

FALL 2020

CondoChronicle

NEWSLETTER OF THE CCI NEWFOUNDLAND AND LABRADOR CHAPTER

IN THIS ISSUE:

How condominium corporations can secure better and more affordable insurance coverage

Amendments to the Condominium Act: Virtual meetings and virtual voting

The Registry of Condominiums: What boards should know

Radon Gas – What is it and what are the risks in your condo

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Labrador Chapter
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MESSAGE FROM THE BOARD OF DIRECTORS

CCI NEWFOUNDLAND AND LABRADOR CHAPTER

Dear Members,

Message from the Board of Directors

Welcome to our Fall 2020 Newsletter. It has been a year of challenge and change for all of us.

Our Chapter has spent the winter in isolation with our only communication being by Zoom, telephone or email. But during that time we were able to continue our work to develop educational material for our members.

We have emerged from this year with lots of good things in store, like our upcoming online Director's course, Realtor's course, Fall newsletter, improved website, and our newly learned ability to reach out to our membership virtually during these very restrictive times.

Thank you to our members, sponsors and volunteers. Please stay safe and continue to live within the Government of Newfoundland and Labrador Guidelines of Covid 19.

We wish you all a Happy Holiday Season and all the best in the New Year.

Carol Burke, CCI-NL President
On Behalf of your Board of Directors
Stay safe.

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How condominium corporations can secure better and more affordable insurance coverage

By Blair Campbell

As a board member for a condominium corporation, you have no doubt recognized that obtaining condominium insurance has become increasingly difficult. One challenge is the rising costs of claims in condominiums generally which have forced insurance companies to reconsider insuring this line of business and caused those still covering condominiums to put forward significant rate increases.

With the frequency and severity of claims that are occurring in condominiums, the number of insurance companies offering condominium coverage will continue to shrink. For those who will continue to insure condominiums, insurance experts are expecting a 15-20% rate increase in 2021 for this sector with many insurance companies simply exiting this line of business. In fact, premium increases and a reduction in the number of insurance companies willing to offer coverage is common in a hardening insurance market which is the situation we currently face in commercial insurance generally and the condominium market in particular. During a hard market we can expect higher premiums, more stringent underwriting criteria, fewer insurance companies writing policies, and less competition among carriers.

With fewer options available it is more important than ever for condominium boards to be prudent in developing a risk management strategy and demonstrating to the insurance companies that they are taking steps to control and mitigate claims.

This is where a risk management strategy which is designed to identify, assess and control risks is crucial for any condominium corporation looking to obtain coverage or renew a policy. As well, implementing loss prevention programs with procedures, policies and other

steps board members can implement to reduce the likelihood of an insurance claim or costly incident will help provide insurance companies with confidence to insure your condominium.

Certainly, you can't predict a major fire, disaster or accident but with a proper risk prevention strategy in place you should be able to mitigate some claims from occurring. More importantly, you will demonstrate to the insurer that your condominium corporation is an active partner in managing the risk; opening the door to coverage and reasonable rates.

In today's condominium insurance market you must demonstrate that your board is attempting to reduce both the number and severity of claims being reported. Failure to do this will most certainly drive your premium or leave the condominium corporation uninsurable.

Strong loss prevention strategies generally contain three components:

1. A property management policy.
2. Loss prevention checklists that address specific risks to your building(s).
3. Methods for soliciting and responding to unsafe conditions and repairs.

Paramount to the success of these strategies is getting owners on board and buying into these proactive measures. Keeping owners included on what's being deliberated by its board of directors, especially during tough insurance markets, will further assist in these safety and maintenance initiatives being followed by owners.

An example would be a board proactively deciding to implement a covenant change to eliminate/remove the building unit's garburators. The insurance companies have data that demonstrate that garburators are known to be a leading cause of significant water damage as they frequently clog and result in water backing up in sinks; spilling into adjacent units and causing significant damage. In fact, garburators are at the top of the list risk as it has been determined they are a leading cause of sewer pipe clogs and sewer back flow issues. Insurance companies pay particular attention to common and recurring causes of loss or damage. In fact, water damage, and not fire loss is the biggest single claims concern for the insurance industry relating to condominium insurance coverage. If your condo board is seen to be proactive in managing this risk it will go a long way toward giving insurance companies more confidence to work with you going forward.

