

## Condominium News and Views



To the Members and Friends of The Manitoba Chapter • Fall 2020

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## VIRTUALLY A NEW YEAR FOR CCI MANITOBA

***"The screen is a window through which  
one sees a virtual world. The challenge  
is to make that world look real, act  
real, sound real and feel real."***

*– Ivan Sutherland*

## CONTENTS

President and Chapter Report.....	3
Advocacy Update for Condo Corp AGM.....	5
2020-2021 Education and Event Program Schedule .....	6
Stay Informed.....	7
Virtual Lessons Learned.....	8
Top Ten Reasons for Loving the Fall Season .....	10
The Green Condo Page.....	11
The Condominium Act – Suggestions for Improvement.....	12
Changing my Perspective on Condo Fees .....	13
Considering Energy Efficiency as Part of the Reserve Fund Study (RFS) Process .....	14
An Update on Condominiums and Airbnb .....	16
CCI Manitoba Professional & Business Partner Directory.....	18
Condo Conversation Corner: A View & A Voice.....	20
2020-2021 Committees & Members .....	24
Check Out our New Bulletin Board.....	24

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## NEWSLETTER PUBLICATION SCHEDULE

The CCI Manitoba *Condominium News and Views* is published and distributed to members quarterly, with the following schedule and deadlines for advertising and articles:

- Fall Edition (November) with September 30 deadline
- Winter Edition (February) with December 31 deadline
- Spring Edition (May) with March 31 deadline
- Summer Edition (August) with June 30 deadline

To help us ensure timely delivery of the *Condominium News and Views* it would be a tremendous help if member corporations ensure that the CCI Chapter Administrator is provided with updated information whenever there is a change of Management Company, quantities required and distribution address, etc. Please call, mail, or email this information to our Chapter Administrator. Thank you in advance for your assistance!

## 2020-2021 BOARD OF DIRECTORS

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Matthew Jerome, *Director*  
Phil Jenkinson, *Director*

## WELCOME TO OUR NEW MEMBERS

PROFESSIONAL MEMBER - Daryl Friesen, RE/MAX Professionals  
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## PRESIDENT AND CHAPTER REPORT



Each time, as I prepare to write my quarterly report for the newsletter, I am reminded of how quickly time flies. Where does it go and particularly during a pandemic? This pandemic has taught us many things, some good, some not so good. The different ways in which we have to do almost everything is challenging. Even the easiest of tasks requires more thinking on our part and there is definitely less spontaneity. I am truly amazed at our ability to adapt and embrace a new way of doing and living.

Here at CCI, Manitoba Chapter, we have learned completely new ways to reach out to our members in order to continue to provide the valuable services and benefits of belonging to CCI.

Our fall season at CCI, Manitoba Chapter brings the return of regular monthly Board of Directors meetings, Committee meetings, Lunch and Learns and our Annual General Meeting. Although we as a Board do not meet over the summer, the work continues as we process membership renewals, prepare for the AGM, compile, edit, publish and distribute the newsletter and as always, respond to members questions and concerns.

We have also held webinars to respond to the increasing number of queries due to the pandemic, particularly from condominium corporation directors and owners.

The Board of Directors met by Zoom on September 10, 2020, and on October 15, 2020. The September meeting included catching up on issues arising over the summer months and preparing for the upcoming fiscal year.

The October meeting includes Board orientation for our newly elected Board members and the election of CCI officers, committees and chairpersons. Elsewhere in this issue, please see the list of our newly elected officers, committees and chairpersons.

We are so genuinely pleased to welcome to the CCI Board of Directors, Carl Dalton, Audrey Harder, Phil Jenkinson, Matt Jerome, Alan Reiss, Duane Rohne and Patricia Salam.

We thank them for letting their names stand and we congratulate them on their election. They are an incredible group and we are so excited to welcome them to our team. We know that they will bring some great new ideas and fresh perspectives as well as their skills, talents, knowledge, experience and expertise. Collectively they bring many, many years of experience from living and/or working in the condominium community.

Also re-elected to the CCI Board of Directors, Connie Dame and Delaney Vun. We thank them as well for continuing to share their skills and talents, and their commitment and passion for CCI.

The CCI, Manitoba Chapter bylaws allow for fifteen directors of which every year, five terms expire. A Board member term is three years. Occasionally a vacancy arises due to a resignation and that leaves vacant terms that may be less than a three year term.

Condominium owners are always encouraged to run for election as are those who work as business partners and professionals in the condominium industry

At this time, I would like to thank two Board members who recently resigned. Susan Champagne Shapiro was a tireless Board director who many will remember as the chair of the Education Committee.

She also was instrumental in developing the Condostrength program here in Manitoba.

Krista Corley, our Vice President also submitted her resignation. She too was tireless as she chaired the Sponsorship & AGM Committee. Who can forget our amazing 2019 AGM held at the Assiniboine Park Zoo Arctic Exhibit? It was an incredible event put together by Krista and her team. Krista also recently chaired the Education Committee along with Connie Dame. Their legacy is of course, podcasts and webinars which is now a regular part of the services we bring to members.

We can't thank them enough for their commitment to CCI and hope that someday they will be back at CCI sharing their energy and ideas.

The Board of Directors has two more meetings scheduled for this year, November 12, 2020, and December 10, 2020. Although we would love to meet in person, Zoom meetings are working well for us. As the readers can certainly empathize and understand, meetings by Zoom are not the same, but for now, it's all we have and we are embracing it. We are also considering having a team building and strategic planning session by Zoom. Team building enhances our social connections and helps us to understand and define our roles. Team building sessions have been invaluable to us as we build and strengthen our team.

Lunch and Learns began in September by Zoom and programs have been developed for October and November, also to be held by Zoom.

The newly elected Education Committee will be developing programming for the rest of the fiscal year and members will be advised prior to each session. Attendance has not been as significant electronically as in-person meetings were, however, the feedback has been great. If you are unsure how to connect, please ask for assistance from our Chapter Administrator. We do look forward to the days when we can all gather and connect with each other in person, but until then, we will continue to offer monthly educational sessions.

The President's Forums were not held at all this year due to the restrictions in place, but we are considering ways in which we can connect with condo corporation Presidents electronically, so stay tuned.

The CCI, National Leaders Forum and Awards Ceremony will be held virtually this year from November 5-7, 2020. It would be easy during these incomprehensible times to cancel events and activities. Bravo to all those at National and from chapters across this great country who are putting so much time and energy into this event.

The CCI Annual General Meeting (AGM) was held electronically on October 8, 2020. As well as the election of directors, the agenda included Financial Statements, the President's Report, CCI Committee Reports and the National Report. Many thanks to Condovoter who





## PRESIDENT AND CHAPTER REPORT (CONTINUED)

*We couldn't have succeeded without the support of our sponsors. A huge thank you and much gratitude to all of you.*

assisted us with the meeting as well as our Chapter Administrator, Millanne Baxter and her assistant, Aesia Desrosiers who put in countless hours to make the AGM a reality.

Following the business portion of the AGM, a panel presentation

"A Lawyer, a Property Manager and a Pandemic" took place. Doug Forbes and Audrey Harder did a great job on the presentation and especially in answering questions from the audience. Well done and many thanks.

We couldn't have succeeded without the support of our sponsors. A huge thank you and much gratitude to all of you. CCI is a successful organization because of your commitment and your support of our endeavours. The work we do is only possible because of your trust in CCI, Manitoba Chapter as leaders in the condominium industry.

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Finally, I encourage each and every member to take advantage of the programs and events here at CCI. Participation in our virtual events is open to all members and that includes individual unit owners.

We are so proud to serve the condominium community by providing education, awareness and access to expertise by and for our members.

