

Volume 1 2012

# CondoNews

OF THE GOLDEN HORSESHOE

# 30<sup>th</sup>

ANNIVERSARY



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Golden Horseshoe Chapter

CONDO NEWS IS NOW FULLY AVAILABLE **ONLINE**

Registration forms enclosed for Property Managers' Luncheon,  
Professional Partners' Luncheon and Spring 2012 Directors' Course.



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## From the Editor's Desk

Maria Finoro, RCM, ACCI

*It is going to be another busy year for our Chapter because in addition to holding our educational events, we are planning for our 30th Anniversary celebration scheduled for September 20, 2012. This will be an event you will not want to miss, so mark your calendars now.*

To commemorate this special occasion, each Condo News edition this year will highlight some of the original members of our Chapter. We will share their personal stories on how they have seen CCI progress over the years and what they see are the challenges we will face and what our goals should be. In this edition, we highlight Ron Danks who will be celebrating his 25th anniversary as a member! Congratulations, Ron. Your dedication and contribution to our Chapter is truly appreciated!

Last year, the Toronto Star prominently highlighted a case where a management company allegedly defrauded some Toronto condominium corporations in the millions of dollars. Our Professional article written by Barbara Holmes of Heenan Blaikie LLP provides some excellent tips on what a condo corporation can do to protect itself from fraud.

The television program seen on TLC titled "Hoarding: Buried Alive" is not sensationalizing this real problem. Residents that accumulate personal items to the point of creating an unsafe environment for themselves and the rest of the building is a situation that some of my fellow managers have had to face. The People Management article graciously received from Chris Jaglowitz of Gardiner Miller Arnold LLP discusses an incident where a devastating fire brought a hoarding issue to light. Read on to find out how a sensitive situation such as this should be handled.

Slip and fall incidents are another concern that unfortunately come up every winter. The Technical article prepared by Jim Stewart of RALOS Safety Flooring reinforces the importance of safe flooring to reduce the likelihood of a lawsuit.

I'm really pleased to have received a feature condo submission from Waterloo Standard Condominium Corporation #344, better known as "Georgian Square", a beautiful condominium development right in the heart of downtown Cambridge. Read Lana Sostar's article on how the owners have worked together to make this city's first brownfield housing development such a great place to call home.

Though CCI National prepares its own newsletter which is distributed quarterly with our magazine, we are now including a new section that will highlight National's initiatives. Check out this page and find out how CCI is branching out right across Canada and how a new Chapter was recently born.

As always, we invite you to tell us how we are doing! May 2012 be a successful, healthy year for you all. ■

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## From the Co-Editor

Sara Finoro, B.A. (Hons.)

*The Condo News has evolved from being a four page newsletter to a full fledged magazine that is distributed to our Chapter members. As a new member of the Communications Committee, I truly have an understanding of the amount of work that goes into producing a magazine such as this one. We hope our readers will enjoy the new features we have brought forward and will continue to produce.*

A few years ago, we made the transition to 100% environmentally friendly recycled paper. Now, we are proud to announce that the Condo News is available online! Simply visit our website at [www.ghccci.org](http://www.ghccci.org) and a link on the home page will allow you to view the latest four editions for free!

The magazine will however still be mailed to members. If you would like to go paperless, please contact our administrator. Share this information with your residents since all owners are members if your condo is a member. Another exciting new feature is the QR barcodes that can be scanned by a

smart phone. With the proper application, one can scan the bar code on the front cover of the magazine and be brought directly to our website. The bar code on the Professional Directory page will take you to the Directory on our website. We have added a search bar on the Directory page so you can easily find the company you are looking for. We realize more and more people spend their time reading and searching for information on their phones and computers and wanted to make the information we publish as accessible as possible. ■

### UPCOMING EVENTS

- ✓ **February 15th, 2012**  
Property Manager Luncheon on the Accessibility Act  
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- ✓ **March 31st, 2012**  
Level 100 Directors' Course  
(Registration form inside)
- ✓ **April 20th, 2012**  
Professional Partners' Lunch  
(Registration form inside)
- ✓ **September 20th, 2012**  
30 year Golden Horseshoe Chapter  
Anniversary Gala and AGM;  
dinner and entertainment at the Ron Joyce Centre
- ✓ **October 15 & 20, 2012**  
Level 200 Directors' Course Burlington
- ✓ **October 20 & 27, 2012**  
Level 200 Directors' Course Kitchener
- ✓ **April 26-27, 2013**  
Tradeshow at the Hamilton Convention Centre

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# President's Report

Michael H. Clifton, M.A., LL.B., ACCI (Law), President

*It is December 8, 2011, and a little odd writing a president's report before becoming president (until January 1, 2012, I am still just "president-elect"); but such are the demands of publication deadlines. As a result, at the time of writing this I have little to provide by way of an actual report. I am pleased with the opportunity to serve as Chapter president and to continue working with Rob Mullin, who takes on the role of chair (past-president), Karen Reynolds, who is our new vice-president, and all our other executives and directors.*

This January, the board of directors will have held its annual planning meeting and determined the course of this, the Chapter's 30th Anniversary year. The anniversary theme will be reflected in various articles in the issues of Condo News, and it (likely along with some other significant milestones) will be celebrated at our 2012 Annual General Meeting. Stay tuned for more details. Throughout this year we will also strive to continue providing courses and other resources to help managers and directors of condominiums and to connect them with the trades and service providers essential for the effective management of their properties.

I was reflecting recently on the qualities and characteristics of leadership that are so necessary for condominium communities. Leadership is a quality that is not reserved solely for people who bear the titles of manager or director, but of those people true leadership is especially desired.

In a recent essay on the nature and study of obedience there was this sage comment:

*In essence, obedience is a consequence of effective leadership. Followers do not lose their [own] compass so much as choose particular authorities to guide them through the ...dilemmas of everyday life.<sup>1</sup>*

To cut to the chase, this statement, and the associated studies, indicate that people will follow those who demonstrate leadership traits almost regardless of whether good or bad consequences will result. Therefore, people who take on leadership roles do not merely assume a position of authority but of great responsibility and trust.

