







LandPRO Conference 2020 Vaughan, Ontario KRCM\(\bar{N}\)R krcmar surveyors ltd

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March 4th, 2020

Dear Friends;

Welcome to LandPRO 2020!

On behalf of co-chair Harry Herskowitz and organizer Chris Kamarianakis I'd like to express our sincere and heartfelt gratitude for your attendance at this, our fifth year of LandPRO.

Each year our industry experiences countless changes. If the next five years is anything like the last, our businesses, cities and livelihoods will change in unprecedented ways...sometimes elegantly, sometimes disruptively.

LandPRO is an expression of our insatiable curiosity and love of learning. Our mission each year is to help each and every one of you - our community of "city-builders" - to get ahead of the curve and in position to proactively and confidently shape your futures, rather than react to those created by others.

To that end, I am so proud of the amazing speakers and panelists who have volunteered their time to share their knowledge and wisdom with us today. What an incredible testament it is to the collaborative spirit in our Land and Development industry that we come together like this - colleagues, peers and competitors alike - to further our collective cause.

We are also grateful to our sponsors for supporting this great gathering. A special mention to Zeifmans, BILD, Teranet, Title Plus and the City of Vaughan who have been with us since Day One. Please take time to get to know and acknowledge all of our great sponsors and partners this year.

Finally, I encourage you to get to know your fellow tablemates today. LandPRO is a terrific opportunity to make new friends and rekindle old relationships.

Harry, Chris and I are honoured to be your hosts today in what we believe is the most exciting time to be alive.

Yours in gratitude;

Saša Krcmar



THE PREMIER "HOW-TO" CONFERENCE FOR LAND, CONDO, AND DEVELOPMENT PROFESSIONALS

DATE: WEDNESDAY MARCH 4TH 2020

TIME: 7:30 A.M. - 5:30 P.M.

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- ii. Our Sponsors
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- iv. Welcome & Opening Remarks

Chris Kamarianakis, Protect Your Boundaries & Conference Organizer David Wilkes, Building Industry & Land Development Association

Eileen Costello, Aird & Berlis LLP & Master of Ceremonies / Update on Bill 108

01. Keynote: 2020 Economic Update

Ben Tal, CIBC World Markets

02. Presentation: Developing and Valuing Air Rights

Andrew Jeanrie, Bennett Jones LLP

03. Presentation: Setting up your Condo/Commerical Development for a Successful Lease-up of the Commericial Podium - Legal Framework

Natalie Vukovich, Daoust Vukovich LLP

04. Presentation: Aborted Real Estate Transactions in a Declining Market - Recent Decisions of the Ontario Courts

Harry Herskowitz, DelZotto, Zorzi LLP

05. Developers Panel: Get an Inside Account of the Challenges keeping Property Developers up at night

Leader: Dan Marinovic, Dream

Panelists: Sam Mizrahi, Julie Di Lorenzo, Jim Ritchie, Michael F. Firestone, Alan Vihant

06. Development Law Panel

Leader: Harry Herskowitz, DelZotto, Zorzi LLP

Panelists: Mark Karoly, Craig Robson, David Spencer, Tammy Evans, Arthur Shapero

07. Presentation: The Past, Present and Future of the Condo Industry in the G.T.A Hunter Milborne, Milborne Real Estate

08. Presentation: Tarion's Registration Process - Navigating the Changes

Adil Dar, Masters Insurance

09. Presentation: Attract High-End Commercial: The New Key to Success Karen Mak, dkstudio architects inc.

10. Presentation: What can a developer do when there is an error in the Condo Doc?

Patricia Elia, Elia Associates PC

11. Presentation: Technology Driven Industry Transformation

George Carras, R-LABS

LANDPRO 2020 ATTENDEES

- Aird & Berlis LLP
- BILD
- Borden Ladner Gervais LLP
- Bosley Real Estate
- BuildingLink Canada
- Cachet Developments
- Cameron Stanley Brokerage
- City of Hamilton
- · City of Markham
- City of Vaughan
- CLV Developments Inc.
- Collecdev
- D. Bottero & Associates Limited
- Davies Howe LLP
- Dekpark Homes
- Deltera Inc.
- Di Monte & Di Monte LLP
- Digram Developments Inc
- Double Diamond Capital
- Elad Canada
- Emblem Developments Inc.
- EnerQuality Corporation
- Fieldgate Urban
- Fiera Private Debt
- Fiera Real Estate
- Finnegan Marshall Inc.
- Greenland Group
- Greenwin Corp.

- Grid Developments
- H&W Development Corp.
- Hariri Pontarini Architects
- Hendrik op 't Root Architect Ltd.
- Hi Rise Group
- Humbold Properties
- Hummingbird Lawyers LLP
- Hyde Park Properties
- IBI Group
- Inland Development Inc.
- Innovia Corporation
- Insoho Developments
- JD Development Group
- Johnson McMaster Law Office
- Kaitlin Corporation
- Lash Condo Law
- Liberty Development
- Lifetime Developments
- Lightpoint Properties Inc.
- Madison Group
- Malibu Investments Inc
- Mantella & Sons Ltd
- Matrona Law PC
- MCAP
- McHugh Whitmore LLP
- McIntosh Perry Limited
- Medallion Corporation
- Melrose Investments Inc.

- Minto Communities
- Otera Capital Inc.
- Pallett Valo
- Plazacorp
- Raise Underwriting
- Ratansi Law
- Royal Bank of Canada
- RE/MAX
- · Remington Group Inc.
- Richard Wengle Architect Inc.
- Rise Investments Corp.
- Robins Appleby LLP
- Rockport Group
- Royal LePage Real Estate
- Sage Condos
- Sarah Ifrah Architect Inc
- Schwarz Law LLP
- Scott Shields Architects Inc.
- Sky Development Group
- Sorbara Group of Companies
- Sotheby's International Realty
- SRN Architects Inc.
- Starlight Investments
- State Building Group
- Stikeman Elliott LLP
- Tarion Warranty Corporation
- TD Bank
- Tercot Communities

- Terracap Management Inc.
- · Tham Surveying Ltd.
- The Behar Group Realty Inc.
- The Remington Group
- The Town of Caledon
- Tiffany Park Homes Ltd.
- TMG Builders
- Torbel Group
- Toronto Transit Commission
- Tower Hill Homes
- Town of Orangeville
- Town of Whitchurch-Stouffville
- Trafalgar Engineering Ltd.
- Travis & Associates
- Tregebov Cogan Architecture
- Triangle Development
- Tribute Communities
- Tricap Properties
- Tucker HiRise Construction Inc.
- Upper Canada Road Services
- Urban Toronto
- Urbanlife Realty Inc.
- Veritas Valuation Inc.
- Verma Law P.C.
- Viron Properties Inc
- Wayne Simpson & Associates
- Westdale Properties
- Westmount Guarantee

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PROTECT YOUR **B** UNDARIES





McINTOSH PERRY



KRCM\\\R\\\

























THEWESTLTKE



Your source for land and boundary expertise.

Protect Your Boundaries is for homeowners, REALTORS® and land professionals seeking the knowledge, tools and services to prevent and resolve property boundary issues and complete successful real estate transactions.

For Home Owners

Buying, Selling, building or in a dispute, this is your one-stop resource centre for all things boundary-related.

For Ontario REALTORS®

BoundaryWise™ Education, essential tools and services to help you protect your client, your deal and your reputation.

For Land Professionals

Easy instant access to the largest collection of registry and survey documents and services.

www.ProtectYourBoundaries.ca.

ORGANIZER





- Nere at Protect Your Boundaries, we are surveyors at heart. We offer the largest online database of existing surveys in the GTA, all of which are available at the click of a button and in the comfort of your home, office or on the go on your mobile device.

- Go to the Property Page to see the surveys and reports for that address.
- Simply add to cart, proceed through the secure checkout and a PDF plan
- If there is no survey available, you can have us do a custom search, you can commission a new survey, or even get a boundary stakeout done by us.

What does a survey plan show 🕐



- Displays the legal boundaries of the property
- ✓ The size and shape of the property
- ✓ The location of right of ways and easements.
- Location of physical monuments that mark the limits of land (i.e survey bars)
- ✓ The house and other buildings and physical features like fences, decks, patios, driveways and pools.

PROPERTY REPORTS

When buying a house, there are a few steps that need to be taken in order to do due diligence but also to protect yourself whether you are the agent or buying/selling the home.

Protectyourboundaries.ca offers a variety of reports (Property Reports & Easement Reports) that include vital information to help in the decision of the sale and to ensure all information is disclosed and clear.

In a Property Report, you get:

- Parcel Register (official property document from the Province of Ontario).
- Easement Instruments (official documents from the Province of Ontario).
- Plain English explanation of easements, liens and encumbrances.
- The PYB Official guide to evaluating and researching a property.
- Report does NOT include a full survey (SRPR).
 - *Optional: verify property area (square footage); Reports will require 1-2 business days to complete.





Protect Your Boundaries has officially launched its Property Listing Pages™.

Now whether you are looking for pertinent land information, or are on the hunt for your dream home. You can visit ProtectYourBoundaries.ca.

What Makes us different ?



By working with agents on their individual listings, we are able to convert that traffic into quality leads for the REALTOR TM .

We also equip agents with information regarding easements and offer a variety of Property Reports that aid in ensuring a safe and secure sale for both the agent and the client.



EDUCATION

Educational Courses for Agents - "Understand Land Seminars Series"

We have developed a accredited education program, free for agents, with the goal of providing vital land information that will ultimately aid in the buying and selling process.

We offer 6 courses. Since 2014, we have delivered over 500 seminars to 10,000 agents.

1. Surviving the New Boundary Reality

- >> How the world of Property Boundaries has changed and what it means to you.
- >> Why Title Insurance is no longer enough.

2. How to Read and Use a Survey Plan

- >> How to identify an official survey plan; 3 types of survey plans and where to use them.
- » 6 key features to identify and understand.

3. The A-Z of Title Insurance

- What is title insurance and what does a policy cover?
- » How do title insurance companies settle claims?

4. The Realtor's Guide to Boundary Disputes

- Explore the Boundary Dispute Resolution Process and learn how to avoid common traps.
- >> Learn the best advice to give your clients in a boundary dispute.

5. Easements & Right-of-Ways

- >> What is an easement? How do I know it exists? How do I "place it" on the ground?
- What are the most common types of easements in the GTA? Which ones cause the most problems to home-buyers?

6. Condos 101

- » Learn about condo boundaries, marketable square footage vs liveable space; schedule C & D and more.
- » Discover how you can help your clients make better, smarter condo and townhouse buying decisions.

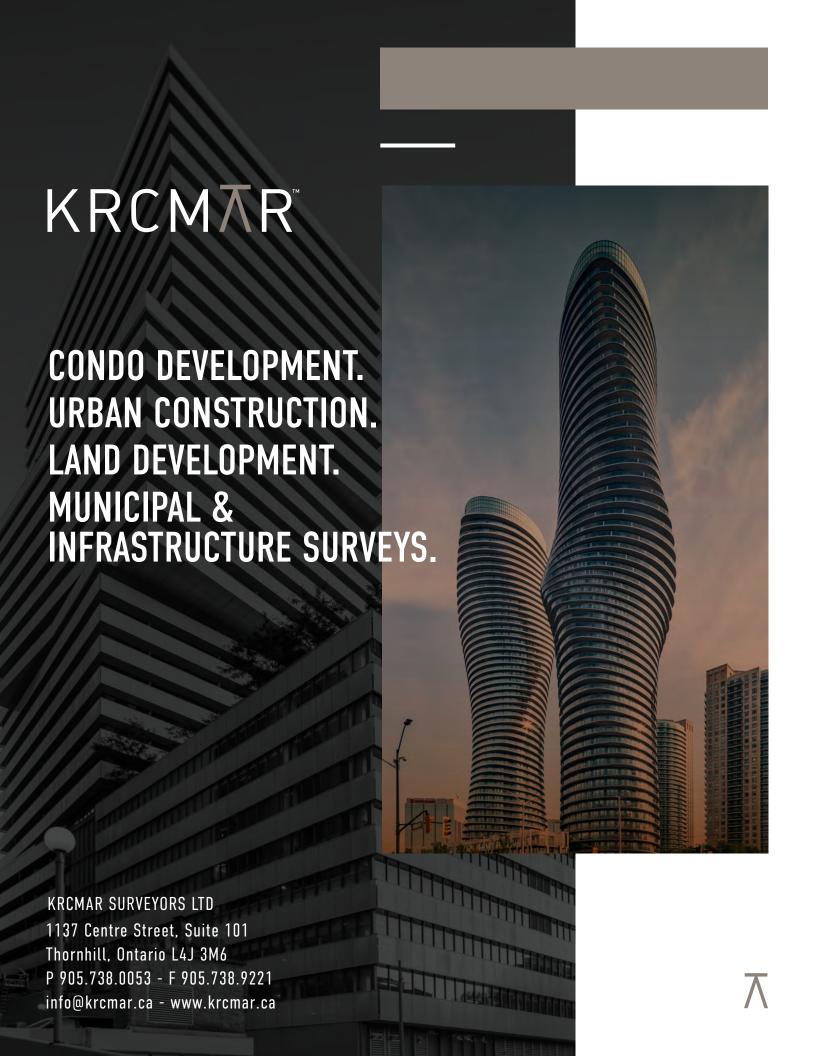


Founded in 1983, Krcmar Surveyors Ltd., has become one of the GTA's premier land survey firms, specializing in condominium, commercial and residential surveying.

Throughout the GTA, from complex condo development and urban construction to municipal work and transportation projects, Krcmar goes beyond the ordinary to become a valued and trusted member of your development team.

www.Krcmar.ca.







OUR COMPANY

At Krcmar Surveyors, we specialize in large and multi-faceted projects—condominiums, complex construction layouts and urban cadastral surveys. Our industry-leading brand is known for its professionalism, experience, reliable service and integrity and we pride ourselves on anticipating and surpassing our clients' expectations.

OUR PEOPLE

The key to our success is directly related to our investment into the quality, skill and expertise of our dedicated and talented people. Experienced both within Canada and internationally, our staff is comprised of only the best in the industry. Our professional team currently consists of 50 surveyors and technologists, with a complement of 10 survey crews – more than capable of handling any-sized development.

OUR SERVICES

While we specialize in sizeable high-rise redevelopments for condominiums and complex construction, we are also a full-service professional surveying company with expertise in all forms of cadastral, topographic and engineering surveys.

OUR HISTORY

Our company began as a small family business, established by Vladimir Krcmar working out of his basement in 1981. We quickly forged a reputation for excellence within Ontario's legal and development communities. Throughout our history, we have proudly remained a family managed business that always puts special care and attention into everything we do. We have expanded to successfully undertake countless large and complex projects throughout Ontario – becoming the recognized leader in the industry we are today.

OUR INNOVATIONS

Catapulting surveying into the digital era, Protect Your Boundaries Inc. was launched by Krcmar Surveyors in 2014. The "Uber" of the surveying world, PYB is the most comprehensive online source for boundary information available to the public. Through our cutting-edge technology and partnership with Teranet Inc., we provide customers with a database of more than 1 million Ontario survey plans. Licensed by the Association of Ontario Land Surveyors, PYB is also a provider of smaller residential surveying services and consultations.

OUR SIGNS

Our iconic sign—a common sight throughout top-tier developments in the Greater Toronto Area—stands as a hallmark for landowners and developers who have a high regard for excellence.



OUR LEADERSHIP

Committed leadership is what distinguishes our team of professional surveyors and cadastral experts. Everything we do is driven by our passion for great service to clients and our commitment to the highest levels of quality. We have eleven senior surveyors on staff with a combined 350 years of experience between them! They are supported by experienced cadastral field technologists, project directors, skilled CAD specialists and researchers. Together, there is no development challenge or deadline that our team can't meet. The following individuals make up our leadership team:



Vladimir Krcmar 0.L.S.

- Founder and President (since 1980)
- More than 60 years' experience
- · Licensed by the Association of Ontario Land Surveyors in 1974
- Subdivision, condominium and development specialist



Maja Krcmar B.Sc., O.L.S.

- Managing Director, with 30 years' experience
- Licensed by the Association of Ontario Land Surveyors in 1995
- Condominium and development specialist



Saša Krcmar B.Sc., M.B.A., O.L.S.

- Managing Director, with 30 years' experience
- · Licensed by the Association of Ontario Land Surveyors in 1995
- Condominium and development specialist



B.Sc., O.L.S.



Tom Krcmar



Robert Wiegenbröker B.Sc., B.C.L.S, O.L.S., O.L.I.P.

- Supervising Project Director, with 30 years' experience
- Licensed by the Association of Ontario Land Surveyors in 1995
- Licensed by the Association of British Columbia Land Surveyors
- · High-rise construction specialist



Rodrigo Batol B.Sc.

- Managing Director, with 30 years' experience
- · Licensed by the Association of Ontario Land Surveyors in 1997
- Subdivision and development specialist
- Project Director, with 35 years' experience Graduated with a Bachelor of
- Science in Architecture from the University of Santo Tomas
- Condominium and development specialist



OUR LEADERSHIP



J. Eduardo Linhares B.Sc., O.L.S., O.L.I.P.

- · Project Director, with 25 years' experience
- · Licensed by the Association of Ontario Land Surveyors in 1998
- Condominium and development specialist



Sase N. Ramsamooj O.L.S., O.L.I.P.

- Project Director, with 35 years' experience
- · Licensed by the Association of Ontario Land Surveyors in 1984
- · Legal survey specialist



Michael McKechnie B.ASc., O.L.S., O.L.I.P.

- Project Director, with 20 years' experience
- · Licensed by the Association of Ontario Land Surveyors in 2012
- New construction specialist for large-scale low-rise residential developments



Mansour Ghofrani B.Eng., O.L.S.



- Project Director, with 20 years' experience
- · Licensed by the Association of Ontario Land Surveyors in 2015
- · Condominium and development specialist



Waldemar Golinski B.Sc., O.L.S., O.L.I.P.

- Project Director, with 21 years' experience
- Licensed by the Association of Ontario Land Surveyors in 2016
- Condominium, construction and development specialist



OUR CLIENTS

Krcmar helps clients across the GTA stay ahead of the curve, solve challenges and navigate a new era in the land surveying industry.























































TEAC SASED









































































OUR PROJECTS

Amacon

Parkside Village Redevelopment, Mississauga

Aoyuan

M2M Condos - Newtonbrook Plaza Redevelopment, Yonge St.

Bazis

Emerald Park, Yonge St.

Exhibit. Bloor St.

Camrost Felcorp

Yorkville (former Four Seasons)

Carterra

65 King St. E. Redevelopment, King St. E. & Church St.

Castlepoint

Toronto Waterfront Film Studios. Commissioners St.

Castle Group

Insignia Condos, Sheppard Ave. E.

Cityzen/Castlepoint

L-Tower, Yonge St.

Cityzen/Fernbrook

Absolute Towers - "Marilyn Monroe" Buildings

Garrison Point Redevelopment

Pier 27 Redevelopment

Cityzen/Greybrook

306 Davenport Redevelopment

Collecdev

30 Tippett Rd. Redevelopment

36 Tippett Rd. Redevelopment

Westwood Gardens, Yonge St.

Cortel Group

Expo Condos, Highway 7

Jane/Rutherford Redevelopment

Trafalgar Heights, Dundas St. E Oakville

The Daniels Corporation

Eglinton Ave. W. & Erin Mills Parkway Redevelopment

Regent Park Redevelopment

TIFF/Bell Lightbox

Waterfront, Queens Quay E.

The Daniels Corporation/Diamond/Kilmer

Humber River Hospital Redevelopment, Keele St.

Diamante

100 Davenport

The Diamond, Churchill St.

Mirabella, Lake Shore Blvd, W.

Dream/Kilmer

Pan-Am/Canary District Redevelopment

Eastons

Dundas Square Gardens, Dundas St. E. & Jarvis St.

Rosedale on Bloor Condos, Bloor St. E.

Yonge Park Plaza, Yonge St. & Wilson Ave.

Yorkdale Holiday Inn, Dufferin St.

Edilcan

Valhalla Town Square, Gibbs Rd. & Highway 427

El-Ad Group

Emerald City, Sheppard Ave. E. & Don Mills Rd.

Lansing Square Re-Development, Sheppard Ave. E. & Victoria

Park Ave.

El-Ad Group/Freed

Galleria Mall Re-Development, Dufferin St. & Dupont St.





OUR PROJECTS

Freed

60 Colborne, Church St.

650 King St. W., King St. W. & Bathurst St.

Art Shoppe, Yonge St. (Construction only)

Thompson Toronto Hotel & Residences, King St. W. & Bathurst St.

Graywood Group

Eastern Ave Condos, Eastern Ave.

Ocean Club, Etobicoke

Peter Adelaide Condos, Adelaide St. W.

Ritz Carlton Hotel and Residences, Wellington St. W.

Scoop Condos, St. Clair Ave. W.

Scout Condos, St. Clair Ave. W.

The Mercer, John St.

Great Gulf

357 King West Condos

One Bloor East (Construction only)

Parkside Condos, Queens Quay E. (Construction only)

PACE Condos, Dundas St. E. (Construction only)

Greenland Group

King Blue Condos, King St. W.

Lakeside Redevelopment, former Fed-Ex lands Queens Quay E.

Kingsett Capital

50 Cumberland St. & 37 Yorkville Ave. Redevelopment

Cumberland Square Condos, 2 Bloor St. W.

Valhalla Executive Centre Redevelopment, The East Mall

Lamb Developments

Bauhaus, King St. E.

Bread Co., McCaul St.

East Fifty Five, Ontario St.

The Harlowe, Richmond St. W.

Television City, Hamilton

Wellington House, Wellington St. W.

The Woodsworth, Richmond St. W.

Lash Group

The Barrington, Bathurst St.

Distinction Condos, Soudan Ave.

ME Condos, Meadowglen Place

Metropia

AYC Condo, Davenport Rd.

New Lawrence Heights Redevelopment

The Rocket, Wilson Ave.

Mizrahi Developments

The One, Bloor St. W. & Yonge St.

181 Davenport Rd. Redevelopment

Mod Developments/Intracorp

Massey Tower, Yonge St. (Construction Only)

North American Development Group

Agincourt Mall Redevelopment

Pinnacle

Harmony Village, Sheppard Ave. E.

Remington Group

Downtown Markham, Warden Ave.

Rogers Group & Urban Capital

M-City Redevelopment, Mississauga

Talon

Former Trump Hotel and Residences, Bay St. & Adelaide St. W.

Tribute Communities

The College Condo, College St.

Max Condos, Mutual St.

Parkside Square, Sheppard Ave. E.

RCMI, 426 University Ave.

The Stanley, Carlton St.

Urban Capital/Northam Realty

Kingsway on the River, Dundas St. W.



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KRCMAR SURVEYORS LTD

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The BoundaryWise Academy provides education and ongoing professional development top Realtors in Ontario. It arms them with the knowledge, skills and tools they need to reduce and eliminate boundary, easement and title related risk in every sale and purchase.

At Protect Your Boundaries we have dedicated ourselves to helping Ontario's top agents and brokers drastically increase their knowledge and effectiveness at identifying and dealing with land, easement and boundary-related risks on both sides of the deal.

www.BoundaryWise.ca.







PROFESSIONAL EDUCATION PROGRAM

BROUGHT TO YOU BY

PROTECT YOUR BUUNDARIES KRCMAR

Why BoundaryWise?

The BoundaryWise™ Accredited Education Program equips real estate professionals with essential land and property boundary expertise for clean, quick and successful deals – every time.

You'll gain the knowledge and skills for fast, precise, complete assessment of land survey and title documents to smoothly close more deals while protecting everyone involved.

Understand Land

Gain clarity and certainty on the boundary, easement and title issues that can affect your sale to provide your clients with the best, most comprehensive advice. Learn how to identify and address potential issues before they become insurmountable obstacles.

Win More Listings

BoundaryWise™ accreditation marks you as a real estate professional with thorough knowledge of all aspects of a sale. You'll earn trust and confidence, building your reputation and your career through greater accountability, transparency and professionalism.

Seal The Deal Faster

Boundary or title issues can stall or kill a transaction. BoundaryWise™ equips you with a high-potency skill set to ensure a smooth, efficient process and happy conclusion.

Reduce Your Risk

Boundary, easement and title issues are like landmines lurking just under the surface. BoundaryWiseTM accreditation and tools remove the guesswork about the land below the house, providing the information and assurance you need for bulletproof, compliant listings.

Plus, you'll get:

- Premium access to Protect Your Boundaries' Buyer's and Seller's Reports
- Your profile + property listings in the BoundaryWise™ database, linking to your site for improved SEO to help homebuyers and sellers to find you
- BoundaryWise™ marketing collateral for your business card and website
- Our BoundaryWise™ email newsletter, chock-full of tips, advice and industry information

COURSE OUTLINE

1 SURVIVING AND THRIVING IN THE NEW BOUNDARY REALITY

Introducing the world of boundary, easement and title issues.

O2a HOW TO IDENTIFY AND VALIDATE A SURVEY PLAN

This course will make you the gatekeeper for your client and your deals, ensuring that when it comes to survey plans and the decisions you make based on them, you'll stay on side and out of trouble.

O2b HOW TO READ A SURVEY PLAN

In this course you will learn the six key features to look for, how to interpret them on any survey plan, how to spot trouble and what to do about it.

THE A-Z OF TITLE INSURANCE

Title insurance (TI) is a great product, but few understand it. Learn all about TI and how to use your new-found knowledge to add immeasurable value to your clients' buying and selling experiences.

14 THE REALTOR'S GUIDE TO BOUNDARY DISPUTES

In this course you will learn how boundary disputes happen and why they are so common in the months after the real estate transaction. Most importantly you'll learn how to give great advice without getting dragged into the dispute.

05 EASEMENTS AND RIGHT-OF-WAYS

You'll learn how to know if there's an easement on a property, how to find out what the easement is about, and how it affects the use of the land. You'll get direct access to the official documentation that forms the basis of your disclosure, and learn the key document set that will protect your buyers, sellers and, of course, you.

○ CONDOS 101

This course will equip you with the knowledge to identify issues, and understand the key documentation you need to review to help your client make the best condo decision possible.

○ O DECIPHERING THE LEGAL DESCRIPTION

In this course you'll learn how to decipher any legal description and use the vital information in it to your clients' and your advantage.

THEWESTLTKE



Canada's first Boutique Hotel centered around the Airbnb concept. Newly renovated historic brick and beam architecture, designed with upscale furniture and tailored for the modern traveler. Smart technology with flexible keyless entry. Stunning views of Lake Ontario and Downtown Toronto from the nearby Great Lakes Waterfront Trails.

Originally known as the New Toronto Hotel in the 1920s, TheWestLake Hotel revitalizes modern design and superior finishes in an original historic brick and beam structure, totally gutted and finely re-constructed in 2018.

Featuring eleven timeless, superbly crafted, and individually-inspired designer rooms, well-equipped and thoughtfully finished for the modern traveler.

Smart Check-in Technology | Free WIFI | Smart TV | Netflix | Super-comfy Beds Kitchens | and much more!

Venu at The Westlake provides a sophisticated atmosphere fitting for any type of event. We are dedicated to helping create a memorable experience that will last a life time.

Our wedding and events coordination services are designed to make this process as smooth as can be. Our clients can rest assured that they are in good hands!

Arrange a commitment free appointment to discuss the details of your dream wedding day or special event with us at The Westlake.

ACCOMMODATION PARTNER



THEWESTLTKE

THE WESTLAKE BOUTIQUE HOTEL

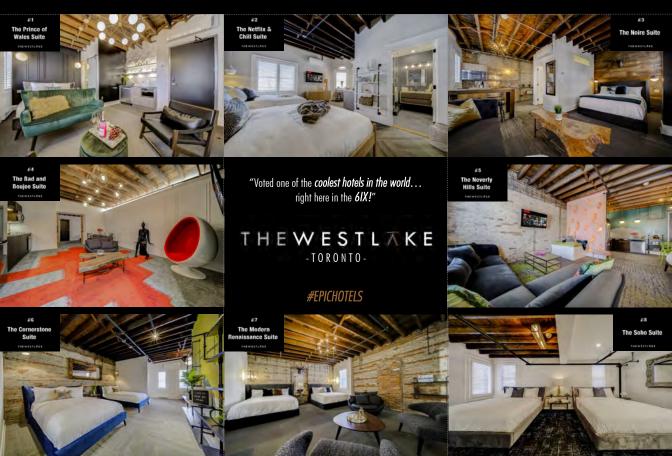
EVENT & ENTERTAINMENT VENUE







A DISTINCT COLLECTION OF ELEVEN DESIGNER SUITES... <u>Book the entire hotel</u> for your <u>next event!</u>





HELLO,



BOOK YOUR NEXT EVENT AT... THEWESTL⊼KE

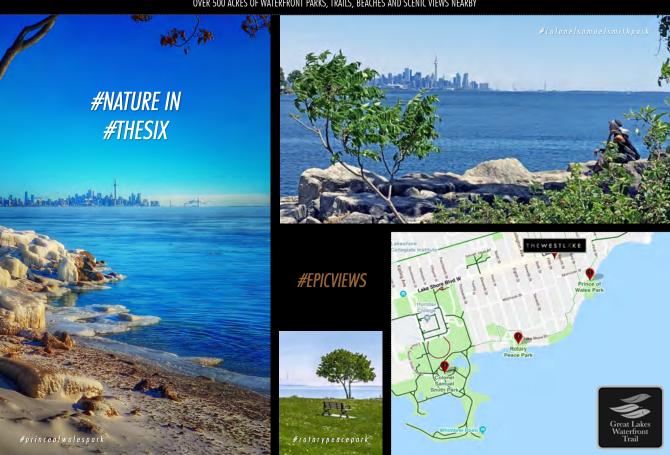


THE WESTLAKE HOTEL
2847 LAKE SHORE BLVD W
ETOBICOKE, M8V 1H8
INFO@THEWESTLAKE.CA // 647-588-2847

OMG, **THE VIEWS!**

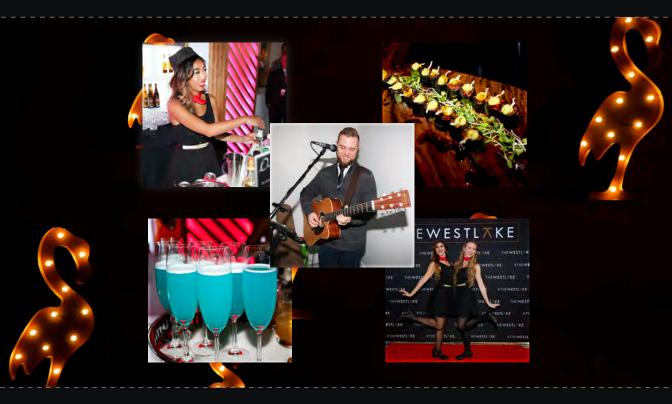


THE WESTLAKE HOTEL IS LOCATED ON THE GREAT LAKES WATERFRONT TRAIL OVER 500 ACRES OF WATERFRONT PARKS, TRAILS, BEACHES AND SCENIC VIEWS NEARBY





WEDDINGS - CORPORATE - PRIVATE EVENTS - FILM - MUSIC - ART & MORE





Zeifmans is a full-service tax, accounting and consulting firm based in Toronto, Canada, ranked as one of Canada's top 20 firms by revenue. Beyond the traditional offering, our services include business advisory, valuation, corporate finance, transaction services, corporate turnaround and insolvency, and estate and succession planning, supporting our 9,000+ clients through every step of the business life cycle.

For more information please visit: www.zeifmans.ca

PLATINUM SPONSOR



3 innovative real estate opportunities to watch in 2020

30 years ago, a telephone was expected to perform a singular function. It had only one job: It placed calls that allowed two parties to speak directly to each other.

Fast forward to today and compare how vastly different our modern expectations are.

In addition to the ability to place calls, we now expect our phones to take photos, access email, send texts, surf the web, play music, and countless other actions, all while travelling around with us in our pocket. If you woke up tomorrow and your Smartphone lost all its functionality except for voice calling, you would assume it was broken. You might even rush out to buy a new one.

When we consider this example, we can begin to similarly understand how our demands on real estate housing have changed over the last several years. Sky high real estate prices, an aging population, digital requirements, and the sharing economy have all left their imprint on our real estate expectations. As a

society, our definition of "home" is changing, and the real estate industry is quickly developing new, multipurpose solutions to meet expanding needs.

For current and prospective real estate investors and developers, the key to a successful ROI lies in understanding these changing expectations, and choosing projects that support the direction of the next decade and beyond. To gauge which properties will stand the test of time, it's helpful to gain an understanding of the trends shaping the opportunities of tomorrow.

1: Multi-purpose spaces and the sharing economy

As consumers begin to demand more from their spaces, the distinctions between specific use functions (i.e. work/home), and ownership (i.e. mine/yours) are being blurred. Businesses like Uber and AirBnB have paved the way for this revolution, thrusting the sharing economy into the mainstream, with 2016 seeing \$1.31



billion¹ spent by Canadians domestically and abroad on ride sharing and accommodation sharing services.

Where 20 years ago, traditional home ownership was viewed as a "must" and an important rite of passage, 2016 saw the first decline in Canadian home ownership rates since 1971². Similarly, the social cache of "going to an office" has been replaced by the allure of a remote working configurations. Between 2000 and 2008, the number of paid employees working from home has risen by 23%³.

In essence, as our values are changing, the spaces within which we spend our days are taking new shape as well. The values-based evolution of real estate is taking the form of three key trends:

Co-Living

A blend of an apartment, a hotel, and a dorm room, coliving arrangements have been popping up across the world in recent years, and has landed in Canada within the last few months. In a co-living model, individuals pay much lower rent, and have a personal space that shares communal spaces like kitchen and laundry. For investors, co-living provides impressive ROI given that more renters can occupy the space than in a traditional configuration. For renters, the lower cost of living and increased communal vibe is an adequate draw.

Dream Unlimited Corp. has recently released plans to develop a 24-storey tower in Ottawa⁴, that will feature coliving and traditional living arrangements. The building will offer programs like rooftop yoga and comedy shows. Units are fully furnished, which appeals to the millennial market, for whom the accumulation of possessions has taken a backseat to the ability to travel and live more flexibly.

Co-Working

Tech tools have grown to be infinitely more democratic. We live in an era where we carry more technology in our pocket- a Smartphone- than existed at the NASA headquarters 50 years ago. As long as a property has a strong WiFi connection, it can be made into an office.

2.9 million⁵ Canadians are now self-employed; a drastic increase as compared to the 1.2 million in 1976. Self-employment makes working from home an enticing solution. But there still exist certain situations where a home office won't suffice. For instance, a new business development meeting looks far more professional when conducted in a boardroom than a living room. Further, many entrepreneurs feel that having a flexible out-of-home workspace keeps them motivated and engaged.

Co-working arrangements fill this gap by providing flexible office space solutions that can be rented per use or for a specified contract term and can be attained in accordance with the needs of the business. For instance, a certain entrepreneur may need only an office with a desk and a door that can be shut. Or they may prefer to work in a social environment alongside other entrepreneurs. Or they may simply need to borrow a boardroom for a few hours.

If you think co-working is relegated to the small business set, think again. Big corporations are using co-working spaces as an adaptive method to gain traction within today's just-in-time⁶ hiring trend. Flexible contracts allow a company to scale their space up or down easily depending on how busy they are.

Need more proof? WeWork, one of the most well-known co-working companies, recently released the results from their London location in 2018. The businesses at the location experienced⁷:

- 38% cost savings
- 34% increase in revenue
- Increased head count of 5.8 persons
- 80% reported increased productivity

Multi-functionality

Similar to co-living and co-working, multi-functional real estate spaces make use of underutilized assets by enabling their use in a new context. Two such examples are:

Retail/Food Services

As bricks-and-mortar storefronts lose profitability, and restaurants experience the traditional ebbs and flows of



an inherently risky line of business, many businesses are opening their underutilized space for co-working events and programs. For example, a shopping mall struggling to rent all their square footage may open a co-working space inside a storefront. Or a restaurant, bar, or café may leverage their slowest hours by offering a co-working membership.

Particularly in the food services realm, the furniture infrastructure (tables and chairs) already exists, and thus can be leveraged without incurring any up-front capital costs. This allows those co-working programs to undercut competitors by keeping prices low.

Staples Business Depot⁸ has notably launched a coworking strategy as a way to leverage empty or low-profit retail currently under their portfolio.

Laneway Housing

Though familiar to other housing markets, Laneway Housing is new to Toronto. In the summer of 2018, Toronto council passed regulations that allow homeowners to convert garages and lane space into self-contained spaces to be rented out or used as personal housing. It's yet another way that property owners can better utilize the space they have-particularly in hot markets like Toronto. In addition, from an income tax point of view, laneway housing can still qualify for the Principle Residence Exemption, adding to it's appeal for homeowners and developers.

Interestingly, laneway housing must have a 1.5 metre setback from the property line, as compared to garages which have a 1 metre setback⁹. In theory, as laneway housing is further developed, the lanes could turn into a hub for pedestrians and cyclists akin to a small, historical, European destination.

2: Service-oriented real estate

As the paradigm of home ownership shifts, it's critical for real estate investors to understand how this changes the priorities of renters and buyers. Particularly for the millennial market (but also true for the aging population), accessibility of services is now an essential selling factor. Gone are the days where condominium amenities like a pool or gym are "nice to have". Today's consumers demand a host of services available to them within close proximity to their primary residence.

Transit

Transit Oriented Development (TOD)¹⁰ is a movement that focuses development on areas with high transit accessibility. The goal is to create more walkable, healthier communities that offer value through efficiency and quality of life. TODs enable residents to lead a less stressful life by cutting out their busy and time-consuming commute.

Health and wellness

Access to green space like parks, and expansive fitness facilities like rooftop yoga studios offer residents the ability to easily integrate health and fitness goals into their daily life. Offering service-based wellness options like personal training, fitness classes, and peer workout groups that are communicated through a development-wide calendar make it easy for residents to opt-in.

Technology

In addition to arguably "cost-of-entry" fiber optic internet, developers are now seeking ways to expand their tech service offering. These include¹¹ smart home appliances, electric vehicle charging stations, and robotic platforms that assist with storage. Given the ever-increasing number of individuals who work from home, technology takes centre stage to enable the more flexible schedules of a modern workforce.

Entertainment

The availability of options like dining, shopping, and social event spaces is paramount in new developments. These facilities enhance the feeling of community for residents, while making it easier to conduct basic weekly tasks like grocery shopping and meal planning.







3: Beds and Sheds

In today's real estate market, it is increasingly common for commercial land to be swallowed up by residential development. And while there is an undeniable demand for more housing (and in particular, more affordable housing), there exists an equal demand for warehouse space for retailers, manufacturers, and delivery services.

Retail logistics are evolving. As bricks-and-mortar storefronts lose their foothold and online shopping continues to dominate, home delivery is becoming an entire market unto itself. Storing and facilitating orders requires ample space.

In London, UK the challenge to cater to the needs of both residential and commercial occupants has been addressed by the introduction of the "beds and sheds" model; a mixed-used development that offers both affordable housing for residents, and warehouse space for commercial occupants. London commercial developers have seen an average of 60 to 70% of commercial sites lost to residential use. Combine this with the ever-increasing population density of the city, and it's easy to see how the two markets might be able to happily co-exist side-by-side.

Beds and Sheds presents a new model for housing, which we are starting to see in Canada and will require a new way of thinking from developers, planners, and occupants. In order to influence successful ROI, properties should meet the needs of the first two trends we've discussed in this article, while also addressing the unique challenges of this new model:

Noise

If shipments are coming and going throughout the night, proper precautions will need to be in place to ensure that residents aren't awoken to the sound of trucks coming and going during sleeping hours.

Emissions

Similarly, the traffic generated from delivery trucks naturally produces emissions. Beds and Sheds commercial occupants will need to address this, potentially through the use of electric vehicles.

Leasing Strategy

In order to be a sound investment, it will be critical to choose the correct commercial occupant, and developers will need to have stringent leasing plans. If a commercial occupant leaves, there need to be safeguards in place to ensure that the development can sustain the loss. It is also important to note, mixed use properties require detailed knowledge of Canadian tax laws, as only part of the rent is subject to HST/GST.

Industry players take note

Real estate is transitioning from being a tangible item into a set of principles for how to better serve individuals and communities in the years to come. The concept of real estate fracking (monetizing existing assets in new ways) is presenting us with a new world of options. Underutilized assets like parking spaces, desks, and conference rooms can all be leveraged by these new real estate models to create new revenue streams.

The introduction of Property Technology, or Proptech, has been rapid across all real estate sectors, and is expected to intensify alongside competitive conditions. Developers carry some uncertainty around emerging technologies and their potential impact, even when these tech advances are experiencing success. In the global market, Proptech solutions are being used to:

- Digitize onerous processes
- Streamline funding
- · Connect with stakeholders
- Present virtual reality capabilities

It goes without saying that certain elements of the latest real estate trends must be carefully considered to maintain and enhance ROI. For instance, the short-term leases necessary for co-working arrangements can affect



property valuations and add to costs when a tenant changes more frequently.

Considering which parts of the supply chain you want to own and serve directly, versus which you could assign to someone else will enable you to minimize the number of layers between your company and the end consumer so that you can maintain control of an important asset.

Although institutionalization of both the developer and investor universes generally lends itself to a more conservative market-wide approach to risk, there are signs of some participants venturing out on the risk spectrum. Higher development volumes, cap rate compression in secondary/tertiary markets, and a focus on opportunistic/value-add investment all point to a more risk tolerant approach.

In order to ride the wave of change created by shifts in demand and supply, proximity to consumer populations and insulation from new competitive product are critical for continued outperformance. At the same time, modern supply is needed, especially considering the potential for new technologies to alter the way that warehouse work is done. Increasingly, investors and operators are focused on both disruption potential and

ESG integration throughout the entire supply chain; for example, a shift toward renewable energy sources and fleet electrification can change the utility requirement for tomorrow's buildings.

Speak to the experts

To be successful in the real estate markets of the future, it's essential to have a big picture understanding of where the industry is headed, as some of the new trends in the real estate industry can have very significant accounting and income tax implications. At Zeifmans, our team of real estate experts have assisted clients in choosing, maintaining, and deciding to sell their real estate investments for over 60 years. To learn more about how Zeifmans can assist your company, contact us today.

