

CANADIAN CONDOMINIUM INSTITUTE  
NORTH ALBERTA CHAPTER

**MOST OUTSTANDING MAGAZINE**  
2019 H. Penman Smith Award Winner

# INSITE TO CONDOS



## THIS ISSUE:

**Dispute Tribunal-  
Weighing our Options**

**The Value Added by  
Mediation in Condominiums**

**How are Condo Fees  
Calculated?**

VOL. 33, ISSUE 2 - WINTER 2019

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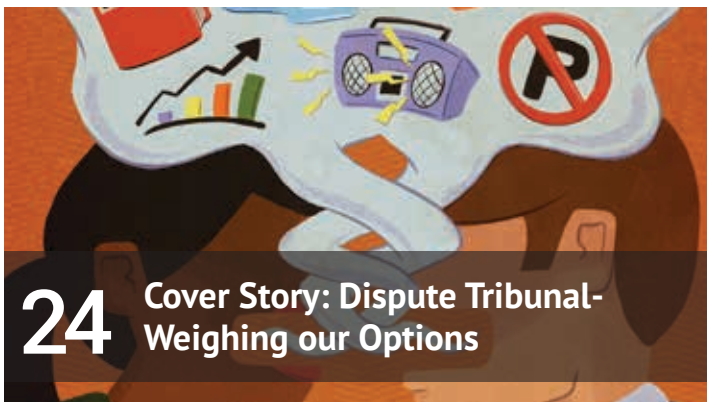
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# MESSAGE FROM THE PRESIDENT

BY ANAND SHARMA

## WELCOME TO THE WINTER EDITION OF THE INSITE TO CONDOS MAGAZINE!

It has been a hectic autumn with the coming months expected to be just as busy for CCI North Alberta.

On October 8, 2019 we held our Annual General Meeting. This year was our most well attended AGM in recent history, with more than 250 attendees! We were very honored to have our new Minister of Service Alberta, Nate Glubish, join us and provide us updates on the upcoming changes to the condominium legislation. The AGM included a member mixer with a mini trade show featuring 24 exhibitors, prior to the AGM itself, followed by a legal panel discussion with Todd Shipley (Reynolds Mirth Richards & Farmer LLP) and Robert Noce (Miller Thomson LLP). Nineteen exceptional individuals put their names forward for eleven Board of Director's positions. This level of interest for non-profit volunteer board is a clear indication of an organization that is growing and relevant. Many thanks to everyone who allowed their name to stand, we are a better chapter for it.

Congratulations to returning directors Todd Shipley, Darcie Lee Rea, Sandi Danielson, and Susan Milner. I am excited to welcome condominium owners Robert Lafontaine, Annesa Ali, and Maurice Perrault to the Board who will add a much-needed owner's perspective to our organization. I am also pleased to welcome three professional members Carrie Plett, Bereket Alazar, and Gerrit Roosenboom who are fantastic additions to our team.

On a personal note, I am very grateful and truly humbled to have been elected to another term on the Board of Directors, and to continue to serve as your President for the upcoming year. This will be my 8th year in this capacity and I continue to have the drive and capacity to build our chapter due in large part to the incredibly gifted and talented individuals on the executive team, who happen to all be women. Joining me again on the Executive this year are Susan Milner (Chairperson), Barbara Surry (Treasurer), Dawn Mitchell (Secretary), Shantel Kalakalo (1st Vice President), and Sandi Danielson (2nd Vice President). None of our successes this year would have occurred without the amazing staff of Executive Director, Alan Whyte, and our Administration and Communications Coordinator, Beverley Thornton. Thank you!

Shortly after the AGM, I attended the CCI National Leader's Forum and National Council. I am pleased to report a fantastic initiative that will benefit our local members. CCI National has created a Resource Centre that has collated and populated articles related to condominium from coast to coast. This includes presentations on topics, magazines, blogs, and expert legal case

studies. The committee responsible is working to have this resource center available on our website in the coming months.

I am pleased to announce that CCI North Alberta was awarded the H. Penman Smith Award for best newsletter and magazine across Canada. Congratulations to Alan and Beverley along with everyone who contributed to its success by writing articles, providing artwork, and editing a fresh look publication that is well laid out.

I, along with our top-notch Government Advocacy Committee, have been diligently working on your behalf on the Alberta Condominium Regulations which were announced on November 27, 2019. I will report further on our historic successes later in the magazine, but once again thank you to the dedicated group of volunteers led by Hugh Willis (Willis Law), Victoria Archer (Gledhill Larocque), Todd Shipley (Reynolds Mirth Richards & Farmer LLP), Melissa Stappler (Willis Law) and Dawn Mitchell (Hub International Insurance) for their extensive work on this file.

Wishing everyone a restful and joy-filled holiday season and Happy New Year!

---

**Anand Sharma**

*President, CCI North Alberta*

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# *Musings*

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River's Edge Villas  
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## MEET THE BOARD

# ANNESA ALI

### 1) What do you think are the biggest challenges condo board members face?

The biggest challenge I faced when I first joined my condo board was knowledge. I didn't receive a new member orientation, any documents, any guidance from current board members, no direction really; I was just an addition to the board meetings. Luckily, I am the type of person that takes the initiative to gain the necessary knowledge and skills needed to get the job done. I requested the last 12 months of meeting minutes so I could get familiar with what the board was working on, I "Googled" a lot of information and came across CCI. I attended 2 courses and it wasn't long after that I became more knowledgeable than the president of my board at the time. Long story short, I am now the president two years strong and I do owe a lot of that to the knowledge I received from the courses I attended through CCI. I now ensure any new board member receives an ori-

entation and receives previous meeting minutes to get them started, I also encourage new board members to take courses to increase their knowledge to be better board members. Other challenges boards members face includes a lack of participation by owners; its hard to get other owners to volunteer for the board or attend AGMs or volunteer for other committees. This challenge magnifies the difficulty boards face to amend bylaws when 75% owner approval is required. Another challenge many new condo corporations in our city are facing are developer related issues which are costly and time consuming to manage.

### 2) What motivates you to volunteer, not just with CCI, but in general?

I think it is important to give back to the community and help your community become a better place to live. I believe the action of one can cause a ripple effect to bring big change. Volunteering also

allows me the opportunity to meet new people, learn new skills, practice my skills, help educate others and it is satisfying to help others.

### 3) With the upcoming changes coming to the legislation, what is the biggest single change you would like to see implemented in the condominium industry?

The biggest change I would like to see implemented in the condominium industry would be mandatory training for board members and property managers. We need the support of the government to ensure our biggest investment is being managed by knowledgeable individuals. A lack of training can result in costly sometimes devastating consequences to condo owners that can be difficult to resolve. Legislation ensures consistent expectations on training throughout the industry.

### Favourite family movie of all time? I am not a big movie person but when I do decide

to indulge, I like movies that are based on true stories. I really enjoyed Hidden Figures.

### What's the last country you visited? The place I was born; Trinidad and Tobago

### Are you spring, summer, fall, or winter? Please share why.

I am totally a summer soul. Since I was born and grew up in the caribbean I absolutely n-e-e-d the sun to function. I totally get the winter blues and usually visit back home at least once a year to catch up on some vitamin D

### If money was not a concern what would you do every day if you didn't work? Travel the world

### Which skill would you love to learn? How to ride a bike



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## 01 JAN 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14 CONDO LEG. UPDATES	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30 CONDO MANAGER SESSION	31	

## SAVE THE DATES!

**CONDOMINIUM LEGISLATION UPDATES**  
TUESDAY, JANUARY 14, 2020 @ 6:30 PM

**CONDO MANAGER ALL DAY SESSION -  
LEGISLATIVE REVIEW AND YOUR  
RESPONSIBILITIES**  
THURSDAY, JANUARY 30, 2020 @ 9:30 AM TO 3:30 PM

## 02 FEB 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5 CONDO BOARD BASICS	6	7	8 CONDO MGMT 100
9	10	11	12 CONDO LEG. UPDATES	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

**CONDO BOARD BASICS & BEST PRACTICES**  
WEDNESDAY, FEBRUARY 5, 2020 @ 6:30 PM

**CONDOMINIUM MANAGEMENT 100 (CM 100)**  
SATURDAY, FEBRUARY 8, 2020 @ 9:00 AM

**CONDOMINIUM LEGISLATION UPDATES**  
WEDNESDAY, FEBRUARY 12, 2020 @ 6:30 PM -  
TAYLOR COLLEGE

## 03 MAR 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3 INSURANCE UPDATE - CONDO LEG.	4	5	6	7
8	9	10	11	12	13 CONDO MGMT 200	14 CONDO MGMT 200
15	16	17	18 CONDO OWNERS ESSENTIALS	19	20	21
22	23	24	25	26	27	28
29	30	31 LUNCHEON #1				

**INSURANCE UPDATE - CONDOMINIUM LEGISLATION**  
TUESDAY, MARCH 3 @ 6:30 PM

**CONDOMINIUM MANAGEMENT 200 (CM 200)**  
FRIDAY & SATURDAY, MARCH 13 & 14, 2020 @ 9:00 AM

**CONDO OWNERS ESSENTIALS - UNDERSTANDING  
CONDOMINIUM LIVING**  
WEDNESDAY, MARCH 18, 2020 @ 6:30 PM

**LUNCHEON #1**  
TUESDAY, MARCH 31, 2020 @ 11:30 AM

UPDATES WILL BE PROVIDED THIS WINTER VIA OUR EMAIL NEWSLETTER AND OUR WEBSITE.

