

The Benoit Chronicles

This section is included as it illustrates an unusual aspect of Condo ownership, an individual deciding to sue the Condo Management and the Condo Corporation. It is a summarised collection of e-mails **sent out** by an Owner at the Windtower, Michael Benoit, who rented his apartment to tenants during the 2009-2011 timeframe and who experienced numerous problems with the imposed fees, access cards and infractions. He had many a run-in with Latulippe, probably in his case partly a result of a big clash of personalities, but he was not alone in experiencing difficult behaviour from Latulippe and a complicit Board. Initially in 2009 there were the mandatory rental fees to SHS, the outlawing of external rental managers, additional surcharges, service fees, infraction policing etc., some of which were partly rescinded in early 2010 as a result of a separate group action. For Michael Benoit, enough was enough and as you can see from the following, he decided on his own course of private legal action to sue for loss of rental revenue. As it happens he was very prolific in his e-mails in the public domain so we can recall the story of how this all unfolded.....**the words are all his** and speak for themselves. Most of the activity is centred around the 2010 AGM and also the middle of 2011. We do not know all the details of any settlement. See the last page for comments.

28th January 2010

Alain's interference between Asset West (*a Canmore Rental Agency*) and myself along with my tenant in December of 2008 took place prior to the resolution passed at the end of January by a Conference call that motioned that Alain of SHS/GSL would be mandated the sole property manager at the Windtower by this Board. (Meeting #50?)

Alain started meddling for obscure reasons. Tired of being bothered, my tenant through Asset West terminated our contract prematurely at the beginning of January 2009....with myself incurring lost rental revenues of 6 months. This followed my termination of my property management agreement with Asset West in April 2009. Thankfully I wasn't charged for breaking my agreement. This was after having received notification of the resolutions passed at the conference call Board Meeting that took place at the end of January - with notices having being sent out only in March 2009.

Anyway, this interference is subject of my first Civil Action against members of the Board and Alain personally....I will spare you the details. This is not against the Corporation or the Condo Association by any stretch of the imagination. As far as I and my legal council are concerned these people have failed grossly in fulfilling their responsibilities and duties. It's personal.

The second Civil Action resulted when I attempted to rent my unit myself. I did so but was then interfered with personally. I tried managing the tenant myself. Alain refused my tenant's access to the storage locker which has been on loan to me since the very beginning siting my unwillingness to follow the Board's bylaws. He indicated my tenant would not have access to the common area or the fourth floor....so I entered into a verbal agreement with Alain in May 2009 to act as my property manager. It was then that I sought legal counsel and started to research the Condo Bylaws, Board Minutes, Condo Act, Rental Management Agreement, Rental Board of Alberta, Consumer v Complaint...etc. and I started pushing back.

After many promises of doing a better job...blah, blah, blah...by the end of August Alain failed to provide a written property management agreement outlining responsibilities and a rental agreement with my tenant outlining responsibilities. There were also some issues of a more minor nature that he failed to inform me about. So...after all was said and done... I terminated the verbal agreement at the end of August 2009. This resulted in more threats of fines, blah..blah..blah..

Then my tenant informed me that Alain and SHS had threatened to garnish her rental cheques they had in their possession to pay restitution to Alain of GSL for my having terminated our agreement - like \$1000 or so.....so she consulted her lawyer and terminated her lease with me prematurely following his advice. And I cannot blame the tenant. She moved out in mid-October. So...I started pushing back even harder... Since then I have been finding and have been managing my own tenants. I keep in contact with them by phone. I also travel from Wetaskiwin to Canmore every last Thursday of the month to complete the Ving card exchange with my tenants. Things have gone well and there have been no complaints or issues....because basically the Board and Alain haven't been involved because I have proceeded to a Civil Action against them. Though I have yet to file.

Throughout the entire process I emailed Alain and the Board siting conflicts of interests, violations of the bylaws and I Condo Act on their behalf, inconsistencies in administration and management practices at the Windtower, errors in levying fines...all of which seemed to fall on deaf ears....no meaningful communication other than the ongoing threats uttered by Alain. Great people skills!