A further proactive measure to help mitigate water damage is the installation of backwater valves. Displaying a proactive engagement in a loss mitigation strategy is an indication of due diligence and good condominium governance, both of which are going to further reduce the potential for a claim and also put your condominium in a better position when an insurance company is considering renewal terms.

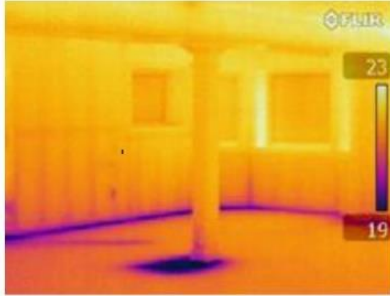
Other measures of good governance would include:

- Completing an incident report when a claim is established.
- Reviewing semi-annually building and safety codes with owners.
- Having a professional appraisal/accounting assessment completed on the condominium reserve fund every 3-4 years. This is something underwriting is examining these days.

- Collecting certificates of insurance for all third party contractors who are beginning work on the premises.
- Examining your insurable limits on the condominium building to ensure you do not have a co-insurance issue if you should have a major claim.
- Highly recommend insurance coverage for Directors and Officers of the Condominium Corporation.

Our mandate at Munn Insurance is to partner with our condominium clients to help develop an approach to ensure they have a loss mitigation strategy and a condominium improvements strategy in place that will put them in the best possible position for competitive and comprehensive insurance premiums. We have a library of condominium guidelines that we share with our clients and stress the importance of annual reviews to be completed. If you would like to speak with someone at Munn Insurance you can contact Blair Campbell, Commercial Manager at (709) 330-5995, Email: blair.campbell@munnsurance.com or Mike Collins, New Business Developer at (709) 690-3153, Email: Michael.Collins@munnsurance.com

CCI-NL welcomes an article on insurance from one of our newest members. Blair Campbell has been a Commercial Manager at Munn insurance since Jan. 2019. The opinions expressed in this article are those of the author and do not necessarily represent or reflect the views of the CCI Newfoundland and Labrador Chapter. Readers are encouraged to seek the advice of professionals to address specific issues or individual situations. This article may not be reproduced, in whole or in part, without acknowledgement to the author.



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Amendments to the Condominium Act: Virtual meetings and virtual voting

By Geoffrey Penney

The COVID-19 pandemic has impacted just about every aspect of life and business in Newfoundland and Labrador. Restrictions on gatherings and requirements for social distancing have been a fact of life since mid-March 2020. This has complicated or even prevented the holding of Annual General Meetings and Board Meetings for some Condominium Corporations. Recent amendments to the Condominium Act, 2009 focus on alternatives to traditional in-person meetings.

Bill 51 – *An Act to Amend the Condominium Act, 2009, The Co-operatives Act and the Corporations Act* received First Reading in the House of Assembly on November 2, 2020 and subsequently received Royal Assent on November 5, 2020. The new legislation makes provision for virtual meetings and virtual voting in condominium corporations, co-operatives and business corporations. From a condominium perspective the amendments are similar in effect to Orders in Council made in various Provinces since COVID-19 restrictions have been in place. A full amendment was required in Newfoundland and Labrador as our legislation does not allow for such Orders. The amendments have since been incorporated into the existing Act and may be found through this link: https://assembly.nl.ca/legislation/sr/statutes/c29-1.htm#19_1.

In an associated News Release “Virtual Meetings Provide Flexibility to Businesses”, dated November 4, 2020, the Honourable Sarah Stoodley, Minister of Digital Government and Service NL, stated: “It is important that stakeholders be able to conduct regular business during the public health emergency, and our government has worked hard to find solutions. Providing additional flexibility for organizations to determine the best and safest way to conduct their business-particularly in light of the COVID-19 pandemic- is another such solution.”