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# GOVERNMENT ADVOCACY REPORT

## Regulation Development – Condominium Property Act

The Government Advocacy Committee had been very active on the regulations being developed in phase two of Condominium Property Act. In December of 2018 the regulations were released after extensive consultation. While there were many positive changes and good conceptual ideas advanced in the new regulations, CCI North Alberta noted some key areas that we were concerned with including voting, AGM procedures, rental deposits, chargebacks, and insurance.

The previous government indicated that some corrections to the legislation would have to be made post-election in April 2019, as there was not enough time prior to the election itself. While CCI North Alberta was encouraged by this commitment, we would have much preferred that the corrections be made immediately before implementation. Furthermore, there was no commitment to address issues such as voting and chargebacks by changing the Condominium Property Act.

In June of 2019, the new Minister of Service Alberta, Nate Glubish, and his staff asked CCI North Alberta about our thoughts on “pausing” the regulations that were to come into effect on July 1, 2019. We responded positively and validated that a pause would be helpful in correcting problematic areas of the new regulations. Since July of this year, our committee has been involved in four stakeholder meetings, a direct meeting with Service Alberta, and have been in touch with the Minister’s office providing feedback on the condominium regulations as well as the problematic sections of the Condominium Property Act itself.

On November 27, 2019, and after extensive consultation with CCI North Alberta, the Alberta Government released the condominium regulations which are to come into effect on January 1, 2020. This includes all insurance related regulations. We were pleased to validate and support the Alberta Government’s revision of the regulations, as most of the amendments sought by CCI were incorporated. Furthermore, we have firm commitments to address the issues of voting and chargebacks in the Condominium Property Act.

- Reverting to a simplified version of voting that is clear and concise for the average condominium owner and board.
- Clarifying that malicious acts inside units by occupants of that unit are owner responsibility.
- Removal of administrative burden at Annual General Meetings for condominiums.
- Defining insurance deductibles as contributions which will allow Corporations more options to collect the deductible, including filing a caveat.
- Allow condominium owners, through their bylaws, to self-determine the needs of their community and modify certain default regulations.

- Refining the details for Standard Insurable Unit Descriptions which assist owners in knowing what portions of a unit that a condominium corporation’s insurance will cover, and which portions will be up to the owner to insure.

CCI North Alberta will now firmly move into education related to the regulations starting on January 14, 2020 with an evening seminar, followed by an all day education session targeted towards managers and self-managed boards on January 30, 2020. We will hold another evening seminar on February 12, 2020 in the Southwest portion of Edmonton. It is also our intention to travel across North Alberta to bring this seminar content to you, so look for an update on educational events in January.

## Condominium Manager Licensing and Education

The Alberta Government is currently reviewing the Real Estate Council of Alberta after a report commissioned demonstrated significant dysfunction and governance issues. They have indicated that governance, authority, and mandate are all open to re-define. CCI North Alberta has provided feedback and articulated our concerns with ceding control of our industry to the Real Estate Council of Alberta. CCI North Alberta continues to share its concerns about this approach to improving our industry and community. We are aware of alternative models of licensing and accreditation recently adopted in provinces like Ontario which allows the condominium community and industry to cultivate knowledge, provide better consumer protection, and support its own industry.

Simply put, Condominium Management is not Real Estate, and CCI North Alberta is unwilling to endorse a process that will not have tangible benefits to its members.

## Gratitude to the Government Advocacy Committee

Much thanks to our Government Advocacy Committee comprised of lawyers Hugh Willis, Melissa Stappler, Todd Shipley, and Victoria Archer along with Board Members, Dawn Mitchell and Chris Vilcsak. This team has worked tirelessly over the past many years to represent condominium owners, boards, and industry members both through its advocacy work, and its educational responsibilities. Thousands of collective hours have been contributed in what can be a frustrating and cumbersome process when dealing with Government and other “stakeholders” who do not understand the real and tangible impacts on condominium owners. The Committee’s work will positively improve the lives of condominium owners in Alberta for the next 10 to 15 years. Condominiums in Alberta are much improved due to the efforts of this committee, so on behalf of CCI North Alberta, thank you!

Anand Sharma

Co-Chair – Government Advocacy Committee



North Alberta Chapter

# IT'S COMING!

## SAVE THE DATE



# ALBERTA CONDO EXPO

## SATURDAY, APRIL 25, 2020



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# 2019 AGM

The Annual General Meeting for the North Alberta Chapter was held Wednesday, October 8th at the Chateau Louis Conference Centre.

Over 250 Members attended our Member Mixer and Tradeshow prior to the AGM to catch up with colleagues, meet new fellow condo owners and board members, and network with service providers.

The Tradeshow was an overwhelming success with 24 company booths participating, double the number from last year. Thanks as well to the numerous exhibitors who donated a great selection of door prizes for the attendees.

During the Mixer, we took the opportunity to recognize the winners in our third annual "Condos in Bloom" contest. We look forward to "growing" the contest next year, and we are "planting the seed" to nominate your favourite gardener next summer!

**Condominium Complex** – Shannon Mills

**Individual Unit** – Judy Hawn, Country Gardens

At the beginning of the AGM, thanks to the success of the 2019 Golf Mixer, we were able to present Edmonton's Food Bank with a cheque in the amount of \$3,253.00 along with the food donations that were dropped off the day of the event. This donation was our largest ever in the history of the chapter, a whopping 3 times the amount from last year. Proof that CCI Members are generous!

We were pleased that the Honourable Nate Glubish, Minister of Service Alberta, was able to attend our AGM and provide us with an update on the upcoming changes to the legislation.

**The highlights from the various committee reports presented for the 2018-19 fiscal year included the following.**

- 2,300 people attended our education events and Expo (up 1,300 from last year)
- New website launched with additional resources for members
- Continued growth in membership with significant increase in individual members.

Please note that all of the reports presented at the AGM have been posted in the AGM folder in the Member Only Resources section of our website. If you need Member Access to the website contact the CCI office.

A total of 19 candidates volunteered to run for the 11 vacant positions on the Board of Directors. Special thanks to all of our scrutineers who laboured through all the ballots and calculations!. Congratulations to the following individuals who were elected for a 2 year term:

**Bereket Alazar** – Morrison Hershfield

**Annesa Ali** – Elements at McConachie

**Sandi Danielson** – Prince Property Inc.

**Robert Lafontaine** – Le Quartier

**Susan Milner** – TEGA Property Management Ltd.

**Maurice Perrault** – Harbour Park

**Carrie Plett** – CP Documents and Consulting Services

**Darci-Lee Rea** – Hallmark Management

**Gerrit Roosenboom** – Rosetree Mediation, Arbitration & Consulting Services

**Anand Sharma** – 113 West Management

**Todd Shipley** – Reynolds Mirth Richards & Farmer LLP

Thank you to all of the other candidates who took the effort to let their names stand for Board election, we hope to see if we can get you involved in other capacities next year.

While the votes were being tabulated the Chapter presented Helena R. Smith ACCI, FCCI with our Volunteer Appreciation Award for her years of dedication in a volunteer role. See our interview with Helena on page 17.

Following the AGM, the ever-popular Legal Panel shared their expertise. Lawyers Robert Noce of Miller Thomson LLP and Hugh Willis of Willis Law offered their expertise on current issues and shared their insights regarding the pending legislation changes.









# CCI NORTH ALBERTA VOLUNTEER APPRECIATION AWARD

*Helena R. Smith, ACCI, FCCI*

Helena began her condominium management career in 2002 and following her retirement in 2015, she started her own consulting company, HRS Condominium Consulting.

Helena has been on the CCI North Alberta Board in a variety of different capacities including Chairperson and Education Chair. She also served on the CCI National Board of Directors. Helena has been an ongoing presenter for various educational events over the years and in 2013 she was awarded the national FCCI designation for her service to both CCI and the local condominium community.

She was honoured for all of her volunteer efforts at our 2019 Annual General Meeting.

## **How did you end up working in the condominium industry?**

A friend suggested I might enjoy this industry. I was introduced to her boss and started working immediately. A few months later I switched companies and started working for the management company I would stay with for the remainder of my management career and I've thoroughly enjoyed every minute of it – the good and the not so good.

**Was there someone or something that was the catalyst for you wanting to become a member of CCI?** I knew from the onset that joining CCI was the only place to go to for an education in Condominium. To me it was an essential. I've never understood why someone would get into the Condominium Management industry and not want to learn about Condominium.

**Do you recall how you initially became involved volunteering your time with CCI?** I have always felt that if you belong to an organization, want to benefit from the associations with that organization then you should be willing to offer something back. As CCI is primarily an educational organization and as I was initially studying Education at the U of A, for me this was a perfect fit. I was fortunate that apart from being able to take every course CCI had to offer (over time of course) I was asked to present some of the sessions and kept going from there. This also fulfills my desire for life-long learning.

