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The Canadian Condominium Institute is an independent, nonprofit organization formed in 1982 with Chapters throughout Canada. This organization is the only national association dealing exclusively with condominium issues affecting all of the participants in the condominium community. The Chapters throughout the country provide practical comparisons to the different provincial Acts. CCI assists its members in establishing and operating successful Condominium Corporations through information dissemination, education, workshops, webinars, courses, seminars and government advocacy.

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### MEET THE ARTIST



Photo Credit: Katherine Topolniski © 2024

#### **ALENA VALOVA**

The cover art for this issue of *Insite to Condos* magazine has been provided to us by our very own Alena Valova, who is our new Administrative and Communications Coordinator. She brings her vibrant energy, creativity, and proactive mindset to the team.

Aside from being a great addition to the CCI staff team, Alena is also a very talented visual artist and painter. Find more of her artwork online at www.AlenaValova.com.

If you'd like to have an in-person look at the painting depicted on the cover, it's currently on display along with some of her other pieces at the Bloom Café in the Muttart Conservatory in Edmonton.

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23 EVENTS: Everything Condo at the Alberta Condo Expo

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NATIONAL EVENT: Halifax
National Leaders Forum

### FROM THE PRESIDENT



### CCI North Alberta Chapter President **Anand Sharma**

I write this message after returning from the CCI National Leader's Forum in Halifax where I'm proud to say that *CCI North Alberta* was awarded the *Lorne Young Award for Chapter of the Year*, and the *Penman L. Smith Award for Newsletter of the Year!* 

To win both awards in the same year speaks to the strength of the amazing organization we've built together over the years. CCI North Alberta has won Chapter of the Year 5 times in the last 10 years, which is amazing given the number of worthy chapters across Canada. Congratulations to the staff, the Board of Directors, and all the volunteers who contribute to our success.

Winning both awards speaks to the strength of the amazing organization we've built over the years, together.

Over the past few months, we have had some staff changes, including welcoming in Katy Campbell, our new Executive Director. I am thrilled that Katy has joined us after a long career working in the Alberta Government through constituency work as a manager. Her impact is already being felt and we are so pleased to have her join the team.

In February we onboarded Alena Valova as our Admin & Communications Coordinator, she brings many skills and is a great addition to the CCI team. Since March we've worked with consultant, Katt Topolniski, who organized the Alberta Condo Expo and is keeping

us focused and on track, as we create our 2024-2025 education schedule.

Finally, we began working with a new bookkeeper this year, Martin Galba. Martin has been working closely with our Treasurer, Jeremy Dalgliesh, to modernize and update our systems, and he's doing a great job!

In April we held our annual Alberta Condominium Expo here in Edmonton to much praise. The CCI team, led by our new Executive Director, Katy Campbell, conference organizer Katt Topolniski, and Alena Valova, pulled together a robust and informative one-day conference and trade show.

Our presenters, all dedicated industry professionals, generously volunteered their time and expertise to deliver sessions which offered practical information our participants found incredibly valuable. Thank you to all of them and the other volunteers who helped make this event a success, including Shantel Kalakalo, who went above and beyond as the trade show and sponsorship coordinator.

Your CCI Board will meet in July for strategic planning and to continue to innovate and expand member services to provide value to you. Some key areas we will focus on are expanding education, increasing government advocacy, providing better opportunities for business member interaction, and building stronger and more effective communication within our CCI community.

Your experience as members is our focus and I invite you to share ideas and thoughts about how we can better serve you.

### Friends, all good things eventually do have to come to an end.

After 16 wonderful and rewarding years, the time has come for me to pass on the proverbial torch to the next generation of leadership. While I still have the fire and passion to give back to this wonderful community, one that I view as extended family, my body and mind are telling me to take some time and rest.

In April I made the difficult decision to step down from the role of President at our upcoming AGM scheduled in October.

This journey I've been on as a Director of CCI over the past 16 years, including 13 years as your President, produced the most rewarding years in my career and my volunteer work. It has truly and sincerely been my honour to lead this organization. I am immensely proud of all that we have accomplished.

If you have learned anything from CCI or benefitted from our advocacy in some way over the past 16 years, then I accomplished what I had set out to do.

When I joined in 2008, CCI North Alberta was on the brink of nonexistence. What had once been a great chapter was dealing with an unmotivated and fractured board, with no money and a plummeting membership. At the time, when I looked around our industry, I could see all the amazing leaders in our community, past and present, and the passion they had for condominium education and advocacy.

I saw there was a need for CCI to help connect the condominium community and I began reaching out to

those leaders, asking them to help rebuild CCI. To my surprise, everyone I approached stepped up.

Our current success is built on the shoulders of these dedicated, lifelong volunteers. If I were to name them, I would fill up pages of this magazine, so I will simply say to all past and current board members and volunteers thank you for extending your hand and giving your time and expertise.

Through the strength and commitment of volunteers and hardworking staff over the past decade we have accomplished so much, including,

- expanding our membership nearly threefold to become the second-largest Chapter in Canada,
- growing our annual Alberta Condominium Expo and Trade Show to be the largest condo industry event in Western Canada,
- creating an organization (ACMEC) that is now the largest licensing education organization for Condo Managers in Alberta,
- and all of the remarkable work completed by our advocacy committee, who are universally respected by all levels of Government.

### We accomplished all this together and there is still much more to do.

If I do just one more thing as your President, I hope to lead by example and motivate you to get involved in our CCI family. Any contribution you make, big or small, will help CCI continue to be a leader in condominium education and advocacy. Tell your friends and community members about the good work we are doing and keep the momentum going!

With love and respect,

Anand Sharma President CCI North Alberta







### MFFT THE CCI TEAM



#### INTRODUCING

#### CCI North Alberta Chapter Katy Campbell, Executive Director

#### What did you know about CCI North Alberta before applying for the Executive Director position and what attracted you to the job?

Before applying for the job, I had long admired the organization's government advocacy efforts. matter the government of the day, CCI consistently demonstrated a strong commitment to working proactively with governments to advance legislative reforms and policies that benefit the condominium community. This proactive stance not only impressed me, but it also aligned with my passion for driving positive change through effective advocacy.

I was also aware of CCI North Alberta's significant contributions to condo education. Their commitment to providing valuable resources, training seminars, and workshops with a targeted focus on educating condominium boards, owners, and other industry professionals underscored their dedication enhancing knowledge and fostering best practices within the condo community.

