

SPRING 2019

YOUR CONDO CONNECTION

So, You Want to Self-Manage?

~ By Tom Birchall, CCI NS Secretary

I am intending this to be the first in a series of articles dealing with all aspects of self-managing your condominium corporation whether it be two units or two thousand, a single purpose apartment type building, raw land, or a townhouse type sub-division. While each has different issues, there are common problems and solutions.

Condominium Management Companies provide a vital service to owners and boards alike; however, some boards elect to “go it alone” for a variety of reasons. It is not my intention to get into the comparison of Management Company versus self-management, rather I am trying to provide some guidance based on my personal experiences as president of a self-managed corporation. Let’s start at the beginning.

Congratulations, you just bought your first unit. The lawyer has explained a lot of foreign terms like; Reserve Fund Studies, Declarations, Common Elements, By-Laws, Monthly Fees, Special Assessments and so on. This is usually accompanied by a stack of files (electronic) or mountains of paper. We will talk about these various documents, and others, as the series unfolds. For now, it makes sense to review your rights and responsibilities as a unit owner. (Condominium Owners Your Rights and responsibilities: <https://beta.novascotia.ca/condominium-owners-your-rights-and-responsibilities>)

In simple terms a Condominium is nothing more than real property that has two elements to it – some of the property is owned individually and some of the property is owned collectively. The owners of the property owned individually can do pretty much what they want with their property – sort of and the property owned collectively operates through a board of directors elected by the members of the condominium corporation. Think of the property owned individually as a “house” and think of the property owned collectively as a “town”. You look after your house, but any material alternations must be approved by “town council”. The town council also looks after the emergency services, snow clearing, community-oriented by-laws, etcetera. It is

the board’s primary responsibility to manage the affairs of the corporation for the benefit of the unit owners.

A word here about the corporation; it is corporation in every sense of the word and has all the mandatory filing and operating obligations of any corporation. In our case the corporation is governed to a large extent by the “Condominium Act” of Nova Scotia (<https://www.canlii.org/en/ns/laws/stat/rsns-1989-c-85/98853/rsns-1989-c-85.html>). It is also governed by various federal and municipal regulations. The Board of Directors consists of a President and Secretary-Treasurer and one Director at Large at a minimum and more usually; a President, Vice President, Secretary, Treasurer and one or more Directors at Large. Each officer or director brings their own unique talents and strengths to the board.

Now that you are a unit owner and you’ve read the “mountain of paper”, the Condominium Act, and become interested in helping, you decide to run for the Board and put your name forward. Lo and behold you are elected/acclaimed as it's newest director – now what? One of your first tasks in a self-managed environment is to be sure you know who is responsible for what; be it administration or operations, and your part in the structure. You might even consider taking a CCI NS seminar to get a better understanding of your role.

If the board is considering a change from managed to self-managed, there are myriad details to be considered and the decision should not be treated lightly. The key, in my opinion, is to be well informed, go slow, and communicate the process as much as possible. I cannot over-emphasize the importance of effective communication and dialogue during the initial stages of the transition process. To the extent possible, I recommend that the owners approve the board’s direction at an open general meeting

If, after all the discussion and research, you still want to self-manage read on!

~ Continued on page 2

PRESIDENT'S MESSAGE

~ by Devon Cassidy, CCI NS President and Lawyer with Cox and Palmer



Happy spring! Although it has been a wet April, we are looking forward to better weather and finally being able to take advantage of our exclusive use common elements such as balconies and patios.

We are also approaching Annual General Meeting season. To get Boards and Professionals ready for this major event in a condominium corporation's annual calendar, we presented a seminar on Rules of Order to help give some structure to your meetings. Make sure to review the article in this issue, which highlights the tips from our presenter Michael Kennedy.

Since our Winter newsletter our Board has been diligently working to assess our administrative needs, and working to improve our communication with our membership. We have not been responding to queries as promptly as you have come to expect from us and we are working to resolve this. Our fantastic Board has decided to distribute the administrative tasks among Board members with a focus on process building to allow for more seamless communication between CCI NS and our members. You should be noticing this change already, and we encourage you to tell us how we are doing, and how we can better provide value for membership. Ideas for seminars and newsletter articles would be much appreciated

CCI NS is finishing up our Spring 2019 education program and beginning to look towards our fall education program and our AGM. We will update you on the dates for both of these events in our Summer newsletter.

