

# BARCLAY NEWS

June 2014 (Volume 32 No. 05)

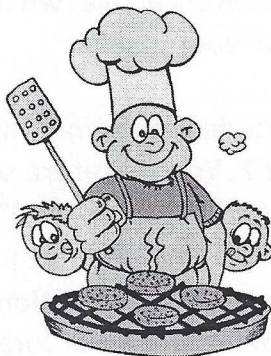
## News from the Board

We held The Barclay's 2013 Annual General Meeting (AGM) on May 27, 2014. There was an excellent turnout: 61 units were represented in person, and another 24 by proxy.

The owners agreed that our lawyer, John Peart, should chair the meeting. Among the highlights of the meeting was the election of directors. The new Board consists of:

- Gordon Alice
- Gil Boyce
- Graham Deline
- Jeff Hanke
- Geoffrey Labelle
- Cam Mathias
- Bud Smith
- Carole Sullivan
- Jacques Vachon

The outgoing Board received a generous round of applause, as did the members of the new Board.



We held our first meeting on Thursday, May 29. The following directors were chosen to form the new Executive:

- Geoffrey Labelle, President
- Gordon Alice, Vice-President Administration, and Vice-president, Operations (in collaboration with our President)
- Bud Smith, Treasurer
- Gil Boyce, Secretary

We made arrangements for signing authority for payments by The Barclay. We also decided to maintain a website for The Barclay, in addition to one created by Apollo.

We met again on Tuesday, June 3, to adopt a simplified Code of Ethics for directors and discuss ongoing issues at The Barclay. We will continue this discussion on June 17.

Gil Boyce  
Secretary

## Barclay BBQ

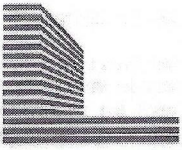
Mark your calendars! The Barclay BBQ is coming soon. It will be held on Thursday, July 10 at 6 p.m.

Sign-up sheets will be posted in the mail room shortly. The BBQ is always fun and well attended.

Hope you can make it!

Susan Heatherington





## Garden Committee News

Patty Deline

Happy spring from the gardening committee. We have been busy raking, pruning, sweeping and bagging up the detritus of winter, and oh joy! planting spring flowers. You will notice pots of geraniums carefully tended over the winter spread around the patio area. As well, there are bright yellow begonias and shocking pink impatiens flanking the barbecue.

Ferns planted last year are coming up, and more are being donated to plant in another attempt to fill in under the Austrian pines. The front planters have been replanted and will be filled in once the early spring flowers are finished. The front beds are bursting with shrubs and hostas.

Watch along the north wall for edible plants, such as rhubarb and kale, coming along. Two of the rhubarbs will be able to be cut this year, but the other three are still too immature. One plant has been cut already, so please don't cut again till the end of the month. New ones are being donated, watch the space. We should have plenty of rhubarb in future.

A list of herbs will be posted on the mail room door for indications of what you would like to see planted in those beds. We are fortunate that several residents started seeds which will soon be ready for planting. Thanks to them. Please mark your selections ASAP.

Many thanks to the folks who watered the window pots over the winter. They have saved us a lot of money in bedding plants.

The committee will need volunteers to help with the watering schedule over the summer to keep our gardens lovely. If you are available for some watering, even for a week, please contact Sue Smee at 613-232-0704. And the Garden Committee always welcomes new members. The next meeting will be June 4 at 3:30 p.m. in the library. Hope to see some of you there!

## Heat or Air Conditioning?

A few suggestions from David Robinson and Russell Young re:

- proper setting of thermostats - both heating and cooling;
- extending the life of your A/C filters; and
- letting the A/C coil "dry out" after using air conditioning.

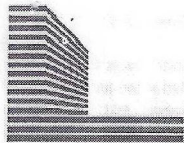
(From the July 2013 issue)

## *Want a Fight?*

You can have one in your suite, because heating and cooling thermostats don't think the same way. You do not want your baseboard heaters active, while you are trying to cool your place!

Suppose your desired temperature in cooling season is 70°F. You therefore set your Air Conditioning thermostat at 70°F (3BR suites have two, the rest of us have just one). And you turn on your air-circulation fan(s) to your preferred speed. Let's not forget about all of those baseboard heater thermostats, in all the rooms! Set all of them to a really low





temperature. This ensures that they do not mistakenly turn on the heater(s).