## **What has been the most rewarding aspect for you in volunteering for CCI?**

I would say it has to be the people. I've been fortunate to "work" with people from all aspects of the Condominium industry. Board members, Owners, other Condominium Managers and all manner of stakeholders in the industry. I've been able to meet and work with people on both the national level, people from all over the country and especially my home chapter, North Alberta. Learning continued every time I took or taught a session. As Condominium is a people industry, the people make it very rewarding.

**In your opinion, what skill sets are important to be a successful volunteer?** To be a successful volunteer you must, firstly, believe in the organization you are associated with. Volunteering also makes demands on your time. If you are not prepared to spend that time, you are not an asset to that organization. Your expertise and knowledge are your assets to share with others and you should be willing to share that knowledge. You will get back far more than you give and that is the beauty of volunteering.

## **Best words of wisdom for the following members of the condominium community:**

**a) Owners** – Always remember that as an Owner, you still own something so have attendant responsibilities. Ask questions to find out how and why your Board operates as it does. If you have lots of criticisms, get on the Board to find out the who, what, why and when. Do your part to make your community a better community.

**b) Board Members** - What do you have to contribute? And remember, you are part of a group – don't adopt the "my way or the highway" attitude. The most important thing to remember is that you are working for the benefit of all your neighbours – the Corporation – so it is imperative to keep this in mind at all times. Collaboration and cooperation are the watch words that every Board member should keep in mind.

**c) Managers** – Always be prepared. If you know a certain issue will be discussed at a Board meeting, do your research, gather your facts – go to the meeting with something concrete to offer. Never say you don't know something – even though it is a given that there will be lots you don't know. Instead, say you'll find out – then do just that. Find out and report back to the Board in a timely manner. Always remember that communication with Board member's, Owners, contractors etc. is what your job is all about. Also, never be afraid to ask questions. This is one of your greatest tools for learning.

**Funniest or most awkward moment of your career in the industry?** There are a few "funnies" that come to mind but nothing I can put in print. Always keep your sense of humour and never take yourself too seriously.

**You are given a magic wand for a day – What is the one thing you would change to improve condominium living in Alberta?** I don't think there is any magic. Knowing your stuff, working hard, your work ethic and always being prepared to learn something new. This attitude will go a long way in making Condo living for Condominium Managers, Owners and Boards an enjoyable experience.

*Helena R. Smith, ACCI, FCCI*  
HRS Condominium Consulting

# REACHING NEW HEIGHTS

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## FALL LEADERS FORUM

Twice every year, representatives from each of our Chapters convene at different locations across the country. The 2019 Fall Leaders Forum was held in Toronto coinciding with their 30th anniversary as a CCI chapter. Over the course of the three day event, we share information, update each other on our successes and challenges and discuss ways we can continue to improve our organization. At the end of each day, the host Chapter arranges a social event for all, and as the old saying goes, "Whatever happens in \_\_\_\_\_, stays in \_\_\_\_\_." Over 100 attendees from all 17 Chapters were registered for the Forum. CCI North Alberta was well represented by President and National Council representative, Anand Sharma, along with Executive Team members; Susan Milner, Dawn Mitchell and Barb Surry, and Executive Director, Alan Whyte, all participating.

Susan (Strategic Board Planning), Alan (Golf Tournaments) and Dawn (Risk Management and Insurance Symposium) shared their expertise with other panel members in the corresponding sessions throughout the Forum. Other highlights included an interesting session on the Duty to Accommodate - Human Rights Legislation and how it applies to Chapter events and the introduction of the Resource Centre on the National website - [www.cci.ca](http://www.cci.ca). We encourage you to take a look what is already there in its infancy stage and we look forward to seeing it grow as the Chapters have the opportunity to populate it with even more content.

At each Fall Forum, the Annual Awards Presentations were held at the unique venue of the Hockey Hall of Fame. Everyone had the opportunity to take a tour before and after dinner and some brave souls were able to display their (lack of) shooting and goaltending skills on the interactive rink. As for the awards, we were very pleased to have our Chapter recognized on two separate occasions.

### Victoria A. Archer - 2019 FCCI Recipient

Well known local condominium lawyer, Victoria Archer of Gledhill Larocque, was recognized with the prestigious FCCI (Fellows of the Canadian Condominium Institute) to honour professionals whose service to CCI and the condominium community best exemplifies the standards expected. See our interview with Victoria in this issue.

### North Alberta Chapter - H. Penman Smith Award

Our Chapter received the H. Penman Smith Award for the Best Newsletter/Magazine of the 2018-19 year for the Tier 2 (larger) Chapters. Kudos to all involved this past year, notably our dynamic duo office staff of Beverley Thornton and Alan Whyte, feature contributor Becky Medel, and illustrator Mike Kendrick, along with Cam and Meredith at Minuteman Press, who put all the pieces of the puzzle together at the end!







# DISTINGUISHED SERVICE AWARD (DSA)

*Victoria A. Archer*

Victoria Archer is a condominium lawyer with Gledhill Larocque and has practiced law almost exclusively for the past 30 years. Victoria served on the North Alberta Chapter Board of Directors for 5 years and has been called upon to present at numerous educational events for more than 20 years. Even with all those contributions she has spent the bulk of her volunteer time with CCI by serving on a variety of committees involved with not only the recent legislation changes but also the previous amendments back in 2000. Victoria was awarded the honorary DSA national designation at the 2019 Fall Leaders Forum Awards Dinner held at the Hockey Hall of Fame in Toronto.

## **What led you to focusing on condominium law?**

I bought my first home, heavily mortgaged, shortly after I graduated from University with my teaching degree and got my first job. That home was a townhouse style condominium. I was naïve and didn't know anything at all about condos but, I could afford the mortgage payments.

Very soon afterwards, I found out that I didn't own my fenced yard and couldn't plant any flowers in it without the Board's permission. I wasn't allowed to repair the broken gate, or replace broken fence boards without the Board's permission. The problem was, no one was maintaining the grounds and no one was repairing the building even though I was paying money to make sure those things happened.

I knew I had to learn about condos, my rights and my responsibilities, but in those days, it was hard to find any information at all. Even my condo neighbours who were also upset with how things were run, knew virtually nothing about how to change those things. Eventually I discovered that there was a Condominium Property Act and we did have By-laws! So I set about learning and we succeeded in changing things in our condo community.

When I went to University to become a lawyer, there were no courses on condominium law. I didn't intend on focussing on condominium law, but I brought my condo knowledge with me into my fledgling practice and soon started getting contacted by people who, like me, knew nothing when they bought their condos and now had problems. Things just developed from there.

## **Was there someone or something that was the catalyst for you wanting to become a member of CCI?**

When I started trying to find out about condo ownership, I went through the yellow pages (yes, we still had those back then). I was hoping to find anything, or anyone, condominium related.

I came across a company called Condominium Consultants Canada Inc. and spoke to its owner, Bill Kerr. Bill was the first person I spoke to who had any real knowledge about condo governance. He was willing to take his time to point me in the right direction and tell me where to look to find out more information.

Bill later became one of the founding members of CCI-NAC, and remained a friend and mentor to me until his death a few years ago. It was through his encouragement that I became involved with CCI

## **What has been the most rewarding aspect for you in volunteering for CCI?**

Without hesitation, I can emphatically state that the most rewarding aspect of volunteering for CCI, for me, has been the wonderful, sincere people I have been privileged to meet and the relationships I have made.

## **Best words of wisdom for the following members of the condominium community:**

- a) Owners
- b) Board Members
- c) Managers

Don't just hear what people say to you, but actually listen to what they are really saying and find out why they are saying it. Issues don't have to end up with winners and losers. With determination and creativity on all sides, issues can often end up in win-win solutions and better, stronger communities.

## **Funniest or most awkward moment of your legal career?**

It was early one Spring. I had a meeting to go to which required me to first walk through a shopping mall. Although winter was over, it was still cool, so I had decided to wear my leather jacket. I had tried to dress professionally with a nice blouse, a wraparound skirt and high heeled shoes. Posture is important and makes a good first impression, so I held myself straight. I felt appropriate and proper.

As I walked through the mall, I happened to notice that people seemed to be looking at me in a strange way. I glanced from side to side and saw people actually laughing – some of them behind me, actually bending over with laughter.

Needless to say, I was uncomfortable. I glanced down and was horrified. My entire wrap around skirt had bunched up in front of me. As I had walked, the leather jacket had gripped the skirt. Although the waist band had stayed in place, because it was a wrap around, the skirt had separated at the back and pulled a little forward with every step I had taken. From behind, all people saw was white panties, skinny legs and high heels walking primly through the mall carrying a briefcase. I had to pull myself together, literally, then red-faced, continue to my meeting. I never wore that skirt again.

Thank goodness it was before the day of cell phone videos hitting the internet!

## **You are given the magic wand for a day – What is the one thing you would change to improve condominium living in Alberta?**

With my magic wand I would cast the spell “aedificium reparo”. For those of you who are not up on your Harry Potter - immediately, all building repairs would be done and there would be no need for special assessments.

