



Message from the President

BY GEOFF PENNEY, BA, LLB, ACCI
CCI NATIONAL PRESIDENT

The summer season is beginning to wind down and the recurring theme I am hearing from many is that it all passed by so quickly. I trust that all of you took some time to enjoy the warm weather, to relax and to spend time with family and friends.

Traditionally, the President's Message has been a feature of our quarterly newsletter, along with articles and reports from across the country. You will notice something a little different with this edition. Our National Communications Committee have for some time been reviewing the National Newsletter with a view to improving its quality, making it more accessible and focusing on the issues and topics of importance to our members. These goals were reviewed in conjunction with the individual chapter newsletters and the very important information and resources they provide. It was felt that great value is placed on local content.

As a result, the former CCI National newsletter will now take a shorter form and will be referred to as the "National News". The *National News* will be available in electronic format and/or will appear as an insert in each of the individual Chapter newsletters. This new format will offer a scaled back version of the former national publication but will continue to include national and chapter events, chapter chats and some legal case reviews. We intend that the *National News* will refer to and be supplemented by more detailed articles and features which will be posted on the CCI National website.

We are all quite excited about this new format and look forward to your comments and feedback.

On an entirely different note, I'd like to briefly mention the disastrous impact experienced recently by our CCI friends in Alberta. As we all know, severe and extreme flooding in the province resulted in catastrophic damage and the displacement of thousands of people. Certainly the local condominium community was not spared and suffered significant losses. Media reports and film clips made all too clear the enormous scale of this event and the impact on all Albertans. However, we have also seen many examples of the strength and resolve of citizens even in the hardest hits areas. Your determination to rebuild and move forward is inspiring to us all and I know you have been in the thoughts of our CCI members across the country.

The Alberta floods serve as an extreme example of how quickly a natural disaster or other event can strike and of the devastating consequences for our members. CCI National has plans to investigate the development of a national disaster response and preparedness bulletin which we hope will be of assistance to others in the future should a similar incident occur.

In closing, I wish you all well and look forward to talking again in our next edition of *National News*.



EXECUTIVE PROFILE



**Bill Thompson, BA,
RCM, ACCI, FCCI**
President, Malvern
Condominium Property
Management
CCI National Vice
President

Bill Thompson has been in the property management industry since 1985. He has a Bachelor of Arts degree from York University. In his career, he has held positions ranging from Property Manager, to Vice-President, to President at three different management companies. Bill is currently the President of Malvern Condominium Property Management, which is an "ACMO 2000 Certified Company" that has exclusively managed Condominiums since 1972.

Bill served on the Board of Directors of the Association of Condominium Managers of Ontario for three years, and has been an active member on many of its committees. He was amongst the first to attain his R.C.M. designation in 1988. Bill instructed the Administration Course in the Humber College Property Management course for two semesters and has been a guest speaker at many condominium industry conferences and CCI courses. Bill attained his ACCI designation from the Canadian Condominium Institute in June 2000. He is a Past President of the CCI Toronto Chapter. 🍁

Condo Cases Across Canada

BY JAMES DAVIDSON, LL.B., ACCI, FCCI
NELLIGAN O'BRIEN PAYNE, OTTAWA



It is my pleasure to provide these brief summaries of recent condominium Court decisions across Canada. I don't provide summaries of every decision rendered. I select a handful of decisions that I hope readers will find interesting. I hope readers enjoy this regular column in the new "National News" supplement.

Note to readers: In B.C., condominium corporations are "strata corporations" and in Quebec, condominium corporations are "syndicates".

Please note that this is just a sample of the cases outlined for this issue. We now are proud to offer the full case summaries on our new website www.condocases.ca. The password to access this site will be updated yearly, and new password sent with your Membership renewal.