Until next time, take care and stay safe.

MAUREEN HANCHARYK, President  
Manitoba Chapter 🇨🇦

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## ADVOCACY UPDATE FOR CONDO CORP AGM

Back in the spring CCI Manitoba sent a letter<sup>1</sup> to the Provincial Minister of Finance requesting an extension to the deadline for condominium corporation (CC) AGMs and to also explicitly allow for the use of virtual or electronic meeting formats. As a result, a three month extension to the end of September was granted and included the allowance for electronic meetings.

In September with many CCs struggling to complete their AGMs, CCI Manitoba sent another letter<sup>2</sup> asking for a further extension of the deadline to the end of the year. Unfortunately, the Province did not grant the deadline extension but did extend the option for virtual AGMs until March 31st, 2021 *"...condominium corporations can allow electronic attendance, delivery of notices and voting by other means, even if these meeting provisions are not part of their current bylaws."*

Respectfully,

BOARD OF DIRECTORS  
CCI Manitoba

<sup>1</sup> <https://cci-manitoba.ca/news/view/the-emergency-measures-act-another-cci-success-story>

<sup>2</sup> <https://cci-manitoba.ca/sites/default/uploads/files/2020-10-01-CCI%20Manitoba-Letter%20of%20Response.pdf>

## DIRECT ADVICE

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## 2020-2021 EDUCATION AND EVENT PROGRAM SCHEDULE

With the arrival of the Covid-19 pandemic our education program transitioned to the virtual format due to the required social distancing and limits on the size of gatherings.

DATE & TIME	TOPIC	FORMAT
<b>NOV 19, 2020 12:30PM - 1:30PM</b>	<b>UNDERSTANDING AUDITED FINANCIAL STATEMENTS</b> WHY ARE AUDITS PERFORMED AND WHAT DO WE GET FROM THEM?	ZOOM WEBINAR
<b>DEC 2, 2020 7:00PM - 9:00PM</b>	<b>2020 PRESIDENTS' FORUM – VIRTUAL WINTER EDITION</b> PLEASE JOIN US FOR AN EVENING OF NETWORKING, FUN, EXCHANGE OF IDEAS AND...DRUM ROLL PLEASE...WINE AND CHEESE DELIVERED RIGHT TO YOUR DOOR!	ZOOM MEETING

If you missed one of Lunch and Learn sessions in the past year, they are now available as podcasts at <https://cci-manitoba.ca/resources/podcasts>.

DATE & TIME	PODCAST TOPIC
<b>OCT 17, 2019</b>	<b>4. KNOCK THE NEGATIVITY 3. COMMUNICATION IS KEY 2. EVERY CONDO NEEDS TO BE MANAGED 1. SUCCESSION PLANNING</b>
<b>DEC 12, 2019</b>	<b>COMMUNICATION – TIPS IN DEALING WITH DIFFERENT PERSONALITIES</b>
<b>JAN 30, 2020</b>	<b>2020 INSURANCE MARKET – CONDO CORPORATION AND UNIT OWNER POLICIES</b>
<b>FEB 27, 2020</b>	<b>CONDOMINIUM CORPORATION FINANCING: AN ALTERNATIVE TO SPECIAL ASSESSMENT</b>
<b>SEP 2, 2020</b>	<b>ALL ABOUT AGMS - Q&amp;A</b>



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## STAY INFORMED

As we migrate further into the virtual world, now more than ever the importance of getting to know you, our valued members, becomes critical. We have several categories of membership including Business Partners, Professionals and Individuals, for which we generally have good contact details for adequate levels of communication. However, for the majority of our members, the Condominium Corporations (CCs) and their related condominium unit owners, which we generally lack contact details and have to communicate with through their Property Manager. To provide better service to you we'd like to encourage you to join our email distribution list. Doing so will allow us to communicate with you directly about upcoming education events, any advocacy initiatives, other pertinent news items and to gather your input via surveys.

On the bottom of each page on our website <https://cci-manitoba.ca> you will find the *Stay Informed* button. Clicking on the button will result in a form opening for you to enter your contact information. Doing so now, will help us help you stay informed - with important news updates, or notices for upcoming condominium education events. Please note that this feature is in compliance with Canadian Anti-Spam Legislation (CASL)<sup>1</sup> and the Personal Information Protection and Electronic Documents Act (PIPEDA)<sup>2</sup>.

**BOARD OF DIRECTORS**  
CCI Manitoba 🇨🇦

<sup>1</sup> <https://crtc.gc.ca/eng/internet/anti.htm>

<sup>2</sup> <https://www.priv.gc.ca/en/privacy-topics/privacy-laws-in-canada/the-personal-information-protection-and-electronic-documents-act-pipeda/>

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## VIRTUAL LESSONS LEARNED



**W**ith the continuing Covid pandemic CCI Manitoba is 'taking the plunge' with electronic events to replace in-person sessions for our Lunch-n-Learn program and also for our Annual General Meeting (AGM). While we are learning lots about how to work with our members virtually, it seems we're on the 'two steps forward and one step backward' path.

With apologies to Sergio Leone and the cast of *"The Good, The Bad and the Ugly"*, we are documenting our lessons learned using those categorizations.

### OUR FIRST VIRTUAL LUNCH & LEARN SESSION - THURSDAY, SEPTEMBER 17TH

There were two topics in the webinar - the first being Condo Corporation AGMs in the pandemic world and the second titled *"AirBnB and Condominiums: The Rise of "Ghost Hotels"*. Although we had put on some free webinars since the start of the pandemic this is the first time we used our new online payment system for the registrations. For this session we piggybacked on CCI National's Zoom license to host three presenters who were in different locations. The planned duration was about an hour with a recording to be made available at a future date on our website. After the session, presentations and a survey were sent to all attendees.



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### The Good

There were a few good aspects:

1. Our Administrator demonstrated some fancy footwork to get us back online. Once she figured out the problem, she had 2 options: **Reschedule the session to another time or purchase a Zoom license for CCI Manitoba.** With September being a jammed packed month, she decided on the latter and quickly purchased a Zoom license, sent out a new link to the presenters and attendees efficiently and got most all attendees reconnected to a new session.
2. The chat and Q&A features provided some level of interaction between the presenters and a means to capture questions.
3. Generally the Zoom technology worked well with acceptable audio and video quality, and the registrants seemed to be able to login and join the session without much trouble (we only lost 1 registrant through the deadline period).
4. Attendees were able to fill our electronic surveys (SurveyMonkey) which are easier to process than the paper copies used and prior year in-person sessions. If evaluations continue to be successful this way we hope to continue with this platform as it creates less waste and is a much more efficient way for us to gather information.
5. This is the first time we've used our new online payment processing system as part of our online registration process and it worked well.
6. When we got kicked off of Zoom at the halfway point we did effectively communicate with the audience via email to update them on what happened and what we were doing about it. As a result once we had our new Zoom session setup we were quickly able to get everybody back on.
7. Last but not least by any means, one final 'Good' is that we held our first virtual Lunch-n-Learn education sessions, which means we can now better serve our members who live and/or work outside of Winnipeg. In the past, attending a Lnl from out of town could potentially have required an hour or two of travel time for our members. Now they can attend virtually, saving them the travel time.

### The Bad

There were a few bad aspects:

1. We lost the recording from the first 30 minutes when we got kicked off along with all of the questions that had been posed to that point in time.



## VIRTUAL LESSONS LEARNED

2. From a presenter's perspective, using Zoom is not nearly as good as being in the room with the audience - you can't make eye contact or read body language, which is key for an effective communication channel between the presenter and the audience. Also, the amount of spontaneity and interaction was limited by the technology as compared to audience members raising their hands to ask a question.

