



# SUPERIOR REGION CONDO NEWS

## Spring 2014

Canadian  
Condominium  
Institute

**CCI**

Institut  
canadien des  
condominiums

Northwestern Ontario Chapter

# IN THIS ISSUE:

Presidents Message <i>Doug Shanks</i>	1
Waverley Park Towers Gets a Whole New Look	2
Condo Cases Across Canada <i>James Davidson</i>	4
Chapter Chatter	5
CCI Northwestern Ontario Chapter Membership	6



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# Presidents Message

By Doug Shanks

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This is the Spring Newsletter of the Northwestern Ontario Chapter of CCI, but it seems that we went straight from winter to summer, and bypassed spring completely.

As many members of CCI Northwestern Ontario are aware, in April we held a seminar dealing with "Condo Reform". We had almost sixty people turn out for the seminar, which was a great success for our chapter. We had Armand Conant fly in from Toronto to present the seminar. Armand is a lawyer in Toronto and is involved in the Canadian Condominium Institute and with the Province of Ontario's continuing review of the present Condominium Act. The consensus from those attending the seminar was that it was extremely important information, well presented in a humorous way where appropriate, and a great example of the kinds of education updates that are of importance to people in the condominium community.

We have another seminar planned for the fall, on Saturday, October 4, 2014. Once again, we are going to have an out of town speaker do the seminar. James Davidson of Nelligan Power in Ottawa is a lawyer that is familiar to many people in the condominium community. James provides for the National Newsletter a column known as "Condo Cases across Canada". You will see that in this edition of the Northwestern Ontario Chapter we have put in a number of cases that James Davidson has provided summaries of that we think will be of interest to readers of the Newsletter.

Some of the cases that James will be reviewing at the seminar in October will be on the following topics:

- What are the rights of police to access the common elements and units of condominiums?
- What is a repair or maintenance vs. an alteration or improvement?
- Human Rights issues in the condominium setting.
- Dealing with problem owners.
- Collection rights of Condominium Corporations.

The seminar is going to be one that you do not want to miss, and there will be a lot of time available for discussions of the cases and other issues of interest to persons in the condo community.

So make sure and SAVE THE DATE – Saturday, October 4th, 2014, 9:00 a.m. to 1:00 p.m. at the Masonic Hall.

Part of the condo reform being considered by the Province of Ontario relates to mandatory education for first time directors of condominium corporations. CCI is in the process of providing suggestions to the Province of Ontario for this education. The thought at the present time, and which has been presented to the Province, is that CCI could prepare a web based video education seminar. The seminar would be similar to ones that CCI Northwestern Ontario has done in the past relating to the "Condo 100" course. This sets out the basics of what condominiums are about in a broad brush sort of approach.

The proposal being made to the Province is that CCI would make this web based educational seminar available at no cost for first time directors of Condominium Corporations to receive the necessary mandatory education contemplated by the Province. Time will tell whether or not the Province is going to take up CCI on this offer, but it certainly would be helpful for CCI members if they already are familiar with the format and content of the Condo 100 course.

As always, if there are topics that you would like to see covered by CCI in its seminars, then contact our Administrator, Natalie and let her know what it is you would like to have us consider for our next seminar.

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# Waverley Park Towers Gets a Whole New Look



In August of 2010, DRD Construction was chosen by Thunder Bay Condo Corporation #5 representatives as the Construction Manager and General Contractor for a complete building envelope upgrade of Waverley Park Towers. This 26 month project gave the façade of Waverley Park Towers a whole new look.

With the combined expertise of Dale Dubinsky, President of DRD Construction, Ed Cameron, Director Business Development, SNC Lavalin O&M, and David House, Sr. Project Manager for DRD Construction, we were successful in submitting the detailed proposal to the Board of Directors and Doug Steen, President of Steen Property Management for Waverley Park Towers.

In our role as construction managers, DRD Construction was instrumental in the design of the exterior wall system. The original plan was to remove the existing walls, re-frame and insulate from the inside out. This would have caused the occupants/owners a lot of grief and inconvenience, forcing them to relocate from their bedrooms and bathrooms while the work was being done. This just didn't seem like the best solution.

As a result, DRD Construction worked in conjunction with Walter Kuch of FORM Architecture and Williams Engineering to find another solution. It was decided to leave the existing block in place, mechanically fasten exterior grade gypsum sheathing to the exterior surface, followed by Exterior Insulation and Finish Systems (EIFS). One hundred millimeter thickness of rigid insulation was added to the building providing an additional RSI 3.52 (R20) thermal value. The grooved back of the insulation provides a vertical drainage plane that weeps incidental moisture to thru-wall flashings at each floor.

