



Message from the President

BY BILL THOMPSON, BA, RCM, ACCI, FCCI
CCI NATIONAL PRESIDENT

I Told A Friend

Just the other day, a good friend of mine asked me what was new in my life. Inevitably, the topic turned to my time spent volunteering for CCI, because that is where the passion in my life contribution comes from. Suddenly I became animated, and my voice level raised and I started to talk faster, and the information about CCI started to flow from my lips like water over the falls. He started to laugh at me, and told me that my Movember moustache really dances around when I am like that, and we had a good laugh at my expense. A couple of days after that, my phone rang, and my friend said, "So how do I get involved in CCI?", and a little light went on in my otherwise dark head. My discussion had recruited another person who wanted to be passionate about something worthwhile, where they could make a difference in the world, and in themselves.

Then I remembered a very similar discussion some fifteen years ago between myself and Bob Gardiner, a Toronto lawyer, industry leader and CCI supporter, who was President of the Toronto Chapter at the time. I was the one who was jealous of his passion and his commitment, and his ability to help shape the world in positive ways. Bob had excited me, converted me and recruited me in one passionate conversation. He closed the conversation by saying "CCI needs people like you to give them the wisdom and the guidance to make Condominiums better."

It was a turning point in my life that I will never regret, and I will always remember like it was yesterday. Since that time I have dedicated thousands of hours to helping CCI get their job done, and will forever be in CCI's debt for believing in me and giving me this opportunity.

I have attended many CCI sessions over the years since then, and will be the first to admit that I take away more than I give at each and every one of them. Our Leaders' Forums have become such inspiring, supportive networking and learning events that my head spins for weeks after trying to figure out how I can incorporate all of those pearls of wisdom that are shared so freely from Chapter to Chapter and person to person. I know that I do not have the time to make every one happen because there are only twenty four hours in the day, unless I work overtime! I know that we need help to reach out to the wave of new condominium Owners and Boards that are at our doors. I also know that there is a solution.

As your newly elected President, I would like to thank you for this opportunity to lead such a wonderful group of people, collectively known as the Canadian Condominium Institute. I will do my best to help support your efforts in any way that I can. I will be working with a talented, passionate Executive to find and create successes to celebrate over the next two years. Together, we can accomplish exponentially more than we can apart. Let me put

out a personal challenge to every one of our members. It is simple, and you probably won't even know that you are doing it when you do, but doing it will get us the resources that we need to meet the growing challenge of this marketplace. My challenge is for each member to simply tell a friend about CCI. Close that conversation by asking them to help us. Ask them to join in what you so strongly believe in. Let's watch our passion double in a single conversation.

Season's Greetings

The CCI Executive Board, National Council, and staff wish to extend warm holiday wishes to all CCI members, Associates and Friends.

Kindly note that the CCI National Office will be closed for the Holidays, Wednesday, December 24th.

The office will re-open on Monday, January 5, 2015.

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 of the CCI Review.

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

Note: This publication contains only a handful of this quarter's summaries. CCI members who would like to see the rest of this quarter's summaries can find them at the Condo Cases Across Canada website: www.condocases.ca The current password is "condocases".

James Davidson LLB, ACCI, FCCI, Nelligan O'Brien Payne, Ottawa

THE HOT TOPIC – Ontario developer places limits upon its potential liability

A recent Ontario decision deals with a novel procedure by which a developer was able to place limits upon its potential liability. Here's my summary of the case.

Toronto Standard Condominium Corporation No. 2095 v. West Harbour City (I) Residences Corp. (Ontario Court of Appeal) October 22, 2014

Appeal dismissed. Agreement to limit developer's liability, entered into by developer-controlled Board, found binding and enforceable.

At a time when the condominium Board was controlled by the developer, the condominium corporation passed a by-law which authorized the condominium corporation to enter into an agreement with the developer, stating that the developer's liability to the condominium corporation (for building defects) was limited to the developer's obligations under the *Ontario New Home Warranties Plan Act*. The condominium corporation then entered into the agreement.

After the developer was no longer in control of the condominium corporation, the corporation applied for a declaration that the by-law and agreement were void and of no force and effect. The condominium corporation was not successful at the lower Court. [See Condo Cases Across

Canada, Part 44, November 2013.]

The condominium corporation appealed the decision to the Court of Appeal, and the appeal was dismissed. The Court of Appeal said:

The by-law and agreement were disclosed to the individual unit purchasers and that the by-law was placed on title giving notice to the world of its terms. In these circumstances, I see no basis for finding that in passing the by-law and entering into the warranty agreement the directors acted in violation of their duties or for concluding that the by-law was ultra vires.