THE HOT TOPIC – Legal costs, for lien process, not always 100% recoverable

Owner's complaint about secondhand smoke had been settled and was therefore dismissed

The general principle is that legal costs incurred by a condominium corporation in order to collect common expense arrears are 100% recoverable from the defaulting owner (provided of course the costs are reasonable). The Courts refer to this as costs on a "solicitor-client scale", meaning that the condominium corporation is entitled to recover from the owner whatever amount the condominium corporation must pay to its own lawyer (again, provided the amount is reasonable). But a recent Ontario case says that this principle will not apply in every case. According to this decision, the Courts may sometimes order the owner to pay costs "on a partial indemnity scale", which is typically about 30% to 50% less than the actual amounts billed by the solicitor to the condominium corporation. I find this worrisome for the following reason.

Condominium corporations have an obligation (to the ownership as a whole) to aggressively recover common expenses from defaulting owners. Furthermore, condominium corporations have lien rights (for recovery of common expenses) specifically to ensure that there is security for this recovery. The basic idea is that the innocent owners should never be out of pocket because of one owner's default.

If a condominium corporation, in certain circumstances, is not entitled to fully recover its legal costs for the lien process, this will mean that condominium corporations must constantly question whether or not they should be aggressively taking advantage of their lien rights. In short, condominium corporations may be forced to soften their collection efforts, because of the fear that the related legal costs won't be considered reasonable and therefore won't be recoverable. In some cases, this may mean that collection is unreasonably delayed or even defeated, and that would be a most unfortunate result for all of the innocent owners.

York Condominium Corporation No. 345 vs. Qi (Ontario Superior Court) July 8, 2013

Given the particular circumstances, condominium corporation's costs for lien collection process to be assessed on a partial indemnity scale rather than on a solicitor-client scale

The defendant owners had defaulted on the payment of common expenses. The condominium corporation registered a lien and ultimately obtained summary judgment for possession of the unit and payment of the arrears. [The original default was \$497.51. This amount had "multiplied to about \$33,000" by the time of the summary judgment motion.]

The condominium corporation was also awarded costs of the summary judgment motion. The Court subsequently ordered that the costs be assessed. The Court also considered what scale of costs should be used by the assessor (the solicitor-client scale or the partial-indemnity scale). The Court ordered that the costs be assessed on a partial-indemnity scale, for the following reasons:

- i) *First, the legal expenses charged, totaling \$35,767.73 as of July 31, 2012 are immensely disproportionate to the arrears of common expenses claimed by YCC 345 from the defendants and which were allegedly paid or available to be paid at all material times. The defendants cannot reasonably have been expected to anticipate that they would be asked to pay legal costs of this magnitude given the amount of their original default.*
- ii) *In addition to the substantial legal costs claimed, YCC 345 has also been charged (sic) interest on arrears at a significant rate of 12% and it imposes a charge of \$25.00 per month no matter what the state of the arrears.*
- iii) *Legal fees of \$18,503.43 were incurred before the summary judgment motion. They almost doubled to \$35,767.73 at July 31, 2012 following the hearing of the motion. The relatively simple collection activity involved in trying to collect the common expense arrears and other amounts from these defendants, including the registration of the lien and preparing letters of demand, calls into question the reasonability of these amounts or whether they are excessive.*

continued...

Condo Cases Across Canada Cont'd.

iv) YCC 345 should have taken steps to reduce the conflict between the condominium corporation and the defendants by explaining and/or apologizing to them initially when it was claimed that hurtful and discriminatory language was used and when counsel for the defendants claims this was the only request they really made at that time.

v) The defendants offered to settle this matter in 2008 only two years after the dispute commenced, but four years before the summary judgment motion was brought, similar to what occurred in TCECC No. 1508 v. Stasya. . . Had reasonable efforts been made at that time five years ago to find a solution in the offer of settlement that was made, a solution that would have permitted both parties to exit gracefully from the dispute, it appears that the lion's share of the legal expense would never have occurred.

[Editorial Note:

The Court seems to be saying that a condominium corporation should be ready to compromise, in appropriate circumstances, when it comes to collection of common expenses, interest and related costs. But in my view the corporation's obligation is to fully recover those amounts on behalf of the remaining owners.

If the Court felt that the legal costs were unreasonable in this case, the Court could still have ordered that the cost award be reduced, even using the solicitor-client scale.]