Quite frankly until I advised that I would be proceeding to Civil Action and a complaint against Alain to the Rental Association of Alberta that issued Alain's licenses....only then did the interference cease and did they seek mediation through a lawyer...it took a year for them to get the picture!! I suspect this is Alain's doing.

Which brings us to where we are now...though I would love to be compensated for lost revenues and damages they have created under the Condo Act...the most important thing right now for me is that I want things fixed. I want this Board and Alain of SHS to get their crap together and fix the administrative and management procedures and protocols they are using to make them less intrusive and user friendly for everybody to follow....even for themselves. It must be a nightmare!! Figure it out, and if not, hire somebody who can do the job...and stop wasting everybody's time and money needlessly.

If this were to transpire I would probably demand less in my Civil Action around damages....but this has yet to be seen.....so I await the Board's next move and additional information from their lawyer. One thing is certain though, I will eventually expect some restitution from these people personally...how much so will depend on how and when they fix this mess they have created.

29th January 2010

I think he (*Latulippe*) grants his own titles under the SHS banner. Does he not own the company? He may have some financial backers? This I do not know for sure.

The important thing though is whether there are/have been conflicts of interests...and with the Board's recent announcement via their lawyers' recommendations after reviewing the situation...this is the case...that's what has been admitted by the Board. With Alain acting on behalf of the hotel, Corporation and now as a property manager under another one of his umbrellas GLS Realty...such conflicts have resulted in damages under the Condo Act to condo owners who rent. Such warrants damages as stipulated by the Act and possible compensation for revenue losses. In my cases the first (*civil action*) will probably be against the Board members and Alain and the second will probably be against Alain of GSL Realty and his employees. It's a legal mess.

We will see how the procedures and protocols are to be fixed for the betterment of condo owners first so everything from daily inconveniences - Ving card system - to violations in the Condo Act - interference with a contract - are addressed - whether losses thereafter will be determined and negotiated through their lawyer - versus through the courts - is yet to be seen. I think this is the direction however as none of us wish a long and expensive court action.

MB

19th February 2010

My comments to **Bob Ward**....the Board's counsel.

I have reviewed the documentation sent and it meets most of my expectations. I am glad to hear that the Ving card system is to be reviewed and changed - great for the hotel wholly inadequate for condos the way it's being managed. My only questions at this point pertain to fees.

- 1) Is the \$300 set-up fee a one-time fee for rental units or is this a fee rental unit owners must pay every time a new tenant moves into the unit? If it is a one-time fee I am not opposed if this is to be a fee to be paid every time a new tenant moves into the unit I am opposed. This needs to be clarified as I have no intention of paying an administration fee every time a tenant moves into the unit. However, I am not opposed to an annual \$300 fee for example.... regardless of how many times tenants move in and out. Case in point, I have tried to rent my unit for 6 months to 1 year repeatedly but have had to settle for shorter term leases and in some cases tenants have terminated leases prematurely as their circumstances have changed and have given notice to move out. This is purely the nature of the rental market/renters in Canmore and even the way the Windtower is being managed or not managed by the Board and Alain of SHS and is not of my own doing.
- 2) The \$100 fee for tenants moving in and out is inappropriate. If residential owners pay the fee to move in and out of their units I am fine with this however if you are imposing a fee for renters to move in and out of the building this is discriminatory and will be contested in Court I assure you. I will not pay such a fee no more than I will pay a fee imposed on rental units for garbage disposal and gas usage just because you think renters create more garbage or use more gas than resident owners, this is ridiculous and discriminatory. As is assuming that renters will create more damage moving in and out of the building. Is there a \$100 fee paid ahead of time by hotel guests because they may also create damage at the Windtower? No. I will say it again STOP this discriminatory practice!!

The damage deposit renters must provide to cover damages to my unit and to the common property (this includes the elevator) is collected to cover such damages to the elevator and fines if they should violate any noise by-laws and as such when they move in/out of the building - an extra fee is redundant and as I stated previously discriminatory and inappropriate. If a tenant is excessively noisy moving in or out and/or damages the common property like the elevator, impose a fine. Notify the owner and the owner will notify the tenant that such fines will be payable and deducted from the damage deposit that the owner will return within 20 days to the tenant. This is the action that is done at other buildings where I own rental property...and is the accepted industry practice that follows the Condo Act regarding damage deposits.