...

The consideration for the warranty agreement is to be found in the creation of the condominium project as a whole. The unit owners, as a group, own all of the common elements and their purchase from the declarant includes both the purchase of their respective units and, in the aggregate, the purchase of the common elements. . .

...

There is nothing inherently unreasonable in a declarant limiting its liability for construction deficiencies in the manner done here.

[Editorial Note – it seems to me that this decision may still leave some unanswered questions:

- 1. Is the decision confined only to warranty claims – not to tort claims? The first paragraph of the decision refers very specifically to limits upon the declarant's warranties.*
- 2. Along the same lines, is this decision only intended to apply to deficiencies that are covered by the Tarion warranties (ie, warranties under the Ontario New Home Warranties Plan Act)?*
The decision includes the following sentences: "There is no suggestion that, when it entered into the agreement, the declarant knew of any deficiencies that would not be covered by the Tarion Warranty Corporation process. All of the construction deficiencies identified to date are being addressed within that process." So, again, is this decision only saying that the condominium corporation is obligated to pursue the Tarion claims process (as opposed to a Court process) when the Tarion claims process applies or is available in relation to a particular defect?
- 3. Does the decision also apply to tort claims (for instance, claims for negligent design, inspection or construction) derived from the rights of subsequent purchasers?*
- 4. Would such an agreement (between a declarant and a condominium corporation) prevent the corporation from asserting claims against others involved in the original construction, such as engineers, architects, the municipality, contractors or the builder?]*

continued...

Condo Cases Across Canada Cont'd.

BC Case – **Strata Corp. LMS3442 v. Storozuk (British Columbia Supreme Court) August 11, 2014**

Owner entitled to exemption from “no renting” by-law

The strata corporation's by-laws included a by-law prohibiting owners from renting their strata lots. Pursuant to Section 144 of the Strata Property Act, one of the owners sought the Strata Council's consent to allow him to rent his strata lot (ie. for exemption from the by-law), due to his financial hardship. The owner went ahead and rented the strata lot before the Strata Council gave consent. As a result of this breach of the by-laws, the Strata Council decided to impose fines on the owner. However, the Strata Council also held a hearing to consider the owner's application for exemption from the by-law; and declined to grant the requested exemption.

The owner refused to pay the fines and the strata corporation started this Court proceeding for recovery of the fines.

The Court held that the owner was entitled to the requested exemption from the by-law, because the strata corporation had failed to meet the technical requirement, in Section 144 of the Strata Property Act, that its decision be provided to the owner, in writing, within one week after the “exemption hearing”. The Court said:

While the strict interpretation of the statute seems unjust given that Mr. Storozuk knew the result from the oral decision, received the written decision only one day late, rented his condo without following the proper procedure himself, and likely acted in bad faith by attempting to mislead the (strata corporation) by stating that the tenants were “renting to own”, I find that I am bound to apply the statute. The statute specifically states that an exemption is allowed if the strata corporation does not give its decision in writing within one week after a hearing is held.

The strata corporation's claim for recovery of the fines was dismissed.

Alberta Case – **Condominium Plan No. 762 1302 v. Stebbing (Alberta Court of Queen's Bench) August 11, 2014**

Pet violates by-law, but removal stayed until pet either dies or is relocated

The condominium by-laws permitted pets with written consent of the Board. The Board had traditionally provided consent, upon request, and there were a number of pets in the building.

The by-laws also provided for removal of any pet deemed to be a nuisance.

One of the owners had two cats, and she had failed to request or obtain consent for the cats. The corporation demanded that the cats be removed – due to the lack of consent (not because the cats had caused any sort of problem). The owner refused to remove the cats. [By the time of the Court Hearing, only one cat remained.] The Court said that the Board had a duty “to act fairly in making a decision that affects the ‘rights, privileges or interests’ of an owner”. The Court considered the principles of oppression contained in Section 67 of the *Condominium Property Act*, and the competing interests of the pet owner and the other residents in the building (including some with allergies to cats) and declared that the pet owner was in breach of the by-law (for the lack of written consent). However, the Court ordered that the enforcement of the by-law be stayed or delayed until the cat either died of natural causes or was relocated.

Quebec Case – **Bouchard v. Syndicat des Copropriétaires le Val-Des-Arbres (Quebec Small Claims Court) (September 8, 2014)**

Board did not have knowledge of increase when information released to Plaintiff. Plaintiff not entitled to avoid special assessment

On June 21, 2012, in response to a request from the Plaintiff purchaser, the Syndicat issued a letter to the Plaintiff's notary stating that there were no anticipated special assessments. In July and August of 2012, the Directors for the Syndicat met to discuss the current expenses, and the preparation of a five year plan to allow for completion of certain required maintenance on the property, with a view to providing a detailed plan to the owners, as well as notice of whether a special assessment may be required to complete the work. In November of 2012, the plan was presented to the owners, at a meeting, for discussion and approval. At the meeting, the owners approved the plan and the special assessment.