Remember that spell!

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# OWNERS GUIDE TO CONDO LIVING

Welcome to "Owners Guide to Condo Living" created specifically for condominium owners as well as prospective owners.

If you have any topic suggestions please forward them to [info@ccinorthalberta.com](mailto:info@ccinorthalberta.com) at your earliest convenience.

## How are Condo Fees Calculated?

Compared to mortgage payments, condo fees (legally referred to as condominium contributions in Alberta) are more complex, more variable and can be subject to change more readily. Once your mortgage amount has been established, the term, payment schedule and interest rate are the key variables that will alter what the monthly payments will be. Condo fees have many more elements in play and not all of them are in full control of the condominium corporation. Let's peel back some of the layers and review how fees are calculated and what factors are involved in determining how variances can occur between similar buildings.

### THE BASICS

Every condominium corporation is divided into 10,000 Unit Factors (UF) regardless of their size or type. The UF distribution is calculated by the developer with the creation of the condominium plan, the original document that registers the condominium. This allocation represents each owner's share of the common expenses of the condominium. There is no prescribed mathematical formula for determining each unit's UF, however they are typically based on square footage. Other factors such as preferential location within a complex or building can result in more UF for one unit over another of similar size.

Every year the Board is responsible to review their common expenses and create a budget for the next fiscal year. Once the budget is approved, each owner is allocated a portion of the expenses based on their unit factor allocation unless the bylaws specify another method of calculation. Fees are typically calculated annually and paid monthly.

For clarity let's use this example:

**Pineview Meadows has 40 units and their budgeted expenses for the year are \$240,000.**

**$\$240,000/10,000 \text{ UF} = \$24.00/\text{UF}/\text{year}.$**

**30 Units have 225 UF each ( totalling 6750 UF) & 10 Units have 325 UF each (totalling 3250 UF).  $6750 + 3250 = 10,000 \text{ UF}$**

**30 Units -  $\$24.00/\text{UF}/\text{year} \times 225 \text{ UF} = \$5,400/12 \text{ months} = \$450/\text{month}.$**

**10 Units -  $\$24.00/\text{UF}/\text{year} \times 325 \text{ UF} = \$7,800/12 \text{ months} = \$650/\text{month}.$**

### WHAT'S INCLUDED IN MY CONDO FEES?

The simple answer to that question is "depends". Each condominium creates their own annual budget and consequently derives unique condo fees based on the features of the complex and the needs of the owners. For example a townhouse style condominium may have lower fees than an apartment style because they pay for their own utilities and have less common property to maintain. A luxury highrise may have a full-time concierge on site for the benefit of the residents. Differences can also occur depending upon the level of service expectation. Everything from the standard established for common area snow removal, to management services vs. a self managed board, to how often the parkade is swept or windows are cleaned, all need to be considered. Using a common analogy, do we relate our complex closer to a reliable compact car or a tricked out SUV?

Condo fees, much like taxes, are a moving target and cannot be guaranteed to remain the same even on an annual basis. There is no current legislation that restricts the amount or percentage of an increase from year to year, although owners have the right to replace a Board should they have reasonable expectations that their finances are being mismanaged.

So let's take a look at some of the Major components that exist in the majority of condominium budgets:

**a) Reserve Fund Contributions** - As laid out in the Reserve Fund Report and Plan approved by the Board, a significant portion of your fees will be allocated to build up the Reserve Fund, which is used for the major repair or replacement of the capital assets of the corporation (e.g. - roof, windows, parking lot, etc).

**b) Insurance** - In light of the current trend of both an increasing frequency and cost of insurable claims, this line item is becoming a larger portion of the budget even if a corporation has a clean track record.

# ATTENTION: CONDO OWNERS

## *Boards/Managers-*

### Please pass this information on

# Important Insurance Changes You Need to Know

**Effective January 1, 2020, Condominium Corporations will be able to seek recovery of the deductible portion of the Corporation's insurance claim (up to a maximum of \$50,000) from an Owner for damages that originates from the Owner's unit or privacy area.**

This "absolute liability" means regardless of whether or not there was any proven negligence the Owner may be responsible to pay the Corporation's deductible amount. With the recent market corrections due to the amount and size of claims in our market, we have seen deductible levels rise substantially from \$2,500 - \$10,000 previously to \$25,000 to \$100,000 and more!

**PLEASE NOTE** - Owners can obtain coverage in their Unit Owner's policy to assist with paying the Corporation's deductible when required.

#### ADDITIONAL DETAILS

**Limit Reminder** - The Corporation can only make the Owner liable for the deductible limit up to a **maximum of \$50,000**. If the deductible is \$25,000 then the Owner's liability is \$25,000 regardless of the size of the claim. Conversely if the deductible is \$100,000, the Owner's liability is \$50,000 as that is the maximum allowable amount.

**Coverage Liability** - Owners are only required to have this coverage if it is outlined in the Corporation's bylaws but they can be held responsible for the deductible payment regardless of whether or not they have their own coverage.

**Legislation** - **Section 62.4 of the Condominium Property Regulations** as of Jan 1, 2020 for further details.

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#### What steps do Owners have to take to ensure proper coverage for themselves?

- 1) Ask your Board, Manager or Corporation Insurance Broker for a copy of the Corporation's Certificate of Insurance** that outlines the current deductible amounts, in particular the water damage deductible.
- 2) Contact your personal Insurance Broker and inquire whether you have deductible coverage in your Unit Owner's policy and if not, request to add coverage.**
- 3) Is the deductible coverage in your Unit Owner's policy equivalent to the Corporation's deductible? If not, adjust your deductible accordingly** (see **Limit Reminder** below).





**c) Staffing** - Can include a services contract with a management company and/or on-site maintenance or security staff.

**d) Utilities** - More so with apartment and high rise style buildings and cost dependent on what, if any, utilities are sub-metered with invoicing going directly to each unit's owner.

**e) Maintenance** - Whether it's snow removal and landscape maintenance, preventative maintenance contracts for mechanical systems, janitorial, window cleaning, etc, the corporation has a duty to repair and maintain its property, so things can add up in a hurry.

#### DEBUNKING COMMON MYTHS

*The lower the condo fees the better the complex is run* - In fact in the majority of cases an argument can easily be made that lower fees often signals that regular maintenance is being deferred and bigger expenses are inevitable. Savvy prospective purchasers are now more concerned with the Reserve Fund balance and the perceived value of the monthly condo fees rather than the actual fee itself.

*Owners have no control when it comes to setting condo fees* - It is true that unless it is outlined in the bylaws, Boards do not need owner approval to approve the annual budget. Owners, however, do have the right to not only reasonably question any aspect of the budget but they also have the opportunity to elect a new Board should they feel the current one is mismanaging the corporations finances by either overspending or underspending accordingly.

*Developers set unrealistic budgets to keep condo fees down and sell their units* - As of January 1, 2018, the legislation was

strengthened to hold any developer accountable when actual expenses in the initial fiscal year after the turnover meeting to the owner board are more than 15% higher than the developer's proposed budget. Some restrictions still apply but it's definitely a step in the right direction.

With the upcoming changes in the legislation, corporations will now be required to provide owners a copy of the annual budget at least 30 days in advance of the fiscal year. In addition, owners are to receive a copy of the annual financial statements prior to the Annual General Meeting. Reviewing both those documents will help owners better understand how their fees are being utilized and the overall financial health of the condominium corporation.

A blue rectangular advertisement for Sunshine Cleaning Services Ltd. The top half features the company name in large, bold, orange and white letters. Below the name, it says "Business - Commercial Condo corporations" in white. The phone number "Ph:780-477-7067" is displayed in white. At the bottom, the email address "sunshinecleaningsltd@gmail.com" is written in white. On the left side, there is a BBB Accredited Business logo. On the right side, there is a CCI (Canadian Condominium Institute) logo.

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# DISPUTE TRIBUNAL WEIGHING OUR OPTIONS

We look to other provinces for insight on creating Alberta's long awaited Condominium Dispute Tribunal

*Rebecca Medel*



Bringing condo disputes before a tribunal instead of using the traditional courtroom process seems to be quite the dangling carrot for those who are intrigued by the idea of changing up the current system. The efficiency of using online technology to solve problems, and the time and cost savings that come about as a result—not to mention the reduction of bad feelings between neighbours—has led to much discussion for when Alberta institutes its own condominium dispute tribunal.

Back in December 2014, the Alberta Condominium Amendment Act was passed which included establishing a dispute tribunal system after other phases of the legislation were completed. However, five years later, the remaining legislation is finally being enforced as of January 1, 2020 with no timeline from Service Alberta as to when the dispute tribunal will be created or what the process will look like.

Currently in Alberta, condominiums do have the option of using either mediation or arbitration to resolve issues rather than going through the courts. While these methods are less costly and typically can be processed faster, they do require both parties to agree to participate which is problematic when you have someone unwilling to negotiate.

Dispute tribunals use a process that moves from negotiation to mediation to tribunal. Not all steps are necessary if disputes can be solved in the earlier stages. In Alberta, there currently is a similar model with the Residential Tenancy Dispute Resolution Service (RTDRS), but this deals only with landlord/tenant disputes. Whether Service Alberta uses this as a benchmark for condominiums, remains to be seen.