### The Ugly

And then there was the ugly:

1. The webinar started at 12:30 and at the halfway point we got kicked off and ended up having about 20 minutes of dead air time. Although we booked the timeslot with CCI National, another group also booked a timeslot with them and the timeslots overlapped because of different time zones. We learned our lesson the hard way here and resumed the session after purchasing our own Zoom license.
2. Although we got back online in what felt like a quick time frame, we did receive some feedback from members that shared their disappointment that things did not run smoothly. We sincerely hope that this will not affect future registrations but that part is simply out of our hands.

In the end, we are sure glad that we have our first Virtual Lunch & Learn under our belts and that we can take all the lessons learned with us into future sessions. The first time is sometimes the toughest and we certainly hope the second time will be easier. We can only take one step at a time and deal with issues as they arise. When technical issues happen in person, it can sometimes be easier to continue on because you have a live audience in front of you and you can all share in some of the discomfort. We are very grateful for all the patience and dedication of our attendees and members. We are all in this together and we thank you all very much for sticking with us as we find ways to move forward through this time.

### CCI MB ANNUAL GENERAL MEETING THU OCT 8TH

This was our first virtual AGM for CCI Manitoba and while it went well, hopefully it is also the last. We used CondoVoter<sup>1</sup> with their bundle for the voting and the virtual meeting (utilizing Zoom<sup>2</sup>) which allowed us to focus on the meeting and the agenda and not have to worry about the logistics.

### The Good

1. Using the CondoVoter bundle offer made it much easier for us. The bundle included

- a. Preliminary notice to Owners by email
  - b. Notice of meeting to Owners by email
  - c. Registration of Owners for Virtual Meeting
  - d. Thirty (30) minute training session for Panelists (board members, chair, auditor etc.) and Moderating the Virtual Meeting (two(2) hours included)
  - e. Electronic Vote for the Meeting (Advanced voting and real time voting)
  - f. Scrutineer for the Meeting to report Voting results
  - g. Recording of the Meeting
2. We easily achieved our quorum requirements in a timely manner
  3. Participants could ask questions throughout the session
  4. Voting proceeded without problems.
    - a. CondoVoter was used for the Board of Directors voting
    - b. The Zoom 'raise hand' feature was used for the yeas and nays for the various motions raised during the meeting
  5. There was good participation and discussion in the Q&A session after the AGM - A Property Manager, A Lawyer, and a Pandemic
  6. We were able to fully replenish our Board and got to briefly meet the new Directors virtually.

### The Bad

1. Since the number of candidates for the Board matched the number of open positions, we didn't get to fully utilize the voting functionality.

### The Ugly

Last year we held our AGM at the Gateway the the Arctic Building at Assiniboine Park, and as reported in last year's fall edition of our newsletter<sup>3</sup>

*"The AGM was extremely well attended and lots of fun. The evening began with a cocktail networking reception and following the business meeting, another round of wine, hors d'oeuvres and draws for the fabulous prizes. The locale was spectacular, the exhibits were amazing and the polar bears did not disappoint."*

The contrast with this year's virtual AGM due to the Covid pandemic, with all of us socially isolated (and without wine and cheese) could not be more stark. 🍷

<sup>1</sup> <https://condovoter.com>

<sup>2</sup> <https://zoom.us>

<sup>3</sup> <https://cci-manitoba.ca/sites/default/uploads/files/newsletter/CCI-MB-Newsletter-2019-Fall.pdf>



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# TOP TEN REASONS FOR LOVING THE FALL SEASON

10. THE BEAUTIFUL COLOURS OF AUTUMN
9. SWEATER WEATHER
8. CRISP COOL MORNINGS
7. LESS LIGHT, MORE SLEEP
6. LEAVES CRACKLING UNDERFOOT
5. WARM DRINKS AND COZY FIRES
4. PUMPKIN PIE AND APPLE CRISP
3. THANKSGIVING, A TIME TO BE GRATEFUL
2. HALLOWEEN, COSTUMES, CANDY AND CARVED PUMPKINS
1. THE SPIRIT OF A NEW BEGINNING

CCI MANITOBA IS LOOKING FOR YOU!

Our Chapter is looking for motivated individuals interested in joining one of our committees or volunteering their time to help with our upcoming sessions and events. If you are interested please contact us at [ccimanitoba@cci.ca](mailto:ccimanitoba@cci.ca).

# ASH

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## THE GREEN CONDO PAGE

The Covid pandemic, while affecting our physical and mental health, and while ravaging our economy, is also having an adverse affect on our environment, as noted in this article <https://www.cbc.ca/radio/costofliving/household-waste-boom-covid-1.5728420>. Extra packaging from online shopping and home delivery of groceries includes a lot of cardboard, some of which ends up in the trash rather than recycling, plus lots of extra plastic which just goes into the trash. As well, there are those masks and gloves being thrown away, some of which end up blowing in the wind through our neighbourhoods. Surprisingly, there is also an increase in food waste, which largely ends up in the trash.

As condo owners, we can help mitigate this problem of increased waste by examining our own waste management practices. Are you knowledgeable about what can and can't be recycled and where to take it if there is no curbside recycling where you live? Check out <https://www.recyclemanitoba.ca>. Does your condo have a blue bin system for recycling and do you know what you can put in and what you can't? Check out <https://www.winnipeg.ca/waterandwaste/recycle/cartcollection.stm#faq>

The City of Winnipeg has announced that it will finally initiate a household compostable collection project, but it isn't clear if condominiums or multi-family residential will be included. There are five neighbourhoods in the initial trial - Daniel McIntyre, Inkster Gardens, Linden Woods/Linden Ridge, Mission Gardens and St. George. [https://engage.winnipeg.ca/residential-food-waste-pilot-program?tool=aqanda#tool\\_tab](https://engage.winnipeg.ca/residential-food-waste-pilot-program?tool=aqanda#tool_tab). If you live in one of the listed neighbourhoods and are involved in the program, let us know.



Independent of the City's program, there is the option for a condominium corporation to go it alone to reduce waste. If interested, a useful website is <https://www.compostwinnipeg.ca>. As well, the Green Action Centre has a program for multi-family properties going with their own onsite compost systems, providing bins, aerators, workshops and support <https://greenactioncentre.ca/module/composting-2/on-site-multi-family-composting/>.

If you are looking for inspiration and innovative approaches to waste reduction in a condo environment, check out this article from a recent CBC's *What On Earth* newsletter [https://www.cbc.ca/news/technology/what-on-earth-highrises-zero-waste-1.5711010?cmp=newsletter\\_What%20on%20Earth\\_1996\\_116914](https://www.cbc.ca/news/technology/what-on-earth-highrises-zero-waste-1.5711010?cmp=newsletter_What%20on%20Earth_1996_116914). The article reviews the success of a Toronto highrise in its ability to reduce waste and save money. Since many highrise buildings are designed to just throw stuff down the garbage chute, accommodating recyclables and compostables can present an initial challenge, but 'where there's a will there's a way' as they say. Some of the innovative things they did include

- Converting their garbage chute into an organics chute (and making people take their garbage, which is less smelly, downstairs).
- Creating a main floor recycling room to handle a variety of waste, including cooking oil, e-waste, hazardous waste and reusable items that could be offered to other residents before being donated to charity.
- Doing door-to-door outreach so residents understood proper disposal for each kind of waste.

Some of you may be thinking that yes it is nice to help the environment but at what cost? This property "...has more than 1,000 residents across 282 units, but manages to divert 85% of its waste to recycling and composting, saving \$15,000 a year in waste fees. It now puts out just one dumpster full of garbage a month, down from 20 a month in 2008". Think about how those savings could impact your monthly condo fees!

So at your next Board meeting, how about including an agenda item to save the environment and save some money?

