



Brant Condominium Corporations' Association

www.mybcca.ca

info@mybcca.ca

To Educate and Advocate

Board of Directors Meeting

November 1, 2017

MINUTES

1. Meeting roll call and declaration the meeting is in session at 1:02 p.m. In the absence of Erle George the meeting was chaired by John Gilson.

Present: Chevy Cheveldayoff, Michelle Droogendyk, John Gilson, Marv Larsen, Frank McPherson, Roger Luton, Heather MacKellar

Regrets: Erle George, Richard Carpenter

Guests: David Corbett, First Ontario Credit Union, Manager, Cash Management (1-800-616-8878 x4013)
Mauro Mauri, FirstOntario Credit Union, Associate Vice President, Business Services (1-800-616-8878-4707)

Ron White, BCC #75

2. Presentation: Reserve Fund Investments & Loans to Condo Corporations-see notes at the end of these minutes.
3. Approval of October 2017 minutes: Moved: Frank , Seconded: Chevy, approved.
4. Banking: \$206.89 in the bank. Moved: Chevy, seconded: Frank, approved.
5. Report on court cases:
 - The Ontario Superior Court recently addressed what constitutes an addition, alteration or improvement pursuant to section 98 of the Condominium Act, 1998 (the "Act") in the decision of Justice J.R. Henderson in Wentworth Condominium Corp. No. 198 v. McMahon. The Judgement, which considered whether the installation of a hot tub on an exclusive use common element was captured by section 98, has been making waves in condominium communities throughout Ontario. A decision is currently pending from the Court of Appeal that will have far-reaching effects. In this case, the

applicant condominium corporation sought an Order compelling the respondent owner to remove a hot tub, privacy fence, water fountain and metal trellis from the backyard exclusive use common element area behind his unit. The privacy fence, water fountain and metal trellis were addressed in the corporation's rules, but the unit owner claimed that the corporation was selectively enforcing those rules. The owner further maintained that the hot tub was not an alteration, addition or improvement and, therefore, did not require an agreement pursuant to section 98 of the Act. While the Court's finding that there was no selective enforcement of the rules was unremarkable, its decision regarding the removal of the hot tub, and its interpretation with respect to the application of section 98, has left some condominium boards and managers feeling like they are in hot water.

- Section 98 of the Act sets out that an owner may make an addition, alteration or improvement to the common elements that is not contrary to the Act or the corporation's declaration if, among other things, the board has approved it, and the owner and the corporation have entered into an agreement that addresses cost allocation and sets out the respective duties and responsibilities (including the responsibilities for the cost of repair after damage, maintenance and insurance). Of course, such an agreement isn't required where the change isn't an addition, alteration or improvement.
- In its decision, the Court found that, despite the fact that the hot tub in question was 6 feet by 7 feet by 4 feet high, weighed 1000kg when full, and was connected to the unit for purpose of supplying electricity, it was not an addition, alteration or improvement. So what constitutes an addition, alteration or improvement? The Court found as follows:
 - an addition was something that was joined or connected to the structure, but that a connection to a power supply did not qualify;
 - an alteration was something that changes the structure, and was permanent;
 - an improvement was something that increases the value of the property.
- Ultimately, the fact that the hot tub was not affixed and could be removed (albeit requiring two men and a half hour to do so) meant that it was not permanent, and did not increase the value of the unit. The court drew an analogy to barbecues that were connected to other units in condo by gas lines and were permitted to remain.
- Time will tell if the Court of Appeal will agree with the application Judge's narrow interpretation of Section 98, or give condominium corporations a more workable solution. (taken from: By David A. Di Lella B.A. (Hons), LL.B Partner Horlick Levitt Barristers & Solicitors)

- This will be troubling since it restricts a corporation's control regarding additions, alterations or improvements on exclusive use common elements.

6. Correspondence - none

7. Business Arising - none

8. New Business

- Emergency water shutoffs – in a 20 year old complex the shutoffs are in the driveways and many have been damaged by snow plows, etc. Several owners have put in new driveways and have had to repair the shutoffs as the old driveway is excavated. Costs are in the area of \$2300 to have the shutoffs repaired or replaced. A lot of work is involved - digging 6' deep, may need to trench.
- Update from John Gilson regarding the Brant County's draft plan for Waste Collection Services for Condominium Developments: The draft was approved at the September Council Meeting. However, there are conditions and guidelines and there is an application process. If you are interested in having the County collect your garbage and recycling (and potentially saving your corporation a lot of money), please visit the Minutes page on our BCCA website (www.mybccca.ca) to download your copy of the approved draft which includes all the details to apply for this service.
- Update from John Gilson on the Human Rights application he made on behalf of the residents in an apartment building on Fairview Drive to obtain handicapped access. Work is well underway and there is now handicapped access! They are still working on a new parking area near the handicapped access to include handicapped parking. Also a new and improved relationship has developed between the building management and the tenants.
- Bulk indemnity agreements (An indemnity agreement, often referred to as a "section 98 agreement" or "alteration agreement", is an agreement between a condominium and one or more unit owners. It regulates who is responsible for a unit owner's change to the common elements. (source: Smith Valeriotte's website: The Condominium Practice Group/Indemnity Agreements)
 - Ask about the additional cost for future additions/changes
 - Must be signed by all owners to make it a bulk for the entire corporation
- The Annual General Meeting minutes will be reviewed and emailed. If/when the electronic copy is received from the keynote speaker it will be emailed.