Leadership, in and of itself, is neutral; it is neither good nor bad. It is the quality of the person who possesses the traits and position that will determine how things under his or her command will turn out.

As condominium directors and managers, extraordinary trust is placed on you to lead with integrity, honesty, good faith and positive regard for the well-being of the people and property under your control. It is my hope that the articles, instructions and

resources provided by CCI-Golden Horseshoe Chapter will assist you in not merely learning the technicalities of condominium management, but also the qualities of good leadership that will help ensure yours are amongst the most excellent condominium communities anywhere. ■

<sup>1</sup> Reicher, S. and Haslam, S.A., "Culture of Shock," Scientific American Mind, Nov/Dec 2011, p. 61

Golden Horseshoe Chapter

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# THE PAST, PRESENT, AND FUTURE OF GHCCCI

Ron Danks, BA (Hons.), LLB, ACCI, FCCI, Partner, SimpsonWigle LLP



I became a member of CCI, Golden Horseshoe Chapter in 1987 and was elected to the board of directors that same year. The reason I joined the board was a result of something my dad always used to say, which was if you make your living from a certain part of society you must give back to it as much as you can. Since our firm and I had begun to act for more and more condominium corporations I felt volunteering for the board would be my way of giving back. It was to prove to be a very long and fulfilling effort and one that gave me the opportunity to make new friends from Vancouver to St. John's, Newfoundland.

At the first meeting of the board I attended a vote was tabled to wind up the chapter. It seems there had been some internal turmoil which resulted in a significant drop in membership to just around 32 members including five board members. Fortunately we all voted no and here we are just shy of our thirtieth anniversary approaching 700 members.

After a few years I was appointed to be the President of the Chapter a position I gratefully held until 2001. I also became involved with the National Board of Directors for CCI in 1993. I was appointed to be the Secretary of the National Board and over the next 18 years I became Vice-President, President and Chair as well as sitting on or chairing numerous committees. I stepped down this past year as our chapter's representative on the National Council of CCI but continue to chair the Chapter Relations Committee. I also was a member of the CCI Ontario Caucus, the Joint CCI/ACMO Legislative Committee and the CCI/ACMO Toronto Condominium Conference Committee.

I was asked to comment on what I thought CCI's strengths were and what challenges that we face. The answer to the first question is easy; our strength is our members, both the volunteers who give their time so willingly to sit on our board of directors and committees or teach at our courses and the thousands of condominiums, service providers and individuals that we serve. It is because of those members that governments at all levels pay attention when we speak out on behalf of the condominium community. Our challenges are those we always face, providing our members with the best educational materials, courses and seminars we can, generating new memberships and generally making life better for condominium owners throughout the country. ■

*Ron Danks is a Partner in the Hamilton/Burlington based law firm of SimpsonWigle LLP. Ron and the members of his condominium group currently represent members in excess of 650 condominiums throughout Ontario.*

# 30<sup>th</sup>

## ANNIVERSARY

Canadian Condominium Institute **CCI** Institut canadien des condominiums  
Golden Horseshoe Chapter

### Did You Know?

- In 1986, the Golden Horseshoe Board of Director's consisted of Pen Smith, Ray Wilson, Gord Rees, Darlene Gruber, Barry Brownlow, Stan Napper, George Shirton, Peter Webb, Jim Bezemer and Pat Shanahan.
- Articles in the April 1986 Condo News discussed security in condominiums, proper insurance coverage and conversion condos.
- In 1989, Atrens-Counsel Insurance Brokers, BDO and Shabri Properties Limited advertised in Condo News. We thank these companies for their continued support!

Mark your calendars for the 30<sup>th</sup> Anniversary Celebration taking place on September 20, 2012.



## A look at Georgian Square

Lana Sostar, B.A.



*Georgian Square Condominiums—also known as WSCC#344 is a beautiful townhouse complex overlooking the Armoury in downtown Galt; a section of Cambridge. Though commonplace now, it was Cambridge’s first brownfield housing development project and is a testament to urban renewal as the site passes its first decade.*

Fully completed in 2003, Georgian Square was previously the derelict site of a foundry. Reborn as a community of brick townhomes with Georgian style architecture surrounding a central park, the complex enters its next decade re-christened, as “Georgian Square”. The name change was an owner’s initiative to differentiate this unique community from the condominium complex next door,

also called “Wellington Square” (WSCC#439). New signage now identifies the community as Georgian Square; a process that included owner input and culminated in a vote for the best of three at the last AGM.

Bounded by Harris Street, Bruce Street, Wellington Street and Commonwealth Lane the community consists of 82 townhouse units occupied by a balanced mix of young fami-

lies, students and retirees. Georgian Square’s proximity to public transit, schools, local theatre, the Grand River walking trails, outlet shopping and the Cambridge Farmers Market offers something for everyone. Easy accessibility to downtown allows for a car-free lifestyle. Though there are challenges associated with proximity to core areas, WSCC #344 illustrates what can be achieved when derelict properties in prime locations are converted into residential communities. Georgian Square and other local projects have contributed their vitality to the downtown, not only by invigorating retail business, but by providing a community presence, re-defining the traditional downtown demographic.

Georgian Square was designed to be sympathetic to the heritage district it borders. The ample use of stone finishes recalls the many stone buildings in Cambridge’s Heritage Inventory. Each unit has three stories plus a loft and is provided with single or double garage. As there is no additional guest parking in the complex, it is convenient that a municipal parking lot is located across the street on Wellington. Each unit has an exclusive use front yard which is owner maintained. Participation in patio garden contests is encouraged. Prizes are awarded

after the annual owners' meeting for different categories. The community itself sits on approximately 5 acres which includes a common elements parkette. The park is currently undergoing rejuvenation with input from the volunteer gardening club. An Armourstone border has been added to the main bed, overgrown plantings have been replaced and re-sited, the patio area has been graced by the addition of a seasonal planter, and spring bulbs have been included.