At the trial, the Plaintiff argued that the Committee should have known that work was required, in June, when the letter was issued, and accordingly purposely withheld the information. The Court found that the Plaintiff had not discharged her burden of proof, and that there was insufficient evidence to provide that the Committee had knowledge of a need for a special assessment at the time that the letter was issued. The case against the Syndicat was dismissed, with costs against the Plaintiff. 🍁

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2014 LEADERS' FORUM

NOVEMBER 5-6, 2014
TORONTO, ONTARIO



Canadian Condominium Institute **CCI** Institut canadien des condominiums
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BY CHAPTERS FOR CHAPTERS

CCI Fall Leaders' Forum, Annual General Meeting and Awards

This year, the Fall Leaders' Forum and National Annual General Meeting featured a new format and a new downtown Toronto location, both of which were welcomed by participants. The CCI National Council and over 55 Chapter delegates attended and participated in the opportunity for our 16 Chapters to share their ideas, highlight their successes, and learn from the Committee and Chapter presentations. The AGM allowed us to recognize three individuals as Fellows of the CCI (FCCI) and congratulate the winners of the H. Penman Smith Chapter Newsletter of the Year Award and the Lorne Young Chapter of the Year Award. Congratulations to all our recipients and Chapter winners, and thank you for your outstanding contributions to CCI's continued success!



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



National AGM Attendees



Geoff Penney, presenting the gavel plaque to outgoing CCI National Chair, Jim MacKenzie



Leaders' Forum Workshop



Carol Burke receiving her 5 Year Award for her tenure on the CCI National Council.

CCI Fall 2014 Leaders' Forum and AGM Cont'd.



FCCI Recipient, Maria Bartolotti, receiving her plaque from CCI South Alberta Council Rep, Andrew Fulcher



Karen Reynolds, Golden Horseshoe Chapter President, presenting the FCCI plaque to Maria Finoro



Brian Horlick, CCI Toronto President, presenting the FCCI plaque to Park Thompson

Congratulations to H. Penman Smith Chapter Newsletter of the Year Winners



Tier 1 – CCI South Saskatchewan Chapter



Tier 2 – CCI North Alberta Chapter

Congratulations to This Year's Lorne Young Chapter of the Year Winners



Tier 1 – CCI South Alberta Chapter



Tier 2 – CCI Golden Horseshoe Chapter

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CHAPTER CHATTER



London & Area Chapter – The 2014-2015 year is more than well on its way and the London and Area Chapter has had some changes. I am the new Administrator for our chapter. With our Annual General Meeting in September we said our good-byes to condo veteran and long time Board Member Kay Stallard. We are delighted to have our President Michael Lander and our Secretary Kevin Dietrich return for another term on the Board with us. Trish Kaplan has opted to give up her role as Treasurer on the Board but remain as a member and active chairperson on several committees. Thank you to all of our Board Members for continually offering their time and expertise to our CCI Community.

London's first CCI "Condo of the Year" was awarded to MCC 257.

Our annual golf tournament was again a great success this year. Held at Pine Knot Golf & Country club a good time was had by all participants. It was a well sponsored event and gave us an opportunity to raise some funds. The fundraising committee is possibly looking into combining a silent auction night with the golf tournament next year making it an even bigger event.

The London and Area Chapter annual Condominium Course on November 1st and November 8th was another huge success. The facilitators were top-notch professionals from our very own condo community. They were able to share their expertise and offer an abundance of personal knowledge to our 65 participants. We must thank Barry Scott, Susan Size, Bart Porter, April Pittenbreigh, Michael Lander, Kim DeVries, Joe Hoffer, Robin Whimster, Ian Low, Beth Newbould, Jeffrey

Bell and Trish Kaplan for their generous contribution of time, effort and know-how. With the fantastic education, great venue and awesome food... it was an event not to be missed.

Our Education Committee continues to prepare for the upcoming year of enlightening and teaching. November 18th Michelle Kelly and Stephanie Sutherland from Sutherland Kelly LLP law firm will be speaking on "It all comes back to the DOCUMENTS"... a seminar stressing the importance of not only knowing the contents of our condominiums documents but how to enforce them as well. Seminars will be held on January 20th and March 24th. And of course our annual seminar "There are no Stupid Questions" will be on May 26th.