British Columbia — **Fudge v. Owners, Strata Plan NW2636 (B.C. Provincial Court) September 28, 2012**

Owner entitled to recover damages (caused by sewer back-up) due to strata corporation's failure to maintain and repair waste water drains

The waste water drains in this high-rise strata property were undersized. This resulted in a back-up of waste water into the plaintiff's unit when the plaintiff's washing machine discharged into the waste water drain system.

The Court found that the strata corporation was liable for the resulting damage, due to its failure to upgrade the drainage system with reasonable haste (after learning of the problem). As a result, the strata corporation was obligated to pay to the owner:

- a) The cost of carpet replacement (subject to a betterment credit for replacement of 19-year old carpets with new carpets);
- b) The cost of mould remediation;
- c) The cost of initial carpet cleaning.

Alberta — **Canalta Construction Co. v. Dominion of Canada General Insurance Company (Alberta Queen's Bench) June 3, 2013**

Developer-Builder's insurer must defend claim by condominium corporation but could not establish a reserve fund for this purpose.

Condominium Corporation No. 0322472 brought a claim against the developer-builder, Canalta, for breach of contract and negligence resulting in alleged deficiencies and/or defects in relation to the condominium units which had been sold by Canalta. The alleged deficiencies related to the design and construction of the condominiums, which allegedly resulted in failure of a water main and failure of a roof system.

Canalta asserted that its commercial general liability insurer, Dominion, was obligated to defend the claim asserted by the condominium corporation.

The Court agreed that Dominion was obligated to defend the claim, under the developer-builder's commercial general liability (CGL) insurance policy. The Court said:

... I find that it is possible that the claim falls within the CGL policy, and that the exclusions either do not apply or if they do, then exceptions to the exclusions apply.

Ontario — **IRE-YONGE Developers Inc. v. City of Toronto (Ontario Municipal Board) June 7, 2013**

OMB refuses to approve proposed mix-use building. Four nearby condominium corporations among those opposing the proposed development

A developer appealed to the OMB after the City of Toronto failed to make a decision respecting the developer's application for zoning and official plan amendment (to allow a proposed mixed-use development).

The OMB dismissed the appeal. Four nearby condominium corporations also participated in the OMB hearing, as parties in opposition to the proposed development. 🍁

CCI LEADERS' FORUM



CCI Spring 2013 Leaders Forum

In June, 2013, over 60 delegates from all 16 chapter boards met in Edmonton, AB at the Fantasyland Hotel for a two-day conference of fun and learning. Building on the previous successes of the Leaders Forum format, Chapter and National leaders shared and learned from each other on a variety of topics including "Defining the Members Value Proposition", "Communication in a Modern Age", and "Volunteers in Your Chapter – the Three R's". Those sessions, along with the networking and round tables have prepared many of CCI's chapter boards to better serve the needs of the members in their area and grow CCI's value and name in their respective regions. It is clear that bringing as many chapter leaders together creates a stronger CCI nationally. The twice-yearly Leaders forums are

growing each time, and we can't wait to see what the November 2013 forum has in store!

CCI National would also like to thank the North Alberta Chapter for the planning of their excellent social events. The group had a fabulously fun night taking in "My Big Fat Edmonton Wedding" at the Jubilation Dinner Theatre, along with an elegant evening at the Muttart Conservatory. The Chapter could not have been more welcoming and we certainly all enjoyed our short, but busy time in Edmonton! 🍁



CCI National Council and Executive Board



Everyone listening intently to a seminar session.



Round Table discussions yielded great ideas!



Friends gathered from across the country for a dinner at the Muttart Conservatory.

CCI Spring 2013 Leaders Forum Cont'd.



Taking in one of the pavilions at the Muttart.



CCI Birthdays celebrated on stage at My Big Fat Edmonton Wedding!



Delegates certainly enjoyed The Red Piano at West Edmonton Mall.

Did anyone dare to try out the indoor, looping roller coaster at the Mall?