Our Board is also excited to be sending one of our Board members, Barbara Hart, to the CCI National Leader's Forum being held in St. Johns ' NFLD from May 29 to June 1. We look forward to her report in our next issue.

Have a lovely Spring and I look forward to seeing many of you at our May education seminar.



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Our condominium law team represents over 400 existing condominium corporations in Nova Scotia and continues to grow their services throughout Atlantic Canada. With extensive experience in this area since 1982, our lawyers advise on all areas relevant to condominium boards and owners. Our team also has extensive experience with the development and registration of new condominium corporations.

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NEVILLE ON THE LEVEL! PLANING ON THE LEDGE

~ From the pen of Neville

As the number of condo-dwellers increases, so does the need to have, at least in part, some piece of their garden with them. Others, of course, have no clue what to do or where to start, and it's to these people I will focus a bit on...and the rest of you can just read this for the sake of reading, I guess.

Here are some bits of advice and thought:

If balcony gardening is a first-time thing for you, keep it simple. See what others have grown successfully, ask a professional (not everyone who works at a garden place is an expert) and choose wisely so you are not disappointed. We've all gone out and grabbed a bit of everything, or worse yet, decided that we can grow it all from seed and in no time our balcony offerings will be on the cover of International magazines globally. The best way to discourage a new gardener, whether on a balcony or in a field, is to go to crazy. Like plants, allow yourself to grow experience, and be patient.

Knowledge is power, so first of all, figure out how much light you'll be getting on your balcony. Do you get morning sun, late afternoon, or are you in an all-day scorcher? This will better help you choose what (and what not!) to plant. There are a lot of wonderful plants available that thrive in all sorts of situations, (many flowering plants, herbs and veggies thrive in a lot of sun for example) so knowing the environment before you start is always a bonus.

Watch your plants for over and under-watering. When plants are potted, they can dry quicker, so be aware of their needs. Just because the tag on the pot said "water once a week" you may have to adjust it a bit. (and make sure they have proper drainage, or you'll wind up with a water garden!)

Keep your plants stressed a little. Plants that are packed a little close together or are in pots that are a little snug tend to try a bit harder, especially if you want them to bloom. Water and feed them as you should (again, get the good stuff and follow the instructions) but don't baby them too much. I always say to treat them like your partner...ignore them for a bit and they will react better when you do pay a little attention now and then.

Don't be afraid to push the boundaries, too, if you have the space and time of course. (Our growing season isn't long, remember) I have a little balcony any I drag out ALL my house plants for the summer, including orange and lemon trees, orchids and other tropical delights. Oh, and think of what it's like to go out in the sun the first time each summer.... plants can and WILL burn. So, put them out for a few minutes the first day, and a little longer each



Neville MacKay

day for a week or more, just to be safe. Here's the best advice, so pay attention. Enjoy your balcony garden, pour yourself a glass or cup of your favourite drink and relax amongst the beauty you have... and if something didn't do so well, get a bouquet from your favourite florist (wink wink!) and remember, there's always next year!

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Fear not, this summer our past newsletters will be available on our website for the first time ever!

Stay tuned on our Facebook page for the official announcement - @CCINovaScotia

MISSING THE NEWSLETTER?

We are now only publishing a digital newsletter. This newsletter is sent to our email contact list for members. If you are not receiving the newsletter directly and would like to, please contact us at info@ccinovascotia.ca and we will make sure you never miss another issue of the newsletter.

Registration for the Bi-Annual CCI National Conference is now open!

May 30th to Saturday, June 1, 8:00 am - 4:00 pm
Delta St. John's Hotel - St. John's, NL

Registration for the second Bi-Annual CCI National Conference & Tradeshow is now open. Register today and take advantage of our Early Bird rates. *CCI Rocks the Rock* will be held in North America's oldest city, the beautiful St. John's, Newfoundland.

