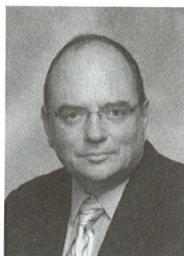


Superior Region CONDO NEWS

Presidents Message

WOW—Summer is gone. It never ceases to amaze me how fast the Summer season goes. With Fall in the air we need to prepare for the cold Winter ahead.



Doug Steen
President

As higher fuel costs are plaguing our society condominium owners are reminded that individually we all have to exercise energy saving ideas in order to keep our utility costs down.

Your local chapter will be supplying unit owners with helpful hints on conserving energy in future editions of *Superior Region CONDO NEWS*. Energy costs in some of our condominiums represent 30-40% of their overall operating budget. It is critical that we focus on this area in order to sustain a quality of life at an affordable price.

The future of our industry and our country are dependent on energy and waste reduction, please do your part.

Once again your chapter is having a Fall seminar. Please see the registration form on the back page of this issue. I urge everyone to get involved and attend our educational seminars.

D. G. Steen, President

CCI—Northwestern Ontario Chapter



FALL 2008.....

FALL SEMINAR

Saturday October 25, 2008

9 am to 1 pm

LEVEL 100

The Condominium Course

Plan to attend this seminar.

*It is not just for the Board of Directors
but for all residents and owners.*

Registration form on back page!

Everyone welcome!

Although our condominium industry is governed by Provincial legislation the Federal component of this country is also important to our day to day life. We urge you to vote as you please, but please vote. Make your mark count!

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Jim Johnson Remembered

By: Doug Shanks of Cheadles LLP

In Thunder Bay, the name Jim Johnson and condominiums have been closely linked for many years. Jim was one of the first lawyers in Thunder Bay to register a condominium.

For almost forty years, Jim provided legal advice and registering condominiums in Thunder Bay. The majority of condominiums in Thunder Bay at the present time are as a result of the legal services and advice given by Jim to condominium developers.

Jim was a senior partner of Cheadles LLP, a law firm in Thunder Bay that has provided services to condominium corporations for many years. Jim practiced in the area of real estate law and development, and his advice and expertise was sought out by many over the years.

Jim was a founding member of the Northwestern Ontario Chapter of the Canadian Condominium Institute. He was on the Board of Directors of the local chapter of the Institute up until shortly before his death.

Jim's community involvement was substantial. He was a Director and Treasurer of the Thunder Bay Chamber of Commerce, a member of the Board of Directors of the Fort William Country Club, initial Chairman of the Board of the Thunder Bay Economic Development Corporation, President of the Thunder Bay Innovation Centre, a member of the Ambassador's Group for Economic Development Thunder Bay and many more endeavours for the development of the Thunder Bay economy.

Jim was also known for his involvement in sports, and in particular hockey. Due to space constraints we cannot list all of Jim's accomplishments with regards to his involvement in hockey, but the following are a few examples.

In the late 1970's, Jim was the President of the Thunder Bay Buccaneer Junior Hockey Club

and in 1980, participated with others in forming the Thunder Bay Hockey Development Association, which prepared a report on the restructuring of minor hockey for organizations in Thunder Bay.

In 1993, Jim set up the Thunder Bay Kings AAA Hockey Program, which has been recognized as one of the leading AAA programs in North America.

Jim's coaching experience was legendary. He had his Level V National Coaching Certification Program and began coaching hockey in the mid 1960's in Southern Ontario and for many years was the coach for the Thunder Bay Peewee, Bantam and Midget AAA Rep Teams.

In the early 90's, Jim was responsible for the construction of the Thunder Bay Tournament Centre as a public/private partnership with the City of Thunder Bay. In 2001, he was responsible for the creation of Thunderwolves Inc., which is a joint venture between the private sector and Lakehead University, forming the first privately funded university hockey team in North America.

From 1996 to 2002, Jim was the owner and operator of "Pro-Camp", a partnership with the Florida Panthers, Los Angeles Kings and the St. Louis Blues which was a two week summer development camp for **NHL** draft choices.

Jim passed away in June of 2008. He is survived by his wife Judy and their four children, Greg, Cory, Ryan and Sarah. Greg and Ryan played in the **NHL** for many years, and Ryan is presently with the Vancouver Canucks.

Jim's contributions to the development of condominiums in the City will be remembered, with appreciation, for many years.

The logo for Cheadles LLP, featuring the word "cheadles" in a stylized, lowercase, serif font. The letters are white and set against a dark, textured background that resembles a stone or brick wall. The logo is positioned in the bottom right corner of the page.