I am grateful to have the opportunity to take on a role within an organization that is dedicated to making a substantial impact.

#### What challenges and opportunities do you see arising for the organization in the near future?

I am excited to be coming into the organization at a time of change, renewal, and hopefully growth. As you may have read in the President's Report on page 7, after many years of dedicated service, our Board President, Anand Sharma is stepping back from his role. Anand leaves some big shoes to fill - his contributions have been significant and he's undeniably been the driving force behind many of CCI North Alberta's successes during his time as Board President.

The board has been working on an organizational review to shift some of that workload among other board members. This work includes clarifying board roles and job descriptions and revitalizing and empowering committees. As this work nears completion, I think everyone involved is proud of what has come out of that process.

"CCI's proactive approach to government advocacy not only impressed me, but it also aligned with my passion for driving positive change through effective advocacy."

- Katy Campbell

If you would like to get more involved as a volunteer with CCI North Alberta Chapter, now is a great time to come on board! Stay tuned for more details about our October AGM.

Continued on page 11.





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### MEET THE CCI TEAM

### What do you see as the main priorities when it comes to education delivery?

Although CCI continues to be a great source for education (the fantastic sessions provided at ACE this year being a prime example of that!) it's no secret that the last few years have brought with them some challenges when it comes to consistently delivering educational content.

One of those challenges was, of course, the covid pandemic, when a pivot to online content delivery was required. Another challenge has been with the revision of the Condo Management course suite (CM 100, 200 and 300) that CCI offers. While the work to revise CM 100 was completed some time ago and CM 100 continues to be offered, the process of getting the 200 and 300 level courses to where they need to be in order to be delivered has faced some challenges.

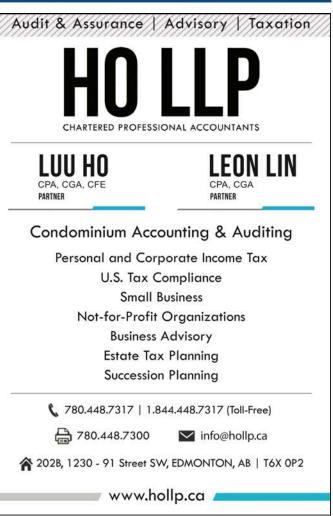
These Condo Management courses are foundational to CCI North Alberta's educational offerings. Ushering along the work of peer review of the revisions to make sure the content is of the highest quality is a top priority for me right now.

Along with ensuring that our core course content will be ready to deliver in the near future, I am committed to working with our board and committee members to build up a robust education event calendar that includes a variety of educational offerings so we can better serve the condo community.

### Can you tell us about an interest or hobby you are passionate about and how you see it influencing your approach to your role here?

I have many hobbies, but one that I most enjoy is curling. Thinking strategically and making sure you're working together effectively as a team are major components to curling success. These are strengths I will certainly bring into my role at CCI!







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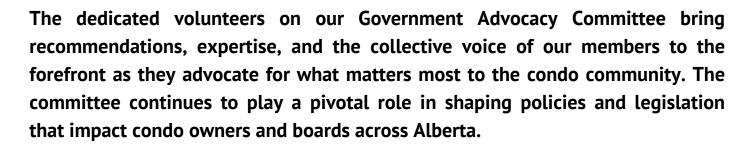
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### **GOVERNMENT ADVOCACY**

# SHAPING ALBERTA'S CONDO FUTURE

Report from CCI North Alberta's Government Advocacy Committee



So far, 2024 has required an even greater time commitment from our volunteers than in recent years. CCI North representatives have attended over 20 meetings between various levels of government, with more expected in the near future. We are pleased that our Chapter is provided the opportunity to participate and advocate in the interest of consumer protection for the condominium industry.

We continue to actively participate in the Provincial Condominium Stakeholder Working Group led by Service Alberta. This platform allows us to provide crucial insights and recommendations on various aspects affecting condominiums. We extend our heartfelt gratitude to all condo corporation members who promptly responded to our recent survey to help inform our discussions in the Condominium Stakeholder Working Group.

Our voice is the strongest when we are able to back

up what we are saying with data from our members. Your participation underscores the strength of our collective voice in advocating for our community.

We were honoured to have Minister Dale Nally, Minister of Service Alberta and Red Tape Reduction, speak at the Alberta Condo Expo this year. His insights into governmental policies and initiatives affecting condominiums provided attendees with invaluable perspectives and updates on critical issues.

We also had a great turnout from other local politicians at the Alberta Condo Expo. His Worship Amarjeet Sohi, Mayor of Edmonton was one of our opening speakers along with Service Alberta and Consumer Protection Critic, MLA Parmeet Singh Boparai. Sherwood Park MLA Kyle Kasawski also attended the event.

#### Building on our advocacy efforts.

We have maintained ongoing dialogues with the Service Alberta Ministry regarding potential proposed amendments to the Condominium Property Act. These potential updates to the Act remain a top priority for our advocacy team.

We have also continued to emphasize the importance of equitable protections for condo board volunteers. Our members also met with representatives of the Ministry of Arts, Culture and the Status of Women to advocate for greater protection for condominium volunteers (board members and others) through legislation within that Ministry. More specifically, to advocate for protections for condominium volunteers similar to those provided for non-profits and societies under the Freedom to Care Act.



Photo: CCI Executive Director, Katy Campbell explores the Trade Show with Sherwood Park MLA, Kyle Kasawski.

Members of our Government Advocacy Committee have recently been actively engaging with Edmonton City Council members to address concerns related to the rollout of waste collection changes for condo buildings. These discussions are crucial in ensuring that municipal policies align with the practical needs and operational realities faced by condominium communities in Edmonton.



Photo: Hon. Dale Nally, Minister of Service Alberta and Red Tape Reduction, offered remarks to a packed room of ACE attendees and then visited the Trade Show.

As we look ahead, the Government Advocacy Committee remains committed to advocating for legislative reforms that foster a transparent, fair, and sustainable condominium sector in Alberta.

CCI North Alberta reaffirms its dedication to serving the interests of condominium owners and boards through proactive advocacy and collaborative partnerships with government entities. Together, we continue to make strides toward creating a legislative framework that supports vibrant and thriving condominium communities across Alberta.