Please see the Act regarding damage deposits and I suggest that the Corporation follow the guidelines where it is explained and set wherein to deal with this matter so they act in a fair and equitable manner. This fee is not in keeping with the Act and I can see it being further contested like the other fees you previously created for questionable reasons with prejudice. At this point I have read through the materials in brief and will provide further feedback to you over the week-end when I have had a chance to review it in more detail and reflect on possible scenarios and situations where the procedures and protocols may go amiss due to a lack of detail.

I wish also to be assured at some point that my concerns regarding Condo Act violations by the Board and Alain of SHS will be addressed, with fines and compensation for lost rental income to be negotiated and justifiably forthcoming to those of us who have been affected by poor communication, the lack of clarity, consistency, management and administrative errors created by the Board and Alain of SHS. I know I am not alone in this regard. The statute of limitations is 2 years and is fast approaching and would like this resolved sooner than later...through mediation or through Civil Court matters little in the end...though would prefer this matter settled with a mediator out of court. I just wish to know how I should proceed.

Please advise the Board that I have communicated with other members of the condo group and decidedly many of us who have been treated inappropriately throughout this whole ordeal by Alain, threats, lies, manipulation; my interest in filing a complaint with the Real Estate Council of Alberta to request a review of his conduct to ensure that it is in keeping with industry standards. Whereby after their review they can choose the appropriate action to be taken as listed on their website. This is the recourse I have suggested versus filing a complaint with the local RCMP. And if future problems with Alain's conduct should arise a precedent with his licensing body will have been established and condo owners can exercise their voice in this manner instead of being continually frustrated and angered to the point of outrage. They will have an avenue of complaint being that the

Board seems uninterested in hearing any, as all matters must go through Alain who of course can say whatever he so wishes; all positives I am sure is communicated to our Board when it comes to our concerns.

Let it be known that if we as condo owners and our tenants are to be held to a higher degree of accountability so things work more smoothly at the Windtower, as they should, is it not reasonable in return to expect that Alain of SHS and the Board to be held to the same level of competence that they expect from all of us? It goes both ways and all eyes are watching to ensure incompetence and breaches of trust do not occur again because of poor organizational planning and communication on the part of the Board and Alain of SHS.

Please consider my request to examine violations to the Act as I have outlined in my Civil Actions documentation and compensation for lost revenue thereof. I would be happy to work with you as a mediator. Thank you for all you are doing to help all of us clean up this mess and bring this matter to a reasonable conclusion so we can all move forward successfully.

M B

19th February 2010 (2)

As far as the threats go...this is not unusual in dealing with Alain and I have numerous emails that support his threats of involving lawyers, security, RCMP, court orders and so on....this is how Alain covers up his incompetence in managing the issues surrounding condo ownership and users. He doesn't know what he is doing. Frankly I don't think he really knows what to do...he's never managed condos before even though he just completed his qualifications/registration in Alberta to do so. He has no experience...or the people skills to deal with condo owners that are very different than issues around hotel guests. I'm sure he makes a great hotel manager. The fact is hotel guests and their problems go away...we don't

I for one have no intention of relieving the pressure on someone who is so clearly unable to meet our needs as condo owners...and we pay him through our condo fees to threaten us? This Board needs to give its head a shake. He's either pulling the wool over the eyes of this Board or they are as incompetent as he surely is in managing...either way...we're kind of screwed until either clear protocols and procedures are put in place for people to follow that make sense, either the Ving card system is changed, the Board or some members of the Board are replaced or SHS is replaced. Maybe a combination is required? Who knows at this point? Until we receive more information....it's all speculation.

Needless to say....a whole lot of damage has been done in destroying people's trust...and I've lost rental income to boot in the whole process so...a few words cannot really describe how I feel...it's mixed up and messed up.

M B

22nd February 2010

As I have commented previously to Bob Ward, a lawyer of the Board I have been in consultation with regarding my civil action, the damage deposit collected by the Corporation as set out in the Condo Act covers potential/possible damage to common property and by-law infraction fines for excessive noise and so on...as such any additional fee of this nature - beyond the Act - is prejudicial and discriminatory in nature and will be subject to challenge.

