sect. 30 of the Act. They do not have to wait for the AGM - a general meeting to remove a Director can be arranged at any time; however, it should be very clear in the meeting notice to members that a change in the Board is a possibility.

Requesting a General Meeting: Every once in a while, an Owner will request that the Board call a General Meeting on a topic important to the Owner. In most governing documents, the onus is on the proponent to prepare a petition to be signed by a minimum of, say, 25% of the Owners before the Board will agree to



arrange a General Meeting. The rational behind this clause is that the Board must be assured that at least a significant minority of the Owners consider the issue important enough to require that all the Owners take time out of their busy lives to attend a meeting. The effort to prepare a petition and attain the requisite signatures is enough to dissuade most people from pursuing this course of action. As an alternative to a General Meeting, the Board should be prepared to sit down with any Owner, or group of Owners, to discuss any issue. If appropriate, the Board can then communicate the results of this meeting to all the Owners.

Pets: The condominium I live in is one of the minority of condominiums that do permit pets and allow a resident to have 'one cat or dog of reasonable size'. Pets on the property can be one of the most common sources of friction between residents resulting in problems for the Board. There are clauses in our by-laws



with respect to pets to reduce the unreasonable interference with the use and enjoyment of other Units or the Common Elements including:

- all dogs must be kept on a leash whenever the dog is outside the Unit on the Common Elements;
- no pet shall be tied up outside the Unit, in a dog house or be permitted to roam the property unattended.
- no pet deemed a nuisance by the Directors shall be kept within a Unit.

In my view, one of the problems with the new Act is that although the Corporation has a duty to ensure that residents comply with all the by-laws and rules (Sect. 19 (1) (c)), there is no enforcement mechanism in either the Act nor our governing documents. If a pet became a real problem for residents, after exhausting various avenues such as communicating with the Owner of the pet verbally and in writing, the Board may be left with no option other than seeking a legal remedy.

Note that our by-law allows a dog of **'reasonable size'** – a rather subjective descriptive. I have heard of bylaws where the maximum size of a dog permitted is limited in terms of weight (10 lbs for example). This is fine when the dog is a puppy, however, if it grows up to weigh more than the weight limit, there have been cases where Boards have felt compelled to demand that an Owner, now very much attached to their pet, get rid of their dog – through a court order in extreme cases. If your by-laws specifies a weight limit for a pet, you may want to consider amending the bylaw to avoid a heartbreaking situation. Parking Enforcement: Parking can also be a source of stress for Board members especially where neighbourhood public parking resources are limited such as in a downtown location. Each of our Owners has a designated off-street parking space as specified in our Declaration, however residents often find unauthorized cars occupying their space. To address this issue, our Board decided to enter into an agreement with the City of St. John's whereby City Parking Enforcement officers will issue tickets when called upon by the Owner of the space. This is not a revenue source for our Corporation as the City retains the money from paid tickets. The City erected signage on our property to the effect that unauthorized parked vehicles will be ticketed. This has significantly reduced, but not completely eliminated, unauthorized parking. It has, however, virtually eliminated the burden on the Board to police parking as only the affected Owner has the authority to request that the City get a car ticketed.

Smoking: Residents or visitors who smoke can be another source of friction especially when someone living on the property is highly sensitive to ambient smoke. In our condominium, a by-law forbids smoking or disposing of cigarette butts anywhere in the Common Elements or within 5 meters of the front entrance. We have also taken steps, on occasion, to require residents who smoke to purchase and install barriers at the base of the entrance doors to their Units to prevent smoke from their Unit permeating the corridors.

This article contains some of the steps that can be taken by a Board to mitigate risks to the Corporation and stress on Board members as they act on the Owners behalf to preserve a safe and well-maintained living environment.

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. ■

PLANNING AND CONDUCTING YOUR ANNUAL GENERAL MEETING

CAROL BURKE, PRESIDENT, CCI-NL

s many Condominium Corporations plan for their next AGM, it may be timely to look at a general overview of the process with some helpful hints, common pitfalls and good practice guidelines for Board members and owners.

The AGM, as with any other General Meeting or Board Meeting, must follow the Corporation's Declaration/ By-laws and general rules of order and proceed with decorum.

The Plan and Preparation

At the Board level, the meeting's time, date and location will be determined along with all the steps necessary to make sure the meeting occurs, that it runs effectively and that the agenda is followed according to rules of order.

A crucial part of the planning is to ensure that sufficient and proper notice is given in accordance with the Corporation's By-Laws.

Publishing

When publishing the notice, whether it is being prepared by the Board or the Management Company, proofing of the entire package prior to its release is a good practice to follow. As part of the publishing process, the contact information of each owner should be checked and updated accordingly.

The following items are normally included in the Notice package. This may vary slightly with each Corporation.

- 1. Notice of the meeting giving time, date and location
- 2. Agenda
- 3. Minutes of the last AGM
- 4. Financial Statements
- 5. Budget
- 6. Proxy

Conducting the Meeting

Two key people, The Chair and the Secretary, are absolutely crucial in the execution of an effective and accurate meeting.