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DON'T PLAY FAST AND LOOSE WITH YOUR BY LAWS

~ by Lorena MacDonald, Harbourside Realty and CCI NS Board Member

Lately, many Corporations have been reviewing By Laws and Declarations. Changes are being made to adapt to current times. Issues that weren't of concern 10 years ago need to be addressed. Electronic progress has made communication changes necessary, and condo communities are evolving and have a more defined idea of what they want to offer to their unit owners. Hot topics of late are Air BNB's, Cannabis, Smoking and Pets. Many Corporations have made the necessary changes to prohibit one or all of the previously mentioned items. We are all aware of these issues, but there are smaller issues that can become bigger problems. When you purchase your condo, one of the forms you sign is an agreement and acknowledgement that you have read the By Laws and Declaration and agree to

live by them. This is where the problems begin. For some unknown reason, many unit owners sign this acknowledgement but then do not believe that these rules apply to them.

Often, a Condo Board or Management Company will make exceptions for a unit owner or tenant. This is a very bad practice. You make an allowance for a friend or that sweet little lady down the hall, and then what do you do when the next person wants the same privilege.

If you start to ignore your By Laws, soon they won't have any value. Your Condo Corp is not the only one with By Laws. All condominium corporations have By Laws. They are put in place because they work. You have many different owners with different beliefs and wishes and ideas of what should work.

You need Guidelines to prevent chaos. For instance, many condos do not allow flags on balconies. You might think, what is wrong with a cute floral flag. What if it is constantly whipping in the wind, hitting your building, and the noise bothers other unit owners. What if another unit owner wants a large flag that is very noticeable from the road? It could get worse. What if the flag is offensive to the majority? See how it can snowball out of control? The solution - abide by the By Law that does not permit unit owners to display flags.

Folks, it might seem petty, but it can quickly get out of hand and cause conflict. Stick to your By Laws and you will regain control.

SUPERS HAVE LIVES TOO!!!

~ by Lorena MacDonald, Harbourside Realty and CCI NS Board Member

Most condominiums have Superintendents, maybe one, often a couple and some have their own condo unit provided by the Condo Corp, while others do not live on site.

Often Superintendents that do not live on site, receive a higher hourly wage and are expected to only spend a few hours a day on site, but they are always on call. Unit owners and Board Members, should keep in mind that they are on call for emergencies or inspections. Maybe, a move in or out, but not at your beck and call.

It is quite common for Supers to burn out. Their position becomes 24 hours a day and 7 days a week. It changes from an after-hours emergency line to a complaint and nuisance line. It is important for unit owners and tenants to have respect for their superintendent's privacy and after hours' time. There is no need to call about minor issues at night. You should not call on a Saturday to complain.

When you have an after-hours emergency, you will want and need your Supers, so don't abuse them. Respect their time off, don't knock on their door in the evening if it is not an emergency.

Great Supers are hard to find. Don't drive them away!




Legal advice to meet your condominium needs.

Lauren Randall
Real Estate Lawyer
lrاندall@boyneclarke.ca
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The personalized approach to managing condominium properties

Defibrillators in Condominiums

~ by: Rod Escayola | August 30, 2016

One of the questions we are increasingly being asked by our condominium clients is whether they should consider installing automated external heart defibrillators and, if so, what liability may be associated with the installation and use of such defibrillators.

It is well-known that the steps taken in the minutes following a cardiac arrest may make a difference between life and death. Defibrillators, if well maintained and properly used, can make a life-saving difference. The good news is that, in most cases, both the corporation and the user of a defibrillator will be protected against liability.

Study on surviving a cardiac arrest in high-rises.

Earlier this year, the Canadian Medical Associate Journal published a study on the survival rate of patients presenting a cardiac arrest in high-rise buildings. The study was conducted in the City of Toronto and the Regional Municipality of Peel, which were selected because of their high population density. Sadly, the study concluded that the higher a patient was in a high-rise, the lower was the expected survival rate. The study concluded that this

was due to the fact that high-rise buildings posed unique challenges for 911-initiated first responders, such as:

- Building access issues;
- Elevator delays; and,
- Extended distance between the emergency vehicle and the patient.

All of this contributes to longer times before the initiation of resuscitation manoeuvres.

The authors concluded that reducing barriers to 911-initiated first responders may help improve the response time. Some of the recommendations made by the author included granting paramedics with access to a universal elevator key (as fire departments). Another one was to implement a policy which resulted in alerting building staff before the arrival of the first responders to allow them to facilitate/accelerate the first responders' intervention. Finally, the author of the study

~ Continued on page 8

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Defibrillators in Condominiums ~ Continued from page 7

recommended placing automated external defibrillators on specific floors, in the building lobbies or inside elevators to grant bystanders access to them.