“As I see it, the big chapters (in terms of number of condos) in Canada, being BC, Alberta and Ontario would benefit from having a tribunal to resolve legal disputes that would otherwise place a burden on the court system and on the wallets of the parties wanting dispute resolution,” says Jamie Bleay, a Vancouver-based lawyer who practices extensively in condominium law.

BC was the first province that had a dispute tribunal and Bleay has been involved with BC’s Civil Resolution Tribunal (CRT) since it started in 2016. The CRT resolves condo (called strata in BC) disputes as well as small claims up to \$5,000 and recently added motor vehicle injury disputes to its purview. It prides itself on being quick and affordable by using a collaborative approach starting with their free online Solution Explorer program which walks the participant through the process on a step by step basis. It seems to be working as a participant satisfaction survey from 2019 said 84% of respondents would recommend the CRT. The goal of the collaborative approach is to provide timely access to justice by providing legal information, self-help tools and dispute resolution services.

“It has been identified for a number of years now that many people simply do not have access to the traditional justice system, made up of lawyers and judges and courts, because of their geographic or social location,” says Kate Campbell who is Vice Chair of Strata, Societies, and Cooperative Associations for the CRT. She says there was a need to increase access to justice in BC as it reached crisis point a few years ago.

She adds that factors that can make it difficult to access the justice system include money, time, the ability to travel to a courthouse or take time off work, childcare and language barriers. There have also been serious problems identified around delay in the court system, mostly due to volume and the increased complexity of litigation.

Another crucial part of the system that Campbell stresses, is the importance of mediation. “I think one of the big benefits of the mediation stage is having a neutral but informed person in the mediator role, to talk to the parties and define exactly what is in dispute. We refer to this as case management, and it’s key,” she says. “Often in strata disputes, the parties are neighbours, have known each other for a long time, and will continue to have a relationship after the CRT dispute is concluded.”

As an online tribunal, the CRT is available 24 hours a day, seven days a week. This means interactions with the tribunal and other participants can be done when it is convenient. They deal with disputes involving owners, tenants, boards or the strata corporation as a whole in a multitude of different issues. Complaints about managers are dealt through the Real Estate Council of British Columbia (RECBC) who are also responsible for manager licensing. But there are some limitations to the system. The CRT does not have jurisdiction to appoint administrators, resolve allegations of conflict of interest by council members or handle developer concerns. However to date almost 1,000 decisions have been reached and the details of each case are posted on the CRT website for the general public to review and hopefully learn from.

Ontario has a condominium dispute tribunal as well, and its name is quite a mouthful. The Ontario Condominium Authority Tribunal Dispute Resolution System (CAT-ODR) began in 2017. Right now CAT only deals with access to records, which is the single most prevalent area of dispute between owners and condo corporations in Ontario, but a fairly large update to the system is being planned for December 2019.

“Based on user feedback and observations from the cases we’ve handled to date, this update will include improvements to streamline the dispute resolution process and to give the users more tools to work together to resolve their disputes,” says David Brazeau, Director of Communications and Outreach for the Condominium Authority of Ontario. “The update will also include support for multi-party disputes (cases involving three or more parties), so we can accommodate any additional dispute types that may come within our jurisdiction in the future.”

In November 2018, one year after CAT was created, an article published on the [condoadvisor.ca](http://condoadvisor.ca) website curated by lawyer Rod Escayola and his team at Gowling WLG, asking if the condo tribunal had delivered all that it promised to, found that issues that had been murky in the past now seemed settled. For example, corporations can charge fees for records, but they must be reasonable; they can refuse access to records related to litigation; and defeated parties can technically be asked to pay the legal fees of the other party, but this rarely happens.

Some interesting stats were given that show most owners and corporations were not represented by lawyers. 88% of the time owners were self represented; 55% of the time corporations were represented by agents such as condo managers; and 44% of the time corporations were represented by lawyers.



CAT also has the authority to dismiss applications without a hearing if they are frivolous, vexatious or not initiated in good faith. To date (2019) CAT has dismissed two applications before they were accepted for being vexatious. Of note, The Condominium Authority of Ontario (CAO) which oversees the tribunal also is responsible for the mandatory director training e-modules that are free and must be completed within six months of being elected or appointed to a condo board. While mandatory training for condo board members is not required yet in Alberta, there is definitely a desire to explore options by numerous owners and managers in the province. CCI North Alberta has been offering a free "Condo Board Basics and Best Practices" course to its members for the last five years.

It is prudent to take all new ideas with a grain of salt. Todd Shipley is an Edmonton lawyer who practices in condominium law and is also a CCI North Alberta board member.

He says he has often found himself a lone voice reminding others to be careful what they wish for before the new condominium regulations came about in 2014. While he does say that creating a dispute tribunal is a good idea, he is of the opinion that we should proceed cautiously.

"When we talk about a tribunal situation, do I think that we need to have such a thing? Yes. But if it's not done properly, you will see some abuse," Shipley says. "And what people need to understand is that the worst thing about the court process is complexity and cost. And the best thing about the court process can be complexity and cost because it weeds out frivolous actions."

Shipley says that when there are no significant consequences for bringing a dispute forward in terms of cost and complexity, cases that would never make it to court will emerge from the woodwork. "If it's not carefully designed and managed, you're

going to be seeing disputes brought forward which would never have been brought forward before," he says. "There are people that just make everyone's life a little bit miserable, right? Those individuals, when they've got an axe to grind, and they're not right and they don't care, and they don't want to hire anyone to explain to them that they're wrong, now what you have is the risk of seeing matters that are more frivolous and/or vexatious and can advance because it maybe cost me \$50 to do it, and I've got nothing better to do but to stew and obsess."

By looking at other systems already in place, we see the possibilities of what Alberta's could look like. The question is, what are the best attributes of each and how can we merge them to create the Alberta model? There is also the consideration of dealing with frivolous cases that may become more prevalent with the ease and reduced cost of a tribunal system. With litigation, you can be certain that the money being spent is worth it to have access to the traditional justice system. However, a tribunal system is cheaper, easier and more convenient and will enable those involved to be able to find resolution and get back to their lives much more quickly. Whichever form Alberta's condominium dispute tribunal takes will have its pros and cons and will be unique for this province. We are somewhat privileged to not be a first generation in this process, as other provinces have gone before us to iron out some of the kinks in the system.

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Check out our synopsis of the  
two dispute tribunal models on Page 29.

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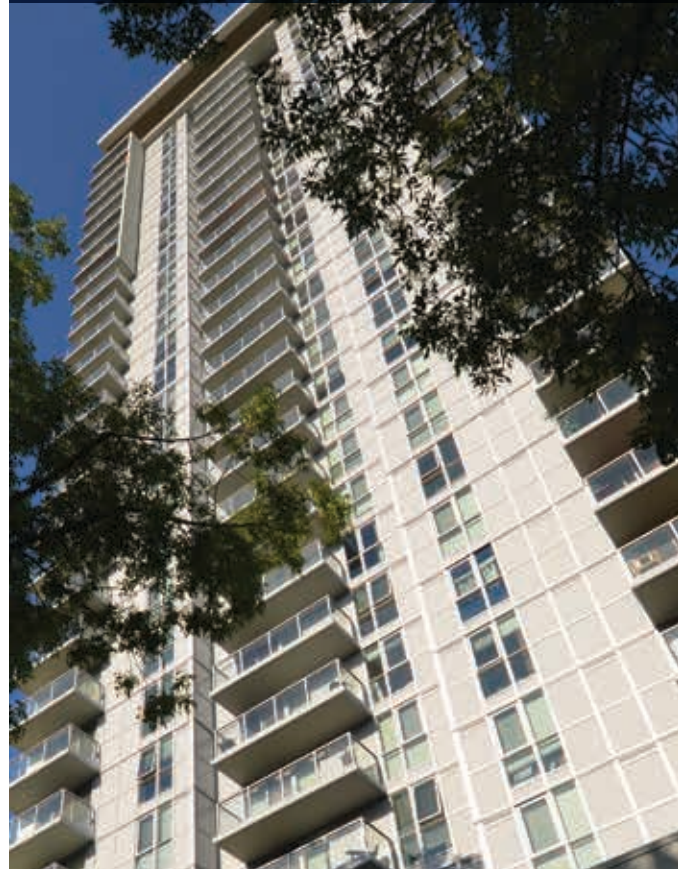
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# DISPUTE TRIBUNAL COMPARISON



Civil Resolution Tribunal

## CRT (Civil Resolution Tribunal - British Columbia)

**Inception date:** July 2016

**Fee structure:**

Application \$125 online, \$150 mail/email/fax  
Respond to a dispute is free online, \$25 mail/email/fax  
Tribunal decision \$100 (free if dispute resolved during facilitation)

**Number of decisions reached:** 896 (strata property decisions only)

**Different stages of process:**

Application  
Negotiation  
Facilitation (case manager)  
Tribunal decision

**Reports to:** Ministry of Attorney General

**Unique Aspects:**

Less than a quarter of strata disputes reach the tribunal stage

CRT also deals with Small Claims (<\$5,000) and Motor Vehicle Injury Claims



## CAT (Condominium Authority Tribunal - Ontario)

**Inception date:** November 2017

**Fee structure:**

Application is free  
Negotiation \$25  
Mediation \$50  
Tribunal decision \$125

**Number of decisions reached:** 68

**Different stages of process:**

Application  
Negotiation  
Mediation  
Tribunal decision

**Reports to:** Ontario Ministry of Government and Consumer Services (MGCS)

**Unique Aspects:**

Currently limited to disputes over access to corporation's records. Expected to increase scope in 2020.