The specific amendments to the Condominium Act, 2009 are set out in section 19.1 and section 21. These provisions apply to all condominium corporations without regard for any amendment to individual declarations or bylaws. Section 19.1 of the Act now includes the following provision:

Meeting by electronic means

19.1 (1) A person entitled to attend a meeting of directors or members under this Act may participate in the meeting by telephone, electronic means or other method of communication that permits all participants to communicate with each other during the meeting.

(2) Subsection (1) applies only where the corporation approves and makes available the method of communication by which the person is to attend the meeting.

(3) A person participating in a meeting by telephone, electronic means or other method of communication under subsection (1) is considered for the purposes of this Act to be present at the meeting.

(4) A meeting held under this Act may be held entirely by telephone, electronic means or other method of communication that permits all participants to communicate with each other during the meeting.

(5) A meeting held under subsection (4) shall be considered to be held at the place where the registered office of the corporation is located.

Section 21 of the Act was amended to add the following provisions to voting requirements:

(6) A vote referred to in this section may be held entirely by telephone, electronic means or other

method of communication where

- (a) the corporation approves and makes available the method of communication; and
- (b) the method of communication

(i) enables the votes to be gathered in a manner that permits their subsequent verification, and

(ii) permits the tallied votes to be presented to the corporation without it being possible for the corporation to identify how each member or group of members voted.

(7) A person participating in a meeting of directors or members under this Act and entitled to vote at that meeting may vote by telephone, electronic means or other method of communication that the corporation has made available for that purpose where that method of communication

- (a) enables the vote to be gathered in a manner that permits its subsequent verification; and
- (b) permits the tallied vote to be presented to the corporation without it being possible for the corporation to identify how the person voted.

Attendance at and participation in directors' meetings and members meetings may now occur by way of telephone, electronic means or other method of communication that allows all participants to communicate with each other during the meeting. The condominium corporation must approve and make available the chosen method of communication. Meetings may be held entirely in this way, provided that the requirements noted are met. Meetings held in this manner are considered to be held at the registered office

of the condominium corporation.

A vote by directors or the membership may now also be held by telephone, electronic means or other communication method, provided that the condominium corporation approves and makes available the method of communication. The method of communication must also allow votes to be gathered in a manner that permits subsequent verification and permits the tallied votes to be presented while protecting the anonymity of voters.

These amendments now provide more flexibility and options for corporations and their boards to conduct business while also respecting public health orders and the safety and comfort of directors and members. Corporations will have to review and consider the best communication method for their membership from the variety of platforms and services available. Certainly, there may be a learning curve for those not accustomed to some of these services, so corporations may have to consider training or tutorial sessions. Some corporations will already have provisions for virtual meetings and voting in their existing Bylaws. In those cases, boards should ensure that Bylaws are not inconsistent with the requirements of the legislation.

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The Registry of Condominiums: What boards should know

By Mark Graesser

Condominium Corporations are legal entities. This means that corporations and their boards have duties and powers ultimately enforceable in courts of law. Their legal status is established under the Condominium Act, 2009. Under the Act, a corporation must be formally recognized, or “registered,” by the Registrar of Condominiums. Records of this action and subsequent changes in the status of the corporation are maintained in the Registry of Condominiums. Directors should be aware of the importance of this office, and the need to maintain certain records there. They may also avail of limited opportunities to obtain current information about their corporation or others.

The Condominium Registry is one of nine similar registries, such as the Registry of Deeds and the Registry of Companies, falling within the Commercial Registrations Division of recently renamed Digital Government and Service NL. The Director of this division, Dean Doyle, is also the Registrar of the various registries, and Trudy Jordan the Deputy Registrar. The operations and records are located at 59 Elizabeth Avenue, where visitors will notice that most of the activity concerns title searches concerning titles and deeds. The condominium side of the office has a low profile.

Under section 7 of the Act, a corporation is established by submission and approval of the declaration, bylaws, and property description. The registry then assigns an official number, and creates a file for storing the original and all subsequent documents. These are specified in 7(1).