Let's Talk

To speak to one of our acquisition experts, contact our office today at 416.256.4000 or e-mail us at info@zeifmans.ca

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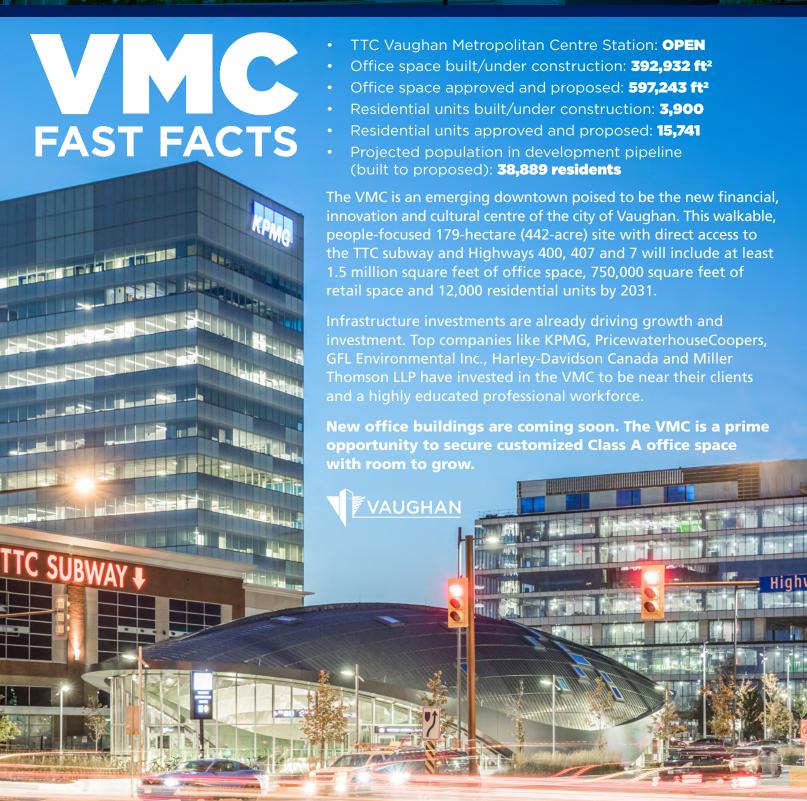


As one of Canada's largest master planned communities, the Vaughan Metropolitan Centre is an emerging downtown poised to be the financial, innovation and cultural centre of the City of Vaughan. It will be a true people-focused downtown that is walkable, social, and inclusive. Imagine 50-storey towers and low rise townhouses, busy public squares with sidewalk patios and a serene wetland park with mature oak trees, big brands next to mom-and-pop shops. This 442 acre site at the intersection of Highways 400, 407, and 7 will include at least 1.5 million square feet of office space, 750,000 square feet of retail space, and 12,000 residential units by 2031.

Top companies are buying into the VMC vision and making it a reality. KPMG, Miller Thomson, GFL Environmental Inc., Harley-Davidson Canada and PwC have invested in the VMC to be near their clients and highly-educated professional workforce. This is a prime opportunity to join them and secure customized Class A office space with room to grow.

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EMERGING DOMINION Vaughan Metropolitan Centre (VMC)



Development Context Map



- A.... 220 Doughton Rd. Block 3
- **B**..... 2851 Highway 7
- **C**..... 2901 Highway 7 West
- **D** 3300 Highway 7
- E..... 7800 Jane St.
- F..... CG Tower
- **G** Edgeley Pond and Park

- H Expo City Towers 1-4
- I......Icona
- J..... KPMG Office Tower
- K..... The Met
- L..... Mobilio
- M.....PwC-YMCA Tower

- N SmartCentres Place Bus Terminal
- O..... Transit City
- P...... Transit City 4 and 5
- Q..... VMC Subway Station
- R..... VMC VivaNext Station
- S.....Zzen/Midvale

For more information on these developments, visit myVMC.ca.



Economic and Cultural Development

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McINTOSH PERRY

McIntosh Perry provides a full range of consulting engineering and technical solutions that encompasses every stage of a project. Whether your focus is rural or urban housing, condominiums, renewable energy, commercial/industrial developments or subdivisions, we provide a full suite of services, from due diligence to completion of private and public sector projects. From planning, to assessments, to designs, to engineering, to surveying, we have you covered. With a team of more than 600 engineers, project managers and technical experts committed to delivering successful, high-quality projects, our experience and expertise helps us find an innovative solution to any problem, regardless of project size.

For more information, please visit www.mcintoshperry.com or contact us at info@mcintoshperry.com or 1.888.348.8991.

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McINTOSH PERRY



The new
McIntosh Perry
increases our
disciplines,
expertise and
services for the
benefit of you our number one
priority.

McIntosh Perry is an engineering firm with more than 500 engineers, project managers and technicians across Canada. We provide engineering services for the public infrastructure, private developers, buildings and oil & gas market sectors.

Our history stretches back more than 50 years. As we've grown to become a national, multi-disciplinary engineering firm, we remain focused on one goal – helping you with your project. Our full range of consulting engineering services and technical solutions are designed to help us find an innovative solution to any challenge, big or small.

We offer the highest level of client service to a wide range of clients in the public and private sectors: developers; REITs; building portfolio owners; property managers; government agencies; condominium corporations; architects, and contractors. Our expertise, gained through decades of experience, means you can rely on us to deliver high-quality and successful projects.





Building Services

We've worked hard over the past five decades to build our solid reputation as a leading provider of building engineering services. Having worked on thousands of buildings across Canada, we've encountered almost every possible building-related issue. Our team of engineers, building science experts and technicians has the experience and expertise necessary to find solutions and also identify opportunities for improvements to building operations.

- Building Quality Assurance
- Reserve Fund Studies/Performance Audits
- · Mechanical and Electrical Engineering
- Condition Surveys
- Hazardous Materials / Environmental Health & Safety





Building Restoration / Structural

Our team of structural engineers, building envelope specialists and project managers has the expertise to help our clients assess, design and repair buildings to maximize performance and increase return on investment. By helping building owners, operators, and managers find practical, cost-effective solutions to a wide range of issues, we've earned our reputation as a leader in the field.

- Project Management
- Building Restoration
- Structural Engineering
- Temporary Structures





Sustainable Communities

Whether your focus is on rural housing, condos, commercial/industrial developments or subdivisions, we provide a full suite of services from the beginning to completion of private and public sector development projects. From planning to assessments, design, engineering and surveying, we have you covered. Our extensive environmental and geotechnical expertise makes us your one-stop development shop.

- Planning
- Land Development
- · Geotechnical Engineering
- · Environmental Sciences and Engineering
- Surveying/Geomatics/GIS



OEL - A McIntosh Perry Company

OEL Projects Ltd., a subsidiary of McIntosh Perry, is headquartered in Calgary, Alberta.
OEL provides engineering, procurement and construction management services to the oil and gas industry. Our team of strong, multi-disciplinary, dedicated professionals are committed to providing unparalleled customer service. OEL's project capabilities range from large processing plants to multi-well tie-ins. We take pride in the innovative solutions offered to our clients while adhering to strict engineering standards.

OEL's services include:

- Project and Construction Management
- · Mechanical and Process Engineering
- Electrical Engineering, Instrumentation and Programming
- Drafting & Design





Public Infrastructure

From project inception to construction, our dedicated team of professionals assists all levels of government with successful project planning and implementation. Our team is comprised of industry experts, including senior staff with previous government experience. Our big picture understanding of our client needs in combination with our proven communication and proactive approach has made us leaders in the public infrastructure field.

- · Transportation Engineering
- Contract Administration
- Bridges (New & Rehab)
- Municipal Engineering





Our extraordinary people deliver solutions that meet your needs.



Our people are our greatest strength. We've created a culture of communication and collaboration that places the focus on you, the client. We love solving problems - big or small. Our path to success includes sorting through the maze of regulatory constraints, helping shape the project to meet your goals and those of the environment you are in. We take pride in delivering our projects, on time and budget; we ensure environmental regulations are met, we rigorously apply quality standards throughout the project life cycle, we adhere to safety guidelines, and it all results in you producing a quality finished project. Our commitment to the success goes beyond words – it means making good on our delivery promises to you.

As a national firm, we have worked on some of Canada's defining projects, both large and small. Even though we have grown from our roots into a national firm with offices from Montreal to Vancouver, we work hard to maintain a small company approach to client relationships. We place a personal focus on each client, viewing them as partners. Our goal is to develop and maintain long-term relationships with our clients. We don't want to be the company you call when there's a problem – we want to be the company you call to prevent problems. We're proud to say that some of our clients have trusted our expertise for the entire history of their company. Repeat clients, as well as the growing number of new referrals, are a testament to the value which our clients place on our services. We serve all market sectors, including residential, commercial, industrial and institutional. These include:

- Architects
- · Building Owners
- Condominium Corporations
- Contractors
- Developers
- Facility and Asset Manufacturers
- Financial, Insurance, and Legal Companies

- Municipal, Provincial, and Federal Government Agencies
- Property Managers
- REITs
- Real Estate Companies
- School Boards/Colleges and Universities





Our path to success. Our path to success includes delivering our projects on time and budget; ensuring environmental regulations are met; rigorously applying quality standards throughout the project life-cycle; adhering to safety guidelines; and producing high-quality finished projects. Our commitment to the success of our projects goes beyond words - it means being a partner with our clients and making good on our delivery promises. www.mcintoshperry.com | 1.888.348.8991 | info@mcintoshperry.com



With 1,500 member companies, BILD is the voice of the home building, land development and professional renovation industry in the Greater Toronto Area.

The building and renovation industry provides \$33 billion in investment value and employs 271,000 people in the region.

BILD is proudly affiliated with the Ontario and Canadian Home Builders' Associations.

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5 Reasons to Join the Building Industry and Land Development Association (BILD)

1. BILD Delivers Results from Advocating for the Building, Land Development and Renovation Industry

Are there laws, regulations or policies that prevent your business from growing to its full potential? As the largest local professional building industry association in Canada, BILD's advocacy team works with government on behalf of the industry to ensure your interests are protected. By becoming a member, you can participate in those efforts and be apprised of what work is being done on your behalf. That's worth the cost of membership alone.

2. Know, Learn and Share Timely Industry Information

BILD offers over 40 professional development opportunities every year that aren't open to the public. Conferences, seminars and meetings provide unique occasions to learn, develop relevant industry knowledge and create excellent time to network.

3. Expand Your Network with Like-Minded Building, Land Development and Renovation Professionals

In business, who you know is often as important as what you know. Developing professional relationships with others in the industry is a great way to share ideas, learn best practices and give and receive overflow clients. With more than 7,000 industry personnel under the BILD banner there are plenty of people to meet and work with. A network like this will help you grow your business.

4. Give Your Reputation a Lift by Being a Member of BILD

When you're a member of BILD you'll want to communicate it to peers, prospects and customers alike. Declare your investment and influence in the industry by including your membership on your email signature, LinkedIn profile and company website. The best mix with the best!

5. Membership has its Privileges. Group Savings and Membership Directory

BILD members have access to discounts on business-related products and services. You can secure better health, auto and travel insurance rates and save on office supplies.

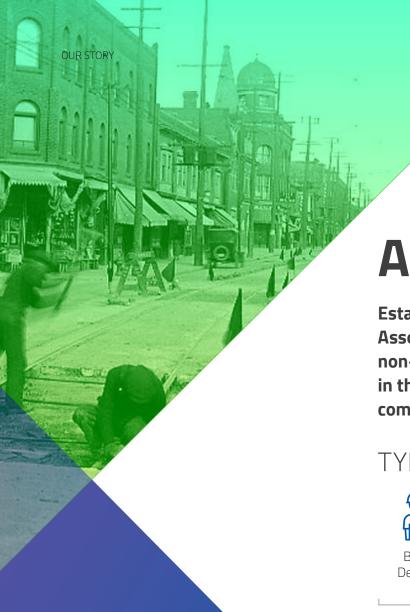
Our prestigious members know that they'll have a better shot at finding the best professionals within our association. With 1,500 categorized companies at your fingertips, BILD's membership directory makes it easy for you to find clients and for clients to find you.

For more information, call BILD Membership at 416-391-5785 or email membership@bildgta.ca.





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ABOUT BILD

Established in 1921, the Building Industry and Land Development Association (BILD) is the voice of the home building, residential and non-residential land development, and professional renovation industry in the Greater Toronto Area. Our industry designs, sells, and builds quality communities where people live, work, play, and shop. We are city builders.

TYPES OF MEMBERS



Builders/ Developers



Renovato



Profes



onal Manufactu es & Supplie



Trade Contract



Financial Services

1,450+ professionals and growing

OURMISSION

Our mission is to enhance the health, vitality, and reputation of the home building, residential and non-residential land development, and professional renovation industries.

BUILDING COMMUNITIES

YOUR MEMBERSHIP AFFECTS CHANGE ON ISSUES LIKE...







MEETING HELPING PEOPLE HOUSING DEMAND AFFORD HOMES



CREATING JOBS



INVESTING IN TRANSPORTATION & INFRASTRUCTURE



MUNICIPAL & **PROVINCIAL** PLANNING POLICIES

MEMBERSHIP BUILD HAS ITS REWARDS

BILD is the largest home builders' association in Canada, and WITH affiliated with the Ontario Home Builders' Association and the Canadian Home Builders' Association.

With a BILD membership, you automatically gain access to members across the country through these organizations. Our membership is open to companies with one or thousands of employees.

BILD GIVES YOU TO THE TOOLS TO SUCCEED

Our success lies in yours – we provide tools to empower our members to succeed in a variety of fields.

Access our Directory of Members of contacts to industry leaders.

Invitation to our industry networking events of over 250,000 attendees connecting you to business development opportunities.

Get the latest marketplace insight with monthly educational forums.

Get ahead in the competitive market with councils that focus on the information needs of associates, renovators, and custom builders.

Access our advertising tools to create awareness of your products and services.

Use our exclusive logos reserved for members and our membership certificate to identify your company as a recognized BILD member that adheres to the Code of Ethics.

Build your profile within the industry with membership participation and involvement.

CONNECTING YOU

TO THE POLICIES AND PEOPLE THAT MATTER.

As a valued BILD member, you will:

- Access policy updates providing you with second set of eyes on policies that affect your development projects.
- Understand proposed changes and consider these changes in your current pro-forma or long-term business plans.
- Help shape the industry's position on policy matters that are of interest to you.
- Access industry data, expertise, and commentary on potential policy changes that impact the building and development industry.

- Liaise and build relationships with government officials and network with indutry peers at various events.
- Contribute to the government relations advocacy, gaining insight from industry colleagues and municipal staff.
- Be provided with routine and time sensitive information updates on a variety of issues.
- Voice your concerns to BILD staff about city-wide matters that challenge the delivery of your own development projects.

WHY IS THIS IMPORTANT?

As the voice of the industry, BILD works to help shape policy, and secure positive changes on issues that impact the building and development industry.

Our government relations goal is to be your eyes and ears on the ground, to make sure our political decision-makers and key support staff recognize the importance of this industry when thinking about policy changes that affect your business, and to bring forward recommendations.

We do this by:

- Educating and equipping our political partners and municipal staff with up-to-date data and facts on the industry and its contribution to the local, provincial and national economies.
- Facilitating information sharing and discussions for our members and governments at all levels, and shape legislation and policy so that it is effective for our members, new home buyers, and businesses of the GTA.
- Connecting our members to build key relationships with decision-makers and engage them in productive dialogue with government officials.
- BILD has long been regarded as the go-to resource for government officials on housing, land development and renovation issues.







Our free education offerings provide information to ensure members have the knowledge and capabilities necessary to understand current business trends and changing industry regulations.



Our forums are conveniently offered at BILD and online to help members increase efficiency and productivity.



Listen to informative presentations, discuss common concerns with peers, and voice your opinion on issues.



You can volunteer in a task-oriented committee. Committee meetings draw a variety of professionals across the industry. Participating builds your profile within BILD and enhance your professional development. You gain the most from your membership by contributing to the organization.

EDUCATION & EVENTS

FORUMS, COUNCILS & COMMITTEES

Annual Charitable Charitable Educational Major Events

6,000+ attendees annually

AWARDS AND RECOGNITION

BILD Awards

recognize members that go beyond industry standards for sales, marketing, and community development

yBILD Leadership Award

recognize the best BILD members under 40

Renovation & Custom Home Awards

recognize the best in residential renovation and custom home design

Associate Awards

celebrates suppliers, tradespeople, and service/professional firms



BILD educational forums not only provide timely industry trends and information, but also help us connect with builders to deeply understand the issues they face and our role in making their communities a success.

John Amardeil President, BAM Builder Advertising & Marketing Inc.



BILD, its networking and educational events, helps me connect to other thought leaders in the industry, build relationships, share ideas, and learn how to advocate for change by engaging in industry discussions. This inspires me as a young leader to be the best city and community builder possible.

M.Pl, Manager, Planning & Design, Trolleybus Urban Development Inc.



RenoMark

RENOVATION, REDEFINED.

Since 2001 RenoMark™ has been raising the bar of the renovation-specific Code of Conduct. The RenoMark™ program is now delivered by 80% of the CHBA local association markets across nine provinces through voluntary, industry self-regulation.

The RenoMark™ symbol identifies professional renovator general contractors, custom builders, and trades contractors who provide installed construction services to homeowners. Only members are eligible to display the symbol.

RenoMark™ creates awareness of the renovation industry within the BILD Association, differentiating our members in the marketplace, and provides homeowners with helpful advice before hiring a contractor.

LOCAL ASSOCIATIONS CARRYING THE RENOMARK BRAND

Over a thousand renovators, trade contractors, and custom builders participate across Canada.

Toronto currently has over 260 renovators, trade contractors, and custom builders participating in the RenoMark™ program.



Membership provides a variety of marketing advantages:

- Extensive promotion of the RenoMark[™] program
- Distribution of RenoGuide to homeowners

- Advertising, articles, and columns in high-profile newspapers and magazines
- Company listing on BILD websites
- Participation at BILD's home shows
- Marketing support materials for display and distribution

14

Home Show

A WONDERLAND OF INSPIRATION FOR YOUR HOME.

Meet homeowners: those with projects in mind who have paid to see you, and want to buy from you.

Whether you are looking to find new customers, demonstrate a product, schedule appointments or make immediate on-site sales, participating in one of our upcoming shows delivers marketing that measures up.

TOP REASONS TO EXHIBIT WITH US











Meet your prospects live

Generate sales leads inexpensively Create/drive brand awareness

Move your sales cycle along

Showcase products / services to consumers

BILD produces home shows throughout the Greater Toronto Area year round creating opportunities for you to engage with potential customers.



FALL

SHOW





at the home shows.

90%

of which are expected to be homeowners who are ready to spend more than a combined \$1.5 billion.

Over **250,000 attendees**

16

Telling the industry story.

The Communications team engages members through strategic partnerships, establishing BILD as a thought leader in the industry. They enhance the reputation of the industry by amplifying the industry's story and promote public awareness of issues that affect housing policies.

STRATEGIC MEDIA RELATIONS
AUDIENCE ENGAGEMENT
INDUSTRY REPUTATION
CIVIC AWARENESS

CHANNELS AND REACH

NEWSLETTERS

6,000+
SUBSCRIBERS
HOME PAGES / NOV 7

4,000+
SUBSCRIBERS
LIAISONS / OCT 24

SOCIAL MEDIA

14,000 TWITTER FOLLOW

2,000-FACEBOOK PAGE

1,500+

PRINT

1,500+
TORONTO BUILDER MAGAZINE
CIRCULATION

550,000+
TORONTO STAR EVERY SATURDAY

82,000 TORONTO SUN EVERY SATURDAY

TODAY'S HOMES

RENO & DÉCOR MAGAZINE

2,000,000+
METRO NEWS PRINT & WEB

BECOME A MEMBER

Build with us! Join the leading association dedicated to providing a voice for the industry that builds quality communities where people live, work, play, and shop.

CALL **416 391 3445**

EMAIL **MEMBERSHIP@BILDGTA.CA**

TODAY!

1



Building Industry and Land Development Association 20 Upjohn Road Suite 100 Toronto, Ontario M3B 2V9

416-391-3445
membership@bildgta.ca
www.bildgta.ca
www.renomark.ca
www.torontohomeshows.com



Since our humble beginnings in 1955, we are proud to bring together the skills, energy and talents of over twelve hundred employees, and play an instrumental part in the design and construction of more than 85,000 residential and commercial properties in Toronto, Ottawa, Calgary and South Florida.

Our belief is simple: No matter who you are, where you're from or where you're going, we proudly build better places to live, one home and one community at a time. As proud as we are of our accomplishments, our success isn't measured in square feet or the shiny plaques on our shelves. It's about the special moments people create in their homes, while we continuously strive to find new ways to live better by living greener, healthier, smarter and brighter together.

We are honoured to be a part of the journey for so many.

GOLD SPONSOR

MINTO COMMUNITIES



CHURCH & ADELAIDE, TORONTO



123 PORTLAND PORTLAND & ADELAIDE, TORONTO



DUNDAS & TRAFALGAR, OAKVILLE



MINTO YORKVILLE PARK



THICKSON & DRYDEN WHITBY



UNION VILLAGE 16TH & KENNEDY, UNIONVILLE



KIPLING & RATHBURN FTORICOKE



2ND CONCESSION RD., EAST GWILLIMBURY

There's a Minto Communities home that's made for you.

For over 60 years, Minto Communities has been building new homes, master-planned communities and condominiums, one home and one relationship at a time. With more than 85,000 homes built in the GTA, Ottawa, Calgary and Florida, Minto Communities fulfills the lifestyle needs of individuals, couples and families, at every stage of life.

A SUSTAINABLE COMMITMENT



High performance features and benefits you can feel good about.

We believe our success is measured by the health and vibrancy of the lives we touch and the environments we create. From green architecture to community building, quality living and responsible investing, our commitment to people and the planet is an important part of what we do. It's one of the things we're most proud of.

For us, sustainability isn't just about being environmentally conscious. It's about the actions we take to invest in building a sustainable future by consuming fewer natural resources, minimizing waste and reducing greenhouse gas emissions, while providing customers with modern spaces to live, work and play. It's our priority today - and it will continue to be in the future. We're focused on building better communities, one home at a time - and sustainability is a big part of our "better." Creating better spaces that promote comfort, cost savings, health and community connections is something we're completely committed to.





Cost Savings

Our homes offer advanced features that reduce water and energy use without impacting comfort or performance, delivering realdollar savings year after year.



Comfort

Windows and walls protect you from the elements - keeping you warm in winter and cool in summer. These features help soothe your senses, ensuring your home is a comfortable and relaxing place to be.



Community

Living in a connected community with real walkability, plenty of green space, parks and recreation offers more ways to meet with friends and neighbours - promoting a true sense of belonging.



Health

Your physical and mental well-being is important to us. Your home has been designed to be a healthier place to live, with consideration for the materials you touch and the air you breathe.



INNOVATIVE INTELLIGENCE

We're committed to innovation and how it helps you live your best life.

Every day, we're pushing forward and reaching new heights. Minto Intelligence, our feature-rich smart home package, is just one way we make your life easier.



A FEATURE-RICH SMART HOME PACKAGE THAT PUTS CONTROL AT YOUR FINGERTIPS

























Every detail has been carefully considered and designed to streamline your life. Minto Intelligence (MI) is a feature-rich smart home package that puts control at your fingertips. Simply download the app to your smartphone or tablet, and access all of these features:

- · Place a call or send an email directly to the concierge desk, from anywhere in the world
- Discover hours of operation and book amenities
- Get messages from an automated parcel system about pending parcel delivery or parcel notification
- · Adjust the temperature in your suite, even if you are not in the building
- Receive messages from the concierge or property management team

- View closed circuit television video from cameras in the building
- Unlock or lock your front entry door
- · Open common area doors
- · Register a guest in advance of their visit, and allow the concierge to more easily identify the visitor, and permit access for their visit
- · Enter the parking garage without the use of a fob





HEALTH & WELLNESS







Vibrant communities for healthy lives.

We understand that our success is measured by the health and vibrancy of the communities and lives we touch. That's why we design our communities to help people live more comfortably and responsibly. Our amenities are designed to encourage both individual and communal health and wellness. From parks, paths and playgrounds to wellness centres, Minto Communities cares for your health and wellbeing, making you feel right at home.

Designing homes for a better tomorrow.

When you step into your bright, modern home from Minto Communities, you can be sure it was designed with all of your hopes and needs in mind: big windows, natural light and beautifully crafted features and finishes coming together to create an atmosphere of wellness and rejuvenation. You can also rest comfortably with the knowledge that your home was built with high-quality, low-maintenance materials and methods chosen to minimize environmental impact and stand the test of time.







Transact real estate, 24 hours a day, 7 days a week from anywhere, in the in real-time ease with SaleFish Software and improve your business efficiency by 75% by digitizing the entire process. SaleFish is the global leader in real estate software and sales process peace of mine. Contact us today to book a demo – info@salefishsoftware.com.

SaleFish is a world-class team of computer programmers, researchers, UX designers, consumer behavior experts and international real estate industry veterans. The company was started in 2004 by Rick Haws and Rob Nicolucci, entrepreneurs with backgrounds in architecture and design. They understand the complexities of the development business, the ever-changing challenges, and the need for efficiency at every turn. Their insight — and the expertise of the entire team — is leading a sea change in the proptech sector.

SaleFish provides a complete suite of software solutions and apps for residential real estate developers and builders. We're working together to revolutionize the way residential real estate developers and builders transact business. Our apps and software integrate seamlessly with your CRM or ERP software, so SaleFish makes life much easier for your entire team, while simultaneously improving the experience for buyers.

SaleFish makes it easier to reach prospective buyers and investors all over the world and makes home buying easy for them. You can centralise all your closing documents, capture electronic signatures, and complete transactions faster, anywhere in the world and in real-time! Whether you're building high rise condos, stacked or standard townhomes, or single-family homes, we can help you sell more, close faster, and increase your margins on every unit.

The corporate headquarters is in Toronto, but SaleFish is a trusted global solution, serving clients in North America, Europe, and Australia — just to name a few. With over \$55 Billion in real estate transactions to date and counting by the day, SaleFish remains the leader in real estate sales software, just as it has been for over a decade.

The waters are changing—SaleFish keeps you ahead of the tide.

GOLD SPONSOR



Sell real estate 24/7 from anywhere with **SALEFISH** Software.



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EASY

STRIVE TO SERVE

Move through the sales process smoothly and improve efficiency by 75% with fully-automated documents and paperwork production. Have the pertinent details for a specific unit or home, architectural controls, add-ons and sold vs. available automatically available at your fingertips.

Turn sales chaos into smooth sailing with SaleFish real-time, live inventory software. Make sweeping changes to price, lot availability and unit allocation at the press of a button. Make informed decisions with real-time, up to the minute analytics and never leave money on the table again.

With over \$55 Billion in real estate transactions to date and counting exponentially by the day, SaleFish remains the world leader in real estate sales software, just as it has been for over a decade. SaleFish truly is a trusted global solution; North America, Europe, Australia just to name a few.

Sage, Yardi, Builder Lynx, Builder Software Tools and so many more, you name the CRM or ERP platform and SaleFish pairs seamlessly to make the entire sales management process a complete and easy journey.

Transitioning a prospect to a purchaser and beyond has never been simpler.

SaleFish Software is designed to make the lives of our clients and their customers easy and carefree; our clients' success is our success. SaleFish offers in-person and online demonstrations, education and training, sales team tutorials and around the clock assistance.



Contact us to Book A Demo today!

We are pleased to share that for every demo request we receive a donation will be made to One Tree Planted to help reduce our carbon- footprint and work towards a net-zero digital environment.

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AIRD BERLIS

Aird & Berlis LLP is a leading Toronto-based law firm with over 170 lawyers, patent agents and business advisors. We provide strategic legal and business advice to clients ranging from individuals to

private businesses and multinational corporations.

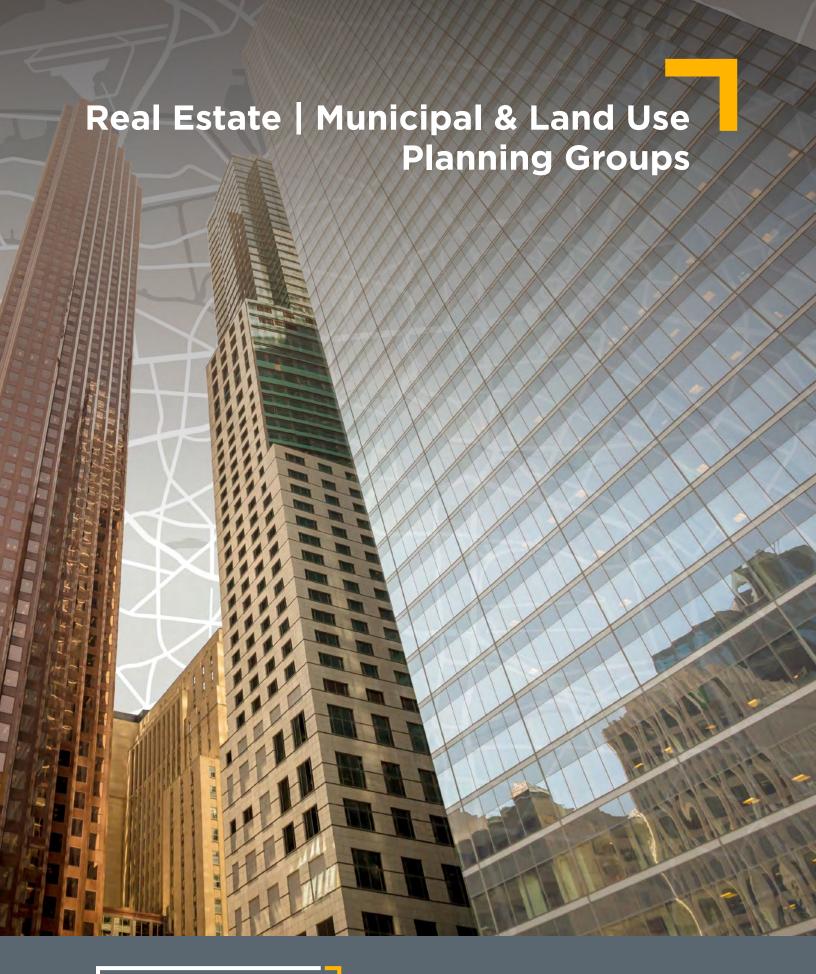
Our Real Estate Group assists clients with the purchase, sale and development of real property, leasing transactions and all types of real estate financing. We have extensive experience representing

clients involved in the development, construction and management of office buildings, hotels, residential and commercial condominiums, residential rental projects, retirement homes and shopping centres.

Our group has extensive experience in land development, from rural land to urban redevelopment and intensification. With the extensive involvement of our Municipal & Land Use Planning Law Group, we work with our clients in developing residential subdivisions, commercial developments and redevelopments,

industrial subdivisions and condominium developments, both in an urban and a suburban context

GOLD SPONSOR





With one of the largest real estate practice groups in the GTA, Aird & Berlis has the breadth and depth of experience to handle any real estate deal. From acquisitions, divestitures and financings to land development, joint ventures, construction projects and major leases, we have done it all many times over.

Our Expertise

Development

Our group has had extensive experience in land development, from rural land to urban redevelopment and intensification. With the involvement of our Municipal & Land Use Planning Group, we work with our clients in developing residential subdivisions, commercial and mixed use developments and redevelopments, industrial subdivisions and condominium developments, both in an urban and suburban context. We understand the development and planning approvals processes and we can help our clients navigate through it.

Construction

We see construction from all sides, and ensure that construction issues are handled quickly and effectively. Our group acts for contractors, architects, land developers and builders. We have extensive experience in CCDC and RAIC contracts. We are also involved in construction lien litigation.

Acquisitions

We have been involved in acquisitions from coast to coast. Our depth of experience spans all asset classes, including office, retail, industrial, multi-family, raw land, institutional, government and specialty assets such as hotels, refineries and manufacturing plants. We have advised on single assets and large portfolios. In each case, we bring a sophisticated and in-depth understanding of conveyancing and real estate due diligence matters, and can assure our clients that the property title, as acquired, meets their objectives and expectations.

Financings

We act for many major lenders and borrowers throughout Canada. We have been involved in everything from simple first mortgage financings to sophisticated mezzanine deals, bonds and commercial backed mortgage security issues. Our lawyers have extensive experience in mortgage enforcement and restructuring, and remedies such as power of sale, foreclosure and actions on the covenant. We are able to offer our clients the strategic advice necessary to ensure a smooth financing transaction.

Dispositions

We have assisted clients in the disposition of real estate assets by various means, including sale through a broker and by auction. In each case, we take care that the disposition is handled expeditiously, with the client's objectives in mind, while attempting to eliminate any residual risk or liability. We are focused on getting our clients the disposition proceeds as quickly and as cleanly as possible.



Leasing

Our group handles office, industrial and retail leases, from the routine to the most complex. We have advised on major leases of hundreds of thousands of square feet with sophisticated tenants and landlords. Our professionals are very familiar with structuring credit tenant lease transactions, ground leases and using leases as a tool to achieve other structuring preferences. We have expertise in green leases and leasing in LEED buildings. Our group also has extensive experience in rooftop and telecommunication licence agreements, which provide enhanced amenities to tenants and additional revenue for landlords.

Condominiums

We act for both large and smaller condominium developers and provide experienced, cost-effective legal advice with respect to site acquisition, ownership structure, Tarion registration, disclosure and sale documentation, deposit administration, construction and deposit surety financing, condominium registration, completion of occupancy and final closings, and turnover to the unit-owner elected board of directors. Post-turnover, we also advise our developer clients on ongoing *Condominium Act* compliance matters and Tarion warranty obligations as well as operational issues with residential, commercial and mixed use developments. We have set up hundreds of condominium corporations, co-operatives and co-ownerships. Our experienced professionals are regularly involved in drafting by-laws, rules, amendments to declarations, shared facilities agreements, s. 98 agreements and other documentation.

Environmental Issues

In cases where land uses are changing or where historical activities have created environmental risks, we offer specialized expertise to ensure compliance with environmental assessment obligations. We have significant experience advising on environmental issues in large and small real estate transactions. We have advised a number of REITs, developers and lenders in the acquisition of contaminated sites and the requirements for brownfield redevelopment through the record of site condition. We work with clients to ensure that redevelopment can occur in an environmentally-acceptable and financially-viable manner.

Public-Private Partnerships

We have acted on behalf of public entities and private developers in structuring and implementing transactions involving public-private partnerships for infrastructure, hospital, school, university, office and recreational projects.

Distressed Real Estate Assets

We provide practical legal advice and implement innovative solutions with respect to all types of distressed real estate situations. Our depth of experience includes handling the full range of enforcement proceedings, such as powers of sale, foreclosure, attornment of rents and receiverships on behalf of secured lenders and borrowers, as well as lease termination, landlord distraint and realization of security on behalf of landlords and tenants.



Our Team

Our standing as leading real estate lawyers in Canada is evident through:

- > notable accolades in The Legal 500 Canada, Chambers Canada: Canada's Leading Lawyers for Business, Who's Who Legal: Canada, The Canadian Legal Lexpert Directory and The Best Lawyers in Canada;
- active participation in industry associations, such as the International Council of Shopping Centers, the National Association of Industrial and Office Properties (Toronto NAIOP), the Urban Land Institute, Canada Green Building Council, the American Real Estate Society, the Building Owners and Manager Association (Toronto), the Commercial Mortgage Securities Association, the Building Industry and Land Development Association (BILD), Canadian Condominium Institute and the Toronto Construction Association;
- designation as instructors for courses such as Real Estate Development/Real Estate Finance in the MBA program of the Ted Rogers School of Management at Ryerson University; and
- > contributions to various national and international publications and industry speaking engagements.

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The Aird & Berlis Municipal & Land Use Planning Group is one of the largest and most highly-recognized practice groups of its kind in Canada. Our dedicated lawyers and skilled land use planners devote their practice to matters relating to municipal law, land use planning and development law.

We act on behalf of landowners and developers, municipalities and public agencies, elected officials and local board members, institutional clients, utility companies, as well as public interest groups.

Specialized Expertise

Land Development

We are a recognized leader in land use planning, and are well-acquainted with the ever-evolving legislative regime governing and affecting development in Ontario.

Our services range from providing assistance with simple land use approvals, including minor variances and consent applications, to complex and lengthy development matters and disputes, such as contentious official plan and comprehensive zoning by-law amendments.

Our lawyers regularly appear before the Local Planning Appeal Tribunal (formerly the Ontario Municipal Board), municipal councils and committees of adjustment. We also represent litigants in court applications and appeals at all levels of the courts, including the Supreme Court of Canada. Additionally, we have a well-established track record of success in the mediation and resolution of land use disputes.

Our professionals have extensive experience preparing all forms of statutory and extra-statutory development agreements, and are well-versed in providing advice and dealing with appeals related to the *Building Code Act, 1992*, and the *Development Charges Act, 1997*.

We also have specialized expertise handling *Ontario Heritage Act* matters, including heritage designations, heritage conservation districts and appearances before the Conservation Review Board.

Municipal Law

General municipal law covers a wide array of matters which deal with the core powers, duties, responsibilities and liabilities of municipalities. Our knowledge of local government jurisdiction, operations, procedure and law is second to none in Ontario. We are experts on municipal legislation and have written extensively on the subject. A number of our lawyers are former in-house municipal solicitors, senior municipal staff and/or have worked at the former Ontario Ministry of Municipal Affairs and Housing, now two separate ministries. This provides an unparalleled depth of knowledge and understanding regarding municipal bylaws, council authority, powers and procedures, elections, the open-meetings rule, the anti-bonusing provision, accessibility, transparency, councillor conduct, self-help remedies and the discretionary enforcement principle.



We regularly provide opinions on the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, the *Municipal Elections Act, 1996*, the *Municipal Freedom of Information and Protection of Privacy Act*, procedural and governance issues and social and public housing matters. We frequently attend at council, committee and staff meetings for our municipal clients to provide opinions and make presentations on legal issues.

With respect to various municipal agreements, Aird & Berlis assists with everything from simple undertakings and releases to complex contracts and development agreements. A large component of our practice is focused on drafting municipal contracts and agreements, including those pertaining to large infrastructure financing, operating and service delivery, information technology, procurement, construction, user and licence fees, and property tax and collection matters.

We have also dealt with all types of municipal by-law interpretation, application and enforcement matters, including those under the *Municipal Act, 2001*, the *Provincial Offences Act*, the *Building Code Act, 1992*, and the *Fire Protection and Prevention Act, 1997*. Our experience includes advising on municipal signage regulation, applications for variances and amendments, provincial regulation, permit and contract litigation, Charter issues and defending against prosecutions.

Expropriation

Aird & Berlis represents a wide variety of landowners/claimants and expropriating/approval authorities across Ontario in all aspects of expropriation law. We act for municipalities and other public authorities on a wide variety of expropriations, including very large and complex linear expropriations for transportation and related infrastructure projects. In so doing, we are involved from the inception of the project, advising on related environmental assessments, preparation of notices, by-laws, plans, offers, agreements, and other documents, as well as the negotiation of compensation and the adjudication of compensation before the Board of Negotiation, the Local Planning Appeal Tribunal and the courts, if necessary. Our experience includes acting for the landowner in one of the largest transportation infrastructure expropriations in Ontario, as well as numerous claimants regarding various takings by public agencies for large infrastructure projects.

Municipal Finance, Development Charges and Property Tax Assessment

Aird & Berlis has extensive experience in all aspects of municipal finance, tax and assessment, including hearings before the Local Planning Appeal Tribunal, the Assessment Review Board and the courts. We represent municipalities and private sector clients with respect to development charges, large infrastructure financing, municipal fees and charges, as well as all aspects of property tax and collection, including tax sales.

Our Team

The Aird & Berlis Municipal & Land Use Planning Group is respected within the municipal and land use planning community for providing top-notch legal counsel, representation and service.



Rankings and Recognition

- > Chambers Canada: Canada's Leading Lawyers for Business as a top firm in Real Estate: Zoning/ Land Use (Ontario)
- > Ontario Bar Association's Award of Excellence in Municipal Law
- Law Society of Ontario Certified Specialists in Municipal Law: Local Government and Land Use Planning and Development
- > Novae Res Urbis' annual rankings of prominent planning and development law firms
- > Martindale-Hubbell Bar Register of Preeminent Lawyers
- > Legal Media Group Guide to the World's Leading Real Estate Lawyers
- > The Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada
- > The Canadian Legal Lexpert Directory
- > The Best Lawyers in Canada ("Top Listed" firm in Canada in Municipal Law)

When you enlist the services of the Municipal & Land Use Planning Group, you benefit from the knowledge and experience of leading authorities who are familiar with the latest developments, who have spoken at the most recent professional conferences and lectures, and who have published texts on three principal statutes in their areas of expertise, (the *Planning Act*, the *Municipal Act*, 2001 and the *City of Toronto Act*, 2006). Our group members have also written other authoritative texts, articles, papers, newsletters and for legal reporting services.

Our Experience

We represent clients before all levels of the Ontario courts in actions, applications, appeals, claims and motions. We also represent clients before the Local Planning Appeal Tribunal on land use planning and development matters as well as before numerous other administrative tribunals such as the Assessment Review Board, Environmental Review Tribunal, Joint Board, Mining and Lands Commissioner and the Ontario Rental Housing Tribunal. We appear regularly before local and regional councils, land division committees, committees of adjustment and the boards of numerous public authorities.

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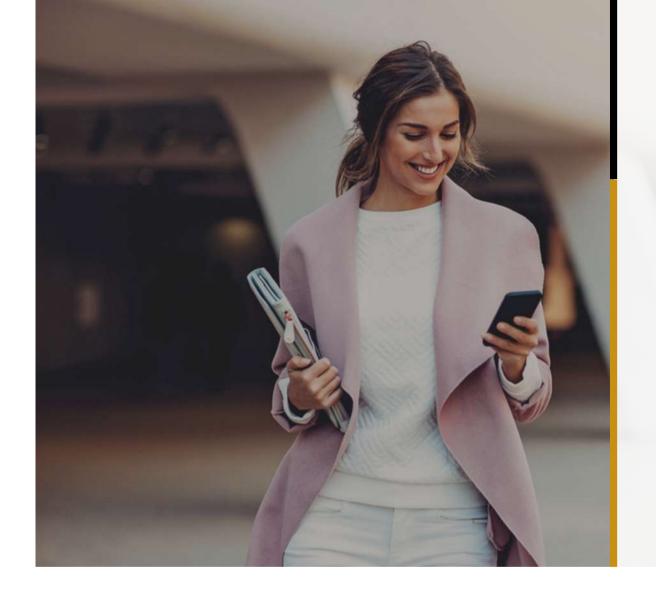
BuildingLink

Currently one of the world's leading PropTech solutions with over 5,000 customers, a presence in 35 countries and available in 9 languages, BuildingLink delivers powerful technology for developers, building owners, property managers and staff.

