

# **CCI Canadian Condominium Institute**

## **Nova Scotia Chapter**

### **ADVOCACY COMMITTEE**

## **PROPOSAL to GOVERNMENT**

November 2007

**The Canadian Condominium Institute (CCI)** is celebrating its 25<sup>th</sup> Anniversary this year. It prides itself as being the voice of condominium in Canada. The Nova Scotia Chapter began 24 years ago as a Provincial Association and later joined CCI Canada as the Nova Scotia Chapter. There are approximately 20,000 condominiums units in Nova Scotia and 4,000 of these are members of the Nova Scotia Chapter through their condominium corporations. Member corporations are located in Sydney, Truro, Pictou County, Annapolis County, Lunenburg County and Halifax County. The number of members is growing each year and membership is spreading across Nova Scotia as new condominium projects are being developed.

### **CCI provides a forum for condominium owners to get together for:**

- **Educational Courses and Seminars**
- **Networking**
- **Professional Referrals and Advice**
- **A Voice to Government Legislation**

CCI services include an ACCI designation for Professionals involved in the industry, Chapter and National Newsletters, publications related to Condominium ownership and management and advice on development standards.

At a recent Annual General Meeting of the Nova Scotia Chapter the audience expressed the feeling that CCI Nova Scotia Chapter was performing well with respect to its mandate to educate those involved in condominium, in offering professional advice to its members, and developing best standards and practices for condominium directors and professionals. There was a feeling, however, that CCI Nova Scotia Chapter should assume more of an advocacy role with respect to developing methods to protect condominium buyers and owners from a serious problem that has long existed and is growing exponentially with the explosion of Condominium Developments in Nova Scotia.

## **The Problem**

The root problem is that many purchasers of residential properties, particularly condominium developments of all types, are faced with a multitude of varying latent defects and construction deficiencies soon after the Condominium Corporation is registered and assumes control of the property.

These deficiencies are sometimes apparent shortly after management of the property is transferred from Developer to Condominium Corporation, but often, they do not manifest themselves until the Warranty Period has expired.

When these problems are detected, Condominium Corporations seek remediation from the Developer. All too often, they are met with either complete denial of any responsibility or with insincere assurances of action that only serve to delay and compound the problem.

In some instances, the company that developed and sold the property turns out to be a stand-alone shell corporation that no longer has any assets. This leaves the Condominium Corporation owners with only one option, fix and pay for the problem themselves with successful legal action to recover their costs extremely doubtful; even if the law rules in their favor with a positive judgment.

Who is left holding the bag for the unexpected costs of fixing construction deficiencies for what is probably the largest purchase of their life? The Condominium buyer !

It is not a coincidence that many developers build sub-standard, deficiency riddled buildings. There are many good developers and builders but there are also many developers that take full advantage of the lenient permit requirements, loopholes in the inspection process and lack of knowledge or license requirements. Many provinces have regulations in place that require all Developers and contractors, not only plumbers and electricians, to pass stringent testing prior to obtaining a license. Nova Scotia does not.

## **CCI Action**

CCI Nova Scotia formed the Advocacy Committee. Its members include condominium owners, lawyers with vast Nova Scotia condominium experience, Property Managers, Real Estate specialists and a former Developer. Their combined experience means they were very familiar with all aspects of Condominium purchasing, living, construction and management.

Their mandate was to explore and recommend methods of ensuring that the purchasers of residential properties, particularly multi-unit Condominium buildings could purchase their home with adequate regulations and safeguards in place to protect them from problems of this nature.

CCI Nova Scotia Chapter sent out a questionnaire to all members requesting more information on their experiences in purchasing their condominium. The responses were overwhelmingly filled with experiences of having to fund repairs for construction deficiencies. Respondents reported costs ranging from hundreds of thousands to over a million and a half dollars. This was a cost to individual owners in the building, \$37,000.