We encourage all members to stay engaged through our newsletters, events, and direct interactions with policymakers. Your active participation is instrumental in shaping the future of condominium governance and regulation in our province. If you have any questions about the work that we are doing or how you can be involved, don't hesitate to contact our office.

Contact us at: info@ccinorthalberta.com



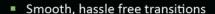
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### FINANCIAL



Article submitted by Kelly McFadyen (CWB Maxium Financial)
& Melissa Stappler (Willis Law)

### Condominium corporations are responsible for repairing and maintaining the common property - the costs can be high, so get to know the basics of borrowing.

A lot of work is required to satisfy this obligation – including reviewing the Reserve Fund Study, updating the Reserve Fund Plan, preparing an annual budget and collecting condominium fees – and to ensure that the corporation will have sufficient funds on hand to pay for future repair and replacement expenses.

Unfortunately, not every repair project can be accurately predicted. Sometimes condominium corporations must tackle necessary repairs that were not planned or budgeted for. This may mean that the corporation has to expend reserve funds that were earmarked for other repair projects, resulting in an under-funded reserve fund. These challenges may be compounded by other pressures such as inflation and the rising cost of materials.

When repair project costs exceed savings, a condominium corporation may raise the necessary funds by issuing a Special Levy. A Special Levy notice is usually not welcome news. Depending upon the amount and payment terms, it may impose financial hardship upon owners, prompting the corporation to explore borrowing options.

#### How does a condominium loan work?

A condominium loan is a loan taken out by the condominium corporation, not individual owners.

Other features of a condominium loan include the following:

- Loan payments are assessed to all owners participating in the loan and become part of the monthly amounts owing from those owners to the condominium corporation.
- A condominium corporation has limited security that it can pledge. What it can offer is the ability compel a Special Levy if the loan goes into default.
- Rates are generally higher than secured, personal lending (for example, a mortgage or home equity line of credit).



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#### What does a Reserve Fund Study include?

Site inspection

 assess condition of common property components by appropriate personnel familiar with components.

Report

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Spreadsheet

- common property components requiring major repair/replacement with current estimated repair/replacement costs.
- ✓ Present Course illustrates current funding practices and factors in interest & inflation.
- ✓ Reasonable & Sufficient ~ illustrates future funding recommendations/scenarios and factors in interest & inflation.
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### FINANCIAL



#### **Navigating the Approval Process**

In order for a condominium corporation to qualify for a condominium loan, it must demonstrate to a potential lender that it is well-managed and in good standing. A lender will be more likely to approve a loan on favourable terms if a condominium corporation can demonstrate that:

- Finances are stable and units which fall into arrears are promptly pursued to collect the outstanding amounts.
- A suitable project team is in place, such as a qualified contractor completing the repairs and (if appropriate) an engineer directing and overseeing the work.
- The corporation is compliant with Alberta's condominium legislation (for example, condominium buildings are insured).

Lenders are more likely to approve loans on favourable terms when condominium corporations demonstrate that they are well-managed and in good standing.

#### **Exploring Borrowing Options**

Condominium loans are generally structured in one of two ways: **full participation** or **optional participation**.

Each model has pros and cons that must be carefully considered in light of all the circumstances of the repair project, the amount borrowed and the condominium corporation's unique situation.

- **1. Full participation:** In this model, all units participate in the loan and the owners make their monthly loan payments through their condominium fees. This is by far the simplest approach and poses the lowest risk of accounting error. The loan payment stays with the unit in the event of a sale and administrative costs are shared amongst all owners.
- **2. Optional participation:** In this model, owners have the option to either (a) pay their portion of the Special Levy in full or (b) enter into a payment plan arrangement with the Corporation to pay their portion of the Special Levy over time (with interest). This is the more complicated approach and is associated with a larger degree of accounting management and risk.

To ensure the accounting stays balanced, the corporation's condominium management company must closely monitor the monthly receivables for the duration of the loan. This optional participation approach is more common in situations where the condominium corporation is facing a big-ticket repair project (such as a building envelope project) where the Special Levy amount is significant.

Continued on next page.



### FINANCIAL

### Build trust with transparency and open communication with owners.

#### Communicate with Owners Early & Often

No matter which borrowing model is best suited to a particular condominium corporation, it is important to note that the decision of whether or not a corporation enters into a borrowing arrangement with a lender is a decision that the owners make, not the Board of Directors.

In other words, a condominium corporation is only permitted to take out a loan if the owners pass a resolution permitting the corporation to borrow. Usually, the corporation's bylaws will indicate whether an Ordinary Resolution or a Special Resolution is required.

The fact that it is the owners who authorize a condominium corporation to borrow funds – not the Board of Directors – highlights the importance of informing the owners of the necessity of the repair project and related costs as early as possible. Regardless of whether financing is considered, it is best practice for condominium corporations to communicate openly with unit owners so that they know what is coming and when.

Keep owners engaged throughout the process by hosting information sessions to talk about project timelines, costs, scope of work and options on how to pay for the project. Invite team members – including the engineer, contractor, lawyer and lender – to the owner meetings so that they can address owners' questions and concerns directly.

Transparency and open communication between the Board of Directors and owners builds trust and fosters community involvement in the repair project.

#### Planning for the Unexpected

Financing is just one aspect of planning for major repairs. Understanding borrowing basics empowers condominium corporations to plan, finance and execute projects effectively. With prudent budgeting, strategic borrowing and proactive risk management, corporations can navigate repair challenges, ensuring long-term community sustainability and viability.



Understanding borrowing basics empowers condominium corporations to plan, finance and execute projects effectively.

Condo corporations can navigate repair challenges and ensure long-term community sustainability and viability with prudent budgeting, strategic borrowing, and proactive risk management.