CCI Manitoba 

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## THE CONDOMINIUM ACT – SUGGESTIONS FOR IMPROVEMENT

When we refer to the Manitoba Condo Act we often use the term "the New Condo Act" but it isn't really that new anymore - it came into effect in 2015. Many other Provinces have amended their respective Acts in the past few years. Perhaps it is time for us to get ours updated and more importantly get it improved. Toward this end, CCI Manitoba has a section on its website for you to submit suggestions for improving the Provincial Condo Act - here is a link <https://cci-manitoba.ca/resources/the-condominium-act-suggestions-for-improvement>

For reference, the Province has a website with a guide to The Act along with links to the Act itself, and the associated regulation and various related forms. The website link is <https://www.gov.mb.ca/condo/>. If you are a current director of your condo corporation, it would be useful to have the link as one of your favorites. Questions from other directors or unit owners come up in relation to governance, by-laws, AGMs, etc and I find I often have to refer to the Condo Act to answer these types of questions.

With the ongoing Covid pandemic, there are many questions about AGMs and the use of proxies. This spawned a few suggestions for improving the Act. Review what has been submitted so far and consider making your own submission, and we will include your ideas in our deliberations.

### SUGGESTIONS FOR IMPROVEMENT & QUESTIONS

1. Raising the threshold from 10 to 25 unit condominium projects for audited financial statements.
  - a. This seems to pertain to sections 73 and 156 of the Act in relation to appointment of the auditor at the AGM.
  - b. Section 159 of the Act explicitly requires an auditor report regardless.
  - c. Could also be pertinent in relation to clause 25(3) of the Regulation in terms of the requirements for the person doing the reserve fund study
2. Have some requirements for a reserve fund study to apply to new condo projects. I've walked into a few show suites and asked about estimates for monthly condo fees and hear amounts of \$150 per month for townhouse style condos for the common expense and reserve fund combined. It seems that the developer keeps the projected fees low, to improve marketability with respect to resale units. Once the Condo Corporation is taken over by the unit owners, they're faced with reality and have to raise fees drastically to catch up on past low RFC rates. Projecting unrealistically low fees to induce sales is misleading to prospective owners. While 'buyer beware' is always appropriate, it is difficult for new owners to assess what fees are realistic.
3. Include some kind of requirement for Board members to pursue training/education, such as provided by CCI lunch and learns or CCI Condo 101/201/301. Don't necessarily require it upfront but at least Board members should commit to achieve some level of education or obtain some minimum number of hours of development per year. This can only help with the governance and consistency for Condo Corporations. Ontario has requirements for directors to complete online training modules within six months of being elected. Certificate of completion is good for seven years.
4. The Condo Act states that the reserve fund is to be used for "repairs and maintenance". This is too limiting as it does not allow for enhancements or improvements. For example, new lighting in front of a building or artificial plants in a lobby cannot be paid from this fund. These are not operating expenses so they can't be paid from the operating budget. Additional flexibility is required to allow for payment of improvements from the reserve fund.
5. A Few items coming to light during the pandemic in relation to AGM. Section 116 of the Act specifies a 30 day notice requirement, but only if the meeting seeks written consent of owners, which is generally not part of the AGM. Should the ACT specify a notice requirement for AGM's? Section 117 of the Act specifies a minimum quorum of 33% unless a greater percentage is specified in the Declaration. However, for my CC at least, the Declaration doesn't deal with governance whereas our by-laws do specify a minimum quorum, which appears to be useless given the wording in the Act. Should the Act be modified to state "...unless a greater percentage is specified in the Declaration or By-laws..."?
6. Currently, the Act does not allow for voting by Board members outside of a physical or virtual meeting, to vote via email. To do so, would be expedient and efficient. The motion would have to have enough information such as a quote for services. The motion could be read at the next meeting of the board and entered into the minutes including the votes in favour or against if allowed to do so.
7. MB Act 218(1) indicates fines can be imposed for by-law or rule contraventions, but not the Declaration. However, 13(1)(e) talks about common element use restrictions, 178(1) common element changes by owners, 211(1) imposition of leasing levees. How are transgressions against the Declaration to be handled?
8. Add some regulations relating to proxies, such as is the case for the Condo Authority of Ontario (CAO) <https://www.condoauthorityontario.ca/resources/proxy-overview-and-sample-forms/>
  - a. Prefilled proxy forms with assignee of current director running for re-election looks like the current Board is trying to stack the deck (CAO strongly recommends against pre-filled forms), while forms with nothing pre-filled often come back blank for assignee. Forms with written instructions embedded make sense.
  - b. Proxy forms in use by CCs often lack specific detail directing the assignee on how to vote and the owner filling out the proxy would not generally know how to fill it out properly anyway. Forms with written instructions embedded make sense. Establish standard proxy form(s) as Ontario has done
  - c. Establish retention periods for proxy forms in case of disputes as Ontario and a few other provinces have done 🍁

## CHANGING MY PERSPECTIVE ON CONDO FEES

I hear it all the time, "A condo sounds like a good idea but I don't know if I can stomach those condo fees". This from people like myself who regularly shell out money for things like a new window, landscaping service, and new roof. Why don't we take a deeper dive?

### MAINTENANCE

Condo fees go toward maintenance. In the next two years we plan on redoing our roof at an estimated cost of \$6,000 plus and redoing the driveway at an estimated cost of \$12,000. We pay \$450.00 a year for a lawn weed and feed service plus an additional \$300 for flowers. These are just items that come to mind. So far I'm at \$19,500 for 24 months (I doubled the amounts for flowers and lawn care). Now take that number and divide it by 24 months and you get \$812.50 per month.

Just the cost for maintenance equipment can be significant. You won't need a snow blower, lawn mower, weed whacker and a host of other items which from time to time do need to be replaced.

This year we renovated our deck and replaced a patio door. Yikes! Suddenly even a \$500 a month condo fee does not seem so bad.

Time is money. As traditional homeowners, we spend time washing windows, shovelling snow and painting the exterior. While a couple of cans of quality paint can be had for \$100 painting and the surface preparation takes many hours of your time - how much is your time worth to you. And if you don't do it yourself, you will be paying for someone else to do it.

### AMENITIES

If you have a pool you know what pool maintenance can cost. Chemicals, supplies and the usual repairs all add up. Not to mention the time to clean said pool. This would be covered by condo fees. Pay for a gym membership? That might also be something you might not have to spend depending on your condominium amenities. Some condos have party rooms for rental at extremely low cost and some even have suites for rent for when you have visitors. How nice would that be - having your guests close but not that close?

### UTILITIES

There is a lot of variation here. Water, heat, cable may be included or may cost substantially less depending on the type of condominium unit you are looking at. Heating costs in particular should be much less for townhouse and apartment style units, considering the shared walls and potentially other units above or below.

### INSURANCE

An average amount for Condominium unit owners insurance would be \$40 per month. An average amount for homeowners insurance would be \$100 per month. Of course, there can be variation in these numbers but for an average \$350,000 to \$400,000 home/condo this is what you would be looking at. Condo fees include insurance for the common elements and while

insurance costs are on the rise, it is usually still cheaper than what you would pay for a single family dwelling. Economies of scale play a part here.

