



CCI South Alberta President's Letter

By Stephen Cassady • President, CCI South Alberta Chapter

I'm sometimes faced with angry condominium unit owners that feel that their condominium association is targeting them with unfair enforcement of the bylaws. While I want to sympathize, having been president of one board and a member of another – for a total of 5 years of my life being on a condominium board – it's difficult to get charged up over an owner's claim of improper treatment.

The worst of these cases come from owners that move into a building without first reading the by-laws and understanding if their lifestyle complies with the rules. Whether it is regarding pets (even caged ones like pet spiders, snakes, and large sized fish tanks), parking (pets and parking the two biggest issues that managers identify) or the inability to meet a myriad of other rules (fresh cut trees, balcony ornaments, window shade coverings, rental issues, for example) – the new owner always has the opportunity to review the bylaws before purchase.

I'll ask, "Did you know the rules before you purchased?" and often the complainant will indicate they didn't have access to the bylaws (Section 44 of the Condominium Property Act of Alberta specifically allows potential owners access to such documents, and they are part of the list of documents that the Real Estate Board includes for agents to

provide on a sale) or they didn't understand them (which, when it says "no dogs" seems apparent enough, and there are several condominium document review companies in this Province that can also interpret them), it seems a lukewarm justification to their failure to know the rules.

I won't defend all bylaws as being good. I've blogged many times how I find most bylaws to include some if not many archaic or anti-owner biased that make for a poor community, and a poor building. There are a billion stupid rules codified into condominium bylaws.

But when you are in a position of purchasing, and you fail to read and understand the bylaws, I just cannot get up the sympathy.

My response does tend to be a bit more as they act – and I take about the focus of enforcement.

Enforcement – letters of warning and fining are intended to bring owners into compliance. I've not been on a board yet that saw fines as a process for revenue. Indeed – if a board could spend its existence without a single bylaw infraction to enforce – they would be much happier with that than any revenue they may receive from violators.

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Luncheons & Courses starting November 22, 2011

Luncheons

- **November 22, 2011**
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CCI is always looking for volunteers to speak at our luncheons. If you are interested in speaking at a luncheon please contact Melanie at the CCI Office by phone at 403-253-9082 or e-mail southalberta@cci.ca.

Courses

- **Condominium Management 101 Course**
Danish Canadian Club, Calgary
Course Dates Coming Soon!
The Canadian Condominium Institute, South Alberta Chapter
101 Condominium Course is a 3.5 hour session designed to introduce and educate on board governance, board meetings and running an AGM. This our first and only course geared to Condominium Boards.

- **Condominium Management 200**

Practical Management Issues

Wednesday January 11 6:00pm-9:00pm &
Thursday January 12 6:00pm-9:00pm &
Saturday January 14 9:00am-4:00pm
Danish Canadian Club, Calgary

Level two of the Condominium Management Program is an intermediate program designed for Condominium Property Managers and Board Members who must control, manage and administer the Condominium Corporation and complex. It contains specifics of their roles and responsibilities in most of the day to day activities, as well as resources to assist in carrying out their duties.

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CCI South Alberta President's Letter (cont'd)

By Stephen Cassady • President, CCI South Alberta Chapter

Given it's a matter of enforcement – and creating a common set of rules that allow all owners to peacefully interact with one another – this might give you an opportunity to negotiate. The easiest area to negotiate is a time to come into compliance with the bylaws. You can ask for time to get things in place – to find a home for a pet, dispose of a vehicle and buy a smaller one, or get window shades in one of the three condominium colours: white, super awesome white, or eggshell white.

There was also a recent ruling from Ontario that the board need not be consistent in its enforcement – so an owner cannot claim that the board doesn't have a right to enforce parking, because they are failing to enforce a different bylaw. A board, as long as they are acting reasonably to enforce bylaws, and makes a reasonable action to do so in a

manner that isn't onerous to an owner, is fine in doing their best in enforcing any bylaws at all.

So, owners are in a tight spot. The best action is to get on the board, find support for your ideas, and modify the bylaws. It's a long, cranky process. It's difficult. It's aggravating. But it is something an owner can actively work to change.

In the meantime – well, good luck. There haven't been many rulings that favor an owner when it comes to violating the bylaws. Likely you'll need to accept the current requirements. Fighting can be emotionally fulfilling, but likely will – in the end – tap your pocket book and rule against you. It's not the message I want to hand to unit owners, but it is generally the history in the courts.

Membership Renewals 2011-2012 Year

Renewal notices were sent out at the beginning of June for the 2011-2012 year via e-mail to the contact person listed for your membership. Please renew early so there is no delay in receiving notices.