If resident tenants, conference users of the facility and hotel guests don't mind paying a move in/out fee for moving in furniture, bikes, excessive luggage, TVs and so on - that equally has the potential to cause elevator damage - then I am okay with the fee as I have advised previously.

M B

24th.February 2010

The Ving cards were never intended for condominiums it is a hotel security system and was a rather sort-sited decision on the part of our Board to approve this to improve the security of the 3rd and 4th floor...which it was supposedly intended.

There are plenty of systems being used but they way I figure is that the hotel wanted the Ving card system. Alain, who once again knew little about condos at the time and I'm sure swore that this system would serve everyone's needs if those condo users could just learn the system...well maybe if we just punish them through fines and threats they'll get it? Then renters came along...and outside property managers came and...well we all know the poop hit the fan in a big, big way didn't it. Great response time management...thankfully none of these people are medics or firefighters.

M B

3rd March 2010

As I mentioned in a previous email I have elected to proceed with a formal complaint with the Real Estate Council of Alberta to review my 2 civil action cases regarding the rental of my unit and the administrative and management practices of Alain Latulippe of SHS/GSL. I will also be filing my 2 civil actions with the Provincial Court of Alberta to recoup lost rental revenue and associated expenses due to the interferences of Alain of SHS and Alain of GSL as the agent of the Board as well as the Board itself. I have notified the Board and Alain of my intentions by email previously and will be filing the complaint and civil actions today.

I advised the Board and Alain of my intent to do so back in September of 2009 and have been patiently awaiting a response from either the Board or Alain. I have heard nothing!! Other than being contacted by Bob Ward in December (one of the Board's lawyers) I have heard nothing further regarding Alain's accountability or compensation/restitution for loss rental income, associated expenses and violations of the Condo Act by this Board and its representative Alain of SHS concerning the rental of my unit.

Without a doubt, issues of accountability will be addressed at the AGM and new Board members will surely step forward, I applaud this move. However a nagging question remains as a result of breaches in respect and trust as to whether Alain's future conduct will change as a result of these changes. Will it? Will the next Board be more effective? Will there be fewer conflicts? Being that I have my doubts and have heard doubts from many others, I think it is necessary that Alain's conduct be reviewed by an independent source so if any future issues arise complaints can be addressed in a more timely manner than what has transpired over the course of 2009 in particular. Why issues were not addressed in a timely manner and were allowed to get so out of control is beyond me?

Though I do believe that the Board is ultimately responsible for what has transpired as they are Alain's employer, Alain is the real estate "professional" who has been hired to advise them on administrative and management matters as he is supposedly the certified professional; it does not appear to me that he has fulfilled this responsibility very well under his management agreement with our Corporation nor to his licensing agent - the Real Estate Council of Alberta.

Saddened, M B

5th.March 2010

No matter where we live...people recognize poor management and service. I have sent a complaint to the Real Estate Council of Alberta regarding my concerns with Alain of SHS/GSL Realty. I realize Alain is subject to the whims of a voluntary Board with varying degrees of expertise and abilities. However at the same time, Alain is the certified professional that is hired to advise the Board and to provide us with services in a professional manner so he has his obligations to meet certain industry standards by his licensing organization. If falling short of this, his conduct needs to be reviewed by his licensing organization. This is the way it is. The Complaint that relates to my two civil actions is currently on route through registered mail. From September until now I have had no further interactions with Alain - much to my relief considering the ongoing communication problems and conflicts I experienced throughout 2009.

If I should have any future problems with Alain of SHS I will not hesitate to act quickly with his licensing organization. Others may assume that a new Board may taken action...may keep Alain in check....but I must reiterate...after what I experienced in 2009 I think that might be as likely as Mike Tyson coming out of retirement and becoming the next Heavy Weight Champion of the World. I intend on ensuring that measures are put in place so what happened to myself and others associated with my unit in 2009 never happens again at the Windtower.