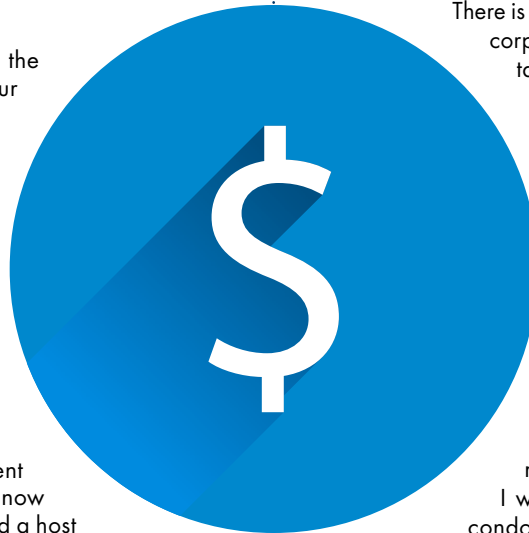
### SPECIAL ASSESSMENTS

There is always the possibility that the condominium corporation will not have budgeted enough to take care of all maintenance. If this is the case, a special assessment may be levied. You will need to do your homework and ensure that the reserve fund is appropriately funded.

### OTHER BENEFITS

For the most part, I am re-evaluating my thoughts on condo fees. Of course when it comes to the interior maintenance you will still be on the hook, but I like the idea of having more time to do what I really want to do and the greater certainty of a fixed monthly cost for maintenance. In short, I will no longer be one of those who sees condo fees in such a negative light.

PAMELA PYKE  
Volunteer, Newsletter Committee 🍷



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## CONSIDERING ENERGY EFFICIENCY AS PART OF THE RESERVE FUND STUDY (RFS) PROCESS

### INTRODUCING WHY ENERGY EFFICIENCY IS RELEVANT WHEN PRIORITIZING RENOVATIONS.

All of us can make daily choices in our immediate areas of influence. My family chooses to have only one car, we recycle, support local stores and I tell my son repeatedly to turn off the lights after he has left a room! When it comes to spending more on building upgrades however, who wants to spend money on items that you can't see and for benefits that aren't always clear?

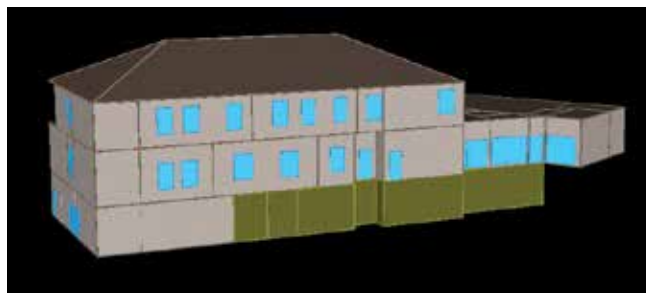
In the last few years, there has been a lot of discussion on global warming and the negative impacts of greenhouse gas (GHG) emissions. One result of this is the formation of the Paris Agreement which was adopted by nearly every nation in 2015. One of the key elements is to keep global temperatures "well below" 2.0C above pre-industrial times and "endeavour" to limit them to 1.5C

As part of the challenge of keeping to the agreement, we need to change how we think about existing building projects. Many of your condominiums will still be in use 50 years from now, so retrofitting them is key to decarbonizing the built environment. A prior article in CCI Manitoba's *Condominium News and Views* introduced the Deep Retrofit process<sup>1</sup>, which looks at the entire building as a system to identify opportunities for improvement and looks to bundle the retrofit projects to maximize the benefits. Taking the Deep Retrofit approach lowers the Total Cost of Building Ownership (TCBO) for the unit owners. Deep Retrofits include selecting more sustainable materials, performing energy audits, upgrading building envelopes, insulation and windows and reductions in GHG emissions. Evolving government priorities and regulations are starting to encourage reductions in GHG emissions and improvements in energy efficiency and eventually will require these improvements. Taking a Deep Retrofit approach will make yesterday's buildings high performance buildings of the future, providing many benefits to condominium owners including...

- **Reduced Utility Bills:** A very attractive prospect is reducing monthly expenses in the form of lowering energy costs. A substantial part of a building's operating costs goes to gas, electricity and water bills, making utilities the largest controllable expense for condo owners and a condo corporation. Whether small or large, energy efficiency retrofits savings can add up. Older condos can cut these costs by as much as 30% with upgrades, and even newer buildings can realize savings of 15% or more.
- **Protection from Rising Utility Rates:** This year's Manitoba Hydro rate increases for electricity have averaged 2.5% and 2.7% for residential customers. While this is not the annual 7.9% hikes the Crown corporation previously said it would need until 2023-24 to address debt, it is clear Manitoba Hydro intends to keep raising their rates as much as it is allowed to. It can be easy to think that if utility prices go up, savings will disappear, but in fact, the more utility prices rise the more you will save. For example, if your utility bill is \$200 a month and through a retrofit you save 20%, your utility bill will now be \$160. If utility costs then rise 5%, instead of paying \$210, you will now pay \$168. This means that instead of paying an additional \$10 per month you would only pay an extra \$8. If utility prices rise year upon year, this could add up to a significant amount of additional savings.
- **Better Returns on Investment:** Individual retrofit projects will have higher costs and longer payback periods than if you bundle projects together. For example, projects having longer-term payback periods (e.g. re-insulation) could be integrated with those with shorter payback periods (e.g. lighting and boilers) to offer the predictable returns.

- **Increased Property Value:** A high performance building is more cost-effective to operate and more comfortable to live in, which protects your investment and is more appealing to buyers.
- **Increased Resiliency:** The definition of resilient design is the capacity of a system or community to be able to absorb and adapt to change. Climate change in particular is resulting in increased intensity and frequency of powerful storms and heat waves, sometimes leading to power outages. An example of retrofit to improve resiliency to climate change is increasing the levels of insulation in walls and roofs, such that in the event of power loss during the winter, will slow down the rate of heat loss, keeping you warm and comfortable until the power comes back on.

Deep Retrofits can result in a renewed asset that produces less GHG emissions, uses less energy, improves occupant health and well-being, and costs less to own and operate. How much can we do on a generous budget? What about a slim budget? What are realistic targets for retrofitting?



### EXAMPLE CONDO

- To illustrate the utility cost savings that can be made from implementing retrofits, an energy model has been created of a typical eight-unit residential building that is located in Manitoba. Using the energy model, the simple payback of potential retrofits has been calculated. In this case the retrofits include installation of a smart thermostat, upgrading to LED lighting and improved window performance.
- The smart thermostat will automatically adjust the indoor temperature according to your individual daily schedule. For example, during the winter months, if your unit is unoccupied, the smart thermostat will sense this and turn down the heat to save you money.
- The lighting replacement consists of changing all incandescent and fluorescent lighting with LED lighting.
- The window replacement is based on three medium sized windows per unit (approximately 2 m<sup>2</sup> each) and one large window/patio door (4 m<sup>2</sup>) for each unit, plus four medium sized windows (2 m<sup>2</sup> each) in the common areas, for a total of approximately 83 m<sup>2</sup>. For the savings calculation to follow, it is assumed that the current windows have a U-value of 2.0 and the new windows will have a U-value of 1.36, where the U-value is a standardized measurement of the window's heat loss. Currently Efficiency Manitoba offers a rebate of \$150/m<sup>2</sup>/ΔU, where ΔU is the improvement (reduction) in U-value of the new window in comparison to a standard U-value of 1.6. For the example at hand, although the window U-value is being reduced from 2.0 to 1.35, Efficiency Manitoba will only provide the rebate based on ΔU=1.6-1.36=0.24, which therefore translates to a rebate of \$36/m<sup>2</sup> for a total of \$3,000.