Legal ramifications of installing a defibrillator in a condo

Under the Regulated Health Professions Act, the use of a defibrillator is a controlled act, which can only be performed by a health professional authorized to do so, unless it is performed in the context of rendering first aid or temporary assistance in the context of an emergency. Such an emergency situation is usually defined as a situation where an individual believes that another is experiencing a life-threatening event that requires the provision of immediate care.

Still, the question we often get is whether the decision to use (or not to use) a defibrillator attracts personal liability.

In Ontario, since 2007, the Chase McEachern Act (or the Heart Defibrillator Civil Liability Act) provides that someone, who in good faith, voluntarily and without reasonable expectation of compensation or reward uses a defibrillator on someone experiencing an emergency is not liable for damages that may result from this person's negligence in acting or failing to act, unless it is established that the damages were caused as a result of gross negligence.

That answers the question of whether a bystander is protected following the decision to use or not use the defibrillator in an emergency situation. But what about the corporation's decision to install a defibrillator?

The same legislation provides that, despite the Occupiers' Liability Act, any person who owns or occupies premises where a defibrillator is made available for use (in this case, the condominium corporation) and who acts in good faith with respect to the availability or use of the defibrillator is exempt from civil liability for any harm or damage that may occur from the use of the defibrillator unless:

- the corporation acts with gross negligence with respect to making the defibrillator available; or,
- the corporation fails to properly maintain the defibrillator.

Prior to the adoption of the Chase McEachern Act (and in addition to it) the Good Samaritan Act applied similar protections to anyone who voluntarily and without reasonable expectation of compensation or reward provides emergency first aid assistance at the scene to a person who is ill, injured or unconscious as a result of an emergency.

Lessons learned

There is likely no legal obligation on a condominium corporation's part to install a defibrillator. Still, such a decision is an important one worthy of serious consideration. In the event a condominium corporation decides to install a defibrillator, the corporation should ensure it properly maintains it. The corporation and anyone using a defibrillator in good faith, in the context of an emergency, can expect to be protected from personal liability unless damages are caused as a result of gross negligence.

Permission granted to reprint this article first published on the "Gowling WLG" condo law blog, Condo Adviser.ca

- Nova Scotia Heart and Stroke Foundation will provide Guidelines and Positions currently being utilized.
- Government of Nova Scotia is currently working on legislation (Bill 94) regarding Public Access to Automated Exterior Defibrillators.



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What a Shame if you missed this Dynamic Interactive Seminar

~ Michael Kennedy CCI NS Education Chair

On April 23, 2019, Michael Kennedy, education chair, presented on a topic which he feels strongly about, the proper running of a meeting using Rules of Order. Michael's high energy presentation style was a welcoming break from the rainy evening.

Michael began by discussing the different types of rules of order available for a Board to use as a reference and to provide structure to meetings. He stressed at a Board level formal rules of order may not be necessary but understanding the basic principles of rules of order allows you to rely on these to control a meeting. Michael stated his belief that at an AGM, this type of structure is very helpful and should be used where possible. If a Board is not familiar with order rules, it is possible to appoint a chair well versed in these types of rules, to run a smooth and productive meeting.

The remainder of the presentation highlighted the running of a productive AGM using rules of order to create a proper agenda, and how to properly move through the agenda items ensuring an improved allowance for discussion and for everyone to be heard.

The importance of a chairperson at the meeting -. The chairperson provides leadership in running the meeting, but more importantly all motions, questions and discussion should go through the chair to allow for staying on topic, improved debate and time allocation, and less emotion. By not directing questions at a special owner or board member, but rather having them go through the intermediary chair helps keep discussion civil and reduces the change of the discussion becoming personal.

The second part of the presentation involved a mock AGM being run among the attendees. Stacy Wentzell, a condo owner and Realtor, volunteered to be the Chair and Jack Rossi, a Property Manager, served as Secretary.

Robert St. Laurent, a CCI NS Board member, then put forward a motion for discussion "Should we buy new lawn furniture for the Corporation". Michael then called upon the remaining audience members to discuss, make amendments to the motion and refer the question to committee for further review. It was a great way to encourage audience participation and allowing attendees to see how a meeting could be run.

