



Canadian Condominium Institute review

The newsletter of the Canadian Condominium Institute / Institut canadien des condominiums

SOUTH ALBERTA CHAPTER



Ryan Coles

My primary goal as the president is to continue to grow our membership, with special emphasis on condo owners. They are the ones who we are all here to better serve.

Message from the President

Thank you for taking the time to read our newsletter. If you're reading this, I'll leap to the conclusion that you're engaged in the topic of condominiums, and you make a point to be well informed. You are part of the group of people that CCI aims to engage with, and you demonstrate the exact attitude we want to encourage and foster.

Now that I've pumped your tires, I ask a favour of you: please use your informed position to share CCI news and opportunities. Sure, we'd love more members, but one of the most important goals of CCI is to spread accurate information about condominiums. How many times have you read a condominium-related news article, or better yet, the public comments at the end of such an article, and recognized where people are mistaken in their interpretation of a condo topic? I had a conversation with a person last week

who thought their condo fees go into the property manager's coffers, and didn't realize that the majority of those fees are actually for O&M costs and the reserve fund for the Condominium Corporation. We don't learn this stuff in school, so where do we expect people to get their information? My hope is that you do your part in spreading accurate information and facts about condominium life. And if I'm really lucky, you even plug CCI as one of the top sources for information.

I'd be remiss to not give a warm

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join our mailing list



CCI South Alberta Chapter

- To keep updated on chapter events;
- To receive updates on industry news and condominium related issues;
- To network with other CCI South Alberta members;
- To sign up for future CCI events.

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OUR MISSION

To lead condominium owners and industry members through education and advocacy with integrity and professionalism.

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Message from the President

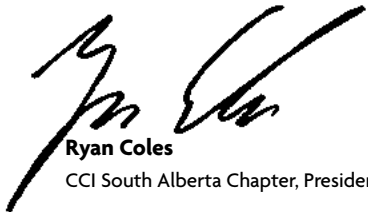
(continuation from page 1)

welcome to our two newest CCI South AB Board members: Sara Bushnell and Abbie Thurgood. They were elected after another highly contested election held during our first-ever virtual AGM at the end of October. Once again, more people ran for election than there were candidates. Each candidate submitted a pre-recorded video of themselves, providing attendees with an opportunity to learn more about them before voting. In addition to the two new members, a number of current Board members were re-elected for another two-year term. Thank you to all candidates who put their name forward for election.

Monthly lunch presentations are planned for each month from now until summer, and the CCI has planned

to host a full docket of our courses throughout the spring. Board members continue to be busy attending advocacy meetings with the government and other related bodies. CCI South AB is frequently invited to join stakeholder meetings to represent the voices of condominium owners in Alberta. Recent topics we have been consulted on include the Building Exterior Visual Assessment (BEVA) bylaw in Calgary, home insurance premiums, residential energy efficiency and of course the tribunal, which is still in the early stages of planning with Service Alberta.

That's all for me this time - it's late in the day but there's still enough daylight to take the dog for a walk. Spring is right around the corner.



Ryan Coles
CCI South Alberta Chapter, President

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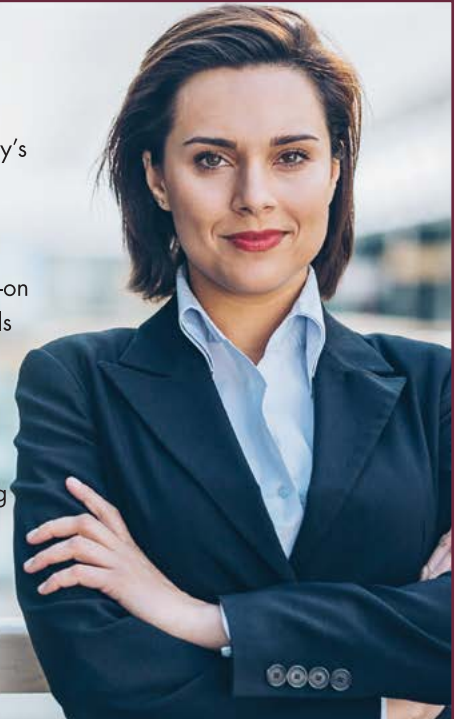
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EDUCATIONAL SESSIONS - VIRTUAL

Roundtable: Tips & Process on How to Run an Effective AGM

March 25, 2021 (12:00pm – 1:00pm)

Managers are from Mars, Boards are from Venus: Creating Good Working Relationships