In particular, corporations are required to file any amendments to the declaration or by-laws. It is not

sufficient for a corporation just to complete the voting requirements for such amendments. Amendments only come into effect when evidence of the completion of the vote has been formally submitted to and approved by the Registrar. There is no stipulated form for compiling such evidence, so the procedure is probably best left to the corporation’s lawyer or property manager. However, the board may complete and submit the documents directly. There would then just be a small filing fee. Even in this situation, it would be advisable to obtain professional advice in compiling the application to avoid delays resulting from a faulty or inadequate submission.

Under section 17, a corporation is required to update two other pieces of information whenever they change: (1) the registered office and (2) the names and addresses of the directors. For example, if a corporation uses their property manager as their address, a change of managers would require filing the change with the registry. If even one director position is changed at an AGM or otherwise, this must also be registered. Standard forms for these changes are available to be downloaded, and a fee of \$10 is charged for each submission.

In principle, all registered information is public. The file can be viewed by making a personal visit to the registry. A process of digitizing the files began several years ago, so most filings are now potentially viewable remotely. Some are available using CADO, the Companies and Deeds Online database, and searching by corporate name or number. However, the search function is cumbersome, and relatively little information is currently viewable by unlicensed or unauthorized users. More can be seen using monitors at the registry.

We hope that this situation will be improved, given the new “Digital Government” moniker enjoyed by the ministry in which the registry resides. Meanwhile, CCI members are invited to use the accessible database independently compiled last year by the CCI-NL executive, located on our website (registered members only).

Mark Graesser has been a director and president of the Five-Nine on Roosevelt Condominium Corporation for ten years, and a member of the Executive of the CCI NL chapter for four years. The opinions expressed in this article are those of the author and do not necessarily represent or reflect the views of the CCI Newfoundland and Labrador Chapter. Readers are encouraged to seek the advice of professionals to address specific issues or individual situations. This article may not be reproduced, in whole or in part, without acknowledgement to the author.



The Condominium Registry, Elizabeth Avenue

CONDUCTING FIRE DRILLS DURING A PANDEMIC:

For those condominium directors who manage multi-story buildings and who, as part of their standard fire safety practice organize one or more fire drills per year, the guidance I received at Imperial Condominiums from the St. John's Regional Fire Department. regarding guidance for carrying out a fire drill in a COVID-19 environment may be of interest:

If you choose to conduct a drill, my recommendation would be to let everyone in the building know when the drill will be and advise them to maintain proper physical distance from whoever they encounter on the way out of the building and when outside. I hope this helps. Thanks.

Cara Pardy
Inspector, Fire Prevention Division
St. John's Regional Fire Department