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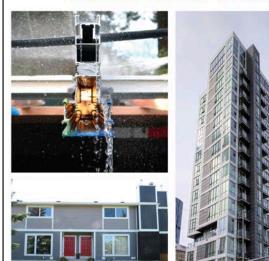


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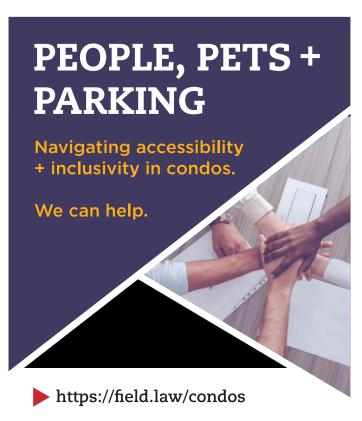
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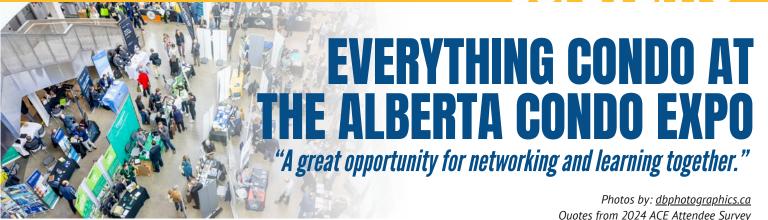
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### **CCI EVENTS**



### The 2024 Alberta Condo Expo (ACE) was a valuable event for the Alberta condo community (so much so that this year's event got a nod from CCI National!)

We hosted ACE 2024 in April at NAIT's Productivity and Innovation Centre - filling the bright and inspiring venue with all things condo-living.

Our goal was to bring the condo community together for learning and connecting. Thanks to the 350+ condo board members/owners, industry professionals and experts, and the CCI team, we achieved just that.

CCI North Alberta was awarded with the Chapter of the Year award at this year's National Leader's Forum. The vibrancy and success of ACE in particular grabbed the attention of the awards committee.

With nine educational sessions covering pertinent topics and 60+ vendors at the Tradeshow, ACE provided condo owners and industry professionals alike with the latest insights, best practices, and essential services.

A Condo Legal Panel Discussion, moderated by our chapter President, Anand Sharma, was an event highlight, once again, where many legal questions were addressed and discussed by our experienced panel of lawyers.

#### "Quality speakers, well-organized event, engaged participants, sharing of knowledge and lots of exhibitors. All good!"

The value of the networking, connecting, and learning that ACE 2024 provided attendees and participants was reflected back to us in our feedback survey. Hearing from our members is not only important to our team but incredibly valuable for gaining insights about the event.

Continued on next page.

Photos (from L to R): CCI Board President, Anand Sharma, welcome guests. / Keller Engineering at the Trade Show. / Sherwood Park MLA, Kyle Kasawski tries out the chainsaw. / Service AB Critic MLA Caliday-Falcohridge, Parmeet Singh

parai address







### **CCI EVENTS**

#### In Case you Missed it: ACE Highlights

Attendee feedback highlighted the most valuable elements of the Expo as *Education*, *Legal Panel*, *Trade Show*, and *Networking*.

We took a deeper look into the survey results to help us plan for the future and to understand what made these aspects stand out according to our participants.



#### **Education (Break Out Sessions)**

Attendees rated Education as one of the most valuable aspects of the Expo. This year featured 10 sessions on a variety of important topics delivered by 25 knowledgeable industry experts who presented together in panel format

Attendees found the sessions valuable because they offered well-rounded perspectives, practical information, and lively Q&A periods. We also heard that the noticeable lack of sales pitches was appreciated and meant that speakers focused on providing meaningful content instead.

"The breakout sessions I attended were informative, stuck to topic, and had me walking away better equipped than when I walked in!"

#### Expert Legal Minds on the Legal Panel

It is no surprise that the Legal Panel was also highly



Photo: The Trade Show Floor was bustling at this year's event.

valued by attendees. As one of the most popular features of ACE, the room was packed with people and questions for our panel of three lawyers.

"I always find the legal panel to be the most important as it is the most informative. You can get answers to questions you would have never thought of because someone else thought of it."

Participants were able to submit their questions in advance or ask them live. The lawyers answered with an informative, common sense approach and shared their legal perspectives in common terms, which attendees found easy to understand and was also entertaining and practical.

We heard that the expertise, knowledge, sage advice, and candour demonstrated by the legal experts were greatly appreciated, which made it one of the most informative sessions, according to our quests.













Photos (from L to R): Presenters, Michael Gibson (Miller Thomson), Dawn Mitchell (HUB International), Hamish Farmer (BFL Canada), Hugh Willis (Willis Law), Helena Smith (HRS Condominium Consulting), Jen Beyer (Convoke Consulting), Erin Berney (Field Law), Heidi Besuijen (RMRF LLC)

"The education is awesome and meeting different vendors (at the tradeshow) is a fantastic benefit. I came back to my board with new information and some ideas from vendors."

#### Trade Show with the Experts

Condos are complex and sometimes the experts are needed - our attendees found enormous value in the Trade Show. They connected directly with over 60 vendors and many products and services they need.

The opportunity to speak face-to-face with Trade Show vendors about topics specific to their condos was invaluable - many business cards and referrals were exchanged (as well as some fun take-home items and prizes that people enjoyed).



Photo: His Worship Mayor Sohi, pictured beside CCI Board President, Anand Sharma, offered morning remarks to a packed room and then visited the Trade Show.

#### Networking, Making Valuable Connections

Attendees told us that this year they felt a good amount of time had been built into the agenda for them to mingle and network without feeling rushed. Terrific conversations and informative discussions were held, and new connections were made...it was even reported that some fun was had!

The presence of some political leaders was also valued by attendees. (Read more about that in the Government Advocacy Report on page 14).

With over 350 conference participants, speakers, and vendors, the engagement was high and excellent leads were generated.

#### "I had several terrific conversations and a lot of fun with the people I was with and the people whom I met."

Overall, ACE received a solid 4.5 stars out of 5 from attendees. Many survey respondents said they would refer the Condo Expo to their friends, colleagues, and fellow members of the condo community.

ACE 2024 solidified its status as a must-attend event for Alberta's condo community by successfully delivering practical and informative education, productive networking and meaningful community engagement.





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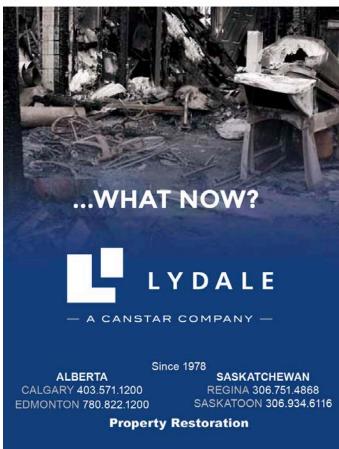


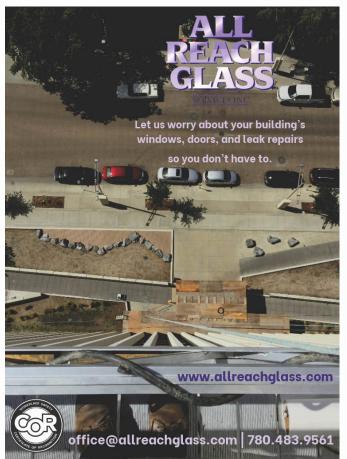
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# GRIM PROSPECTS FOR OWNERS OF EVACUATED EDMONTON CONDO

Who is financially responsible for repairing Alberta's shoddy, aging condominium buildings?