April 29, 2021 (12:00pm – 1:00pm)

Insurance Industry Update Fireside Chat

May 27, 2021 (12:00pm - 1:00pm)

RECA Condo Manager Licensing Update

June 24, 2021 (12:00pm - 1:00pm)

CONDOMINIUM MANAGEMENT COURSES - VIRTUAL

CM Introductory Financial Management & Successful Budgeting

March 14, 2021 (1:00pm – 4:30pm)

CM100 – Fundamental Management Principles

March 27 & 28, 2021 (12:30pm – 4:00pm) each day

CM200 – Practical Management Principles

April 2021 (See website for specifics)

CM300 – Specialty Management Issues

May 2021 (See website for specifics)



notice

CCI-SA has taken steps to support the temporary social distancing measures currently being implemented to arrest the spread of COVID-19.

Please check our website for updates on events as they become available.

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Alberta Debtor Support Project

Alberta has been hard hit economically for the past few years. With the global pandemic, finding the means to pay debts and mortgages has become increasingly difficult for an increasing number of Albertans. For those whose circumstances have changed and are not sure what to do, where do they turn? There is help.

An initiative was launched by a group of lawyers and organizations which include the Legal Education Society of Alberta, the Centre for Public Legal Education Alberta, Pro Bono Law Alberta, Calgary Legal Guidance, the University of Calgary Public Interest Law Clinic, the Law Society of Alberta, the Justice Sector Constellation and the ADR Institute of Alberta. The program is called the “Alberta Debtor Support Project”.

The Alberta Debtor Support Project’s website provides a list of resources that are available as well as, a portal for

active and retired lawyers to volunteer to help Albertans dealing with debt. It offers individuals guidance through information on options and services available.

“Help with Debt Alberta” can also provide links to a new service for people who are behind on the mortgages or one or two debts. The Public Interest Law Clinic operates the Consumer Debt Negotiation Project, which is an online Pro Bono service. The volunteer lawyers and staff negotiate with creditors on behalf of an individual.

To see the Court announcement visit:

- <http://albertadebtorsupport.ca/index.html>
- <https://www.cplea.ca/help-with-debt-alberta>
- <https://law.ucalgary.ca/clinics/public-interest-law/ongoing-projects/consumer-debt-negotiation-project/info-clients>
- <https://albertacourts.ca/qb/resources/announcements/alberta-debtor-support-project>

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“Help with Debt Alberta” can also provide links to a new service for people who are behind on the mortgages or one or two debts.”

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Birth of a Condominium Corporation: Perils

By Nicholas Fuss, *Entuitive*

Many of the issues we see today in the new condominium world end up costing the new end-user owners. Seeking recompense from the original Builder/Developer is often a seemingly insurmountable challenge that is most likely not going to be successful. So, the question is what can we do as an industry to improve this, and what can Owners and Property Managers do to better equip themselves when coming into a new property?

The tough reality of new construction is that the model for many developers is based on the rapid nature of building with

little foresight into long-term ownership. Some Developers operate on a business model that rewards a speedy turnover, with little to no incentive to ensure things are built to last and completed at the highest possible quality. This almost exclusively results in what is often perceived as poorly completed

turnkey buildings that end up having extensive issues in the first few years of operation, requiring hundreds of thousands (and even millions) of dollars in repair work.

The grey area that is under discussion here is the gap between Developer/Builder turnover and the new long-term owners getting their eyes on the building. Currently, many transactions are completed in such a manner where the condominium corporation is not yet developed, and as such, the Developer creates the new corporation (birth) and acts as the corporation representative. The result is that the Developer acts as both the builder and the client — in this

case at building ‘turnover’, the Developer must meet the strict and rigorous quality control and completion standards of... themselves? It doesn’t make a lot of sense in any world, and the reality is that by the time the owners in the building attain membership on the Board of Directors for the Corporation they are often left high and dry when it comes to anything that could be considered ‘wrong’ with the building. These first people to assume a Director position for the Corporation in its adolescent years are often not equipped to hit the ground running and can be caught up in an overwhelming amount of building ‘growing pains’ while trying to figure out how to keep everything running and addressing new owner concerns in a freshly operating corporation. The Property Manager is also usually lumped into this scenario (the ‘churn’ as I like to call it) in that they are doing everything possible to support the new Board, but typically their involvement is almost entirely encompassed by the day-to-day operations — just keeping things going.

