

CONDO CONVERSATION CORNER: A VIEW & A VOICE

Here are some new items and others concerning previous newsletter articles, Lunch-n-Learns, webinars and Conversations in previous Newsletter editions. If you want to contribute to the discussion, you can make a submission to cci-manitoba.ca/resources/condo-conversation-corner.

DISCLAIMER

CCI Manitoba is unable to provide specific legal advice. We recommend that you speak to a lawyer regarding the challenges or problems you may be experiencing. For your information, a list of lawyers who are Professional Members of the Manitoba Chapter of the Canadian Condominium.

Note that frequent references are made to Manitoba's Condominium Act (The Act) <https://web2.gov.mb.ca/laws/statutes/2011/c03011e.php>.

CONDO LINGO

We occasionally receive inquiries asking about condo terminology. A frequent term that causes confusion is *bare land unit* or *condo*. The Provincial website has a page with definitions and provides some guidance (<https://www.gov.mb.ca/condo/>) in this case, with these definitions:

- **Bare Land Unit** - "bare land unit" means a unit defined by the delineation of its horizontal boundaries on a plan and without reference to any buildings, structures or fixtures on the plan;
- **Unit** - "unit" means a part of the land designated as a unit on a plan and includes the space enclosed by its boundaries and all the land, buildings, structures and fixtures within that space.
 - A unit is the part of the condominium property of which its owner is solely responsible for and has the exclusive use of.
 - A unit can be residential (ex: an apartment, detached or semi-detached house) or commercial (ex: a store or office).
 - The unit owner may occupy the unit or rent it to a tenant or lessee.

However, it is easy for a unit owner to be confused when they own a unit of a *bare land townhouse* or *bungalow condo*. One of the lawyers on our CCI MB Board offered the following explanation (thank you Carl):

- for the non *bare land unit*, or standard condominium unit, such as an apartment unit, you own a three dimensional space or volume, bounded by the walls, floor and ceiling - you own everything within that volume;
- for the *bare land condo* case, consider the two dimensional space or area defined on the Plan - theoretically, you own all of the land and structures below that defined area (to the centre of the Earth?) and all of the structures and airspace above that defined area (to the Moon and beyond?).

And since you own a condo, beside your own unit, you also own a share of the common elements.

Another term that causes much confusion is *standard unit*, which one could think would be the term for an apartment or suite in a lowrise or highrise condo, but that is not the case. While *standard unit* didn't merit mention in The Act itself, it is mentioned in numerous clauses to allow one to infer its meaning. Its primary purpose pertains to insurance requirements and responsibility for repairs. Here are the pertinent excerpts from The Act:

• Content of declaration 13(1)

- (n) "a description of a standard unit for each type of unit (other than a bare land unit in respect of which the corporation is not required to obtain and maintain insurance)"
- (d) "the types of units and the approximate area of each type of unit and, for each type of unit, the number of units, the proposed use and any restrictions or qualifications that will apply"

• Additional by-law power for certain condominium corporations 167(3)

"A condominium corporation created before the day this section came into force may, by board resolution, make, amend or repeal a by-law specifying types of units and describing a standard unit for each type in order to determine responsibility for repairing improvements after damage and insuring them."

• **Standard unit** 182(6) "A standard unit for the type of unit to which the unit belongs is

- (a) the standard unit described in the declaration;
- (b) if there is no such description in the declaration, the standard unit described in a by-law made by the condominium corporation under subsection 167(3); or
- (c) if there is no such description in the declaration and no such by-law, the standard unit as determined by the board."

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SELF-MANAGED & SMALLER CONDO CORPORATIONS

In the winter edition of our newsletter (page 21) we attempted to start the conversation with self-managed condo corporations (CCs) and smaller CCs¹. We have received some feedback, and their problems are not necessarily unique.

RESIDENT COMPLAINTS

As with most CCs, resident complaints are part of the reality, since "You can please some of the people all of the time, and you can please all of the people some of the time, but you can't please all of the people all of the time". However, for self-managed CCs, handling complaints falls to one or more Board members, who may or may not have experience or the skills or the desire to handle complaints. Also, in small CCs, all unit owners know each other and see each other more regularly, coming and going, so more unplanned interactions can occur if complaints are not handled effectively.

BOARD SUCCESSION PLANNING

Smaller CCs have a more limited pool of resources for potential directors. With over 200 CCs in the Province with fewer than

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10 units, filling the board of directors each year can be a challenge. Depending on the Declaration or Bylaws, the Board could easily comprise 50% or more of the unit owners, several of whom could get stuck on the board for years if others don't share the load. And if the board is operating with just a few directors, what happens if one disappears on a long vacation or ends up in hospital with a medical issue. Without a quorum, no business can be conducted.

To encourage owners to run for the Board and to ensure they are capable and competent, it is useful to offer to reimburse them for seminars and educational courses, such as CCI Manitoba's online director course². One suggestion to help with director recruitment, is to consider submitting a request to CCI Manitoba for one of our Directors to attend your AGM, at which time we can explain what resources and education are available to help potential directors to get to a level of knowledge so that the unit owner would feel comfortable as a director.

CONDO FEES

Setting condo fees each year is always a challenge, but for smaller CCs there are fewer units to spread the fixed costs over, such as for annual financial audits, reserve fund studies, insurance premiums or deductibles for insurance claims. Similarly, if expenses exceed the budget in a given year, such as for snow clearing and hauling this year, again there are fewer units to spread the extra costs over.

INVESTOR OWNERS AND TENANTS

While many CCs struggle with tenants that don't follow the rules, self-managed CCs have to handle without the service of a property manager. One or more of the directors will have to handle issues such as lack of unit maintenance, abuse of rules, and damage to common elements, while potentially dealing with both the non-resident unit owner and the tenant. To mitigate the risk of this type of situation, owners can be encouraged to seek out longer term tenants, since the longer someone lives in the unit, the more likely they are to feel part of the community and more likely to abide by the rules. As well, requiring a leasing levy in the bylaws can help mitigate the financial risks.

Hopefully with the help of you, our valued readers, this can become a recurring feature in our quarterly newsletter. If you live in a smaller CC or a self-managed CC, please talk to us. We'd like to better understand your needs so that we can better serve you. Please consider starting a dialog with us by sending an email to cci.mb.news@gmail.com or by making a submission to cci-manitoba.ca/resources/condo-conversation-corner. Let us get the conversation going.

ALAN FORBES

Chair, CCI MB Communications Committee 🇨🇦

¹ Condominium News and Views, Winter 2022, CCI Manitoba <https://cci-manitoba.ca/sites/default/uploads/files/CCI-MB-Winter%20Newsletter-2022-FINAL.pdf>

² <https://cci-manitoba.ca/education-events/online-courses>



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