FALL 2013 UPCOMING EVENTS

September 28-October 3	Level 200 Course	Golden Horseshoe Chapter
October 7	Presidents Club: Hiring a Contractor	Huronian Chapter
October 24	Condo 101 Course	South Alberta Chapter
October 26	Depreciation Reports Seminar & AGM	Vancouver Chapter
October 26-November 16	CM 200 Course	Nova Scotia Chapter
November 2	Fall Conference & AGM	South Saskatchewan Chapter
November 9-10	Fall Directors Course	Ottawa & Area Chapter
November 15-16	17th CCI-T/ACMO Condo Conference	Toronto & Area Chapter
November 19	Construction & Contract Issues Seminar	London & Area Chapter
November 21	Insurance-Corporation vs. Owner Responsibilities Seminar	Manitoba Chapter

For specific information and registration forms for the courses, workshops and seminars noted above, please contact the appropriate CCI Chapter.

CHAPTER CHATTER



South Saskatchewan Chapter –

While normally the Spring is a time for rebirth, Fall is shaping up that way for the South Saskatchewan Chapter. . . and that makes it our favourite, exciting season!

Fall 2013 marks the return of a regular seminar series in the Regina area. We kicked it off with an evening seminar on September 14, with the topic of Bylaws Enforcement, led by Nicor Community Management's Ross Keith and Lindsay Torrie.

After that, November brings the area's Annual Fall Conference and AGM on Saturday, November 2. This promises to be another full day of great sessions, networking and sharing of ideas. We are hoping that 2013 will be the biggest conference yet!

The Fall issue of the CondoVoice is currently in production, and we are excited to build on the success of previous issues with even more interesting articles and information for our members.

As always, South Saskatchewan is looking for volunteers to help lead the chapter as the condo community in Greater Regina area grows by leaps and bounds. If you are interested in helping out by writing an article, leading a seminar or perhaps serving on the chapter Board of Directors, please contact the office at cci-ssk@cci.ca.

*Alison Nash, Operations Manager
CCI South Saskatchewan Chapter*



South Alberta Chapter – September

is here and so is the beginning of another year for CCI South Alberta.

Our 2012-2013 year ended on a sad note as the Alberta floods were in full force. Many multi-family dwellings were affected in South Alberta, including some of our members. As Alberta begins to pick up the pieces, CCI South Alberta strives to be a source of education and guidance to those affected. Due to the flooding our June luncheon and annual Golf Tournament were cancelled.

We have finalized dates for our Condominium Management Courses including three 101 courses and one of each of our 100, 200 & 300 courses.

Our Chapter has been working closely with Service Alberta by providing our condominium owner members the opportunity to participate in Task Teams that will help to develop balanced and objective solutions to unresolved/contentious issues under the Condominium Property Act. This is very exciting for our Chapter as this is allowing our membership to help direct the future of condominium legislation in Alberta.

Our Annual General Meeting will be held September 24th where our new board of directors will be elected.

Please visit our website, www.ccisouthalberta.com for more information on our chapter. We are looking forward to another great year!

*Melanie Bennett
CCI South Alberta Chapter, Administrator*



Golden Horseshoe Chapter –

The Golden Horseshoe Chapter has been quite active over the summer months. After another successful Conference and Trade Show on April 27th at the Hamilton Convention Centre, the Board of Directors decided it was time to expand our biannual event to a yearly event and the Conference committee went right to work. Please mark your calendars for May 10th, 2014 for our first Conference and Trade Show in Kitchener!

Our Education Committee has been working hard all summer as well. Last year, we introduced our first Level 300 course. Tony Gatto developed a Level 300 Accounting course with great success. This fall, we will introduce another Level 300 course on Governance to be held on November 23rd, 2013 in Milton. We look forward to launching even more Level 300 courses in 2014.

The Communication Committee and the Professional Partners' committee have been hard at work too. This year we published our third edition of the Professional Partners Directory. This year's edition has some new features to it, including a glossy cover and a Condo News article index from 2011-2013.

The Board will be facing some changes over the next few months as three of our current board members will be leaving the board. The Golden Horseshoe Chapter would like to thank Don Chown, Robert Mullin and Ed Keenleyside for all of their hard work and dedication over the years. Michael Clifton will be moving on from his role as President to Past President as we welcome Karen Reynolds as the new President of the Golden Horseshoe Chapter for the next two years.

continued . . .