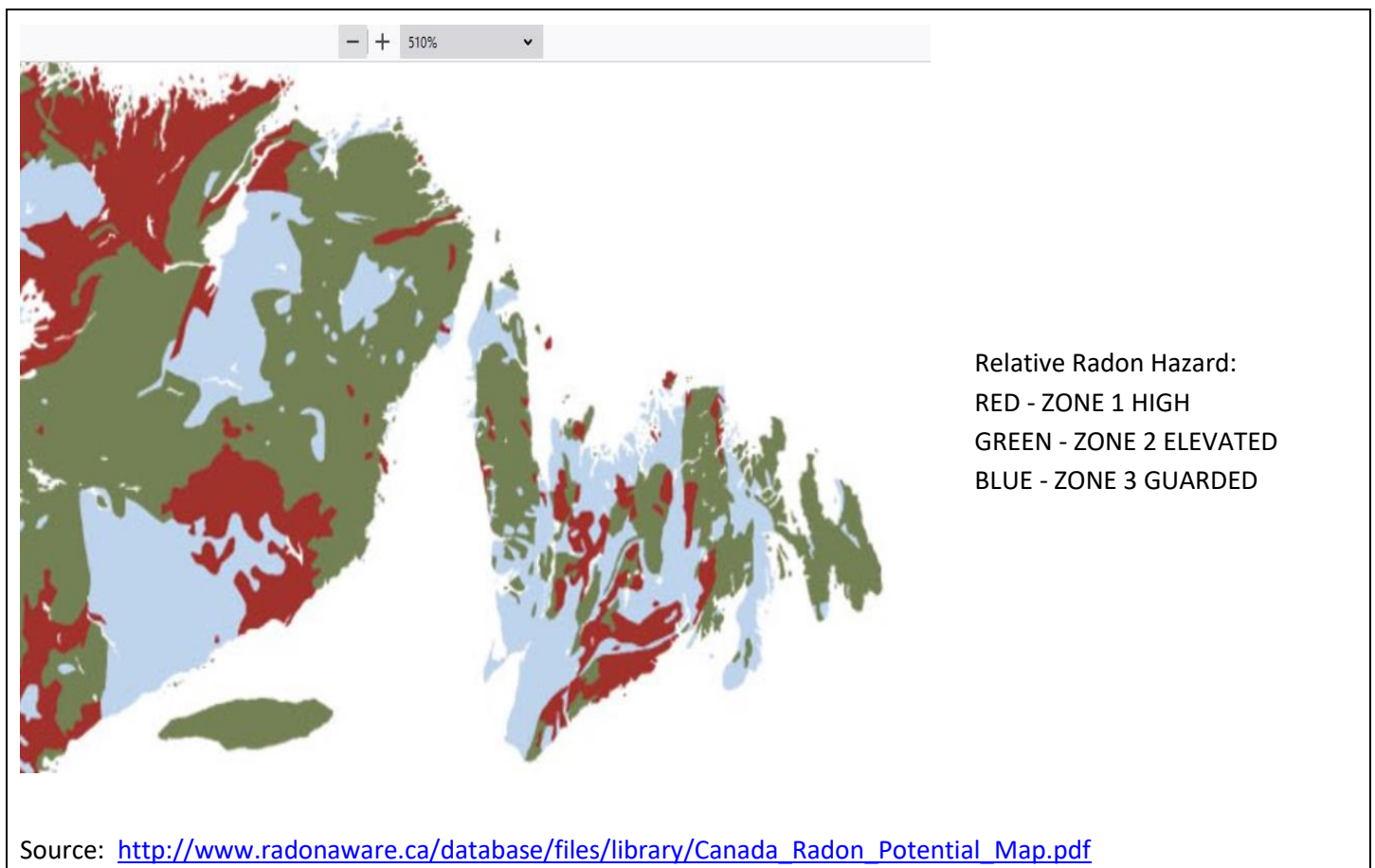
Radon Gas – What is it and what are the risks in your condo??

By David Cumming

Radon gas is produced by the decay of naturally occurring radioactive elements such as radium and uranium which are present in all rocks and soils. It is colourless, odourless and is the leading cause of lung cancer in Canada among non-smokers. Exposure to radon and tobacco use together can significantly increase your risk of lung cancer. For example, if you are a lifelong smoker your risk of getting lung cancer is 1 in 10. If you add long term exposure to a high level of

radon, your risk becomes 1 in 3. Health Canada estimates that radon is responsible for 16% of deaths in Canada from radon-induced lung cancer (typically 3,200 deaths/year).

The map of Newfoundland and Labrador presented below indicates that the highest levels of Radon Gas are found on the south coast with elevated levels found on the Avalon Peninsula.



Radon can enter a structure any place it finds an opening where the condo is in contact with the ground: cracks in foundation walls and in floor slabs, construction joints,

gaps around service pipes, support posts, window casements, floor drains, sumps or cavities inside walls. The Board of Directors of Imperial Condo, concerned about the level of radon gas in our condo situated on

Flavin St. in downtown St. John's, took steps to measure the level of radon gas over a period of several weeks in 2011.