NOTICE TO ALL OWNERS

CANADIAN CONDOMINIUM INSTITUTE
Northwestern Ontario Chapter

The Annual General Meeting of CCI
Northwestern Ontario Chapter will be held

Saturday October 25, 2008

at 9 a.m. sharp

in the Linden Room of the Port Arthur Ukrainian Prosvita Society, 540 South High Street, Thunder Bay, Ontario.

In accordance with Section 3.02 of By-law 1 (one) which states that any member who wishes to run for a Board position can do so by advising the office of the local Chapter in writing of their intent to do so no later than **12 noon Friday, October 17, 2008.**

This year there are **two (2)** positions (three (3) year term) up for election to the Board of Directors.

Dan Kelly, of Viherjoki Busniuk Kelly, Chartered Accountants and
Doug Steen, of Steen Property Management Inc. have consented to let their name stand for office.



Susan K. Duncan
GENERAL MANAGER

1070 Lithium Drive
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Thunder Bay, ON
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Fax 807.346.4292

Sunday
November
2,
2008.

Remember
to change
your clocks.



WHEN WINNING MATTERS

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Kristopher H. Knutsen Q.C.*

Jack Jamieson H.B. Comm., LL.B.**

W. Daniel Newton H.B.A., LL.B.**

Rod W. Johansen H.B.Sc., LL.B.**

Bruce Latimer B.A., LL.B.

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Enforcement of Condominium Rules

Three Things to Remember.

By: Doug Shanks of Cheadles LLP

There are three basic things to remember about enforcing the rules of condominium corporations in Ontario.

1. The Rules must be "reasonable" limitations on the owners and clearly linked to a listed purpose under the *Condominium Act 1998* ("Act")
2. Pre-existing rights may be "grandfathered" and not subject to a new rule.
3. If rules are not consistently enforced, they may not be held up in court

Under the Act, there are a number of possible restrictions on the owners. In order of priority, the restrictions are set out first of all in the Act, next the Declaration, then the By-Laws and finally the Rules of the condominium Corporation. If there is a conflict between any of these, then the Act trumps the Declaration, By-Laws and Rules, the Declaration takes priority over the By-Laws and the Rules., etc.

The Act sets out the general structure of the law dealing with condominiums in Ontario. The Declaration generally sets out the percentage interest of the owners in the common area and the contribution to common expenses and describes the common elements and the units. The By-Laws are passed by the Board of Directors and deal with such things as the details relating to the Board of Directors, borrowing money for condominium corporation, maintenance of the units and common elements, etc. The Rules relate to the use of the common elements and units.

Condominium corporations have authority under the *Ontario Condominium Act, 1998* to establish rules. The rules must relate to the use of common elements and units. The rules must be to promote the safety, security and/or welfare of the owners and of the property and assets of the Corporation, or to prevent unreasonable interference with the use and enjoyment of the common elements, the units or the

assets of the Corporation. The rules must be reasonable and consistent with the Act. These rules can be added to, repealed, or amended by the Condominium's Board of Directors.

Generally speaking, the courts will respect the Corporation's authority to make or amend its rules, so long as the rules are clearly linked to the specific purposes under the *Act* and impose only "reasonable" limitations on the owners. In the leading case on this issue, *York Condominium Corporation No. 382 v. Dvorchy* (1977) O.J. No 378, the Court of Appeal concluded that when reviewing a rule, "a court should not substitute its own opinion about the propriety of a rule enacted by a condominium board unless the rule is clearly unreasonable or contrary to the legislative scheme." Essentially, the court says they will not overturn a rule merely because they disagree with it, but that the rule must be obviously unreasonable or contrary to the *Act* to be struck out.

A board may encounter difficulty however if they attempt to make a rule that restricts a right previously enjoyed by owners. (For example, if a board passes a rule preventing the installation of satellite dishes, but some owners had already installed a dish before the rule was enacted.) This was the situation

(Continued on page 5)



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(Continued from page 4)

the court considered in *York Condominium Corporation No. 22 v Sibblis* O.J. No 1828. Here, the court allowed the owner to keep his dish as a "pre-existing non-conforming use." Generally, if the owners had a right to make some addition to their unit and the new rule purports to ban these additions, the courts will protect the owners who have already committed to making the addition. Thus, the rule is "grandfathered" in, preventing owners from making the addition only from the point the rule is passed.

Finally, boards must be careful in enforcing their rules. If they become selective in their enforcement of a rule and not apply it consistently against all owners, they may lose their ability to enforce that rule. This was the case in *Metropolitan Toronto Condominium Corporation v. Hadbavny* (2001) O.J. No 4176 where the Board had a rule limiting owners to one pet per unit. Evidence given at the hearing however, suggested that this rule was generally not enforced at the time Mr. Hadbavny purchased his unit. As a result, the court held that the Board was not allowed to selectively enforce this rule against Mr. Hadbavny, who kept two dogs in his unit. In the end Boards have wide latitude to create rules, but they must ensure they are consistent in enforcing these rules if they expect them to be held up in court.

