

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>.

SHORT TERM RENTAL QUESTION

While the City of Winnipeg is working on regulations for short term rentals, to our knowledge no Manitoba municipality has regulations, so the only requirements are the Condo Act and the Condo Corporations documents. Within that context we received an inquiry about rentals, the Condo Act and Residential Tenancies Branch (RTB).

The Manitoba Residential Tenancies Branch has suggested I reach out to CCI for specific information as it relates to documentation specified in the Condo Act 202(1). <https://web2.gov.mb.ca/laws/statutes/2011/c03011e.php#A202>

Within our condo corporation, some units have been constructed for the sole purpose of short term renting. To date, the corporation has not received any tenancy agreements and RTB advised they have no jurisdiction over the short term renting.

We are a condo corp and have renters and I want to ensure we comply with proper governance. Can you advise if the condo corp should be receiving documentation?

Here is CCI's response to the above inquiry.

There is no requirement to provide leasing documentation in the Act beyond s.202. The member should consult their Declaration, By-laws, and Rules to see if there are any requirements within those documents. Unfortunately, there is no way to enforce compliance of the Act other than a court proceeding. We would suggest the member consult with their legal counsel.

ANOTHER RENTAL QUESTION

This is another question from a member about rentals, but not necessarily STRs.

The Condo Act and the Residential Tenancies deal with rentals of a condo unit. Is there anything governing the rental of a portion of a unit, such as a basement or bedroom, other than the CC declaration or bylaws?

For example, the condo act states that the CC can't prohibit the rental of a unit but makes no mention of renting a portion of a unit.

Condominium corporation must not prohibit renting

212 A condominium corporation, or its declaration or by-laws, must not prohibit the rental of a unit by a unit owner.

Can a CC prohibit rental of a portion? I suspect not.

Does a CC leasing levy apply to rental of a portion of a unit?

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Does it relate to the 'single family residential' terms in some declarations. I know from reading some of the Ontario cases, that single family has a very broad interpretation. But would this clause prohibit roommate rentals?

Have you seen anything like this come up in Manitoba yet?

There are several points to address. First of all, many Declarations indicate that a Unit must be used for single family residential purposes. If they are renting out a portion of a unit it would be difficult to argue they are part of the single family unless the renter was a relative. To our knowledge, disputes of this nature in Manitoba have yet to reach the courts. This also depends on the definition of "single family", which could include multi-generational families, common law cohabitations, blended families and the like. How about cousins or step-siblings - while family, would they be single family? Friends that are just roommates are clearly not "single family". In the absence of a tested "single family", one could argue the biological taxonomy definition that all humans are of the hominid family. To what extent do CCs want to delve into regulating this rental issue?

Another way to think of this is in terms of rooming houses and boarding houses, which have separate regulations which introduces more complexity https://winnipeg.ca/ppd/pdf_files/Brochures/Student-Housing-Boarders-and-Rooming-Houses.pdf.

If you have experience with problem related to this type of rental, please let us know. For know, our only suggestion is that if you are experience problems related to this type of rental situation, seek professional advice as available in our directory <https://cci-manitoba.ca/resources/mb-professional-business-partner-directory>

BENCHMARKING DATA

We periodically receive inquiries from CCs looking for benchmark financial data so as to compare their expenses with other comparable properties, and similarly for their reserve fund and contribution levels. While this data does not exist, it is something we could collectively pursue. We mentioned this topic in our summer edition of the newsletter <https://cci-manitoba.ca/cci-manitoba-magazine/article/50> but received only a few responses. Hopefully we can get some more interest to make a meaningful effort. Ideally it would be nice to have a good cross-section of the various CC sizes and categories.

If you and your CC would be interested in working towards establishing benchmark data, send an email to us cci.mb.news@gmail.com

MANDATORY DIRECTOR TRAINING

Did the heading get your attention? Are you in favour or opposed to mandatory director training as part of The Act? What are your thoughts on the topic?

The idea of mandatory director training has been discussed repeatedly amongst our members the past few years but many are reluctant to have it included in The Act because

during the pandemic, it was difficult to impossible to hold a training session.

Prior to the pandemic CCI Manitoba would periodically hold director training sessions. They were generally well attended but not accessible enough for directors from outside of Winnipeg, because of the travel time. As a result of the pandemic, CCI Manitoba has created an online introductory course, which mitigates the pandemic and travel problems. However, the response to the course offering has been underwhelming to date. Why is that?

The advantages of having trained directors are clear - better governance and improved accountability to the unit owners. More often than not it also results in improved financial situation for the CC, better service to unit owners and improved maintenance of the property. Also, it enhances the effectiveness of the property manager, if one is employed, because the Board will better understand their own roles and responsibilities and those of the property manager.

The course fee for CCI members is only \$75 and we offer a "buy two get one free" option - basically \$50 for each of the three registrants, which is equivalent to about two monthly large 'double doubles' at Tim Hortons for a year. The course takes about 2.5 hours to complete and can be done at your own pace, as it is broken down into several sections. A PDF of the course notes is provided for further reading and is a useful resource when questions come to the Board during the year. There is no exam or graded test, so 'exam anxiety' should not be a concern - there is only a need to answer a few review questions during each section. So, overall, it doesn't sound too onerous or too expensive.

With over one thousand condo corporations in the Province, why isn't there more interest in taking the training? Do all current directors feel they have sufficient understanding of The Act and all aspects of running a condo corporation? Do most Board think they don't need the training because they have a property manager working for them? Perhaps most directors are unaware that the online training course is available - if so, please spread the word <https://cci-manitoba.ca/education-events/online-courses>.

Ontario has enacted mandatory director training and every condo director elected or appointed after November 1, 2017 must take the training provided by the Condominium Authority of Ontario ("CAO") within 6 months following his/her election or appointment. A director who does not complete the mandatory training within this time frame will be automatically disqualified from the board. The director training will be valid for a period of 7 years. After that, directors will have to take additional training.

Should CCI Manitoba advocate for mandatory director training similar to what Ontario has done? We'd like to hear from you. Send your thoughts to cci.mb.news@gmail.com.

CCI MB COMMUNICATIONS COMMITTEE 🇨🇦

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