A recurring issue addressed by boards past and present concerns the community's desire to integrate into the existing neighbourhood without losing the 'integrity' of the complex. Privately owned, the internal roads are maintained by the Corporation, but are subject to use by surrounding neighbours as short cuts, or low volume alternatives. Creative solutions which don't alienate the neighbours include posted reduced speed signs and traffic calming bumps which serve to make the private roads less attractive as an alternate route. On the same theme, a large green space, complete with pathways often invites those from surrounding areas, sometimes with furry friends to use the parkette with impunity, flouting the city's leash and scoop by-laws. This same space by night, with easy proximity to the core and effectively screened from public view by the units themselves becomes an inviting haven for clandestine use. Again, strategically placed gates and fences with a low profile, and private

property signage provide the amount of deterrence needed. These initiatives reduce non-resident use and keep maintenance and replacement costs to a minimum.

Many people find condominium developments an attractive investment option. As Georgian Square is in close proximity to a local university, the complex has its share of student rental units. How do these rental units, most with offsite owners, impact a community like Georgian Square? Some of the problems encountered have to do with the nature of the student lifestyle. Common features of student life which impact Georgian Square are late or unusual hours, bicycle and car storage, ignorance as to the condo's rules, and most troublesome, house parties. These rental units can quickly become eyesores.

## REBORN AS A COMMUNITY OF BRICK TOWNHOMES WITH GEORGIAN STYLE ARCHITECTURE SURROUNDING A CENTRAL PARK, THE COMPLEX ENTERS ITS NEXT DECADE RE-CHRISTENED, AS "GEORGIAN SQUARE".

Abandoned recycling boxes and garbage cans can block the common roadways. Bikes conveniently askew in entrance areas or chained inappropriately to common element fences, rather than placed in the garages are minor infractions compared to potential property damage caused by revelers. The offsite owner is usually unaware of the behaviors of their

student tenants. Rectifying these situations with an offsite owner can be a drawn out process. As the student resident doesn't have the same priorities as a homeowner, acknowledging and welcoming students into the neighbourhood can be an effective deterrent to these negative behaviors. Fostering an atmosphere of mutual respect with our student community makes unpleasant encounters a rarity.

Currently, more pressing issues present themselves as the units begin to age. Though classed as lot-line condominiums, with each owner financially responsible for the exteriors of the unit, the townhouse design utilizes linked roofs. When replacing the roof becomes a necessity, how will the repairs commence? How will the roof boundaries be addressed? How to ensure the adjoining roofs aren't com-

promised during repair? The question arises, should all owners concerned in an affected section be enjoined to repair all at once? Since there are no provisions in the Declaration relating specifically to roof repairs, the board is entering uncharted territory. Currently, the board can dictate only colour and style to preserve a uniform appearance.

Continued on page 12 ...

A dialogue at recent AGM's has begun among owners and the board to field ideas about how and when owners should budget for such expenditure. Reminder's for such repairs as roofs and exterior painting are commonly communicated only by newsletter as many owners don't attend annual meetings and are unfamiliar with the condo's governing documents. In some cases, owners are unaware that roof replacement is their responsibility. With a mind to offer some direction to owners, the board has begun to source out qualified contractors, determine a material standard, and possibly secure group discount rates. In this way, the board hopes to propose an equitable solution to all owners, possibly establishing procedures for these repairs now and twenty or so years from now.

Rising maintenance costs at condominium complexes are another challenge. Private contractors for snow plowing and increasing trucking/tipping charges for snow removal are a growing concern. At WSCC# 344, separate drive-ways, and narrow internal roadways make snow removal challenging at best. Georgian Square is fortunate that some areas of the common element parkette can be used for snow storage to save on these fees. Municipal taxation is a growing issue as more condominiums are registered. The Condominium Corporation is financially responsible for street lamps and their repair, sewers and fire hydrant maintenance on its private property. As owners also pay for these services in their property taxes, an on-going dialogue with the City regarding services is paramount. Owners are encouraged to join the Fair Tax Campaign.

WSCC #344 is facing its second decade. Fair tax issues, rising utility costs, aging unit exteriors, and transient resident populations are issues which will continue to demand attention. On a high note, with many of the units aligned to face the common element park, there are ample opportunities to socialize. Many owners stroll with their pets, and resident children and grandchildren enjoy the green space. There are now many condominium corporations in Cambridge. With its high profile location in Cambridge's downtown, it's still one of the best. Under the stewardship of its board of directors, and advised by its management company, Georgian Square will continue to be an enviable place to live. ■

*Lana Sostar is an administrative assistant at M.F. Property Management Ltd. She joined the M.F. team in 2010. Lana is the proud co-owner of a townhouse unit at Georgian Square.*



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## Condo Fraud

Barbara Holmes, B.A., L.L.B., Associate, *Heenan Blaikie LLP*

A recent article in the Toronto Star about a property manager who bilked several condo corporations out of a total of \$20 million dollars made the paper's front page headlines. It is alleged that the property manager defrauded one condo corporation by registering a bogus borrowing by-law on title, which enabled the manager to then borrow three million dollars against the property. Another condo corporation was the victim of a fraudulent bid for major repair work on the condominium. It is alleged that a corporation controlled by the manager submitted the lowest bid, but once the work started the contract price escalated, while the work was done by a subcontractor for half of the bid price. Apparently the manager was able to land the management contracts with the condo corporations by submitting bids that were lower than the others.

### What can a condo corporation do to protect itself from fraud?

Do thorough reference checks on all parties that the corporation is engaging, including the manager. Relying on personal impressions is risky. Fraudsters are frequently masters at schmoozing their victims.

Beware of bids that are substantially lower than the others. As the old adage goes "If it sounds too good to be true it probably is". This applies not only to the management contract itself, but to all contracts for services.

The management contract should obligate the manager to obtain a fidelity bond that will protect the corporation from any fraudulent act or omissions of the manager or the manager's employees. Ensure that the bond is renewed annually and a certificate from the bonding company is delivered to the board members annually. The bond should not be cancellable by either the manager or the bond

insurer unless prior notice of cancellation is given to all board members (not in care of the manager). As for who is responsible for the premium costs to pay for the bond that is a matter to be negotiated with the manager.

