

## President's Message

I'm writing this in the middle of the Christmas Season. Although it is busy, it is also a time to look back on an eventful year, both locally and at the national level. This past year has been full of activity for our chapter. We held a seminar on taxes earlier in the year followed by one on legal issues and we are currently in the middle of a three session Level 200 directors' course. Thanks to the great work of the Golden Horseshoe Chapter who allowed us to use their course material. Our seminars continue to be well attended. In 2010, we anticipate offering a seminar on building repairs and building enveloping. If you have any topics you wish to see covered in one of our seminars, please send an e-mail to [ccinorthontario@shaw.ca](mailto:ccinorthontario@shaw.ca). On behalf of the directors I would like to take this opportunity to extend a special thank you to the seminar presenters. Seminar presentations require considerable time & effort and we greatly appreciate their contribution.

On the national level, CCI is now operating under a new governance model (see page 2 for the full details of the new structure). Doug Steen, our founding president, was elected to the National Executive. Congratulations Doug! I will be representing our chapter at the National level this year.

We look forward to the New Year and anticipate many good things for 2010. From all of us here we wish you a safe and happy holiday season.

Paul Muller, Kamlodge Services Limited

**President Northwestern Ontario Chapter**

**Northwestern Ontario Chapter**

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# Superior Region CONDO NEWS

## Winter 2010

### Condo Course—Level 200 Session III

Saturday January 16, 2010

8:45 am sharp

**Masonic Temple, 1600 Dease Street**  
Across from the conservatory

**Registration form on back page**

*Everyone welcome!*



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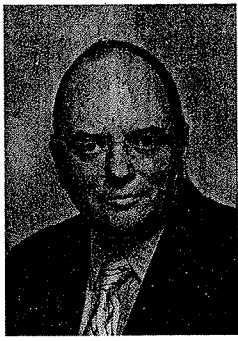
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The National Canadian Condominium Institute has appointed Douglas G. Steen to serve on the National Executive Board.

### CCI Announces New Governance Structure

Your CCI Board has been working very hard over the past two years to develop a new governance structure. This structure has been designed to:

- Streamline CCI's operation
- Eliminate the dual workloads experienced by Chapter representatives on the Board
- Remove the problem of dual "loyalties" - Chapter and National - that Chapter representatives have felt
- Increase transparency by providing a formal reporting mechanism to the Chapters

All these changes have been embodied in a new By-law, passed at the 2008 Annual General Meeting.

### Executive Board of Directors

The Institute established a new Executive Board of Directors, which will be charged with day-to-day management of the Institute's affairs. This Board, consisting of between 5 and 7 members plus an appointed Secretary-Treasurer, will be able to act more quickly to move CCI's agenda forward. The ability to appoint the Secretary-Treasurer ensures that the specific expertise required by this position will always be available (rather than electing someone to

the position who may or may not have the necessary knowledge). To ensure Chapter input in Board decisions, the Institute's Chapters have been divided into Regions, and each Region will have a Director on the Executive Board of Directors.

The new Executive Board also provides for succession. The progression will be Vice President/President Elect to President to Chair, but each position will carry a two-year term rather than the current one-year term. This allows for better mentoring of the Institute's leadership and more time for the Vice President/President Elect to become aware of the roles and responsibilities of the President.

### National Council

The Executive Board will report on its activities at least twice annually to the National Council. The National Council will consist entirely of Chapter representatives (other than Regional Directors, none of the Executive Board will be members of the National Council). This will allow Chapter

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Continued from page 2

representatives to focus more on issues that affect them in that role without suffering either the dual workload or divided loyalties of both a Chapter and National position. It also provides a definite reporting structure for the Executive Board and gives the Chapters a voice in setting the Institute's direction. The size of the Council is "capped", with each Chapter allowed one representative and one vote. The chapter representative is welcome to bring as many members as they wish to audit the meeting. This exposes more Chapter level members to National issues and, we hope, will make Chapter succession planning (as well as that of National) easier.

These two new bodies meet the criteria set out by the old National Board and identified by Chapter representatives in a survey conducted in 2007. They also move CCI's governance to a "best practices" format.

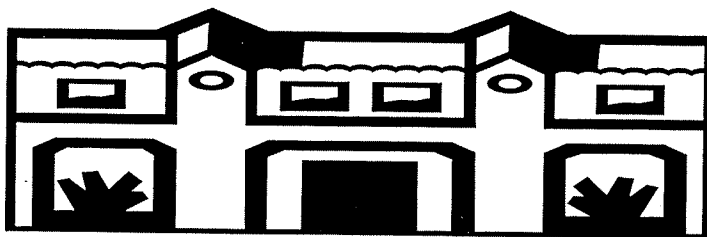
### Chapters

Although it is not directly related to governance, one of the identified concerns in the process was the difficulty experienced by some Chapters in getting

sufficient member support. By-law changes relating to Chapters will encourage them to develop and implement business plans, and provide a formal mechanism to provide them support if they are struggling.