We started off to a bit of a slow start but members, both new and old, continue to register for their 2014-2015 memberships. Promoting condo living through our consistent education opportunities is a great way to encourage membership and we will continue to do so, hoping to continually increase our community numbers.

This has been a very busy season and we all look very much forward to the next.

*Debbie Kramers, Administrator
CCI London and Area Chapter*



Nova Scotia Chapter – The Chapter held our first Conference and Trade Show in June at Mount Saint Vincent University. It was a great success: attendees turned out in good numbers and our Professional and Business Partner Members had the Trade Show bristling with booths and

displays. Lots of networking and a bonus: we had four registrants from Prince Edward Island. Our second Conference and Trade Show is scheduled for May 2015 and we're getting interest already. Our 2014-15 year started with our AGM in September featuring a "No Stupid Questions" panel along with Chapter business and election of Directors. We had a good turnout in November for CM100 and were especially pleased to have good representation from members outside of the Halifax area. It's going to be a busy year.

Membership has continued to grow partly because of an effective Complimentary Membership program. Prospective members who join during the first six months of the calendar year get a membership through to the end of the next fiscal year. This has proven of interest to new members and the retention rate has been quite high.

Current issues of concern to our members include property taxation, conversion to smoke-free condos, construction and maintenance issues, and how to run a good Board of Directors meeting. Communicating with our members is an issue: we are wrestling with how to use social media to boost CCI profile and advocacy efforts. We're also examining whether traditional communications -- regular mail and e-mail -- are more effective, especially in efforts to reach individual owners as well as the directors of condo corporations.

We continue to support the New Brunswick Chapter through sharing of our Newsletter. CCI-NB is now a full-fledged independent member of the CCI family and is making its own mark on the condominium sector in NB. Our PEI member is spearheading an initiative to see a new Condominium Act for PEI and both the NS and NB Chapters have offered to help. The number of condos in PEI is not large but future co-operation and support will help both the owners and the industry.

*Rod Ziegler, Newsletter Editor
CCI Nova Scotia Chapter*

continued...

Chapter Chatter Cont'd.



South Alberta Chapter – Our team at the board level is very pro-active and we have developed some strong committees to focus on education, awards, government issues, communication at a national level, memberships and conferences. Each committee is working on some great initiatives right now that I would like to highlight. Our Conference Committee successfully delivered the 2nd Annual CCI – ACMA – REIC Building Stronger Relationships Conference and Tradeshow on September 11 - 12, 2014. With 181 attendees and exhibitors, the conference was full of educational seminars, networking, and a legal panel. It featured Cassie Campbell-Pascall from Hockey Night in Canada as the keynote speaker. We are looking forward to the 3rd annual conference in 2015.

Our Awards & Recognition Committee did a superb job with the Condo of the Year Award. A lot of work goes into researching each entry and this year's finalist was not an easy decision. I'd like to congratulate Park Place Condominium Corporation as the 2014 recipient of this award. Park Place impressed our committee with their "Small Town in the City." Park Place really defined what it means to be a successful condo community.

Our Education Committee has started the process of reviewing the 100 – 300 course material in effort to deliver updated content. The concept is for each chapter to be consistent with their offering, while keeping differences in provincial legislation in check. This is a massive undertaking and will take a lot of time and work.

Each year CCI chapters compete for the 'Lorne Young Chapter of the Year' distinction and plaque. The award goes to the chapter providing the most benefit to its members and exceeds the minimum requirements in all areas of chapter re-certification requirements. I am pleased to advise that for the second year in a row CCI South Alberta was named Chapter of the Year at the CCI National Leaders' Forum in Toronto, November 5th, 2014 for Tier 1.

Lastly, I'd like to congratulate Maria Bartolotti who was presented with her FCCI recognition award. Well done Maria!

I look forward to a successful growth year for CCI in 2015 and wish you all the best of the holiday season.

*Greg Cortese, President
CCI South Alberta Chapter*

EXECUTIVE PROFILE



Doug Forbes

Doug was introduced to condominium law as an articling student in 1989, and then as a unit owner. Doug subsequently became a member of the Board of Directors of his Condominium's Corporation, and eventually President.

Doug has been a professional member of the Canadian Condominium Institute (Manitoba Chapter) for over 20 years. He has been on the Board of Directors of the Manitoba Chapter since 1998, and is a Past President of the Manitoba Chapter. Doug is also the Chair of the Manitoba Chapter's Ethics Committee and the past-chair of the Property Tax Committee.