Managed by the Condominium Authority of Ontario (CAO) a self funded organization that is also responsible for mandatory education for condo board members. It also works in conjunction with the Condominium Management Regulatory Authority of Ontario (CMRAO) which oversees licensing and oversight of condominium managers.

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# THE VALUE ADDED BY MEDIATION IN CONDOMINIUMS

BY ARCHIE ZARISKI, BA, LLB, LL.M, C.MED  
HIGH CLOUDS INCORPORATED, EDMONTON (ARCHIE IS A CONDO OWNER, BOARD MEMBER  
AND CONDOMINIUM MEDIATOR)

## Mediation in the Condominium - Context

When condo owners have a dispute or difference the optimal result is for them to sit down together and sort out the problem. Perhaps they have read the bestselling book about negotiation, *Getting to Yes*, by Fisher and Ury. Following its recommendations, they will listen respectfully to each other to gain an appreciation of everyone's needs and concerns and then craft a mutually advantageous solution, after brainstorming some creative ideas.

Unfortunately such a happy turn of events does not occur as often as we would like. "Human nature" seems to get in the way of constructive conflict resolution. Social scientists have revealed some common thought processes that block our efforts to resolve disputes - I will call these "conflict conundrums". Conflict resolution professionals have used this knowledge of conflict conundrums to design processes and techniques that surmount these typical obstacles to dealing successfully with conflict.

In this short essay I will describe some of the human barriers to efficient conflict resolution and how the mediation process, conducted by a skilled mediator, can help to achieve the goal of informal, effective solutions for the benefit of condominium.

### Some Conflict Conundrums

Psychologists and social psychologists have discovered common patterns of thought that adversely affect the way we respond to conflict in modern society. Such ways of thinking may have been valuable adaptations to earlier environments, but are counter-productive now. These conflict conundrums are not signs of mental illness; they affect most of us when we face stressful conflicts in our lives.

Conflict theorists and practitioners, in turn, have used this knowledge to design processes and interventions that help reduce the influence of these conflict conundrums. Mediation is one such process.

I will now describe three of the common conundrums found in conflicts and the way

#### *The Attribution Fallacy*

We all have a deep need to understand why others act the way they do. This helps us navigate the twists and turns of social life by making it easier to predict how people will behave when we interact with them.

However, research has revealed a common and serious flaw in our thinking about other people's motivations; this trait has been labeled the "attribution fallacy". The fallacy consists in ascribing (attributing) bad intentions to others more often than we should given the evidence we have about the states of their minds. (It also works in reverse - we usually ascribe good motives to our own actions.)

Here is an example of the fallacy at work. If we believe we have been harmed by someone there are at least four explanations we can adopt for their behavior: unintentional (accident); habitual (character or personality); intentional (self interest); and intentional (malice). The fallacy results in us attributing malice to others more readily than the other possible motivations.

The attribution fallacy makes conflict resolution directly between the affected parties very difficult. If one assumes both sides are operating under the fallacy then trust between them is probably non-existent, and this impacts all avenues of resolution beginning with communication.

Here is how mediation deals with this problem. A skilled mediator will facilitate thorough exploration of all parties' needs and concerns in a joint meeting, a step which is designed to reveal the motivations they bring to the dispute. Although mediation is future-focused, it allows some examination of the past in order to correct mistaken impressions such as those due to the attribution fallacy. By encouraging the parties to reveal their motivations and by sometimes rephrasing them, so they are really heard by the other side, the mediator helps disputants regain some trust in each other, open communication lines, and then deal with the problem more constructively.

#### *Reactive Devaluation*

"Reactive devaluation" is the term researchers have used to describe another common human failing when dealing with conflict. It happens when one side makes an offer of compromise or settlement. Our normal thought processes then find fault with ("devalue") the proposal, although it may be worthy of serious consideration. The result may be rejection of a reasonable offer.

It is easy to see how reactive devaluation may be tied to the attribution fallacy. If you believe the other party is acting out of malice, then you may conclude any offer they make must be a trap to be avoided.



By combating the attribution fallacy, mediators can help to limit reactive devaluation as well. But mediation also provides an avenue to deal with reactive devaluation directly.

Mediators recognize the importance of getting all parties to a dispute to consider their alternatives if they cannot reach an agreed solution. Thus, mediators encourage each disputant to clearly define their “BATNA” (Best Alternative to a Negotiated Agreement) – what they can achieve without the cooperation of the other side. Then, if an offer is made that compares favorably to a person’s BATNA, that party is more likely to take it seriously and not dismiss it out of hand due to reactive devaluation.

Mediators work with each party, usually in private session, to help them clarify their BATNA and weigh offers in the light of their alternatives. In this confidential, private setting, mediators are able to forestall reactive devaluation that can lead to premature termination of efforts to resolve a dispute.

#### *Perspective Taking*

One of the best ways to settle a dispute is for the parties to treat the contentious issues as a mutual problem to be solved through collaboration. This problem solving approach is at the heart of the theory of “principled” or “interest based” negotiation described in *Getting to Yes*. In practice it can yield creative, satisfying solutions.

A key step in interest based negotiation is appreciating the needs and concerns of the other party – being able to “stand in their shoes”. Another name for that crucial step is “perspective taking”, and research has shown it is difficult for people to accomplish unaided.

Mediation provides a supportive framework for interest based negotiation guided by a problem solving approach. A mediator encourages disputants to try to understand the conflict from the perspective of the other side. This may be done by asking one party to paraphrase what they have heard said by the other. On occasion the mediator may ask the parties to engage in “reciprocal role playing” in which they are asked to say what they would have done, or would do in the future, if they were in the other party’s place. Or, a mediator might suggest that disputants “stand in each other’s shoes” by looking or listening from the other side of the wall, fence, floor or hedge in question, and then bring that experience back to the table.

The intent and effect of these mediation techniques is to assist parties in perspective taking and in so doing to discover solutions that meet everyone’s needs.

#### *Conclusion*

Mediation conducted by a skilled practitioner is an effective intervention in disputes that can fester and grow because of common human failings that obstruct direct informal settlement.

The benefits of skilled mediation are not restricted to differences amongst owners, but can be realized in disputes between owners and boards, boards and developers, and just about any combination of such parties. The human factors that get in the way of constructive responses to conflict are the same in every interaction.

Mediation thus adds value to condominium by helping to resolve disputes that might otherwise become prolonged, acrimonious and expensive without such intervention.



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# ON BOARD

## INSURANCE AGAINST FRAUDULENT OR DISHONEST ACTS (FIDELITY BONDING)

BY DAWN MITCHELL - HUB INTERNATIONAL INSURANCE BROKERS

On January 1, 2020, Section 62.5 of the Condominium Property Act Regulations will make it mandatory for all condominiums – commercial and residential - to have a fidelity bond. Corporations that do not currently have this coverage will be required to purchase at the next renewal of their current policy.

So what is a “Fidelity Bond” and why are they necessary?

A fidelity bond generally forms part of the crime coverage on a package policy (a package policy provides many different coverages, including property and general liability). The purpose of the bond is to protect the Insured should there be a theft of monies and/or securities in the control of the insured.

Nonprofit organizations tend to be at a greater risk for theft. The level of controls in place tends to be not as stringent as profit companies. Oftentimes, the misappropriation of funds starts out small, and increases as the person becomes more comfortable in their deception. They may act alone or in conjunction with another employee/volunteer or suppliers. The theft could take many forms:

- **Cash payments received and not recorded (and no receipt is supplied),**

- **Providing a false work order and issuing payments to a non-existent company,**
- **Submitting invoices for work not done, etc.**
- **Unauthorized transfer of funds from Corporation's account**

Condominium Boards have a fiduciary responsibility to the Owners. They are collecting funds on behalf of all the owners and are in a position of trust.

**What steps can Boards take to prevent theft?** Boards should adopt financial control practices to protect the Corporation's assets. Some guidelines to follow include:

- **Ensure the person responsible for making the deposits does not issue cheques or reconcile the bank accounts. No one person should be in control of every aspect.**
- **All cheques should require 2 signatures with proper back-up documentation reviewed before signing.**
- **No cheques should be “pre signed”.**
- **Have annual financial audits for a third party oversight.**

Doing all of the above will not always provide you with 100% protection. Someone that is determined to have unauthorized use of the money will find a way to do so. When a loss of funds is discovered, this is where the Crime Coverage/Fidelity Bond would respond. It covers such things as forgery, alteration, counterfeiting, as well as the theft. Many crime policies also provide coverage for losses due to social engineering. An example of social engineering is when a 3rd party impersonates a trusted vendor and induces (usually via email) the insured to send funds owing to a new bank account. Grant MacEwan University was a victim of this in 2017, and although they recovered the bulk of the funds illegally transferred they still suffered almost a million dollar loss.