## CONSIDERING ENERGY EFFICIENCY AS PART OF THE RESERVE FUND STUDY (RFS) PROCESS

### ANNUAL ENERGY COST SAVINGS – FULL EIGHT UNIT COMPLEX

Energy saving Recommendation	Annual Cost Saving	Implementation Cost (material + labour)	Net Cost With Efficiency Manitoba Rebate	Simple Payback (Years)
Smart Thermostat <sup>1</sup>	\$585.00	\$2,800.00	\$2,660.00	5
LED Lighting <sup>2</sup>	\$1,212.00	\$800.00	\$640.00	1
Window Replacement <sup>3</sup> *	\$1,506.00	\$10,000.00	\$7,000.00	5
Bundled Together	\$3,303.00	\$13,600.00	\$10,300.00	3

\* The benefits of bundling upgrade projects together are shown in the examples in the table. Treated separately, a CC might only pursue the LED Lighting upgrade. However, bundling all three projects together, a 3 year payback period should be sufficient to do all three upgrades at the same time.

The benefits of bundling upgrade projects together are shown in the examples in the table. Treated separately, a CC might only pursue the LED Lighting upgrade. However, bundling all three projects together, a 3 year payback period should be sufficient to do all three upgrades at the same time. One thing to bear in mind with window retrofits and is the case with any envelope type retrofit, is that along with pure energy savings, thermal comfort will be greatly improved.

#### FINANCIAL INCENTIVES

Efficiency Manitoba (<https://efficiencymb.ca>) has many programs available for Condo Corporations. For example, they offer building envelope incentives on insulation, windows and doors. In addition, they also offer incentives on heating, ventilation and air conditioning (HVAC), controls and lighting. As can be seen with the energy modelling analysis above, Efficiency Manitoba incentives have been considered and as the corporation is new, they are currently developing new programs and revising old ones. It is worth checking in with them regularly to review the current programs.

In addition, the Spring 2020 edition of the CCI Manitoba Chapter Condominium News and Views has an article which explores Condominium Loan Financing<sup>5</sup>. Loan financing can be a viable option for condominiums to consider when repairing and replacing common elements if their reserve funds are not sufficient to cover all of the costs.

#### CONCLUSION

Energy efficiency is an important part of retrofit considerations in conjunction with your RFS. While a larger investment than originally planned for in the RFS would be required to replace building elements that look and perform better, doing so with the idea of bundling the projects together will provide the unit owners with lower TCBO, improved living comfort and improved resiliency against climate change. And not to be underestimated, it will provide better value for future owners and yield higher resale prices.

MELANIE CHATFIELD, P. ENG

Stantec

<sup>1</sup> <https://efficiencymb.ca/articles/get-smart-with-your-smart-thermostat/>

<sup>2</sup> <https://efficiencymb.ca/business/business-lighting/>

<sup>3</sup> <https://efficiencymb.ca/articles/high-performance-windows-2/>

### TOTAL COST OF BUILDING OWNERSHIP (TCBO) APPROACH TO RFS

This is the third article<sup>1</sup> in a series advocating the benefits of taking a TCBO approach in conjunction with the RFS process. The TCBO includes all costs incurred by the unit owners, whether directly for the upkeep and operation of their unit or indirectly through their condo fees for the common element expenses and reserve fund contributions. The example shown in the accompanying article shows the implementation costs for a deep retrofit project and the potential savings. However, given that these costs and savings are shared amongst all unit owners and the condominium corporation (CC) it isn't obvious as to how the expenditures would be funded. For example, it is worth noting that the RFS would likely have included only "Like for Like" replacements for the windows and would not have had lighting nor smart thermostats included, since the MB Condo Act<sup>2</sup> states the reserve fund is to be used to maintain, repair and replace. Where would the extra funds come from if not from the reserve? As well, for the CC in the example, the common elements would include only a portion of the thermostats, lights and windows, so how would the Board justify spending CC reserve funds for improvements in the individual units? Clearly, the project is of benefit to all owners but it isn't clear as to how the Board would proceed depending on the CC's Declaration and their interpretation of the MB Condo Act. Perhaps one possible solution could be to convene a meeting of all owners and pass a motion to approve the project. While the TCBO approach is the best way to go, some careful planning and forethought is required.

ALAN FORBES  
Chair, CCI MB Newsletter Committee  
Treasurer, WCC #619

<sup>1</sup> Prior articles can be found in the Winter 2020 and Summer 2019 editions of CCI Manitoba Condominium News and Views <https://cci-manitoba.ca/login>

<sup>2</sup> <https://web2.gov.mb.ca/laws/statutes/2011/c03011e.php#A143>

## AN UPDATE ON CONDOMINIUMS AND AIRBNB

The total revenue of the short-term rental market of condominium units has steadily increased in Manitoba since 2015, as has the use of condominiums to service this market.<sup>1</sup> Airbnb is the most recognized platform to provide such accommodations. It will be interesting to see whether this market penetration declines as a result of the COVID-19 health pandemic, but given Airbnb's recent indication that it still plans to list the company on public stock exchange<sup>2</sup>, this article assumes that Airbnb will remain a prevailing business in the future and, in turn, an important consideration for condominium developers, directors and unit owners.

Generally speaking, a 'short-term rental' is defined as a rental for 30 days or less, although the exact duration varies slightly by jurisdiction. In my view, short-term rentals are neither inherently good nor bad for condominium stakeholders. Each condominium corporation (CC) will have its set of circumstances and objectives when addressing short-term rental issues arising from platforms like Airbnb. In doing so, CCs will need to try and strike a fair balance between the interests of those unit owners that may believe short-term rentals erode their community living and the interests of other unit owners that may see short-term rentals as an opportunity for extra cash flow.

This balancing act may not always be easy. On one hand, short-term rentals can lead to serious issues involving the health, nuisance, safety and security of unit owners, or damage to the common elements of a condominium. One can simply Google search this topic to find numerous examples of these issues involving Airbnb rentals at condominiums. On the other hand, some unit owners may welcome and advocate for the opportunity to list their units as short-term rentals because of the economic advantages it can provide. This may be especially true for a unit owner whom frequently travels, or if there is an economic climate of recession, high unemployment or a saturated real estate market where a unit owner's ability to either earn income, or sell their condominium unit, may be diminished.

The board of directors of each CC will be tasked with weighing these considerations and must carefully deliberate on its decision to ban, limit or permit short-term rentals. If a board decides that short-term rentals are not appropriate for its CC, then the question becomes how to implement the board's decision. To understand potential answers to this question we can look to the developing regulatory policy and legal principles of other Provincial jurisdictions, as their larger short-term rental markets have mandated such guidance.

Starting with the regulatory side, particularly in cities such as Toronto and Vancouver, what we've seen thus far is the requirement for short-term rental licenses. For example, in Toronto, any individual seeking to short-term rent their *principal residence* for a period of 28 days or less must register for a license with the City of Toronto and, in turn, pay certain fees, remit taxes, etc.

A key takeaway about these licenses is that, although various fines for non-compliance are referenced, enforcement mechanisms are not comprehensively defined. Further, each registration of a license for a condominium unit remains subject to the applicable CC's by-laws. We will have to see how this plays out over time and iteration, but right now it's not clear if such licensing will do anything to improve upon the *status quo* – that there are no 'condo police' to rely upon to enforce rules and regulations. In the absence of such clarity and, particularly in the City of Winnipeg where short-term rental licensing has yet to be

implemented, a condominium that is looking to prohibit or ban short-term rentals is likely tasked to define and enforce its own by-laws or rules. In this regard and, from a good governance perspective, it is generally recommended that a CC use legal principles to build the foundation for such by-laws or rules.

Two key legal principles have emerged in case law to support the restriction of short-term rentals in condominiums. First, most condominium declarations will have language to the effect of, "each unit shall be occupied and used only as a private *single family* residence and for no other purpose". Courts have interpreted such language to prohibit an operation of a hotel-like business for short-term stays, as such, words are incompatible with the concepts of "check in" and "check out" times, "cancellation policies" or "security deposit"<sup>3</sup>. Second, courts have also held that condominium by-laws, which prohibit a unit for any commercial use without the board's approval, will be upheld, as Airbnb is a "license, not a lease" and "undeniably a *commercial purpose*"<sup>4</sup>.