While access to the balconies was in place, it was further decided to install an empty conduit system for present and future cable TV/internet wiring. Existing exterior lights and receptacles were relocated to the face of the new wall surface as well and main floor exterior lighting was upgraded.

Many challenges were encountered along the way. The obvious being the weather as this 16 story building left our men at the mercy of the wind, sun and rain. A wind meter was used on the lifts and our office provided hourly weather



updates along with all appropriate personal protective equipment (PPE). When the existing windows were removed, asbestos insulation was found in the walls. As DRD Construction's workers are trained to identify and work with hazardous materials, the asbestos was removed and disposed of according to the MOL Guidelines.

In total, over 400 triple glazed fiberglass windows have been installed in Waverley Park Towers. DRD Construction was instrumental in developing the window design, taking into account the stress a window in a high rise is subjected to as well as restriction on opening widths. We installed awning over picture windows to allow for maximum air flow and natural ventilation while providing an unobstructed picture window to enhance views.

The work is now complete and everyone involved with the project is very proud of the outcome.

**Robert Matchett, C.E.T.**  
 Director  
 Power and Automation NWO



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# Condo Cases Across Canada

By James Davidson, LL.B., ACCI, FCCI

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**THE HOT TOPIC** – Condominium Collections A recent Ontario case confirms the rights of condominium corporations to apply owners' payments to the oldest arrears. Here's my summary of the case:

## Durham Condominium Corporation No. 56 v. Stryk (Ontario Superior Court) (April 12, 2013)

### **Condominium corporation could apply common expense payments (received by pre-authorized debits) to the oldest arrears**

On September 30, 2011, the condominium corporation registered a lien against the owner's unit, covering:

- Unpaid monthly common expenses;
- A chargeback of \$1,254.75, from 2008, for damages allegedly caused by the owner to the parking garage door;
- A chargeback of \$220.36 from July of 2011 for a plumbing invoice allegedly due to the owner's failure to maintain her unit;
- Interest;
- Legal costs.

The owner argued that her pre-authorized payments could not be applied to the chargebacks and the corporation's three month right to lien for the 2008 chargeback had therefore expired

The condominium corporation argued that the pre-authorized payments could be applied to the chargebacks and the lien was timely because it covered resulting unpaid arrears for the months of July through September, 2011. The condominium corporation asserted that "payments are applied to the oldest debt so that the three month time to register a lien keeps moving ahead. Therefore each time a payment was received, the default date is moved ahead a further thirty days. This applies to the chargeback for both the garage damage and the plumbing invoice."

The Court agreed with the condominium corporation – at least in relation to the 2008 chargeback. The Court said:

- The chargebacks for the garage door and plumbing problem could be added to the common expenses by virtue of a provision in the corporation's by-laws and Section 92 of the Condominium Act, 1998.
- "As payments came in from the (owner) each month for her common expenses, the default rolled forward every thirty days."

However, the Court held that the condominium corporation was not entitled to recover the chargeback in relation to the plumbing repair because (a) the evidence on this issue was contradictory and therefore would require a trial; and (b) it was "not an amount that is significant enough to warrant the expenditure of public resources for a trial". Finally, the Court said that the condominium corporation had improperly refused to accept common expense payments tendered by the owner. "As such, (the condominium corporation) did not have the right to charge interest on those payments."

## Quebec – Audet v. Syndicat de la corpropiété Jardins Valmer Inc. (Quebec Superior Court) (August 27, 2013)

### **Amendment to Declaration to increase threshold for owners' approval of common element changes upheld; but solarium still gets to stay.**

The Syndicat is comprised of 82 units. The owners (Audet-Clavel) installed a solarium on their exclusive use area in 2008. Subsequent to the installation, a meeting of the owners was called to vote on proposed amendments to the Syndicat's governing documents, including, among other things, increasing the threshold for owners' approval of installations upon the common elements, and a vote on whether the Audet-Clavel's solarium must be removed. The proposed amendments to the governing documents were approved by the owners. The owners also voted in favour of requiring the removal of the Audet-Clavel's solarium. The Audet-Clavel's brought the matter to the Court. The Audet-Clavels argued that the increased threshold for approval would effectively make it impossible for new requests for modifications to be approved, and took the position that the amendments were an abuse of process.

The Court found that the amendments to the Syndicat's governing documents were lawful. However, the Court did overturn the decision of the owners in relation to the solarium. The Court found that the governing documents in force at the time of the installation of the solarium did not prohibit the installation, and the amendments to the governing documents could not be applied retroactively.