The Chair is there to make sure that the meeting is duly constituted, to preserve rule and order and to follow the Agenda. A template will assist the Chair with an orderly process. A copy of The *Condominium Act*, Declaration and By-Laws should be included with this Template.

The Secretary will record the names of those present and proxies and will record the minutes. Once again, it is good practice for the Secretary to follow a template to assist in the proper recording of the minutes.

The Chair will appoint someone to oversee the establishment of a quorum by counting the owners present and the proxies. By-laws may differ in their wording about quorum requirements, however, it is imperative that a quorum is established and maintained in order for the meeting to proceed and be valid.

If an election is on the Agenda, a scrutineer will be appointed to distribute, collect and count ballots.

In addition to following the rules of order, most meetings begin with a welcome to those present and introductions. This is a good way to lighten the mood and make everyone feel they are part of the process.

Reports are adopted and decisions made by means of a motion to the floor that requires a seconder and a vote by owners.

As the meeting proceeds the Chair will ensure that the Agenda is followed in a timely and orderly fashion. A typical Agenda would include the following items:

- 1. Call to Order
- 2. Introduction of Guests
- 3. Establishment of Quorum
- 4. Adoption of Agenda
- 5. President's Report
- 6. Review and Adoption Minutes of Last AGM
- 7. Business Arising
- 8. Review and Adoption of Financial Report
- 9. New Business
- 10. Election of Officers (if necessary)
- 11. Establish date of next meeting.
- 12. Adjournment

Rules of order should be followed along with respect and common courtesy. When speaking, a unit owner should identify himself and unit number. Comments should be brief and to the point. Unless it is something on the Agenda, unit specific or personal matters are best addressed at another time with the Board or management company.

Respect Thy Neighbour

An AGM is not a place to air frustrations with fellow owners or Board members. Owners who have issues with a neighbour should firstly address these issues among themselves with the hope of reaching a solution.

There are often strong issues of concern between owners and the Board. Owners sometimes fail to recognize that Board members are volunteers who give of their own time to the betterment of the Corporation. Conversely, owners who choose not to serve on the Board or Committees should not be penalized by Board members for their decision.

Listening to and respecting the rights and concerns of others may go a long way to resolving outstanding issues and will help to prevent personal frustration and resentment from creeping into the Annual General Meeting. ■

NATIONAL SPRING CONFERENCE WINNIPEG, MANITOBA

BY CAROL BURKE

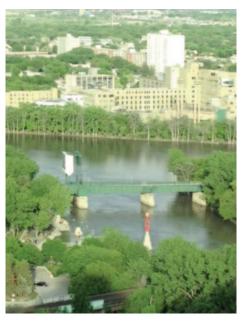
The Manitoba Chapter hosted this year's National Spring Conference that took place June 4th to the 7th.

We congratulate the Manitoba Chapter for being very gracious hosts for this event and for putting together a fantastic slate of educational seminars, and delightful social events that highlighted the history of their beautiful Province.

Throughout the conference, we listened to very interesting and articulate speakers who gave us quite amazing accounts of first hand experiences from their own condominium community.

Some of the topics that were covered:

- Condominium Mechanics: How to
- fix it when it's broken. Fixing physical problems can be a breeze compared to interpersonal relations.



- Condominium Collapse: How the courts can take your whole community away if you fail financially and cooperatively.
- The Quarter Million Dollar Seagull: How a dispute between an owner and the Board ended up costing \$220,000 to settle.

The underlying theme that emerged from the sessions was that it is much easier to fix almost any dispute, whether it is between dissenting owners or an owner and a Board, if both parties to the dispute use common decency and respect for each other. Listening carefully and meeting face to face to discuss the problem can often result in resolving the issue without having to involve

either the management company or legal counsel.

My big take away from this great conference: Save time and money by simply being considerate. \blacksquare



CONDO CHRONICLE

Advertising opportunity

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.

Member Advertising Rates (one issue):

Business card (3.5" X 2")	\$50.00
¼ Page (3.5" X 4.5")	\$90.00
½ Page (3.5" X 9" or 7" X 4.5")	\$165.00

Full page loose insert, copies supplied by advertiser*.....\$100.00

* This would not be a newsletter page, but a loose page inserted in the middle of the newsletter booklet.

Please supply the following information for ordering:

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Company
Full Address
Telephone and fax
Email
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 <u>carolburke@burkerealty.ca</u>. 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!



MEMBERSHIP APPLICATION

MEMBERSHIP TO JUNE 30, 2015

How/from whom did you hear about CCI?:

I CONDOMINIUM CORPORATIO	N MEMBERSHIP	Please complete all areas	Townhouse
Condominium No.:	No. of Units:	Registration Date:	□ Apartment Style □ Other
Management Company:		Contact Name:	
Address:			Suite #:
City:	Province:	Postal Code:	
Phone: () Fax: ()	Email:	
Condo Corporation Address:			Suite #:
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President :			
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	Province:	Postal Code: Email:	Suite #:

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