The management contract should prohibit the manager from engaging related companies to provide goods or services to the corporation.

The condo corporation should not give the manager sole authority to sign cheques. At a minimum all cheques should be signed by one board member along with the manager.

Board members need to be vigilant. Some frauds are conducted over a lengthy course of time. In order to avoid detection the fraudster needs to be constantly monitoring things and taking steps to cover up the fraud. Employees engaged in fraudulent activities are reluctant to take vacation time for fear that the fraud will be exposed during their absence. Management employees who do not take any vacation time or who seem to have an excessively lavish lifestyle should raise red flags.

In view of how the manager in the reported story was able to fraudulently borrow money in the corporation's name, perhaps corporations should consider instructing their legal counsel to conduct periodic and/or random title searches. Of course the manager cannot be privy to any information as to when and how often these searches are being conducted.

While the above measures may not completely stop a determined and clever fraudster who is willing to engage in forgery, hopefully they will make it more difficult for a fraud to be committed. ■

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## Hoarding in Condo Units: Aftermath of 200 Wellesley

Christopher J. Jaglowitz, B.A. (Hons), J.D., ACCI, *Gardiner Miller Arnold LLP*

*Condominium corporations now have another option for addressing the difficult and uncomfortable subject of hoarding in multi-unit residential buildings.*

In July 2011, Ontario's Office of the Fire Marshall (OFM) released its report on a large fire at an apartment building at 200 Wellesley Street, Toronto in September 2010. Fighting this blaze was especially difficult because the unit at issue was occupied by a hoarder and jam-packed with junk. The fire forced the evacuation of 1,200 people, some for many weeks, and injured 17.

Because hoarding is a deep-rooted problem at this particular address, the 200 Wellesley fire brought the dangers of hoarding into the public spotlight. The Toronto Star reports that fire crews mopping up found another 15 units in the same complex with hoarding problems, and that another hoarder's unit went up in flames a year earlier.

In its report, the OFM laid the blame on a tossed cigarette landing on a balcony full of combustible materials but focused on the inherent dangers of hoarding, saying:

The tremendous growth and spread of the fire was a result of the excessive amount of combustible materials stored on the balcony and in the suite of origin. Therefore, the OFM is urging landlords and property owners to inform local fire departments of instances of hoarding where they believe it poses a fire safety risk. Local fire departments can help to address these instances of hoarding through the Ontario Fire Code and their partnerships with other community mental health and supporting agencies.

In the context of this large multi-unit dwelling, the intensity of the fire hampered firefighting efforts of Toronto Fire Services and created a significant risk to first responders

and those attempting to evacuate the building. This was due to the excessive amount of materials stored on the balcony, which well exceeded the height of the safety railing, and combustible materials that were stored at a significant depth throughout the apartment. Given the amount of these combustible materials, the dwelling was no longer being used for its intended purpose and could have physically trapped an individual inside.

*Continued on page 18 ...*

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In a further quote, the OFM said:

*Ontarians are urged to contact their local fire departments if they are aware of dwellings where an excessive amount of combustible materials are present that may pose a fire safety risk.*

For condo corporations, this report and advice to call local authorities brings welcome news. Rather than expend time and effort proving in a court of law that an occupant is a hoarder creating an unsafe condition, a simpler option

may be to follow the OFM's invitation to lodge a complaint with the local fire department. If the fire department is satisfied that the situation is unsafe, it can order the unit owner to alleviate the dangerous situation. Regardless of whether the problem is solved with an order, the fire department can also lay charges under the Fire Protection and Prevention Act.

While this option to enlist the local fire department may seem like a slam dunk for condos, three uncertainties remain:

1. Whether the fire department will actually investigate a complaint and give an order;
2. Whether the order will require the condo to do the work for the unit owner or make the condo and its board liable to face charges;
3. Whether the fire department may find additional violations around the building and issue orders or lay charges against the condo for these other issues.

These three questions should be considered before making a complaint about hoarding in a condo unit. Here's why:

**First: Will the fire department investigate?**

It is a well-known fact that most city agencies shy away from problems in condominium buildings, citing that the condo corporation is responsible for dealing with most issues. For this reason, property managers and condo boards are rightly skeptical about whether local fire departments will actually do anything in response to reports of hoarding in condominium units. Only time will tell, but we would think that municipalities may be subject to lawsuits for damages where fire departments fail to respond appropriately to cogent, written reports of hoarding and demonstrable fire safety risks. The OFM report is convincing evidence that fire departments have a duty to act when given reliable information of a problem.

**Second: Will fire department name condo in the work order?**

Given the established practices of most city departments, it is fair to assume that the fire department will order not only the unit owner, but also the condominium corporation and even the management company to rectify a hoarding situation. This "shotgun approach" to municipal by-law enforcement is common, and involves naming every person in sight, even where it's incorrect to do so. City officials



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typically fail to appreciate that while the condominium and its manager have the legal right to undertake work in a unit (as per Condo Act, section 92), that work cannot practically be done without the owner's cooperation or a court order. Regardless, if the condo or manager is named in the work order, those parties are liable to be charged if the required work is not performed. Realistically, then, condo boards should not make complaints about hoarding unless they are ready to undertake the necessary work. Boards might, however, try to minimize the chance of being named in the order by including in their written complaints the applicable provisions in their declaration that allocate the respective obligations of the corporation and owners when it comes to maintenance and repair of units. The better approach is to be prepared to be named as a party in the work order and to get the lawyers involved to get access to the unit to perform the work.

### Third: Will additional violations be found?

It is common for a complaint to the city about an owner's infraction of a local ordinance to give rise to work orders or charges against the condo and sometimes its manager for unrelated violations observed by the inspector. The

inspector will write up any and all violations in sight, even those unrelated to the complaint. For this reason, condo boards should make sure that all aspects of their fire safety systems and plans in relation to the common elements are in top shape before making a complaint of hoarding in a unit.

