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Other areas of practice include estate administration and disputes, property law disputes and employment law issues.

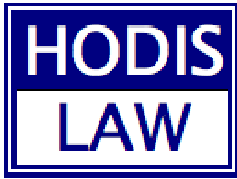
The Value of Communication

The value of communication rests not only in the benefits we derive from our ability to interact with others but also the impact it can have on a condominium's pocket book. As discussed at a recent seminar presented by myself and Patricia Elia for CCI Huronia, bad communication can cost a corporation money and good communication can lead to a greater financial recovery when condominium corporations are involved in disputes that are decided by the courts or tribunals such as the Human Rights Tribunal.

In my practice I find that owners, boards and property managers tend to forget that communication, whether it be verbal, by formal letters, newsletters or by email or text can all be used as evidence when a dispute finds its way to court, mediation/arbitration or a tribunal for resolution. It would be prudent for boards and property managers to consciously think about how and what they communicate from the start. Once an issue arises that needs to be addressed, I would recommend you follow my golden rule: Whatever you say or write should never embarrass you if a judge or decision maker were to read it or hear about it. In order to effectively communicate it is important to understand what the purpose of your communication is and then stick to that purpose. Don't let personal issues or biases distract you from the goal of your communication. As Benjamin Franklin once said: "Remember not only to say the right thing at the right place but far more difficult still to leave unsaid the wrong thing at the tempting moment."

If you doubt whether bad communication can actually cost a condominium corporation money I suggest that you read the following Human Rights Tribunal decisions: **DiSalvo v. Halton Condominium Corporation No. 186** and **Pantoliano v. Metropolitan Toronto Condominium Corporation No. 570**.

The **DiSalvo** case involved an owner's request to install a ramp that would allow him access to his home. The owner asked that the corporation pay for and maintain the ramp. The corporation refused. The Human Rights Tribunal found that the corporation was required to pay for the cost of installing and maintaining the ramp as well as pay \$12,000.00 in damages to the owner for injury to dignity, feelings and self-respect on the basis that the corporation failed to fulfill its statutory procedural obligations. The Tribunal characterized these procedural obligations to include "substantive discussions" with the owner. The Tribunal examined the email exchanges, letters and telephone conversations between the owner and the corporation and was troubled by the process adopted by the corporation and its unwillingness to engage in substantive discussions with



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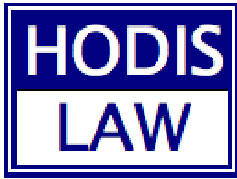
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owner about the ramp despite the fact that some communication between the parties did occur. For Halton Condo No. 186, the failure to discuss the real issues resulted in bad communication which cost the corporation \$12,000.00. It should be remembered that although a corporation may have Human Rights Defence insurance, a damage award is not covered by insurance.

Another example of how bad communication can cost your condominium corporation money can be found in **Pantoliano v. Metropolitan Toronto Condominium Corporation No. 570**. This case involved swimming pool rules and diapers in a mainly adult community. The corporation had a rule that babies in diapers (even swim diapers) were not allowed in the pool. The Human Rights Tribunal awarded the owner \$10,000.00 in damages for injury to dignity, feelings and self-respect. The Tribunal, in their decision stated that had the condominium's conduct been restricted to asking the owner to leave the pool on three occasions because her daughter wore swimming diapers, the amount of compensation that would have been awarded would have been small. However, since the owner was also subjected to slights, innuendos and abuse following the filing of her Human Rights Tribunal application and her attempts to change the pool rules and given that she was at home with her infant daughter which made it difficult for her to escape the verbal and written comments, the higher award of \$10,000.00 was warranted. The Tribunal examined communications that were sent to the owners by the Board and found that these communications wrongly accused the owner of refusing to leave the pool and implied that she was inconsiderate to her neighbours and consistently broke the rules and engaged in anti-social behaviour. This case is a clear example of when saying too much will cause problems. Had the Board set aside its personal biases and opinions on the situation and focused on the purpose of the communications it was sending, they would have probably saved themselves thousands of dollars.

While it is clear from the examples above that bad communication will cost you money, good communication can be rewarded. The Superior Court in **Muskoka Condominium Corporation No. 39 v. Kreutzweiser** (2010) granted the corporation the highest level of costs on the basis that the corporation had taken the time to properly communicate with the owner and repeatedly warned him about the costs consequences of failing to comply with the rules and forcing the corporation to bring a compliance application. The fact that the Court awarded the corporation 100% of its costs saved the corporation the necessity and extra costs of having to resort to s. 134(5) of the Condominium Act to obtain its full recovery of costs and a potential assessment hearing as the corporation could lien the unit for all its costs incurred based on the court order alone.

The next time you decide to communicate with someone in your condominium community keep in mind the cases referenced above. Learn from the mistakes



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and successes of others. Take a breath and determine what the true legitimate purpose of your communication is. Then ask yourself: Is this message going to cost my corporation money? As you manage other risks in your corporation and the costs associated with them, don't forget to also manage your communication and the risks associated with bad communication.

Sonja Hodis is a litigation lawyer based in Barrie that practices condominium law in Ontario. Sonja believes that effective communication is critical to being able to achieve the results you want to obtain. She advises condominium boards and owners on their rights and responsibilities under the *Condominium Act, 1998* and other legislation that affects condominiums. She represents her clients at all levels of court, various Tribunals and in mediation/arbitration proceedings. Sonja can be reached at (705) 737-4403, sonja@hodislaw.com or you can visit her website at www.hodislaw.com.



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