For the purposes of this article, it has been assumed that the rules have been properly put in place and the procedural requirements of the *Act* complied with. If not, then this would be another method of deciding whether or not the rules are enforceable.

The information presented in this article attempts to survey the general state of the law and may not be applicable to any given situation and as such, it should not be relied upon. If you require advice on an individual situation you should see a lawyer to obtain specific legal advice.

Are you prepared?

Early on a Sunday morning a vivid fireball rocks a North Toronto neighborhood. A propane plant depot adjacent to a residential neighborhood catches fire and leaves two people dead, including one veteran firefighter.

Thousands were forced to flee their homes amid the blazing sky, many leaving without essential belongings. We never know when we might be forced to leave our homes as disaster can strike at anytime.

As with anything, preparation is the key to getting you & your family to a safe place. Here's a short list of things you can do to prepare for the unexpected;

Identify your evacuation route ahead of time

- Know where you'll be staying (have more than one option);
- Create an inventory of your belongings and safely store it;
- Plan what you'll take and take mostly what you'll need;
- Keep important documents accessible.

By planning and practicing you'll be able to mobilize your family with minimal stress and confusion.



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Another Habitat for Humanity Charity Golf Classic is planned for June 2009, we are in need of a bookkeeper or administrator, please contact:

Brenda Landry at 346-5690

or email ccinorthontario@shaw.ca

CHANGE OF OWNERSHIP

It is imperative that the Property Manager be notified of any and all changes to ownership of a unit. Often elderly parents will have their children added as an owner. Also ownership will change by partnership (marriage or common-law), by divorce or by the death of one of the partners. Notifying your Property Manager in advance will allow updating of records for a smooth transition on the sale of a unit.

Upon the sale of all condominium property the lawyer for the purchaser will acquire a Status Certificate. This is asking the Property Manager, who is the legal owner(s) of the unit and are there any common fees or other fees owing to the condominium corporation. When the Property Manager has not been informed of a change in ownership this could unnecessarily hold the proceedings up for a number of days.



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Business Card	\$35.00	\$75.00
1/4 page	\$60.00	\$125.00
1/2 page	\$110.00	\$225.00
Full page	\$210.00	\$425.00

Articles will be published on a first come basis.

Subject to space avail.

Deadline for the Spring issue is February 1st. 2009

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Level 100 - The Condominium Course

To be held at: **The Port Arthur Ukrainian Prosvita Society, Thunder Bay**

Saturday, October 25, 2008

Starting at 9:00 a.m. to 1:00 p.m.
Registration starts at 8:30 a.m.

The day will be broken up into three sessions, approximately one hour each, with a short break between each session.

- Part 1. The Condominium Act 1998, Declaration, By-Laws, Rules and Regulations
- Part 2. Insurance and Financial
- Part 3. Reserve Fund Study

The course is an excellent way for unit owners to understand their responsibilities and for Directors to demonstrate their due diligence while serving on the Board.

This course will provide you with an understanding of what a condominium is and what it means to live in one. Essential information for anyone interested in purchasing or selling a condominium.

ENROLLMENT FEES:

<u>CCI Members:</u>	\$60 for each participant. (includes GST)
<u>Non Members:</u>	\$125 for each participant. (includes GST)

Fees include course binder as well as coffee and snacks.

If you want to take advantage of the C.C.I. member price, it's not too late to join.
For membership information call (807) 346-5690 and ask for Brenda
or e-mail ccinorthontario@shaw.ca

The CCI is now pre-approved by RECO. This course will earn RECO or RIBO attendees 4 MCE credits for 4 hours of instruction. RECO and RIBO attendees will need to provide their Registration Number and check in and out to comply with requirements.

REGISTRATION FORM (Please Print Clearly)

COURSE & LOCATION: LEVEL 100—THE CONDOMINIUM COURSE THUNDER BAY

NAME: _____ (how your name will appear on certificate)

CONDOMINIUM CORP. (Name & No.) or COMPANY: _____

ADDRESS: _____

CITY: _____ **PROVINCE:** _____ **POSTAL CODE:** _____

TELEPHONE: _____ **CCI MEMBER (Y/N):** _____

FEE ENCLOSED: \$ _____ **RECO or RIBO REGISTRATION NO.:** _____

Please complete the course registration form and mail or fax to the Northwestern Ontario Chapter ASAP to attend this course. OR email your intention to attend. **SPACE IS LIMITED.**