Article submitted by Dana Hagg (HMC Lawyers LLP) (Originally published in the Canadian Condominium Institute South Alberta's Spring Newsletter)

### In theory, Alberta's lawmakers have already implemented a solution to this conundrum: the *Alberta New Home Warranty Program*.

The New Home Buyer Protection Act creates the Alberta New Home Warranty Program, which insures all residential homes, including condominiums, that were built after February 2014 against latent construction deficiencies.

Unfortunately, the New Home Warranty Program is of no assistance to the unlucky owners of the Castledowns Pointe condominium in Edmonton - one of Alberta's many (allegedly) shoddy old condo buildings.

Following a fire at Castledowns Pointe last spring, inspections revealed dangerous latent structural deficiencies, leading to a mandatory evacuation in the fall. The Castledowns Pointe project was built in 1999-2000, long before the New Home Warranty Program was created. Even if the program had existed at the time, such belatedly discovered defects would have fallen outside the New Home Warranty Program's lengthiest coverage (ten years for structural defects).

According to Global News, the construction of Castle-

-downs Pointe was linked to the Carrington Group of Companies, a prominent condo developer throughout Alberta and in the Okanagan. CBC Edmonton reported that the Castledowns Pointe project was not built in accordance with the architectural and structural design drawings. CBC also reported that the Castledowns Pointe board approved a special levy for repairs, which has left unit owners financially devastated.

Sadly, the owners would likely face an uphill legal battle. Lawsuits for latent construction deficiencies involve numerous obstacles: the expiry of limitations periods, the destruction or loss of records, faded memories, evolving industry standards, and – critically – the disappearance of defendants, or at least, their assets. "Real estate developers frequently create single-purpose corporations for the sole purpose of purchasing and developing properties for profit," as noted by the Supreme Court of Canada in Southcott Estates Inc v Toronto Catholic District School Board, 2012 SCC 51 at para 1. The law on single-purpose corporations was most recently summarized by Alberta's top court in Condominium

### LEGAL

Corp No 0828219 v Carrington Holdings Ltd, 2023 ABCA 222 at paragraphs 12-13 – indeed, this case involved another (allegedly) shoddy condominium that was (allegedly) built by Carrington under a single-purpose entity:

[12] ...under corporate law Carrington Holdings and Carrington Hermitage are separate legal entities. One is not liable for the debts or obligations of the other. The concept of the separate corporate personality is not a loophole or a technicality... It has been an essential part of corporate law for over a century and is vital to the economy. The fact that Carrington Hermitage was a "single-purpose" corporation, or that it was "completely controlled" or "dominated" by its parent makes no difference... Absent some fraud or improper purpose the shareholders are not liable for the obligations of the corporations they own and control. There is nothing inherently wrong with single-purpose corporate vehicles.

[13] Sometimes the separate corporate personality is disregarded where the corporation is merely a "sham", or "alter ego" of its controlling shareholder... [but] expressions like this 'risk assisting moral indignation to triumph over legal principle.' This categorization is only apt where the corporation never, from the beginning, had any legitimate business or assets of its own and was merely being used as a pretext... In this case, Carrington Holdings and Carrington Hermitage had separate existences and separate businesses, and neither was the alter ego of the other.

Put differently, courts deal with law, not morality. Regardless of whether single-purpose corporations or the doctrine of "separate corporate personality" are morally repugnant, these concepts are firmly entrenched in contract law.

Lawmakers have recognized that this principle is ripe for abuse. As noted by the Court of Appeal at paragraph 19 of Carrington, lawmakers enacted section 227(4) of the Business Corporations Act (Alberta) to soften the harshness of the common law

rule. The provision allows a plaintiff to pierce the corporate veil when a corporation is dissolved, so "the shareholders of a corporation cannot strip the corporation of its assets, leaving behind its debts." A detailed discussion of s. 227(4) and the 2023 Carrington decision was published in the Fall 2023 edition of the Canadian Condominium Institute Review, and is available on the HMC Lawyers LLP website: Alberta Court of Appeal Discusses Use of Single Purpose Corporations By Real Estate Developers.

Thus, the principle of separate corporate personality is here to stay. The Castledowns Pointe owners might be able to pierce the veil of Carrington's single-purpose corporation under s. 227(4) of the Business Corporations Act – if they can follow the money to the Carrington parent corporation, but given that nearly 25 years have elapsed since construction, it's a big "if."

The Castledown Pointe owners
might be able to pierce the veil of
Carrington's single-purpose
corporation – if they can follow the
money to the Carrington parent
corporation. Given that it's nearly
25 years later... it's a big "if."

Continued on next page.



#### Possible Workaround for Castledowns

Recent case law suggests a possible workaround. Condo developers/builders may be personally liable if the defective construction is actually dangerous, not merely shoddy: see Parks v McAvoy, 2023 ABCA 211; Condominium Corporation No 0522151 (Somerset Condominium) v JV Somerset Development Inc, 2022 ABCA 193; Centurion Apartment Properties Limited Partnership v Sorenson Trilogy Engineering Ltd, 2024 BCCA 25.

This workaround imposes liability in negligence – through tort law instead of contract law – thereby circumnavigating the contract law principle of separate corporate personality. Unfortunately, this workaround may disproportionately prejudice smaller builders and developers, who tend to have more personal involvement with project owners compared to the principals of larger developers/builders: see The Owners, Strata Plan KAS 3410 v Meritage Lofts Inc, 2022 BCCA 109. Notably, this workaround may only apply to condos built before the creation of the Alberta New Home Warranty Program in 2014.

Thus, while the Castledowns Pointe condo owners may have a workaround to the single-purpose corporation problem, the law on this point is unsettled and nuanced.