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Practical Management Issues

Condominium Management 200

Wednesday January 11th 6:00pm-9:00pm &

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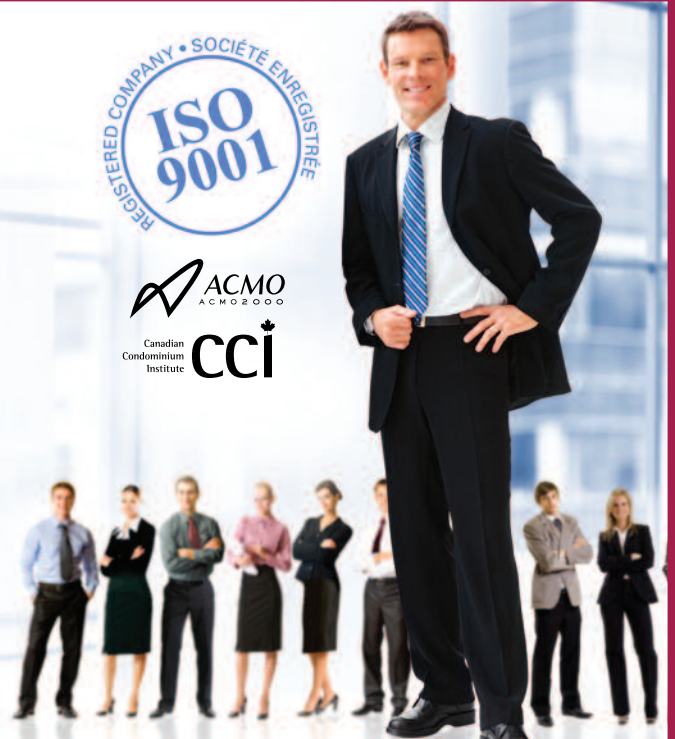
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A Strategic Look at Condominium Cleaning

By Sharon Fuchs, Max 7 Cleaning Services Ltd.

"The Happiest Place on Earth" might be an unusual place to begin thinking about condominium cleaning but Walt Disney knew the value of having a sparkling clean amusement park. Disney included the operations manager of custodial guest services as part of the opening team when he expanded his operations for Walt Disney World, Tokyo Disneyland, and Disneyland Paris. The head custodian may not be a person that one would think of as being an essential part of an opening team, yet Walt Disney knew the value of his janitorial staff. Sidejas, Disney's operations manager of custodial guest services, said that time changed the role of the janitors at Disneyland. "They do more than just sweep up the trash. Today's custodians are taught to be helpful, engage the guests, including carrying pouches with extra maps and stickers for children." (Fields, 2011¹)

This same wisdom about the importance of your janitorial staff can be transferred to condominiums. When you look at your condo cleaner, what are the expectations that should be part of the service that they perform?

Enhance market reputation.

The first responsibility of a great condo cleaner is to enhance the reputation of the condominium. Condo owners want to live in buildings that are attractive and maintenance free. Condo owners are looking for a building that is healthy and pleasant to live in. Condo

owners want their condo to increase in market value. An important aspect to a condo's marketability is its physical appearance. It is the cleaner's job to take note of anything in the building that may need repair and report it to the condo manager. The cleaner needs a good eye for detail, especially since reporting problems before they grow may save the condo board money.

Provide Comprehensive Service

The role of the cleaner is to keep the condo looking good. While this will include vacuuming, dusting, spot removal, cleaning baseboards and garbage removal, some service providers will also do snow removal, lawn care and recycling. In addition, some property services providers can perform minor services such as changing light bulbs, repairing drywall or minor repairs.

Part of this comprehensive service often includes locking and unlocking doors for contractors and other personnel. The cleaner must help to ensure the safety of a building. Cleaners need a high level of integrity and service.

Quality and Performance

The final part of the condo cleaner role is their quality and performance. This includes their knowledge and expertise. Condo cleaners need to know about products that are green. They must know and use techniques for cleaning and the best equipment that will get the job done. In

addition, they must know the workplace hazardous materials information system. A good cleaner must take safety precautions both for the sake of the building and to prevent injuries.

Lastly, the condo cleaner must have good communication skills. A good cleaner will be able to answer questions, provide assistance and be there to keep the condo running effectively. Like the janitors at Disneyland, a good cleaner will make a difference to the atmosphere and reputation of the condominium.