In this scenario, an outside consultant can help with the very first question that often arises — “what is wrong with my building?” This likely requires multiple disciplines to be brought in to conduct what is colloquially known as a ‘Technical Audit’. The audit gives the

(continued on page 11) →



An outside consultant can help with the very first question that often arises — “what is wrong with my building?”



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Board and Property Management an inventory of how their building was built, what the current condition is, and how it compares to what was supposed to be built. In tandem with the aforementioned items, these audits usually include commentary on industry best practices, Code requirements, and help to identify both immediately apparent issues and some warning signs that may indicate longer-term costs that will need to be borne by the Corporation. While these initial investigations are helpful to help establish what condition the building is in and what

It is this partnership, that when built on a foundation of trust and assurance, will provide the type of building that anyone would be proud to hand over, and even more importantly proud to live in.

work needs to be done, typically by the time this initial investigating is completed the Developer and Builder (if applicable) are usually long gone, with any limited warranties long since expired (don't get me started on the value of warranties). Not all Developers are guilty of this, and some will return and correct issues as they have a high sense of pride and don't want a tarnished image. However, these are usually not the ones that we (Consultants) have to deal with — it is the ones

that cut and run that cause owners' endless headaches and bleeding wallets. If preliminary negotiations yield no results, litigation can be pursued if a case appears to be valid (this is a topic for an entirely separate article); however, the results of litigation are not guaranteed, and can stretch out for years, and even decades, all the meanwhile the issues persist and get worse. Not to mention the legal fees! This is usually an absolute last case scenario, but the unfortunate truth is that many Condominium Corporations end up with this action as their only option, knowing they will likely not recoup the countless dollars they have to sink into their new building as a long-term investment. During these investigations, negotiations, deliberations, reviews, testing, and other consulting, the issues typically that are present continue to get worse, and the cost to rectify them can increase exponentially. The sad truth that we often have to convey is, even if money isn't available, the issue is not going away, and it will likely get worse. The longer it festers, the worse (and more expensive) it is to excise.

Out of all this, we consistently try to find ways to not

repeat the mistakes of the past. The current victims of this cycle of new building turnover have the dubious honour of informing the new construction industry at the turnover phase in hopes that improvements can be made with minimal sacrifice. At the end of the day, unless a new idea is proven to be viable for all parties it typically ends up as one of those idealistic scenarios that will never come to fruition in the real world.

In recent years, consultants have been pushing to form relationships with Developers and Builders and convince them of the benefit of having a third-party act as the quality assurance manager for the building. This third party will assist throughout construction in making sure things are done to the highest of standard, resulting in a greater quality product. This begins on the drawing board (ie: a screen) by involving consultants early in the design stages to help inform where cost savings can be achieved, where potential issues may arise, and assist with all manner of the design process from product selection to final warranties. From this point on the Consultant can assist with reviewing the progression of the work to add to assurance that short cuts are not being taken, and the long-term investment is being pieced together in the best manner possible. It is this partnership, that when built on a foundation of trust and assurance, will provide the type of building that anyone would be proud to hand over, and even more importantly proud to live in. This is not an easy cycle to break, and no single iteration will be the perfect solution; however, only by attempting to rectify the mistakes of the past will we begin to see progress towards removing the term 'condominium' from the collective swear jar.

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SCAN ME

Importance of Insuring to Full Replacement Cost

By Omar Khan, Business Development Associate
Normac.ca

The most important asset to any condominium corporation is the property itself. It is important for the condominium's stakeholders to take care of their property to guarantee its longevity. The most important tasks include getting a reserve fund study and following a regular maintenance plan; assessing, cleaning, and replacing deteriorating elements; and also reviewing the replacement cost value annually to ensure the property is adequately insured.

The Alberta Condominium Property Act states that "the corporation must place and maintain insurance for replacement cost value that provides that if (a) the insured property is destroyed or damaged, and (b) that property is replaced or repaired, 2020, c. 22, s. 47 (3)."

There are several key reasons why Condo Corporations should insure to full replacement cost.

Sufficient Insurance Coverage

An annual insurance appraisal ensures that you have sufficient insurance coverage in the case of a loss. When a condominium is underinsured and they experience a total loss, the deficit will

fall on the unit owners.

A recent example of a condominium not having sufficient coverage resulted in owners having to pay out of their own pockets for a shortfall in coverage. In August 2019, a condominium in BC experienced a total loss due to fire. During the rebuild, the owners learned that they were underinsured for \$3.2 million. Each unit owner is now facing levies ranging from \$36,000-\$57,000 to make up for the deficit.