M B

23rd March 2010

I have proceeded with 2 civil actions against the Board and Alain of SHS. The \$29,000 is suggestive of the sum of lost rental income and fees at the minimum of the suit and does not include damages...both suits are equivalent to \$25,000 - the maximum under the Act. My position is \$50,000. The Board and its lawyer have 20 days to respond. I await their response at which time I will find out if this is an actual settlement offer or if it will be a contest with the involvement of a mediator. In any case I will be seeking my own legal counsel for advice and direction.

Further to this, in filing my recent complaint with the Real Estate Council of Alberta where Alain's conduct will be reviewed, new Board members coming on-board and greater voice collectively things are moving in the right direction to ensure that greater accountability is in place for future issues that arise. All I can honestly say is...though I do not expect people or things to be entirely perfect, I think many of you will agree with me that the less I have to do with that weasel Alain of SHS the better.

M B

24th March 2010 (after AGM)

"The board's lawyer predicted that my claims would be denied by the courts.".....see AGM Minutes.

I am sending you this email to offer clarity. My claims have not been denied by the Provincial Court of Alberta. The Board's lawyer is spouting words that might be potentially misleading and false - perhaps intended to scare others off from filing a similar claim? Let me try to dispel any fears.

The two civil claims have in fact been filed and accepted at my local Provincial Court office here in Wetaskiwin. Upon receipt of my filings of both civil actions and dispute notes by registered mail, the Board has 20 days from the date of receipt of my claims to do one of the following:

- 1) Not respond, which means that they plead no contest to my allegations of wrongdoings whereby I will be filing a default judgment against them for the amount I am seeking in lost revenue and damages for failure to follow the Condo Act; \$50,000. The Court will then order them to pay.
- 2) They can file their dispute note, disputing my claims for lost rental income and damages incurred by the Board and their agent; Alain. If so then our dispute will go to mediation.
- 3) Mediation takes place in Calgary, Red Deer or Edmonton - closest to my place of residence - with a provincially appointed mediator whereby I will be sitting down with the mediator and someone from the Corporation (not their lawyer) to "discuss" the claims and come to some kind of resolution...and a possible settlement.
- 4) If this fails then it proceeds to a pre-trial hearing before a judge where attempts are made prior to trial to settle.
- 5) If this fails then a trial date is set and I will be able to plead my case before the judge in a formal hearing to reach a resolution. The judge actually explains the protocol and the rules of order before the courts to argue the case. It must be noted in

all cases that Civil Court is the Court of the people - Judge Judy if you will is the closest thing I can think of - lawyers are usually not involved in such proceedings as claims are below \$25,000. People at the Court house have provided information and are readily available to explain proceedings and are very helpful. Lawyers can become involved if it goes to trial but I doubt this will cost the Board \$29,000 in legal fees to defend my 2 cases and this figure is more suggestive of the amount of money they will collectively spending in total legal consultation for everything that has transpired. Case in point, the only legal costs to file my 2 cases is a \$200 filing fee/case and registered mail postage. Roughly \$500 in total and a further \$300 consultation fee to a lawyer I consulted with initially to get the ball rolling...\$800. So if the Board does spend \$29,000 defending my 2 cases one could argue vigorously that they haven't used the financial resources of the Corporation very well....attracting further scrutiny and accountability...which many of you discovered at the AGM they evade readily and quite easily.

As for the \$10,000 deductible for the Board's liability policy, they may very well pay the deductible expense and the insurance company will pay out the outstanding \$50,000. This I do not know...and is purely speculative. This would be the method I would hope - to minimize the cost to the Corporation and to us as individual condo owners who pay condo fees. For those who are in a similar position as myself who have lost rental income and are seeking damages for mismanagement under the Condo Act, do not allow the Board, Alain or its lawyer to deter you from seeking out accountability through civil action...it is relatively simple....otherwise they'll just keep on doing whatever they can get away with to protect their own assets...if you know what I mean...denying the rights of others in the process which when it comes right down to it they don't seem to really care.

M B

15th October 2010

Since Standens is still conducting itself in this manner - doing nothing but jerking me around it would seem -my civil action is proceeding. I appeared in Calgary at a scheduled pre-trial conference with Robert Bourassa and the Board's lawyer present to determine if a mediated settlement would be possible of if the 2 cases concerning obstruction of my tenants should proceed to trial.