A combination of cloud based solutions, Artificial Intelligence, mobile apps, smart home devices and IoT sensors, BuildingLink creates elevated living and working experiences from pre-construction all the way to occupancy.

Today, BuildingLink is the ultimate tech amenity making everyday requests, bookings and communications so simple and thereby completely revolutionizing connected living as we know it.

GOLD SPONSOR



ELEVATE

YOUR NEXT
PROJECT WITH
BUILDINGLINK

SALES • CONSTRUCTION • OCCUPANCY

BuildingLink

ELEVATE YOUR NEXT PROJECT WITH BUILDINGLINK



YOUR VISION OUR PLATFORM

You envision, design and build. You market, brand, and create vibrant communities. At BuildingLink we listen, innovate, deploy and service. After 20 years, over 5,000 buildings, 9 languages and as preferred supplier to some of the industry's most respected brands that include the Ritz Carlton Group, Shangri-La, and Four Seasons Group, we're confident we can help you deliver on that vision.

Through a combination of our industry expertise and cutting edge technology we've assembled a bundle of tools that will help you deliver on your goals through each phase of your project. From the initial sales and marketing, to construction and well after turnover BuildingLink is both an essential amenity and a must have operational platform.

Your vision, our platform.

Together we'll help ensure a seamless transition from concept to vibrant community!



Give your project the competitive edge and deliver an amenity that your residents will love and praise.

BuildingLink will provide your sales team with connected living solutions to display

that include: a smart home device, customized mobile app and branded resident portal.

Imagine the value of showing prospective buyers how intelligent their new home is by demonstrating the convenience of accessing building news, making service requests and bookings or even checking availability of favourite cardio equipment all from their smart home device, mobile app or branded portal.







Arm your team with tools to streamline communication and manage documents.

BuildingLink is the perfect tool for:

- Construction updates and scheduling move-ins.
- Storing manuals, warranty's and welcome packages
- Inventorying building equipment and storing floorplans

Your community will be flowing seamlessly from day one!



OCCUPANCY

With BuildingLink, new owners will know they invested in a first class development and a community that will flourish!

As occupancy kicks into high gear and the stress of move-ins and property operations increases, your management, security and maintenance team will hit the ground running with BuildingLink!

BuildingLink will help execute countless outgoing communications, efficiently track deliveries, trades, bookings and much more. With BuildingLink installed your team will have the tools to deliver outstanding customer service and excel from day one!

Before new owners ever set foot onsite they will be seamlessly connected to their new community and know they made an investment in a first class development and a community that will flourish!





FUTURE PROOF YOUR PROJECT

Our sensor solution kits are a new generation of IoT sensors designed to enhance multi-family living. We call them Aware! because they provide management and staff with what's happening, when it's happening through actionable insights and alerts.



LEAK DETECTORS



PARKING SENSORS



GYM SENSORS



MECHANICAL SENSORS

ACCOMPLISH so much more with BuildingLink

RESIDENTS



PERSONALIZED APPS



BRANDED PORTAL



ELEVATED CUSTOMER SERVICE



ALEXA SKILLS

CONTACT US FOR A

DEMO

STEPHANIE@BUILDINGLINK.COM (877) 501-7117

MANAGEMENT



SEAMLESS COMMUNICATIONS



MAINTENANCE TRACKING



DOCUMENT MANAGEMENT



AMENITY REGISTRATION

FRONT DESK



PACKAGE TRACKING



PARKING MANAGEMENT



INCIDENT TRACKING



VISITOR MANAGEMENT



NEEZO Studios is an award-winning, creative studio and architectural visualization firm specializing: in 3D renderings, animation, virtual reality, interactive content, scale models and sales centre software for the real estate industry.

Founded in 2005, based in Mississauga, Ontario, Canada, NEEZO Studios houses one of North America's largest rendering farms and employs a talented team of 40+ passionate innovators, ensuring NEEZO's ability to offer exceptional workmanship, as a true, one-stop resource to their clientele.

For over a decade, NEEZO has been working on TV shows such as *Property Brothers*TM, *Brother vs. Brother* and *Property Brothers*: *At Home* to name a few shows which aired on HGTV, as well as on other global TV channels. The media exposure has brought NEEZO international recognition and decorated them as recipients of dozens of awards.

NEEZO Studios also serves as an extension of the developer and builders' marketing teams, providing creative and strategic direction from the initial development proposal for city approvals, community engagement and ultimately, the project launch.

NEEZO's extensive suite of services include:

- detailed scale models
- scale model/site plan tables
- architectural visualization
- 2D/3D floor plans renderings
- photo-realistic 3D renderings
- cinematic animations

- interactive content
- website design
- apps
- AR/VR
- aerial and drone photography
- real estate lifestyle videos
- immersive sales centre displays
- · sales centre merchandising
- · branding and strategic planning
- media planning
- LiveSite™ NEEZO's virtual sales centre software and so much more.

The beauty of collaborating with NEEZO Studios is...everything is done in-house. NEEZO Studios, is your true, one-stop creative studio. NEEZO is also happy to collaborate with your marketing partners. If you don't have an agency of record, NEEZO can provide full ad agency services as well.

For further information, a demo or to obtain a quote, contact:

Lisa Reis, Director of Marketing & Client Success

Phone: 905-306-3437

Email: Ireis@neezostudios.com
Website: neezostudios.com
Instagram: @neezostudios
Facebook: @neezostudios
Twitter: @neezostudios

GOLD SPONSOR



NEEZO® STUDIOS

Creativity in Motion™

YOUR ONE STOP CREATIVE STUDIO

NEEZO Studios is an award-winning ONE STOP creative studio and architectural visualization firm, specializing in photorealistic 3D renderings and animations, interactive applications, scale models, websites, video, mobile apps, configurators, virtual reality, and augmented reality, for everyone in the real estate industry. Our capabilities allow us to create all **our work in-house, helping our** clients avoid the hassle of dealing with multiple vendors. With an in-house green screen, motion capture equipment, and one of the largest rendering farms in North America, the limits of what we can create are endless.





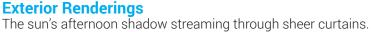
3D ANIMATION & RENDERINGS



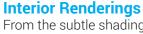








The soft ripples of an ocean-side pool. The accelerated motion of a speeding sports car through motion blur. Our exterior renderings capture every possible detail with crisp, sophisticated and highly-detailed images.



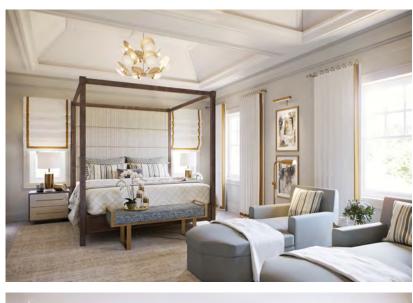
From the subtle shading of hardwood floors to the arrangement of flowers and throw pillows, we create authentic, layered and highly-detailed, photorealistic renderings that invite customers to get up close and personal with the space; so they can really imagine themselves living there.



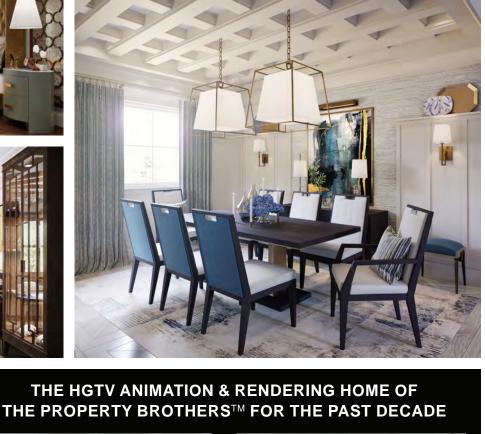
























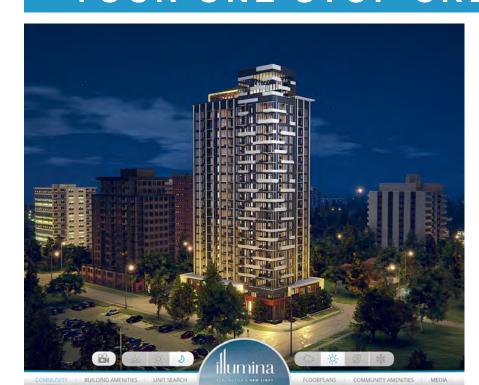




NEEZO® STUDIOS

Creativity in Motion™

YOUR ONE STOP CREATIVE STUDIO





Sell with the Best

LiveSite™ combines our award-winning expertise in game-engine technology with a deep understanding of the real estate sales process to create a more impactful & memorable sales experience, all powered by NEEZO's real-time data.

Powered by NEEZO's Live Data LiveSite's™ front-end sales center experience is driven by NEEZO's powerful web-based content management system (CMS), empowering your team to manage unit and lot availability, pricing and more, on the fly. Updates are immediately reflected in the front-end, across all sales locations and web browser experiences.







An Industry-Leading Feature Set

With years of iteration & refinement behind it,

Web-Browser Compatible Why limit your presentation to the sales center? LiveSite™ is compatible with modern desktop/laptop web-browsers, allowing your buyers to experience the full Feature Set from the comfort of their home (even if that home is in another country), powered by the same up-to-date availability and pricing as the sales center experience.

Livesite's[™] Feature Set encompasses everything your project needs to shine... and the best part? You only pay for the features that make sense for YOUR project.

Here's Just Some of What LiveSite™ Can Do for You







Compare 2D & 3D Floorplans









Day / Night Cycle

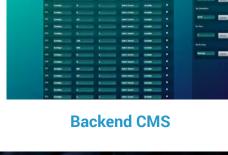














using the latest innovations in 3D printing and laser cutting technology.







of your development, everything down to the minute detail is possible. Interior lighting, and various other interactive and augmented reality applications can all be incorporated into the model to make it as effective as possible.

Determined to exceed our clients' expectations, Xortus remains laser focused on your brand's image and project specifications in order to have a

final product that will forever be etched into the mind of anyone who sees it.









Sam Di Santo - Managing Director, Molinaro Group

been a very positive response to LiveSite™

They are simply the best at what they do and I am continually amazed at their

development projects. It's wonderful when you can find a partner that shares your passion for craftsmanship and also offers exemplary customer service.

"For most people, the hardest part of buying a home is seeing the potential in a property. NEEZO Studios has always been an invaluable tool to help us paint the





info@neezostudios.com neezostudios.com 1.905.306.3437





TitlePLUS® title insurance, available through lawyers, provides peace of mind by offering the most comprehensive coverage generally available in the market today.

TitlePLUS policies, underwritten by Lawyers' Professional Indemnity Company (LAWPRO®), cover all standard title issues and the legal services the lawyer provides in the transaction (excluding OwnerEXPRESS® and Quebec policies). See policy for full terms and conditions.

1-800-410-1013 titleplus.ca

250 Yonge Street, Suite 3101, P.O. Box 3, Toronto, Ontario M5B 2L7

Is the title to your home protected? Are you worried about real estate title fraud? Are there other legal issues about your real estate transaction that concern you?

install a pool or add a garage to the property you

should be aware of. Talk to your lawyer as he/she

can provide valuable legal advice in these situations.

are buying, there may be restrictions which you



insurance products generally available in the market

today, a TitlePLUS policy covers all the standard

title related aspects of your deal PLUS the legal

services provided by your lawyer.

Take this opportunity to speak to your real estate lawyer about the benefits of TitlePLUS® title insurance¹ for residential real estate transactions.

Proudly Canadian: TitlePLUS title insurance One-time premium: Unlike other types of is the only all-Canadian title insurance product insurance, the premium for a TitlePLUS policy currently available in the market. is paid only once. Direct coverage: TitlePLUS title insurance Cost savings: A TitlePLUS policy can save you works like other types of insurance; if there is money by eliminating certain searches and a problem that is covered by your policy, you inquiries² and, in most cases, eliminates the need simply contact the title insurer directly to report for an up-to-date survey. In a purchase policy, both you and the lender are covered under the your claim. same policy. Title fraud protection: A TitlePLUS policy Unpaid utility bills and/or appliances: provides coverage for title fraud that may have A TitlePLUS policy may provide coverage for final utility bills or appliances which the seller should occurred prior to your purchase or if your property becomes a target at a later date. have paid for – but didn't. **Building permits:** A TitlePLUS policy may Cottage/recreational properties: These provide coverage where you are required to make types of properties may have access and road repairs to items that were built by the seller without allowance issues. If you are not legally permitted to the proper permits or appropriate inspections. use the road which provides you access to your property – you may lose it. A TitlePLUS policy can provide protection in these situations. **Renovations:** If you are planning to renovate, Legal services coverage³: Unlike other title

Like us on
☐ Facebook (TitlePLUS Home Buying Guide Canada) or visit our website at
titleplus.ca where you will find our Real Simple Real Estate Guide™, a useful resource
which includes mortgage calculators, a glossary of real estate terms and much more.

A TitlePLUS Purchase Policy

Are you buying a residential property? The TitlePLUS purchase policy is for you. It covers both purchasers and lenders in the transaction. The purchasers' coverage continues for as long as they or their heirs own the property.

TitlePLUS purchase policies are available for new houses or condominiums, resale houses or condominiums, cottages, residential rental units (up to 6 units), rural properties, vacant land, leaseholds⁴ and farms⁴.

A TitlePLUS OwnerEXPRESS® Policy and/or a TitlePLUS Refinance (Mortgage-Only) Policy

If you already own your home but did not get title insurance at the time of purchase, a TitlePLUS OwnerEXPRESS policy is for you.

If you are refinancing your home, a TitlePLUS Refinance (Mortgage-Only) policy provides coverage for the lender only.

Both policies are available for houses, condominiums, cottages, residential rental units (up to 6 units), rural properties, vacant land and leaseholds⁴. TitlePLUS Refinance (Mortgage-Only) policies are also available for farms.

- Are there other legal matters that you need to talk to your lawyer about?
- If you are buying a home, do you need to update your will?
- Be sure to consult with your lawyer who can provide you with valuable legal advice.

| notes | | |
|-------|--|--|
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TitlePLUS Home Buying Guide Canada

titleplus.ca

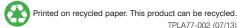
250 Yonge Street Suite 3101 P.O. Box 3 Toronto, ON M5B 2L7

e-mail: titleplus@lawpro.ca phone: 416-598-5899 or 1-800-410-1013 fax: 416-599-8341 or 1-800-286-7639

¹ The TitlePLUS policy is underwritten by Lawyers' Professional Indemnity Company (LawPRO®). Please refer to the policy for full details, including actual terms and conditions. Contact LawPRO for brokers in Manitoba, Alberta and Québec.

- ² Some restrictions may apply.
- 3 Excluding OwnerEXPRESS policies and Québec policies.
- ⁴ Available in Ontario only; some restrictions may apply.
- © 2013 Lawyers' Professional Indemnity Company
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 ® Registered trademark of Lawyers' Professional Indemnity Company.





CIBC is a leading North American financial institution with 10 million personal banking, business, public sector and institutional clients. Across Personal and Small Business Banking, Commercial Banking and Wealth Management, and Capital Markets businesses, CIBC offers a full range of advice, solutions and services through its leading digital banking network, and locations across Canada, in the United States and around the world.

At CIBC Commercial Banking, we help our clients create end-to-end financial solutions to address every business need at each stage of a company's development and operation. Our comprehensive approach helps companies finance growth, manage cash flow, increase efficiency and mitigate risk. We provide high-touch, relationship-oriented banking and wealth management services to middle-market companies, entrepreneurs, high-net-worth individuals and families across Canada.

Most importantly, at CIBC, our purpose is to help make our clients' ambitions a reality. We live our purpose by making three commitments, and work every day to live up to them:

- 1. We make your goals our own.
- 2. We deliver excellence every day
- 3. We show appreciation for your business



Teranet is an international leader and pioneer in electronic land registration systems and commerce and is the exclusive provider of Ontario's online property search and registration. We developed, own and operate the Ontario Electronic Land Registration System – one of the most advanced, secure and sophisticated land registration systems in the world.

GeoWarehouse is a web-based, centralized property information source that provides state-of-the art mapping, research tools, and professional reports. Land professionals have access to property sales information as well as enhanced features, such as neighbourhood demographic information and streetscape imagery, just to name a few. It is considered one of an Ontario land professionals most valuable tools with a database that contains more than five million properties sourced from the Land Registration System of Ontario.

As a trusted provider of master data management (MDM) solutions and services to government, utilities and commercial enterprises, Teranet enables customers to improve their decision-making by providing reliable property information and location intelligence capabilities through a world-class customer experience.



Cheers to 50 years of AG!

Astley Gilbert (AG) is a proven supplier to the land industry and its many players. Most of you look to us for technical documents, blueprints, construction hoarding and our on-line platform, Invitely. It's fitting we sponsor this conference, as our relationship to your industry is longstanding and appreciated.

As we celebrate our 50th Anniversary in 2020, we'd like to share how we've evolved over the years to better serve you.

Today AG's offerings include signage, wayfinding, grand format and vehicle wraps. AG has handled the signage and wayfinding assignment for multiple upscale condo projects in the GTA, as well as commercial and retail installations. Working closely with project managers and agency designers, AG produced and installed elegant solutions to complement the builds.

Our heavy investment in technology makes us a leader in digital printing. With an in-house creative team, we can handle your marketing and collateral material. Small or large runs, AG has the hardware to run the job efficiently and economically. And if the design is complex and requires finishing touches, or a packaging solution, that's where we excel.

When dealing with AG, you'll have professionals bringing years of expertise to your project. We pride ourselves on a 'make it happen' culture. From scoping out the initial order, to detailed specs, to quality control and respect for deadlines, AG delivers.

As a family-owned business, we put our reputation on the line. Our own people command creative services, fulfillment, bindery, production, and even delivery, with our fleet of 75 vehicles. When AG promises to deliver, it's a commitment we can keep. With 350 staff across 12 Ontario locations, we're proud of what we've accomplished.

We invite you to think of AG for your diverse business needs. AG's intention is to grow with your sector by finding ways to better serve you.

Check out astleygilbert.com for an overview of our products and services, including galleries of our work. Contact Rino Dambrosio for more information at RinoD@astleygilbert.com or call 416.288.2816.

ELADCANADA

The realization of development projects and value enhancement forms the cornerstone of ELAD Canada's multi-billion dollar operations. Backed by extensive international capital and benefiting from experience and in-depth knowledge of the industry, ELAD has a proven track record with large scale, multi-phase projects and numerous office, industrial and retail properties throughout Canada and the US. With a best-in-class reputation for creative thinking and investing in the execution

and delivery of untapped development opportunities, ELAD is highly skilled at seeking out sites with high potential, close to transit and major points of interest. Best known for its visionary approach at the award winning, master planned Emerald City in Toronto, ELAD also leads the way with innovative projects in Montreal. ELAD has recently acquired Lansing Square, a 400,000 sq.ft. office complex on approximately 15 acres, slated to be redeveloped as a mixed-use community.

GALLERIA

ON THE PARK



#LiveAsOne

A New Dupont City Park Community

ELADCANADA

Live, Work And Grow As One

Leading the new Dupont's ever-expanding, vibrant cultural scene, Galleria on the Park is Toronto's most inspired new neighbourhood of condominiums, shops and places to gather, all located next to an incredible eight-acre park.

Galleria is everything we love about Toronto all in one new neighbourhood, beautifully mirroring the diversity that continually brings fresh energy to our city.

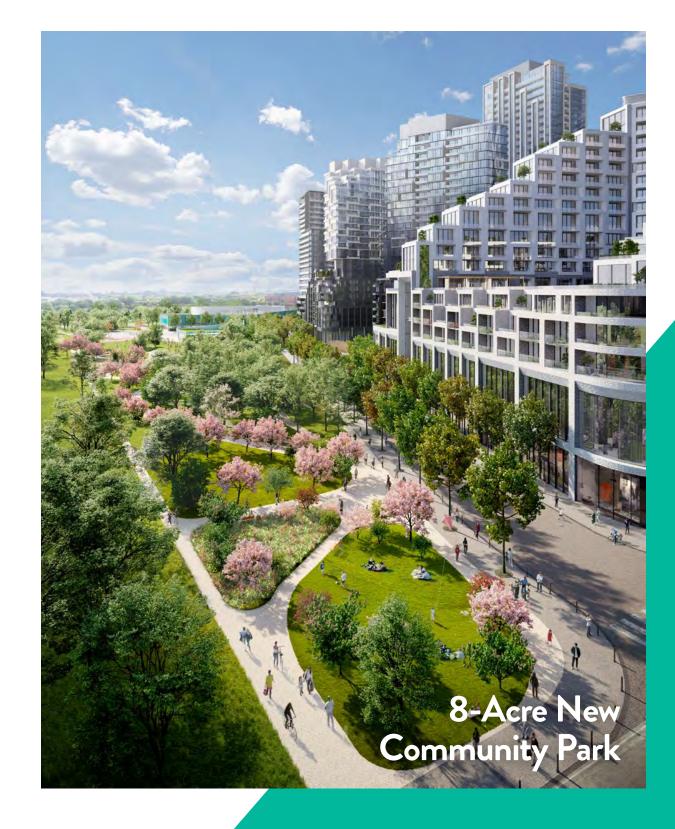
Master-planned through collaboration

Warm and welcoming to the surrounding community and the entire city, Galleria on the Park started as the seed of an idea and blossomed into a groundbreaking master plan. People already living in the neighbourhood were invited to participate in numerous working sessions.

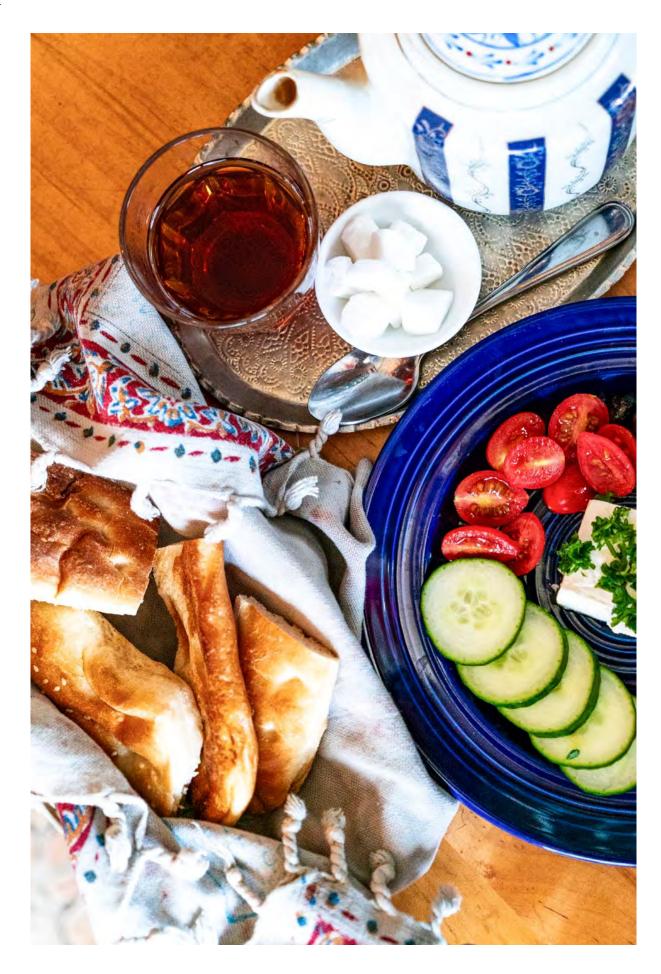
The result is that cherished and necessary components of the existing site will be retained and revitalized, complementing the sophisticated new additions. Galleria on the Park is truly a community envisioned by a community.

Large, new community centre & park

Encompassing the most enlightened urban planning features of this century, Wallace-Emerson Park will be enlarged to nearly 8 acres, anchored by a brand-new, 95,000 sq.ft. community centre - one of the largest in the city.



Toronto Fun Facts



Points Plaza, located at the heart of Galleria on the Park, will be a gathering space for everyone. Featuring restaurants and stores, with patios spilling out onto the sidewalk, it will foster a dynamic, active and cheerful scene. Look forward to outdoor dining, farmers' markets, street vendors and street festivals.

A large green park with a massive, state-of-the art community centre; walkable, generous sidewalks lined with trees and plants; and colourfully patterned streets create an ideal environment for urban living at Galleria on the Park.

With room for almost 6,000 people to live as one community in eight architecturally distinct buildings, Galleria on the Park comprises condominium suites and rental suites — with their own lobbies and dedicated property management. Galleria offers a premium lifestyle and convenient access to on-site creative office spaces and high-quality retail outlets.

The eight residential buildings offer plenty of choice, including studio, one-bedroom, two-bedroom, and three-bedroom suites that offer sophisticated, modern design, a leading-edge technology package and all the amenities you could ever imagine right outside your door.

A connected community

Galleria's wide, open, pedestrianfriendly streets and pedestrian mews criss-cross the new district, connecting to the established family neighbourhoods around it. With area residents easily able to come and go from the park, the community centre, outdoor gathering spaces and amazing shops and retailers, Galleria is a safe and welcome connection point for the entire neighbourhood – and visitors from all over the city.

Cyclists have top priority, too. It's easy to get to and from Galleria along cycling routes such as the bike lanes on Bloor Street, and the new cycling loop in the park.

Galleria Fun Facts

BIKE PARKING SPACE

3,595



The new 95,000 sq.ft. Wallace-Emerson Community Centre* will be one of the largest in Toronto, offering a variety of spaces, indoor and outdoor options for play, and ways to rejuvenate and socialize.





Bigger and better

Along with a gym, multi-purpose rooms, community kitchen, outdoor skating trail, swimming pool, dance studio, running track, and full fitness facilities, the new community centre will feature a child care centre and playground.

A park with heart

You'll want to spend a lot of time in the inviting new Wallace-Emerson Park. Whether simply relaxing under the trees, hosting a picnic, or playing ball with the kids, you'll love this large and revamped green space, designed to maximize sunlight and south views of the Toronto skyline.

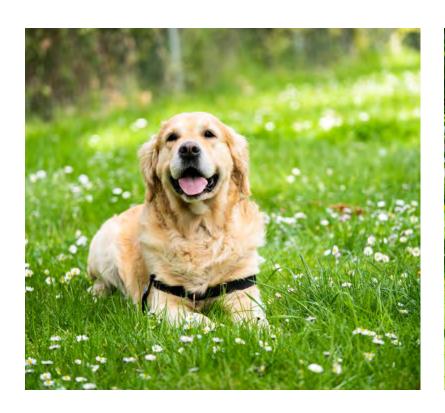
A park for everyone, it's apportioned into three multi-functional spaces*:

The Community Heart surrounds the new community centre at the west end of the park, and features a BMX/skateboard park, a multi-use sport court, and skating pad, along with a skating trail.

The Play Heart, at the centre of the park, is a multi-use green field with a hill that invites all Torontonians of all ages to gather and play.

The Nature Heart, at the east end of the park has a treed canopy and meandering pathways for wandering and relaxing in a natural setting.







Premium Retail

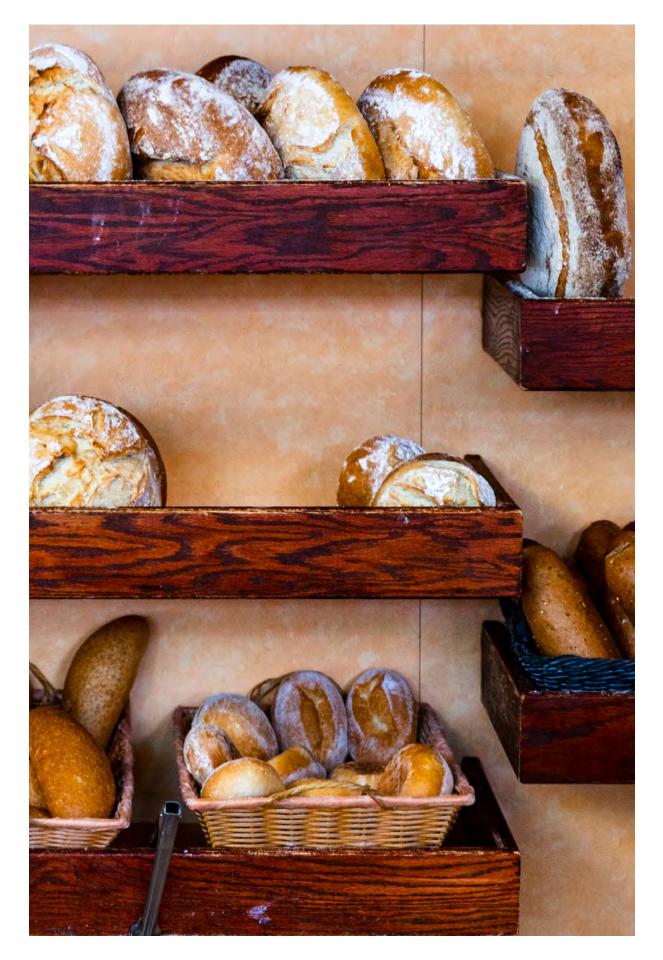


Grab a coffee at a café just steps from your home. Meet a friend for ice cream on a patio. Or shop for a new outfit for that party you're attending on the weekend. No matter what you're looking for, you'll find it at Galleria's exclusive retail venue.

Galleria Fun Facts

Q.FT. OF RETAIL SPAC

300,000



Designed to make getting around on foot and by bike easy, Galleria on the Park also has the TTC and airport connections you need.

Ontario Place/

Exhibition _____

TTC

The #29 Dufferin bus runs 24 hours a day, south to the lake, and north to North York, with a stop at Yorkdale Mall. Dufferin station is just 5 minutes south by bus, giving you access to Line 2 of the Bloor Danforth subway line.

The #26 bus runs along Dupont between St. George Station and Jane Station. TTC buses will also travel through the Galleria on the Park district, making public transit safer and more convenient.

Bikin

Galleria on the Park's thrilling new park will incorporate cycling lanes that connect to the city's existing infrastructure for cyclists. You'll be able to ride from home to the bike lanes on Lappin, Dupont, Davenport, and Bloor.

Highways

Dufferin Street takes you south and connects you to the Gardiner Expressway.

Walkir

Galleria on the Park has a walk score of 92, which means everything you need to access is on your doorstep. For exercise and as a viable transportation option in itself, you can easily walk south to Bloor or north to St. Clair, and along Dupont in either direction. And from your suite, it's only a 1-minute walk to the closest bus stop.

Union-Pearson Express

Need to catch a flight from Pearson Airport? The Union-Pearson (UP) Express train makes a stop right next to the Dundas West subway station. You can also take a quick trip on the UP to Union Station in the



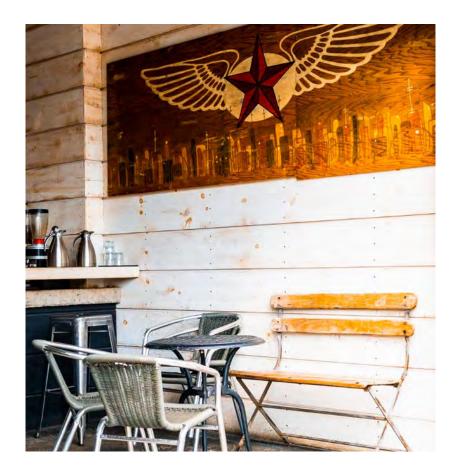
Dufferin Bus Line

Shopping – 1970s style

By 1972, industrial production in central Toronto was beginning to wind down. Taking over the old factory site, the Galleria shopping centre arose to provide a comfortable, convenient indoor shopping experience for locals.

Resurgence of Dupont

The Dupont area has come full circle and is once again alive with industry and creativity – though on a smaller scale than 100 years ago. Artisans, artists, and makers, master chefs and brew masters are creating a dynamic, magnetic scene, embodying the ambitious spirit of days past.









70 ST CLAIR AVEW RUSHTON RD ST CLAIR AVEW ROSEMOUNT AVE TYRRELAVE Casa Loma DAVENPORTRD GEARY AVE DAVENPORT RD **DUPONT ST** ESSEX ST GALLERIA BARTON AVE 3 DUPONT ST WALLACE AVE SHANLY ST 3 9 4 8 1 HARBORD ST BLOORSTW Dufferin Mall COLLEGEST MUIR AVE COLLEGEST ELADCANAD

RESTAURANTS

- Parallel
 217 Geary Ave.
- Sugo
 1281 Bloor St. W.
- 3. Defina Wood Fired 1485 Dupont St.
- **4.** Alma 1194 Bloor St. W.
- Famiglia Baldassarre
 122 Geary Ave.

Donna's

6.

- 827 Lansdowne Ave.7. Baddies
- 679 Lansdowne Ave.

 8. Giulietta's
- 972 College St.9. Fat Pasha

414 Dupont St.

- 10. Skippa 379 Harbord St.
- 11. Love Chix 1588 Dupont St.
- **12.** Farmhouse Tavern 1627 Dupont St.
- 13. Brock Sandwich 1260 Bloor St. W.
- **14. Mattachioni** 1617 Dupont St.
- **15.** Porta Nova Steakhouse 211 Geary Ave.
- **16.** North of Brooklyn Pizzeria 229 Geary Ave.

BARS

- 1. Seoul Shakers 1241 Bloor St. W.
- 2. Northwood 815 Bloor St. W.
- 3. Civil Liberties 878 Bloor St. W.
- 4. Mulberry Bar 828 Bloor St. W.
- Paradise Grapevine841 Bloor St. W.
- The Greater Good
 229 Geary Ave.
- 7. The 3 Speed 1163 Bloor St. W.
- 8. Grey Tiger 1190 Bloor St. W.
- 9. Bar Neon 1226 Bloor St. W.
- **10.** The Gaslight 1426 Bloor St. W.
- 11. Hawaii Bar 989 989 Dovercourt Rd

CRAFT BREWERIES & DISTILLERIES

- Burdock Brewery
 1184 Bloor W.
- 2. Yongehurst Distillery 346 Westmoreland Ave.
- 3. Halo Brewery 247 Wallace Ave.
- 4. Blood Brothers Brewing 165 Geary Ave.

COFFEE & TREATS

- 1. Dark Horse Espresso Bar 120 Geary Ave.
- 2. Wallace Espresso 188 Wallace Ave.
- 3. Propeller Coffee Co. 50 Wade Ave.
- 4. Starbucks

1090 Bloor St. W.

- 5. Contra Café 1028 Shaw St.
- Field Trip3 Westmoreland Ave.
- Sovereign
 1359 Davenport Rd.
- 8. Knock Out Ice Cream 342 Westmoreland Ave. N.
- Bakerbots
 205 Delaware Ave.

FOOD AND GROCERY STORES

- 1. Freshco Galleria Mall
- 2. Fiesta Farms 200 Christie St.
- 3. Food Basics 830 Lansdowne Ave.
- 4. Loblaws
 50 Dupont St.
- 5. Sobeys 840 Dupont St.
- 6. No Frills 900 Dufferin St.
- 7. Dufferin Grove Organic
 Farmers' Market
 Thursdays from 3-7 p.m. year round



Learn how to rock climb. Earn a black belt in martial arts. Practice the latest dance moves or strengthen and tone at yoga classes. Whatever your passion, you'll find fantastic options for exercise and fitness in the new Dupont area.

YOGA

Archa Mati's Yoga For Life 990 Dovercourt Rd.

Yoga Mix 1444 Dupont St.

Yoga for Life 990 Davenport Rd.

Union Yoga 956 Bloor St. W.

Liberty Movement & Wellness 983 Dovercourt Rd.

BOXING

Sully's Boxing & Athletic Club 1024 Dupont St.

United Boxing Club 1034 Bloor St. W.

CROSS TRAINING

Carpio Strength and Conditioning 213 Geary Ave.

F45 - The Junction 1655 Dupont St.

DANCE

Millennium Dance Complex 950 Dupont St.

MARTIAL ARTS

Shark Muay Thai 213 Geary Ave.

Zirger Academy Martial Arts 927 Dupont St.

CLIMBIN

Boulderz Climbing Centre 1444 Dupont St.

Basecamp Climbing 677 Bloor St. W.

SKATING / BMX

Dufferin Skating RinkDufferin Grove Park

SkateparkDufferin Grove Park

GET PHYSICAL





ELADCANADA

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ELADCANADA

A New Dupont City Park Community

ELADCANADA

EDUCATION PARTNERS



ASSOCIATION OF ONTARIO LAND SURVEYORS

Professional Hours (Meeting Attendance): 6.5 hours.



ONTARIO PROFESSIONAL PLANNERS INSTITUTE

May claim hours units as per CPL handbook.



LAW SOCIETY OF ONTARIO

Professionalism Hours: 1 hour and 45 mins. Substantive Hours: 6 hours.

Ontario
Association
of Architects

ONTARIO ASSOCIATION OF ARCHITECTS

Eligible for 6 Structured Learning Hours.



WELCOME & OPENING REMARKS:

MASTER OF CEREMONIES

8:30 A.M. - 8:45 A.M.

Chris Kamarianakis, CEO

Protect Your Boundaries & Conference Organizer

David Wilkes, President & CEO

Building Industry & Land Development Association

Eileen Costello, Partner

Aird & Berlis LLP & Master of Ceremonies / Update on Bill 108

OPENING REMARKS



CHRIS KAMARIANAKIS

CEO, Protect Your Boundaries & Conference Organizer

Role:

Welcome & Opening Remarks

Chris is the CEO of Protect Your Boundaries, where, in just 6 years, he and his team have propelled the tech start-up to the forefront of the real estate, land and land development industries in Ontario. At Protect Your Boundaries, Chris and his team have been prolific disruptors, curating the largest database of land survey plans (protectyourboundaries.ca), building the LandPRO Conference (landproconference.com), and launching the BoundaryWise Academy and Professional Designation for Realtors (boundarywise.ca).

Chris is a business leader with over 20-years of C-Level experience in disruptive early stage and mid-sized technology firms serving the consumer goods, transportation, renewable energy, land development, real estate and service industries.

An Internet pioneer and early evangelist of cloud/SaaS solutions, Chris built and sold 3 tech start-ups by age 33 before moving to the corporate world where his unique ability to turn vision into agile, executable strategy and business success transformed the firms he led.

Chris has guest-lectured at the Universities of Toronto and Guelph on building high-performance teams, and has appeared as a speaker at land industry conferences including the Association of Ontario Land Surveyors, the Appraisal Institute of Canada, the Ontario Association of Committees of Adjustment, and most Ontario Real Estate Boards.

An Oxford Brooks University grad, and is a mentor at the Guelph Innovation Business Incubator.

OPENING REMARKS



DAVID WILKES

President & CEO, Building Industry & Land Development Association

Role:

Welcome & Opening Remarks

Dave Wilkes is the President and Chief Executive Officer of the Building Industry and Land Development Association, a position he assumed in January of 2018.

Mr. Wilkes has more than 25 years of senior management experience. Most recently he served as the Senior Vice President Government Relations & Grocery Division at the Retail Council of Canada. Previously He began his career with the Government of Ontario.

Dave is a graduate of Ryerson University and serves on many Board of Directors including the Ontario Curling Association and was formerly on George Brown College Board of Governors.

MASTER OF CEREMONIES



EILEEN COSTELLO

Partner, Aird & Berlis LLP

Role:

Master of Ceremonies

Eileen is a member of the Aird & Berlis Municipal & Land Use Planning Group. She assists clients with acquiring development approvals for a broad range of projects and advises municipalities on all aspects of the statutory and regulatory scheme which governs land development and regulation in the Province. Eileen's outgoing personality and natural story telling abilities make her a convincing and relatable advocate.

Eileen's commitment to her community and to the broader precepts of city building give her a well-rounded – and particularly effective – approach to her clients' matters. She appears regularly before municipal authorities and administrative tribunals. Eileen also appears before the Superior Court of Justice, the Divisional Court and the Court of Appeal in respect of leave motions and appeals from the Local Planning Appeal Tribunal (formerly the Ontario Municipal Board), by-law interpretation matters, and matters under the Ontario Heritage Act.

Eileen is the author of The Ontario Heritage Act and Commentary and regularly advises private property owners and municipal governments in respect of property designations, Heritage Conservation, Districts and property standards bylaws to address designated properties. Eileen is an active citizen in her community and sits on a number of non-profit boards. This, together with her young family, provides perspective and meaning to her work on behalf of clients".



KEYNOTE:

2020 ECONOMIC UPDATE

8:45 A.M. - 9:30 A.M.

SPEAKER:

Ben Tal

Deputy Chief Economist

CIBC World Markets

SPEAKER



BEN TALDeputy Chief Economist, CIBC World Markets

Keynote: **2020 Economic Update**

Mr. Tal is responsible for analyzing economic developments and their implications for North American fixed income, equity, foreign exchange and commodities markets. He also acts in an advisory capacity to bank officers on issues related to wealth management, household/corporate credit and risk.

Well-known for his ground-breaking published research on topics such as labour market dynamics, real estate, credit markets, international trade and business economic conditions, Mr. Tal not only contributes to the conversation but also frequently sets the agenda.

He has close to 20 years of experience in the private sector advising clients, industry leaders, corporate boards, trade associations and governments on economic and financial issues.

National and global media regularly seek him out for his insight and analysis on economic issues that impact financial markets, consumers, corporations and public policy. He is also a frequent lecturer in the economic programs of various Canadian universities.

Mr. Tal is a member of the Economic Committee of The Canadian Chamber of Commerce, The Economic Development Committee of the Toronto Board of Trade. He is also a member of board of Governors of Junior Achievement of Central Ontario, and a board member of the Toronto Financial Services Alliance.