Once these three issues are considered, filing a report with the local fire department may be an effective way to start dealing with known hoarding situations. Given that mental health issues are likely at play in hoarding situations, obtaining legal advice at an early stage will increase the odds of obtaining a more predictable and economical positive result.

We'll be interested to hear whether boards and managers are having success with this approach or whether additional issues arise. As always, readers are invited to submit a comment setting out their experiences or suggestions. ■

*Chris Jaglowitz is a condo lawyer at Gardiner Miller Arnold LLP in Toronto and is publisher of the Ontario Condo Law Blog (www.ontariocondolaw.com), where this piece first appeared. Chris sits on the ACMO Associates Executive Committee, Certification and Standards Committee and is chair of the Condominium Management Standards Council, which oversees the ACMO 2000 certification program.*



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Property Management Guild Inc.	Peter Webb	905-575-3636	peter@pmguild.ca
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Peak Realty Ltd., Brokerage	Trudy Lynne Smith	519-747-0231	trudysmith@kwcondo.com
<b>Telecom Services</b>			
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## FAIRNESS CAN BE A VERY TAXING ISSUE



Ever since condominiums came into existence they have been a financial windfall for municipalities, often at the expense of condo owners. During that time many people have voiced their concerns and some have asked for relief. A few urban governments decided, to their credit, to address the imbalance between condos and non-condos by offering rebates, extending services or both. CCI and particularly condo owners in those areas are very grateful for that help.

Over two years ago the issue of property tax assessments versus municipal service delivery for condominiums took on a more formal approach in the form of the CCI Fair Tax Campaign. The Condo News and other CCI publications have presented several articles to explain the issue and advise of actions being taken. Countless informal and formal meetings have taken place. Presentations have been made to elected representatives and city staffs all across the Golden Horseshoe area. Municipalities have written reports and have listened patiently to our plight. In at least one area, a joint advisory committee was set up of condo, non-condo and city representatives, to discuss this issue and others concerns. Municipal officials have been challenge to deliver services to condos equal to what is provided to non-condo neighbourhoods. CCI has produced whatever statistics that have been requested. Letters and lobbying have brought our message to every level of government in Ontario.

The major result of these efforts is that “Fair Taxes” has become one of the hottest topics to come before condo owners in a very long time. Many more people are aware of who CCI is and what are their goals. During this campaign the number of condos, particularly in Toronto, have increased dramatically - so much so that condo construction has now surpassed non-condo construction. The number of voters owning and/or living in condos has risen above a million people. There has been a municipal and a provincial election. Some provincial parties (Liberal and NDP) made campaign promises to reopen the Condo Act. Before the election, the provincial government turned down our request to revise the Municipal Act, and add two new property classes... but during the campaign they promised to “introduce regulatory changes that would provide municipalities with the option to create a separate property tax classification for condominiums.”



What's next? We hope, as more and more condo owners become aware of the extent of this tax issue, that more voices will be raised to inform others and get their support. We have learned that old fashioned letters (not emails) are more effective when contacting politicians. If every MPP received letters from even half of the condo owners in their riding, there would be some action. An email is easy to erase or ignore, but a letter requires an answer. If you do write and you receive a reply, CCI would be grateful if you shared that reply with all condo owners. You can forward any replies like that to Al Siaroff and/or Ed Keenleyside

at [asiaroff@cogeco.ca](mailto:asiaroff@cogeco.ca) or [ekenleyside@cogeco.ca](mailto:ekenleyside@cogeco.ca) and we will be glad to include them in our Condo News updates.

If those same concerned owners also wrote their local newspaper, there would undoubtedly be more media coverage. If you're not sure who to address your letters to try looking in the Toronto Star on Saturdays for the condo section. Address your concerns to all the journalists who are writing articles about condos. This same tact can be used for other newspapers. Again if you get a reply or if an article is written, please forward a copy to Al or Ed at the above email addresses.



## Exposing the Hidden Liability of Your Floors

*The Changing Property Management Business*

Jim Stewart, Director, Ralos Safety Floors

*In today's dramatic and challenging environment, managing properties can sometimes seem like walking on thin ice; one wrong step and your business is down for the count. Just when you think you are on solid footing something starts to crack and lately those fissures have been growing. Unfortunately, this is the nature of today's property management business environment and everyone is treading on the same precarious platform. Specifically for property managers, survival means having the ability to respond to what lies ahead efficiently and quickly; even if the path forward is blocked by walls of ice.*

Liability challenges have been seen as a principal driver of business change today and there is no denying that the exposure to the liabilities you face has been growing. The reliance on a preventative maintenance and floor safety strategy rather than just traditional floor cleaning has dramatically altered the nature of property management.

When it comes to improvements in overall safety and the cost of managing your exposure there is a significant hidden liability in legacy flooring that can be resolved quickly.

### The Difficulty of Planning in a Time of Change

Think back a few years about all of the changes that have occurred in the property management world. You could not have imagined some of the business challenges confronting you today; updated building, plumbing and fire code regulations, expanded legislation and compliance requirements,

aging demographic resident profiles, aggressive personal injury lawyers, growing occupational health and safety claims, ever higher insurance costs... the list is seemingly endless.

can prove to be not only very costly but sometimes result in prolonged and tedious court cases that can span years. There are numerous pieces of legislation that can be applied by the

**“THE RELIANCE ON A PREVENTATIVE MAINTENANCE AND FLOOR SAFETY STRATEGY RATHER THAN JUST TRADITIONAL FLOOR CLEANING HAS DRAMATICALLY ALTERED THE NATURE OF PROPERTY MANAGEMENT.”**

### The Hidden Liability: Multiple Legal Statutes and Your Responsibility

There are basic differences in how companies approach one of the major safety hazards on their properties: their floors. Forward-thinking property managers have adopted a preventative maintenance and floor safety program designed to minimize this hidden liability. These slip and fall accidents

judicial system in Canada including the Condominium Act, Occupier's Liability Act, Occupational Health and Safety Act and even Bill C-45.