In the course of the discussion the judge who reviewed the case saw sufficient merit in my case. Even though Robert and lawyer felt strongly that it would be thrown out based on a technicality. They also asked that the trial be switched to Canmore and I argued for the case to be heard in Calgary. The judge ruled in my favour on both accounts. Needless to say Robert was not too happy when he left with his flushed-faced lawyer in tow. Since then I have hired a lawyer from Calgary to represent my interests and coincidentally will be meeting him in Calgary tomorrow morning to review a new civil action statement as suggested by the judge at the pre-trial conference and will approve the sharing of documents with the Board's lawyer. Once this is completed the lawyers may negotiate a settlement however I really want to see both Robert Bourassa and Alain Latulippe in court under oath before a judge to explain their conduct and decision-making concerning access to the building by my tenants and the "forced" use of Alain as the sole property manager within the Windtower for owners who rent their units. Which in both cases resulted in tenants terminating their leases prematurely because they couldn't get into the unit via the elevator Ving card system Standens managed. Terminated leases + lost rental revenue = claim for lost income and damages.

As this plays itself out, RECA has been advised that I am proceeding through the courts and I am to advise them of the outcome to determine if further action is warranted against Alain. At this point Alain is not longer selling or renting units at the Windtower...a decision that I believe came about as a result of my complaint with RECA. They however have no jurisdiction over his employment with the Board. As long as Standens - Alain - continues to be the property manager of the Board whose President works for Standens parent company and vote along with the developer of the building who together hold a majority voting share due to the number of units they own and control the Board and its decisions, there is nothing further to be done about Standens directly.

I am however hoping if the Board and Standens are indeed found liable that through the expenses of the Corporation and the subsequent increase on condo fees to unit owners that such a back door approach will bring about the necessary political pressure to change the property management at the Windtower...for the betterment of all concerned...for greater fairness and improved services. But I'm not holding my breath...

M B

19th May 2011

Under the advice of counsel I have elected to settle the matter prior to going to Court next week to save both ourselves and the Condominium Association further legal costs. I am happy with the settlement but cannot disclose details.

As for Alain, I am still involved in a complaint against his conduct with RECA and hope to have my complaint heard/finalized before year-end. Otherwise, I have no further concerns with Alain or the Board and legal action against both has proven to be successful courses of action to bring about positive change.

M B

Extract from Board Meeting Minutes #68; 14th.May 2011

Litigation

- The Chairman advised the meeting that a settlement on the basis of the directions from the Board in the meeting 67A had been obtained with Mr. Benoit.
- Moved by Mr. Jim Goodwin and seconded by Mr. Steve Kopke that the settlement be approved.

- Mr. Latulippe was directed to deliver the sum of \$2,000.00 to legal counsel to meet the terms of the settlement.
- Mr. Lockey advised the Board that as this claim was below the Corporations insurance deductible there was no coverage for same.

11th.July 2011

I suggested the arbitration process and that began but the lawyer involved who contacted me, so I could be interviewed, got another job and the information I provided him ended up in limbo then got sent to another lawyer hired by the Board...having received no communication about the termination of the arbitration process I got tired of waiting for action and decided to proceed with my civil suit then hired my own lawyer. I didn't get very far with my own efforts to negotiate I'm afraid.

Right now I am still awaiting word from RECA - Alain's governing body - when he acted under Board directive to be my property manager to rent my unit - I am to be interviewed by their lawyers concerning my complaint lodged against his conduct and breach of trust under GSL Realty and cannot get any further involved in such matters. I hope this can help point in the right direction and assist in concerns over the level of fines for bylaw infractions being imposed by SHS as outlined in the bylaws and under the Condo Act. I visited this issue too with regards to some fines I paid and decided that I could not prove legally that I was not in violation - despite prevailing circumstances that seemed reasonable to justify breaking the bylaw, the situation and ignorance of the bylaw. I broke the bylaw and paid the fines.