Fulfil your Fiduciary Duty

Condominium corporations are required by the Alberta Condominium Property Act to insure the standard units and common elements to a value equal to full replacement cost. By opting not to review the replacement cost on an annual basis or by not using a reliable and professional appraisal firm, the board may be found to have failed in its fiduciary duty to the property owners. It is in the best interest of the condominium for the board to enlist the services of an experienced appraiser who specializes in replacement costs. This is the most reliable method for determining an accurate replacement cost value, reducing both the financial and liability risk for all involved.

Determining Full Replacement Cost

The only way to be confident that you are insuring your property to full



When a condominium is underinsured and they experience a total loss, the deficit will fall on the unit owners.



By having an appraisal provided annually, a condominium can have peace of mind that their assets are protected, and they are paying the correct premiums for their insurance.

replacement cost is by having an annual insurance appraisal performed by an accredited third-party provider. An accurate and up-to-date appraisal considers not only the materials to rebuild, but also demolition and removal expenses, labour and professional fees, upgrades to current bylaws and building codes, taxes, and inflation fluctuation.

It is equally important to obtain updates on the amount to be insured on an annual basis. Costs to rebuild fluctuate over time. By having an appraisal provided annually, a condominium can have peace of mind that their assets are protected, and they are paying the correct premiums for their insurance.


Avoid Overpayment

Like any industry, the construction industry has ebbs and flows. Year-over-year increases are inconsistent and it is also possible to have decreases, as seen following the 2008 recession. Fluctuations in costs can be caused by changes in building price indexes, supply and demand of raw materials, labour shortages, international trade, changes to bylaws and building codes, among other things. It is possible for condominium corporations to carry excessive replacement costs and overpay their insurance premiums. Determining full replacement cost annually ensures your premiums are in line with the market and that you are only paying for what you need, not more.

Avoid Co-insurance

When properties do not have an up-to-date replacement cost, they may be subject to a co-insurance clause. This clause requires the corporation to self-insure a percentage of the property's replacement cost, usually between 10-20%. In the event of a total or even a partial loss, the corporation is responsible for covering a portion of the costs to rebuild, which is typically in addition to their deductible. With an insurance appraisal provided by an accredited appraiser, insurance brokers will seek coverage for the full replacement cost and co-insurance clauses can be effectively avoided.

Protect Your Assets

To avoid financial and liability risks, make sure your properties are insured to full replacement cost. An up-to-date insurance appraisal—provided by a professional firm that specializes in this type of valuation—will provide peace of mind that your assets are protected. 





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AGMs and SGMs during COVID-19

By Laurie Kiedrowski, Stephanie Whyte and Dan MacAulay,
McLeod Law

AGM requirements have not changed with the new restrictions. AGMs can have up to 100 people maximum if held as a seated/audience event. The meeting should not have a “mix and mingle” element, where people can move around freely to associate, mix or interact.

We continue to receive many questions on how your Condominium Corporation can function in light of the ongoing uncertainty of COVID-19 restrictions. On the one hand the Ministerial Order that suspended the requirement to hold General Meetings expired and Service Alberta tells us we must ‘find a way’ to hold General Meetings. On the other hand there continues to be restrictions placed on gatherings, and whether this is limited to only social gatherings or encompasses all gatherings isn’t clear.

To assist you, below you will find the answers to some of your questions. Please be aware that the answers to these questions are fluid and can change from one day to the next.

Are in person meetings allowed?

The unfortunate answer is that it may depend on who you ask. From Service Alberta we get no guidance, only the directive that “condominium corporations are still required to find a way to conduct their AGMs”. Another branch of the Government, Biz Connect, provides as follows:

AGM requirements have not changed with the new

restrictions. AGMs can have up to 100 people maximum if held as a seated/audience event. The meeting should not have a “mix and mingle” element, where people can move around freely to associate, mix or interact.

This seems to fly in the face of what we’re being told by AHS. Hopefully the restrictions on gatherings will be lifted soon, and the confusion around this issue can be put to rest. Until this happens, in the event you are scheduling your AGM it would be best for you to contact Biz Connect yourself prior to holding your meeting. If enough people ask the question perhaps they will turn their minds to a solution. In the absence of that at the very least you’ll have the Government’s answer to fall back on in the event you are challenged.

Can the Condominium Corporation hold a virtual AGM or SGM?

The short answer is no, not in the absence of a Court Order allowing you to do so. Of course, being lawyers, we have a long answer for you as well.