2020 Vision

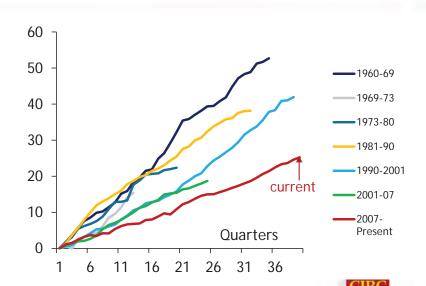


Benjamin Tal March 2020

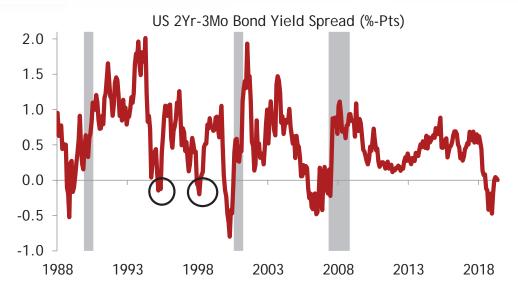


The Longest US Expansion Ever





Source: BEA, CIBC



CIBC

Source: Bloomberg, CIBC

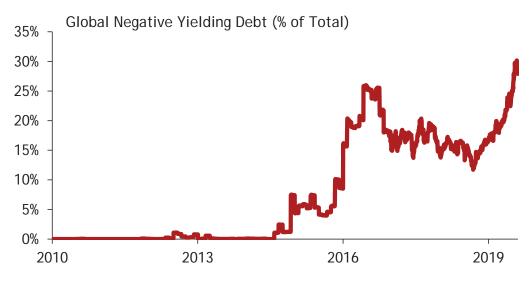
Probability of US Recession

3





Source: Federal Reserve Bank of New York, CIBC



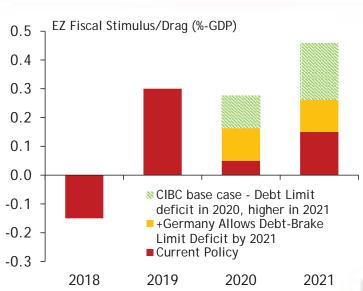
CIBC

Source: Bloomberg, CIBC

Interest Rate Cuts Haven't Worked (L) Eurozone Needs Germany to Take the Brake Off Debt (R)



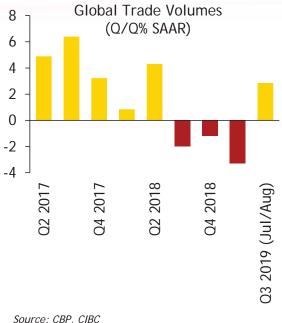




CIBC

Source: Eurostat, European Commission, IMF, CIBC

Global Trade Recession (L) Bump in Q3 Largely Due to China Front Running Tariffs (R)





Triple Dipping

- Fed Cutting
- **Government Spending**
- Trump Type Deal with China



No love Lost





....My only question is, who is our bigger enemy, Jay Powell or Chairman Xi?

7:57 AM - 23 Aug 2019



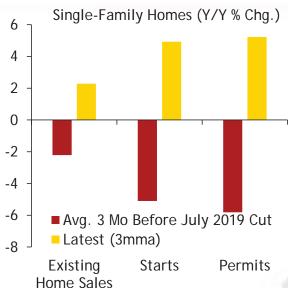
....The USA should always be paying the the lowest rate. No Inflation! It is only the naïveté of Jay Powell and the Federal Reserve that doesn't allow us to do what other countries are already doing. A once in a lifetime opportunity that we are missing because of "Boneheads."

3:42 AM - 11 Sep 2019



Interest Sensitive Demand is Turning...

3.0 GDP Contribution From 6 Res. Inv + Auto Sales (R) 4 Fed Funds Rate (L) 2.0 0.8 2 1.0 0.4 0 -2 0.0 -4 -1.0 -0.4 -6 2015 - Q1 2015 - Q3 2016 - Q1 2016 - Q3 2017 - Q1 2017 - Q3 2018 - Q1 2019 - Q1 2019 - Q3 -8

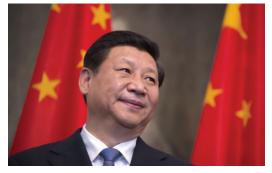


Source: BEA, CIBC





"We cannot continue to allow China to rape our country, and that's what they're doing."

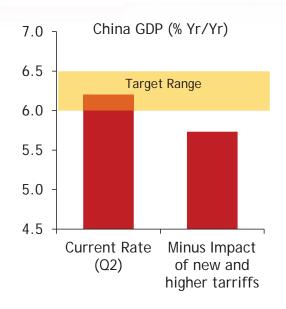


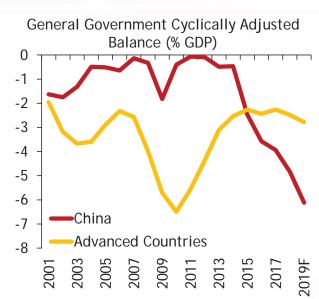
"Jade can be polished by stones from other hills."



New Tariffs Will Slow China More Than Desired (L) Beijing Can't Keep Up Pace of Fiscal Rescue (R)

11

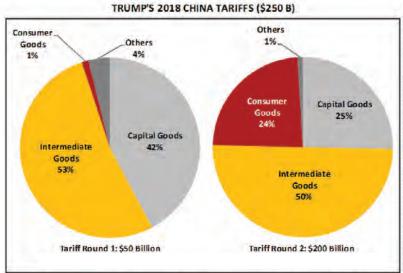


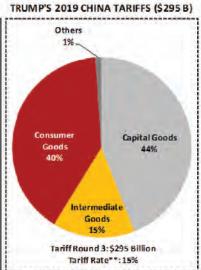


CIBC

Source: National Statistics Agencies, Bloomberg, CIBC

Why The US Pushed For A Deal: Consumer Impacts



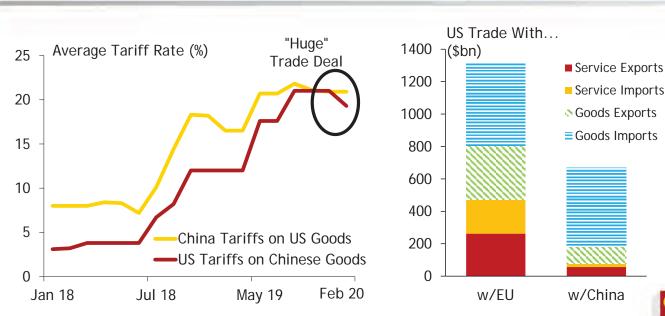


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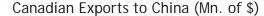
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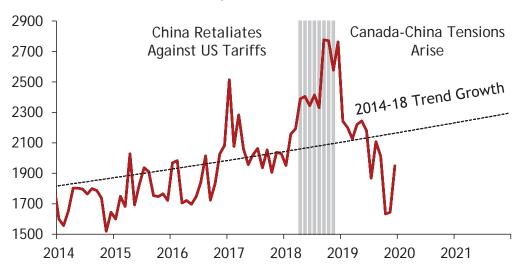
Source: PIIE, CIBC Equity Research

What's The Big Deal? (L) Trade Rift With Europe Would be a Bigger Problem (R)



Source: Peterson Institute, CIBC



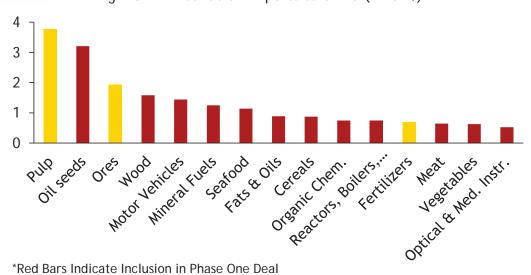


Source: Statistics Canada, CIBC



12 of Canada's Top 15 Export Categories to China At Risk From Phase One Deal

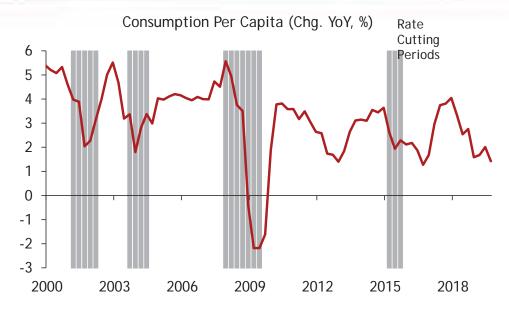
Avg. 2017-19 Canadian Exports to China (Bn of \$)*



Source: Statistics Canada, CIBC



Consumption Has Slowed to Levels That Have Previously Been Associated With Rate Cuts

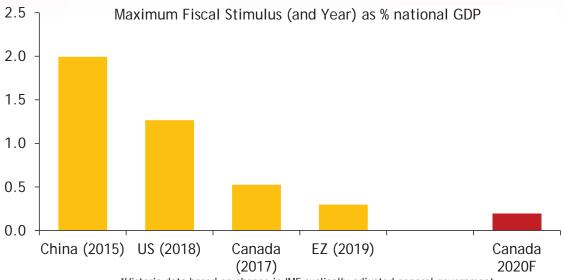


Source: Statistics Canada, CIBC



2020 Canadian Fiscal Stimulus in Context

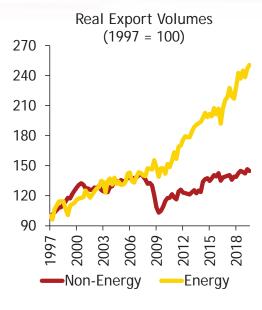
17

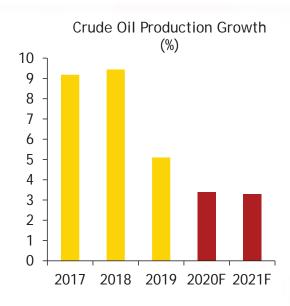


*Historic data based on change in IMF cyclically adjusted general government



Source: IMF, Government Publications, CIBC



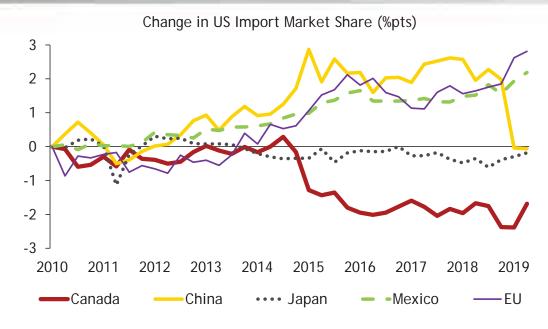


Source: Statistics Canada, Canada Energy Regulator, CIBC



Canada Lost Share When Oil Prices Fell, But Leakage Continues

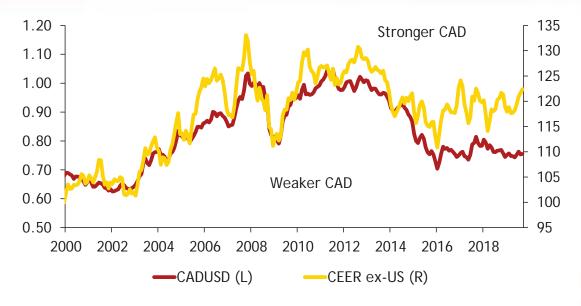
19





Source: BEA, Census Bureau, CIBC

Canadian Dollar: Not Weak Against Other Competitors



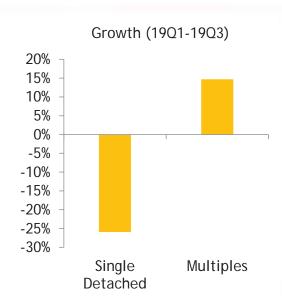
Source: BoC, Haver Analytics, CIBC



Housing Starts Recovered All Lost Ground

21

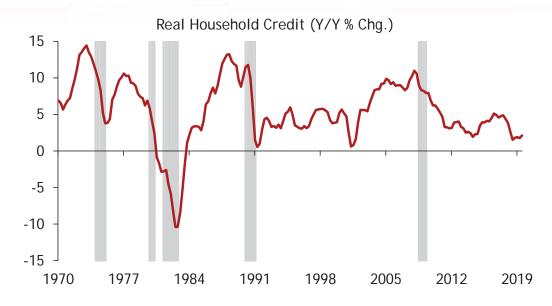




CIBC

Source: CMHC, CIBC

Household Credit - Not Exactly Booming



Source: Statistics Canada, CIBC



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PRESENTATION:

DEVELOPING AND VALUING AIR RIGHTS

9:30 A.M. - 10:00 A.M.

SPEAKER:

Andrew Jeanrie

Partner

Bennett Jones LLP

SPEAKER



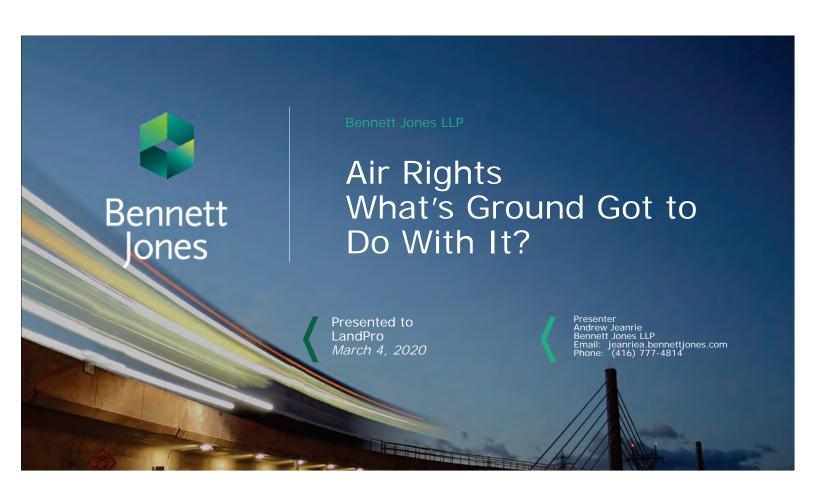
ANDREW JEANRIE Partner, Bennett Jones LLP

Presentation: **Developing and Valuing Air Rights**

Andrew Jeanrie assists clients with all stages of real estate development, including planning approvals and strategic analysis. He provides advice based on his extensive knowledge of the development process from planning approvals through to construction of the projects.

Andrew's municipal and planning practice includes regular appearances before municipal councils and committees of adjustment, as well as representing clients in legal proceedings at all levels of Court and administrative tribunals, with a focus on matters before the former Ontario Municipal Board, now the Local Planning Appeals Tribunal (LPAT) and the City of Toronto's Local Appeal Body (TLAB), as well as on judicial appeals and judicial reviews stemming out of those tribunals. Andrew also assists clients in analyzing new sites for development, responding to neighbouring development applications, and in municipal due diligence, including zoning and official plan reviews as a part of real estate transactions and real estate financing transactions. In addition, he advises clients on all manner of municipal governance and regulation, such as licensing, sign by-laws, expropriations and permitting. Over the last few years Andrew has increasingly worked on projects involving air rights and strata ownerships.

Andrew is a recipient of the Osgoode Prize for Legal History from the Law Society. Upon completing his MBA at the Rotman School of Management, Andrew was named a Bregman Scholar, was placed on the Dean's List, while also receiving a Rotman Citizenship Award.





Bennett Jones LLP

Air Rights
What's Ground Got to Do With It?





What can we do in the sky?







What Are Air Rights?

- Many ways to think about it.
- Essentially: rights above grade.

What Can You Do With Them?

- Options as varied as Real Estate Development itself.
- Some examples.







Millennium Park Chicago – over a railway







Hudson Yards NYC





MOMA in NYC





7



Pinnacle Adelaide





80/82 Bloor Street







Elm Street in Toronto, Arts and Letters Club







Aura





Cherry Street Bridge in the Portlands





What Can You Do With Them?

- Each of these examples has been done or is being proposed in Toronto and GTA
- More options out there to be discovered



What Are They Worth?

- Start: What is proposed/possible with them?
- Land Value: (what is the price per sq. ft. buildable)
- Special Costs: Common air rights cost more to build in
- Other Special Considerations





Example:

- Sale of a "setback"
 - Purpose: To allow more development.
 - Typical value: What added GFA is developer getting x per sq. ft. buildable rate?
 - Deduct: Are there special costs?
 - Special Conditions to Consider:
 - Are those zoning setbacks or building code minimum distance?
 - Do you have a viable development without the air rights?
 - Do they have other options?





What other types of Special Challenges Await?

- Vary Per Project
 - ① Some for Planning Approvals
 - Complexity of applications (cost and time)
 - Access to lands
 - Severance
 - When premature?
 - Subdivision needed?
 - Parkland contribution and value





② Construction

- New buildings: support, structure, maintenance
- Existing uses: Keep operating? New? Update?
- Support structures

3 Access

- Easements?
- Parking?
- Streets?





Parking/Loading

- Where?
- How?
- Share?

⑤ RSC - MOE

- Current/previous use and change of use
- MOE single owner issue

6 How to Buy?

- Freehold? (consents)
- Minimum distance?
- Long-term lease?
- Easement?





When Should You Be a Buyer?

- > Chance to achieve something you otherwise couldn't
- > Create a Viable Development
- > Enhance a Development
- > Enhance your "sale" package for land use approvals



> When Should You Be a Seller?

- > Own a lot you cannot develop:
 - Perhaps to small a site
 -) Heritage structure
- Development that is beyond your ability/risk tolerance
- > Want to keep what you have, but benefit from land values
- > Want to expand upon what you do but not a developer





> Conclusion

- Opportunities for creative solutions
- Challenging but can unleash value for purchaser and seller
- Can open up sites otherwise constrained
- Valuation can be more than just GFA x price per sq. ft.
- Will get bigger and more creative as density and land values increase



Questions?







Thank you



(416) 777-4814 jeanriea@bennettjones.com



PRESENTATION: SETTING UP YOUR CONDO/COMMERCIAL DEVELOPMENT FOR A SUCCESSFUL LEASE-UP OF THE COMMERCIAL PODIUM – LEGAL FRAMEWORK

10:00 A.M. - 10:30 A.M.

SPEAKER:

Natalie Vukovich

Partner

Daoust Vukovich LLP



SPEAKER



NATALIE VUKOVICH

Partner, Daoust Vukovich LLP

Presentation:

Setting up your Condo/Commercial

Development for a Successful Lease- up of
the Commercial Podium – Legal Framework

Natalie is a leader in the field of Canadian commercial leasing lawyers. She has practiced exclusively in the area of commercial leasing for 35 years. In 1995, Natalie co-founded the firm of Daoust Vukovich LLP. She has been named in The Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada every year since it was first published. Fully conversant with all types of commercial property lease transactions as well as with all types of commercial building and land-related legal matters, Natalie's practice is evenly balanced between representing landlords and tenants and she has been lead counsel on many significant leases in all major markets across Canada. Natalie participated actively in ICSC and NAIOP for many years. She is well-published, having authored numerous articles related to commercial leasing, and is frequently invited to speak at legal and business conferences. Natalie is a board member of Georgetown University Law Center's Advanced Commercial Leasing Institute, held annually in Washington DC.

LAND PRO CONFERENCE

March 4, 2020

COMMERCIAL LEASING - NATALIE VUKOVICH



ISSUES

Money,

Facilities

&

Control

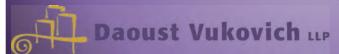


Utilities - Supply and Billing **BOMA** Area Measurement Realty Tax Apportionment **Operation Cost**

Commercial Owner's Rights & Remedies Under SFA Access - Delivery/Loading Garbage **HVAC**

> Commercial Tenant's Rights to Approve SFA Commerce Com Commercial vs. Residential **Designated Parking** Restricted Uses **Title Matters**

Advertising Signage





PRESENTATION:

ABORTED REAL ESTATE TRANSACTIONS IN A DECLINING MARKET – RECENT DECISIONS OF THE ONTARIO COURTS

10:45 A.M. - 11:30 A.M.

SPEAKER:

Harry Herskowitz Senior Partner DelZotto, Zorzi LLP

SPEAKER



HARRY HERSKOWITZ

Senior Partner, DelZotto, Zorzi LLP

Presentation:

Aborted Real Estate Transactions in a Declining Market – Recent Decisions of the Ontario Courts

Harry Herskowitz is a graduate of Osgoode Hall Law School and was called to the Bar of Ontario in 1979. Harry is qualified as an arbitrator/mediator, having completed a course in arbitration/mediation at the University of Toronto's School of Continuing Studies in 1994. Harry's practice is devoted to real estate, mortgage lending and commercial transactions, with emphasis on land development and condominium law. Harry's practice also includes arbitrating disputes involving commercial real estate transactions and condominium issues, and providing legal opinions on various aspects of real property law. Harry has represented numerous subdivision and condominium developers throughout Ontario, from simple stand-alone residential projects to complex mixed-use, multi phased and leasehold condominium projects. Harry is qualified as an expert witness before the Ontario Superior Court of Justice, and frequently provides opinions on real estate conveyancing and condominium issues.

ABORTED REAL ESTATE TRANSACTIONS IN A DECLINING MARKET – RECENT DECISIONS OF THE ONTARIO COURTS BY HARRY HERSKOWITZ & AMY CRYSTAL - DELZOTTO, ZORZI LLP

^{*}Originally presented at the Law Society of Ontario's Six-Minute Real Estate Lawyer Program in November 2019, and updated and augmented for the LandPro Conference in March 2020

SUMMARY

1. INTRODUCTION

2. A PRÉCIS OF THE LAW REGARDING DEPOSITS

- (a) The Purpose of the Deposit
- (b) Relief Against Forfeiture
- (c) Calculation of the Innocent Vendor's Damages

3. RECENT DECISIONS OF THE ONTARIO COURTS

- (a) The Purchaser's Deposit Forfeited, Even Under a Pre-Incorporation Contract
 - (i) Benedetto v. 2453912 Ontario Inc., 2019 ONCA 149
- (b) The Vendor Need Not Accept the Purchaser's Revised Terms in Order to Properly Mitigate Damages
 - (i) Lucijanic v. Hashmi, 2019 ONCA 97
 - (ii) Bang v. Sebastian, 2019 ONCA 501
 - (iii) Azzarello v. Shawqi, 2019 ONCA 820
 - (iv) McKnight v. Morrison, 2019 ONSC 552
 - (v) Friese v. Arfa, 2019 ONSC 3332
- (c) The Size of the Deposit and its Impact on the Purchaser's Ability to Attain Relief from Forfeiture
 - (i) Dar v. The Yards Corporation, 2019 ONCA 362
 - (ii) Nawara v. Riverstone, 2019 ONSC 111
- (d) Additional Deposits Paid for Extensions of the Closing Date Being Forfeited
 - (i) Greco v. Padovani, 2019 ONSC 4105
- (e) The Purchaser's Inability to Obtain Financing Due to Market Conditions Not Amounting to Frustration of the Contract
 - (i) Perkins v. Sheikhtavi, 2019 ONCA 925
 - (ii) Paradise Homes North West Inc. v. Sidhu, 2019 ONSC 1600
 - (iii) Forest Hill Homes v. Ou, 2019 ONSC 4332
- (f) The Vendor Need Not Obtain an Appraisal of the Property in Order to Properly Mitigate
 - (i) Zou v. Sanyal, 2019 ONSC 738
 - (ii) Degner v. Cabral, 2019 ONSC 1610
- (g) The Vendor's Damages Calculated on the Difference Between the Contract Price and the Listing Price, Where the Property Remained Unsold
 - (i) Wang v. Tribute (Grandview) Ltd., 2019 ONSC 201
- (h) The Vendor's Delay in Completing Common Element Amenities Did Not Justify the Purchaser's Failure to Close
 - (i) Lin v. Brookfield Homes (Ontario) Limited, 2019 ONCA 706
- (i) The Vendor's Failure to Indicate Narrowing of Lot Did Not Justify the Purchaser's Failure to Close
 - (i) Sankarsingh v. Ali, 2019 ONSC 5655

4. OBSERVATIONS & PRINCIPLES ARISING FROM THE JURISPRUDENCE

1. INTRODUCTION

More than two years have passed since the provincial government introduced a comprehensive set of measures to cool down (and reduce speculation in) the Ontario housing market, including the introduction of a new 15% non-resident speculation tax on the price of homes in the Greater Golden Horseshoe purchased by individuals who are not citizens or permanent residents of Canada. Following such government intervention, the housing market in the Greater Toronto Area experienced a rapid and significant decline, and consequently countless homebuyers sought to resile from their respective purchase transactions, as they were either unable to sell their own homes at the prices for which comparable properties had sold at the peak of the market, or they were unable to obtain the requisite financing to complete their purchase transactions because the appraised values of their purchased homes were significantly lower than their respective purchase prices.

The shifting market conditions served as a stark reminder, for both purchasers and practitioners alike, of the potential liability of a defaulting purchaser in a declining real estate market. Unfortunately, many purchasers mistakenly believe that their liability is limited to the forfeiture of the deposit (as is often the case in a rising market), but the exposure to damages in a falling market is a real and substantive concern.

The purpose of this paper is to revisit the law regarding deposits, and to highlight a number of recent Ontario cases involving aborted real estate transactions that were spawned by the declining housing market in the spring of 2017.

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¹ The provincial initiatives were further compounded by the federal government's subsequent implementation, in 2018, of more stringent qualifications for mortgage loans issued by Canadian chartered banks and trust companies, and specifically the requirement that all homebuyers applying for a mortgage loan from a federally-regulated lender must demonstrate their ability to carry a mortgage for the same principal loan amount, but at an interest rate that is the greater of 2% above their contracted rate and the five-year benchmark mortgage rate published by the Bank of Canada.

2. A PRÉCIS OF THE LAW REGARDING DEPOSITS

(a) The Purpose of the Deposit

At common law, it is well established that a purchaser of land who fails to complete the purchase and sale transaction stands to lose his or her equitable estate or interest in the land, as well as any deposit monies paid in connection therewith. The seminal case of *Howe v. Smith*² confirmed that the purchaser's deposit serves two purposes: it is an "earnest" or guarantee that the contract will be performed by the purchaser, and it is also a prepayment of part of the purchase price. The prospect of the deposit's forfeiture provides an incentive for the purchaser to perform his or her obligations under the contract. If the transaction is completed successfully, then the deposit will correspondingly be applied as a credit towards the purchase price. Conversely, the deposit will generally be forfeited by a purchaser who repudiates the contract. A deposit that is ultimately forfeited to the vendor, consequent upon the purchaser's default, does not constitute damages for breach of contract, and is not dependent on the proof of actual damages incurred by the innocent vendor.³ Rather, the deposit stands as security for the purchaser's performance of his or her contractual obligations, and can accordingly be forfeited to the vendor as his or her liquidated damages (and not as a penalty), but must be applied on account of any damage claim ultimately pursued by the innocent vendor against the defaulting purchaser.

At common law, a "true" deposit is, by its very nature, non-refundable, unless the contract stipulates otherwise. Accordingly, in the absence of any express provision to the contrary, it is implicit that a deposit will be forfeited to the vendor if the contract is terminated because of the purchaser's default. The forfeiture of the deposit compensates the vendor for the lost opportunity in having taken the property off the market in the interim, as well as the loss in bargaining power

² (1884), 27 CH. D. 89 (Eng CA).

³ De Palma v. Runnymede Iron & Steel Co., [1950] 1 D.L.R. 557, [1950] O.R. 1 at p. 8.

⁴ A number of equitable principles have emerged regarding the restitution of contractual payments categorized other than as "true" deposits, such as installments, designations of funds as liquidated damages, and contractual penalties.

resulting from the revelation of the sale price of the property that the vendor was prepared to accept.⁵ It is unnecessary for the agreement of purchase and sale to contain an express forfeiture clause, inasmuch as the vendor has the implied right at common law to retain the deposit monies in the event that the purchaser fails to complete the transaction, notwithstanding the fact that this might produce a windfall for the vendor (especially in a rising market).

(b) Relief Against Forfeiture

A deposit paid pursuant to a contract for the sale of land is an exception to the general rule that an amount subject to forfeiture resulting from a breach of contract is inherently penal in nature (and therefore illegal or unenforceable), unless such amount represents a genuine pre-estimate of the damages. A purchaser's deposit can therefore be validly forfeited even though the amount of the deposit bears no relationship or reference to the anticipated loss to the vendor flowing from the breach of contract. It is, however, part of the court's equitable jurisdiction to grant relief against forfeiture in circumstances that it considers appropriate in order to achieve substantive justice. Section 98 of the *Courts of Justice Act*, R.S.O. 1990, as amended, has codified the longstanding doctrine against penalties, and gives the court the broad discretion to grant relief against forfeiture "on such terms as to compensation or otherwise as are considered just." The purpose of this form of relief is to prevent the vendor from being unconscionably overcompensated for the purchaser's breach of contract.

A purchaser seeking relief from forfeiture must satisfy two essential requirements: firstly, that the forfeiture of the deposit is penal in nature, in the sense that the sum forfeited was out of all proportion to the losses suffered by the vendor; and secondly, that it would be unconscionable for the vendor to retain the deposit monies under the circumstances.⁷ Although freedom of contract

⁵ H.W. Liebig Co. v. Leading Investments Ltd., [1986] 1 SCR 70 at para 33.

⁶ Workers Trust & Merchant Bank Ltd. v. Dojap Investments Ltd., [1993] A.C. 573 (PC) at p. 578.

⁷ Stockloser v. Johnson, [1954] 1 QB 476.

and certainty in the marketplace dictate that a finding of unconscionability would be the rare exception, the court may nevertheless be persuaded by strong and compelling facts to grant equitable relief from forfeiture, such as evidence of a disproportionately large deposit being forfeited. However, the courts in Ontario have been reluctant to specify a numerical percentage that would, in and of itself, constitute a "grossly disproportionate" or excessive deposit, since much turns on the specific facts of each transaction. In addition to the quantum of the deposit being forfeited, other indicia of unconscionability include an inequality of bargaining power, a substantially unfair bargain, a significant disparity in the relative sophistication of the contracting parties, the lack of bona fide negotiations, and the gravity of the breach of contract.

Of course, in order to make an application for relief from forfeiture, the purchaser must be in default. If not, relief is unnecessary. Accordingly, if the contract is subject to a condition precedent that is not met, or if the contract is not formed because an offer is repudiated before acceptance, or if the vendor is in default, then all deposit monies paid by the purchaser must be returned.

(c) Calculation of the Innocent Vendor's Damages

Where the vendor's loss consequent upon the purchaser's default exceeds the aggregate amount of the deposit, then the vendor may be entitled to pursue a claim in damages against the defaulting purchaser. The common law provides that in the assessment of damages for breach of contract, the innocent party should be put in the position (or as close thereto as possible) as he or she would have been in had the contract been performed. However, in order to be recoverable, the losses or damages suffered must flow or result from the purchaser's repudiation of the contract and be: (i) reasonably foreseeable; (ii) proved with a sufficient degree of certainty; and (iii)

⁸ Redstone Enterprises Ltd. v. Simple Technology Inc., 2017 ONCA 282 at para 28.

⁹ *Ibid* at para 30.

unavoidable, in the sense that the innocent party cannot recover for losses that would (or could) otherwise have been avoided through reasonable mitigation efforts.

In the context of an aborted real estate transaction, it is generally accepted that the appropriate measure of damages for the innocent vendor's loss of bargain is the difference between the contract price and the market value of the land. Ordinarily, damages will be assessed at the date that the contract was to be performed (namely, the date of closing), but the court may choose a different date depending on the particular circumstances. In a falling market, the Court of Appeal has held that the vendor should be awarded damages equal to the difference between the contract price and the "highest price obtainable within a reasonable time after the contractual date for completion, following the making of reasonable efforts to sell the property commencing on that date."10 The resale price of the property obtained by the vendor will, in most cases, constitute good and sufficient evidence of the market value of the property. 11 Where it is alleged that the vendor has failed to mitigate his or her damages, the onus of proof is on the purchaser to demonstrate, on a balance of probabilities, that the vendor failed to make reasonable efforts to mitigate, and that mitigation was possible. The vendor need not take any and all possible steps to reduce his or her loss. Rather, the vendor need only act reasonably (and not perfectly or flawlessly) in his or her mitigation efforts.

Finally, it is important to note that when a vendor elects to sue for the losses or damages incurred due to the purchaser's failure to close, the deposit monies must be credited towards any damage award against the repudiating purchaser, rather than being added thereto. It should also be noted that the vendor may suffer other consequential losses as a result of the purchaser's breach of contract (for instance, legal fees and disbursements for the aborted transaction, additional realty taxes, utilities, real estate commissions, insurance costs, moving expenses, and additional

¹⁰ 100 Main Street East Ltd. v. W.B. Sullivan Construction Ltd. (1978), 88 D.L.R. (3d) 1 (ONCA) at para 73.

¹¹ *Ibid* at para 67.

marketing and staging costs). Generally, a claim for consequential losses must emanate from the purchaser's repudiation, and is subject to such factors as reasonable foreseeability, unavoidability, and adequate proof.

3. RECENT DECISIONS OF THE ONTARIO COURTS

(a) The Purchaser's Deposit Forfeited, Even Under a Pre-Incorporation Contract

(i) Benedetto v. 2453912 Ontario Inc., 2019 ONCA 149

The purchaser entered into an agreement of purchase and sale to acquire from the vendor three adjacent residential properties located in Toronto, and the contract stipulated that the purchaser was executing the agreement "in trust for a company to be incorporated without any personal liabilities". The purchaser submitted a deposit in the amount of \$100,000. Two weeks prior to the closing date, the purchaser advised the vendor that he would not be completing the transaction, and correspondingly sought the return of the deposit. The vendor refused, and ultimately brought a motion for summary judgment.

The motion judge held that the provisions of subsection 21(4) of the *Ontario Business Corporations Act*, R.S.O. 1990, as amended, ¹² which address pre-incorporation contracts, do not displace the common law rules governing deposits in real estate transactions, and therefore concluded that the purchaser's deposit should be forfeited to the vendor as a consequence of the purchaser's default.

On appeal, the Court of Appeal upheld the motion court's ruling, and confirmed that a forfeited deposit does not constitute damages for breach of contract, but rather stands as security for the purchaser's performance of the contract. A purchaser's obligations under an agreement of

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¹² Subsection 21(1) of the *Ontario Business Corporations Act*, R.S.O. 1990, as amended, provides that an individual who enters into an oral or written contract in the name of (or on behalf of) a corporation before it comes into existence is personally bound by the contract and is entitled to the benefits thereof. However, pursuant to subsection 21(4), an individual will not be bound by the contract (nor entitled to the benefits thereof) if such contract expressly stipulates otherwise.

purchase and sale are thus distinct from the obligation incurred by the payer of the deposit. A deposit's implied term is that upon the breach of a contract by the purchaser (or, in the case of a pre-incorporation contract, by the promoter on behalf of the intended corporate purchaser), the deposit will be forfeited to the vendor, absent express wording in the contract to the contrary.

In the case at bar, the contract did not contain any express provision concerning the return of the deposit in the event that the corporation was not ultimately incorporated or failed to formally adopt or assume the agreement. In the appellate court's view, such a contrary intention must be expressly stated if the deposit is not to be forfeited upon the failure of the purchaser to perform his or her contractual obligations. The Court of Appeal also held that it was reasonable for the motion judge to interpret the phrase "without any personal liabilities" in the context of the contract as a whole, as opposed to applying to the deposit specifically, inasmuch as any contrary determination would render the deposit meaningless, and would provide no incentive whatsoever to complete the transaction, nor any compensation to the vendor for the defaulting purchaser's failure to complete the transaction.

(b) The Vendor Need Not Accept the Purchaser's Revised Terms in Order to Properly Mitigate Damages

(i) Lucijanic v. Hashmi, 2019 ONCA 97

The purchasers of a residential property located in Milton failed to complete their purchase and sale transaction on the scheduled closing date. On the vendor's motion for summary judgement, the purchasers argued that the vendors failed to take reasonable steps to mitigate their losses, inasmuch as the vendors had rejected the purchasers' offer to complete the transaction at a price that was lower than the purchase price stipulated in the contract, but nevertheless higher than the price at which the vendors ultimately resold the property. The motion judge found the

purchasers to be in breach of contract, and rejected their argument regarding the lack of mitigation on the part of the vendors, and consequently ordered that the deposit be forfeited to the vendors.

On appeal, the purchasers did not contest the declaration that they had breached the agreement of purchase and sale. Rather, the purchasers claimed that the motion judge was wrong in failing to give proper consideration to the vendors' refusal to accept their offer to complete the transaction on revised terms that were more favourable than the price at which the vendors ultimately resold the property to a third party. The Court of Appeal rejected this argument, noting that the purchasers offered to complete the transaction at a reduced purchase price prior to the closing date, and before failing to complete the transaction as required by the agreement. The vendors were under no obligation to mitigate anything until the purchasers' breach of the agreement. Furthermore, after the purchasers failed to close, the property was relisted, and nothing prevented the purchasers from making a new offer at such later time. The appellate court further confirmed that the vendors were not required to specifically approach the purchasers in order to give them an opportunity to better the third-party offer that the vendors had ultimately accepted.

(ii) Bang v. Sebastian, 2019 ONCA 501

On May 7, 2017, the purchaser entered into an agreement of purchase and sale to acquire from the vendors a residential property located in Mississauga, at a purchase price of \$995,000, with the deposit totaling \$35,000. The transaction was scheduled to be completed on August 7, 2017. A few days prior to the closing date, the purchaser notified the vendors that she was unable to complete the transaction because she could not obtain the necessary financing to close on an all-cash basis to the vendors. The purchaser purported to re-negotiate the price of the purchased dwelling with the vendors, and consequently offered to complete the transaction at the reduced price of \$920,000. The vendors rejected the purchaser's re-negotiation efforts, and subsequently relisted their property consequent upon the purchaser's default. The property was ultimately resold

in February 2018, for a sale price of \$920,000. The difference between the contract price and the resale price formed part of the damage award against the defaulting purchaser, along with various financing and carrying costs that the vendors had incurred.¹³

On appeal, the Court of Appeal affirmed that the duty to mitigate does not compel the seller of residential property to accept the purchaser's reduced offer (in this case, a reduction of \$75,000.00) as mitigation of the vendors' losses triggered by the purchaser's breach of contract, and to consequently abandon a perfectly valid agreement (and correspondingly accept a substantially reduced price) simply because the purchaser decides to abort said agreement due to a declining real estate market, or due to the purchaser's inability to obtain the requisite mortgage financing.

In addition, the appellate court observed that there was evidence that the purchaser knew that the vendors were acquiring a new home with the sale proceeds, and it was therefore reasonably foreseeable that the vendors would incur financing and carrying costs related to such purchase, in the event that the purchase and sale transaction involving the vendors' home failed to close. The Court of Appeal therefore allowed some of the financing and carrying costs of the vendors to be included in the award of consequential damages against the purchaser.

(iii) Azzarello v. Shawqi, 2019 ONCA 820

The purchaser entered into an agreement of purchase and sale on March 27, 2017 to acquire a residential property located in Mississauga from the vendors at a purchase price of \$1,555,000, with a closing date of June 28, 2017, and with a deposit of \$75,000. The purchaser requested (and

that the purchaser could reasonably have foreseen that the vendors' financing would involve four loan facilities (namely, a Scotia Bank bridge loan, a Scotia Bank line of credit, a National Bank mortgage, and a National Bank line of credit). The vendors' claim for financing broker fees of \$1,690, home appraisal fees of \$548.05, and lawyer's fees of \$621.50 in managing these four loan

¹³ The court found that it was reasonably foreseeable to the purchaser that the vendors would incur financing costs, or loss of use of funds, in not receiving the contracted net closing amount on the scheduled completion date. However, the court did not accept that the graphs of a subject of the following foresees that the graphs of the following forest that the graphs of the graphs of the following forest that the graphs of the graphs

received) a number of extensions of the closing date, but failed to close on any of the extended dates. The vendors subsequently relisted their property at the original listing price, and ultimately resold same for less than the price that the purchaser had contracted to pay. On a motion for summary judgement, the motion judge awarded the vendors damages in the amount of \$308,688.31, representing the difference between the contract price and the resale price, as well as consequential damages for the cost of staging, legal fees, carrying costs of the property, and interest on the vendors' line of credit. The motion judge further ordered that the purchaser's deposit be forfeited, but should not be credited towards the damage award.

On appeal, the purchaser contended, inter alia, that the motion judge erred in the application of the vendors' duty to mitigate, inasmuch as the vendors did not entertain the purchaser's offer (after the purchaser failed to complete the transaction on the extended closing date) to acquire the property for a 10% reduction in the original purchase price. Instead, the vendors resold the property to a third party for \$1,280,000, when they could have resold the property to the defaulting purchaser for just under \$1,400,000. The Court of Appeal rejected this submission, noting that the duty to mitigate does not oblige a vendor to accept an offer from the defaulting purchaser for less than the original price, and then be relegated to suing the purchaser for the difference between the two prices. While a vendor may choose to accept such a reduced offer, particularly in a declining market, the vendor cannot be obliged to do so. As the appellate court observed, the duty to mitigate is derived from the proposition that the innocent party cannot recover losses from the defaulting party that could have been avoided by the innocent party's reasonable efforts. However, the Court of Appeal affirmed that it is not reasonable to oblige the vendor, in an effort to reduce the losses claimed from the defaulting purchaser, to resell the property to the same defaulting purchaser, and then pursue a claim in damages against that purchaser for the difference. Although the defaulting purchaser would, in the foregoing scenario, be obliged to pay the same amount either way, the defaulting purchaser would nevertheless attain a significant tactical and procedural advantage over the innocent vendor. In the appellate court's view, the effect of endorsing the proposition advanced by the purchaser would be to undermine the sanctity of the original bargain, by effectively encouraging purchasers to default in a falling market, and to offer a lower price for the same property, leaving vendors with the risk and expense of recovering the balance of the original contract price in an action against the same defaulting purchaser. Simply put, the duty to mitigate does not go that far.

The appellate court did, however, find that the motion judge erred in law by holding that the forfeited deposit should not be credited towards the vendors' damage award. The Court of Appeal confirmed that where the vendor suffers a loss, and decides to pursue a claim in damages against the defaulting purchaser, the deposit must then be taken into account, and shall correspondingly be treated as part payment towards the unpaid purchase price, whether received on completion or reflected in the amount of the damages suffered as a result of the defaulting purchaser's failure to close.

(iv) McKnight v. Morrison, 2019 ONSC 552

The vendor, as the estate trustee of her late sister's estate, listed the deceased's residential property for sale in March 2017 for \$439,900. The vendor quickly received five offers to purchase the property and decided to proceed with an offer presented by the purchaser, as it was the highest offer and contained no conditions. The parties executed an agreement of purchase and sale for the property to be sold for a purchase price of \$532,500, with a closing date of June 30, 2017, and with a deposit in the amount of \$10,000.

Despite executing the agreement of purchase and sale on March 18, 2017, the purchaser did not list her own property for sale until May 26, 2017. Three days before the scheduled closing date, the purchaser requested an extension of the closing to August 18, 2017, as she needed more

time to sell her own property in order to finance her purchase. As this was an estate sale, the vendor did not want to maintain a vacant property and incur additional expenses to the estate, without any certainty of a closing date. After consulting with a real estate lawyer, the vendor advised the purchaser that she was agreeable to extending the closing date to July 14, 2017, on certain conditions. Negotiations ensued, which included the purchaser offering to accelerate the closing date from August 18, 2017 to July 31, 2017, but the parties were unable to reach an agreement on the terms of the extension. On the closing date, the purchaser implored the vendor to provide a four-week extension of the closing date, and confirmed her intention to complete the transaction when she was in receipt of funds from the sale of her own property. The vendor rejected this request once again, and the purchaser failed to complete the transaction on the scheduled closing date. The vendor subsequently relisted the property for sale on July 2, 2017 for \$459,000, and ultimately resold the property in a declining market at the sale price of \$455,000, with a closing date of July 28, 2017. The vendor consequently brought an action against the defaulting purchaser for breach of contract and damages.