Something to look at further if anyone has a copy of the bylaws it's under Duties of the Owner section 2 Violation of Bylaws. The Board does have discretionary powers to grant SHS the power to determine infractions and violations and to determine the level of fines. This is at the sole discretion of the Board between \$50-\$1000 and this is consistent with the Condo Act. It doesn't matter what fines people are charged for speeding on the road or what goes on in the National Parks; these are baseless arguments legally. However under the Condo Act 67 (1) if it can be determined that the conduct of the business affairs of the corporation is in a manner that is oppressive or unfairly prejudicial or unfairly disregards the interest of a party or the exercise of power of the Board is in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of an interested party or is in non-compliance with its own bylaws and the Condo Act relative to the administration of fines and whose conduct can be shown to be improper then one may have a case. That is subject to interpretation of legal counsel and a judge in Court and is not so black and white and will be hard to prove. I do remember seeing something in the Condo Act though about the manner in which bylaw infractions are to be communicated and sited clearly to the owner. That is something one might look into. Keep in mind though mediation and arbitration is something both as a group or individually and the Board must agree to and share costs.

M B

July 12th.2011

I guess my intention was to focus on the legal significance of what people are suggesting which has little room for rhetoric as I learned through the legal process. One might think that they have been wronged, feel mistreated, treated disrespectfully, neglected, the fines and such are excessive, poor communication - but compared to what and who's doing the interpreting? I mean get every condo owner in a room and they have a wide range of opinions and beliefs about what is going on and what needs to be done, mine is just one view.

With the Board and SHS having the upper hand at having the discretionary authority they have the upper hand and abuse is hard to prove in court as one cannot simply go into arbitration or take legal actions because of a feeling or intuition. One has to prove their case or cases and it isn't all that simple as purely posing an argument and stating one is right and they are wrong and the matter will be all settled and go away. My civil action took 1.5 years to be resolved from the beginning when problems began to the end. And there are still problems to be dealt with along the way...and not every problem has a solution or gets resolved just because legal action is taken. Anyway, I have babbled on enough about this. I still think communicating in a more direct fashion is better than the legal route but when that fails there are few alternatives when unit owners disagree with their Board and the Board doesn't want to budge.

M B

14th.July 2011

One really needs to read the Condo Act from front to back several times to really appreciate the law governing condominiums. The Board and its employees SHS have incredible powers of authority to make decisions on behalf of the condo association and the welfare of the corporation which by virtue of differences in values and opinions and feelings some people are going to disagree. You can please some of them some of the time but none of them all of the time..

As someone who has dealt with the Board and Alain over several years,, researched the Condo Act and bylaws, read through all the Board Minutes, consulted with several lawyers and government services, went through the legal process from filing civil action, to attending a pre-trial with my wife and I and the President of the Board and their lawyer, hiring and meeting another lawyer to organize my case in preparation for a court hearing, talking to witnesses and trying to get them to testify in court and paying their expenses....taking time off work, going to Canmore and Calgary numerous times, and in the end finding that MOST of what the Board and SHS has been doing was in keeping with the Condo Act and what they hadn't been doing amounted to really forcing them to change the way they were doing things better....? I hired of a lawyer at \$220/hr to try and prove my case...because in the beginning I was advised the same and thought about holding them to account and compensation and in the end the result fell well short of my expectations...

Through the process and through a whole lot of my own expense and time the Board and SHS changed its processes and policies and how they were doing some things relative to unit owners renting their units, access and the manner in which SHS are now communicating fines consistent with the Condo Act. That's what I paid for...over 2 years. To really force them to hire a lawyer to straighten things out when they should have been consulting a lawyer all along. But as volunteers they were trying to make decisions and bring about change on the cheap the best way they could...change costs either way that's why it's called change. Individual unit holders need to do a better job of following the bylaws as does the Board and SHS which they are now doing and need to pay for their fees. Hiring a lawyer to challenge the Board's legal rights to assess fines and to demand payment and hire a lawyer and force individual unit owners to pay on behalf of the collective. The level of fines are clearly stated in the Condo Act at their discretion. SHS is contracted to the Board.