As with all things Condominium we look first to the Condominium Property Act (the “Act”) for the answer. The Act specifically allows for electronic/virtual board meetings but does not provide the same for general meetings. The legislators clearly turned their minds to the concept of virtual meetings, and →



If you do decide to go ahead with a virtual AGM, it would be best if you pass an ordinary resolution at the start of the meeting allowing for the meeting to proceed and be held virtually.

had they intended to allow virtual general meetings this too would almost certainly have been included. This is reinforced by the issuance of the Ministerial Order in early 2020, which temporarily granted permission for virtual general meetings at the outset of the pandemic.

It is doubtful your Bylaws have provisions that speak to how a virtual meeting would be handled. Some of the issues that must be considered, and addressed, include the following:

- How do we confirm attendance?
- How do we identify the people present?
- How do we deal with voting? A show of hands might be acceptable, but what do we do at a contentious meeting when someone calls for a poll vote?
- How do we ensure accessibility? This is the one meeting a year the Owners get. What if they don't have the resources or don't know how?

If you do decide to go ahead with a virtual AGM, it would be best if you pass an ordinary resolution at the start of the meeting allowing for the meeting to proceed and be held virtually. Does this cure all of the issues? No, but at least it shows you were acting in accordance with the wishes of the ownership in going ahead with the meeting.

Is your Board still able to conduct business?

If it has been greater than 15 months since the time of your last AGM, yes, you are offside the Act, but this does not mean that you are no longer a validly constituted Board. The Act provides that the powers and duties of the Corporation shall be exercised and performed by the Board, and there is no time limit on this. You could be a Board Member for a week or for 2 years, and it will still be legal for you to conduct business.

The Act also outlines the circumstances in which a Board Member ceases to hold office. For those of you who have passed your own Bylaws there is likely a provision that expands on this. Exceeding 15 months between AGMs is not a deemed resignation provision listed in the Act, nor have any of us ever seen this in a set of Bylaws.

The Act also contains a bit of a 'get out of jail free card' that would cover circumstances where you've remained in office too long. Section 28(9) specifically provides that for properly elected or appointed Board Members all acts done in good

faith are valid even if later it is discovered there was a defect in the member's continuance in office.

What is the potential legal consequence if you don't hold your AGM?

Bluntly, in failing to hold your AGM within the 15 months prescribed you are guilty of improper conduct as defined under section 67 of the Act. So, what is the consequence?

Under section 67 of the Act an interested party, which includes Owners and lenders, can bring a Court Application seeking an Order compelling you to hold your AGM. Alternatively, rather than going to Court the Owners representing 15% total Unit Factors can requisition an SGM under section 30 of the Act. The Corporation then has 30 days to convene the meeting, failing which the Owners who requisitioned the meeting can convene it themselves.

So, what is the consequence of failing to hold your AGM? If no one is causing a fuss then really there is none. You can, and in fact must, still be conducting business. You're not going to be punished and you're not going to be fined for not holding your AGM. Keep everyone informed of the efforts you're making to convene the meeting, let them know about the business being conducted, send out your financials, and send out your reports. If you keep your Owners informed, they will know that you're doing your best and hopefully will show some understanding and patience while you're working your way through the mess that is COVID-19.

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CONDO of the YEAR

Why is your condo such a great place to live?

How do you build community?

What sets your community apart to have earned this prestigious award?

Idea suggestions

OWNERS
QUOTES

PICTURES

SOCIAL OR
CULTURE
COMMITTEES

CHALLENGES
OVERCOME

Prize

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Due in our office **August 1, 2021**

3 Pages Maximum. (No handwritten submissions please.)

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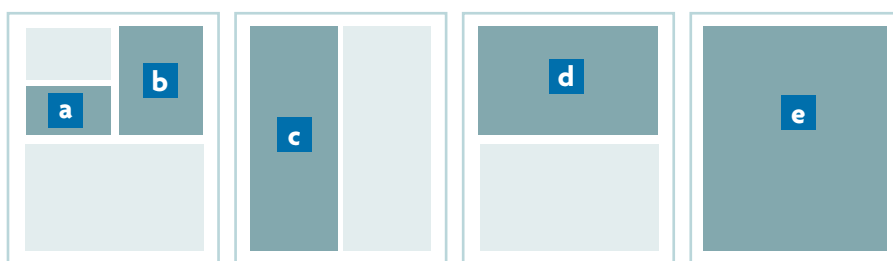
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