On a motion for summary judgment, the purchaser argued that the vendor did not prove her damages, inasmuch as the vendor failed to adduce evidence that subsequent to the purchaser's default, the property was resold for the highest price obtainable. The purchaser asserted that it was unreasonable for the vendor to have sold the property for \$77,500 less than what she had agreed to pay, with essentially the same extended closing date that she had proposed during the negotiations for the requested extension thereof. The purchaser also believed that it was unreasonable for the vendor to have only listed the property for two days (namely, a Sunday and a holiday Monday) before accepting the new offer. In acting as the vendor did, the purchaser submitted that the vendor failed to mitigate her losses.

The court rejected each of the purchaser's submissions, and confirmed that the vendor was not required to obtain the highest possible price for the property, but rather was only required to obtain a price that was reasonable, given all of the facts of the case, including the prevailing market conditions. The court found that the sale price of \$455,000 was reasonable in the circumstances, given the undisputed evidence that the market had shifted from a "seller's market" to a "buyer's market" by the end of June 2017. Notwithstanding the changing market conditions, the vendor had listed the property at a price that was \$20,000 over her original listing price, and the ultimate sale price was negotiated with the third-party purchaser before the vendor had agreed to accept same. Moreover, the vendor agreed to a closing date with the third-party purchaser only twenty-five days later, thereby reducing her carrying costs.

The court further observed that the vendor was not required to wait for the defaulting purchaser to have sold her own property in the hope that the purchaser will then revive the repudiated contract, regardless of how sincere the defaulting purchaser's intentions may have been. The vendor was not obliged by law, nor by any provisions in the agreement of purchase and sale, to negotiate an extension of the closing date in order to accommodate the defaulting purchaser, particularly in the face of an unconditional resale agreement. In the court's view, it was entirely the purchaser's failure to list her own property in a timely manner that engendered the need for an extension of the closing date, and such failure should not be foisted upon the vendor to the latter's prejudice. Additionally, it was clear on the evidence that even if an extension of closing had been granted, there was no guarantee that the purchaser would have sold her own property by July 31, 2017, and correspondingly have sufficient funds to the complete the transaction with the vendor. In fact, the evidence indicated that the purchaser's property had not been sold by August 29, 2017. The vendor was therefore entitled to damages in the amount of \$78,376.85 (with the \$10,000 deposit to be credited against such amount), representing the difference in the contract price and

the resale price of the property, together with various carrying costs incurred by the vendor for utilities, realty taxes, and legal fees for the aborted transaction.

(v) Friese v. Arfa, 2019 ONSC 3332

On April 15, 2017, the parties entered into an unconditional agreement of purchase and sale, pursuant to which the vendor agreed to sell to the purchaser a residential property located in Keswick for the purchase price of \$590,000, with a closing date of June 26, 2017, and with a deposit of \$15,000. On the date of closing, the vendor's lawyer was notified that the purchaser was unable to complete the transaction, since the purchase and sale transaction in respect of the purchaser's own property had failed to close. The following day, the vendor relisted the property for sale at the original listing price of \$599,900.

A few weeks later, the purchaser proposed certain terms, by way of an amendment to the agreement of purchase and sale, whereby the vendor's sale of the property to the purchaser could be revisited. The vendor, however, did not accept the proposed amendment, and continued to list the property for sale. Since there was no interest or activity in respect of the listing, the vendor reduced the listing price of the property to \$529,000, and then again to \$499,000. The property was ultimately resold in September 2017 for a purchase price of \$425,000. The vendor subsequently commenced an action against the purchaser for breach of contract and damages.

At trial, the purchaser submitted that the vendor should have entertained her proposal to amend the agreement of purchase and sale. She argued that if the vendor had accepted the purchaser's proposal (or agreed to other negotiated terms), then the transaction would have closed, and there would have been no damages. The purchaser further contended that by lowering the listing price repeatedly, the vendor did not take reasonable steps to mitigate his damages.

In rejecting the purchaser's submissions, the court observed that while the vendor did consider the purchaser's proposal, the amendment to the agreement of purchase and sale was

problematic, because it did not reflect what the parties were discussing. Moreover, there was no obligation on the part of the vendor to pursue further dealings with the defaulting purchaser. It was clear that the vendor received incorrect or inaccurate information from the defaulting purchaser, and did not have the confidence to continue negotiations, which was reasonable in the circumstances. The court further concluded that the actions taken by the vendor, and by his lawyer and real estate agent, demonstrated a course of action whose objective was to sell the property for the best price and in a timely fashion. The purchaser failed to lead any evidence to establish that the vendor did not make reasonable efforts to mitigate. Accordingly, the vendor was entitled to damages of \$165,000, based on the difference between the contract price and the resale price of the property, plus special damages of \$2,729.29 (which included legal fees for the aborted transaction, increased interest payments on money borrowed, and additional realty taxes).

(c) The Size of the Deposit and its Impact on the Purchaser's Ability to Attain Relief from Forfeiture

(i) Dar v. The Yards Corporation, 2019 ONCA 362

The purchaser, a non-resident buyer, entered into an agreement of purchase and sale to acquire a residential property from the vendor, and provided deposits totaling \$134,960 (being approximately 28% of the purchase price), but failed to submit the last five deposits due and owing thereunder. The vendor granted the purchaser several extensions of time to pay the outstanding deposits before ultimately terminating the transaction. The purchaser commenced an action for relief from forfeiture, claiming that the amount of the deposit was grossly disproportionate to the damages suffered by the vendor. The purchaser further contended that there was an inequality of bargaining power between the parties to the transaction, given that the vendor was an experienced land developer and the purchaser was an ordinary citizen.

The motion judge found that the amount of the deposit agreed to by the purchaser, as a non-resident buyer, was not unconscionable in and of itself. Moreover, the purchaser received the advice and assistance of both a real estate agent and a lawyer, in connection with this purchase and sale transaction, and there was nothing in the conduct of the vendor that was considered shocking, oppressive, or offensive, in terms of the resulting agreement of purchase and sale or the performance of the contractual obligations of the parties. Finally, the motion judge found that the vendor acted diligently, fairly, and, to some extent, to its own disadvantage in not terminating the agreement of purchase and sale earlier, when the purchaser first failed to advance the requisite deposit monies when due. The vendor's multiple indulgences, in the motion judge's view, should not be turned into an equitable reason to grant relief from forfeiture that would deprive the innocent vendor of its contractual rights.

The Court of Appeal dismissed the purchaser's appeal, and confirmed that, having regard to the circumstances surrounding the making of the agreement and the relationship between the parties, there was nothing that would justify a finding of unconscionability, nor was the amount of the deposit so forfeited by the defaulting purchaser disproportionate to the damages suffered by the innocent vendor.

(ii) Nawara v. Riverstone, 2019 ONSC 111

In August 2011, the purchaser's brother agreed to acquire a residential condominium unit from the vendor, but was unable to complete that transaction, and ultimately forfeited his deposit in the amount of \$84,498.50 (hereinafter referred to as the "First Deal's Deposit"). On May 7, 2016, the purchaser entered into an agreement of purchase and sale with the vendor for the acquisition of a different condominium unit within the same complex (the "Second Property"), for a purchase price of \$359,999, with a series of deposits due and owing thereunder totaling 20%

of the purchase price. Shortly thereafter, the parties executed an amendment to the agreement of purchase and sale in respect of the Second Property, whereby the vendor agreed to transfer and credit the First Deal's Deposit towards the purchaser's acquisition of the Second Property, and also agreed to increase the deposit required to be paid on the interim-occupancy closing date. Although the purchaser failed to make the required deposit payment on the interim-occupancy closing date, the vendor provided the purchaser with an opportunity to rectify the latter's outstanding default, and the purchaser proceeded to do so three weeks later.

However, the purchaser ultimately failed to complete the final closing of the purchase and sale transaction in respect of the Second Property, despite the fact that the vendor had granted an extension of the final closing date to accommodate the purchaser. Consequently, the vendor terminated the agreement of purchase and sale, and purported to retain the purchaser's deposit, as well as the First Deal's Deposit, collectively totaling \$101,063.50 (amounting to approximately 28% of the purchase price).

On a motion for the determination of a point of law, the purchaser urged the court to conclude that the deposit was out of proportion to the damages suffered by the vendor, inasmuch as the vendor was ultimately able to resell the property for \$11,000 more than the purchaser contracted to pay. The vendor contended that the parties specifically agreed that the forfeiture of the deposit would not constitute a penalty, and that it would not be necessary for the vendor to prove that it suffered any damages in order for the vendor to be entitled to retain same. Additionally, the vendor relied on the Court of Appeal's decision in the case of Redstone Enterprises Ltd. v. Simple Technology Inc., 14 in which the court concluded that although the vendor in that case had suffered no damages, that fact alone did not render the forfeiture of the deposit unconscionable.

At the outset, the court noted that merely examining the percentage of the deposit to the total purchase price will not always be conclusive or determinative of whether or not a defaulting purchaser will be entitled to relief from forfeiture. Since the deposit in this case (namely, 28% of the total purchase price) exceeded the 20% range required to be paid by other unit purchasers in this particular condominium project, and was also above the upper range of 25% that has been judicially accepted for the forfeiture of deposits in the prevailing case law, the court concluded that it was appropriate to look closely at the facts of this case for any indicia of unconscionability.

However, the court ultimately concluded that there was no inequality of bargaining power, nor any substantial unfairness regarding the bargain that had been negotiated between the contracting parties. Additionally, there was no indication that the purchaser was relatively unsophisticated compared to the vendor, or that the negotiations were not *bona fide*, nor did the vendor's conduct support a finding of unconscionability. The court held that the gravity of the purchaser's breach of contract was significant, and that, by contrast, the vendor was more than fair by allowing the purchaser the substantial benefit of treating the First Deal's Deposit as a further deposit on account of the purchase price of the Second Property, and also by offering to extend the timelines to allow the purchaser to complete the transaction, on two separate occasions. The purchaser failed to establish that the deposit was disproportionately large in the circumstances, or even if it was larger than customary, that the size of deposit by itself was sufficient to make its forfeiture unconscionable. Accordingly, notwithstanding that the deposit totalled 28% of the purchase price, the court concluded that it would not be unconscionable for the vendor to retain the full amount of the deposit, as a consequence of the purchaser's repudiation of the contract.

(d) Additional Deposits Paid for Extensions of the Closing Date Being Forfeited

(i) Greco v. Padovani, 2019 ONSC 4105

The purchaser entered into an agreement of purchase and sale to acquire the vendors' residential property in Richmond Hill, for a purchase price of \$3,200,000, with a closing date of September 29, 2017. The agreement called for two deposits, with the first deposit of \$50,000 to be paid upon acceptance of the offer, and with the second deposit of \$150,000 to be paid two weeks later. Two days prior to the scheduled closing date, the purchaser requested a four-week extension of the closing, and agreed to submit a further deposit in the amount of \$200,000 payable directly to the vendors. This was the first of eight extensions requested by the purchaser. In order to obtain each of these extensions, the purchaser agreed to pay an additional deposit to the vendors' real estate lawyer, in trust (ultimately paying a total of \$200,000 in further deposits), together with interest at the rate of 6% per annum on the outstanding balance of the purchase price. The final extension of the closing date was established to be on March 20, 2018. The vendors indicated that they would agree to a further extension to April 30, 2018, provided that the interest was prepaid to date. The purchaser failed to close on March 20, 2018, and did not prepay the interest on the outstanding balance of the purchase price, which had amounted to \$18,871.23. The vendors' lawyer advised the purchaser's lawyer that the vendors considered the purchaser in breach of the agreement. Without prejudice efforts were made to revive the agreement on certain terms, but those efforts ultimately failed.

The vendors relisted the property for sale on June 26, 2018 with an asking price of \$2,499,000, reflective of prices in the declining housing market, and correspondingly applied for a declaration that they were entitled to retain the deposits paid by the purchaser totalling \$400,000. As of the date of the hearing of the application, the property had not been sold. After reviewing the law with respect to deposits, the court found no unconscionability in the vendor retaining the

full \$400,000 deposit. The original deposit of \$200,000 was equivalent to 6.25% of the purchase price, and was not disproportionate. While the additional deposits resulted in a 12.50% total deposit, the court found that this was also not disproportionate, especially given the fact that the additional deposits were made in consideration for extensions of the original closing date. By agreeing to these extensions, the vendors lost the opportunity to resell their property at an earlier date. In the court's view, each extension increased the risk to the innocent vendors, and should correspondingly be accompanied by an increased risk of forfeiture to the defaulting purchaser. Accordingly, the court ordered the release of the deposit monies that were being held in trust by the vendors' real estate agent and lawyer, without prejudice to the right of the vendors to pursue a claim for damages against the defaulting purchaser.

(e) <u>The Purchaser's Inability to Obtain Financing Due to Market Conditions Not</u> Amounting to Frustration of the Contract

(i) Perkins v. Sheikhtavi, 2019 ONCA 925

On April 3, 2017, the purchaser entered into an unconditional agreement of purchase and sale to acquire a residential property from the vendor, for a purchase price of \$1,871,000, and with a deposit in the amount of \$80,000. The transaction was scheduled to be completed on July 10, 2017. On the closing date, the purchaser advised the vendor that she could not complete the transaction, as she was unable to sell her own home and could not obtain sufficient mortgage financing. The vendor ultimately resold the property to a third party for \$1,251,888 and subsequently commenced an action against the defaulting purchaser for damages in the amount of \$623,733.05, representing the difference between the contract price and the resale price, together with carrying costs of the property.

On a motion for summary judgment, the purchaser took the position that it was impossible to perform the contract due to the provincial government's announcement of the non-resident

speculation tax and the tightening of mortgage lending rules, and the precipitous drop in housing prices (i.e. by upwards of 20-30%) resulting therefrom. The purchaser submitted that her inability to obtain satisfactory financing as a consequence of the government's actions was neither foreseeable nor within her control, and thereby rendered the purchaser's performance of the contract frustrated. The motion judge rejected the purchaser's arguments, finding that the provincial government's announcement of the non-resident speculation tax did not change or alter the purchaser's obligations arising under the agreement of purchase and sale.

On appeal, the Court of Appeal confirmed that although a supervening event did, in fact, occur between the date of contract formation and the final closing date (namely, the announcement of a new government policy), this supervening event did not amount to frustration of the contract, because it did not alter the nature of the bargain or the contractual obligations of the parties to such an extent that compelling performance (despite the new and changed circumstances) would be akin to ordering the parties to do something radically different from what they had originally agreed to under the contract. In other words, a contract is not frustrated if the supervening event was expressly contemplated by the parties at the time of entering into the contract, and was expressly provided for (or intentionally excluded from, or purposely not provided for) in the contract. In this case, the purchaser had deliberately chosen not to include a condition regarding the sale of her home, nor a condition regarding the procurement of satisfactory mortgage financing, before being contractually obliged to complete the transaction. The purchaser knowingly accepted and assumed the risks associated with making an unconditional offer to purchase the property, in order to induce the vendor to accept her offer over other competing offers (since the purchaser was not the highest bidder). Therefore, the purchaser's inability to obtain the requisite financing to complete the transaction on an all-cash basis with the vendor, whether or not as a result of the policy announcement of the provincial government, did not change or alter the nature of the agreement

of purchase and sale, nor force her to do something radically different from what she had agreed to. The contract was therefore not frustrated, but simply breached.

Finally, the appellate court also confirmed that the "entire agreement clause" set forth in the agreement of purchase and sale (which specifically affirmed that the written contract constituted the entire agreement between the parties regarding the subject matter thereof) precluded the purchaser from asserting that the contract was subject to an implied condition or term regarding the purchaser's procurement of mortgage financing, or the sale of the purchaser's home.

(ii) Paradise Homes North West Inc. v. Sidhu, 2019 ONSC 1600

Pursuant to an agreement of purchase and sale dated March 4, 2017, the purchaser agreed to acquire from the vendor a residential property located in Brampton, for a purchase price of \$819,990. Prior to the closing date, the purchaser paid four deposits totalling \$45,000, but defaulted on the fifth deposit. The purchaser subsequently sought to assign the agreement of purchase and sale to a third party, but refused to pay the assignment fee requested by the vendor for granting its consent thereto (being \$25,000, plus \$1,000 for legal fees). The purchaser ultimately failed to complete this transaction, and the vendor later resold the property to a third party for \$715,000 in the spring of 2018.

The vendor commenced an action against the defaulting purchaser for damages in the amount of \$82,059.50, representing the difference between the contract price and the resale price, together with carrying and sale costs, less the purchaser's deposit in the amount of \$45,000. On a motion for summary judgment, the purchaser took the position that it was impossible to perform the contract due to market-driven conditions (and the consequent reduction in financing available as a result thereof). The purchaser submitted that the precipitous drop in the real estate market, and the purchaser's corresponding inability to obtain satisfactory financing, were not foreseeable, and

were beyond the purchaser's control, and thereby rendered the purchaser's performance of the contract frustrated. Additionally, the purchaser contended that the contract was further frustrated by the fees charged by the vendor to grant its consent to an assignment.

At the outset, the court noted that the doctrine of frustration operates to relieve the parties to a contract of their bargain because a supervening event has occurred, without the fault of either party, which renders the performance of the contract substantially different than that for which the parties had bargained. The court held that the decline in the housing market did not trigger the defence of frustration. The parties had intended that the vendor would sell the property to the purchaser for the agreed-upon price of \$819,990, and the purchaser's inability to obtain the requisite financing to complete the transaction on an all-cash basis with the vendor did not change or alter the nature of the contract.

With respect to the purchaser's submission that the vendor's desired assignment fee amounted to frustration, the court noted that the agreement of purchase and sale expressly confirmed that the purchaser could not assign the contract unless the vendor consented to same (which consent could be arbitrarily withheld). In other words, the vendor was entitled to unilaterally refuse any assignment, but nevertheless agreed to the purchaser's request, on the condition that the purchaser pay the requisite assignment fee. In the court's view, the assignment fee was reasonable, given the purchase price of the property. Accordingly, the court rejected the purchaser's submissions and granted the vendor summary judgement, and allowed the vendor to retain the deposit without relief from forfeiture.

(iii) Forest Hill Homes v. Ou, 2019 ONSC 4332

On November 19, 2016, the purchasers agreed to acquire a residential property to be built by the vendor in a subdivision known as Cornell Rouge in Markham. After accounting for various closing adjustments described in the agreement of purchase and sale, the total purchase price of

the property was \$1,729,820.99. On the scheduled closing date, the purchasers did not have the necessary funds in order to complete the transaction. The vendor subsequently commenced an action for damages consequent upon the purchasers' default.

On a motion for summary judgment, the purchasers advanced various arguments in defense of their failure to close, including frustration, delay by the vendor, and misrepresentation by the vendor's sales agent. With respect to frustration of the contract, the purchasers argued that a drastic and unforeseeable drop in the real estate market made it impossible for them to obtain the financing they needed to perform their obligations under the agreement of purchase and sale. However, the purchasers did not adduce any real estate market evidence in support of this assertion. Rather, they simply claimed that they could not obtain the requisite financing, which they subjectively attributed to a change in the market. The court found that even if there was evidence to support the purchasers' assertion, there is nothing about a change in the market that amounts to an unforeseen event that substantially alters the nature of the agreement. In other words, it could not be said that the contract itself was rendered totally different from what the parties had intended.

The court went on to reject the purchasers' additional arguments, including the purchasers' assertion that the vendor's excessive delay in setting the final closing date undermined the enforceability of the agreement of purchase and sale. As the court observed, the vendor was within its contractual rights to set the final closing date when it did, inasmuch as the agreement of purchase and sale expressly entitled the vendor to select a closing date at its own discretion, so long as such date was prior to January 18, 2019 (and established in accordance with the mandatory requirements of Tarion Warranty Corporation). In any event, the longer time until closing did not prejudice the purchasers, who admitted in cross-examination that they did not have the funds to complete the transaction on the original tentative closing date.

The vendor was ultimately awarded damages in the amount of \$554,308.41, representing the difference between the sale price and the appraised market value of the property, less the deposit received, together with ancillary expenses claimed under the agreement of purchase sale (including realty taxes, utilities, and insurance premiums). The vendor was not, however, entitled to charge interest (in the amount of 20% of the unpaid purchase price) for the purchasers' failure to pay the balance due on closing, notwithstanding the fact that the agreement of purchase and sale had expressly afforded such a right to the vendor. In the court's view, a party in the vendor's position, namely a subdivision builder with a standard form contract for each of its homebuyers, cannot enforce such an onerous and unexpected term in the contract, without at least drawing same to the purchaser's attention.

(f) The Vendor Need Not Obtain an Appraisal of the Property in Order to Properly Mitigate

(i) Zou v. Sanyal, 2019 ONSC 738

The purchasers entered into an agreement of purchase and sale to acquire from the vendors a residential property located in Milton, for the purchase price of \$971,000, and with a deposit in the amount of \$40,000. The transaction was scheduled to be completed on July 18, 2017. Approximately one month prior to closing, the purchasers requested an extension of the closing date, as they were unable to sell their current property. The vendors, however, rejected this request, as they required the sale proceeds in order to complete the purchase of their own new property. A few weeks later, the purchasers indicated that they were unable to obtain mortgage financing to complete the transaction, unless the vendors were willing to renegotiate the purchase price. The vendors were not agreeable to this request.

On the day of closing, the vendors took steps to tender the closing documents and keys on the purchasers' lawyer, but did not receive payment of the outstanding balance of the purchase price. Instead, the purchasers' lawyer wrote a letter to the vendors' lawyer advising that the agreement of purchase and sale was null and void on various grounds, including the fact that the approximate square footage of the property (as noted in the vendors' listing) was incorrect, and that the vendors had failed to provide a survey of the property.

The vendors subsequently relisted the property for sale on July 25, 2017 at a listing price of \$910,000. The vendors lowered the listing price to \$859,000 on August 14, 2017, and then to \$819,000 on September 19, 2017. By October 18, 2017, the vendors had received one offer to purchase the property at a purchase price of \$745,000. On that day, the vendors lowered the listing price to \$799,000. On October 24, 2017, the vendors received an offer in the amount of \$780,000 and, later that day, after several rounds of bargaining, the vendors accepted an offer to acquire the property for a purchase price of \$797,000. The vendors thereafter commenced an action against the purchasers for breach of contract and damages.

On a motion for summary judgment, the purchasers contended, *inter alia*, that the vendors misrepresented the floor area of the property, and that the vendors' failure to provide a survey of the property, in contravention of the provisions of the agreement of purchase and sale, justified the purchasers' failure to complete the transaction. However, the purchasers had inspected the property (being a fully-completed home) for one hour prior to the vendors accepting their offer, and there was no evidence to support the claim that the vendors misrepresented the size or square footage of the property. Additionally, the agreement of purchase and sale only called for the delivery of a sketch or survey of the property if one was within the vendors' control, and there was no evidence submitted in this regard. In the court's view, the vendors' failure to provide a survey

(if one was, in fact, in the vendors' possession or control) was not a breach that substantially deprived the purchasers of the benefit of the contract.

The purchasers further submitted that the vendors' failure to obtain one or more appraisals of the property when it was relisted for sale raised a genuine issue requiring a trial, in order to determine whether the vendors properly mitigated their damages. In rejecting this argument, the court noted that the vendors were not under any obligation to obtain an appraisal of the property. The evidence demonstrated that the vendors exposed the property to the marketplace for a reasonable period of time, and that they ultimately accepted the highest offer that they received, after engaging in negotiations with the new purchaser that resulted in an increase to the purchase price that was initially offered. The purchasers failed to show that the vendors did not act reasonably by taking the steps that they did to sell the property.

Accordingly, the vendors were entitled to damages in the amount of \$134,000, representing the difference between the contract price (\$971,000) and the resale price (\$797,000), less the amount of the deposit (\$40,000). The vendors were also entitled to damages in the amount of \$20,256.38, based upon the increase in the commission fees that they had paid to the real estate agent who represented them on the resale.

(ii) *Degner v. Cabral*, 2019 ONSC 1610

The vendor, as the estate trustee of her late aunt's estate, listed the deceased's residential property for sale in April 2017 for \$399,900, and quickly received sixteen offers to purchase the property in excess of the listing price. The purchasers submitted an unconditional offer to purchase the property for \$551,000, together with a \$10,000 deposit. On the scheduled closing date, the purchasers failed to complete the transaction, as they were unable to obtain financing, despite the fact that the vendor had previously granted them two extensions of the closing date. On July 18,

2017, six days later, the vendor relisted the property for sale and received three offers to purchase (at \$400,000, \$426,000, and \$450,000 respectively). On July 24, 2017, the vendor accepted the highest offer, with a closing date of August 10, 2017. The vendor subsequently brought an action against the original purchasers, seeking damages of \$100,842 on account of the purchasers' failure to close. Only one purchaser defended the action.

The purchaser took the position that the vendor did not properly mitigate her damages, inasmuch as she ought to have relisted the property for at least thirty days, as suggested by the purchaser's expert, before considering and accepting any offers, as opposed to selling the property after it was listed for only six days in duration. However, the purchaser failed to adduce any evidence to support the assertion that, had the property been listed for such time, the vendor would have likely received an offer higher than \$450,000. On the contrary, it was established (and acknowledged by the purchaser) that the property was resold in August 2017 for more than its market value. The vendor's evidence confirmed that the real estate market in Hamilton had experienced a significant downturn from the "seller's market" that had prevailed at the time that the purchasers had submitted their original offer to acquire the property. The court found that the vendor acted reasonably in taking her real estate agent's advice, and accepting the resale offer when she did. It would not be appropriate to require the vendor to speculate in a declining market and to correspondingly assume the burden of the changes in the market following the original closing date.

Although the vendor did not provide expert appraisal evidence of the fair market value of the property at the time of the subsequent sale, the vendor was not obliged to do so, given the clear evidence of the declining real estate market, as well as the resale price which afforded good evidence of the market value of the property. The court further confirmed that in a falling market, the vendor will generally be awarded damages equal to the difference between the contract price and the highest price obtainable within a reasonable time following the scheduled closing date, after making reasonable efforts to resell the property. The vendor was therefore entitled to damages in the amount of \$100,092, which included the difference between the two sale prices (less the deposit received), as well as the legal fees incurred in the aborted transaction, realty taxes, insurance premiums, and the utility fees incurred between the two closing dates.

(g) The Vendor's Damages Calculated on the Difference Between the Contract Price and the Listing Price, Where the Property Remained Unsold

(i) Wang v. Tribute (Grandview) Ltd., 2019 ONSC 201

In April 2017, the purchaser agreed to acquire a new home to be constructed in Oshawa from the builder/vendor, for a purchase price of \$954,000, with a deposit in the amount of \$96,000, payable in several installments. The tentative closing date for the transaction was scheduled for March 25, 2019. In total, the purchaser paid \$24,000 towards the requisite deposit, leaving \$72,000 outstanding. Throughout May and June of 2017, the purchaser expressed concerns about her ability to complete the transaction, and made attempts to have the vendor transfer her deposit monies to a different residential property with a lower purchase price. She also sought to terminate the agreement of purchase and sale altogether. A representative of the vendor advised the purchaser that she could not transfer the deposit monies to a different property, and warned the purchaser that she risked losing her deposit monies if she failed to complete the transaction.

Between July 27, 2017 and August 31, 2017, the purchaser retained counsel with a view to recovering her deposit, and subsequently commenced an action against the vendor. In its counterclaim, the vendor initially sought specific performance to compel the purchaser to complete the transaction, but ultimately accepted the purchaser's repudiation of the agreement of purchase and sale, and claimed damages for breach of contract.

An appraisal report estimated that the value of the property, as at the date of termination of the contract (namely, on or about March 2018), was \$690,000. Despite this estimate, the vendor had relisted the property for sale at a purchase price of \$763,992, before upgrades and adjustments. The evidence confirmed that the housing market reached its peak in April 2017, evidenced by record prices, a high number of properties sold, and a short exposure time. However, the housing market subsequently declined, and bottomed-out in July 2017, and thereafter gradually rebounded to a more balanced and stabilized level.

On a motion for summary judgment, the purchaser argued, *inter alia*, that the vendor was precluded from pursuing any damages in excess of the deposit monies already received, inasmuch as the vendor, through its agents, entered into a settlement agreement with the purchaser. In rejecting this argument, the court noted that the vendor's warning (i.e. that the purchaser risked losing her deposit) was not tantamount to an agreement to abandon any other claims for damages in the face of the purchaser's breach of contract. Even the subsequent letter from the purchaser's lawyer, requesting that the purchaser be released from the agreement of purchase and sale, belies the suggestion that the parties had negotiated a settlement of the outstanding issues.

With respect to the assessment of damages, the vendor took the position that the damages should be calculated based on the difference between the contract price and the estimated value of the property on the date of termination of the contract. However, even though the appraisal report listed the value of the property at \$690,000 on the date of termination, the property was nevertheless listed (and remained listed as at the date of the motion) at a purchase price of \$763,992. In the court's view, the vendor was only entitled to the difference between the contract price and the current listing price, less the purchaser's deposit of \$24,000. The court concluded that this would be the fairest way to calculate the damages in the circumstances, having regard to the fact that the property remained unsold, and that the market continued to be in flux.

(h) <u>The Vendor's Delay in Completing Common Element Amenities Did Not</u> Justify the Purchaser's Failure to Close

(i) Lin v. Brookfield Homes (Ontario) Limited, 2019 ONCA 706

The purchaser entered into an agreement of purchase and sale with the vendor in November 2016, to acquire a vacant land condominium unit with a newly-constructed detached home being erected by the vendor thereon, at a purchase price of \$1,657,107.86, with a closing date originally scheduled for December 13, 2017 (and ultimately extended, on consent, to December 21, 2017), and with the deposit being \$133,031.09. The purchaser had requested further extensions of the closing date beyond December 2017, in order to arrange mortgage financing, but the vendor denied the purchaser's requests. On the scheduled closing date, the purchaser's lawyer failed to tender the requisite closing funds, and claimed that a number of promised common element amenities had not yet been completed (including a parkette and entry/exit gates to make the project a gated community), and correspondingly asserted that the vendor's failure to complete said amenities before final closing constituted a fundamental breach of contract, and in the alternative, resulted in a material change to the disclosure statement committed by the vendor, thereby entitling the purchaser to rescind the contract with impunity. In response, the vendor's lawyer confirmed that even though the common element amenities were not yet completed, the house was fully constructed and a registerable transfer of title thereto was available on the scheduled closing date, and therefore the purchaser was in breach of her contractual obligations by not closing. Furthermore, the vendor's lawyer contended that there was no material change to the disclosure statement, inasmuch as the contract expressly confirmed that the vendor's failure to complete other units within the condominium, or to complete the common elements on or before the occupancy date, shall not be deemed to be a failure to complete the unit. As a result of the foregoing default of the purchaser, the vendor terminated the agreement of purchase and sale, and forfeited the purchaser's deposit monies, together with all amounts paid for extras, and expressly reserved its right to recover any losses sustained by reason of the purchaser's default.

Subsequent to the termination of the contract, the vendor resold the property in August 2018 for \$1,300,000. Parenthetically, the parkette was completed by the vendor at the end of August 2018, and the gates were installed as of September 12, 2018. The purchaser commenced an application seeking the return of her deposit, and the vendor commenced an application seeking a declaration that the purchaser breached the agreement of purchase and sale by failing to close, and was correspondingly not entitled to a return of her deposit, nor relief from forfeiture, and that the vendor was entitled to claim additional damages for such breach.

The motion judge confirmed that in light of the provisions of the agreement of purchase and sale, the purchaser had breached the agreement, thereby entitling the vendor to terminate the contract, to retain the purchaser's deposit, and to sue for damages over and above the amount of the forfeited deposit. The court also confirmed that once the agreement had been validly terminated by the vendor (i.e. as a consequence of the purchaser's default), the purchaser no longer had any rescission rights pursuant to the provisions of the *Condominium Act*, 1998, S.O. 1998, as amended (hereinafter referred to as the "**Act**"), inasmuch as the agreement ceased to exist. The purchaser appealed the motion judge's decision.

The appellate court confirmed that the vendor's non-construction of the common element amenities, as at the closing date, did not constitute a material change within the meaning of section 74 of the Act, and that the entry/exit gates were common element components to be constructed as part of the overall development (as and when intended to be completed by the vendor), rather than same comprising essential features of the community that ought to be in place (presumably at the time of occupancy), as asserted by the purchaser, despite the express terms of the agreement to the contrary. Given the relevant language in the agreement of purchase and sale (which

confirmed that the failure to complete the common elements on or before the occupancy closing shall not be deemed or construed as a failure to complete the unit), time was not considered to be of the essence with respect to the construction and completion of the common element amenities. Accordingly, the purchaser had no legitimate justification to refuse to complete the transaction on the scheduled closing date.

(i) The Vendor's Failure to Indicate Narrowing of Lot Did Not Justify the Purchaser's Failure to Close

(i) Sankarsingh v. Ali, 2019 ONSC 5655

On May 3, 2017, the purchasers entered into an unconditional agreement of purchase and sale to acquire from the vendors a residential property located in Brampton, for a purchase price of \$850,000, and with a deposit in the amount of \$25,000. While the frontage and depth of the property were noted in both the real estate listing and the first page of the agreement of purchase and sale, there was no reference to the lot being irregularly-shaped and narrowing at the rear. On July 6, 2017, the date scheduled for the completion of the transaction, the purchasers requested (and were granted) an extension of the closing date, in order to arrange mortgage financing. The purchasers subsequently sought an abatement in the purchase price, as they were still encountering difficulty in securing financing due to an alleged appraisal of the property that reflected a significant decline in value, but the vendors were not agreeable to this request. On the extended closing date, the vendors took steps to tender the closing documents and keys on the purchasers' lawyer, but did not receive payment of the outstanding balance of the purchase price. Shortly after the transaction failed to close, the vendors relisted the property for \$850,000, and ultimately obtained a single offer of \$746,000 in October 2017. The vendors thereafter commenced an action in damages against the purchasers for breach of contract.

On a motion for summary judgment, the purchasers contended that the vendors misrepresented the dimensions of the property, and that this misrepresentation was material, inasmuch as it proved to be a factor in the property's appraisal and the purchasers' consequent inability to secure financing. However, there was no admissible evidence in the record to substantiate the purchasers' claim, and the purchasers failed to produce the alleged property appraisal. In the court's view, it was highly improbable that the narrowing of the lot at the rear would meaningfully affect the value of the property, or impact the decision of a reasonable person to acquire same. As the court observed, more than half of the homes in this particular subdivision are situate upon lots that are either wider or narrower at one end. Critically, the purchasers had inspected the property during daylight hours prior to the vendors accepting their offer, and there was a tall wooden fence that marked the boundary of the property in the backyard. Even on the most cursory of inspections, it would have been readily apparent to the purchasers that the property was not perfectly rectangular, and that same narrowed in the rear.

Additionally, there was no evidence in the record to support the purchasers' claim that the vendors misrepresented the size or square footage of the property. The agreement of purchase and sale accurately described the frontage and depth of the property, and a more detailed report was available to all real estate agents, which contained, *inter alia*, photographs of the property and a notation that the property narrowed to the rear. Finally, and most telling, the purchasers never sought to rescind the agreement of purchase and sale prior to the scheduled closing date because of any issue with respect to the size, shape, or dimensions of the lot. To the extent that the purchasers provided a reason for seeking an abatement in the purchase price, they merely cited difficulties in obtaining mortgage financing, without any reference whatsoever to the size of the property. Simply put, the lot size or its irregular shape was not the underlying cause for the purchasers' concern, so much as the price that the purchasers were contractually committed to pay

for same, inasmuch as the sharp decline in market values that had ensued following the formation of the contract no doubt resulted in the purchasers having substantially overpaid for the property in question.

4. OBSERVATIONS & PRINCIPLES ARISING FROM THE JURISPRUDENCE

Although issues concerning the forfeiture of the deposit, and the circumstances under which the court will grant the defaulting purchaser relief from forfeiture, inevitably turn on the specific facts and context of a particular case, the following general observations and principles can be extracted from the recent jurisprudence:

- (a) Notwithstanding the court's broad jurisdiction under section 98 of the *Courts of Justice Act* to grant relief to the defaulting purchaser from the forfeiture of the deposit, in order to prevent the vendor from being unconscionably overcompensated for the purchaser's breach of contract, Ontario courts have been reluctant to exercise this discretionary remedy, absent strong and compelling facts of unconscionability, inasmuch as the underlying purpose of the deposit is to incent and motivate the purchaser to complete the transaction, failing which forfeiture of the deposit will be the inevitable result. Even in those circumstances where the agreement of purchase and sale was entered into on behalf of a company to be incorporated, and without personal liability, the Court of Appeal has confirmed that if the transaction is terminated through no fault of the vendor, the latter is nevertheless entitled to retain the forfeited deposit, absent clear contractual language that compels the vendor to return the deposit in the event that the company is not incorporated or fails to take the requisite steps to assume the agreement and complete the transaction.
- (b) There is no judicial consensus on the maximum percentage of the total purchase price that a deposit can be before same will automatically be considered or construed to be a penalty,

and therefore susceptible to the court granting relief from forfeiture. In fact, there are several recent court decisions confirming that merely examining the percentage of the deposit to the purchase price will not, in most cases, be determinative of unconscionability and/or the availability of relief from forfeiture, since much turns on the terms and provisions of the particular contract, as well as the surrounding circumstances. In two recent cases, a deposit totalling 28% of the purchase price was not, in and of itself, disproportionately large enough to make its forfeiture unconscionable.

- (c) The fact that the vendor has suffered no damages whatsoever consequent upon the purchaser's default will not, in and of itself, render the vendor's forfeiture of the deposit unconscionable, nor entitle the defaulting purchaser to relief from forfeiture.
- (d) If the vendor's losses incurred due to the purchaser's failure to close exceed the amount of the deposit so forfeited (which often transpires in a declining market), then the liability of the defaulting purchaser will not be limited to the amount of the deposit. However, if the vendor does pursue a claim in damages against the defaulting purchaser, then the deposit monies must be brought into account, and correspondingly credited towards the aggregate of the damages being claimed.
- (e) A sudden and unexpected decline in the real estate market (and the corresponding reduction in financing available to the purchaser as a result thereof) will not entitle the defaulting purchaser to claim frustration of the contract, nor absolve the defaulting purchaser from liability for his or her failure to complete the transaction as and when scheduled. Furthermore, if the purchaser willingly assumes the risk of not making the agreement of purchase and sale conditional upon the purchaser's procurement of satisfactory financing, in an effort to induce the vendor to accept the purchaser's offer over other competing offers, then the purchaser's failure to obtain financing (whether or not due to a precipitous drop in

- the property's value triggered by the provincial government's policy announcement) cannot, and will not, be deemed or construed to constitute a supervening event that radically changes or alters the nature of the contract or the parties obligations arising thereunder.
- (f) The duty to mitigate is derived from the proposition that the innocent party cannot recover losses from the defaulting party that could have been avoided by the innocent party's reasonable efforts. The onus will be on the defaulting purchaser to demonstrate, on a balance of probabilities, that the vendor has failed to take reasonable steps to mitigate the losses incurred due to the purchaser's repudiation of the contract. The vendor need only act reasonably (and not perfectly or flawlessly) to mitigate the damages that he or she has suffered or incurred.
- (g) In an aborted real estate transaction, the resale price of the property obtained by the innocent vendor will, in most cases, afford good and sufficient evidence of the market value of the property, and the innocent vendor need not necessarily obtain an appraisal of the property at the time of relisting same, in order to establish the market value of the property in connection with the mitigation of his or her damages.
- (h) Where a vendor relists the property following an aborted transaction, there is no minimum duration or specific timeframe that the property must stay on the market, before the vendor can accept an offer to resell the property in an effort to mitigate his or her damages. Rather, the vendor need only demonstrate that he or she acted reasonably, in all of the circumstances. The court will not compel the vendor to speculate in a declining market, nor to assume the burden of changes in the marketplace, following the aborted transaction. Furthermore, the Court of Appeal has confirmed that in a declining market, the vendor should be awarded damages equal to the difference between the contract price and the

- highest price obtainable within a reasonable time after the aborted closing date, following reasonable efforts to resell the property thereafter.
- (i) Following the formation of the contract, and prior to the scheduled closing of the transaction, the court will not oblige an innocent vendor to accept a revised or lower price from the purchaser, or to renegotiate other salient terms or provisions of the contract with said purchaser. Likewise, the vendor need not accept the defaulting purchaser's revised terms or lower price, after the purchaser has repudiated the contract, in the vendor's efforts to mitigate his or her damages, notwithstanding the fact that the property may ultimately be resold to a third party at a price that is less than the defaulting purchaser's reduced offer. Simply put, the court will not compel the innocent vendor to continue to negotiate or deal with the defaulting purchaser after the aborted closing, in those circumstances where the vendor has reasonably lost confidence or trust in the purchaser, as a result of the latter's breach of contract.
- (j) The vendor has no obligation, at law, to extend the closing date, or to provide the purchaser with any other accommodations not expressly contemplated by the agreement of purchase and sale (such as waiting for the purchaser to sell his or her own property in a declining market, in the hope that the purchaser will subsequently be in a better position to complete the closing with the vendor). Nevertheless, the courts clearly do take into account the fact that the vendor has granted the purchaser one or more indulgences, or one or more extensions of closing, when determining whether or not to grant relief from forfeiture of the deposit. Furthermore, in the context of an additional deposit being paid by the purchaser in consideration for the vendor granting an extension of the closing date, particularly in a declining market (where the extension is sought in order to facilitate the purchaser's procurement of required financing, or the sale of the purchaser's own home), the courts

have confirmed that each extension of the closing date constitutes an increased risk to the innocent vendor, and should therefore be accompanied by a corresponding increased risk of forfeiture of the additional deposits so paid.