CHAPTER CHATTER

For more information on membership or upcoming events in the Golden Horseshoe Chapter, please visit www.ghccci.org

*Theresa Place, Chapter Administrator
CCI Golden Horseshoe Chapter*



Nova Scotia Chapter – Over the past several months there have been two initiatives by the Registrar of Condominiums for Nova Scotia that will impact both new and existing condominiums, both of which have CCI involvement.

Smoke Free Condos: The Registrar announced that condominium developers may designate their corporations as 100% smoke free, including the units, if they so choose. Such designation would need to be appropriately covered in the Declaration and By Laws at the time of registration.

He further indicated that over the years there have been a limited number of requests received from existing condominium corporations to have their building designated as 100% smoke free. These requests pre-dated the enactment of the *Smoke-free Places Act* in Nova Scotia, and were rejected due to complications or controversy that retroactive smoke-free designation would create.

In April 2011, the Province adopted a comprehensive tobacco control strategy in its document *Moving toward a Tobacco-Free Nova Scotia*. In light of these developments, and with the involvement of Depart-

ment of Health and Wellness and Public Health Services, Capital Health, the Registrar announced: provided that the appropriate amending provisions of the Condominium Act are followed, an existing condominium corporation may designate itself as 100% smoke-free.

Condo Act Review: In June the Registrar convened a Condominium Stakeholders Committee to work with his Office to address needed amendments to the Condominium Act. The amendments – some minor, others more significant – have been identified since September 2011 when the current Act and Regs were proclaimed. The Committee is meeting monthly and includes representatives from the legal and real estate community, property management, as well as representation from CCI and CONS.

*Maurice Lloyd
CCI Nova Scotia, Administrator* 🍁

IT'S AGM SEASON!!

This fall, all of our chapters will be holding their Annual General Meetings. It's a great time to find out what's going on in your chapter and what's in store! You might even want to run for your local board or get involved. For more information on your chapter's AGM, please visit the chapter website:



Vancouver Chapter - <http://www.ccivancouver.ca/>
South Alberta Chapter - <http://ccisouthalberta.com/>
North Alberta Chapter - <http://www.cci.ca/NorthAlberta/>
South Saskatchewan Chapter - <http://www.cci.ca/ssc/>
North Saskatchewan Chapter - <http://www.cci.ca/NorthSaskatchewan/>
Manitoba Chapter - <http://www.cci.ca/Manitoba/>
Northwestern Ontario Chapter - <http://www.cci.ca/NWOntario/>
Windsor-Essex County Chapter - <http://www.cci.ca/Windsor/>
London & Area Chapter - <http://www.cci-sw.on.ca/>
Golden Horseshoe Chapter - <http://www.ghccci.org/>
Toronto & Area Chapter - <http://www.ccitoronto.org/>
Huron Chapter - <http://www.ccihuron.com/>
Ottawa & Area Chapter - <http://www.cci.ca/ottawa/>
New Brunswick Chapter - <http://www.cci.ca/NewBrunswick/>
Nova Scotia Chapter - <http://www.ccinovascotia.ca/>
Newfoundland & Labrador Chapter - <http://www.cci.ca/Newfoundland/>

CCI National - November 15, 2013, Toronto, ON



The ACCI Program Continues to grow!

The ACCI exams are now available for three professions across the country!

If you are a **Lawyer, Property Manager**, and now **Realtor**, the new, updated and online exams are now available for you!! More professions will be added as exams are updated.

The **ACCI designation** is the only National accreditation program that will set you apart from all the other professionals in your area and demonstrate your expertise and knowledge in the area of condominiums.

Promote the ACCI to all your chapter's Professional Members. Having more ACCIs will raise the bar for the Condominium Industry in your area!

*For more information and to apply for the ACCI,
please go to www.cci.ca/acci or contact the
CCI National Office at 416-491-6216 / 1-866-491-6216*



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...to professionals