

Publisher's Note

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Condominium Law and Administration

Condominium Law and Administration is an invaluable resource for those involved in conveyancing, development, condominium management or the representation of condominium corporations, whether inside or outside of Ontario.

This release features updates to the case law and commentary in Chapters 12 (The Corporation and The Board of Directors), 16 (Financial Management) and 19 (Insurance, Maintenance and Repair).

As well, this release updates British Columbia *Strata Property Act*, 2018, c. 37, s. 35 and British Columbia *Real Estate Development Marketing Act*, 2018, c. 25, ss. 1-13. Also, the full text of British Columbia *Real Estate Development Marketing Regulation* 505/2004 and British Columbia Real Estate Development Marketing Act Policy Statements have been added to this release.

Highlights

Case law discussed in this release includes the following:

- **The Corporation and The Board of Directors — Powers of the Corporation — By-law Authority** — Applicant condominium unit owner objected to actions of condominium corporation and its board of directors. Applicant alleged that board approved special assessments and implemented increases in condominium

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fees without lawful authority and majority consent of corporation. Applicant brought application for oppression remedy under s. 99.2 of *Condominium Property Act, 1993*. Application dismissed. Corporation and board did not act in oppressive manner in assessing fees. Board had statutory authority to set and impose condominium fees and levy special assessments. Board's actions were not harsh, harmful, in bad faith or abuse of power. Board notified applicant by mail of both special assessment and increase in monthly condominium fees. Corporation acted even-handedly and acted in best interests of unit holders: *Wilchuk v. Westfield Twins Condominium Corp.* (January 8, 2018), Doc. Regina QBG 2692/17, 2018 CarswellSask 13, 2018 SKQB 2 (Sask. Q.B.).

- **Insurance, Maintenance and Repair — Insurance — Property Insurance** — Plaintiff S Inc. purchased commercial condominium unit from defendant condominium corporation. Unit was occupied by plaintiff E Co. Ice storm caused damage to roof of unit. Damages were paid by insurer for E Co. Insurer commenced subrogated action on behalf of E Co. and S Inc. against corporation, property managers and board member to recover damages. S Inc. acknowledged that s. 119 of Condominium Act and by-laws precluded subrogated action by unit owner against corporation and board members. Corporation brought motion for summary judgment dismissing action of E Co. Motion dismissed. Only unit owners were precluded from bringing subrogated claim against corporation. Wording of by-law was not explicit enough to create obligation on occupier to maintain property insurance with waiver of subrogation rights. Such effect required express and explicit wording, particularly when by-laws set out other explicit obligations on occupiers: *Elite Vertical Blinds Mfg. Co. v. York Region Condominium Corp. No. 696* (February 13, 2018), Doc. CV-16-5438681, 2018 CarswellOnt 2175, 2018 ONSC 1000 (Ont. S.C.J.).