- (k) In addition to the difference between the contract price and the market value of the property, the innocent vendor may be entitled to compensation for the consequential damages suffered or incurred as a result of the purchaser's breach of contract (i.e. legal fees and disbursements for the aborted transaction, additional realty taxes, utilities, real estate commissions, insurance costs, moving expenses, and additional marketing and staging costs). Accordingly, if the defaulting purchaser knew, at the time of contract formation, that the vendor was intending to use the sale proceeds to acquire another property, then the vendor's reasonable financing costs incurred to complete the vendor's acquisition (i.e. in order for the vendor to avoid repudiating his or her purchase agreement) would be reasonably foreseeable, and would correspondingly be caused or triggered by the purchaser's default, and therefore would likely be recoverable as damages against the defaulting purchaser.
- (1) Where the innocent vendor in an aborted real estate transaction has relisted the property for sale, but has not successfully resold the property in a declining market, at the time that the court is assessing damages for breach of contract, the court has concluded, in the case of *Wang v. Tribute, supra*, that the fairest way to calculate the vendor's damages in such circumstances is to determine the difference between the contract price and the vendor's listing price of the property, rather than the difference between the contract price and the lower appraised value of the property as at the date of the termination of the contract. However, in the authors' respectful opinion, this approach unfairly penalizes the innocent vendor (i.e. by a reduced damage assessment against the defaulting purchaser) for having

listed the property at a price that is higher than its appraised value, and in doing so, gives far too much weight or importance to the listing price, as opposed to the appraised value, for the purposes of determining the market value of the property. The listing price may not be a fair or accurate representation of the real value of the property, and generally reflects the vendor's subjective consideration and determination of the property's value. Arguably, the innocent vendor should not be punished by the quantum of damages ultimately awarded simply because the vendor listed the property for sale at (and correspondingly endeavoured to obtain) a price that is higher than the property's appraised value, inasmuch as such efforts (if ultimately successful) would have reduced the total amount of damages ultimately being sought against the defaulting purchaser, which is, after all, the paramount objective of the vendor's duty to mitigate. Parenthetically, had the vendor relisted (and correspondingly resold) the property at a lower price, and thereby increased the defaulting purchaser's liability exposure for damages, then the purchaser would most assuredly have argued that the vendor failed to take proper steps to mitigate its damages.



DEVELOPERS PANEL:

GET AN INSIDE ACCOUNT OF THE CHALLENGES KEEPING PROPERTY DEVELOPERS UP AT NIGHT

11:30 A.M. - 12:15 P.M.

PANEL LEADER:

Dan Marinovic, Chief Development Officer, Dream

PANELISTS:

Sam Mizrahi, President / Founder, Mizrahi Developments

Julie Di Lorenzo, President, Diamante

Jim Ritchie, EVP Sales & Marketing, Tridel Corporation

Michael F. Firestone, VP of Operations & Development,

Camrost-Felcorp Inc

Alan Vihant, Executive Vice President, Great Gulf Homes



PANELISTS

DEVELOPERS PANEL

Get an inside account of the challenges keeping property developers up at night.



DAN
MARINOVIC
Chief Development Officer
Dream

Role: Panel Leader



SAM MIZRAHI

President/Founder Mizrahi Developments



JULIE DI LORENZO

President Diamante



JIM RITCHIE

EVP Sales & Marketing Tridel Corporation



MICHAEL F. FIRESTONE

VP of Operations & Development Camrost-Felcorp Inc



ALAN VIHANT

Executive Vice President Great Gulf Homes



DEVELOPMENT LAW PANEL

1:00 P.M. - 2:00 P.M.

PANEL LEADER:

Harry Herskowitz, Senior Partner, DelZotto, Zorzi LLP

PANELISTS:

Mark Karoly, Partner, Harris, Sheaffer LLP

Craig Robson, Partner, Robson Carpenter LLP

David Spencer, Partner, Schneider Ruggiero Spencer Milburn LLP

Tammy Evans, Partner, Aird & Berlis LLP

Arthur Shapero, Partner, Owens Wright LLP

PANELISTS

DEVELOPMENT LAW PANEL

- 1-Tarion's proposed changes to the mandatory addendum, for pre-construction condo sales.
- 2-Issues and concerns involving the development of vacant land condominiums, common element condominiums and/or phased condominiums.
- 3-Provisions in the declaration to address electrical vehicles and the installation of charging stations and electricity check meters (and the new condominium regulations in connection therewith).
- 4-Development charges and other high value adjustments charging all or part of same (or only increases in same) in the statement of adjustments.
- 5-Issues and concerns involving cost-sharing agreements with condominiums.



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LandPro Conference March 4th, 2020 Condominium Development Panel

> Which Form of Condominium Is Right for Your Development Things to Keep in Mind

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This document attempts to provide a few key points to keep in mind in determining which form of condominium to consider for a new residential development. Much of what is set out can also be applicable to commercial development but that is not the focus of this document.

Care must be taken in reviewing this document. There are proposed changes to the Condominium Act, 1998 (the "Act") that have not been implemented by the government but which could be brought into force on relatively short notice. In light of the long period of inaction on implementing the proposed changes to the Act, this document does not address these potential changes.

Condominium Type Options for Consideration:

- 1. Standard Condominium;
- 2. Phased Standard Condominium;
- 3. Vacant Land Condominium;
- 4. Common Elements Condominium; and
- 5. Leasehold Condominium.

Summary of Condominium Types

- 1. Standard Condominium A standard condominium is the traditional form of condominium. A standard condominium requires the construction of the proposed building(s) on the lands to be completed before the condominium can be registered. Registration of the condominium (specifically the description and declaration) occurs after construction is completed at which time the lands and buildings are divided into units and common elements.
- 2. *Phased Standard Condominium* Standard condominiums may be constructed in stages, which are called "phases" under the Act.
 - (a) A phased standard condominium starts out with some but not all of the proposed units being registered initially in what we refer to as the Initial Registration. The units in the Initial Registration can be conveyed to purchasers as soon as the Initial Registration is registered;
 - (b) As further sales and construction occur, more units can be brought in the already registered condominium plan in groups of units as additional phases to the condominium plan. There will only be one condominium that will get bigger as each phase is added to it;
- 3. Vacant Land Condominium A vacant land condominium is not required to contain structures at the time of registration, but can consist of bare land. At least one unit must have no structures on it at the time of registration of a vacant land condominium plan. Subject to the foregoing, other units in a proposed vacant land condominium plan are allowed to have structures in place at the time of registration provided those structures do not straddle any proposed unit boundary. Homes or other structures may be constructed on the units after condominium registration.

4. Common Elements Condominium

- (a) A common elements condominium plan does not contain any units. A common elements condominium plan only has common elements. The common elements of a common elements condominium plan must be "tied" to other parcels of land, which become known as "parcels of tied land" or "POTLs";
- (b) The POTLs take the place of units for most purposes in the legal structure of a common elements condominium plan. However, the POTLs are not part of the common elements condominium plan. The POTLs are only "tied" to the condominium plan so enforcement of the condominium plan governing documents (declaration, by-laws, and rules) against the POTLs is very limited.
- 5. Leasehold Condominium In a leasehold condominium, purchasers buy "units" but the underlying condominium plan is only registered against the leasehold interest not the freehold interest in the condominium lands. A couple of the main differences between freehold and leasehold condominium plans include:
 - (a) common expenses paid by leasehold condominium unit owners include the rent payable to the property's landlord; and
 - (b) once the ground lease expires, the unit owners' rights to occupy the units is automatically terminated.

ARTICLE 1

STANDARD CONDOMINIUM

- 1.1 This traditional form of condominium requires completion of the condominium building(s) and units to the level required by the required Schedule "G" prescribed by the regulations to the Act¹ before the condominium plan can be registered.
- 1.2 A standard condominium is the most widely used form of condominium so it may be more accepted by municipalities, especially those municipalities with little experience in other types of condominium development.
- 1.3 The obligation to complete the building(s) and units, as set out in 1.1 can tie up a significant amount of capital and give rise to lengthy periods of interim occupancy which is not attractive to either builders or purchasers. Phased standard condominium plans discussed below offer some relief to these concerns.

ondominium corporation under clauses 58a and b of o.reg . 48-

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https://files.ontario.ca/certificate of architect or engineer schedule g to declaration for a standard or leasehold c

⁰¹ or clause 81e or h of the condominium act 1998.pdf

ARTICLE 2

PHASED STANDARD CONDOMINIUM

- 2.1 Currently, only standard condominium plans can be phased. The proposed updates to the Act allow other forms of condominium to be phased but there is no indication when or if these updates will be proclaimed into force.
- 2.2 A phased standard condominium plan is expanded as each new phase is completed and registered as part of the already existing condominium plan. To create a phased condominium, the declarant registers a declaration for the Initial Registration of the condominium plan. Each subsequent phase is added by way of an amendment to the declaration and description of the condominium.
- 2.3 No amendments to the declaration and description creating a phase may be registered more than ten (10) years after the registration of the declaration and description (the Initial Registration). This can be an issue in smaller communities where sales may be slow or with respect to large projects with multiple phases. There is no practical reason for this time limitation but regardless it is an immovable barrier.
- 2.4 The time limit for registration in the prior paragraph does not preclude registration of the balance of the site. A separate condominium plan can be registered if the phasing limitation is reached.
- 2.5 It is essential the Initial Registration of the condominium and all subsequent phases maintain cross easements throughout the site for construction, surface water flows, access, and services. Otherwise, the developer may have issues in completing future phases if faced with a hostile condominium board or in finishing the site with a separate condominium if the ten (10) year limitation comes into play.
- 2.6 The developer who registers the Initial Registration of a phased standard condominium plan must at the time of the Initial Registration own all of the lands intended to be "phased into" the condominium.
- 2.7 A developer can sell the balance of a proposed phased standard condominium plan after registration of the Initial Registration but before finishing the development. The new owner can complete the registration of the remaining phase(s).
- 2.8 Some municipalities insist on having the proposed phases of a phased standard condominium plan depicted on the draft plan submitted as part of the application for condominium approval process. This may be appropriate with respect to a phased apartment site. It should be avoided with respect to a phased townhome site. Proposed phases of townhome sites are usually dictated by market conditions and construction schedules. What units are proposed for a phase of a townhome site should not be a municipal concern as long as all appropriate easements are in place to allow the phase to function properly if no further phases are registered.
- 2.9 The major benefit of a phased standard condominium is the ability to get the capital out of the property as each phase is registered instead of having to leave all the costs of development and construction in the project until the full build out is completed. Phasing reduces the amount of the construction loan and also allows the phasing of security to Tarion. For example, if building a 200 unit development divided into 10 phases the developer only needs to borrow enough to building 20 units vs 200 units. (This is a bit oversimplified).
- 2.10 It may not be appropriate to use a phased condominium if any major changes to the proposed development are possible or the developer is unsure of what will be built within the future phases. A rarely if ever used

provision of the Act allows a condominium corporation to seek an injunction against the registration of a phase if certain differences from what was proposed in the disclosure statement are "material and detrimentally affect the corporation or the use and enjoyment of the property by the owners." s. 149 (2). It may not be a significant issue to a developer if this injunction is granted as a separate condominium plan can still proceed if proper cross easements have already been established in the condominium declaration and prior phase amendments. However, if nothing else this can cause costly delays.

ARTICLE 3

VACANT LAND CONDOMINIUM

- 3.1 A vacant land condominium is similar to having freehold street fronting townhomes on a private condominium roadway. The exception is that the condominium can control appearance of the buildings on the units and conduct of the residents and also control issues like pets, smoking and the like. Once registered, a vacant land condominium development operates pretty much the same as a standard condominium apart from not permitting the condominium to be responsible for unit maintenance/repair or insurance.
- 3.2 Vacant land condominium plans can be used for:
 - (a) standalone commercial or residential buildings;
 - (b) sharing of services among units with the units forming the underlying legal description for other condominium plans. In short, another condominium plan can be registered on a vacant land condominium plan unit (condominium within a condominium); and
 - (c) multi-unit commercial and residential development subject to limitations on timing of construction and not having more than one (1) level of units. Despite this limitation on only having one (1) level of units multi storey buildings can be constructed on a vacant land condominium unit as long as all storeys form part of the same unit;
- 3.3 Before deciding on a vacant land condominium for townhome or other multi-unit development a developer should confirm with the municipality whether the municipality has any concerns with this type of development on a vacant land condominium plan.
- 3.4 The benefits of residential vacant land condominium plans for new home construction and sale are:
 - (a) The project does not have to provide security to Tarion. Tarion treats vacant land condominiums as if they are subdivisions. Each home still has to be enrolled with Tarion but there is no standard security requirement. New builders or builders with a poor Tarion record may be required to post security to Tarion, not because of building and selling a condominium project but because of Tarion's concern about the builder's lack of condominium development experience or poor record;
 - (b) There is only one (1) registration for the whole plan. Provisions can be added to the condominium declaration that relieve the builder from having to pay common expenses for unsold units. Despite any such relief the builder will have to bear some of the costs of the condominium until there are enough outside owners to carry the costs on a reasonable cost basis;
 - (c) Legal, surveying and municipality application/approval costs are likely lower when compared to a standard phased condominium, as there is only one (1) registration involved in a vacant land condominium plan, as noted above;
 - (d) Common expenses are usually lower as the vacant land condominium corporation has no obligations with respect to the homes located on the units; and,

(e) Construction of homes in a townhome vacant land condominium plan cannot start until the condominium plan is registered (see below). Therefore in a townhome vacant land condominium project, there should be <u>no</u> period of "interim occupancy". The builder can transfer title to the home buyer as soon as the townhome is constructed as the townhome is already in the condominium plan at the time the townhome is completed. This removes an area of concern that arises for both buyers and builders in a standard condominium development where the condominium cannot be registered until the homes are constructed.

As discussed below the vacant land condominium structure also can address issues of building appearance, conduct of occupants and deal with noise and legitimate pet issues which can be a significant issue when families are living in close proximity to each other in a townhome community.

3.5 The downsides of a vacant land condominium are:

- (a) In a townhome project, a builder is not allowed to start construction of any townhomes until the vacant land condominium plan is actually registered. As a result model townhomes cannot be put in place until the vacant land condominium plan is registered. This restriction is due to a regulation that prohibits any structure being in place at the time of condominium registration that crosses a unit boundary. This restriction is not applicable to stand alone buildings in a vacant land condominium:
- (b) No agreement of purchase and sale is permitted to be signed before a vacant land condominium project has received draft plan of condominium approval;
- (c) Once the vacant land condominium plan is registered, the unit ("lot") boundaries are fixed and the builder has to live with the unit boundaries. This means the builder may be restricted in the changes that can be made to the size of the homes on the units especially in a townhome development. However, this is the same issue that exists in plan of subdivisions. Once registered, the boundaries of the lots are fixed:
- (d) The vacant land condominium corporation cannot insure the buildings on the units. This means the vacant land condominium corporation may have to check to ensure the condominium's unit owners have insurance. There could be issues that are not insurmountable, if there was a major damage and unit owners did not have the required insurance;
- (e) A vacant land condominium plan is not suitable for stacked townhomes as no part of any unit in a vacant land condominium plan can be above another unit;
- (f) A vacant land condominium corporation cannot do any maintenance, repairs or replacement to the units. This means:
 - (i) unit owners have to fix their own roofs and outside areas of buildings. The condominium can however control when this is done and ensure proper materials and colours are used; and
 - (ii) the vacant land condominium corporation cannot cut grass or remove snow from the units. That does not preclude the condominium from arranging for such services at direct unit owner cost with a qualified contractor and collecting the costs of such services as common expenses from the unit owners who want such work done for them if properly authorized in the condominium declaration.

- (g) All of the common elements of a vacant land condominium plan must be completed prior to condominium registration or the declarant must post sufficient security to pay the cost of completion. This obligation can be onerous in a large development;
- (h) A vacant land condominium plan cannot currently be phased although the not yet proclaimed provisions of the Act contemplate allowing phasing of vacant land condominium plans;
- (i) Unless the approval authority exempts a vacant land condominium plan from going through the approval process, the approval authority must circulate all agencies with the notice of the condominium application and there must be a public meeting as part of the condominium approval process;
- (j) The municipality's zoning bylaws may also need to be amended or minor variances may need to be obtained. For example, zoning bylaw definitions of "frontage", "front yards", "rear yards", "side yards, "lot", and "lot line" may need to be changed or varied by variance. Lack of unit frontage on a public street may also be a zoning issue;
- (k) In light of what can be viewed as nothing more than an alarming misunderstanding of condominium (and a total lack of common sense) by the Ministry of the Environment, Conservation and Parks, there may be problems in supplying water lines to units without having to engage in costly water testing that the applicable legislation (Safe Drinking Water Act, 2002) never intended to be required. This should be explored carefully. One constant consideration is the need to ensure that the main waterline to the condominium plan comes directly to the condominium plan from a municipal main and does not cross any other private property even if there are adequate easements. This latter issue applies to any residential development.

More Detailed Explanation of Vacant Land Condominium Structure

A vacant land condominium plan ("VLCP") is different from a standard condominium plan in that a VLCP is not required to contain structures at the time of registration, but can (and usually does) consist of bare land. The structures are added after condominium registration.

A VLCP looks very similar to a plan of subdivision with a private road and common visitor parking and amenity areas, but it functions as a regular condominium.

Each VLCP unit looks like a lot on a plan of subdivision. However, each unit owner owns such owner's VLCP unit and owns a proportionate interest of the common elements of the condominium as tenants in common with the other unit owners.

Once a VLCP is "built out" it looks and functions with a few exceptions the same as a standard "whole lot/freehold" type condominium where the front yards, rear yards, side yards (if any), buildings and driveways are all part of the units which is a well-accepted form of unit boundaries for a standard condominium.

Unit owners of VLCP units are required to pay their proportionate share of the common expenses of the vacant land condominium corporation, the same as unit owners in any other condominium.

A VLCP condominium can be registered in a single application that creates the units on which townhomes are to be built and the common elements containing the shared roadway, visitor parking, and amenity areas.

Another very important and fundamental benefit of proceeding with a vacant land condominium plan in lieu of creating the proposed home sites as lots on a plan of subdivision or via Part Lot Control Exemption Bylaw is the

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control that can be exercised over the homes within the condominium framework by the vacant land condominium corporation.

In a VLCP the vacant land condominium corporation can control:

- the appearance of the townhomes;
- maintenance and repair obligations with respect to the townhomes to ensure the townhomes are kept in good repair;
- changes to the exterior of the homes so that unsightly changes are not permitted;
- conduct of occupants so that significant noise and conduct issues can be easily addressed; and
- the presence of inappropriate pets such as certain reptiles and dangerous or nuisance animals,

just as in any standard condominium project.

The vacant land condominium corporation is responsible for the repair, replacement and maintenance of the common elements of the VLCP, which typically includes one or more roadways, walkways, visitor parking areas, amenity areas, and utility services.

A vacant land condominium corporation is <u>not</u> permitted to do any repairs or maintenance of the grounds or homes constructed on the units in the VLCP; however, a vacant land condominium corporation, unlike a plan of subdivision or common elements condominium, can enforce architectural, repair and maintenance standards for the grounds and the homes constructed on each unit through controls contained in the condominium declaration. This ensures that the appearance of the finished project is able to be kept to a certain standard.

ARTICLE 4

COMMON ELEMENTS CONDOMINIUM

- 4.1 A common elements condominium plan is only made up of common elements. There are only parcels of freehold land tied to the common elements condominium plan which do not form part of the condominium plan.
- 4.2 This form of condominium is useful to allow freehold homes to share in one or more features such as:
 - (a) a parking area;
 - (b) amenities;
 - (c) municipally required features such as noise walls, storm water management features or berms;
 - (d) one (1) or more private roadways or driveways.
- 4.3 All of the Parcels of Tied Lands (POTLs) and the proposed common elements must have Land Titles Absolute Status before registration of the condominium plan is permitted. This can be a significant cost deterrent in setting up a common elements condominium plan in an existing development if the proposed POTLs have not achieved Land Titles Absolute Status.
- 4.4 While often used for townhome developments this is not, in my view the best form of condominium for such developments. This is because there is no practical way to address the issues that arise as to:
 - (a) maintenance, repair and appearance of the homes on the Parcels of Tied Land;
 - (b) lack of reserve funds for the exterior components of such homes;
 - (c) how to deal with issues of conduct or Parcel of Tied Land use;
 - (d) pets, smoking and other day to day concerns that arise in townhome living.
- 4.5 Be wary of the Tarion Schedules. For some reason Tarion does not prescribe the freehold Tarion Schedule for use in common elements condominiums. Tarion seems to have the mistaken view that most common elements condominium developments have interim occupancy periods. In my experience the exact opposite is true and interim occupancy is the dramatic exception not the rule in a properly thought out common elements condominium development.
- 4.6 As with any condominium development the builder needs to be sure the project lender(s) with mortgages will consent to the registration of the condominium plan and discharges of homes as the homes are sold and closed. The lender(s) should also be obligated to discharge the common elements as soon as this can be done without violation of the subdivision control provisions of the Planning Act. Language in the required forms for the condominium declaration give the impression that any mortgage on the common elements condominium plan also secures the Parcels of Tied Land. Any mortgage on the common elements should be discharged anyway as a matter of proper arrangement of the affairs of the condominium but this questionable form adds to the need.

ARTICLE 5

LEASEHOLD CONDOMINIUM

- 5.1 The provisions of the Act that apply to leasehold condominium plans are confusing and use language I have not encountered in any other legal documents in forty (40) years of practice.
- 5.2 However, as I understand the provisions of the Act:
 - (a) There must be a lease in existence that restricts the property subject to such lease to the lands that are intended to be within the leasehold condominium plan. The leasehold condominium cannot take over part of a leased property;
 - (b) The condominium corporation that is created by the registration of a leasehold condominium plan essentially takes over or assumes the lease from the lessee that acted as the condominium plan declarant:
 - (c) The underlying lease must be between 40 and 99 years in term;
 - (d) A buyer of a leasehold condominium unit still obtains a deed to his or her unit that can be freely transferred or mortgaged subject to compliance with the provisions of the condominium declaration (as is the case with any standard or vacant land condominium unit);
 - (e) The leasehold condominium corporation is responsible to pay the land rent directly to the owner of the leased lands;
 - (f) Upon expiry of the underlying ground lease, if the term is not extended by agreement between the condominium corporation and the owner of the leased lands the condominium comes to an end and any rights to the property in favour of the unit owner disappear.
- 5.3 Once established, a leasehold condominium pretty much operates in the same manner as any other standard condominium subject to the issue of expiry of the lease and the payment of the annual rent by the condominium corporation from the common expenses collected from the unit owners.
- 5.4 The cost of the land isn't included in the price of the condominium so arguably the initial purchase price for a unit should be substantially lower than for a similar standard or vacant land condominium unit.
- 5.5 Common expenses for a leasehold condominium will be higher than a similar building that is created as a vacant land or standard condominium because of the additional common expense payment on account of the land rent.
- 5.6 Once a condominium nears the end of the lease term the issue of reserve funds becomes relevant. The amount in the reserve fund at the end of the lease term is paid out to the condominium unit owners. This subjects the landlord to the risk the condominium corporation deferring repair and replacement that wold deplete the reserve fund of the condominium in order to maximize the amounts available from the reserve fund for distribution to the unit owners at the end of the leasehold term.
- 5.7 The value of leasehold condominium units should decline over time as the closer one gets to the end of the underlying lease term the closer the value of the units is to zero. For we of Scotch Presbyterian/Pennsylvania Dutch stock, this does not seem like a prime investment opportunity.

PROS AND CONS OF STANDARD/VACANT LAND/COMMON ELEMENTS CONDOMINIUM

| Issue | Standard C | Standard Condominium | | Condominium | Common Elements Condominium | |
|----------------------|--|--|--|--|--|--|
| | Pro | Con | Pro | Con | Pro | Con |
| Security for Tarion | | There is a standard security requirement of up to \$20,000.00 per unit or a requirement for Deposit Trust Agreement. Not all builders will qualify for a Deposit Trust Agreement. Experienced builders with good track records may be allowed to put up less security if they accept unrealistically low deposits. | The project does not need to provide security to Tarion as Tarion treats the project as "freehold" Each home must be enrolled, but no standard security requirement. Tarion should issue deposit receipts that protect at least up to \$20,000.00 per unit of extras and deposits and allow the release of that amount of extras and deposits to the builder. It is possible, depending on price that up to \$100,000.00 per unit of deposits and extras could be released based on Tarion deposit receipt but this should be verified with Tarion on a project by project basis. | | Same as vacant land condominium Should be no issue there is up to \$100,000.00 per home deposit and extras protection from Tarion based on price. | |
| Tarion Warranties | Apply to units and common elements | | | Units are Tarion warranted but not common elements | | Homes on POTLS are Tarion warranted but not common elements |

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| Issue | Standard C | ondominium | Vacant Land | Condominium | Common Condor | |
|--------------|--|--|---|---|---|-----------------------------------|
| | Pro | Con | Pro | Con | Pro | Con |
| Construction | A builder can start construction 30 days after enrolment of the project with Tarion. A builder can start construction of any building type prior to registering the condominium plan. | | Single family homes can be constructed before registration of the vacant land condominium plan. | No building can straddle a unit boundary before the condominium plan is registered. This means no townhome can be started until the condominium plan is registered. This delays construction of townhome "sale" homes and models. No part of any unit can be above another unit making this inappropriate for stacked townhomes or apartments. | Home construction can start at any time regardless of housing type. | |
| Phasing | May register on a phase by phase basis so that registrations are kept smaller and capital is turned over quickly. This is also a pro with respect to security requirements for incomplete common elements. | Multiple registrations can result in high legal, surveyor and municipal application/ approval costs. | | Phasing is not currently allowed. | | Phasing is not currently allowed. |

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| Issue | Issue Standard Condominium | | Vacant Land Condominium | | Common Elements Condominium | |
|------------------------------|--|--|--|---|--|--|
| | Pro | Con | Pro | Con | Pro | Con |
| Unique Issues | | Construction of all units and common elements in the proposed registration must be completed to requirements of Schedule G before the condominium plan or phase can register | Must register the whole plan at once (until phasing is allowed). This eliminates holding up closings for townhomes until a plan is registered and the costs of phasing. (this could also be a con) Lower legal, surveying and municipal application and approval costs. | All common elements must be completed before the condominium is registered OR declarant must post sufficient security to pay the cost of completing the common elements. This could be significant in a very large project | | Each POTL must be capable of separate conveyance at the time of condominium registration which can cause timing and coordination issues. May be required to complete the common elements before registration. |
| Interim Occupancy | | Interim occupancy is an area of concern for builder and buyer. | No period of interim occupancy for townhomes as construction of townhomes cannot start until the vacant land condominium plan is registered. | If building single family homes in advance of condominium plan registration interim occupancy may occur. | Rare to have interim occupancy but it can occur depending on project specific issues. | |
| Marketing - selling units | A builder can market as soon as the project and builder are enrolled in Tarion. | | | A builder cannot enter into any agreement of purchase and sale until the builder has received draft plan of condominium approval. | Marketing is not affected by the status of draft plan approval -same as standard condominium | |

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| Issue | Standard Condominium | | Vacant Land | Vacant Land Condominium | | Common Elements Condominium | |
|----------|----------------------|---|---|---|---|---|--|
| | Pro | Con | Pro | Con | Pro | Con | |
| Closings | | Cannot close a unit sale until the condominium or its phase is registered which cannot occur until completion of all units and common elements to Schedule G requirements. This delays getting capital out and leads to periods of interim occupancy. | Unit Sales can close in a vacant land condominium townhome project as soon as the townhome is completed regardless of the level of completion of any other townhomes in the development as construction of townhomes cannot start until condominium registration. | If building singles on a proposed vacant land condominium before condominium registration, sales cannot close until registration. | In most projects closings can start as soon as the condominium is registered. | No sales of POTLs should take place before condominium registration or the registration could be at risk. | |

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| Issue | Standard Condominium | | Vacant Land Condominium | | Common Elements Condominium | |
|-----------------|----------------------|--|--|-----|---|-----|
| | Pro | Con | Pro | Con | Pro | Con |
| Common expenses | | *the extent of difference depends on type of unit boundaries selected in a townhome project. If a builder goes with "whole lot" unit boundaries in a standard condominium, common expense differences as between townhome projects that are common elements condominium or vacant land condominium are marginal. | Lower common expenses.(but see comment to left re "whole lot") | | Sometimes lower common expenses than standard condominium but not less than vacant land condominium | |

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| Issue | Issue Standard Condominium | | Vacant La | nd Condominium | Common Condor | |
|--------------------|---|-----|-----------|---|------------------|--|
| | Pro | Con | Pro | Con | Pro | Con |
| Unit boundaries | Wide variety of options for townhomes. Standard, whole lot, or modified whole lot boundaries can be implemented. | | | Unit boundaries are usually the edge of the "lot" but exclusive use common elements can be used for yards, driveways and other outside areas. If outside areas are made exclusive use common elements the condominium corporation can perform maintenance, repair and replacement with respect to those areas. Boundaries are fixed once the condominium plan is registered. This means if a builder change its product line it might not fit on the plan. | | Not relevant as there are no units. Note however that once the common elements condominium is registered the POTL boundaries are fixed |

| Maintenance | C1 ' ' | | C1:- | C1 | C1: ' | C1 ' ' |
|-------------|------------------|---|-----------------------|------------------------|---------------------------|------------------|
| and Repair | Condominium | | Condominium | Condominium | Condominium maintains and | Condominium |
| and Kepan | corporation | | corporation can | corporation cannot | | cannot |
| | has the right to | | enforce | do any maintenance, | repairs the | perform |
| | maintain and | | architectural | repairs, or | common | maintenance |
| | repair any | | controls on owners | replacements to the | elements | or repair of the |
| | aspect of the | | if those controls are | units nor any cutting | | POTLS. |
| | completed | | in the | grass on unit or | | |
| | buildings | | condominium | removal of snow | | Same issues as |
| | depending on | | declaration. | from unit (subject to | | in vacant land |
| | the wording of | | | the comment above | | condominium. |
| | the | | As with a standard | about making | | |
| | declaration. | | condominium the | outside areas | | |
| | | | condominium | exclusive use | | |
| | Condominium | | corporation can | common elements). | | |
| | corporations | | enforce standards | This can be | | |
| | can cut grass | | of repair, | overcome by the | | |
| | and remove | | maintenance and | condominium | | |
| | snow in the | | appearance. | arranging for good | | |
| | outside areas | | | landscaping | | |
| | of the units if | | | company to be | | |
| | authorized by | | | available to owners | | |
| | the | | | if they wish to use a | | |
| | condominium | | | third party to do this | | |
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| | corporation | | | corporation cannot | | owner must |
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| Issue | Standard Condominium | | Vacant La | nd Condominium | Common Condor | |
|-------|---|-----|-----------|--|------------------|-------------------|
| | Pro | Con | Pro | Con | Pro | Con |
| | common elements and standard unit. Unit owners insure improvements to their units. | | | insure the buildings on the units. If a unit owner does not have adequate insurance, damage could affect appearance and functionality of project although the condominium can repair damage not fixed by unit owner and add the costs to common expenses. Condominium can also require each owner to provide proof of insurance each year. Each unit owner must insure such | | POTL owner's home |

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| Issue | Standard Condominium | | Vacant Land Condominium | | Common Elements Condominium | |
|---|--|-----|--|-----|--------------------------------|--------------|
| | Pro | Con | Pro | Con | Pro | Con |
| Control over appearance of project and conduct of occupants | High level of control if exterior of the buildings are common elements and controlled by condominium corporation. Even if the exterior components are part of the unit the condominium can control the appearance and level of repair. High level of control through declaration. Pets, smoking, parking, RV's, window A/C units, etc can be controlled. | | Condominium can control the appearance and level of repair of the buildings to the same extent as in a standard condominium through provisions in the declaration. Condominium Act provides a clear obligation to comply with architectural controls in the condominium declaration. High level of control through declaration: Pets, smoking, RV's, parking, window A/C units, etc. can be controlled. | | | No controls. |

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| Issue | Standard Condominium | | Vacant Land Condominium | | Common Elements Condominium | |
|------------------------------|--|-----|--|--|---|---|
| | Pro | Con | Pro | Con | Pro | Con |
| Municipality approvals | Possibility of exemption and/or restricted circulation to agencies. No public meeting required. Municipalities are more familiar with standard condominium structure. Municipality has the right (rarely used) to limit circulation of the application for approval. | | Possibility of exemption for approval process. | Municipality must circulate all agencies with notice of condominium application. Must have a public meeting. It is sometimes an effort to persuade a municipality to allow townhomes on vacant land condominium plans although efforts are usually successful. | Possibility of exemption and/or restricted circulation to agencies. No public meeting required. | |
| Municipality zoning bylaw | Contemplated by most current zoning bylaws | | | Municipality may need to amend zoning bylaw or provide minor variances. Definitions in zoning bylaw of "frontage", "front yards", "rear yards", "lot", "and lot line" may need to change. | | Potential zoning issues similar to vacant land condominium might occur. This should be explored at outset of the project. |

Development charges and other high value adjustments for new construction condos

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March 4, 2020

This presentation may contain general comments on legal issues of concern to organizations and individuals. These comments are not intended to be, nor should they be construed as, legal advice. Please consult a legal professional on the particular issues that concern you.

State of the market in Ontario:

- The number and value of closing adjustments in vendor's favour has always been sensitive to market fluctuations and target buyer group.
- Developers' approach to recovery of development charges or other high value adjustments differs widely, from project to project, smaller development vs. investor development, or deal specific through a selling incentive.
- Some developers recover the full value of development charges as a separate adjustment, some will bury it in the sale price, others may charge any increase after a specific date or a capped amount by incentive or directly in the APS. There is no consistency, and transparency is not always present, however the trend seems to be more developer recovery friendly, with a separate adjustment on closing rather than buried in the sales price.



State of the law in Ontario:

- The developer is responsible for development charges, park levies, etc.
- Any development charges (or other item of) recovery from a purchaser is a matter of contract law.
- The agreement of purchase and sale must state that purchaser is required to pay the item (typically by way of adjustment in the vendor's favour on closing).
- The APS provision regarding recovery, if ambiguous, will likely be interpreted in purchaser's favour
- The courts will use the *contra proferentem* rule where there is doubt as to meaning, the provision will be interpreted against the drafter
- Schedule "B" to the mandatory Tarion Addendum requires all closing adjustments to be clearly set out in that Schedule, failing which the adjustment cannot be charged.
- Section 8 of the Tarion Addendum specifically states that the developer cannot charge as an adjustment an amount paid to a 3rd party unless the developer has in fact paid or will be paying that particular amount to the third party.



3

Why do we care so much about these adjustments?

Sample development charges:

| | Municipality | Total Development Charges for a 750 Square Foot Apartment Dwelling | |
|-------------------------|---------------------------|--|--|
| Missis | sauga (Region of Peel) | \$65,017.57 ^[i] | |
| Richmo | ond Hill (Region of York) | \$56,111.00 ^[ii] | |
| Bram | pton (Region of Peel) | \$60,443.23 | |
| Kitchener (Region of | Central Kitchener | \$6,418.00 | |
| Waterloo) | Suburban Kitchener | \$9,582.00 | |
| Mark | ham (Region of York) | \$65,842.00 | |

Additional storm water management development charge of \$14,965.00 per hectare

[[]ii] Additional water meter charge of \$515.00, tree charge of \$541.00, and green bins and recycling charge of \$24.77 if applicable. In addition, certain specified regions in the Richmond Hill Area contain additional specific development charges charged per net hectare.



Why do we care so much about these adjustments? (Cont'd)

| Municipality | Total Development Charges for a One Bedroom Apartment Dwelling | Total Development Charges for a Two Bedroom Apartment Dwelling |
|--|---|---|
| City of Toronto* | \$29,758.00 | \$45,234.00 |
| Town of Oakville (Region of Halton Built Boundary Urban and Rural Areas)** | \$30,561.10 | \$41,718.36 |
| Town of Whitby (Region of Durham)*** | \$9,151.00 | \$14,068.00 |

[[]i] Total cost for non-recovery area is \$34,614.12

^{***} Town of Whitby includes a "den" as a bedroom



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Recent Caselaw:

CIBC v. Urbancorp et al, 2019 ONSC 4971

In this more recent Ontario Superior Court decision, the Court tackles park levy recovery language in an APS and emphasizes the importance of Schedule B to the mandatory Tarion Addendum in furtherance of Tarion's role to protect new home buyers.

The facts briefly -

 Urbancorp, through a Receiver charged a parks levy adjustment to purchasers through a court approved renegotiated APS. A group of purchasers objected, asserting that there was no actual payment of a parks levy, but rather a parkland dedication. Therefore, Urbancorp could not recover the parks levy adjustment claimed as none was actually paid, and further, could not recover the value of the



[[]ii] Total cost for non-recovery area is \$48,954.74

^{*} City of Toronto does not include a "den" as a bedroom

^{**} Town of Oakville includes a "den" as a bedroom if > 7 sq m

Recent Caselaw: (cont'd)

parkland dedication, as that was not specifically contemplated in the APS. While the purchasers did not assert that the APS was ambiguous, they argued that if the Court finds ambiguity in the provision, then contra proferentem applies to interpret the agreement against the Receiver.

- The Receiver asserted that the levy was properly charged, and that the term "parks levy" includes both a conveyance of land and a parks levy payment, pointing out that nowhere in the applicable legislation is the word "levy" used, but rather the terms used are "conveyance" and "cash-in-lieu";
- Further asserted that the Black's Law Dictionary definition of "levy", which includes "legally sanctioned seizure of sale and property..." would include the taking of the parkland by the City. The Receiver argued that the only commercially reasonable interpretation is that the levy includes the parkland dedication value as it would not be commercially reasonable for the contracting parties to make the payment for the account of the purchaser, but the parkland dedication (value) for the account of the vendor.

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Recent Caselaw: (cont'd)

- The Court applied the principles of contract interpretation that the contract must be read as a whole, words given their ordinary meaning, intention of the parties determined within the language used and by reference to objective factual evidence, and applying sound commercial principles.
- In the Court's analysis on the quality of the drafting of the provision in the APS, the Court found that although the determination of whether the condition would be fulfilled by way of cash-in-lieu or parkland dedication was not yet determined at the time of the approval of the APS, the evidence revealed that a parkland conveyance rather than cash in lieu was to be the condition. Consequently, the renegotiated APS *could* have been drafted to contemplate the conveyance value for adjustment.
- Furthermore, the Receiver's Tarion Addendum Schedule B repeated the APS provision *verbatim*, so did not provide any further clarity or certainty.

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8

Recent Caselaw: (cont'd)

- The Court went on to state that as a last resort, in the face of ambiguity, which it found, the contra proferentem rule may be employed.
- The Court emphasized Tarion's consumer protection mandate and the transparency purpose of Schedule B.
- The Court rejected the Receiver's arguments, applied contractual interpretation principles and interpreted the APS against the Receiver (as drafter), finding that the renegotiated APS did not require the purchasers to pay the value of the parkland dedication.



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Practise lessons learned:

- Read the APS adjustment sections carefully
- Don't rely on boiler plate provision each project may need more or less specificity
- Be careful with drafting ensure clarity of intention
- Ensure Schedule B provisions are complete and clear

AIRD BERLIS

THANK YOU!Presented by Tammy Evans



AIRD BERLIS

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CITATION: CIBC v. Urbancorp Leslieville Developments Inc., 2019 ONSC 4971

COURT FILE NO.: CV-16-11409-00CL

DATE: 2019-10-10

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Canadian Imperial Bank of Commerce, Applicant

AND:

Urbancorp (Leslieville) Developments Inc., Urbancorp (Riverdale) Developments Inc., and Urbancorp (The Beach) Developments Inc., Respondents

BEFORE: Chief Justice Geoffrey B. Morawetz

COUNSEL: *M. Mackey* and *T. McRae*, for the Certain Curzon Purchasers

R.B. Bissell, for Terra Firma Capital Corp.

C. Burr and C. McIntyre, for Alvarez & Marsal Canada Inc., in its capacity as both Receiver and Manager, and Construction Lien Trustee of the Assets, Undertakings and Properties of Urbancorp (Leslieville) Developments Inc., Urbancorp (Riverdale) Developments Inc., and Urbancorp (The Beach) Developments Inc.

HEARD: June 19, 2019

FURTHER SUBMISSIONS PROVIDED: July 25, 2019

ENDORSEMENT

Introductions

- [1] The Certain Curzon Purchasers, identified in Schedule "A", brought this motion for an order declaring that Alvarez & Marsal Canada Inc., in its capacity as both Receiver and Manager, and Construction Lien Trustee of Urbancorp (Leslieville) Developments Inc. ("UC Leslieville"), Urbancorp (Riverdale) Developments Inc., and Urbancorp (The Beach) Developments Inc. (the "Receiver") has no right, title, or interest in the "parks levy" (defined below) that it demanded and received from the Certain Curzon Purchasers as a condition of closing the sales of their respective condominium units, and that the Certain Curzon Purchasers alone have the right, title, and interest in the "Parks Levy" that each of them paid on closing of their respective condominium units (the "Closings").
- [2] The Certain Curzon Purchasers, the Receiver, and Terra Firma Capital Corporation ("Terra Firma") (collectively, the "Parties") filed the Agreed Statement of Facts attached as Schedule "B".

- [3] Each of the Certain Curzon Purchasers purchased one or more condominium units from the Receiver in respect of UC Leslieville's construction project. Many of the Certain Curzon Purchasers had entered into agreements of purchase and sale with UC Leslieville prior to its receivership. The original occupancy date for these units was February 2013.
- [4] Occupancy was delayed by five years and in the interim the Receiver was appointed. The agreements of purchase and sale provided that the lenders would have priority over the purchase agreements.
- [5] In the course of the receivership, the agreements of purchase and sale of the Certain Curzon Purchasers were renegotiated and the purchase price per unit was increased by approximately \$255,000 per unit. The form of the renegotiated agreement of purchase and sale was court approved on May 11, 2017. The court-approved renegotiated agreements included (*inter alia*) the following adjustment, the wording of which is derived from the Tarion Condominium Form:
 - a. the amount of any parks levy or other charges pursuant to a section 37 agreement (pursuant to the Planning Act), levied, charged or otherwise imposed with respect to the Condominium, the Property or the Unit by any governmental authority, which is equivalent to the common interest allocation attributable to the Unit as set out in Schedule "B" to the Declaration; [the "Parks Levy Clause"]
- [6] As set out in paragraph 8 of the Agreed Statement of Facts, the Parties seek from the court a determination of the following issue (the "Issue for Determination"):

Was the Parks Levy properly charged by the Construction Receiver to the Certain Curzon Purchasers, pursuant to the terms of their respective agreements of purchase and sale?