- Parking - Visitors (and occasionally owners) park on the roadway (fire route) in front of units disregarding signs that indicate “No Parking - Fire Route”. This is a safety issue.
 - Check with the Fire Department to see if your complex is registered. It must be registered in order to have someone come out and ticket the offenders. If the complex isn’t registered with the Fire Department and the Board wants to be able to have offenders ticketed, it is necessary to provide a map of the complex showing the location of the units and the fire hydrants. There is a one-time charge for this.
 - In one complex a Board member prints a notice to be left on the windshield. The notice indicates that further offences will result in fines.
- Chevy will arrange for a speaker to explain how units are appraised (for insurance purposes as well as real estate values). Moved: John Gilson, seconded Heather, approved.
- Next meeting, December 2017 will be a BCCA 2018 planning meeting. There will not be a guest speaker.

9. The meeting was adjourned at 3.02 p.m. Moved: John, seconded: Marvin. Approved.

2017 Meeting Dates:

December 6. Please see our website (www.mybcca.ca) for information and guest speakers.

Guests are welcome to attend BCCA meetings (now being held in the Community Room at the Brant Mutual office at 20 Holiday Drive, lower level, access from rear parking lot) across the road from the Brantford Best Western.

Those wishing to attend a meeting are asked to contact Erle George (226-387-3352 or erle@karenged.com) prior to the meeting to ensure that adequate space is available.

If you no longer wish to receive these emails, please notify us by email at info@mybcca.ca

PRESENTATION:

Reserve Fund Investments & Loans to Condo Corporations
FirstOntario Credit Union
Mo Mauri
David Corbett

FirstOntario's origins go back 78 years. They have 32 locations including one in Brantford.

Why is FirstOntario in the condo industry?

1. The condo industry has been under-served by banks.
2. A credit union is directly owned by its investors.
3. Reserve Funds represent about \$500 million in Ontario.
4. They recognize that board members are volunteers who likely do not have a banking background and need knowledgeable support.
5. The Condo Act requires that a Board have an investment plan but many board members do not know that.

Motto: Amazing Rates + Redeemable Feature

FirstOntario realizes that condo boards need flexibility with their investments in case of unplanned, unexpected expenses.

- If you have to cash in a GIC 6 months into a one-year term you will get the same rate AND there will not be a penalty to redeem the money.
- They encourage multiple investments (different terms) in order that one can be cashed in if needed while others remain untouched.
 - If you are investing \$150,000 then consider 3 GICs of \$50,000 each
- Funds may be added.
- They will meet with Boards and present investment plans/options.
- They do have a system to deal with Operating Fund monthly expenses on a cheque basis and are developing the means to deal with EFTs (electronic fund transfers) with a goal of having that in place by the new year.
- There is also a 'savings account' option to keep the money totally liquid.
- There is no restriction on transfers between Savings (Reserve Funds) and operating accounts (Operating Fund).
- The fundamental difference between banks and credit unions: credit unions give a large part of the profits back by means of favourable interest rates.
- Credit unions are legally required to have enough funds in reserve to ensure they are stable (Deposit Insurance Corporation of Ontario).
- Even though your corporation deals with the bank your Property Management Company deals with, you can go to your Property Manager and tell them you know where you can get a better rate.

FirstOntario Reserve Fund Study Planning Tool

- Examines the Reserve Fund Study, the money in the Reserve Fund, how much your investment is earning from the bank, future expenditures that are planned and creates a chart showing how much money there will be at various times that could be invested to earn greater interest. If invested with FirstOntario, the funds can be redeemed without penalty.
 - Their condo specialists will come to a Board meeting with the planning tool completed and ready to present to the board. (Prior to the meeting, the Board will have to provide FirstOntario with the information they need to input the corporation's specific data into the planning tool program to create the investment statement.)
 - If changing from current investment to FirstOntario, the Board must open an account and write a cheque to make the deposit – there is no “hands off” electronic transfer available. There is a significant liability in making a “hands off” transfer. It is far easier to close an account and deposit to the new FirstOntario account.
 - If a Board has money invested with FirstOntario, they will receive a monthly recap of the interest rates being offered by various credit unions and banks.

Loans to Condo Corporations

- They are working on a program (lending and/or investing) for residents of corporations whose funds are invested with them. The goal is to have the program in place in the new year.
- They are working on a program which should be in place in the new year for lending money to condo corporations
 - Generally far easier if the corporation has a Property Manager since they are the ones who register liens, etc.

Note

FirstOntario has a number of offices for investors. However to discuss condo corporation investments and/or loans please contact Mo Mauri or David Corbett at the telephone numbers shown in the “guests” listing of these minutes.