Doug is also currently a member of the Executive Council of the governing body of CCI (National) and has recently been elected as Vice-President of CCI (National). As a partner in the law firm of Thompson Dorfman Sweatman LLP, Doug acts for condominium corporations, developers, lenders, and individuals in apartment, townhouse, and bare land style condominiums. In addition to his involvement in condominium law, he practices in the area of Real Estate law and in Corporate/Commercial law.

Doug frequently provides advice and assistance in areas such as drafting, interpreting, and amending declarations and by-laws, disputes between boards and unit owners, collection of common expense arrears, and assisting in governance issues for condominium developments of all styles and sizes. Doug regularly contributes to, or chairs, meetings for condominium corporations.

Doug says he likes condominium law because "it is a nice mixture of commercial or business law and a human element. There is more at stake than money, it involves how people live, and how they live with each other."

Doug regularly presents at seminars and workshops on condominium issues at both a local and a national level. Recently he has been providing seminars on the new Condominium Act that is coming into force on February 1, 2015 in Manitoba. ❄️

Following the CCI National November 5th Annual General Meeting, we are pleased to introduce your 2014-2015 National Executive Board and National Council.

National Executive Board

Chairman: Geoffrey K. Penney, BA, LLB, ACCI (NL)
President: Bill Thompson, BA, RCM, ACCI, FCCI (TOR)
Vice-President: Douglas J. Forbes, LLB (MB)
Member-at-Large: Jim Allison (VAN)
Member-at-Large: Kim Coulter, B.Tech. (Arch.Sc), ACCI, FCCI (GHC)
Member-at-Large: Stephen Cassady, CCI (Hon's) (S AB)
Member-at-Large: Jamie Herle, LLB, ACCI (N SK)
Secretary/Treasurer: Peter K. Harris, CA, ACCI, FCCI (TOR)

National Council

Vancouver Chapter: Paul Murcutt
North Alberta Chapter: Anand Sharma
South Alberta Chapter: Greg Cortese
North Saskatchewan Chapter: Donna Singbeil
South Saskatchewan Chapter: Gerry Cairns
Manitoba Chapter: Jane Lecours
Northwestern Ontario Chapter: Doug Shanks
Windsor Chapter: William C. Norris
Huron Chapter: Sonja Hodis, LLB
London Chapter: Don Peter, CIM, P.Mgr., CMM, CCI (Hon's)
Golden Horseshoe Chapter: Maria Finoro, RCM, ACCI, FCCI
Toronto & Area Chapter: Sally Thompson, P.Eng.
Ottawa Chapter: Constance Hudak, MBA
New Brunswick Chapter: Phil Williams
Nova Scotia Chapter: Robert St. Laurent
Newfoundland & Labrador Chapter: Carol Burke

UPCOMING EVENTS

Golden Horseshoe:

February 13, 2015 – Luncheon – Dealing with Differences (Kitchener)

London & Area Chapter:

January 20, 2015 – Seminar

March 24, 2015 – Seminar

Manitoba Chapter:

January 22/2015 – Luncheon – Help Me, I'm a Condo Director

February 19, 2015 – Luncheon – Legal Liabilities – What You Don't Know CAN Hurt You

March 19, 2015 – Luncheon – Board Meetings: Moderating/Board Turnover/Succession Planning

April 23, 2015 – Luncheon – Teamwork: Boards and Property Managers

May 21, 2015 – Luncheon – Money Matters

North Alberta Chapter:

January 8/2015 – Luncheon – Making Your Condominium More Saleable

January 21/2015 – Seminar – Condo Communications

January 24 & 25 – Condominium Management 100

February 12, 2015 – Luncheon – Preparing for Major Capital Projects

February 18, 2015 – Seminar – By-Laws & Enforcement

February 19, 2015 – Condo 101

March 19, 2015 – Condo 101

March 21-22, 2015 – Condominium Management 100

March 28-29, 2015 – Condominium Management 200

South Alberta Chapter:

January 27/2015 – Luncheon

February 21 & 28, 2015 – Condominium Management 200

February 24, 2015 – Luncheon

March 24, 2015 – Luncheon

March 26, 2015 – Condominium Management 101

April 16, 23 & 30, 2015 – Condominium Management 300

Vancouver Chapter:

January 13/2015 – Seminar: Council Meetings

February 7/2015 – Seminar: Contracts for Major Project; Selecting a Contractor

March 10, 2015 – Seminar: Volunteers in Your Strata

This is just a snapshot of all the great events being held across the country...to register for any of these or see more fabulous educational offerings, please contact your local chapter.

For more information on more upcoming events in your area, please visit the chapter website.

www.cci.ca