Keep in mind, however, that while these legal principles are supportive of a CC's restriction of short-term rentals, they are by no means determinative. It remains to be seen whether these principles will hold up in the face of broader commercial support of short-term rentals like Airbnb, as shown thus far by adoption of short-term licensing in other jurisdictions. Often there is also room for interpretation of condominium documents - a 'gray area' –, which will require a CC to assess its own set of unique circumstances prior to enforcement of by-laws or rules upon its unit owners. Lastly, and most critical to note, is that short-term rental issues have yet to be tested or determined in Manitoba courts. In other words, while the above noted legal principles may be persuasive, they are not yet legally binding in Manitoba.

It follows that, if a CC decides to prohibit or ban short-term rentals, then it is recommended that clear and unequivocal language to that effect is included in its constituting documents (declaration, by-laws etc.) prior to enforcing the same on unit owners. This may require changes to the documents and, in turn, the calling of unit owner meetings and passing of votes. Mixed-use (residential and commercial) condominiums may not qualify at all to restrict short-term rentals. A CC will need to weigh these considerations against the practical aspects - necessity, time and cost – of implementing its decision to prohibit or ban short-term rentals. It is recommended that each CC consult its legal counsel to help navigate these issues.

*Note: This article is of a general nature only and is not exhaustive of all possible legal rights or remedies. In addition, laws may change over time and should be interpreted only in the context of particular circumstances such that these materials are not intended to be relied upon or taken as legal advice or opinion. Readers/viewers should consult a legal professional for specific advice in any particular situation.*

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<sup>1</sup> Statistics Canada: *Measuring Private Short-Term Accommodation in Canada*, dated March 14, 2019 (see: Tables 1 and 4)

<sup>2</sup> CNBC: *Airbnb files confidential IPO paperwork*, dated August 19, 2020

<sup>3</sup> *Ottawa-Carleton Standard CC 961 v. Menzies*, 2016 ONSC 7699

<sup>4</sup> *Condominium Corporation No 042 5177 v Kuzio*, 2020 ABQB 152



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## CONDO CONVERSATION CORNER: A VIEW & A VOICE

**T**he extension to the deadline for AGMs along with the logistical considerations have spawned much discussion. Have you held your AGM, and if so, did you do it virtually or in person? How well did it go? We'd be interested in your lessons learned. If you want to contribute to the discussion, you can make a submission to [cci-manitoba.ca/resources/condo-conversation-corner](https://cci-manitoba.ca/resources/condo-conversation-corner)

### ANNUAL GENERAL MEETINGS (AGMS)

The Province granted temporary relief for Condominium Corporation (CC) AGMs with a three month extension to the deadline in their Order 132/2020 <https://news.gov.mb.ca/news/?archive=&item=48161> in response to a request from CCI MB in May. In September CCI MB requested a further extension but at this time have not received a response.

A few topics pertaining to AGMs that have come up: meeting notice requirements, use of proxies, quorum requirements and virtual meeting format

#### 1. Meeting Notice

Some of our unit owner members were concerned about the amount of notice they received for their CC AGM. The Order 132/2020 did specifically address minimum notice times and the MB Condo Act section 116 only specifies a minimum of 30 days notice if the CC is seeking written consent during the meeting, such as for a Declaration change. While your CC By-laws should explicitly define a minimum for the AGM notice, there may be some variation across all of the CCs in the Province.

For reference, a quick survey was done of other Provincial Acts and we found 10-14 days was common. Ontario had 20 days for the AGM notice plus a requirement for a 15 day pre-notice, allowing for submission of items for the agenda and director nominations (seems like a good idea).

If your CC does not meet the notice requirements in your By-laws, what recourse do you have, as a unit owner? In Manitoba we have no 'condo police' or regulatory body, whereas Ontario, which is much further ahead of us in terms of condo regulations, does have their Condominium Authority of Ontario (CAO) <https://www.condoauthorityontario.ca/about-us/services/> - perhaps we need something similar here too. Currently, the MB Condo Act has a clause 116(5) which states "A unit owner or unit mortgagee who attends or is represented by proxy at a meeting is deemed to have waived the right to object to a failure to give the required notice, unless the unit owner or unit mortgagee expressly objects to the failure at the meeting." but at least does have a section (Part 12) on Compliance and Dispute Resolution.

#### 2. Proxy Forms

How much or how little detail is specified in the proxy form used by your CC? What steps are taken to educate your CC unit owners on how to properly fill out the proxy? There is some variation in the proxy forms used by CCs. Some leave the proxy appointee blank, so as to not influence the decision of the owner filling out the form. However, from a CC Director perspective, this can result in forms being submitted with the appointee field blank. Alternatively, the form could be filled out with a CC director's name, and without proper instruction on how to change the appointee name, it could be viewed as the current Board attempting to stack the deck so to speak. Another aspect of the proxy assignment is whether the unit owner is

wanting their proxy appointee to vote on matters as they, the unit owner desire, or as the appointee sees fit.

Manitoba and many other provinces make no mention of these practices and don't seem to have standardized proxy forms. Again, Ontario seems to be leading the way, with multiple variants of proxy forms (BC has a few too) and incidentally the CAO "strongly recommends against distributing pre-populated proxy forms" <https://www.condoauthorityontario.ca/resources/proxy-overview-and-sample-forms/>.

Manitoba and many other provinces have no specified retention periods for proxy forms, while a few have 90-180 days. Retention periods are useful if there is a dispute about voting outcomes at the AGM.

#### 3. Quorum Requirements

Lots of questions on quorum have come up. The MB Act has good guidance on quorum requirements

- 117(1)(a) those unit owners who hold at least 33% or, if a greater percentage is specified in the declaration, that percentage, of the voting rights in the condominium corporation and are present in person or by proxy at the meeting; or
- 117(1)(b) if there are fewer than four units or four unit owners, those unit owners who hold at least 66% or, if a greater percentage is specified in the declaration, that percentage, of the voting rights in the condominium corporation and are present in person or by proxy at the meeting.
- 118(1) Adjournment "...if a quorum is not present within 30 minutes after the time specified in the notice".
- 118(3) "If, on the day to which the meeting is adjourned, a quorum is not present within 30 minutes after the time specified in the notice, the unit owners entitled to vote who are present in person or by proxy at the meeting constitute a quorum."

Emphasizing proxy usage is always a good practice to ensure quorum is met so as to avoid the additional expense associated with adjournments due to lack of quorum. It is also a good idea to point out to all unit owners that they can fill out the proxy form and revoke it when they show up to the meeting. That way, if they had intended to be at the AGM but something happened at the last minute, they still have their voting wishes respected and their absence won't affect quorum.

#### 4. Virtual Meeting Format

MB Order 132/2020 specifically allows electronic/virtual meetings, regardless of whether the CC By-laws allow. The decision on whether or not to pursue the virtual option will depend on you CC and your unit owners. If all owners are tech savvy, the virtual option could work, but if many owners are not tech savvy or even lack computers or lack smartphones, then an in-person meeting (with social distancing and meeting protocols) would be the answer.

Voting can be a bit tricky for virtual AGMs, unless you use a voter software package or application, which could be pricey. Many CCs are emphasizing proxies to ensure quorum and if so, this can add to the complications of counting votes, depending on the type of proxy form used. For smaller CCs, vote counting can be easy, even in a virtual setting since it isn't that difficult to scan the computer screen to count raised hands for or against, or even use the 'raise hand' feature or the 'chat feature' within Zoom.



