

Without Prejudice

Who Are We

First and foremost, we are owners of residential properties in Hamilton, assessed as residents and paying taxes thereon as resident owners. By choice we live in condominium communities.

What is the CCI?

The Canadian Condominium Institute (CCI) is a Canada-wide, independent, non-profit organization formed in 1982, dealing exclusively with condominium issues. CCI acts as the collective voice of condominiums with all levels of government. CCI assists its members in establishing and operating successful condominium corporations through publications, education programs and technical assistance.

The condominium community is growing at an astonishing rate. In Ontario's urban areas, one in three homes built today are condominiums. Millions of Canadians live, play and in many cases work, in some form of condominium development. In Hamilton, there are more than 36,000 condominium residents in almost 500 condominium settings. In Ontario there are more than a million.

CCI has and will continue to lead the way in promoting and improving condominium living. That includes CCI providing leadership and co-ordination to the *Condominiums' Fair Tax Campaign* across Ontario.

Condominium Corporations Benefit Cities

- Condo corporations accumulate reserve funds for major infrastructure maintenance and replacement without current or future cost to the city.
- The community-caring aspect of condominium corporations provides support and security to older citizens, relieving them of looking after their outside premises, allowing them additional time and freedom to enjoy independence, lessening the burden on city social services.
- Larger-scale condominium corporations provide extensive social and recreational services thereby reducing the load on city services.
- On a per hectare basis, condominiums contribute significantly more taxes than freehold residences. The multiplier for high-rise condominiums is vastly higher. In Kitchener¹, 2010, the suburban home sends about \$14,000 per acre to City Hall. Astonishingly, the (high-rise) condominium sends \$160,000 per acre even when the corner streets are used in the calculation. Mayor Bratina was quite right to be excited by condominium building downtown². More taxes.

Condominiums carry a burden of “double taxation”

Fact: Condominiums are taxed identically to freehold urban residents based on Current Value Assessment. The “double taxation” includes:

¹ A New Year of Tax Fraud, Business Times, January 2011, John MacDonald, Architect.

² CHCH News, February 11, 2012

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Typical condominium fee costs per household, provided without cost to freehold private dwellings:

- Some high-rise garbage and recyclables removal \$180
- West Nile control - larviciding \$8
- Hydrant inspections and repairs \$7
- Catch basin cleaning and maintenance \$5
- Waste water management \$10
- Street lighting \$39

Fact! In Hamilton, condominiums contribute taxes for these services which are provided at no direct cost to freehold urban residents, but condominiums pay for these services out of our fees + HST!

The Issue

Condominium communities are a relatively new urbanization strategy that will materially reduce the infrastructure burden on cities³. Is it fair and reasonable for the City to tax urban homeowners living in condominium residences for services that they do not receive from the City? Many thousands of condominium owners say NO!

Staff argues, “Property taxes are not a fee-for-service, but instead a method of distributing the cost for public services and programs throughout the municipality”. Right on! The items in the list above are all public services; let’s get the costs distributed fairly.

In response, staff is not recommending any changes to the existing treatment of condominium properties. Why is that? The fundamental reason for denying services to condominium properties is that it “is consistent to that of other privately owned property”⁴. This is the arcane reason set out by the City’s legal department years ago.

We are not asking that the City larvicide the privately-owned catch basins at commercial-entity Walmart nor remove the green bins beside the industrial cafeteria at Dofasco. We are referring to residential properties and reject “commercial and industrial properties would request the same services⁵”. The staff observation that “incurred costs would be borne by all property owners⁶” fails to recognize that condominiums now subsidize the entire assessment base.

We are pleased that all levels of government now provide services to condominium communities and owners directly – DARTS, EMS, fire services, police services, City by-law enforcement, mail, and the list goes on.

³ Municipal Finance and the Pattern of Urban Growth, C.D. Howe Institute, E. slack, Feb. 2002

⁴ Executive Summary, p. 2

⁵ Executive Summary, p. 3, similarly, Analysis/Rationale, p.6

⁶ Executive Summary, p. 3

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Interestingly, the Report acknowledges that, since 2005, the City of Brantford has provided garbage and recycling collection, storm sewer cleaning and fire hydrant testing to condominium properties. We applaud such sensibility on the part of Brantford and concur that providing Liability Insurance to the City, as for Brantford, is a reasonable compromise, contrary to staff concerns⁷. Brantford experience shows that not all corporations take up the offer.

We are residential owners, taxed as residential owners, but denied some services – some condominiums more than others. The irony is that some of us are being subsidized by other condominiums that receive fewer services.

In discussion, staff concur that the issue is entirely a political matter. We would like to suggest some political solutions.

What Do We Agree With in the Report?

We believe that the report is factually correct and professional in its reporting. We appreciate the recommendation that Condominium Corporations be given information on the City’s current contractors and their approved pricing. Many of us are satisfied with the compromises negotiated with the City concerning signage controlled by City by-laws. We recognize that some condominiums receive, gratefully, a substantial range of services such as total waste removal.