### The Hidden Liability: How Big an Issue is Floor Safety?

Who is responsible for an injury resulting from a slip and fall accident? Thousands of people are injured when

they slip and fall or trip each year. Property owners are sometimes responsible for the accident, and sometimes not. On taking responsible steps to prevent bodily harm the Minister of Justice was very clear in 2008 declaring: "Failure to do so in a manner that endangers employee and public safety must be appropriately dealt with through our criminal laws". Consequently, it is essential that property managers adopt preventative maintenance approaches that emphasize safer floors and liability reduction rather than just traditional floor cleaning.

Slip and fall accidents are more frequent than expected and account for 15-20% of all accidents. According to the Canadian Institute for Health Information (CIHI), the nations leading authority on health statistics, falls are by far the most common cause of major injury hospitalization for Ontario seniors, responsible for about one-fifth (20%) of all severe injury admissions. Furthermore, members of

the public are now more likely to sue when they trip, slip or fall and injure themselves on your property. Canadian courts are also proving more willing to make findings of negligence against businesses and award higher compensation to injured parties. When you consider the high frequency of these types of injuries along with a steadily growing financial claim amounts the impact on profitability is considerable. It is prudent to take steps that will minimize this impact.

### The Hidden Liability: Floor Safety Standards

National, Provincial and State safety organizations across North America are now implementing an easily understood safe floor designation based upon the November 2009 American National Standards Institute (ANSI) standard (ANSI B101.1). This standard is also endorsed

*Continued on page 28 ...*



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by the Canadian Safety Association (CSA). These flooring designations are: Low Traction, Moderate Traction and High Traction. Non-slip walking surface standards (OSHA) is measured as static coefficient of friction (SCOF). Floors with a SCOF below 0.5 are a hazard 0.5 and above are deemed safe. Consequently, an adequate hazard control plan may be a wise option. This would include both temporary (signs and mats) and permanent controls (floor replacement or engineered change). You implement administrative measures only until permanent controls can be put in place. Sometimes administrative controls such as signs and mats can themselves become a slip and fall or trip hazard, especially with our Canadian winter weather. The challenge ahead: increasing overall safety focus

Change is real. It is a fact of business life. With today's increasingly intense liability concerns, change is creating pain in operations. A new innovative remedy to low traction floors is available to improve all of your floor surface areas, not just the localized areas covered by mats. This "engineered control" approach has major benefits since it ensures floor wide safety improvements and also meets trac-

tion standards both wet and dry. In these times, property managers must be more demanding of their suppliers. They must challenge them to prove they can deliver real safety improvements and real relief from escalating liability cost.

### Conclusion

By considering the big picture; changing business requirements, additional legislation, slip and fall frequency and cost, workplace concerns, hazard controls, floor standards and innovations - your property management company can maximize operational efficiency and overall ROI. Awareness of the liability you stand upon is the first step towards reducing your exposure. Property managers with a laser focus on potentially hazardous flooring can look forward to reduced costs and improved operational efficiency. The results can be remarkable. An effective floor safety strategy in place across your properties will keep you on solid ground. ■

*Jim Stewart is a Director at RALOS Safety Floors Inc., a company specializing in anti-slip floor treatments. He has a background in biological science and has twenty years of Technical Sales, Marketing and Business Management experience in Canada and the USA.*

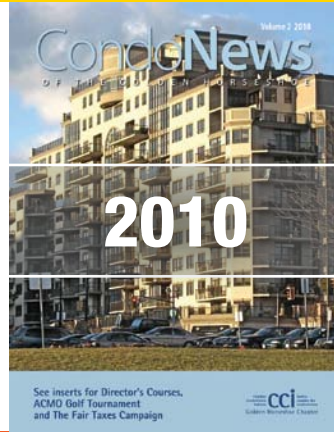
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- 1** The unique qualities and features of your condominium;
- 2** The outstanding accomplishments of your corporation;
- 3** Unusual and/or difficult problems that were encountered and resolved;
- 4** The overall environment of the condominium;
- 5** What makes residents proud to live there?

You can either send an article (approximately 750-1000 words) answering the questions on the left or we can interview you via phone and write an article about your condo.

Each entry will be featured in an upcoming quarterly issue of the Condo News magazine. The winner will be selected by the GHC-CCI Communications Committee and will be announced at the Annual General Meeting in the fall. The prize is a tree, bench or framed print valued at \$300. In addition, the Condo of the Year will receive a framed cover of your condo as featured in Condo News.

Interested applicants should submit their articles or contact information for an interview to:

CCI-Golden Horseshoe Chapter  
920 Brant Street, Suite 23, Burlington Ontario L7R 4J1  
or by **EMAIL** [admin@ghccci.org](mailto:admin@ghccci.org)

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## CCI DISTINGUISHED SERVICE AWARD

Al Siaroff and Ed Keenleyside

The question of property tax equity for condominiums seems to me to be a no-brainer. Fair Taxation is one of the hottest topics to come before condo owners in quite some time. From coast to coast to coast condo owners are expected to pay property taxes equal to non-condos, but are expected to accept fewer services than are offered to those non-condo neighbourhoods. Therefore it seemed only natural to try to remedy this issue which led to surprise that this work should garner an award.

On Friday, November 4, 2011 CCI National awarded the 2011 Distinguished Service Award to Al Siaroff and myself. While this award is appreciated, many others should share it. The Board of Directors of the Golden Horseshoe Chapter have been leaders in spearheading this campaign. While Al and I travelled around and talked to anyone who would listen, it was many others who provided encouragement and advice. The successes we've had were rewards in themselves. Every time another person or another condo group got involved in promoting this just cause, it made our efforts seem worthwhile. So we would like to take this opportunity to thank our chapter, other fair tax disciples and our friends and families who have encouraged us.

This does not mean that the job is done. Municipal, Regional and Provincial governments as well as the



*Robert Mullin and Ron Danks presenting Al Siaroff and Ed Keenleyside with the CCI Distinguished Service Award for their efforts with the Fair Tax Campaign.*

bureaucrats at each level must be educated and continually reminded that no tax payer should have to pay for a service that they can not access. Only when services, which are paid for by property taxes, are made available to all condo owners in the same way they are made available to non-condo owners, will this issue go away. Contacting all the service providers and the ones who set tax policies will remain the task of condo owners, directors, managers, etc.