Position of the Certain Curzon Purchasers

- [7] The Certain Curzon Purchasers submit that no "parks levy" was paid as the requirements of the *Planning Act*, R.S.O. 1990, c. P.13, were satisfied through a transfer of land. The agreements of purchase and sale require purchasers to compensate the Receiver only for their share of "any parks levy". The agreements do not require purchasers to pay for the value of parkland transfers to the City and, accordingly, the "parks levy" adjustment is not a proper charge.
- [8] Section 42 of the *Planning Act* requires developers to convey land for parks or other public recreational purposes to the municipality as a condition of development or redevelopment of land:
 - 42(1) As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment or commercial or

- industrial purposes, 2 per cent and in all other cases 5 per cent of the land be conveyed to the municipality for park or other public recreational purposes.
- [9] As an alternative, as provided for in subsection 42(6), a municipality may require cashin-lieu of land.
- [10] A Site Plan Agreement between UC Leslieville and the City of Toronto dated October 23, 2017 confirmed the transfer of 700.09 sq. meters for parkland purposes and that there was no cash payment-in-lieu of a parkland conveyance.
- [11] Closings occurred between October 18 and October 25, 2018. The Statement of Adjustments prepared by the Receiver required purchasers to pay for true adjustments (such as adjustments of realty taxes) and additional charges described within and required by the agreements of purchase and sale. One of the additional charges was the "parks levy".
- [12] The Certain Curzon Purchasers contend that because no "parks levy" was actually paid, the Receiver needed to come up with a way to calculate what it was going to charge purchasers. The Receiver charged purchasers a proportionate share of the value of the released letter of credit provided to the City of Toronto by UC Leslieville to secure the transfer of parkland.
- [13] All of the Certain Curzon Purchasers closed their purchase and paid the additional charge for the "parks levy" demanded of them by the Receiver. Several purchasers complained about the "parks levy" on closing.
- [14] The Certain Curzon Purchasers submit that the Receiver knew from the outset before the Opt-In Leslieville Purchaser APS (as defined in the Agreed Statement of Facts) were signed that municipal requirements had been satisfied through a parkland dedication rather than a payment of a parks levy. The Site Plan Agreement, executed after the Receiver was appointed, also makes it clear that municipal requirements were being satisfied by a parkland dedication.
- [15] The Certain Curzon Purchasers submit that if the Receiver intended to require purchasers to pay for the value of the parkland dedication as an extra charge on closing, the Receiver should have added such a provision into the Opt-In Leslieville Purchaser APS signed by all purchasers. The Receiver did not do so.
- [16] The Certain Curzon Purchasers submit that the Leslieville Purchaser APS obligates the Certain Curzon Purchases to pay "the amount of any Parks Levy... levied, charged or otherwise imposed with respect to the condominium, the property or the unit by any governmental authority...". Because no Levy was paid, there is no "parks levy" cost to pass along to the Purchasers and there is nothing for the Receiver to recover as extra charges on closing.
- [17] The Certain Curzon Purchasers further submit that there is no ambiguity with respect to the clause, but that if the court finds the clause to be ambiguous, the rule of *contra proferentem* applies and the ambiguity should be interpreted against the drafter namely, the Receiver.

- [18] The Purchasers cite *Briarwood Estates* (*Tottenham*) *Ltd. v. Gordon et al.*, 2017 ONSC 6330, for the proposition that where purchasers understand that a particular cost is included with the purchase price for new homes, and there is ambiguity in the contract, the contract will be interpreted against the vendor/builder.
- [19] In sum, the Certain Curzon Purchasers contend that there was no contractual obligation and/or juridical reason upon which the Receiver could charge the purchasers an amount pursuant to a "parks levy", and that the Certain Curzon Purchasers are entitled to the return of the adjustment made for that purpose.

Position of the Receiver

- [20] The Receiver takes the position that the "parks levy" was properly and correctly charged pursuant to the terms of the applicable agreement and that there is no legal or equitable basis for its return.
- [21] The Receiver submits that the fundamental question in this case is how the Parks Levy Clause ought to be interpreted. Either ss. 7(d)(iii) includes the costs that the UC Leslieville Estate actually incurred in connection with conveying the parkland to the City, or it includes only the potential costs that the UC Leslieville Estate would have incurred if the City elected to take a cash payment-in-lieu of such a conveyance. The Receiver submits that the former interpretation is correct and that "parks levy" means both a conveyance of land and payment of cash-in-lieu.
- [22] The Receiver submits that the Parks Levy Clause states in clear language that a "parks levy" will be assessed by the Construction Receiver as a purchase price adjustment. Further, the meaning of "parks levy" is equally clear, based on the language of the Opt-In Leslieville Purchaser APS and the legislation that gives rise to a developer's obligation to convey land or pay cash-in-lieu.
- [23] The Receiver points out that nowhere in the applicable legislation is the word "levy" used. Rather, there is the concept of "conveyance", and the concept of "cash-in-lieu". Consequently, the only defensible interpretation of the term is that "parks levy" references both the conveyance of land and the payment of cash-in-lieu, as illustrated by the definition of "levy", the historical judicial interpretation of "levy", the City's own interpretation of "Parks Levy", and by the limited applicable jurisprudence on the issue.
- [24] Black's Law Dictionary defines "levy" as:
 - (1) The imposition of a fine or tax; the fine or tax so imposed. Also termed tax levy. (2) The enlistment of soldiers into the military; the soldiers so enlisted. (3) The legally sanctioned seizure of sale and property; the money obtained from such a sale Also in sense (3) *levy of execution*.
- [25] The Receiver submits that this definition of "levy" is not limited to the payment of money and includes the seizure of property. The Receiver further submits that jurisprudence has clarified that the "sale" component of the third definition, above, is not a necessary element of a

- levy (see: Mortimore v. Cragg (1878), 3 C.P.D. 216; Chambers v. Louis, [1943] 1 W.W.R. 497 (Sask. C.A.); and Bayview Estates Limited, Re, 28 Nfld. & P.E.I.R. 225 (Nfld. S.C. (T.D.))).
- [26] Accordingly, the Receiver submits that, by definition, a levy is the legal taking or seizure of property, including but not limited to money. This would include, for example, the taking of the parkland by the City.
- [27] The Receiver points out that the Certain Curzon Purchasers state in their factum that the City defines "parks levy" on its website. In actuality, the Receiver submits, the City defines "Parks Levy Fee", and the distinction is critical:
 - In new developments, developers and builders will be required to either set aside a certain amount of land for parkland (parkland dedication) or in some circumstances, they may pay a fee in lieu of this. When they pay a fee in lieu of parkland dedication, the fee is called a Parks Levy Fee.
- [28] The Receiver submits that the City's interpretation of a "Parks Levy Fee" is consistent with its interpretation of the Parks Levy Clause. The Receiver agrees with the Certain Curzon Purchasers that a "Parks Levy Fee" describes only a payment-in-lieu. However, it submits that in order for the word "Fee" to have any meaning in the City's definition, it must alter the meaning of "Parks Levy". Hence, while "Parks Levy" by itself refers to both the conveyance of land and the payment-in-lieu, a "Parks Levy Fee" refers only to the latter.
- [29] The Receiver acknowledges that s. 42 of the *Planning Act* has not received significant judicial consideration, and no court has had to rule on whether "parks levy" means both conveyance of land and payment of cash-in-lieu, or just payment of cash-in-lieu.
- [30] The closest case appears to be *Gemterra Developments Corp. v. Toronto (City)*, 2017 ONSC 1776, 66 M.P.L.R. (5th) 102.
- [31] Gemterra involved a developer who sought a refund from the City for what it alleged was an overpayment of cash-in-lieu in connection with the applicable parks levy. The issue to be determined was whether the development constituted one or two development sites because different levy rates applied based on the size and number of development sites. Perell J. wrote:
 - Section 42 of the *Planning Act* empowers a municipality, by by-law, to require a developer of land to convey a portion of lands for parks or to require the developer to require a payment in lieu of a conveyance. This payment is commonly referred to as a "park levy."
- [32] The Receiver notes that *Gemterra* was not a case where the distinction between the conveyance of parkland and the payment of cash-in-lieu was at issue and Perell J.'s observation therefore cannot be taken to mean that because the payment of cash-in-lieu is referred to as "parks levy", the term "parks levy" excludes the conveyance of parkland to a municipality. This was not in issue before the court.

- [33] The Receiver submits, accordingly, that *Gemterra* is distinguishable and substantively irrelevant to the issue for determination.
- [34] The Receiver submits that it is well-established that contracts should be interpreted so as to accord with sound commercial principles and good business sense, and to avoid commercial absurdity.
- [35] The Receiver submits that its interpretation of the Parks Levy Clause is the only commercially reasonable interpretation.
- [36] In support of its position, the Receiver submits that pursuant to the *Planning Act*, the City can elect to require either the conveyance of parkland or cash-in-lieu of the conveyance. In either case, there would be a material cost to the UC Leslieville Estate. The Receiver submits that it is only reasonable that the risk and cost of the City's choice be allocated in the same way, regardless of what the choice ultimately ended up being. The only reasonable interpretation of the Parks Levy Clause is that it uniformly allocates its risk, and that "Parks Levy" means both the value of the parkland conveyed and the payment of cash-in-lieu.
- [37] The Receiver submits that it is not commercially reasonable that these Parties would agree to allocate the risk and cost of a parkland dedication to UC Leslieville and the risk and cost of the payment of cash-in-lieu to the purchasers, particularly when there was no way of knowing at the time how the City would elect to proceed. However, this result would follow from the interpretation of the Park Levy Clause proposed by the Certain Curzon Purchasers.
- [38] Finally, the Receiver is of the view that there is no ambiguity in the Park Levy Clause. It is a clear contractual provision, in a document that was highly negotiated by sophisticated counsel on behalf of almost all of the Certain Curzon Purchasers, and then court approved.

The Position of Terra Firma

- [39] Terra Firma is now the ranking creditor for repayment from Estate Funds. It supports the position of the Receiver that the "parks levy" was properly payable.
- [40] Terra Firma submits, in addition, that there is a subsidiary issue to be determined, namely, whether the parks levy" adjustment paid by purchasers other than the Certain Curzon Purchasers was valid. On this issue, Terra Firma submits that all purchasers have been served with the Receiver's motion and the court should affirm the payment of adjustments by those purchasers who have not appeared on the motion.
- [41] Terra Firma also raised a second subsidiary issue relating to an evidentiary objection. That issue was resolved by the Parties and is no longer before me.

Analysis

- [42] At issue is whether there is anything in the legislation, the by-law, or the contract documents that would enable the developer, or in this case, the Receiver, to recover the notional value of the land required to be conveyed.
- [43] Section 42 of the *Planning Act* addresses issues relating to the conveyance of land for park purposes. It sets out conditions for the development or redevelopment of land. The council of a local municipality may require land to be conveyed to the municipality for park or other public recreation purposes.
- [44] Section 42(6) provides that council may require a payment-in-lieu.
- [45] In this case, council required the conveyance of land.
- [46] There is no evidence that the Certain Curzon Purchasers were involved in the section 42 determination.
- [47] The Agreed Statement of Facts contains a number of references to the parkland dedication. In particular, paragraph 20, refers to the Project's Notice of Approval Conditions, dated January 25, 2016, in which reference is made at paragraph 5 to the parkland conveyance. The Project's Notice of Approval Conditions predated the approval of the Opt-In Leslieville Purchaser APS in May 2017.
- [48] Although the conveyance of parkland had not been finalized at the time of approval of the Opt-In Leslieville Purchaser APS, the documents establish that the City was likely going to require a conveyance of parkland in order to comply with section 42 of the *Planning Act*.
- [49] The language of subsection 7(d)(iii) of the Opt-In Leslieville Purchaser APS could have been drafted to expressly cover the conveyance of land scenario but it was not.
- [50] An additional hurdle for the Receiver to overcome is contained in Schedule "TA" which forms part of the Opt-In Leslieville Purchaser APS. Schedule "TA" is the Tarion Warranty Corporation Statement of Critical Dates and Addendum to Agreement of Purchase and Sale (collectively the "Tarion Addendum"). Schedule "B" to the Addendum addresses "Adjustments to Purchase Price" or Balance Due in Closing. Part II is titled "All Other Adjustments" to be determined in accordance with terms of the Purchase Agreement. Paragraph 6 reads as follows:
 - 6. Paragraph 6 (d) (iii) of the Purchase Agreement: The Purchaser shall be responsible for the amount of any parks levy or any charges pursuant a Section 37 Agreement (pursuant to the Planning Act), levied, charged or otherwise imposed with respect to the Condominium, the Property or the Unit by any governmental authority, which is equivalent to the common interest allocation attributable to the Unit as set out in Schedule "D" to the Declaration.

- [51] The language referenced in Schedule "B" is identical to subsection 7 (d) (iii) of the Opt-In Leslieville Purchaser APS. However, in the event of conflict between the provisions in the Addendum and the Opt-In APS, paragraph 13 of the Addendum provides that the provision in the Addendum is the controlling provision.
- [52] Tarion provides new home warranty protection and serves new home buyers and owners. In essence, Tarion exists to protect consumers.
- [53] It is well-established that the *Ontario New Home Warranties Plan Act* and its regulations constitute consumer protection and remedial legislation. O. Reg. 165/08, in particular, which mandates the inclusion of the Tarion Addendum in the APS, was the result of an independent review conducted by a special committee headed by The Honourable Frank Iacobucci. Among other things, the Committee's final report in 2007 recommended adjustments to the structural framework of relationships between new home developers/vendors and purchasers to better meet the objectives of the *Act* and its regulations: see *Reddy v. 1945086*, 2019 ONSC 2554, at paras. 20-23.
- [54] The purpose of Schedule "B" is to assist buyers to calculate with certainty the final closing amount. Without Schedule "B", buyers would have to read and understand the entire Agreement of Purchase and Sale to try to ferret out what adjustments they would be faced with on closing.
- [55] In my view, given the purpose of the schedule and in keeping with Tarion's mandate to protect Ontario's New Home Buyers, it follows that any price adjustments need to be clearly set out. The language in paragraph 6 of Schedule "B" does not, in my view, clearly state that the Certain Curzon Purchasers are responsible for "park levy" charges in circumstances where there has been a conveyance of land and not payment-in-lieu.
- [56] Ultimately, this is a consumer contract that must be interpreted in accordance with the general principles of contractual interpretation.
- [57] In *Reddy*, Penny J. considered the proper interpretation of an early termination provision in a pre-construction condominium APS that conflicted with the corresponding provisions of the Tarion Addendum. Although the facts of that case are distinguishable from those of the case at bar, paragraphs 28-29 offer a helpful summary of the applicable principles of contractual interpretation in this context:
 - 28. While it is true that words in a contract are presumed to have meaning, this principle of contract interpretation is one of many, and must be placed in proper context. One of the well-accepted, more comprehensive formulations of contract interpretation is that a contract is to be interpreted:
 - (a) as a whole, in a manner that gives meaning to all of its terms and avoids an interpretation that would render one or more of its terms ineffective;

- (b) by determining the intention of the parties in accordance with the language they have used in the written document and base upon the cardinal presumption that they have intended what they said;
- (c) with regard to objective evidence of the factual matrix underlying the negotiation of the contract, but without reference to the subjective intention of the parties; and, to the extent there is any ambiguity in the contract,
- (d) in a fashion that accords with sound commercial principles and good business sense and that avoids a commercial absurdity.

Ventas Inc. v. Sunrise Living Real Estate Investment Trust, [2007] O.J. No. 1083 (Ont. C.A.) at para. 24.

- 29. The Supreme Court of Canada considered the principles of contract interpretation in Creston Moly Corp. v. Sattva Capital Corp., 2014 SCC 53 (S.C.C.). The overriding concern is to determine the intent of the parties. To do so the court must read the contract as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances known to the parties at the time. Consideration of the surrounding circumstances recognizes that ascertaining contractual intention can be difficult when looking at words on their own. No contract is made in a vacuum. Subjective evidence of intention, however, is not admissible in the guise of "surrounding circumstances."
- [58] These principles require me to interpret the words of the contract as a whole, giving the words their ordinary and grammatical meaning; to consider the factual matrix at the relevant time; and to consider the principle of commercial efficacy.
- [59] If an ambiguity remains after considering these principles of contractual interpretation, the *contra proferentem* rule may be used as a last resort: *Frenette v. Metropolitan Life Insurance Co.*, [1992] 1 S.C.R. 647, at pp. 667-668; *Ledcor Construction Ltd. v. Northbridge Indemnity Insurance Co.*, 2016 SCC 37, [2016] S.C.R. 23, at para. 51.
- [60] In this case, the critical part of the contract to be interpreted is the language in Schedule B, paragraph 6 which, as noted, is identical to subsection 7 (d) (iii) of the Opt-In Leslieville Purchaser APS. First, I must consider the plain and ordinary meaning of the contractual provision read in context with the rest of the contract. One consideration here, in addition to the dictionary definitions offered by the Parties, is the wording of the entire Parks Levy Clause. The Clause states that it is the "amount of" any parks levy, rather than, for example, the "value of" any parks levy that is to be the subject of an adjustment. In my view, this language is indicative of a payment of cash-in-lieu rather than a conveyance.
- [61] The Receiver submits that the language clearly supports its position. The Certain Curzon Purchasers take the opposite view. The uncertainty could have been avoided if the contractual provisions squarely addressed the issue.

- [62] With respect to the contract documents, I disagree with the Receiver that the Parks Levy Clause makes it clear that a "parks levy" applies to both a conveyance of land and a payment of cash-in-lieu.
- [63] I do not find the language to be clear. While the plain meaning of the document provides for an adjustment where there has been a payment-in-lieu, it does not follow that there is to be an adjustment where there has been a conveyance of land.
- [64] In light of the above, it seems to me that reading the words of the contract as a whole, giving the words their ordinary and grammatical meaning, does not provide a clear answer. A plain reading of the applicable provision does not clearly dispose of the issue at bar.
- [65] In considering the factual matrix at the relevant time, it is necessary to focus on Schedule "B" of the Tarion Addendum and its purpose and to acknowledge Tarion's mandate to protect new home buyers. Any price adjustments need to be clearly set out. In this case, the proposed "park levy" adjustment is not clearly or expressly set out. This favours the position of the Certain Curzon Purchasers.
- [66] Also relevant is the reasoning in *Reddy* where at paragraph 13, Penny J. stated: "Where there are two possible interpretations of circumstances under which a protection is to be extended, the one more favourable to the consumer should govern," *Opoku v. Pal*, [1999] O.J. No. 1777 (Ont. S.C.J.) at paragraph 38.
- [67] In considering the principle of commercial efficacy, a result that favours the Certain Curzon Purchaser is, in my view, reasonable. While I accept that it is commercially reasonable for the developer to seek to recover the additional expense of the consideration paid to the City where there has been a payment-in-lieu in compliance with section 42, the developer does not incur additional costs where compliance has been achieved through the conveyance of land.
- [68] The land is part of the project and is conveyed to the municipality for park or other public recreational purposes. There is no evidence of any additional costs which have to be recovered from the purchasers. In my view, this scenario is not commercially unreasonable. The result is neutral to the developer, or in this case, the Receiver. Conversely, the result urged by the Receiver could result in a windfall for the Receiver. A result that favours the Certain Curzon Purchaser is, in my view, reasonable.
- [69] At best, the Receiver's position gives rise to an ambiguity in paragraph 6 of the Tarion Addendum and subsection 7 (d) (iii) of the Opt-In Leslieville Purchasers APS. In a consumer contract, the *contra proferentem* rule takes on added significance. See Geoff R. Hall, *Canadian Contractual Interpretation Law*, 3rd ed. (Toronto: Carswell, 2016), at pp. 181-182. In this case, to the extent that any ambiguity remains, the rule of *contra proferentem* applies and the ambiguity is to be interpreted against the drafter that is, against the Receiver.
- [70] I am in agreement with the position put forth by the Certain Curzon Purchasers. The Opt-In Leslieville Purchaser APS do not require the Certain Curzon Purchasers to pay for the notional value of parkland transfers to the City.

Disposition

- [71] In the result, I conclude that the position of the Certain Curzon Purchasers prevails. An order shall issue declaring that the Receiver has no right, title, or interest to the Parks Levy that it received from the Certain Curzon Purchasers. The Receiver is to repay to each of the Certain Curzon Purchasers the amount of the Park Levy (inclusive of HST) that each of them paid at Closing, together with interest calculated in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43.
- [72] With respect to the subsidiary issue raised by Terra Firma, namely whether the Parks Levy adjustment paid by purchasers other than the Certain Curzon Purchasers was valid, I make no comment other than to note that all purchasers were served with the Receiver's Motion Record and no other purchasers appeared on the return of the motion.
- [73] The Certain Curzon Purchasers are entitled to their costs, which are fixed in the agreed upon amount of \$50,000, inclusive of disbursements and taxes.

Chief Justice Geoffrey B. Morawetz

Date: October 10, 2019



PRESENTATION:

THE PAST, PRESENT AND FUTURE OF THE CONDO INDUSTRY IN THE G.T.A

2:00 P.M. - 2:30 P.M.

SPEAKER:

Hunter Milborne President / CEO

Milborne Real Estate

SPEAKER



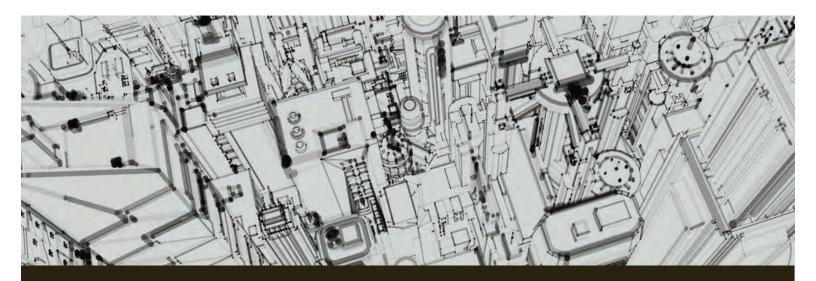
HUNTER MILBORNE

President / CEO, Milborne Real Estate

Presentation:

The Past, Present and Future of the Condo Industry in the G.T.A

Hunter Milborne is recognized as the "Dean of Condos" by Canadian Business Magazine for his analytical and quantitative approach to project marketing. He is President and Founder of Milborne Group and was co-owner of Sotheby's International Realty Canada, one of Canada's fastest growing companies. Now a partner in Gulf Sotheby's, Hunter has expanded his reach networking with over 20,000 agents in 75 countries, offering international exposure and connectivity. He has firmly established himself in International real estate, being responsible for over 112,000 sales in over 750+ developments, totalling over 35 Billion Dollars.



The GTA Condominium Market

Past, Present, & Future

By Hunter Milborne, President/CEO of Milborne Group



The Past

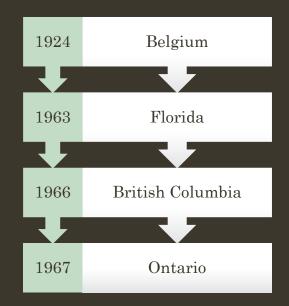
- Condominiums are not a recent phenomenon
- First known records are in 404 B.C. where a Papyrus shows the owner conveying title to the second floor of the house while maintaining title to the ground floor
- In ancient Rome, Romans built multistorey, multi-unit buildings complete with plumbing



Source: Brooklyn Museum

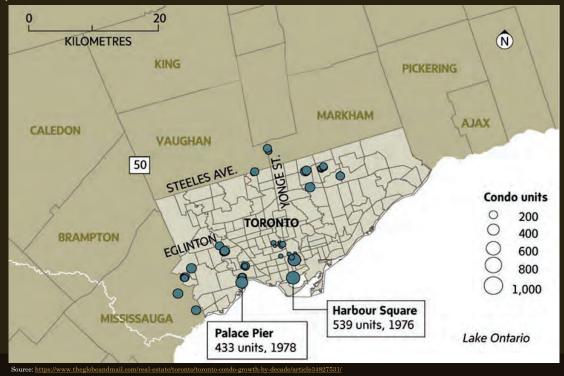
The Past

- The legislative idea for the "modern condominium" was first adopted in the 1920's in Belgium
- North America began adopting condos in the 1960's
- By the end of the 1960's, about 800,000 condos existed in North America
- Today, the total is about 30 million



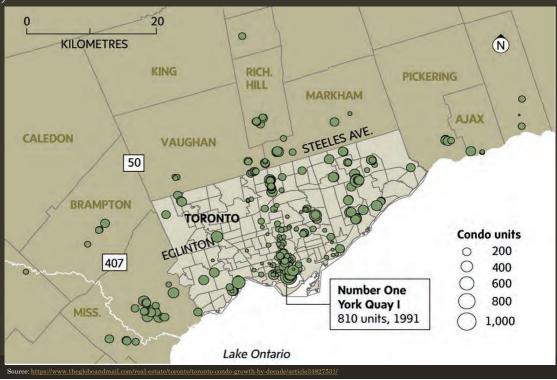


GTA, 1970's



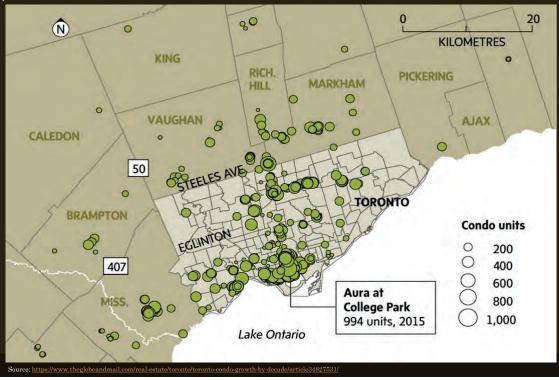
GTA, 1980's 20 N KILOMETRES KING **PICKERING** RICH. HILL MARKHAM 50 CALEDON AJAX VAUGHAN Ritz Tower; Sierra 406 units, 1986-88 TORONTO **Condo units** BRAMPTON 200 407 0 400 600 Harbourside 800 602 units, 1980 1,000 Lake Ontario

GTA, 1990's



GTA, 2000's N KILOMETRES KING RICH. **PICKERING** HILL MARKHAM VAUGHAN AJAX CALEDON 50 Condo units BRAMPTON 200 0 407 0 400 Residences of 600 College Park I 658 units, 2007 800 1,000 CityPlace neighbourhood Lake Ontario

GTA, 2010's



Average Annual New Condo Sales Volume

| Decade | Average Annual New Condo Sales Volume |
|-------------|--|
| 1980's | 6,000 |
| 1990's | 6,000 |
| 2000's | 15,000 |
| 2005 | 17,000 |
| 2010 - 2019 | 23,000 |

Strata Title Ownership

- Sometimes, Strata Title Ownerships are referred to as Condominiums
 - It is actually a different form of ownership
- In New York City, through the 19th and early 20th century, the Cooperative came into fashion

The Co-operative

- Each owner owns a certain percentage of shares in a corporation
 - Shares based on unit size and secures an exclusive right to use the individual apartment
- No individual titles hard to finance
- Board of Directors has the right to approve any ownership transfer
 - Even Richard Nixon has been rejected by a highprofile NYC Co-op
- Very few examples in Toronto, but at 1 Avoca Ave, the Condominium structure provides the same ownership potential without the disadvantages



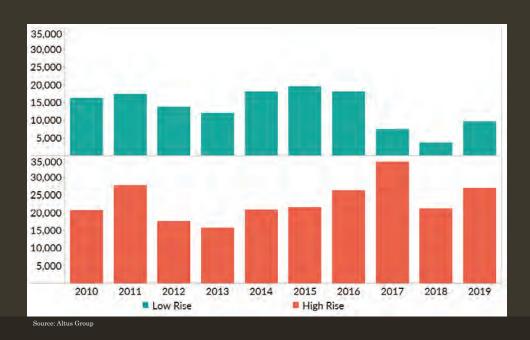
This Hunter Eats Lambs



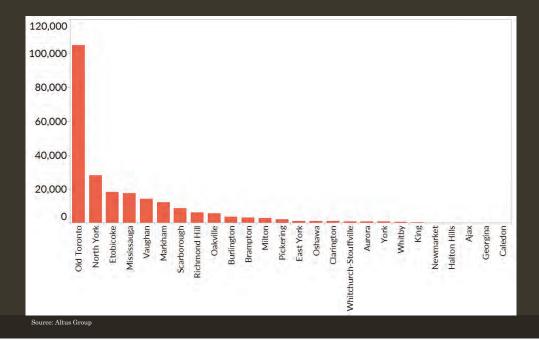
Recent History

| Year | Total Industry Pre- Construction Sales (Hi-Rise) | Milborne Group's Average End Price Sold |
|-----------|--|---|
| 2016 | 25,000 | \$435,000 |
| 2017 | 36,000 | \$495,000 |
| 2018 | 22,000 | \$535,000 |
| 2019 | 27,000 | \$610,000 |
| 2020* | 26,000 | \$640,000 |
| estimated | | |
| | Total: 136,000 | |

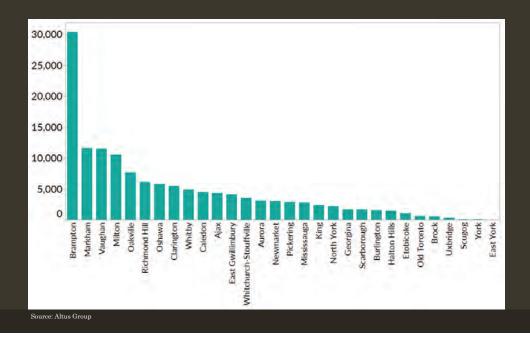
Yearly New Home Sales by Project Type Greater Toronto Area - 2010 to 2019



Total 10-Yr High Rise New Homes Sales by Municipality Greater Toronto Area - 10-Yr Sales (2010 to 2019)



Total 10-Yr Low Rise New Homes Sales by Municipality Greater Toronto Area - 10-Yr Sales (2010 to 2019)



Present Day As of December 31, 2019

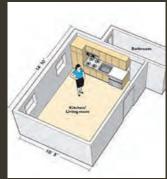
- 27,000 pre-construction condo units sold in 2019 and remaining inventory of 12,000 units, representing only a 5-month supply
- Balanced market is 12-18 months supply

Future Innovation

- Finance
- Construction
- Greening
- Parking
- Two trends
 - SUPER TALL
 - Super Small







10' x 14' Studio

Trend: SUPER TALL

- Steinway Tower 111 West 57th St.
 - "the world's slenderest high-rise"
 - This 84-storey tower is the latest arrival on Billionaires' Row
- One57 157 West 57th St.
 - The first ultra-luxury development along Billionaires' Row
 - A 75-storey tower built on top of a new Park Hyatt Hotel, the flagship Hyatt property





Trend: super small

- Capsule Hotels
 - Japan, Hong Kong
 - Capsule Hotel/Pod Hotel
- Micro Condos
 - 535 West 110 St West
 - This 10'x14' micro Studio is only about 5 times the size of a Queen-size bed





Technology



- ACCORDING TO FORBES OVER \$15 BILLION WAS INVESTED IN REAL ESTATE TECHNOLOGY IN 2018/2019.
- Fast and Drama Free
- Blockchain Technology

SIDEWALK LABS Sidewalk Toronto

- Toronto's eastern waterfront presents an extraordinary opportunity to shape the city's future and provide a global model for inclusive urban growth
- Sidewalk Labs, a subsidiary of Alphabet, aims to erect what could be a prototype for the urban neighbourhood of the future
- Sidewalk Labs aims to create an affordable, inclusive community with 40% of units at below-market rates
- Sidewalk Toronto is projected to create 44,000 direct jobs and \$14.2 billion in annual economic impact by 2040



SIDEWALK LABS Development Summary

- High-Rise buildings to be built with "Mass Timber"
- The street network to be built from easy-to-replace modular pavement
- The neighbourhood will be powered by renewable energy sources
- Compact apartment units with spacesaving furniture (by Ori Living) will fit the budgets of residents with modest incomes



Key makes home ownership accessible years sooner

It now takes an average of 21 years to save enough for a down payment in Toronto So it's not surprising 87% of millennials dream about owning but 50% don't think it will happen

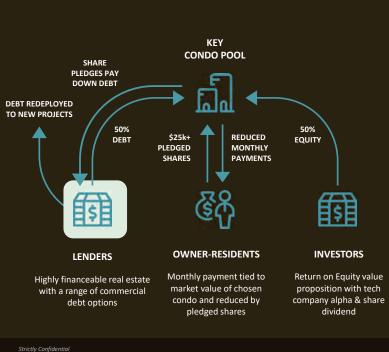






Key solves this generational issue with a new economic system for home ownership on demand Millennials can own with \$25,000 and no mortgage. This innovative model is patent pending It layers on technology to create better buildings, curated communities and radically elevated living

Key works by turning condo into a commercial asset class CONDO POOL SHARE



- 1 Key raises equity from institutional and HNW investors, and debt via commercial and capital market lenders
- 2 Key buys whole projects and blocks of suites and retains title and operational control, adding tech and savings to drive returns, and building sustainably with ESG objectives
- 3 Owner-Residents have an entry point of just \$25,000 in shares (KEYS). Shares are pledged to effect occupancy and buy down monthly payments
- 4 Key provides an elevated lifestyle and incremental equity growth by monetizing short term rentals and general purchasing power

1VALET

Bringing the future, home.

- 1VALET is a smart home ecosystem that empowers residents and lets you manage the way you've always wanted
- Creates a unified smart technology experience between developers, resident, property managers and concierges
- For Developers: Increase the overall asset value of your building while reducing your overhead operational costs
- For Residents: Use your smartphone to connect to your building and its operations staff
- For Property Managers: Streamline building management processes and ensure long-standing building health through a centralized management portal
- For Concierges: Provide your occupants with peace of mind and strengthened building security while enhancing the resident living experience

The Silver Tsunami

- Over 1,000 Canadians turn sixty-five every day, until 2030
- The Silver Tsunami
 - More spending power
 - Storey avoidance
 - More services





Thank You

C. Hunter Milborne President and CEO of Milborne Real Estate Inc.



PRESENTATION:

TARION'S REGISTRATION PROCESS - NAVIGATING THE CHANGES

2:30 P.M. - 3:00 P.M.

SPEAKER:

Adil Darr

Vice President / Developer Surety

Masters Insurance



SPEAKER



ADIL DARRVice President / Developer Surety,

Presentation:

Masters Insurance

Tarion's Registration Process - Navigating the Changes

Adil Darr is the Vice-President of Developer Surety at Masters Insurance Limited, a full service brokerage that specializes in construction insurance and surety services. He is responsible for executing growth strategies for the business, and working closely with a client base of over 100 top Developers and Builders in Ontario.

Darr has over 20 years' experience in the development industry. In his former role as Director of Underwriting at Tarion Warranty Corporation, he led the adjudication process for the most prominent and complex high-rise projects in the GTA. His expertise extend to setting conditions of registration, determining security requirements, and assessing the financial viability of developers. He was also heavily involved in receiverships, bankruptcies and he was an expert witness at the License Appeal Tribunal.

Adil has a Bachelor of Commerce from the University of Toronto and is Chartered Professional Accountant.

NAVIGATING CHANGE

Presented by Adil Darr Vice President | Developer Surety Masters Insurance Limited



Family Values. Expert Advice.



COMMERCIAL INSURANCE | SURETY BONDING BUILDER'S RISK | DEVELOPER SURETY

WHAT'S TO COME

Warranty Program

- Evolution 1976-present
- Implications for change

Current Issues

- Cancelled Condos
- Security and Registration Requirements

Best Practices



Family Values. Expert Advice.



COMMERCIAL INSURANCE | SURETY BONDING BUILDER'S RISK | DEVELOPER SURETY

ONTARIO NEW HOME WARRANTIES PLAN ACT



Sole regulator and new home warranty provider responsible for: rules, administration, dispute resolution and regulating builders/vendors

No major changes to Act in over 40 years



Family Values. Expert Advice.

CUNNINGHAM REPORT





Family Values. Expert Advice.

Key recommendations:

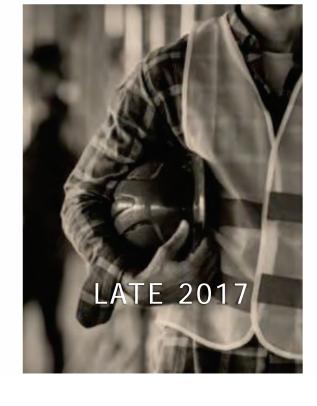
Multi-provider warranty system; breaking existing monopoly framework

Split function of regulator and warranty provider

Result

Liberals implemented new standalone regulator to separate functions

Maintained monopoly warranty system



CUNNINGHAM REPORT



ONTARIO AUDITOR GENERAL

Family Values. Expert Advice.



VALUE FOR MONEY AUDIT

Findings:

Influenced by builders (OHBA)

Lack of government oversight

Compensation tied to decreasing operating costs

Timelines restrictive for homeowner complaints



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PC GOVERNMENT



Implement Value For Money audit recommendations

Proceed with split of regulator and new home warranty provider

No competitive model



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HOME CONSTRUCTION REGULATORY AUTHORITY (HCRA)



Fall 2020 Implementation

New regulator responsible for licensing of vendors and builders in Ontario

Another layer of approval for developers (e.g. financial & technical assessment)

Increased costs

Approval timelines delayed



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Project financial review



Enrolments



Taking and releasing security

TARION RESPONSIBILITIES UNDER HCRA



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CANCELLED CONDOS

Increase in number of projects cancelled in last 2 years

Cancellations related primarily to financing issues (e.g. delays in approvals)

New Tarion addendums address real problems? (e.g. gap between sales and zoning approvals)

Municipalities are not accountable



SECURITY & REGISTRATION REQUIREMENTS

Specialized courses to educate new freehold developers

No courses for new condo developers

Increased security requirements for new condo developers will result in increased costs (\$30K-\$40K/unit)

Scrutinize zoning approval process



Family Values. Expert Advice.



BEST PRACTICES

Successful Developers set the bar higher, above minimum requirements set out by Tarion

Pre-audits after condo registration

Risk based building bulletin (bb) 19 reporting

Timing of retention of bb 19 field review consultant (e.g at design stage)



Thank you







PRESENTATION:

ATTRACT HIGH-END COMMERCIAL: THE NEW KEY TO SUCCESS

3:15 P.M. - 3:45 P.M.

SPEAKERS:

Karen Mak, Joint CEO, dkstudio architects inc. **Dmytriy Pereklita,** President, dkstudio architects inc.



SPEAKER



KAREN MAK Joint CEO, dkstudio architects inc.

Presentation:

Attract High-End Commercial: The New Key to Success

Karen Mak – Co Founder and CEO of architectural firm dkstudio architects Inc.

Born in Hong Kong, moved to Canada as a teenager, since graduation she spent 1 year in Singapore and 10 years in Hong Kong, working and travelling throughout cities in China and Asia Pacific. After obtaining her profession qualification of Registered Architect HKIA and RIBA, she joined the luxury fashion retailers Donna Karan Inc. and Louis Vuitton, and have built 65+ luxury retail stores in Asia Pacific.

Moving back to Canada in 2006, she and her husband Dmytriy Pereklita, started the award-winning architectural practice, dkstudio architects inc. Corporate Vision Magazine and Global 100 Magazine both awarded dkstudio as the best international luxury retail design firms in Canada 2019. After 12 years in business, dkstudio now has three offices represented in Hong Kong, Vancouver and Toronto. Their impressive luxury retail clients include Louis Vuitton, Chanel, Gucci, Prada, Van Cleef & Arpels, and many other distinguished brands. Dkstudio has helped their clients expand their global store networks and have since completed 100+ luxury retails stores.

This year, dkstudio also received a very prestigious Association of Chinese Canadian Entrepreneurs Award for the Best Asia Pacific Business. Karen has been celebrated in Ming Pao News Media and Omni Television. She was a chosen panelist at the ACCE Business Forum, ACCE West Coast Diversity Networking Event, HKCBA National Conference and delivered a presentation for the Ontario-China Design Industry Delegation.







dkstudio architects inc.

FOUNDED in 2007

Toronto I Vancouver I Hong Kong INTERSECTION of 21st century speed, technology & innovation with time honoured traditions of craftsmanship

2019 & 2020

dkstudio recognized as Canada's Best International Luxury Retail Firm Corporate Vision Magazine & Global 100.

















2019 Spectrum Awards - Product Winner 2019 A+ Jury Award for Best Office Design 2x Honourable Mention in Interior Design 2016.

2013 Record Interiors









2019 Best Asia Pacific Business Award 2019 Global 100: Best International Luxury Retail Design Firm

2019 Design Award: Platinum Winner

2018 Gold Awards: nded Shop Within a Store Use of Technology Fixture of the Year

dkstudio



| LADURÉE | JAEGER-LECOULTRE | DEBEERS | PANERAI | Van Cleef & Arpels | |
|----------------|---------------------|---------------------|-----------------|--------------------|--|
| JIMMY CHOO | VACHERON CONSTANTIN | LOUS VUITON | CHANEL | PIAGET | |
| ovo | IWC SCHAFFHAUSEN | Dior | #ESSINI/AURENT | HUBLOT | |
| Roger Vivier | DOLCE & GABBANA | GUCCI | FENDI | MONTBLANC | |
| JO MALONE | BALMAIN | PRADA | GUERLAIN | TAGHeuer | |
| BOTTEGA VENETA | CÉLINE | VALENTINO VALENTINO | GIVENCHY | BALENCIAGA | |
| Wolford | HOLT RENFREW | HUDSON'S BAY | Sak Tith Avenue | MIU MIU | |

dkstudio's North American Retail Portfolio





Toronto

- Bloor St + Holt Renfrew
- Yorkdale
- · Eaton's
- Sherway Gardens
- Square One + Holt Renfrew

Vancouver

- Burrard, Alberni, Robson
- Pacific Centre + Holt Renfrew

Montreal

- Sherbrooke + Holt Renfrew
- St. Catherine + Rue de la Montagne + Ogilvy

CalgaryChinook Centre

- Holt Renfrew

Edmonton

- West Edmonton Mall
- Holt Renfrew



dkstudio

6 golden rules that high-end brands are looking for when they are looking for real estate.



RIGHT TENANT MIX, FOOT TRAFFIC & RENT COST

High-end commercial retailers need the right tenant mix

Shopping is a destination. No one wants to be beside a Dollar Store or Walmart.



NEED AMENITIES

Successful retail environment needs the right amenities to support it – such as chic cafés & restaurants, valet parking, 5-star hotels etc. Appropriate front to back access and loading facilities are preferred for store operations.



IMPACTFUL STOREFRONT

Feature façade with corner anchor that speaks to the brand.

The storefront should have a generous clear width in relation to depth of store. Locate columns and stairs further back into the store for clear sightlines and spatial flow.



THE LUXURY EXPERIENCE

Retail environments need interesting spatial experiences with large, tall volumes and interlocking spaces.

A retail finished ceiling should be no less than 12', resulting in a minimum of 15' slab-to-slab height.



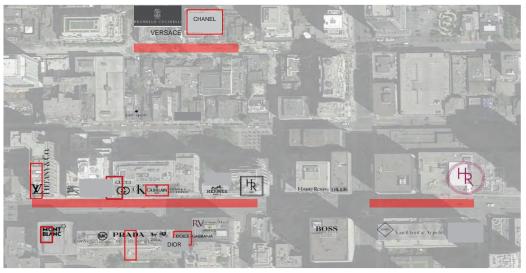
BE THE LEAD TENANT

Luxury retailers should be the lead tenant of the space; high end commercial retailers cannot be an afterthought.