We ordered two radon gas test kits from Alpha Energy Labs in Texas (<https://diyradon.com/products/alpha-energy-labs-radon-gas-test-kit>). One radon sensor was placed in the basement used as a storage space of our ~ 100 year old four story, 16 unit condo as it was suspected that this would be a likely site of high radon levels while the other sensor was positioned in the kitchen of one of our four attached townhouses. Then we sent the sensors back to Texas for analysis. Note that the concentration of radon gas is measured in becquerels per cubic meter (Bq/m³). The test results (estimated +/- 5% accuracy):

Basement measurement - 66.6 Bq/m³

Kitchen measurement - 44.4 Bq/m³

These days, radon test kit with lab analysis cost can be acquired from a local hardware store for less than \$100. Thus for a modest cost, it is recommended that your Board determine the radon level in your condo property to give you and your residents piece of mind.

Health Canada recommends taking action to reduce the radon level when your condo's results are 200 Bq/m³ or greater. If the radon concentration is found to be greater than 600 Bq/m³, the remedial actions are recommended to be completed in less than a year; between 200 Bq/m³

and 600 Bq/m³, the remedial actions should be completed in less than two years. Radon can be reduced by sealing cracks and other openings in the foundation thus limiting the flow of radon into your condo thereby making other radon reduction techniques more effective and cost-efficient. For more serious problems, Health Canada recommends that you hire a professional certified under the Canadian National Radon Proficiency Program (C-NRPP). Lowering radon levels in a condo requires specific technical knowledge and skills to ensure the job is done properly. Additional information on radon and on steps that can be taken to reduce the radon level in your condo building can be found in the following Health Canada document:

https://www.canada.ca/content/dam/hc-sc/migration/hc-sc/ewh-semt/alt_formats/pdf/pubs/radiation/radon_canadians-canadiens/radon_canadians-canadien-eng.pdf

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

CONDO CHRONICLE

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1/2 Page (3.5" x 9" or 7" x 4.5")	\$165.00
1 Full Page (7.5" x 10")	\$200.00
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*This would not be a newsletter page but a loose page inserted in the middle of the newsletter booklet

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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.



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CONDOMINIUM CORPORATION

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Membership through June 30, 2021

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

CONDOMINIUM CORPORATION

Condo Name/Number: _____

Number of Units: _____ Registration Date: _____

Development Style: ☐ Townhouse ☐ Apartment Style ☐ Other: _____

Address: _____ Suite #: _____

City: _____ Province: _____ Postal Code: _____

Phone: _____ Fax: _____

Email: _____

☐ I agree to receive electronic correspondence.

☐ I DO NOT wish to receive electronic correspondence.

Signature: _____ Date: _____

MANAGEMENT COMPANY (if applicable)

Primary Contact: _____

Address: _____ Suite #: _____

City: _____ Province: _____ Postal Code: _____

Phone: _____ Fax: _____

Email: _____

☐ I agree to receive electronic correspondence.

☐ I DO NOT wish to receive electronic correspondence.

Signature: _____ Date: _____

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

Electronic Correspondence:

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

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

BOARD MEMBERS

Board Member 1 Name: _____

Board Member 1 Email: _____

☐ I agree to receive electronic correspondence.

☐ I DO NOT wish to receive electronic correspondence.

Signature: _____ Date: _____

Board Member 2 Name: _____

Board Member 2 Email: _____

☐ I agree to receive electronic correspondence.

☐ I DO NOT wish to receive electronic correspondence.

Signature: _____ Date: _____

Board Member 3 Name: _____

Board Member 3 Email: _____

☐ I agree to receive electronic correspondence.

☐ I DO NOT wish to receive electronic correspondence.

Signature: _____ Date: _____

FEES & PAYMENT

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

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



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MEMBERSHIP APPLICATION

INDIVIDUAL / PROFESSIONAL / BUSINESS PARTNER

Membership through June 30, 2021

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

CONTACT INFORMATION

Name: _____

Company Name (if Professional or Business Partner): _____

Address: _____ Suite #: _____

City: _____ Province: _____ Postal Code: _____

Phone: _____ Fax: _____

Email: _____

Business Website: _____

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

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

☐ I agree to receive electronic correspondence.

☐ I DO NOT wish to receive electronic correspondence.

Signature: _____ Date: _____

METHOD OF PAYMENT:

Cheques should be made payable to:

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