So while Al and I were honoured by CCI on Nov. 4, 2011, it is all those involved in this critical campaign that share this award.

A sincere thank you to all who made this award possible. ■

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## NEW BRUNSWICK: THE NEWEST CCI CHAPTER

Diane Gaunt, Executive Director, CCI National

The Canadian Condominium Institute (CCI) has chartered a new Chapter to serve the needs of New Brunswick condominium owners. The Chapter received its charter at the recent CCI national meeting held in Toronto on November 4th, 2011. Ms. Phil Williams, Chapter president, stated "CCI connects the condominium community in five important ways: to education, through seminars, work-

shops and courses; to resources, through member services such as newsletters; to networking, through Chapter meetings and social events; to professionalism, by promoting ethical standards for professionals serving the community; and to representation, by participating with governments on legislative and regulatory issues affecting condos".

The CCI, founded in 1982, leads the national condominium industry by providing education, information, awareness and access to expertise by and for its members. CCI now has sixteen Chapters across Canada, from Newfoundland and Labrador to Vancouver. Its membership consists of

condominium owners and boards, and the professions and trades that provide service to them. Representing almost half a million condominium owners in Canada, it is the only organization dealing exclusively with issues affecting all of the participants in the condominium community. ■



*CCI National Executive Board President Jim Mackenzie presenting Ron Danks with a 18 Years of Service Award at the CCI National Annual General Meeting held in November*



*Jim MacKenzie presenting Kim Coulter with a 5 Years of Service Award at the CCI AGM.*

Please detach and complete this registration slip and mail or fax to the GHC.

## Property Managers' Luncheon Registration Form

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**Wednesday, February 15, 2012**

from 11:30 a.m. to 2:30 p.m. (\*Lunch served at 11:45 a.m.)

*\*Please advise of any dietary restrictions*

**Topic: "Accessibility for Persons with Disabilities"**

Guest Speakers: TBD

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## Suttie v. Metropolitan Toronto

*Condominium Corporation No. 683*

Paul M. Chornobay, Hons. B.B.A., LL.B., Elia Associates

*In Suttie v. Metropolitan Toronto Condominium Corporation No. 683 (Small Claims Court), a pipe in the Plaintiff's dishwasher, which was located in her unit, broke causing water to damage her hardwood floor, which she installed, replacing the original broadloom flooring.*

She made a claim under her personal homeowner's insurance policy for the cost of replacing the floor and for other expenses. The insurer then subrogated to an alleged right of action of the Plaintiff against the Condominium Corporation for \$10,000 as the Plaintiff claimed that the Corporation was responsible for repairing or replacing her hardwood floor and consequential losses on the basis of Subsection 89(5) of the Condominium Act, 1998 (the "Act").

The Corporation's Declaration contained a "waiver of subrogation" clause which stated that if a unit owner had insurance to cover any additions or improvements that he/she made to their unit, that the insurance policy "shall contain a waiver of subrogation against the Corporation...". The Court found that the Plaintiff's installation of the hardwood floor was an improvement and since Section 119 of the Act requires an owner to abide by the Declaration, she waived her right to have her insurer sue the Corporation for damages in her name. Even though a waiver of subrogation was not included in the Plaintiff's policy, the insurer was bound by the terms of the Declaration because it is not legally possible to possess greater rights than the unit owner under the Declaration.

The Court went on to discuss whether the Corporation had the obligation to pay for the repair or replacement of the hardwood floor. The Court analyzed Sections 89 and 91 of the Act as well as the Maintenance and Repair portions of the Corporation's Declaration and found that the owner had a duty to repair the unit, which included improvements, even though a Standard Unit By-Law had not been passed by the Corporation, as it was created well before the Act came into force.

This case discussed and, ultimately, disagreed with a previous decision, D'Alessandro v. Carleton Condominium Corp. No. 43. In D'Alessandro, the Court, based on similar facts, ruled that the Corporation was obligated to pay for the repair of the hardwood floors that the unit owner had installed, since a Standard Unit By-Law to describe the hardwood floors as an improvement, as per Subsections 89(3) and 89(4) of the Act, had not been in place at the condominium.

I believe that the reasoning in Suttie is more persuasive than the reasoning in D'Alessandro and is a good decision for older condominiums without a Standard Unit By-Law. However, the only way that a condominium can get certainty on the definition of improvement is to pass a Standard Unit By-Law. ■

*Paul joined Elia Associates in 2008 and practices civil litigation with a focus on condominium corporation dispute resolution. Paul has successfully represented condominium corporations in litigation proceedings, and continues to provide timely advice to clients with regards to the Condominium Act, 1998, other applicable legislation such as the Residential Tenancies Act, 2006, and related issues.*

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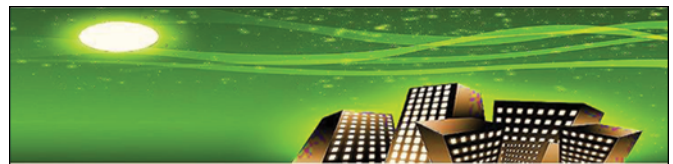
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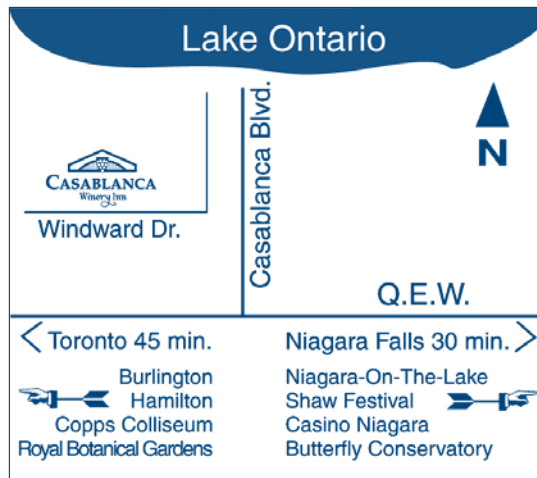
# Course Agenda