ENVIROMENTAL CONCIOUSNESS

We are moving towards a greener world. Luxury retail clients are looking for elements of Sustainable Design/LEED in their projects. Elements include green roofs, vestibules, and triple-glazing, argon-filled glass storefronts, recycled materials etc.



CASE STUDY - BLOOR STREET

Canada's Premier Retail High Street -Commands the highest rent in Canada

The 25th most expensive street in the world.

Source: Cushman & Wakefield Main Streets Across the World Report

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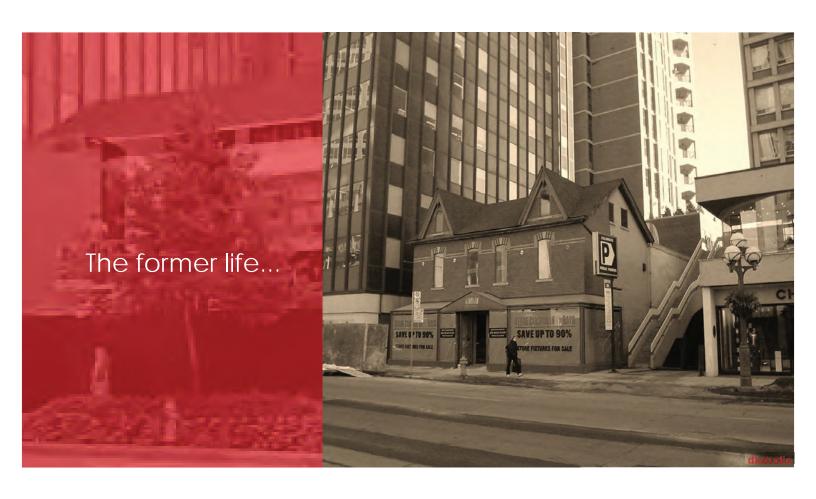






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Louis Vuitton Worldwide



SINGAPORE SINGAPORE





LAS VEGASI CITY CENTER



HONG KONG - LANDMARK







Storefront Studies



dkstudio

Engineering studies for storefront opportunities

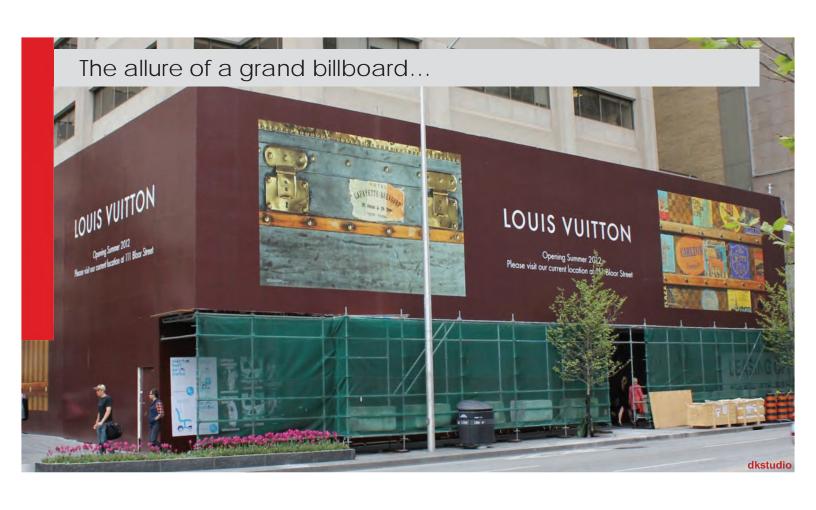


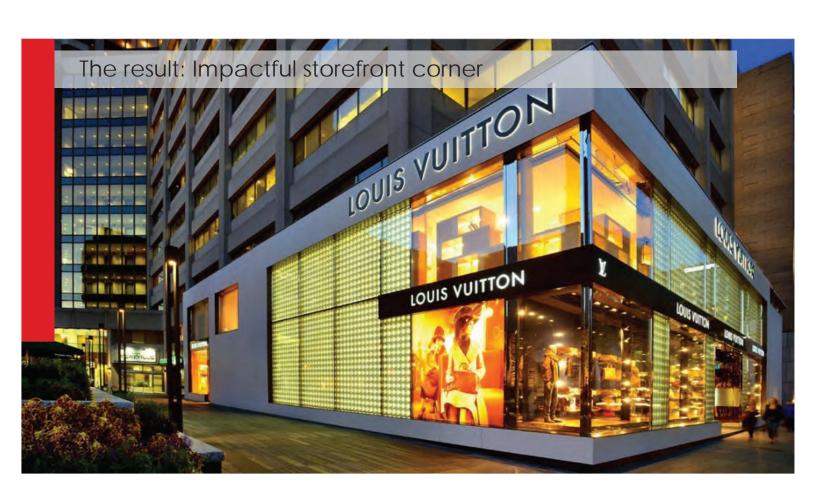
Limitations in ceiling height and column grids

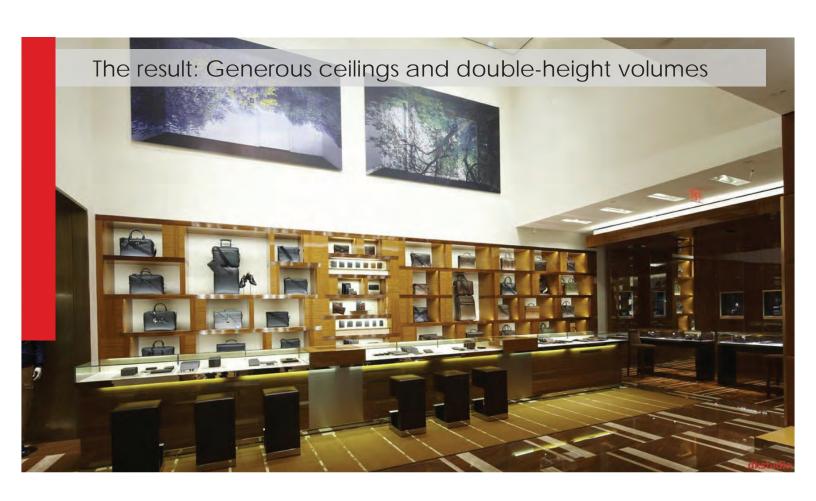


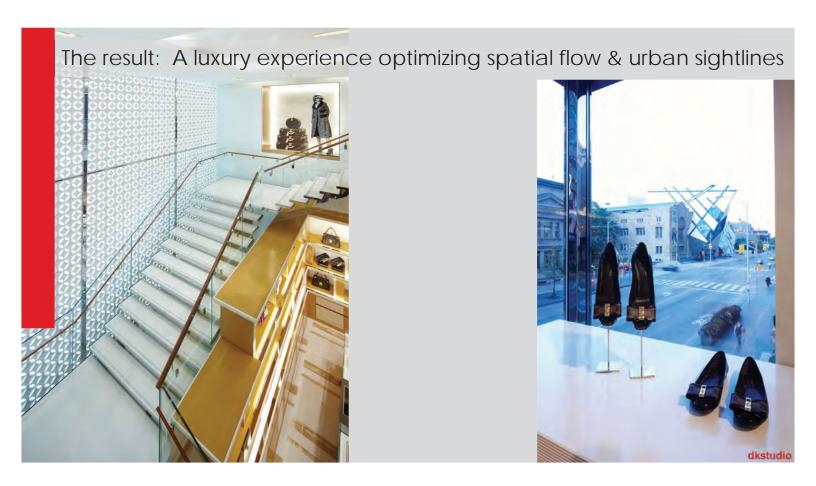


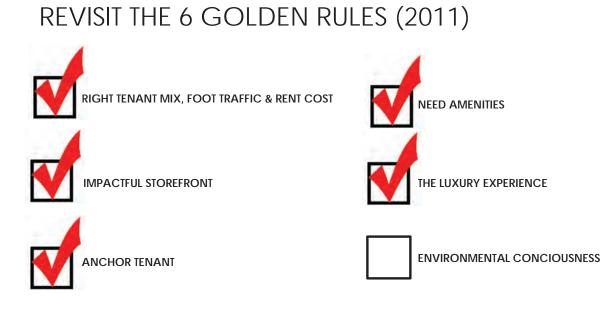




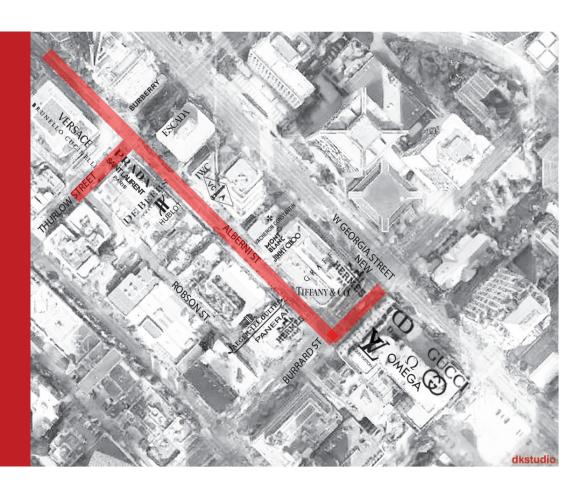












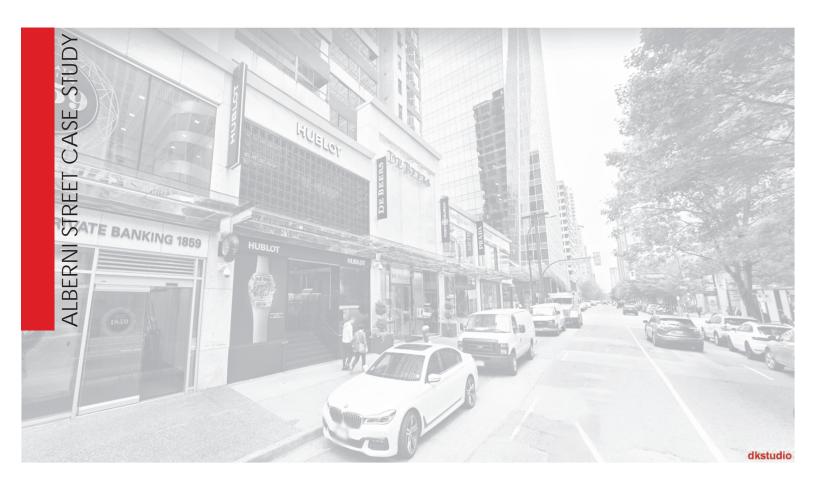












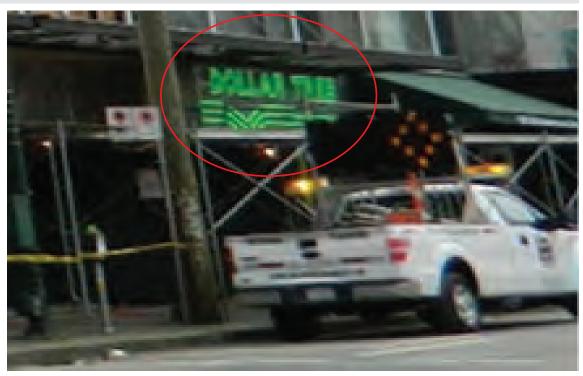


Existing conditions: Potential street front retail units



dkstudio

The Issue: Non-luxury proximity, lack of architectural impact / diversity



The Landlord's Solution: Increase corner impact and visual interest



dkstudio

The result: De Beers becomes the first luxury client in the building



The result: Prada, Hublot, and Yves Saint Laurent soon followed. Prada removed the landlord features to adhere to brand identity due to lack of tenant consultation



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Case Study 1067 Alberni Street



IWC Schaffhausen + Van Cleef & Arpels

Existing condition: Triangular street front courtyard of existing building



dkstudio

The solution: Landlord-led development involving tenant consultation



dkstudio



The result: well-placed skylight directly above feature staircase, well set-back from the storefront for optimal views and spatial flow



REVISIT THE 6 GOLDEN RULES (2017)



dkstudio



BRAND AWARENESS: CULTURE OF PURPOSE

A CULTURE OF PURPOSE

Gucci Equilibrium, is a collection of all our values, positive instincts and ambitions. It's a balance of the aesthetics of the things we produce with the ethics in which we believe. We are driven by our Culture of Purpose (central to everything you'll find here at Gucci Equilibrium)

A sense of purpose defines and articulates the values that make us who we are. Everything we do is for a reason. We know that our brand and our people are committed agents of social and environmental change and we take that seriously.



BECOME A POSITIVE LUXURY BRAND

You are just one step away from beginning your journey to earn the Butterfly Mark. Start the process today or contact us for a preliminary chat. We would love to hear from you.



dkstudio

GREEN ROOF | GARDENS | SOLAR POWER







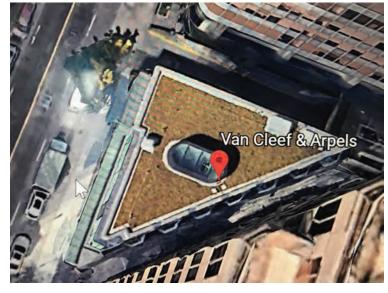












DIGITAL + PHYSICAL EXPERIENCE

RETAIL TREND





dkstudio

POP UPS: WAY TO TEST PRODUCTS CREATE EXCITEMENT!



IMPORTANCE OF F&B









dkstudio

NO INVENTORY STORE: NORDSTROM, LA

COMBINING ONLINE SHOPPING WITH LUXURY IN-STORE EXPERIENCE

- Located in areas without flagships to provide the luxury in-store experience
- The client peruses the online collection before shopping
- A curated selection based on client need or online personal shopper is sent to the store
- Amenities such as cafes, luxury fitting rooms, and tailors on-site to enhance the experience









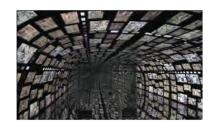
ALL ABOUT THE EXPERIENCE: SAMSUNG 837 NY



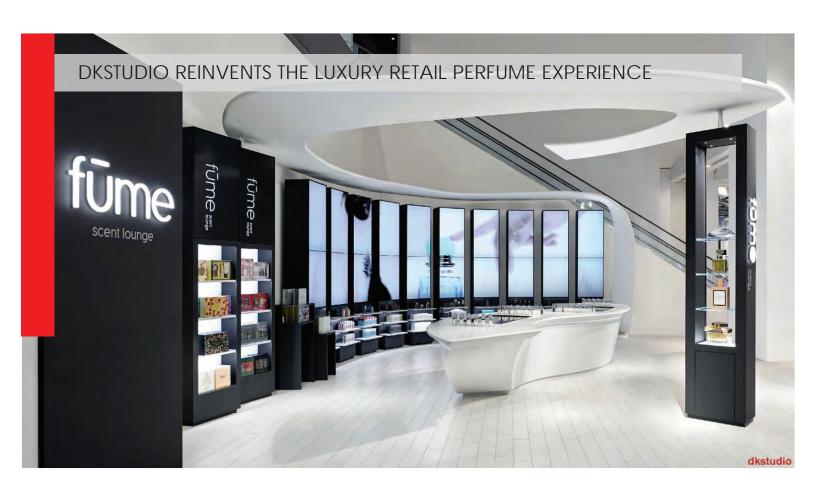
What's the story?

This is Samsung 837, where technology and culture collide. Located in the heart of the Meatpacking district in NYC, Samsung 837 combines art, fashion, technology, and sport in unprecedented ways. It's not a store, but a new kind of place filled with ideas, experiences, and Samsung's latest devices. Samsung 837 is where anyone can try out cutting-edge experiences, take part in interactive art installations, or see a larger-than-life, three-story screen. It is a home for live music performances, exclusive screenings, and podcast recordings.





dkstudio





Thank You



For more information, please contact us:

Karen Mak, HKIA Joint CEO

Dmytriy Pereklita OAA, AAA, AIBC, RIBA President

> dkstudio architects inc. 443 St Germain Ave. Toronto, M5M 1W9

web: www.dkstudio.ca tel: 1-416-342-8017 ext 101

More Info on Retail Guidelines:

 $\underline{https://www.toronto.ca/wp\text{-}content/uploads/2020/01/960d\text{-}Toronto\text{-}Retail\text{-}Design\text{-}Manual\text{-}December\text{-}2019.pdf}}$



PRESENTATION:

WHAT CAN A DEVELOPER DO WHEN THERE IS AN ERROR IN THE CONDO DOC?

3:45 P.M. - 4:15 P.M.

SPEAKER:

Patricia Elia

President

Elia Associates PC

SPEAKER



PATRICIA ELIA President. Elia Associates PC

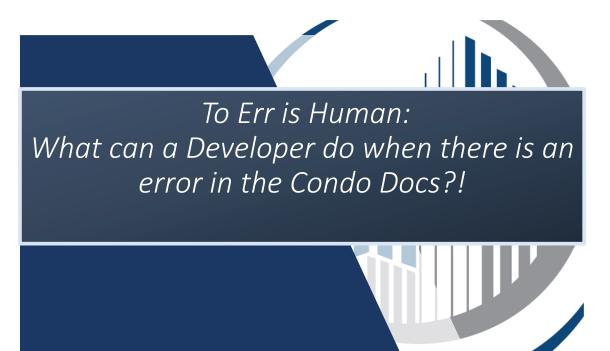
Presentation:

What can a developer do when there is an error in the Condo Doc?

As a condominium and corporate lawyer, Patricia's practice of 23 years encompasses all aspects of corporate work for condominiums including contract review, shared facilities agreement amendments, declaration amendments, communication strategies, chairing of meetings and litigation support.

Patricia supports her condominium clients in all aspects of their condominium communities by finding solutions within the statutory framework of the Condominium Act, 1998 to manage the risks condominiums face today. From Tarion to compliance to privacy to safer banking methods, the EA team is dedicated to achieving comprehensive and cost-effective solutions that work for all of Elia Associates' clients. Our corporate clients rely on Patricia to support their financing, acquisition and structuring needs and to develop their policies and procedures in accordance with applicable laws. She understands what it is like to be a director of Condominium Corporation because she has been one for approximately 12 years for both a multi-storey and townhouse complex.

Patricia is an active speaker, writer and participant in the condominium industry. Currently, she is working on a variety of industry related programs and committees with a view to facilitating awareness and knowledge for unit owners, directors, property managers and condominium communities as a whole. Knowledge is power.





LandPRO Conference 2020

So you could.. Bury your head in the Sand!





Or you could.... Think of the most effective way to fix it





Common, Complex, Potentially Catastrophic and Condominium!

The Planning Act is the "perfect Storm of Law"





Types of Errors

- Error in the Survey Plan
- Error in an Easement



Error in the Declaration or Description



And then there is the World of Condos

- Unit Owner Approval
- Working with the Land Registry Office
- Application to the Superior Court



Cost Effective, Creative and Legal Solutions

- Identify the Problem
- Determine the most cost effective and effective solution
- •Critically Think about the Risks of the solution?
- Architect and Implement the Solution



Further Thoughts





Thank you! www.elia.org



Condominium Law is What We Do



PRESENTATION:

TECHNOLOGY DRIVEN INDUSTRY TRANSFORMATION

4:15 P.M. - 4:45 P.M.

SPEAKER:

George Carras

President

R-LABS

SPEAKER



GEORGE CARRAS

President, R-LABS

Presentation:

Technology Driven Industry Transformation

George is a Professional Engineer and is recognized as one of Canada's most trusted innovators in the advancement of Canadian property markets through technology.

George founded RealNet Canada Inc. in 1995 and lead its growth over two decades helping to transform Canadian property markets through better information, empowering the decisions of over 45,000 industry professionals and becoming the official source of information for both Government and Industry including BILD, TREB and REALPAC.

George founded and currently leads R-LABS, Canada's PropTech Venture Lab, supported by premier global institutional and private investors in building and growing great technology enabled companies that solve major problems in the housing and commercial property markets.

George is also the Board Chairman of OneClose Inc. and the Board Chairman of R-Hauz Solutions Inc. and serves on the Advisory Board of Veraine and the Real Estate Advisory Council of OP Trust's Real Estate Group.

George is a mentor to emerging Industry leaders, a past President of Toronto NAIOP, a co-founder of the NAIOP REX awards program and Developers Den Case Competition.





The Roaring 1920s













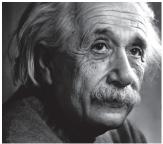
[R]^L

Purpose-Driven Venture Building

The Road Ahead: Technology, Disruption, Innovation and You



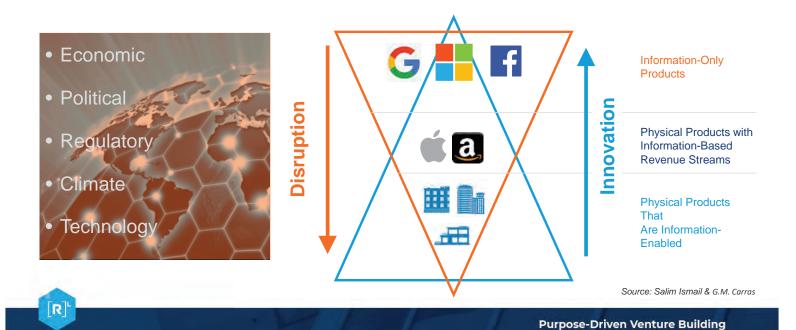








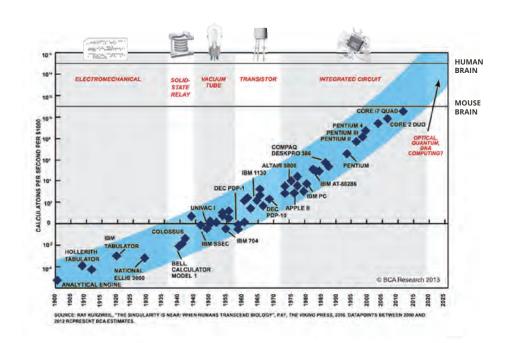
Transformation = Disruption + Innovation



Technology



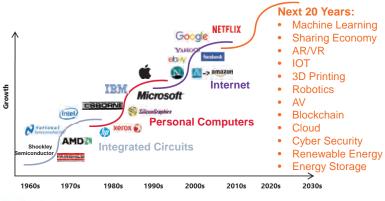
Dr. Ray Kurzweil, Inventor, Futurist

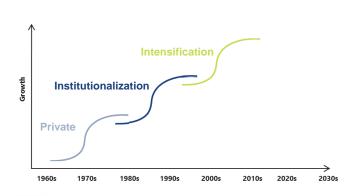


Technology - Understanding S Curves

Waves of Innovation in Silicon Valley

Waves of Innovation in Real Estate





Source: J.S. Engel, University of California, Berkeley, G.M. Carras, R-LABS

 $[R]^L$

Purpose-Driven Venture Building

Thinking About Your Thinking



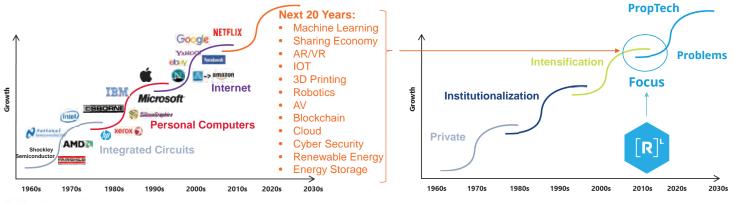
Astro Teller, Captain of Moonshots, X, Alphabet

What is PropTech

All Innovation at the Intersection of Real Property and Technology

Waves of Innovation in Silicon Valley

Waves of Innovation in Real Estate

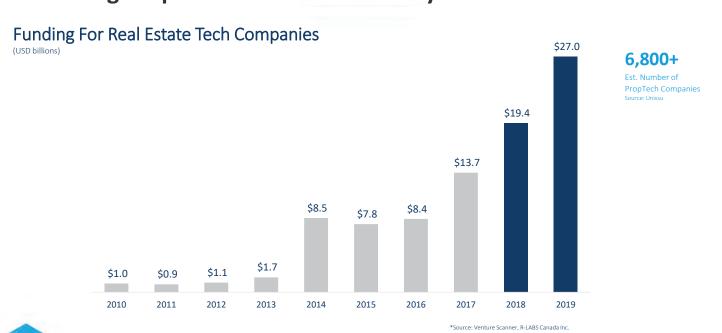


Source: J.S. Engel, University of California, Berkeley, G.M..Carras, R-LABS Canada Inc.

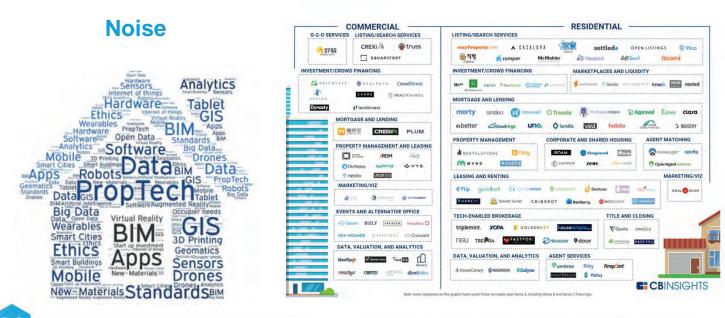
[R]L

Purpose-Driven Venture Building

Increasing PropTech Investment Activity



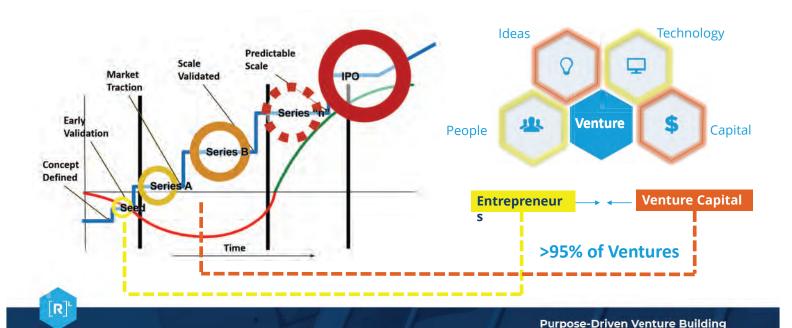
Finding Your Signal in the Noise of PropTech



[R]

Purpose-Driven Venture Building

Approaches on Venture Creation



86% of PropTech 1.0 Companies Failed

| CONSTRUCTION | | |
|--------------|-----------------------------|-----------|
| Bidcom | i-scraper | RedLadder |
| BuildPoint | inscribeit | Struxion |
| Buzzsaw | JobShopSolutions WorldBuild | |
| Cephren | NetClerk | |

| FINANCING | |
|------------------|-------------------|
| Capital Engine | Mortgage Selector |
| Capital Thinking | RedBricks |
| Equity City | |
| SERVICES | |

| Cephren | NetClerk | | |
|---------------------|---------------------|--------------------|--|
| BROKERAGE | | | |
| Cityfeet | Loopnet | NAIDirect | |
| Comro | OfficeSpace | RealPrompt | |
| CoStar Group | PropertyFirst | RealtyIQ | |
| Lookingfor Space | Property Auction | TheAsking Price | |
| Storetrax | TenantWise | RealWired | |
| Reis | Zethus | 1031properties | |
| PROPERTY MANAGEMENT | | | |
| AptBiz | OurBuilding | Rentals | |

Phatpipe Qrent

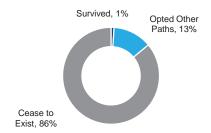
RealCentric

RealPulse

SiteStuff

theRent YieldStar

| SERVICES | | |
|------------------|------------------|--|
| | | |
| Edifice Rex | Velocity HSI | |
| Electric Streets | Rent.com | |
| Trillium | | |
| Retail | | |
| Clixnmortar | Malibu | |
| Eversave | TenantConnect | |
| Fastfrog | Yoursherpa | |
| Office | | |
| Allied Riser | Cypress Comm. | |
| Broadband Office | Eureka Broadband | |
| Captivate | On-site | |
| Cypress | Urban Media | |





R-LABS Artifacts (March 2000) from PropTech 1.0

[R]

Bricks-n-Bytes

Location-Net

OPSX Change

Purpose-Driven Venture Building

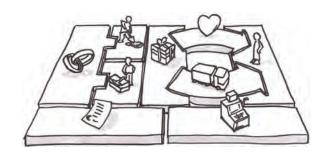
It's Not Just About Technology

....It's Also About The Business Model



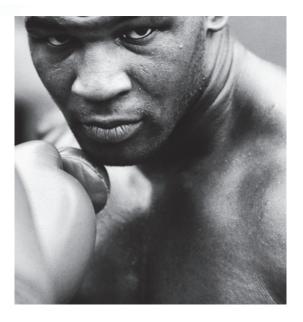


Copying Things That Work



Sources: R-LABS Canada Inc, Zero to One, Peter Thiel

Disruption





Purpose-Driven Venture Building

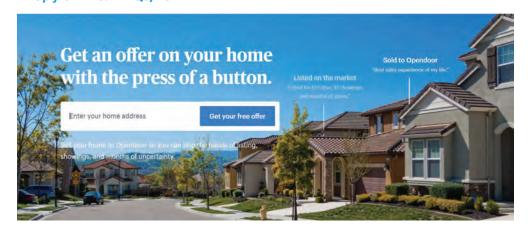
Technology Innovation + Business Model Innovation

iBuyers: Algorithm-powered Home Buying

Sell You Home in 3 Simple Steps

- 1 Enter your home details and get an offer in just a few clicks
- Accept offer and complete your home assessment
- Close on your timeline and get paid within a matter of days

iBuyers purchased **3.1% of the homes sold during Q3/19** across 18 US markets **Up from 1.6% in Q3/18**.

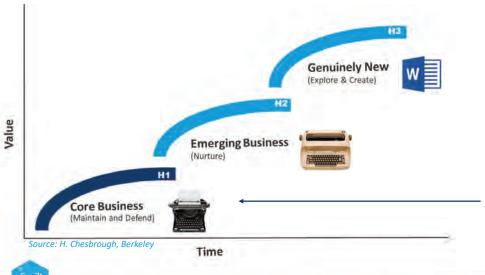


Quick Sale

No staging, cleaning or marketing

No Showings

Innovation & Business Model Disruption



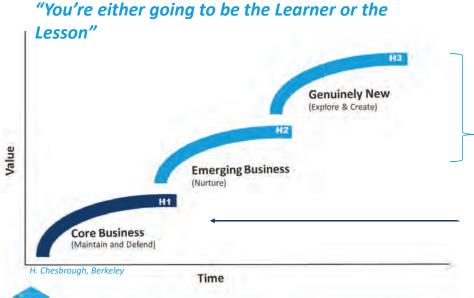
Large Organization Innovation Challenge

- Delivering disruptive/ business innovations from idea to market
- Coordinating a common innovation process across the organization
- Measuring and communicating the impact of innovation
- Attracting and rewarding innovators commensurate with their contribution
- Scaling innovation practices to change the company's culture
- CIO Keeping their job as Chief Innovation Officer/Digital Officer

[R]^L

Purpose-Driven Venture Building

Innovation & Business Model Disruption



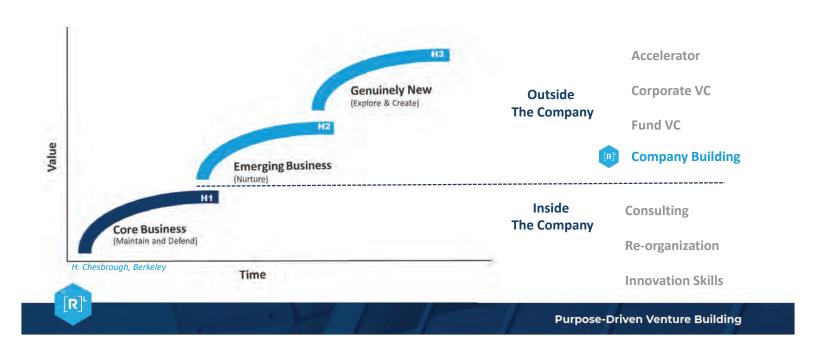
Disruptive Business Models Accelerating

| Time Period | New Fortune 1000 Companies |
|-------------|-------------------------------|
| 1973 - 1983 | 35% |
| 1983 - 1993 | 45% |
| 1993 - 2003 | 60% |
| 2003 - 2013 | 70% |

A Startup is a Temporary Organization Looking for a Business Model (H2, H3)

A Corporation is a Permanent Organization Executing a Business Model (H1)

Innovation Strategies



5x Better Success Probability Via Company Building $[R]^{L}$ Stand-Alone Start-Up **Systematic Company Building** 80-90% Failure Rate <50% Failure Rate **Industry Know-How Access to Talent Genuinely New Equity Funding Tech & Product Dev Emerging Business Partners & Network** Core Business **Operational Support** Time

Purpose-Driven Venture Building

The New Condominium Mortgage Advantage

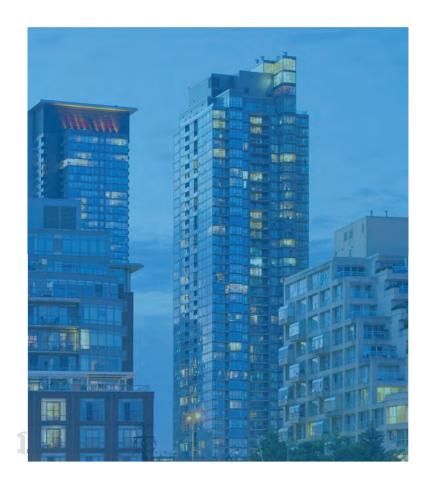


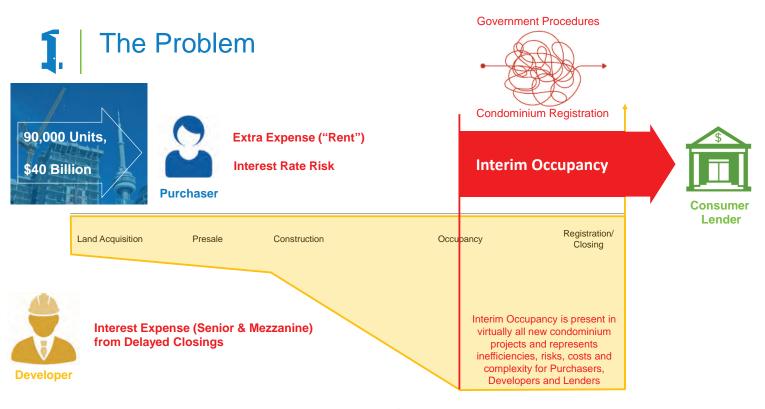
No Occupancy Interest Payments

www.oneclose.ca

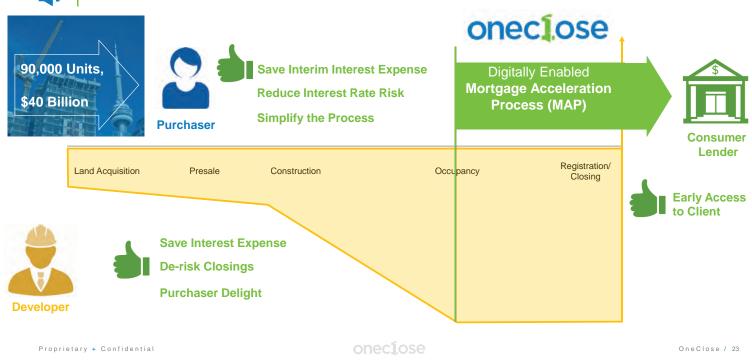
Financial Gateway

Proprietary + Confidential





The OneClose Solution



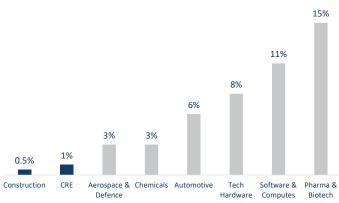
Venture Playing The Role Of Industry R&D

Funding For Real Estate Tech Companies (USD billions)



*Source: Venture Scanner, R-LABS Canada inc.

R&D Intensity By Industry



Source: The 2016 EU Industrial R&D Investment Scoreboard, European Commission (2016). All values above are global, except for CRE which was determined through survey by REALPAC, R-LABS Canada Inc., PWC.

Construction – The Problem is the Opportunity



 $[R]^L$

Source: McKinsey & Company

Purpose-Driven Venture Building

Tom and Luigi (1950)







Luigi

Tom in Today's World





Tom

[R]^L

Purpose-Driven Venture Building

Luigi in Today's World



Luigi

Losing Skilled Labour When We Need It Most

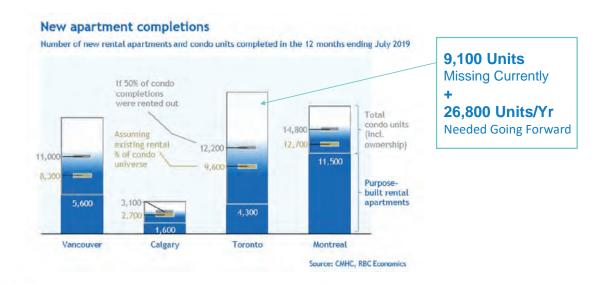


 $[R]^L$

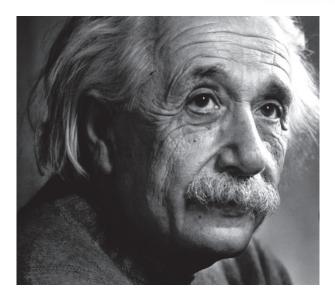
Source: BuildForce Canada

Purpose-Driven Venture Building

The Problem of Housing Supply



Finding New Housing Market Solutions



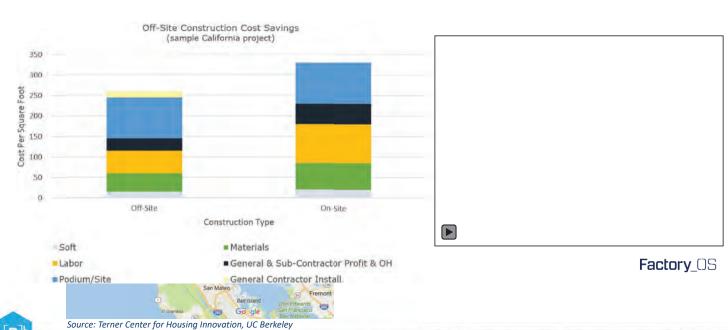
"We cannot solve our problems with the same thinking we used when we created them."

Albert Einstein

[R]^L

Purpose-Driven Venture Building

Using Technology – Offsite Construction



R



Housing Problems - We're all in it together



Demand Supply



9,100 Units Missing Currently 26,800 Units/Yr **Needed Going Forward**

condo units

ownership)

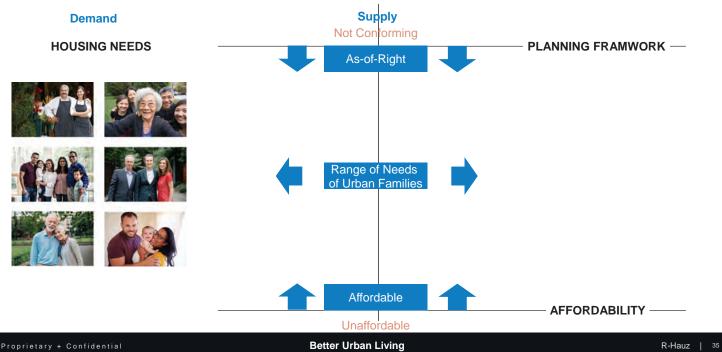
Purpose-built rental

apartments

(incl.

Defining the Supply Problem





Defining the Supply Problem





The Self-Solving Housing Market By R-Hauz





Better Urban Living

R-Hauz | 37

The Self-Solving Housing Market By R-Hauz

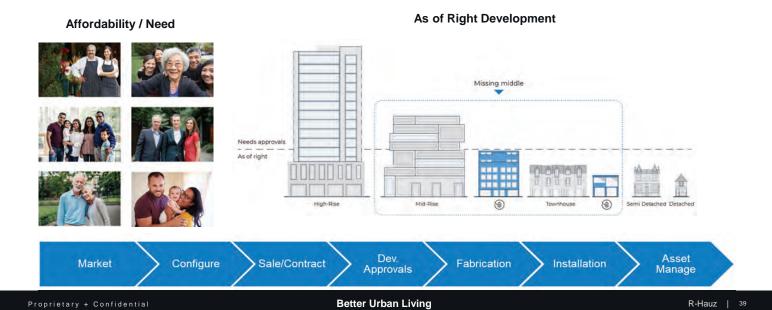


Demand Supply PLANNING FRAMWORK — FOR OWNERS OF PROPERTIES As-of-Right **ON A LANEWAY HOUSING NEEDS** Range of Needs of Urban Families Affordable **AFFORDABILITY**

The Solution – Housing as a Consumer Product



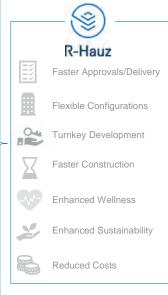
As of Right Development by Property Owners



The Solution – Housing as a Consumer Product











The R-Hauz Avenue Townhome







- Offsite Construction (Minimal Disruption)
- Smart Building Systems (Reduced **Operating Costs**)
- Turnkey Delivery in 7 Months
- Flexible Configurations 6,500 S.F.
- Direct Elevator Access Per Floor
- **Cross Laminated Timber**





Proprietary + Confidential

Better Urban Living

R-Hauz | 41

Toronto Opportunity









Toronto Avenues >38,000 V6 **Products** capable of housing over 460,000 people

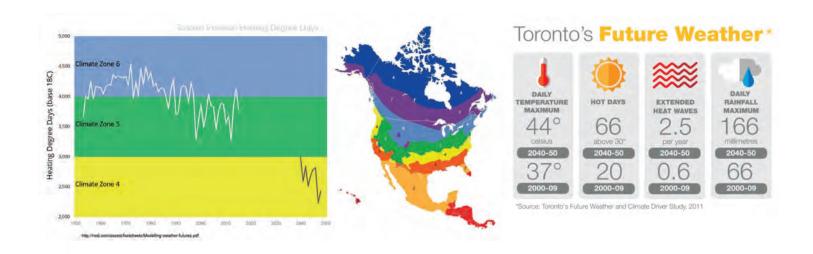




Toronto Laneways >96,000 V2 Products capable of housing over 190,000 people



Buildings Will Need to Perform Differently in the Future



 $[R]^L$

Purpose-Driven Venture Building

Smart Glass on the Rise





Innovation in Surge Water Management





Topmix Permeable

Efficient stormwater management

Environmental management

Reduced maintenance costs

Ease of placement

[R]

Purpose-Driven Venture Building

Innovation in Surge Water Management







The Best Way to Predict The Future is to Help Create it!



Who Are You?

What Problem Do You Love?

What Role Do You Want to Play?

 $[R]^L$

Purpose-Driven Venture Building

We Build Great Companies That Solve Big Problems In Real Estate



Industry Problems



R-LABS Venture Process



Valuable Companies