Don't be too subtle when dealing with your thermostats. When you do not want heating, turn ALL your heating thermostats way low (e.g. 50°F).

Similarly, when you don't want any more cooling, set your air conditioning thermostat(s) way high (e.g. 90°F). The latter operation turns off the flow of chilled water through your heat-exchanger unit that the fan blows air through for cooling.

Because the heat exchanger does not instantly stop "sweating" (it's still cold), it is good practice to leave your fan running for some time (say 15 minutes) to warm it up, dry it off out their apartment's temperature, and to trap loose dust in the A/C filter

(Thanks to Russell Young)

### ***Just a Reminder***

Delivery of big items, as well as planning a move during the weekend, is difficult and extremely inconvenient as there is

1. nobody to ensure security at the door, and
2. the elevator cabin must be protected to avoid damages.

For more information check out the Barclay Manual, page 17.



## **Don't forget Westfest**

*June 13 – 15, 2014.*

*The main stage is again, behind the Superstore.*



At this time of year when we are all doing spring housekeeping, please think about folks working in the flower beds, walking along the sidewalk, or on lower balconies when you consider throwing or sweeping debris or fluids from your balcony.

## **How's Your English??**

Here are three word puzzles or "Wuzzles".

Let's see how good you are! Each box represents a totally different common English phrase.

LOOKING

1111

BBBBBB

BRAIN

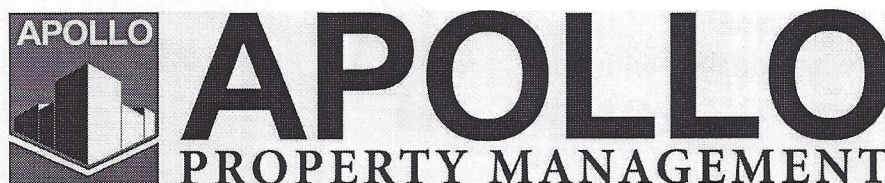
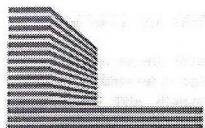
KIDNEY

HOME  
HEART

1. Looking out for number one.
2. Bee line
3. Home is where the heart

**ANSWERS**





## ***Condo Law Summary***

**Syed Ali Ahmed, B.Math, B.A., J.D.**

In a rare instance, an Ontario Court has ordered a condominium corporation to pay compensation to an owner for acting in a way that was unfairly prejudicial to the owner and unfairly disregarded the owner's interests.

The case, *Dyke v. MTCC 972*, 2013 ONSC 463, was an application by an owner for an "oppression remedy" under section 135 of the Condominium Act, 1998 (the "Act"), for the condominium corporation's failure to enforce compliance with its noise rule.

Over a period of many months in 2011, the owner, Elizabeth Dyke, complained several times to the property manager about excessive noise from the unit above hers, which was being used as a professional dance studio in contravention of the condominium declaration, by-laws and rules. Security reports confirmed that the noise levels from the unit above were too high. The unit also did not have area rugs on the floor as recommended by an earlier expert report on noise transmission from the unit.

Despite Dyke's complaints, MTCC 972 and the property manager did not write a letter to the offending unit requiring an end to the noise-making. Dyke finally wrote to MTCC 972 indicating that she would hold the corporation legally responsible if they did not take action to enforce the condominium rules.

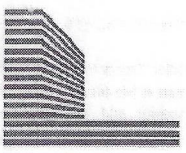
Instead of taking action to enforce its noise rule against the offending unit, the condominium corporation and property management began to target Dyke through a series of vindictive actions, including:

They charged Dyke an excessive amount of \$50 for giving her copies of the condominium by-laws and rules when the general notice to all owners provided for only a \$5 cost.

They sent Dyke a notice to remove her two dogs over a minor incident in which one of the dogs had nipped at the finger of a stranger who had unexpectedly reached out to pet the dog.

