



THE EVOLVING LITIGANT  
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Condominiums are rarely at a standstill; many are literally active 24 hours a day, 7 days a week.

An array of individuals contribute to the ever-changing nature of the community. Owners, tenants, property managers, security guards, cleaners and other personnel can come and go. All are potential participants in disputes and each may have a varying level of commitment to or interest in the condominium community. In the course of an emerging conflict, this can affect both the intentions of those involved and their willingness to participate in finding resolution.

When one considers the ever-evolving nature of condominiums and reflects upon the length of time that is required to see a dispute through to resolution using the court system, obvious challenges come to light. The more time that is required to address a condominium conflict, the less likely that all key players involved in the dispute will remain part of the community. Sometimes, this works in favour of the community - such as a violating owner selling his unit and moving on; often though, it does not - such as when key witnesses fail to remain connected to the community by the time the matter proceeds to trial. This is not to suggest that ignoring the problem will eventually make it go away, but rather that the sheer duration of time required to see a condominium dispute through to a court-imposed resolution does not accommodate the natural progression of condominium communities. Time does march on.

Consider that at least one Annual General Meeting (AGM) will take place between the time that a condominium is typically engaged in litigation proceedings and the matter is ultimately heard. New directors can be elected to the Board and may not necessarily have the same views on how a particular issue should be addressed as their predecessors. A battle that prior directors felt was worth fighting may not be as significant to a new Board. Condominiums are political, after all. In one circumstance which our office experienced, a condominium community had individuals run for election to their Board of Directors with a view to stopping a compliance application that had been brought against them. (They were ultimately unsuccessful in such endeavour.)

While some communities have long-term relationships with certain service providers, it is not uncommon for a variety to assist a condominium community over the course of time. I was recently contacted in respect of a condominium litigation matter that has been ongoing for over 3 years and has yet to be tried in court...by the fifth lawyer to have carriage of the file!

A variety of circumstances have required so many different lawyers to have been involved in the matter yet this serves as an extreme example of the type of change that can occur over the lifecycle of litigation.

Condominium communities are ever-changing environments and going to court is a timely process. Mediation provides an opportunity to address conflict faster and in a conciliatory manner, which can serve the best interest of the community as a whole by addressing the actual interests of those involved in conflict, preserving the relationships of those in community with each other and offering less costly solutions than those incurred in the course of seeking a resolution imposed by a judge.

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**Marc Bhalla, Hons. B.A., Q. Med.** Marc has serviced the condominium industry since 2002 and has been engaged in Alternative Dispute Resolution since 2005. He holds the Qualified Mediator (Q. Med.) designation of the ADR Institute of Canada.

Marc actively manages condominium conflict and advocates for mediation in the early stages of condominium disputes. He earned an Honours Bachelor of Arts at the University of Toronto (Trinity College), holds an Executive Certificate in Conflict Management from the University of Windsor Faculty of Law and is a member of the ADR Institute of Ontario, the ADR Institute of Canada, the Toronto & Area Chapter of the Canadian Condominium Institute, the Association of Condominium Managers of Ontario and the Institute of Law Clerks of Ontario.

Marc brings unique insight in mediating condominium conflict through the knowledge and experience he has gained as a condominium director, resident and law clerk. His mediation practice is focused exclusively on condominium disputes.

Marc Bhalla carries professional liability insurance and is a regular contributor of articles to **CONDOCENTRIC.ca**



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