Governance has become a very important issue in the not-for-profit sector. The Canadian government has revised its legislation relating to not-for-profits, and the recent changes to CCI's governance structure will ensure the Institute meets the new, more stringent governance requirements of the new Act when it is proclaimed (likely in 2010).

*This article first appeared in CCI review Winter 2009/10*



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## COLLECTING, STORING AND USING PERSONAL INFORMATION

**IN A CONDOMINIUM — SUBMITTED BY  
Ken Ritson, Articling Student, Cheadles LLP**

The *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5 ("PIPEDA"), is a privacy legislation enacted by the federal government for purposes of protecting personal information collected, used or disclosed in certain circumstances. It also governs the use of electronic means to communicate or record information or transactions.

PIPEDA applies to all private organizations regarding personal information that the organization collects, uses or discloses in the source of commercial activities. There is uncertainty about whether a condominium corporation would be found to engage in commercial activities. A "commercial activity" means any particular transaction, act or conduct or any regular course of conduct that is of a commercial character.

The main obligation under PIPEDA is not to disclose any personal information collected except for proper purposes of the organization and without the appropriate informed consent of the person whose information it is.

### What is personal information?

Personal Information is information about an "identifiable individual". There are two broad categories of personal information covered by PIPEDA:

- Information collected, used or disclosed by any organization in the course of commercial activities; and
- Employee information collected, used or disclosed in connection with the operation of a federal work, undertaking or business.

PIPEDA could conceivably apply to any information about an individual that a condominium might collect, subject to some exceptions:

- Where consent is obtained from the individual to collect and use the information;
- Where the information is available to the public;
- The information is used in an emergency affecting the individual;
- The person gives their consent either implied or directly; or
- Where the information is permitted by other statutes to be released under specified circumstances.

### What can be done with personal information?

For the most part, information *collected* such as names, addresses, and telephone numbers, would not require the consent of unit owners for *general use* as long as it is related to the operation of the condominium. General use would include notices of owners meetings,

notices of liens, and information in a Status Certificate. In contrast, information such as unlisted telephone numbers, or banking information would require consent to be used.

To *release* personal information to another organization, the condominium must obtain consent of the owner except in a few circumstances, when the information is: given to a lawyer representing the corporation;

- used to collect a debt;
- used to comply with a subpoena;
- a part of disclosure given as a result of a legal investigation;
- contained in a public directory; or
- used after it is either 100 years since the record was created, or 20 years since the death of the individual.

### Storing the Information

How a condominium stores this information is just as important as how it uses it. There is no single proper procedure for safeguarding Personal Information, but the following should be considered:

- storing information in locked cabinets;
- segregating Personal Information from general business information;
- proper computer security to prevent unauthorized access;
- computer files should be backed up;
- information must never be left where cleaning staff, or a passersby can see;
- information should never be given over the phone until the identity of the caller has been identified;
- all staff should be trained in respect of privacy policies;
- each unit should be assigned its own file;
- minutes of board meetings should be drafted so as to not include Personal Information (for example, financial difficulty of an owner);
- a privacy policy should be developed;

This list is by no means exhaustive, but should be used as a starting point for complying with privacy laws.



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### Responding to Curious Owners

It is clear from section 55 of the Condominium Act, 1998, (the "Act") that owners cannot:

- review the content of other unit files unless authorized to do so in writing by the owner of that unit;
- review files related to ongoing litigation or insurance claims; and
- review employee records, other than the employment contract.

This means that corporations will have to be cautious when allowing individual unit owners to access records if there is a chance they may obtain Personal Information relating to other owners.

It is imperative that Personal Information of an owner is kept in their own unit file. There should also be a separate file for each litigation or insurance claim. Documents should be looked over before they are shown to an owner to make sure they don't contain personal information of other owners.

A proper procedure would be to have the individual asking for records fill out a standard form including a statement as to why they are requesting the information. The form should also make it clear that the owner agrees that the information:

- will only be used for matters relating to the corporation;
- will not be distributed to anyone outside of the corporation; and
- will not be used for personal gain.

### Privacy Policies and Privacy Officers

PIPEDA requires that a corporation:

- establish a written "Privacy Policy" that identifies:
  - the kind and limits of information collected;
  - how and for what purposes such information is used; and
- designate an individual as a "Privacy Officer" whose responsibility will be to ensure the corporation complies with PIPEDA and the internal Privacy Policy.

If PIPEDA does apply to Condominiums, a corporation's Privacy Policy should be consistent and probably even more strict than section 55 of the Act, which limits the rights of unit owners to access personal information in the records of the corporation.