¹ Fields, E. (2011). **Head Custodian Retires after 46 years at Disney.** *The Orange County Register*. Retrieved Oct 14, 2011 from <http://www.ocregister.com/news/happy-320894-good-bunch.html>



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MEDIA RELEASE

NEW GROUP SERVES NEEDS OF NEW BRUNSWICK CONDO OWNERS

For Immediate Release

Dateline: Fredericton, NB

The Canadian Condominium Institute (CCI) has chartered a new Chapter to serve the needs of New Brunswick condominium owners, Ms. Phil Williams, Chapter president, announced today. The Chapter received its charter at the recent CCI national meeting held in Toronto November 4.

"Condominiums are the most popular form of new housing being built in Canada," said Williams; "as this trend gains ground in New Brunswick, we're happy to participate by bringing best practices to the province's condominium boards. Right now, the condominium industry in the province is relatively young but growing rapidly, so the timing for a New Brunswick CCI Chapter is excellent."

The new Chapter has already sponsored an information seminar on condominium issues in Fredericton and Moncton in May, even before receiving its charter. These sessions provided an overview of the province's Condominium Property Act, rights and responsibilities of owners, board/corporation management, reserve fund studies and insurance issues, and will be repeated in November. A second session, on condominium governance, was held in Dieppe in October. "One of CCI's main activities is education for prospective owners, owners and board members, and we wanted to begin delivering on that right away," said Williams. "We plan on a series of seminars to increase condo board member engagement and knowledge," she said.

"We're very excited to welcome the New Brunswick Chapter to the CCI family," said Jim MacKenzie, CCI's national president. "The energy and enthusiasm shown by the Chapter's founding members are a sign that the province's condominium owners, boards, professionals and trades can expect it to be an active partner in the growth of condominium in New Brunswick."

Williams said that "CCI connects the condominium community in five important ways: to education, through seminars, workshops 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 time is definitely right for New Brunswick to achieve Chapter status,” said MacKenzie. “Momentum has been building over the past year, and now things have really come together. The Chapter steering committee has worked with the province’s condominium community to identify that community’s needs and has already begun meeting them,” he said.

The Canadian Condominium Institute, founded in 1982, leads the national condominium industry by providing education, information, awareness and access to expertise by and for its members. CCI-N 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.

Further information on the New Brunswick Chapter is available on its website, www.cci.ca/NewBrunswick.

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For further information, contact:
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Illegal Drugs & Your Insurance Policy

By Bill Jeffray

News media reports, of drug “busts” related criminal activity, house fires, high speed automobile take downs etc., are common place. These are in the main just “statistics” to many of us because these circumstances have never impacted our lives.

May of these illegal activities are carried out in rented premises. Are damages caused by these activities covered by insurance? The answer is probably “No”. In the last several years, insurance companies, with the co-operation of all levels of law enforcement in Canada, have made many coverage amendments to insurance policies to exclude insurance coverage for these kinds of illegal activities.

Because the trade in illegal drugs is such big business, today’s landlord must be very vigilant.

Landlords Should:

1. Advise applicants (prospective tenants) that you (landlord) do regular inspections at random intervals.

2. Landlord must conduct due diligence before renting to anyone.
3. Check interior of your properties regularly (perhaps every two months and not later than every three months as a crop can be grown and harvested in that period of time).
4. Check exterior for signs of any “physical” alterations to the building.
5. Does tenant insist on paying cash for the monthly rent?
6. Have the neighbours notice any activities that might seem unusual.
7. Does tenant resist landlord’s 24 hour request to view the premises?
8. Be visibly in and around your unit.

Once a landlord discovers something illegal happening on his premises it must be dealt with immediately to avoid creating a commercial general liability situation. Be sure to test for and remediate any mould, pollution issues, electrical issues and any structural changes that the tenant may have made (or attempted to make) to the structure.

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Illegal Drugs & Your Insurance Policy (cont'd)

By Bill Jeffray

Any injuries to future tenants which can be directly traced to the failure to completely remediate a rental unit that had an "illegal drug operation" could lead to legal action against the landlord by the new tenant. If the landlord had "intentionally not done proper remediation: to the unit the commercial general liability policy might not respond because of the intentional action of the landlord.

Examples of these "exclusions" pulled at random from "homeowners, rented dwelling and commercial" insurance policies are as follows.

Home Owners Insurance Policy

Exclusions

- caused by wet or dry rot, fungi or spores or acid rain.
- to buildings or structures used in whole or in part for business or farming purposes.
- loss or damage caused directly or indirectly, in whole or in part by drug operations or by an activity or decision of a government agency or other entity to prevent, respond to or terminate drug operations regardless of

any other cause or event that contributes concurrently or in any sequence to the loss or damage.

Drug Operations

means cultivation, harvesting, processing, manufacture, distribution or sale of cannabis (commonly known as marijuana) or any product derived from or containing cannabis or any substance falling within the Controlled Drivers and Substances Act S.C.1996 C19.

