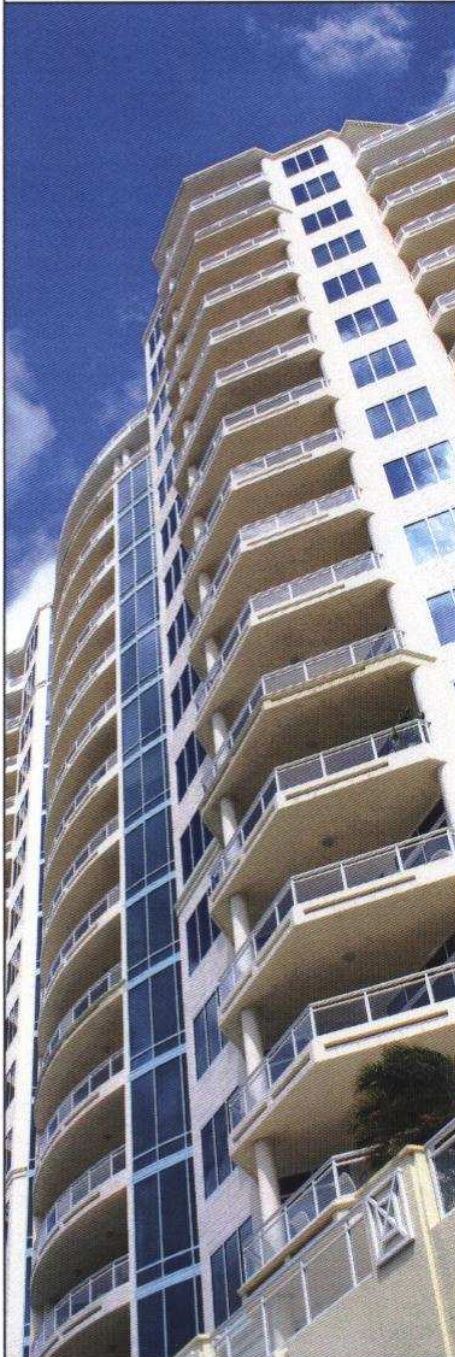




**MACPHERSON LESLIE  
& TYERMAN LLP**  
LAWYERS  
Regina • Calgary • Saskatoon



## HELPFUL HINTS FOR CONDOMINIUM BOARDS

### GOLDEN RULE:

**Subject to direction given at a general meeting, always consider the best interests of the Condominium Corporation when making decisions.**

The job of the Board is to perform the duties of the Corporation and exercise the powers of the Corporation subject to direction given at a meeting. The duties of the Corporation include controlling, managing and administering the units, common property and common facilities and enforcing its By-Laws. The Board is also responsible for proper record keeping.

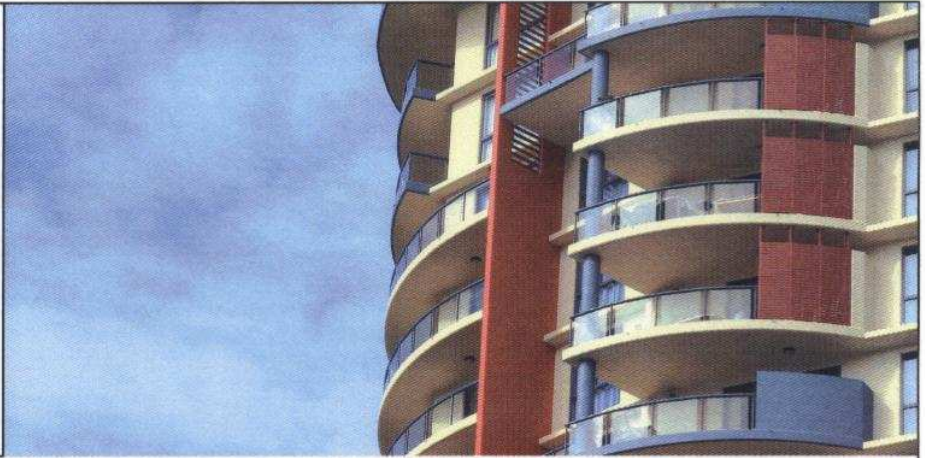
*(s.35 and 39 Condominium Property Act, 1993)*

### KEYS TO AN EFFECTIVE BOARD:

- No individual Board Member has the power to make decisions without the participation of the Board as a whole. The Condominium Board is elected by the Owners to act as their agents. The Board must act as a group and not as individuals. The Board can certainly assign roles to individual members of the Board, but the authority is entrusted by owners in the Board as a whole.
- Board solidarity is a must.
- Get it in writing. Complaints, questions and concerns from owners should be submitted in writing and decided at a Board level. All decisions should be recorded in the Board minutes.
- Board Members should be familiar with the Condominium Property Act, 1993 ("the Act"), the Condominium Plans, and the Bylaws of the Corporation.
- When dealing with Estoppel Certificates, the role of the Board is to ensure that a purchaser has all of the information necessary to make an informed decision about the purchase. Often, owners aren't happy with the information contained in the Estoppel Certificates. However, the duty of the Board is not to any individual owner but to the Corporation as a whole.



**MACPHERSON LESLIE  
& TYERMAN LLP**  
LAWYERS  
Regina • Calgary • Saskatoon



### **PROTECTION OF THE BOARD:**

Generally speaking, the Condominium Directors and Officers Liability ("D & O Policy") insurance will protect members of the Board for all acts performed in the conduct of their responsibilities as members of the Board. The D & O Policy is designed to protect Board Members from claims of negligence (honest mistakes made in the discharge of their obligations as Board Members). These policies will not apply where there has been wilful misconduct or unlawful actions.

- As a Board Member, you want to make sure that your Condominium carries Directors and Officers liability insurance and that the insurance covers not only existing Board Members, but all previous Board Members from the date that the Condominium Corporation was created. This is important because Director's and Officer's liability insurance is generally "claims made" insurance, which means that the insurance that responds to a claim is the insurance that is in place at the time the claim is made (not when the mistake is made). Therefore, if a mistake is made today but not discovered for many years, the insurance policy that would respond would be the insurance policy that is in place years from now. For this reason, it is important that the policy protects all Board Members past and present.
- You may want to consider bylaws which require the Condominium Corporation to maintain insurance coverage for past Directors. Similarly, you will want to make sure that the Condominium is not excluded from making a claim under the D & O Policy.

### **COMMON PITFALLS:**

- Individual Board Members acting without consultation of the Board as a whole;
- A collapse of Board Solidarity;
- Inadequate Record Keeping;
- Mistakes on Estoppel Certificates;
- Not responding in a timely manner to Owner concerns;
- Human Rights Complaints/Preferential treatment of some Owners;
- Conflict of Interest and untimely disclosure;
- Condominium Fees and Liens;
- Limitation Periods.



**Naheed Bardai**

**Saskatoon:** 1500 Saskatoon Square, 410 - 22nd Street East, Saskatoon SK S7K 5T6 / Phone: (306) 975-7100  
**Calgary:** 4505 Canterra Tower, 400 - 3rd Avenue S.W., Calgary AB T2P 4H2 / Phone: (403) 693-4300  
**Regina:** 1500 McCallum Hill Tower I, 1874 Scarth Street, Regina SK S4P 4E9 / Phone: (306) 347-8000