While Castledowns Pointe condo owners may have a workaround to the single-purpose corporation problem, the law on this point is unsettled and nuanced.

The Condominium Property Act also has safeguards against "hit and run developers, who promise much but deliver little, whether because of ineptitude,

negligence, greed or worse yet, fraud": Condo Corp No 0321365 v MCAP Financial Corp, 2012 ABCA 26. However, these protections only apply to purchasers of new condos, and they are balanced against the "economic and social reality" that condos will not be built unless developers can secure reasonably affordable construction financing.



Curiously, in 2021, Alberta lawmakers exempted new condominium projects from the New Home Buyer Protection Act's mandatory technical assessment requirement, which proactively identifies construction defects in newly-built homes. Condos were apparently exempted from the "Building Assessment Report" requirement to appease developers and builders, although the government insists that this "will not compromise construction quality" because inspection and permit requirements will still apply.

Yes – the inspection and permit process that failed to detect the major construction defects at Castledowns Point. Sadly, it seems that Albertans could be facing a new generation of the shoddy condo problem.









### **COMMUNITY MATTERS**



Article submitted by Matthew Ryan (McLennan Ross LLP)

### Recent caselaw shows many condo boards and their members do not properly handle accommodation requests from tenants/owners on human rights grounds.

#### The Tale of Sophie the Dog

Sophie is a service dog that Monika Karnis brought home to her high-rise condo in February 2022. She was to support Monica's medical condition, which often led to vertigo and instability while walking - Sophie also happens to be a German Shepherd.

Monica's condo building had a "no-pets" bylaw, so shortly after making her first payment for Sophie's birth and training, she alerted her condo board. The condo board's initial response was that Monica did not have a disability and therefore did not need this accommodation. Frustrated, Monica hired a lawyer and the board changed course and accepted that her condition was a disability.

When the condo board sent a draft Accommodation Agreement to Monica, giving her permission to bring a service dog into her condo, with the exception of certain breeds, including German Shepherds. The board took issue with Sophie's size and breed because they considered German Shepherds to be dangerous.

This quickly led to an impasse. By this time Monica

had invested substantial funds in Sophie and her training and was not prepared to abandon her investment.

Convinced that Sophie was dangerous, the condo board brought an application before Ontario's Condominium Authority Tribunal to have her removed. The condo board was unsuccessful in its application and Sophie was allowed to stay.

#### An Expensive Exercise to be Avoided

The Tribunal ordered that Sophie could stay on the condition that she wear a "SERVICE ANIMAL" vest while on common property to notify neighbours of her exceptional status.

One flaw in the condo board's position was its lack of expert evidence. Tribunals commonly see instances where layperson condo board members give evidence in disability matters that ought to come from experts. In Sophie's case, the tribunal didn't accept the concerns over her size and breed because of a lack of evidence suggesting German Shepherds are more dangerous than other dogs of similar size.

Continued on next page.

### **COMMUNITY MATTERS**

#### Specifically, the Tribunal wrote:

The board cannot insulate itself from scrutiny when addressing accommodation requests without providing a cogent rational for its position after using reasonable diligence. I have been presented with insufficient evidence that the board took reasonable steps to fully inform itself and investigate Ms. Karnis' request and specifically, whether Sophie posed an unreasonable risk.<sup>(1)</sup>

Sophie's tale is a good reminder of the duties faced by condo boards when approached with a request for accommodation. Although Ms. Karnis was in Ontario, her condo board's missteps have been repeated by boards across the country.

It can be a costly error for condo boards to not work with the experts to gather supporting evidence when faced with similar cases.

#### Legislation in Alberta

The *Alberta Human Rights Act* outlaws discrimination in providing services, accommodation or facilities to the public, and it applies to organizations like businesses and charities.

However, it may surprise some condo boards that the *Human Rights Act* and its accommodations also apply to condominium corporations. (2) Although the *Condominium Property Act* allows broad remedial discretion where the Court finds so-called "improper conduct" has taken place, this does not stop condo owners and tenants from advancing human rights claims separately under the *Human Rights Act*.

Furthermore, the *Alberta Human Rights Act* equally applies to landlords of multi-family residences in the same way it applies to condo boards.

(1) York Condominium Corporation No. 435 v Karnis et al., 2023 ONCAT 181 at para 59 ["Karnis"]. (2) Condominium Corp. No. 052 0580 v Alberta (Human Rights Commission), 2016 ABQB 183. (3) British Columbia (Public Service Employee Relations Commission) v BCGSEU, [1999] 3 SCR 3 ["Meiorin"]. (4) Leary v Strata Plan VR1001, 2016 BCHRT 139 ["Leary"]. (5) Karnis, supra note 1 at para 73.

#### **Duty to Accommodate**

Although condo boards have volunteer directors who meet infrequently, a request for accommodation under the *Human Rights Act* must be dealt with timely and diligently. The Supreme Court of Canada has accepted that, once an accommodation request is received, there is a procedural duty to accommodate.<sup>(3)</sup>

In *Leary*,<sup>(4)</sup> the BC Human Rights Tribunal offered the following advice to assist condo boards and managers meet their procedural duties to accommodate:

- Address requests for accommodation promptly, and take them seriously.
- Gather enough information to understand the need for accommodation, including necessary medical information.
- Obtain expert opinions or advice where needed, at the condo board's expense.
- Take a lead role in investigating possible solutions.
- Rigorously assess whether the condo can implement an appropriate accommodation solution.
- Recognize that a condo board cannot avoid its obligations under human rights legislation by simply voting to deny an accommodation.
- Approach the issue with an attitude of respect.

Condo boards and managers must take these duties seriously. Although courts and tribunals often give deference to board decisions under the common law business judgment rule, there is far more scrutiny of board decisions that engage human rights issues. The Ontario Condominium Authority Tribunal finds in Karnis that the care, diligence and skill required of a board must be commensurate with human rights principles of dignity, individualization, integration and full participation.<sup>(5)</sup>

A defence often raised by condo boards is the financial impact of a requested accommodation. However, such defences are usually rejected by human rights tribunals.

In *Cush*, the condo board argued it could not build a wheelchair ramp for the disabled complainant at that time due to higher priority projects such as elevator replacement, cladding replacement, and balcony renovation. The condo board argued these necessary repairs took priority over the wheelchair ramp because of its responsibilities under the *Condominium Property Act* to maintain and repair the condo building. This argument was rejected by the Tribunal because the *Condominium Property Act* cannot be raised as a defence to the *Human Rights Act*.