If planning to file a class action suit you are doing it to the Condo Corporation which the Board manages along with SHS on our behalf. If you're suing the Condo Corporation you're really suing all unit owners and yourself. Effectively screwing ourselves...with higher fees...and the Board and SHS will still be there. They even have liability insurance which the corporation pays for; in my case the Board budgeted \$10,000 in condo fees to cover the deductible in the event they were to be found liable. So in the end what purpose does hiring a lawyer and going through the courts really serve? It forced the Board to rethink its decisions and come up with a better solution...which by virtue of participating in legal action to have a voice in an association that by the virtue of the Condo Act isn't very democratic or transparent; yet some people somehow seem to think that it ought to be, should be, isn't right. Well none of this matter. What matters is I sent my tenant the bylaw infraction documentation I received today with the written explanation that clearly states the Board's rights, what bylaw was violated, what happened, the action Alain took and the justification for the fine of \$500 because the tenant didn't listen to what he was asked to do. So I have advised my tenant that it must be paid because based on the documentation there is very little room for interpretation or doubt.

M B

9th.October 2011

The Windtower isn't a very fun or enjoyable place to live anymore, in fact I would suggest that the tone of Windtower is much like that of a facility that is in a constant state of lock-down and is in a constant state of emergency. From my understandings, even the rabbits are unwelcome and pose a hazard? As do the RCMP. An RCMP officer needed to get in touch with my tenant on a work-related matter and came to the Windtower to speak with him. Being there is no call box to the 4th floor she had no way to access the 4th floor to contact him. Hence, she asked for access by SHS. They provided her with access. Neither the tenant or myself gave permission for access yet a \$100 service charge was imposed. Whereby it took multiple phone calls and emails to get to the bottom of what transpired, threats of fine collection and civil action, and further involvement by the RCMP to have the service fee dropped!

Now, am I the only one who has a hard time understanding the necessity for all of this....this...micro-management? Is this what residents of this building requesting of SHS? If so, I respectfully ask that people in the building be more realistic in their expectations because this stuff in my mind floats on the edge of paranoia...reactive versus proactive...and this is isn't management. This is policing...! mean SHS is even policing the RCMP's presence in the building...I agree the building needs to be safe, secure and peaceful but is it really necessary to invade people's privacy to this extent to achieve these ends? Really? Is this level of scrutiny necessary - picking on people?

There are problems and then there are conditions. I think SHS is responsible for having created many conditions to suit themselves and as a result created many of their own problems relative to condo owners. And that is something they should pay for! Whether that be through covering the costs to replace the wall and pay for an intercom system or through removing someone from their position...in this day in age...crap needs to flow both ways...and I know when it comes to SHS - particularly Alain - he's the source of much of it.

M B

Summary and Observations

Most Condo owners are apathetic but Michael wasn't one of them. He attempted to go-it-alone as he was strongly convinced of the rights of his case. Unfortunately it didn't work out as he hoped and in reality he achieved very little.

It is quite a sad tale really, he invested a lot of time, trouble and expense for next to nothing; had he been more of a team player he could have taken part in a group action or even led a group action. He was over-optimistic in his attempt to claim quite large damages but in the end he had to settle for peanuts. To be fair though, he always stated that his second objective was to bring about an *improved atmosphere* at the Windtower and indeed he thought he had achieved this, for which he was proud, but in reality as events transpired he had not.

His main objective was to make Latulippe (SHS) and the Condo Corporation pay for their adverse behaviour but he didn't properly understand, at the time, either the Condo Act or the Condo Bylaws and in the end had to admit he was partly at fault.

The Windtower at the time had all the hallmarks of a *Bad Board*, see the relevant section. It was the case that one Board member was a majority Unit owner, who also owned SHS, was in effect Latulippe's boss and the Board president was a friend. The cards were not stacked in Benoit's favour.

Taking on the Windtower management and the Condominium Corporation is a bit of a dilemma anyway since the Corporation is a non-profit organisation so has no funds of its own, per se, to defend itself so legal fees and restitution has to come out of the general income, ie the fees of all Owners. So anyone suing the Management or the Board is in fact suing themselves and other Owners in one way or another. However, the Corporation will in fact carry indemnity insurance by law which may or may not be relevant depending on the level of any claim settlement and the level of deductibles.