### Liability

When PIPEDA applies to an organization, every person they have Personal Information about is entitled to request to see the privacy policy and to question the privacy officer. If an individual claims that the information contains errors, the company is required to amend it. If an individual is not satisfied with a corporation's Policy or Privacy Officer, they may complain to the Privacy Commission of Canada ("PCC"). Violations can lead to

substantial fines, and the company name can also be published as one that has not complied with the legislation

### Does PIPEDA apply to Condominiums?

It is highly unlikely PIPEDA will be found to apply to residential condominium corporations. Residential Condominiums that do not sell information, goods or services for profit, are not involved in commercial activities. PIPEDA was enacted in 2000, and there is yet to be a court case involving a residential condominium corporation.

Although it appears that PIPEDA would not apply to a residential Condominium corporation, it is clear that it does apply to Condominium Management companies that collect, use and disclose personal information about residents during their 'commercial activities'. Condominium Management companies would be considered to be performing commercial activities when they are handling the financial affairs, or performing other jobs for the corporation.

PIPEDA case #2006-342 makes it clear that the legislation applies to a landlord, as they are engaged in a commercial activity. Even though the landlord was subject to PIPEDA in this case, the privacy commissioner found that the 'summary of lease or renewal form' which discloses personal information of the tenant still had to be filled out by the landlord because it is required by law.

PIPEDA case #2006-343 followed the same logic and stated that a landlord could provide personal information about a tenant to an insurance company, as the insurance company's purpose for obtaining this information was reasonable.

Although it does not appear that PIPEDA applies to residential condominium corporations it would be wise, for cautions sake, to enforce privacy policies in line with PIPEDA's principles. This would diminish any risk of contravening the relevant sections of the Condominium Act, and would ensure compliance with PIPEDA in the event this legislation was ever found to apply to your condominium corporation.

cheadles

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## HOME RENOVATION TAX CREDIT

By Barry Scott, LL.B., ACCI, FCCI

Legislation with respect to this tax credit is a hot topic. There is helpful information available on Canada Revenue Agency's web site. There is no definitive list of what qualifies as a renovation, but the list of qualifying examples on CRA's web site ([www.cra-arc.gc.ca](http://www.cra-arc.gc.ca)) is very helpful. Any renovation or alteration that is permanent in nature does qualify. It is especially helpful to see that painting, repaving, re-shingling and the purchase of landscaping all qualify. Items which are strictly in the nature of maintenance, such as cleaning or landscaping services, do not qualify. In addition, the purchase of chattels or personal property such as furniture, appliances or equipment for maintenance or cleaning, do not qualify.

Individual home owners are entitled to claim up to \$10,000.00 for renovation expenses for a maximum tax benefit of \$1,350.00. Amounts up to \$1,000.00 do not result in a tax credit, but they do assist an individual in reaching the \$1,000.00 threshold. This is important as individuals are entitled to claim credits with respect to more than one property, as long as each property qualifies as a residence. Cottages or recreational properties within the Province would qualify.

The renovation must have been ordered subsequent to January 27th, 2009 and must be completed and paid for prior to February 1st, 2010. No documentation needs to be filed with an individual tax return, but if asked, the tax payer must be able to provide documentation supporting the claim. Documentation required includes:

- any documentation evidencing the ordering of the work subsequent to January 27th, 2010 (such as a copy of the contract or a purchase order);
- an invoice;
- proof of payment.

Clearly, condominium owners are entitled to claim their portion of any qualifying expense made by the condominium corporation. The portion of the expense claimable by each unit owner is that owner's percentage (as set out in Schedule "D" of the corporation's Declaration) of the qualifying expense. The manner in which the corporation paid for the qualifying work be that out of operations, out of

reserve, by assessment or otherwise, is irrelevant. The only relevant facts are the incurring of the qualifying expense and the establishment of the owners' Schedule "D" percentage.

The only significant issue from a condominium's point of view is the potential amount of administrative work required in providing the breakdown calculations and the supporting documentation. Ideally, copies of that documentation would be made available to all owners now. If not, there must be assurance that copies will be readily available if requested by CRA.

Obviously, if we are talking about one or two large jobs, like a window or roof replacement, the administrative work will be straightforward and worth the effort in respect of such a large expenditure.

The more difficult situation is where a corporation wishes to document a large number of qualifying small expenses which together will provide a meaningful tax credit.

*This article first appeared in the London & Area REVIEW 2009/2010-2*

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**SESSION III                      Saturday, January 16, 2010                      Starting at 8:45 a.m. to 1:30 pm.**  
**Registration begins at 8:30 a.m.**

To be held at:                      **Masonic Temple, 1600 Dease Street (Lakehead Shrine Club)**

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   \$80.00 for non-members with course materials  
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If you did not attend Sessions I &/or II, it is recommended but not required that you prepare for Session III by reading chapters 1 to 12 in the binder (however, there will be a very brief review of Sessions I & II covering chapters 1 through 12.) This is an excellent way for Board members to demonstrate their due diligence and will provide you with an understanding of Reserve Funds, Investments, Audits, and Taxes.

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