Fungi

includes, but is not limited to, any form or type of mould, yeast, mushroom, mildew whether or not allergenic, pathogenic or toxigenic and any substance, vapour or gas produced by, emitted from, or arising out of any fungi or spore(s) or resultant mycotoxins, allergens or pathogens.

Spore(s)

includes, but is not limited to any reproducing particle or microscopic fragment produced by, emitted from, or arising out of any fungi.

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Illegal Drugs & Your Insurance Policy (cont'd)

By Bill Jeffray

Rented Dwelling Insurance Policy

Exclusions

- Any property lawfully seized or confiscated unless such property is destroyed to prevent the spread of fire.
- Wear and tear, extremes of temperature, wet or dry rot, fungi or spores, contamination.
- Resulting from an intentional or criminal act or failure to act by:
 - a) Any person insured by this policy.
 - b) Any other person at the direction of any person insured by this policy.
 - c) Any tenant, tenant's guests, boarders, employee or any number of the tenant's household whether you have any knowledge of these activities or not.

Fungi

includes, but is not limited to, any form or type of mould, yeast, mushroom, mildew whether or not allergenic, pathogenic or toxigenic and any substance, vapour or gas produced by, emitted from, or arising out of any fungi or spore(s) or resultant mycotoxins, allergens or pathogens.

Spore(s)

includes, but is not limited to any reproducing particle or microscopic fragment produced by, emitted from, or arising out of any fungi.

Commercial Building Insurance Policy used for Multi-Family Buildings

Exclusions

Any damage arising directly or indirectly from the growing, manufacturing, processing or storing by anyone of any drug, narcotic, or illegal substances or items of any kind the possession of which constitutes a criminal offence. This includes any alteration of the premises to facilitate such activity whether or not you have any knowledge of such activity.

Caused by theft or attempted theft by any tenant, tenant's guest, any boarder of yours, employee or member of the tenant's household if the part of the dwelling containing the property insured, normally, occupied by you, is rented to others.

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Illegal Drugs & Your Insurance Policy (cont'd)

By Bill Jeffray

Infidelity or any dishonest act on the part of the Insured, any other party with an insurable interest, or agents of the Insured, or any other person to whom the property is entrusted (such as a tenant).

Conclusion

The late discovery of one of these illegal drug operations in a suite is a very costly and time consuming event and one which the landlord needs to take every reasonable precaution to avoid.

Not only may you have issues around "no insurance" to

cover your loss in many cases there is an order from the Health Inspector deeming the property "uninhabitable" with the notice to that effect being placed on the property and the property title at the Land Titles Registry. The cost of remediation can range from several thousands of dollars to the extreme cases where the rental property has to be demolished.

"Be vigilant" in inspecting your properties, read your policy documents and speak with your insurance company or insurance broker to clearly understand the extent of your insurance policy coverage.

Bill Jeffray is the Executive vice President for Renfrew Insurance Ltd. and can be reached at 299-1000.



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Mandating New Home Warranties – A Status Update

By Michael Ball, P.Eng.

As much of CCI's membership is already aware, over the past several years the Government of Alberta (Ministry of Municipal Affairs – MMA) have been reviewing a justifiably perceived problem involving poor quality home and condo construction. This issue is under review in attempt to legislate amendments to current legal requirements involving how the construction industry functions.

One facet of this overall process involves the provision of new home warranties. At this time, new home warranties are not legislatively required, although there are several warranty providers operating in Alberta, and a large percentage of new homes are covered under various (but similar) warranty coverage policies. There are, however, many new homes without coverage. Also existing warranty coverage, in some people's opinion, is lacking in many regards and there is substantial misinterpretation (or lack of easily available information) involving coverage starts times and durations.

Condominium common property is of particular difficulty for several reasons. Firstly, the warranty programs tend to start before there is a functioning Board of Directors elected at the first AGM (the warranty period either starting at first occupancy or at the time of Substantial Performance). Without a functioning Board of Directors to take action to audit deficiencies and submit claims accordingly, much of the warranty period elapses before the condominium has the legitimate ability to act.

Secondly, many Boards of Directors are relative laymen when it comes to building deficiency inspections, and do not necessarily know what they need to do or what to ask. This is not aided by a general lack of knowledge in the area of common property warranty claim requirements.

In addition to the above, there are concerns that the typical one year warranty period is not long enough to determine if there are inherent problems with many of the building systems, such as the building envelope. For example, buildings with chronic leakage problems resulting in deteriorated cladding and framing do not often display findable and significant symptoms within the first year in which a one year warranty would be enforceable.