- 9:00 a.m. Opening Remarks
- 9:15 a.m. Preserving Your Condominium – An Engineer’s Perspective
- 9:50 a.m. Declaration / By-laws & Rules – A Legal Perspective
- 10:30 a.m. Break
- 10:45 a.m. The Role of the Board, the Unit Owners and the Property Manager –A Legal Perspective
- 11:20 a.m. Finances and Managing the Money – An Auditor’s Perspective
- 11:45 a.m. Professional Property Management – Why or Why Not? – A Property Manager’s Perspective
- 12:15 p.m. Panel Discussion, Wrap-up and Q&A
- 1:00 p.m. Lunch Networking
- 2:00 p.m. CLOSE

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*Condominium Corporations who have not been members prior may join the CCI GHC at no charge when attending the course. Applications will be available at the course for authorized individuals to apply.*



*Thanks to Colm Brannigan, LL.M. (ADR), C. Med., C. Arb. for providing us the answers to the questions below.*

**Q:** What happens in a Condominium mediation session?

**A:** Although mediation must be used in many types of condominium disputes under the Condominium Act, 1998, because it is a “private” dispute resolution process, many board members and unit owners do not know what to expect when they go to mediation. Although no two mediations are exactly the same this is usually how it unfolds.

It begins with the mediator making an opening statement. This is usually quite short. The mediator welcomes and introduces everyone, explains the goals and rules of the mediation and encourages each side to work cooperatively toward a settlement. It is usually quite informal with the parties and the mediator using their first names when speaking with each other.

The mediator will then usually confirm that the parties have the authority to settle the case and that no other parties need to be consulted about any resolution of the dispute. This is important as in condo mediation a settlement will usually have to be approved by the board of directors.

The mediator will also discuss that what happens in mediation is, subject to some exceptions, confidential. Ground rules for the mediation are usually set out and agreed to such as:

- All parties will have an equal opportunity to speak;
- Only one party will speak at a time;
- No interruption of the person speaking;
- A party can request a break at any time.

Often agreeing on the ground rules sets the tone for the process and can be the first step in arriving at an agreement on other matters. It also reinforces that the responsibility for sorting out the dispute is the responsibility of the parties, not the mediator.

The mediator will try to set a positive tone and encourage the parties to reach a resolution but not a settlement at any cost. The goal in mediation is a settlement that seems fair and reasonable to the parties.

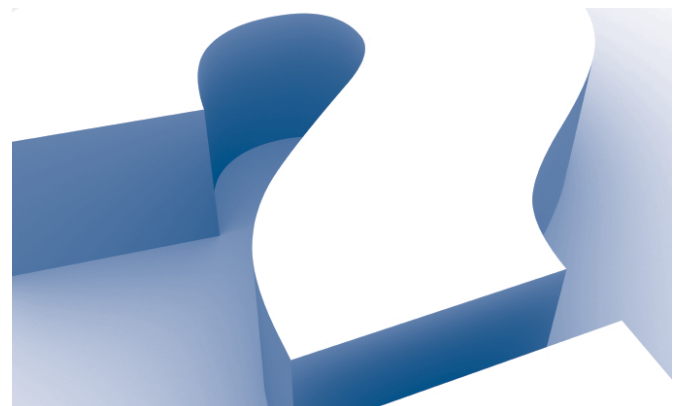
The mediator will then ask who would like to begin speaking. If neither party offers, the mediator will usually ask the party who initiated the mediation to begin. This is called the “opening statement” and each party is asked to tell, in his or her own words, what the dispute is about and how it has affected them. Sometimes the parties may also provide general ideas about resolving it. The mediator may briefly re-state a party’s opening statement to be sure he or she understands it and to make sure that each party has heard the other’s perspective.

After this, the mediator will try to get the parties talking directly about what was said in the opening statements and to decide what issues need to be addressed. The mediator will try to discover each party’s interests from their stated positions. Interests are feelings, concerns, fears and needs. The objective at this stage is to help the parties understand what is important for them and what is motivating each party.

The mediator will try to highlight common ground, areas of agreement and any progress made.

Often considered the heart of the mediation, private sessions or “caucus” is usually the most important stage

*Continued on page 38 ...*



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of mediation in condominium and other disputes. The private session or caucus is a chance for each party to meet privately with the mediator (usually in a nearby room) to discuss the strengths and weaknesses of his or her position, and new ideas for settlement. The mediator will encourage the parties to generate solutions, identify points of agreement and overlapping interests.

Then the mediator goes to the other party's room, closes the door and does the same thing. Then the mediator goes back and forth between the parties with offers and counter-offers and to obtain clarifying information.

Ideally after the private session, the mediator may bring the parties back together to negotiate directly. A good solution will be specific about when, where, who and how. It must be realistic so that each party can do what they agreed to do.

Then it is the end of the mediation. If an agreement was reached it is written down. If there is no agreement, the parties may agree to meet again or if not, to proceed to arbitration as required by the Condominium Act.

**Q: Is there a difference between mediation and arbitration?**

**A:** There are major differences in both the process and outcome in mediation and arbitration.

Mediation is a process of cooperative problem solving in which a neutral third party with special training and skills helps individuals to work out mutually acceptable agreements. The mediator is selected by agreement between the parties. It is important to note that the mediator does not reach the solution nor impose it on the parties. It is up to them to find the solution with the mediator's help. Agreements reached through mediation are as valid as any other settlement contract.

Arbitration is a private dispute resolution process where disputing parties agree that one or several individuals can make a decision about the dispute. It is like a trial in court although not as formal. After the hearing the arbitrator issues an award. Arbitration is different than mediation because the arbitrator has the authority to make a binding decision about the dispute. This can be enforced by a court and can only be appealed on very narrow grounds.


The main differences are that mediation is informal and the parties make their own settlement with the mediator's help while arbitration is more formal and legalistic and the arbitrator imposes the result on the parties. ■



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— CHARLES TREMPER



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