#### Consequences for Breach

Most human rights disputes in the condo context relate to parking access, wheelchair accessibility, service animals, and smoking rules.

The Human Rights Tribunal of Alberta has broad powers to order remedies, including compensation, and these orders are enforceable just as a court order. Several cases illustrate the risks faced by condo boards when human rights complaints are not properly addressed.

### Condominium boards must take human rights complaints seriously.

Most human rights disputes in the condo context relate to parking access, wheelchair accessibility, service animals, and smoking rules.

The Human Rights Tribunal of Alberta has broad powers to order remedies, including compensation, and these orders are enforceable just as a court order. Several cases illustrate the risks faced by condo

boards when human rights complaints are not properly addressed.

In *Jakobek*, the condo board eventually approved the claimant's request for accommodation to park his motorized scooter in the parking garage, but only after repeatedly failing to seriously address Mr. Jakobek's complaint. The Human Rights Tribunal of Ontario ordered the condo corporation and its manager to pay \$5,000 to charity and to complete an online human rights training course.

In *Engel*, the condo board utterly failed in its procedural duty to the complainant and his request for wheelchair accommodations.<sup>(8)</sup> Among the board's transgressions were a failure to respond to Mr. Engel's concerns and several failures to respond to case management directions given by the Human Rights Tribunal. It was argued by the Director of the Human Rights Commission that the respondent condo board viewed the complaint as a mere inconvenience that it was not required to take seriously or participate in.<sup>(9)</sup>



The Tribunal ordered the condo corp. to pay damages, install an accessible patio door, and for all board members to complete human rights training.

(6) Cush v Condominium Corporation No. 7510322 o/a Renfrew House, 2022 AHRC 87 ["Cush"]. (7) Jakobek v Toronto Standard Condominium Corporation No. 1626, 2011 HRTO 1901 ["Jakobek"]. (9) Engel v The Owners: Condominium Corporation Plan No. 9023695, 2023 AHRC 37 ["Engel"]. (9) Ibid at para 28.

Continued on next page.

INSITE TO CONDOS - SUMMER 2024

### COMMUNITY MATTERS

The procedural duty may also require a condo board to consult experts, as noted above in the Karnis case. In Engel, the condo board relied on the lay opinion of a board member in rejecting designs offered by the complainant for wheelchair-accessible patio doors. The condo board's decision in Engel was not accepted by the Tribunal since the board member was not an expert in accessibility or construction.

#### How far can tribunals go with remedies?

Human rights tribunals in Canada have broad remedial powers granted under their founding legislation. This may include declarations that certain bylaws of the condo violate human rights and are unenforceable. That is what occurred in a 2020 decision of the BC Human Rights Tribunal, where a "no-dog" bylaw was ordered unenforceable against a disabled complainant.<sup>(10)</sup>

In Jakobek, the complainant was disabled and used a motorized scooter to remain mobile. He requested accommodation from the condo board to park his scooter in the underground parking stall designated to his unit, because the condo's bylaws were silent as to whether this was permitted. After finding that the condo board had discriminated against Mr. Jakobek, the Human Rights Tribunal of Ontario ordered the condo board "ensure that the by-laws of the condominium, by amendment, specifically permit that mobility assistive devices can be parked in the parking garage."



This is a surprising remedy awarded by the Ontario tribunal. How is a condo board meant to comply with such an order if the bylaw amendment does not receive enough votes to pass? And if the amendment does not pass, what then can be done to enforce the order?

#### When bylaw amendments impact others.

Most challenging are situations where a complainant seeks bylaw amendments that impact other owners.

In *Leary*, the complainant suffered from breathing issues related to smoke ingress in her apartment. Smoking was neither permitted nor prohibited under the condo's bylaws. In response to the complaints, the condo board twice put forward proposed bylaw amendments to restrict smoking, but neither received enough votes to be successful. The BC Human Rights Tribunal did not go so far as to order the bylaws amended to prohibit smoking, but rather meekly ordered that the condo board "work together" with the complainant to determine whether preventing smoke ingress is a tenable solution that can be accomplished without undue hardship on the condo board.

It would have been controversial had the Tribunal in *Leary* ordered the condo board to amend its bylaws to prohibit or limit smoking. Ultimately, the Tribunal did not order a non-smoking bylaw, characterizing such a remedy as "an interventionist measure given that it reaches into the behaviour of owners in their own homes."

#### The bottom line for condo boards.

If you are a condo board member, human rights complaints from tenant/owners must be seriously and respectfully evaluated with expert support.

(10) Daughter by Parent v The Owners, A Strata, 2020 BCHRT 105.

### **CCI NATIONAL**

### 2024 National Leader's Forum in Halifax, Nova Scotia

Katy Campbell, CCI North Alberta Executive Director

Representatives from CCI North Alberta Chapter were honoured to participate in this year's CCI National Leaders Forum. This annual event, held this year from May 29-31 in Halifax, brought together CCI Members from across Canada to discuss issues facing the condominium sector, and to share ideas and strategies for strengthening local CCI chapters to better serve the condo community.

The forum provided a platform for discussions on a wide range of topics. Attendees benefited from the engaging panel discussions and interactive workshops that were designed to foster knowledge exchange and innovative thinking.

Thank you to the CCI Nova Scotia Chapter for hosting this year's event! The host city of Halifax played a pivotal role in the event's success. Attendees had the opportunity to explore local attractions, from historic sites like the Citadel to the vibrant waterfront district.



Photo: Attendees wait for the Friday Night Social tour of the historic Alexander Keith's Brewery.



Photo (L to R): Hamish Farmer, Susan Milner, Anand Sharma, and Jeremy Dalgliesh

Many excellent networking and social opportunities allowed attendees to connect with peers from across the country to share experiences and foster valuable connections.

We all experienced a renewed commitment to building our chapter to be better than ever before.

The awards night lobster dinner at Pier 21 was an event highlight, not only providing a great meal in a historic location, but also recognizing CCI North Alberta with some big wins!

We were recognized as Chapter of the Year, and awarded the H. Penman Smith Award for Excellence in Marketing and Communications. Additionally, our Chapter President, Anand Sharma, was recognized with a Distinguished Service Award.