To this end, MMA announced that mandated new home warranties will soon be legislated. Their initial press releases also suggested that the warranty periods would be extended, including five year minimum warranties on the building envelope against water penetration, and ten year minimum warranties on the base structure.

After this information was released, MMA organized several round-table format discussions involving industry stakeholders (warranty providers, developers and builders, insurance providers, financial analysts, lawyers, property managers, and engineers, etc.). These discussions took place over the summer of 2011. Being familiar with aspects of the overall issue, this writer was involved on behalf of CCI as well as the Building Envelope Engineering Industry.

In general, the purpose of these discussions was an attempt by MMA to determine how exactly to detail and instigate the pending legislation. The format, in general, involved discussions about a legislative template which generally followed the British Columbia warranty program's requirements, and how this template may be improved based on BC findings as well as Alberta-specific conditions. Topics ranged from

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Mandating New Home Warranties – A Status Update (cont'd)

By Michael Ball, P.Eng.

everything between whether a pre-manufactured home set onto a foundation should be warranted by a separate provider, to whether or not a rural septic system is to be included in a standard warranty or not.

To summarize a couple of the more important discussions pertaining specifically to condominiums:

Building envelope warranties

There has been significant discussion on this matter, as the majority of the basis of the MMA's involvement in the first place surrounded building envelope failures and water leakage damage. As noted above, MMA indicated that they were considering implementing a 5 year warranty against building leakage through the building envelope.

CCI's main comments to the MMA involving this matter include:

- Five year mandated warranties are better than the current situation; however, five years may still not be enough. Many buildings experiencing chronic water infiltration past the primary (and secondary, if existing) planes of moisture protection do not observe physical water leakage into the unit. Therefore, many owners do not know they are having problems until significant deterioration (possibly of the structure) has already occurred. CCI has recommended that MMA perform further research into actual rates of deterioration of building envelope elements constructed in Alberta, and when this deterioration is first found. This should be done in consort with the province's building envelope experts and condominium managers / owners.
- Warranties covering instances of documented physical water penetration are not necessarily of great benefit the home owner in terms of warranty protection. Warranties should weigh on installation of building

envelope systems in terms of not only code compliance, but also manufacturer's requirements for installation. High-risk installations which have been constructed in a non-compliant fashion, found to be leaking or not, should be claimable.

Warranty provisions for condominium common property

Condominiums are a home type that drastically differs from free-hold homes. Most people know that when they purchase a new house they are ultimately responsible for everything within the property lines, and they are aware of the warranty they have and that they are responsible for making claims under that warranty for all items which they now own. As such, many owners have home inspections completed as part of the process of property turn-over (similar to purchasing an older home), and if they don't, they at least know to go and look at the entire property themselves.

However, with condominiums, owners are only directly responsible for their unit, which more often than not is the interior drywall and inward. The Board of Directors, once elected, are responsible for the upkeep of the common property. However, with a new condominium, most Boards do not foresee the need to complete warranty inspections on common property elements, and those that do are unaware of a process that they could to follow.

To this end, CCI has made the following main recommendations to MMA accordingly:

- Legislate (possibly in the Condominium Property Act currently under revision) the requirement of a Technical

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Mandating New Home Warranties

– A Status Update (cont'd)

By Michael Ball, P.Eng.

Audit being completed by and for all newly incorporated condominiums prior to the expiry of the mandated warranty, and involving all warranted common property. The purpose of the Audit would be to have an independent 3rd party review the common property and compile a deficiency list presentable as part of a warranty claim package;

- Legislate that, for condominiums, common property warranties commence at the time of the election of the first Board of Directors. This provides condominiums with sufficient time to ensure that their interests are conserved in this regard, without expiry of the warranty.
- Due to a conflict of interest, limit the ability for the original builder, developer, and/or other affiliated building party, to influence a condominium corporation's Board of Directors, as a Director(s), on matters concerning warranties.

Status update

At the time of this writing, the MMA has not provided further information to the stakeholders involved in the round table discussions in 2011. It is this writer's understanding that MMA intends to have legislation drafted in the next few months, after all learned information has been thoroughly vetted by MMA.

CCI will continue to provide both experience and expertise to the studies being completed by MMA, as well as feedback to its membership on factual information as it becomes available.

In the meantime, MMA is interested in hearing about condominium problems involving poor construction practise and premature deterioration. You can contact CCI – South Alberta (at SouthAlberta@cci.ca) in order to receive email contact information for the appropriate contacts at MMA, should you wish to write to them concerning this matter.

Michael Ball, P.Eng., Principal, Manager Building Science, Morrison Hershfield Limited and Director, CCI – South Alberta



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