Michael's take away was to stress that the rules are not there to constrain you in a meeting but allow for a structure to fall back on and help you move through the matters at hand. Rules are in place if used wisely to help provide for a constructive and democratic meeting, not to hinder the business of the meeting.

What is a Standard Unit, when it Comes to Insurance?

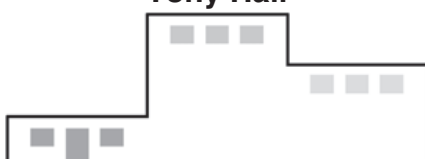
~ by Lorena MacDonald, Harbourside Realty and CCI NS Board Member

You may or may not know what a standard unit is in your Declaration. When a Developer offers units for sale, they describe a standard unit. This is usually the unit offered for sale without any upgrades. For instance, a two-bedroom unit, with wall to wall carpeting, except for tile in the kitchen, bath and laundry. Oak or white melamine cabinets in the kitchen and bath with laminate counter tops and acrylic tub or shower units.

Now picture your condo complex. How many of you have upgraded to hardwood floors? Do you have granite?

~ Continued on page 11

Tony Hall



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A FIERY TALE of SUBSTANTIAL DAMAGE and its AFTERMATH

~ Excerpts taken from a presentation by Pat Cassidy, Lawyer with Cox and Palmer

On February 23, 2019, CCI-NS presented a seminar which asked the question, how does a corporation address a disaster. Patrick Cassidy, QC, a partner at the law firm Cox & Palmer, and Edmund Nix, Vice President, Senior Client Executive, at BFL Canada presented a case study on the fire which occurred at Halifax Country Condominium Corporation #100 (HCCC #100) on Inglis Street on May 8th, 2018.

Their presentation followed the timeline of the actual event, beginning at the fire and ending with the resolution. Both Pat and Ed had the same initial reaction upon hearing that there had been a fire on Inglis Street – Which one of our client's buildings were effected? From there both went to work and waited for the call from one of their clients.

Pat explained to the audience that as per Section 35 and 36 of the Condominium Act, a Corporation must repair damage to the units and common elements unless a determination is made that the cost of repair is 25% or more of the value of the buildings immediately prior to the occurrence of damage. In the case that the cost of repair reaches the 25% threshold, owners who own 80% of the common elements can vote to repair. If the vote to repair fails to pass, then the corporation must submit for registration a notice of termination of the condominium corporation and the Registrar shall accept the notice. There is no discretion. The Board has 30 days to make the determination of the cost of repair and then must hold a vote within 60 days of that determination. The notice of termination must be filed within 10 days of the vote.

The impact of the termination of a condominium corporation is that the unit owners become tenants in common with the other unit owners. This means that they each own a specific percentage of the whole. There are no remedies, no governing documents and no collection powers within this arrangement. This is akin to moving from a system of government to a system of anarchy.

Ed stressed that the 30 day timeline for a determination of the value of damage was much too short. In order to determine the value of damage there is a requirement for an adjuster to view the property, as well as determine the cost of repair. It is not realistic to expect this to be done in 30 days. He stated that there is no way to know the damage to the building during this timeframe.

Pat agreed with Ed's assessment of the 30 days, stating that it puts a burden on the Board to make a determination that they are not able to make. In respect of the 60 day vote time frame, while initially he was of the opinion that the timelines were draconian; as he worked through

the process he came to the opinion that you need to have tight timelines and be heavy handed about those timelines in order to force the owners to make a decision in a short period of time. The only time frame he continues to believe to be too short is the 30 days to make a determination of damage.

As Pat and Ed recounted the steps they each were taking during the 10 months from the fire to the date of the seminar, the number of moving parts and unexpected issues which came about from this incident were amazing. Attendees were surprised by the time a rebuild would have taken to complete and the fact that all the same condominium costs such as condo fees and mortgage payments, would be due during that time. More shocking was the fact that based on the carrying costs of the damaged condominium unit, as well as the living costs to rent or buy somewhere else, there was a high chance that many unit owners would find themselves bankrupt due to the extreme costs of supporting two properties.