**So how much coverage is required?**

As per Section 62.5(3) in the new Condominium Regulation of Alberta, the minimum amount of required coverage is either



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- (a) The amount, if any, set or determined in accordance with criteria set for this purpose by the Corporation in its bylaws, or
- (b) The sum of the Reserve Fund balance at the start of the corporation's current fiscal year, and the balance of the operating account at the beginning of the corporation's current fiscal year, if no amount or criteria are set in the corporation's bylaws.

As indicated earlier, most package policies have a crime component that includes a fidelity bond. These may range anywhere from \$10,000 to \$1,000,000. It is important that you review your policy to determine your present coverage. Then you must determine what your requirements are as per the formula above or as set in your bylaws. If your coverage is not adequate, you need to contact your corporation's insurance broker and have the limit increased. You may be required to complete an application and provide a copy of your latest audited financial statement. Finally, you must ask if the definition of the "Insured" on the fidelity bond has been amended to include Directors and Officers as most policies exclude them from coverage.

This coverage is to be reviewed at least once every two (2) years and adjusted – if necessary – to meet the requirements of the Regulation. Should you have incurred a large influx of monies due to a special levy you may want to adjust your limits accordingly before waiting for the two year period to expire.

A Condominium can do everything "right" and still suffer a theft of monies. Having the proper coverage in place to protect the Condominium will not only alleviate the stress of a loss, it will be mandatory as of January 1, 2020.



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# ASK THE PROFESSIONALS

At CCI North Alberta, part of our education focus is to give our members the opportunity to network with our professionals and business partners so they can learn more and make informed decisions when required. Our new feature, “Ask the Professionals” gives us the opportunity to share this expertise with all of our members.

In the Winter Issue, we just had one topic we wanted to delve into – snow & ice!

**What are the best products and practices for keeping parking lots and sidewalks clear of ice and snow and make them safe for condominiums?**

**Chris Yaremko – Innovative Landscape Concepts**

Snow removal is an extreme safety concern, transport and access requirement, and of course a modern convenience. In this time of convenience, and with an aging population, clear parking lots and especially sidewalks are essential to societies health & safety as a whole. As we don't live in just a “Snow City, or Province”, but a “Snow Country” it truly affects us all as Canadians.

*Let's start with some terminology and products available:*

**Anti-Icing** is a proactive approach given to placing effort in preventing ice and otherwise hazardous winter conditions. Examples of this would be spraying or spreading agents prior to a weather event.

**De-Ice** is a post active approach given to placing effort in removing existing ice and otherwise hazardous winter conditions. Examples of this would be spraying or spreading agents following a weather event.

Both are effective tools in the winter for preventing bonding of water (snow/ice) to surfaces such as walks, paths and roadways, as well as a tool to assist in the removal of an existing bond. Manual and un-assisted removal of packed snow and ice can be difficult, expensive, damaging or ineffective. The use of these practices can result in a much more efficient and effective result.

**Brine** is the term used to describe a chemical/mechanical mixture between any class of salt and water. Brines include sodium, calcium, and magnesium chlorides. Common uses for brines are

food, oil and gas. Brines can be used for dust control, preservation, and even health as in the Dead Sea where you can't sink due to the high specific gravity found in the salt water (brine) lake.

“Anti/De-Icing” is a quite broad referral to both products as well as practices. These can range from salts, to sands, or from plows to blowers. Let's break down some of the most common.

**Salt** is the most common form of “icemelt”. Salt has the “highest” freezing point of the common products at around -21C. Note that counter-intuitively the “highest” freezing point is the least effective in terms of lowest temperature the product will keep water in liquid form before freezing into solid form. Salt is also the most economical and readily available in Canada as we are salt producers with large reserves found in both Saskatchewan and Ontario. Salt brine is also found naturally and in fact covers the majority of our planet, though in a mild mixture, our oceans are the largest salt brine reserve in the world. “Salt” is in fact slang for sodium chloride and factually describes a larger “class of minerals/chemicals” and includes sodium, calcium and magnesium chloride.

**Calcium** is a unique mineral in that it is exothermic, meaning it is capable of creating its own heat. When dry calcium is mixed the chemical reaction of retaining that water generates substantial heat as a byproduct. By substantial we mean when we batch our brines we have to make sure there is enough water to prevent the product from literally melting the plastic tanks; it can get hot. Calcium has the lowest functioning temperature of the salts and is commonly used to lower the freezing point of the other salts. You would think calcium would be the best product but its cost is high as calcium is most commonly found in liquid form, though readily available and harvested similar to that of a water well; to be found in its dry form the liquid requires dehydration which separates the calcium from the water.

**Magnesium** is also unique in its moisture retention and rehydration capabilities. Magnesium “captures” water and holds on to it. It's the best of all salts; it is also the least naturally corrosive mineral of the common salts. Magnesium, like calcium, is readily available and commonly found in liquid form via drilling again similar to a water well. Magnesium is commonly used to treat infrastructure due to its low corrosion level attributes. Magnesium chloride is relative in cost to its cousin, calcium chloride.

**Aggregates** such as sand and rock chips are by far the most common and dominant “Anti/De-Icing” products used today. Though contractors and municipalities located in milder



climates often choose up to 100% salts, sand is by far the most economical, readily available, sustainable and effective solution for the liability and safety needs for snow environments. Aggregates are commonly mixed with salts to achieve new products such as "Pickle-Chip" and "Pre-Wet" sands. These products are effective in achieving some melting, additional traction and an anti skid product that will adhere to ice rather than be brushed or blown off.

#### What are the effects of these products on our environment?

Salts can be devastating when used inappropriately and unethically. The practice of "burning" off snow is unethical and won't be offered by a quality service provider. Often contractors will "burn" snow rather than push it, and especially where hauling is required. The best practice is to use these products sparingly and as required only. The best solution is to remove the snow. If practices are such that snow is removed according to need, of course within a realistic monetary framework, ice should be a relatively non-issue. Remember conditions change from minute to minute, hour to hour and certainly year to year. Budgets, plans and real-time practices need to be attune to the current conditions. Safety should be of utmost priority, followed by access, followed by convenience. Other practices and considerations such as asphalt and grade repair can help with pooling and drainage; and other considerations include downspout placement and dripping eaves, snow and pile placement, unseasonal temperatures (either high or low) will reduce any anti/de-icing efforts, increase liability, and damage your sites and our environment.

#### What are the most eco-friendly ways to deal with ice on sidewalks and parking lots?

##### Sarah Wells – Solstice Landscape Maintenance

Icemelt and gravel are a key tool in the snow removal industry in keeping properties safe and managing liability. To manage sidewalks, we always use pet and eco-friendly ice melt. It does come at a higher cost but is safer in general than other products. The pet friendly product does not 100% eliminate risk to pets, pets should be watched that they not ingest it, but it is still a safer option. It is also easier on vegetation. It can still do damage to lawns but is the

better alternative. I never recommend using just salt as it can be damaging to concrete. Depending on conditions, ice melt is used in combination with gravel. If it is still snowing when you lay it down, and will need to remove snow again in the next 24 hours, we usually prefer to use the gravel only - the Icemelt will melt the first layer of snow creating a base layer of ice. Better to lay gravel in this circumstance and then follow up with a layer of Icemelt once the snow has stopped.

Posting caution or warning signs saying walkways and roadways can be slippery, goes the extra mile in reminding residents of their individual responsibility to take some extra time and care after a precipitation event or melting and freezing conditions to avoid any falls.

Parking lots should be sanded after every parking lot clearing and as needed. Most snow removal companies offer this service on an on-call basis and usually within 24-48 hours.

All boards or property managers should keep copies of their contractor's liability insurance and have service contracts in place specifying the minimum liability coverage required. Without these items in place, your board could be solely responsible for all slip and fall liability.

*Please Note - Both questions and responses may have been edited due to space limitations.*

**If you have a question for consideration for our next issue please forward it to [info@ccinorthlaberta.com](mailto:info@ccinorthlaberta.com) with the heading "Ask the Professionals".**



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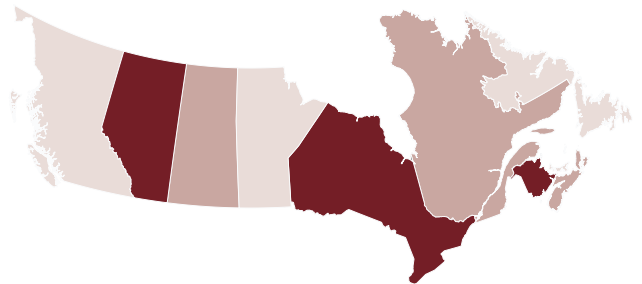
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## CONDO CASES ACROSS CANADA



We are pleased once again to showcase the work of condominium lawyer James Davidson, LL.B., ACCI, FCCI whose labour of love over the years has produced an amazing amount of brief summaries of recent condominium court decisions. To view the judgment transcript of the featured cases or to review other Canadian condominium case law, CCI members can visit his website at [www.condocases.ca](http://www.condocases.ca) and use the password **condocases** for access.