Dyke had been using a second unit she owned in the building for her legal practice for 17 years, without meeting clients there or otherwise interfering with other residents' use of their units or the common elements. MTCC 972 demanded that Dyke stop the unit's use for business activity in a residential condominium, while taking no similar action to stop the professional dance studio operating in the unit above. One of the corporation's directors left a note on Dyke's door falsely complaining that her dogs had been making noise and disturbing the neighbours. When Dyke asked him about the note, the director behaved in an abusive manner.





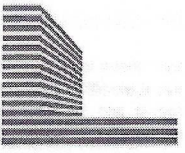
The noise and related stress ultimately led Dyke and her daughter to move out of her unit. MTCC 972 still failed to take any action to abate the noise so that they could move back in. The Court found that, by failing to enforce its rules, MTCC 972 had acted in a manner that unfairly disregarded Dyke's interests, and that the "small harassments" towards Dyke amounted to unfairly prejudicial conduct under s. 135. The Court ordered MTCC 972 "to take all reasonable steps to ensure that its by-laws and rules... are complied with, and that [Dyke] regain quiet enjoyment of her units", including notifying the owners or tenants of the unit above to install adequate additional floor covering. The Court ordered MTCC 972 to pay over \$40,000 to Dyke for damages and expenses incurred in moving out of her unit, plus \$19,500 in costs for the court application. The issue of compensation for pain and suffering, mental anguish and loss of income and comfort will be decided later. The Court did commend MTCC 972 for changing property managers after the application was brought and noted the new property manager's promise to rectify the situation. The Court likely sensed that the situation had become worse than it should have been because of the bad attitude and lack of professionalism of the board and property manager. This case is a reminder to condominium corporations of their duty to act quickly, fairly and effectively in taking all reasonable steps to ensure compliance with the Act, the declaration, the by-laws and the rules. Boards and property managers should take seriously complaints of non-compliance, regardless of who makes the complaint, especially if the issue is interfering with an owner's quiet enjoyment of their unit or the common elements. After proper investigation, the board should make an independent and fair determination of whether a complaint is warranted. If so, the condominium corporation should take all appropriate and reasonable steps to ensure compliance. As the Court stated, the condominium corporation "has a responsibility to enforce its rules in a balanced way so as to ensure that all of the owners and tenants can enjoy their respective units." Failure to do so can be costly for the parties involved and harmful to the condominium's reputation and community spirit.

## ***CONDO OPERATIONS – FLOORING***

By Charles Cullen, Property Manager

As evidenced in the condo law summary provided by Mr. Ahmed, sound abatement within the corporation is a priority not to be taken lightly by any Condominium Corporation. Thankfully, CCC # 81's Declaration is very clear on renovations; As per CCC #81's Declaration, Section IV, Paragraph 1, subparagraph e:

"Prior to making any alterations or repairs to his Unit, the Owner shall submit his plans to the Board of Directors of the Corporation for approval; and the Board shall approve the plans unless the proposed alterations or repairs or the manner of carrying them out are likely to damage or impair the value of any other unit or the Common Elements."



In an ever growing litigious society, it is paramount that sound transmission issues be tackled proactively rather than reactively by boards and management to avoid costly litigation and disharmony in the building.

As flooring trends change, many new owners have been looking at moving from carpet flooring to laminate or engineered hardwood. Traditionally, CCC #81 has permitted engineered hardwood installation with a cork or felt underlayment. There are traditional products and synthetic products on the market these days that claim to be effective at sound abatement; knowing the pro's and con's of each product is extremely valuable so that the board and management's requirements for renovations are not seen as arbitrary.

Although the application of synthetic product is certainly cheaper than the traditional and proven effective cork/felt underlayment, in both product cost and labour, it may end up costing you more in the end due to dissatisfaction, complaints due to noise if not properly adhered, wavy floors, etc.

1. In order to utilize the synthetic product the concrete must be completely moisture free for adhesion.
2. In the future, if you were ever to need to repair a section of the hardwood, it is extremely difficult as the flooring is essentially glued down to the concrete slab.

A condo within Apollo's portfolio (in the construction phase by the Developer) attempted installing synthetic underlayment with disastrous results. After finishing the first 6 floors in this fashion they ended up ripping it all out, due to severe problems with leveling leading to a wavy looking floor.

For best results I have found that floating floors of felt/cork atop two (2) ¼" sheets of plywood stacked with overlaid joints produces an effective underlayment for sound abatement in the context of a condominium high rise.