# Chapter Chatter



## Toronto Chapter

Like most of Canada, Toronto experienced an exceptionally harsh winter, but our chapter did anything but hibernate! Our committees are extremely

busy and we have had one of our busiest seasons ever.

Under the leadership of Bill Thompson, a Bylaw Review Committee was established to review our current bylaws and bring them in line with the new CCI National bylaws. This committee has worked quickly and thoroughly and the Chapter expects to be able to bring forth new bylaws for approval by members at our 2014 AGM.

Our Communications Committee has also been busy - updating and revamping our website. Chapters are invited to have a look at our new site at [www.cci-toronto.org](http://www.cci-toronto.org) - we hope you like the new look! A communications sub-committee has been formed to oversee our social media presence. CCI Toronto is now present and active on Twitter, Linked In and Facebook. If you are not following us yet - we invite you to join in and view our daily updates. The chapter also hosted our first ever Twitter Chat session on March 11th - on the topic of Dispute Resolution. The session was hugely successful and a second Chat session is already planned for June 11th; this time on the topic of Communications.

Our Volunteer Resource Committee is busy developing new resources for our volunteers. A Volunteer Handbook and a Committee Chair Toolkit are both nearing completion and will be used as part of new volunteer orientation. A volunteer mentorship program will also be made available, as needed. Volunteers form the backbone of our chapter and investing time and resources to make their job easier is a priority.

The Toronto Chapter is looking forward to the spring CCI-N meetings and hope to see many of you in Winnipeg in June!

*Lynn Morrovat*

*CO Toronto & Area Chapter Operations Manager*



## Windsor-Essex County Chapter

Hello everyone! 2014 looks like a positive year for the Canadian Condominium Institute Windsor - Essex Chapter.

We ended 2013 presenting the update to the Condominium Act with Armand Conant and Dean McCabe presenting to over 70 attendees. We held a very successful Maintenance Seminar In February utilizing the expertise of our own Cheryl Valley Property Manager and a crew from Encore Mechanical. We are holding a second version of Dealing with Unreasonable People, a drama written by our own Lise Allaire with reenactments of actual legal cases and analysis from our Solicitor Andrea Thielk.

Our Membership Committee has been able to steadily increase our membership numbers and by the end of this fiscal year we should have record numbers for the Chapter. The Education Committee is also working hard on preparing the Educational presentations for the Chapter for the next year.

We have also welcomed Lynn Mclean from ECC # 97 to our Board of Directors. We are very pleased to have another Condominium Board member on our Board.

The Planning Committee for the 2015 National Spring Meetings have the ground work completed with the selection of the Windsor Casino as the preferred location for the meetings. They also have whittled down the social events to three or four possibilities with very exciting options.

Forever and always, looking forward positively, educating, learning and growing.

*William C. (Bill) Norris, BPA, AMCT, RCM President,  
CCI Windsor-Essex County Chapter*

***SAVE THE DATE***

**"Condo Cases across  
Canada" – CCI seminar**

Saturday, October 4th, 2014,  
9:00 a.m. to 1:00 p.m. - Masonic Hall

**James Davidson -  
Lawyer from Ottawa**



**DANIEL P. KELLY**  
**PROFESSIONAL CORPORATION**

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# CCI Northwestern Ontario Chapter Membership

Condo # / a.k.a.	Units	Total Units
Boulevard Place	50-149	72
Carriage House	0-49	22
Fanshaw Place	0-49	36
Fanshaw Place II	0-49	30
Foxborough	0-49	0
Guildwood Park #4	0-49	40
Guildwood Park #3	50-149	70
Guildwood Park #6	0-49	40
Harbourview Terrace	50-149	67
Islandview Kenora	0-49	40
King Arthur Suites	0-49	36
Leland Court	0-49	14
Maplecrest Tower	50-149	98
Mariday Suites	0-49	48
Marina Park Place	0-49	29
McVicar Estates	50-149	53
Park West Manor II	0-49	31
Parkview Condo	0-49	17
Parkview Meadows I & II	50-149	54
Parkview Meadows III	50-149	50
Pine Crest Manor	0-49	32
Signature Court	0-49	36
Silver Harbour Estates	0-49	21
Thunder Bay Condo Corp #18	0-49	31
Thunder Bay Condo Corp #25	0-49	35
Thunder Bay Condo Corp #26	0-49	24
Thunder Bay Condo Corp #28	0-49	48
Thunder Bay Condo Corp #29	0-49	48
Thunder Bay Condo Corp #8	50-149	54
Varsity Square	0-49	48
Victoria Park	0-49	35
Waverley Park Towers	150+	151

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