What Do We Disagree With in the Report?

Inventory Issues (catch basins, hydrants)

Staff claim that there is a lack of inventory⁸ of catch basins, fire hydrants etc. In accordance with the Ontario Condominium Act (1998) condominium corporations are required to engage registered consultants to prepare Reserve Fund Plans which include inventory and condition reports. These are maintained on a regular cycle. Storm Sewer (catch basin) Cleaning (p7)

CCI has only advocated for the cleaning of catch basins on roadways fully accessible now by City vehicles. We concur that catch basins on otherwise private property should be excluded. As noted above, these are all (or should be) inventoried by consultants at condominium corporations’ cost.

Fire Hydrant Testing (p7)

As responsible advocates we would not expect the City to assume responsibility for hydrants that were not certified working by a responsible contractor, consistent with our insurability requirements. We do have faith that a contractor can deduce (as do firemen) whether hydrants operate in an “open left” or “open right” pattern.

West Nile Control (p8)

We totally fail to understand why the City would not seek to protect all of its residential citizens in an equitable way. Owners pay (typically) about \$45 per year in taxes to the City for Public Health and another \$5 to \$10 per home for larviciding.

⁷ “liability” concerns on p.3, 7, 11

⁸ :inventory” on p. 3, 5

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Liability (p. 3, 7, 11)

Liability insurance is a requirement for condominiums. Adaption to City requirements is a matter of practical negotiation; however, we note that police, fire and EMS services impose no such requirement.

Property Taxation (p9)

Staff, in quoting section 307(1) of the Municipal Act, have not responded to the claim by CCI in 2010 that the special status of Area Rating⁹ provided to Hamilton, Chatham and Kawartha Lakes may meet the “unless expressly provided” and “in different proportions” qualifiers in the Act so that the City may revoke program costs to areas where a service is not provided. This could reduce the tax burden on condominiums by a small factor.

Exceptions to the Solid Waste Management By-Law 09-067

Many condominium complexes are disadvantaged by poor site layout that prevents safe access by the vehicles under City control. The Solid Waste Management By-Law 09-067 was a constructive step forward. In application to multiple dwellings, it clearly defines the circumstances under which the property may be ineligible for waste collection and disposal service. Staff review is conducted at the site planning control stage. Failure by developers to comply makes the condominium corporation ultimately responsible for the provision of this service. Clearly, this is the stage at which omissions should be rectified. However, staff notes (p 6) that, “there continues to be occasional reluctance on the part of the development industry if it impacts on the number of units and/or parking spaces.”

With deep concern two CCI members took a developer’s advertisement for two new condominium developments to the Planning and Economic Development Department where we reviewed critical notes on the Site Plans. The formal rejection record stated that, “the current design of this property will not allow for on-site bin collection. The development will need to be modified if garbage collection service is to be provided by the City”.

We have reason to believe that at senior levels, the plans were approved – caving in to the reluctance of developers to protect the rights of future owners. Thus the City avoids a waste collection cost and future owners are effectively “doubly taxed”.

One Councillor has told us that in such cases the developers have promised to pay for garbage collection. Surely everyone realizes that it will be the condominium owners who will pay, and pay, and pay for years to come for a service to which they are entitled. Who looks out for the rights of owners to be protected from what appears to be profiteering developers?

⁹ *City of Hamilton Act, Ontario, 2001, the Municipal Act, Ontario, 2001, and the Municipal Statute Law Amendment Act, 2006*

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CCI members have looked at a number of older buildings that now pay for garbage removal. Particularly in those complexes that enjoy recyclables collection, we believe that some innovative solutions involving compaction and automation may permit them to benefit from City pickup.

Recommendations

1. We invite Council to embrace a future, as has Brantford, that includes the advantages to urban form, urban function and fiscal sustainability provided by condominium development in Hamilton. In so doing we ask Council to seriously challenge the concerns laid out by staff and make a political commitment to reducing costs for condominium owners, initially: larviciding for West Nile control, hydrant inspections and repairs, catch basin cleaning and maintenance. Invite creative solutions to garbage and recyclables removal where it is not now in effect.
2. As a first step, CCI welcomes the attempt by the City to mitigate costs to condominium properties by providing CCI with the City’s unit, approved pricing. Over time, it may be possible to convince contractors that access to expanded markets may be in their interests.
3. We invite the City to meet with executives from CCI-member professional firms that provide reserve studies (with inventory data) and property management services under the Ontario Condominium Act (1998) in order to negate the inferences in the staff report over inventory and maintenance issues.
4. We urge Council to look within itself and commit to Solid Waste Management By-Law 09-067 and not bend to the wishes of developers.
5. We invite City staff to meet with consultants, members of CCI, to explore innovative solutions involving compaction and automation that may permit some condominium complexes to benefit from City pickup such as in Halton Region.

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cc Brantford

¹⁰ This draft response is to the City’s staff report made public only two business days before presentation to the AF&A Committee.