Many condominium owners are reluctant to publicly state the problems they are facing because taking this action may impact negatively on the value of their home. For many it is their major asset. In circulating the questionnaire the Advocacy Committee stated that the responses would not be released in any manner that would identify the problem with a particular condominium development. The following quotes from returned questionnaires will serve to illustrate the problem while still maintaining the confidentiality of the respondent:

- “After five years from new (the building), moisture and rot. Outer cladding and balconies removed and replaced. Cost \$400,000”.
- “Leaks; Drainage Problem; Roof Shingle Replacements; Building Settling Problems; General Repairs. In many cases work started but not completed. Promises, Promises, Promises - Never kept.”
- “Chimney needed replacement. Furnace changed from specs resulting in extreme heat (in original chimney) and in units above the furnace room.”
- “Poor construction.....Inferior wooden windows and patio doors were installed without proper insulation, resulting in leaks and eventual rot.....To date the cost to the owners has totaled approximately 0.5 million dollars”
- “A professional engineer was employed by the Board to assess the building for leaks and their causes.....It was recommended that the siding (brick) be removed and flashing installed correctly around decks and windows. The cost was borne by a special assessment for the owners and re-mortgaging the superintendents unit. Condo fees will be substantially increased this year since the reserve fund must be replaced.”

- “Brickwork was removed from entire damaged area. Extensive structural rotting resulted in replacement of beams, studs etc. Steps were taken to remove mold. Corporation (Condo) assumed responsibility because repairs had to be done and warranty claim was denied.”

These quotes taken from responses made by different condominium corporations serve to illustrate the problem. Recent press coverage identified problems in one condominium that will result in special assessments to the owners of \$20,000 - \$35,000.

The CCI Advocacy Committee gathered information on the programs in place in other Provinces with particular emphasis on Quebec, Ontario, and British Columbia where similar problems have been encountered in the past. The Committee was particularly impressed with the process used in Quebec.

### **The Recommended Solution**

Based on the information gathered, the CCI Advocacy Committee has developed a list of recommendations with the goal to have Government enact Legislation to provide increased protection to the residential purchaser.

These recommendations when enacted would provide more stringent requirements for obtaining developer/contractor licenses, building permits and more complete consumer protection for the residential property purchaser.

Our recommendations are:

1. Improve the quality of construction by:

(a) Mandatory annual licensing of all developers/contractors, through a Province regulated program of education and testing.

(b) More stringent requirements to obtain new Residential Development Permits such as, the obligation to register with a Provincially regulated Construction Association.

***The developer would be required to deposit in a Fund controlled by this Association, a Performance Bond based on a percentage of the value of the development for which the permit is requested. This bond would be held for a pre-determined period of time after the completion of the project to cover any latent construction defects.***

(c) Mandatory third party (arm's length) Project Management of the development by a certified engineering firm. The engineers would supervise the complete construction project on behalf of the Condominium Corporation to be registered. Their job would be to insure that all is in compliance with the approved plans and all building codes.

2. Amend the Provincial legislation to include developers, contractors, sub-contractors and suppliers in the arbitration provisions of the Condominium Act.

These recommendations were discussed at the CCI Nova Scotia Annual General Meeting held in September 2007 and unanimously endorsed by the members in attendance.

### **Further Recommendations**

In addition, the members present at the annual meeting unanimously recommended that the following issues be addressed and added to the report:

- The Residential Construction Regulations Committee recently announced and established by the Minister responsible for the Condominium Act should include representatives of the industry and not just government employees.
- The same process re inspections during construction should apply to remedial projects
- Architects & Contractors should be at arm's length from the Developer or company
- Realtors should be acting at arms length from the Developer
- Developers and Contractors should be held responsible - not sub-contractors

CCI Nova Scotia Chapter respectfully submits all these recommendations to the Government of Nova Scotia for action. CCI Nova Scotia will make its resources available to work with the Government to bring about the necessary changes to the Condominium Act and such other Acts of the Legislature that may be affected.

Sincerely

Norma Cameron, President  
CCI Nova Scotia Chapter

Dan Galletti, RPM, Chairman  
CCI Advocacy Committee