### CONDOMINIUM PLAN NO. 7721985 V. BREAKWELL (ALBERTA COURT OF QUEEN'S BENCH) AUGUST 29, 2019

**29/08/2019 – Jurisdiction Alberta**

**Part 67 published on 01/09/2019**

***Appeal allowed. Owner responsible for corporation's deductible in relation to water damage***

The furnace in the owner's unit malfunctioned. As a result, pipes froze and water escaped, causing damage to four units.

The water shut-off valve had been concealed behind kitchen cupboards that were installed by a previous owner of the unit. As a result, there was a delay of some 45 minutes to remove the cupboards and locate the shut-off valve (to stop the water flow). This delay substantially increased the resulting damage.

The water damage was covered by the condominium corporation's insurance, subject to a \$10,000 deductible. The condominium corporation claimed that the owner was liable for the deductible under the terms of the corporation's by-laws. The owner denied any liability, saying that the furnace malfunction was unexpected and that she was also not responsible for the concealed shut-off valve. The Master agreed with the owner and dismissed the claim. The condominium corporation appealed.

The Appeal Court held that the owner was liable for the deductible under the terms of the corporation's by-laws. The Court said:

- According to the by-laws, the owners were responsible for any deductible loss resulting from an act or omission of the owner or a tenant or occupant of the owner's unit.

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- An “act or omission” does not necessarily require negligence, but rather is a question of responsibility to be determined based upon all of the circumstances, including the governing documents of the condominium. In this case, the damage resulted from the owner’s acts or omissions.
- *As the owner of the property she should have known where the water shut-off valve was located and should have ensured it could be easily accessed in the event of an emergency, including the breakage or bursting of any pipe or plumbing fixture in her unit. She is required by virtue of By-law 2(iii)(a) to maintain her unit. Further and more specifically, By-law 44(f) requires Breakwell to take appropriate steps to ensure all plumbing systems are in working order and that they are maintained where necessary. The shut-off valve is part of the plumbing system in her unit. She was further required under the Code to ensure that the water-shut off valve was readily accessible for use and maintenance.*
- *The concealment of the shut-off valve falls on Breakwell as the owner of the unit at the time that the damage occurred. She failed to properly maintain the plumbing system and to ensure that the shut-off valve was readily accessible. Her failure to do so contributed to the water damage that was caused to her own unit and to the other units in the building.*

**Editor’s Note - With the upcoming change in legislation, owner liability for deductible payments has changed. Please review our information bulletin on Page ?? The other factor of note is that the owner was not aware of the location of the shut-off valve. This is more prevalent than you may imagine and boards would well-served to help educate all residents as to their location and functionality. Every minute wasted locating and shutting the valve off results in thousands of dollars being spent on repairing the damages.**

## YEUNG V. MTCC 1136 (CONDOMINIUM AUTHORITY TRIBUNAL) MAY 13, 2019

**13/05/2019 – Jurisdiction Ontario**

**Part 66 published on 01/06/2019**

**Emails not part of condominium records**

The Applicant owner applied to the Tribunal for access to email correspondence relating to the condominium corporation’s renewal of a gas contract. The email correspondence in question was referenced in Board minutes.

The Tribunal held that the email correspondence was not part of the corporation’s records (and the owner was accordingly not entitled to the requested order). The Tribunal said:

*Section 55(1)(2) of the Act speaks to condominium corporations keeping a minute book containing the minutes of owners’ meetings and board meetings. It does not require a condominium corporation to keep a transcript of discussions (oral or by email) between directors within or beyond duly constituted Board meetings.*

*If the Minutes intended to affix the Emails as a schedule thereto, that might have qualified them as records of the Respondent; however, there is insufficient evidence to support that being the intention.*

## THE OWNERS, STRATA PLAN NW2275 V. EMERSON (BC SMALL CLAIMS COURT) AUGUST 1, 2019

**01/08/2019 – Jurisdiction British Columbia**

**Part 67 published on 01/09/2019**

**Strata Corporation entitled to reimbursement of fees paid to President for building manager services. Proper procedures not followed in relation to conflict of interest.**

While President of the strata corporation, the Defendant received payments from the strata corporation for building manager services (provided over the course of two months). The strata corporation brought a claim in Small Claims Court for return of such amounts.

The Small Claims Court first found that it had jurisdiction to deal with the matter, and that the Civil Resolution Tribunal did not have jurisdiction to deal with the matter.

The Court then determined that the strata corporation was entitled – under Section 33 of the Strata Property Act – to receive repayment of the said amounts paid to the President. The Court held that the Defendant had failed to comply with the “conflict of interest” procedures set out in Section 32 of the Strata Property Act in relation to the particular transaction. The Court also said:

*While the Defendant may be disappointed with my decision, I would like her to know that I am cognizant of the value of the services she provided to the Strata Corporation on a gratuitous basis, for which the Strata Corporation should be thankful to her. However, as I noted earlier, she is not the only strata council member who provided services to the Strata Corporation. All strata council members exercise their council duties, or provide such other services, on a gratuitous basis, unless remuneration for such duties or services are specifically approved in accordance with the applicable provisions of the SPA, the Regulation, and/or the Bylaws.*

## OCSCC 671 V. FRIEND (ONTARIO SUPERIOR COURT) JUNE 28, 2019

**28/06/2019 – Jurisdiction Ontario**

**Part 67 published on 01/09/2019**

**Courts makes various interim orders to prevent ongoing harassment by the owner**

The condominium corporation had asserted a claim for arrears against the owners. In that claim, the corporation brought a motion seeking certain orders respecting the conduct of Anthony Friend (one of the owners of the unit). The Court found that, over a number of years, Mr. Friend had engaged in a pattern of conduct that was determined by the Court to constitute harassment under the Occupational Health and Safety Act and also to contravene Section 117 of the Condominium Act. The Court said:

*Actions constituting OHSA workplace harassment by Mr. Friend include:*

*(a) him making unwarranted allegations of misconduct against the Property Manager of CC 671;*

*(b) him physically applying physical force without consent to Directors of CC 671: Toronto Standard CC 671 Court No. 2395 v. Wong, 2016 ONSC paras. 7-8, 11 and 13;*



# ASK THE PROFESSIONALS

(c) his constant aggressive emails and complaints to CC 671 personnel; and

(d) his correspondence to the Property Manager as an employee of CC 671, which contain "insults, ..., name-calling, coarse language and rudeness" as well as his verbal abuse of such employees: York CC 671 Corp. No. 163 v. Robinson, 2017 ONSC 2419 (CanLII), paras 2, 3 and 13.

The court declares that Mr. Friend's above physical misconduct and his campaign of aggression constitute:

(a) workplace harassment of the Property Manager as defined in the OHSA; and

(b) a breach of s. 117 of the Act, as his conduct includes harassment, intimidation, verbal abuse and physically assault of Directors, personnel associated with and residents of CC 671.

Mr. Friend was ordered to cease and desist conduct that contravenes the Condominium Act and the corporation's Declaration, By-laws and/or Rules, "namely conduct which risks the health and safety of the employees, contractors and residents of CC 671".

The Court also granted an interlocutory injunction, for the duration of the proceeding, prohibiting Mr. Friend, "directly or indirectly from communicating verbally or in writing with employees, contractors, members of the Board of CC 671, the spouses and family members of its Directors", subject to certain exceptions listed by the Court.

**James Davidson, LL.B., ACCI, FCCI has been practicing condominium law for over 30 years and is one of the founding partners of Davidson Houle Allen LLP in Ottawa, Ontario.**

**With the growing trend of inexpensive home security cameras such as Google Nest and Amazon Ring how do boards balance the security rights of the individual unit owner with the privacy rights of their neighbours? What are some reasonable restrictions that we could consider implementing on behalf of the corporation?**

Alberta's Personal Information Protection Act SA 2003, c. P-6.5 places a positive duty on condominium corporations to protect the personal information of residents that it collects. Accordingly, a host of rules apply to condominium corporations when they install surveillance cameras, such as providing notice. But this legislation, and the corresponding duties it imposes, do not apply to individuals.

With the trend of individuals to install their own home security cameras, we will inevitably see clashes between condominium boards and occupants over privacy issues, especially as these cameras tend to be installed outside, on or near the front door. Depending on the type of condominium, the front door and unit exterior are most likely common property, and this will give boards some leverage in the event of a dispute.

The corporation's bylaws govern an owner's rights to affix items to the common property and/or exterior of the unit. They may also contain nuisance provisions that could be triggered in the event complaints are received from other occupants about being recorded. Many of these inexpensive doorbell cameras can livestream 24/7 or are motion activated, which the neighbour across the hall may consider highly intrusive.

Boards should, as a general rule, require permission be granted prior to the installation of any security cameras by residents, but especially for those to be attached or installed on the common property. They should also request details about the camera type, capabilities, activation, recording storage (if any), and a screenshot to assess the camera's angle and field of view, all so as to minimize the impact of the camera on other residents.

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