Attendees benefited greatly from fresh perspectives and actionable insights. We all experienced a renewed commitment to building our chapter to be better than ever before.

# MEMBERS BUSINESS DIRECTORY

SUMMER 2024

Summer 2024 Member Business Directory includes all active members as of May 24, 2024.

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Witten LLP	John M Frame	780-428-0501	jframe@wittenlaw.com
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Mechanical, Electrical, & Plumbing			1
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4-Way Inspection Services Ltd.	Travis Olinek	780-504-7896	travis@4wayinspections.com
Acclaimed! Heating, Cooling & Furnace Cleaning	Tammy Lackey	780-413-1655	tami@acclaimedfurnace.com
BJ Electric Supplies Ltd.	Kent La Rose	780-461-2381 ext. 023	kent@bjelectric.ca
Concept Controls	Amy Hann	403-899-7633	AmyH@conceptcontrols.com
E-Pro Canada	Jeff Chamberlin	780-235-3576	jeffc@eprocanada.com
Environmental Dynamics Ltd.	Nicole Boudreau	780-421-0686 ext. 1003	N.Boudreau@edl.ca
Hydro-Flo Plumbing & Heating Ltd.	James Tingey	780-203-2230	james@hydro-flo.ca
Nordic Mechanical Services Ltd.	Rene Cloutier	780-469-7799	rene@nordicsystems.ca
Points West Mechanical	Daniel Reid	780-488-2195	daniel@pointswestmechanical.ca
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Renew Services Inc.	Richard Nelson	780-544-8060	info@renewservicesinc.ca
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Total Plumbing & Heating	lan Bassinger	587-989-0741	ian@totalph.ca
Triad Electric Ltd.	Tyler Visser	780-452-7050	service@triadelectric.ca
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Property & Technology Services		- 1	
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Summit Lock & Safe	Holly Pickard	780-722-5101	info@summitlockandsafe.ca
UB Connex	Erik Kehat	647-468-2277	e.kehat@ubmedia.ca
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VendorPM	Ethan Chamish	289.937.0360	events@vendorpm.com
Yardi Canada Ltd.	Jasmin Rodas	1-800-866-1124 ext.7069	nafisa.khan@yardi.com
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Martin Bankey

Marla Snoddon

Sue Faraschuk

780-434-2376

780-910-9968

587-357-7940

Tree of Knowledge TOK-Engineering

Williams Engineering Canada Inc.

Xplortek Property Inspections Ltd.

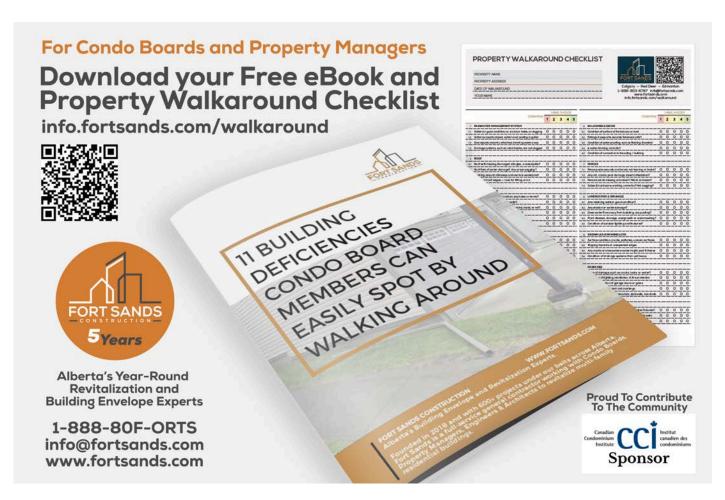
msnoddon@williamsengineering.com

mbankey.tok@shaw.ca

sfaraschuk@xplortek.ca

Retirement Living	1		5
Company Name	Name	Phone	Email
Chartwell Retirement Residences	Jennifer Hillmer	780-819-3833	jhillmer@chartwell.com
Utility Management			
Company Name	Name	Phone	Email
Carma Corp. Utility Submetering and Billing Solutions	Jim Rychlo	587-598-3441	jrychlo@carmacorp.com
Solution 105 Consulting Ltd.	Chris Vilcsak	780-429-4774	timinski@solution105.com
Windows & Doors			
Company Name	Name	Phone	Email
All Reach Glass Services Inc.	Jason Adams	780-483-9561	office@allreachglass.com
All Weather Windows Renovations	Everett Fradsham	780-915-6120	efradsham@aww.ca
Centra Windows	Greg Martineau	403-589.1701	GMartineau@centra.ca
Summit Lock & Safe	Holly Pickard	780-722-5101	info@summitlockandsafe.ca

Disclaimer: The above listed businesses directory was generated prior to May 24, 2024.



### **WELCOME TO OUR NEW MEMBERS!**

Thank you for joining the CCI North Alberta Chapter!

The new members listed here joined CCI North Alberta prior to May 24, 2024.

### **CONDOS**:

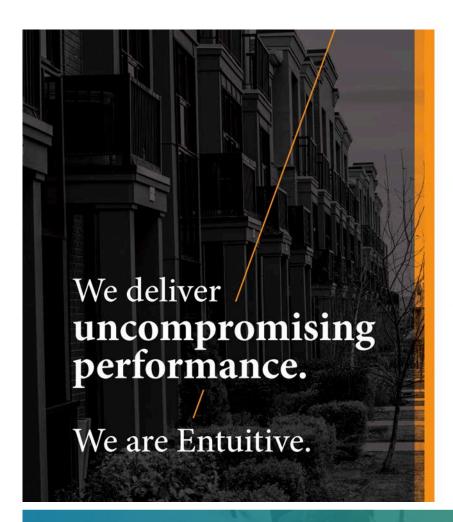
Applewood Condominium Churchill House II Eton Park Ivy Lake Villas - Grand Prairie Matricia Towers Condominium The ridge at Riverside Whispering Pines

### **INDIVIDUALS:**

Brook Jay Woods
Imelda Krueger
Joyce Lawrence
Keith Walker
Peggy Hryniowski
Sharon Getty
Sharon Westfall
Troy Paquette
Vickie Gray
Wanda Walker

### **BUSINESSES:**

Square 1 Property Management Smart Fix Asphalt Infrared Repair Ltd. AEDARSA (Alberta Elevating Devices & Amusement Rides Safety Association)



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