In the end HCCC #100 was able to sell the damaged building and the land to a purchaser, which allowed them all to move forward with the next steps in their lives. It was a success story that surprised Pat and Ed as they worked through their files, and the audience as it was recounted to them. Pat and Ed both mentioned how pleasantly surprised they were by the way HCCC #100 owners all worked together to get to this resolution without any fighting among owners, and keeping everyone involved and informed of the process.

In their conclusions Pat and Ed stressed the following important points:

- 1) Make sure your Corporation has full replacement value coverage in their insurance policy.
- 2) As a unit owner, review your personal unit policy to determine the value of your living expense coverage, to ensure there is enough to cover a multi-year rebuild.
- 3) Have a regular appraisal completed on your Condominium so that there is a base appraisal to rely on. Importantly, a reconstruction appraisal should be completed every 5 years to ensure your Corporation is appropriately insured.
- 4) Know the difference between what is covered by the master policy and your unit owner's policy.

It was a very interesting case study to hear about and a cautionary tale to the attendees to make sure they understand their personal and corporation insurance limits.

What is a Standard Unit, when it Comes to Insurance? ~ Continued from page 9

What about custom bathrooms? Not exactly the standard unit offered for sale by the Developer. What you need to keep in mind, is that the Corporation insurance policy covers the standard unit in the event of damage or complete loss. What does this mean to you? Well in the event of water damage that ruins your hardwood floors, the condo corporation would cover the cost of wall to wall carpeting and your personal insurance policy would cover the upgrade cost to hardwood.

For this reason, you should insure that you have betterment coverage in your insurance policy. Make sure your Insurance provider is aware that you have upgraded your unit or that the previous owner had done so. Then they can provide the best coverage to protect you in the event of damage or loss.

MARK YOUR CALENDAR FOR THE NEXT CCI SEMINAR ON May 21st, 2019

The Condominium Act and You: Understanding Specifics and Reporting

The Condominium Act was enacted in 1989 in the early days of Condominium in Nova Scotia and since that time it has undergone large scale revisions. Devon Cassidy, an associate lawyer at Cox & Palmer, your CCI-NS President and the President of her Condominium Corporation, will be leading a seminar to help you understand this piece of legislation and how it impacts your condominium. Devon will draw on her experience as a condominium lawyer and a unit owner to provide a review of the Condominium Act overall and highlight those sections of the Act that you might not ever realize you are failing to comply with.

Please join us on May 21st, 2019 at the Future Inns, 30 Fairfax Drive, Halifax.
Registration will open at 6:30pm and the session will begin at 7:00pm.

For CCI Members the cost is \$50 for the first registrant from a member corporation and then \$30 for each additional registrant from the same member. The fee for non-members to attend is \$100.

See you there

So, You Want to Self-Manage? ~ Continued from page 2

Pass this article along to someone who is not a member of CCI NS;

Provide feedback on the article.

Tom Birchall has been the president of his local condominium corporation since 2012 and together with his board operate a 74-unit townhouse type development that is still growing. They have agreed to share their many "lessons learned" from changing to a self-managed corporation in 2011. The views expressed herein are theirs and do not necessarily reflect the opinion or views of CCI NS.

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Parker Deighan.....	Open Door Property Management.....	902-880-1335
Brian and Angel Dort.....	Providence Property Management.....	902-292-6156

OTHER SERVICES

Kirk Mock.....	BroMoc Print & Litho Ltd.....	902-481-2704
Wayne Sajko.....	Fennell and Associates Appraisers Limited.....	902-453-5051
Brian Walker.....	Tri-Tech Weatherproofing Services.....	902-616-9570
Rob Mabe.....	Maxium Financial Services.....	905-780-6150

REAL ESTATE SERVICES - REALTORS

Stacy Wentzell, FRI, ACCI.....	Harbourside Realty Limited.....	902-456-2740
Sue Graham.....	Greenwood Lane Inc.....	902-491-2905
Bonnie Hutchins, FRI.....	RE/MAX Nova.....	902-488-2820
Alex Astbury, FRI, ACCI.....	Red Door Realty.....	902-499-1119

RESERVE FUND STUDIES

Rachel Smith, P.Eng.....	WSP Canada (Halifax).....	902-425-4466
Jim Fletcher, MASC., P.Eng.....	Bluenose Engineering Ltd.....	902-403-3001

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