## CONDO CONVERSATION CORNER: A VIEW & A VOICE



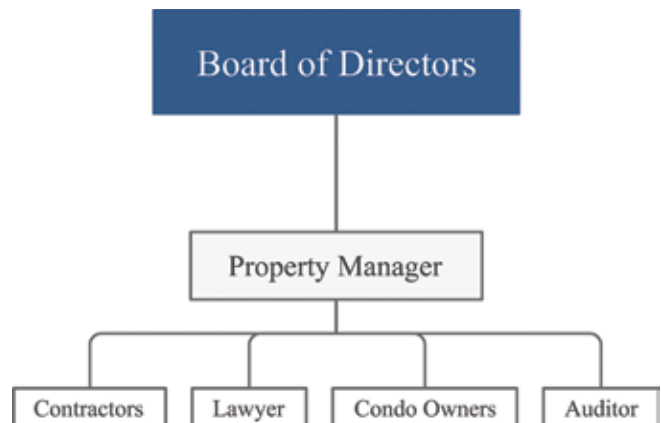
### CC BOARD GOVERNANCE

There have been a few inquiries pertaining to Board behaviour and what an individual unit owner can do if concerned about it. The behaviours mentioned include a perceived lack of responsiveness to inquiries from unit owners, a lack of communication relating to maintenance of common elements and planned inspections, ignoring requests for copies of financial statements, directors not acting in a respectful manner with unit owners and a general lack of conformance to the by-laws. In one case, the difficulty of meeting the 25% ownership threshold to request a special meeting, especially in these covid times, and in another case a refusal to call a special meeting after receiving a request with the 25% threshold. Certainly a lawyer could be engaged, but how to cover the costs?

#### CCI MB Response:

Concerns such as these are often related to the amount and quality of communication between the Board and the owners. Regular communication in the form of meetings, newsletters, surveys are always beneficial to sort out many of the issues that come up in the governance of a CC. Another communication issue is whether unit owner suggestions, initiatives and offers of involvement are viewed as helpful or interference - again good lines of communication can prevent actions from being misconstrued or misinterpreted.

Another aspect to consider is whether all directors abide by a code of ethics, such as this one from CCI National <https://cci.ca/resource-centre/view/755>. Equally important though is to recognize that directors are volunteers trying to do their best and as such, all owners should follow a similar code of ethics.



Another thing to consider is the chain of authority - basically who works for who. This can be an issue if the Board lacks the will or the understanding to perform their role. Three sample CC organization charts are shown on these pages - which one do you think is correct, if any? Which one applies to your CC, if any?

### CONDOMINIUM DOCUMENTS - DECLARATION, BY-LAWS AND RULES

A question came in from a unit owner asking how to assess whether "... *their CC documents were out of date*" and whether they needed to be updated with clarifications for the benefit of the unit owners. In this case, the CC was decades old and the documents apparently had not been updated. One of the issues raised is a minority of unit owners with inequitable access to common elements, while having to pay the same amount to cover the common expenses. Another issue is the lack of clarity in relation to maintenance responsibilities between the unit owner versus the CC. The decision on responsibility sometimes is based on precedence and sometimes based on an informal document of CC and unit owner maintenance responsibilities.

A few points to consider to answer the question about the documents being outdated include

- the documents certainly pre-date the MB Condo Act that came into force in 2015
- the documents likely don't have anything allowing electronic communication or virtual meetings
- how can a minority of the unit owners convince the majority to agree to a project to review and update all documents?

#### CCI MB Response:

Since the CC's documents predate the current version of the Manitoba Condominium Act (MB Condo Act) by a few



## CONDO CONVERSATION CORNER: A VIEW & A VOICE (CONTINUED)

decades, they are certainly outdated but whether they need to be updated is another matter. If the required changes to the CC documents are merely for “housekeeping” or cleaning up the wording, engaging a lawyer would probably not be a good use of the money.

One key aspect is to be aware of the documentation hierarchy and knowing the Condo Act has the highest precedence. In order of precedence the documents are

1. Manitoba Condo Act
2. CC Declaration
3. CC By-laws
4. CC Rules & Regulations
5. CC Policies

Recall also that there are approval requirements for amendments to the Declaration, By-Laws and Rules and that the requirements in the CC documents may be different than the requirements in the MB Condo Act (again, note the order of precedence). If the Board does not have a good understanding of their CC documents and of the MB Condo Act, they should probably obtain legal advice as to what the approval requirements are.

The MB Condo Act allows the CC’s documents to contain certain provisions which were previously not contemplated in the prior condominium legislation (such as the ability to fine or the right to remove a unit owner’s obligation to vote if they are in default of paying common expenses). The Board should review the MB Condo Act and consider whether it would be beneficial for their CC documents to be amended to provide for these provisions.

Outdated CC documents may still be usable but would require the Board to continually review the MB Condo Act as issues come up to see if it conflicts with the CC documents. However, in this case, the confusion over maintenance responsibility and the inequitable access to the common elements could warrant a documentation update project.

It is good practice for a CC to review their documents periodically, not only to assess them with respect to the

Condo Act but also to ensure they adequately support the operation of the CC - perhaps a review every five years or so would be a good practice. In addition, the Board of Directors individually should periodically review the documents, since they are responsible, directly or indirectly via the Property Manager, to follow and enforce the various rules and regulations. As well, unit owners should be familiar with the CC documents to govern their own activities.

In regards to the confusion over the maintenance responsibilities, precedence of prior activity should be taken into account to ensure consistency. For the CC in question, it should be possible to have a discussion amongst all owners to work through the various issues, come to an agreement, document them as a policy and have each owner sign off. Each owner could then keep a copy so that everybody knows who is responsible for what. This approach would avoid the cost of getting a lawyer involved but probably wouldn’t be practical for a large CC though, since the difficulty in achieving an agreement amongst owners increases with the number of the owners.

A trickier question for this CC is the inequitable access to the common elements. Do all owners contribute equally or equitably towards the common expenses and the reserve fund? If the answer is that there is indeed inequity and it is significant, it may warrant an update to at least the CC’s Declaration, unless some other informal agreement or policy can be worked out.

Related to these questions is the common theme of communication between the Board and the owners. Regular communication in the form of meetings, newsletters, surveys are always beneficial to sort out many of the issues that come up in the governance of a CC.

### CONDO UNIT USAGE RESTRICTIONS

A question occasionally comes up in relation to commercial activities in a condo unit. While there are such things as commercial condominiums (such as in a strip mall) where commercial activities are clearly allowed, it is much less clear in a residential condominium setting. Besides the usual concerns about short-term rentals (such as AirBnB and ‘Ghost Hotels’), which was addressed in a recent CCI MB virtual Lunch and Learn) a recent inquiry came in asking “Can a condo owner operate a business from his/her unit in Manitoba?”

#### CCI MB Response:

The question of whether a unit owner can operate a business will depend on what the Condominium Declaration says. Assuming it says something to the effect that “the unit shall only be used as a single-family dwelling”, there is a strong argument that using the unit for solely a commercial purpose is in contravention of this provision. However, where the unit is being used as a home business, the answer is less clear. In that case it would depend on the specific language in the Condominium Declaration, the nature of the home business and whether such home business is permitted as a home-based business under the applicable zoning by-law. 🍁



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This Bulletin Board is a place where YOU the condo community members can connect, post and share information.

*How do I post an item?*

That's easy - Simply send us an e-mail to [ccimanitoba@cci.ca](mailto:ccimanitoba@cci.ca) answering the following questions:

- Tell us about what you would like to Post?
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- How long would you like the your item/inquiry to remain on live on our page
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Please be sure to include any documents and pictures you wish to include in your post. Once we receive your email, we will review your submission and post it...it's that easy! <https://cci-manitoba.ca/resources/bulletin-board>

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