

# YORK CONDOMINIUM CORPORATION NO.323

## Minutes of the Annual General Meeting Thursday October 16, 2008

### MINUTES

The Annual General Meeting of the Unit Owners of York Condominium Corporation No. 323 was held on Thursday, October 16, 2008, in the Party Room at 50 Quebec Avenue, Toronto, Ontario.

#### **1. OPENING OF MEETING AND WELCOME**

Mr. Bill Henderson (President of the Board of Directors) presided as Chair and called the meeting to order at 7:05 p.m. With the consent of the meeting, Darek Fiedukiewicz was appointed Recording Secretary.

The Chair welcomed the Owners and made the following introductions:

Bill Henderson	President
Fern Stimpson	Vice-President
Robert Howell	Treasurer
Jean Cormier	Secretary
Gord Hamilton	Director (Owner Occupied Position)
Isan Murat	Property Manager, Brookfield Residential Services Ltd.
Chris Antipas	Regional Manager, Brookfield Residential Services Ltd.
Arthur Elliot	Corporation's Auditor
David Thiel	Corporation's Lawyer
Nancy Gillespie	Engineer, Gillespie Building Consultants Inc.
Darek Fiedukiewicz	Recording Secretary, DAROSS Computing Solutions

#### **2. CALL TO ORDER / PROOF OF NOTICE / APPOINTMENT OF SCRUTINEERS**

The Board requested that Chris Antipas and Isan Murat act as scrutineers for the evening, to report on the members present in person or by proxy and to compute votes on any poll taken or any adjournment, and to report the results thereof to the meeting.

The Chair confirmed that the notice of the meeting and all attachments had been delivered or mailed to each member of the Corporation and proof of service was duly filed by the Secretary of the Corporation. He instructed that the Proof of Service and the Notice of Meeting be annexed to the Minutes in accordance with the By-Laws of the Corporation. He also stated that the Affidavit of Proof of Service is available for inspection by any interested member.

Mr. Henderson reported that 84 units were represented by the Unit Owners in person and 25 units were represented by proxy for a total of 109 units, which exceeded the quorum requirement of 51 units (25%).

The Chair directed that the scrutineers' report be adopted and included in the Minutes of the Meeting. He declared that, having Proof of Notice of the calling of the meeting and the Scrutineers' Report having been presented, the meeting was properly constituted for the transaction of business as set out in the notice of meeting.

Mr. Thiel advised that the matter of the proposed by-laws requires a majority of the owners (103 units) in order for a vote to be passed. As such, the Board will ask for an adjournment of this issue in order to obtain greater participation through the solicitation of additional proxies. Another meeting will then be called.

### **3. APPROVAL OF MINUTES, ANNUAL GENERAL MEETING, NOVEMBER 8, 2007**

The Minutes of the last Annual General Meeting of members held on November 8, 2007 were duly mailed with the Notice to all members of the Corporation for their review. The Chair called for a motion to dispense with the reading of the minutes and to adopt them as presented.

It was resolved to dispense with the reading of the Minutes of the Annual General Meeting held on November 8, 2007 and to approve the minutes as circulated. All were in favour and the **motion was CARRIED.**

MOTIONED BY: Ms Bull (unit #302)  
SECONDED BY: Ms Stearns (unit #308)

#### **Discussion arising from the Minutes**

None

### **4. PRESIDENT'S REPORT**

Mr. Henderson presented is President's Report as follows:

*I will not take up too much of your time with this report. I have had the opportunity to write to you several times during the year on the subject of the 2009 balcony repair project and I see no reason to repeat that information again at this meeting. We will schedule another Information Meeting on this Project and I would ask you, therefore to raise any specific personal questions on this matter with Isan in the Management Office rather than at this meeting.*

*To go back to our meeting in November 2007, you will probably recall that the massive project to repair the East garage roof had just been completed along with significant changes to our front entrance décor but that the efforts of our hard-working landscape committee to "cover up" Nancy Gillespie's work had yet to bear fruit.*

*This spring all that changed and we were rewarded a magnificent floral display which, judging by the many compliments passed on to me personally, met not only with general approval from our owners but also from our neighbour all around us and which provided Isan with the opportunity to display some beautiful photographs in the elevators, to replace the much less popular rules notices!*

*Now, having mentioned the Rules and, given that I was largely responsible for their development, please allow me a brief comment. Many of you have asked me about them and I have been surprised that so many owners do not realize that they were distributed to ALL owners with the Information Package for the last AGM and that they were approved effective December 1, 2007. Possibly they were "thrown away" with all that paper, after the meeting? Whatever, you can obtain copies from Isan, in the Management Office and I do recommend that you at least "read them over". We all need to know what they are.*

*We did not intend to "fill the elevators" with them (or rather with summaries of them). That was an oversight for which I take responsibility and for which I apologize. We do realize however that 7 pages of Rules are hard to digest and I am pleased to tell you that your director and "Owner Occupied Representative" Gord Hamilton, has accepted the challenge to develop a readable "Easy Reference" brochure – similar to the one provided by YCC435. In the meantime, when particular occurrences occur which indicate the need, we may still have to resort to posting something in the elevators and on the notice boards.*

*I would like to take this opportunity to recognize the Landscape Committee and its individual members. The challenges they faced were enormous but they met and overcame them, to our lasting benefit and few of us will be aware of the many hours they have committed to our benefit:*

*Mary Hillborn (who does "double duty" when not busy on the Landscape Committee, creating seasonally appropriate displays and floral arrangements in the Lobby), Jock Galloway, Gayle Stearns, Colleen Donnelly and Aline Henderson.*

*Thank you all once again – we look forward to the surprises you will have for us in Spring!*

*The efforts of the Energy Committee, while perhaps less obvious than those of the Landscape Committee, have resulted in improved lighting in our stairwells, an energy tips package being developed for residents and new owners and helpful ideas on energy conservation being included in our community newsletter. Also deserving of your recognition are:*

*Anne Farraway, Lena Belanger, Sally Shaw and Pauline Walsh and your board would also like to extend special recognition to Paul Thornton who was instrumental, in the initial stages, of getting the Energy Committee group launched.*

*Then there are the many individual volunteers who donate so much of their personal time, quietly and somewhat "behind the scenes" for our benefit:*

*Ethel Thompson and Marg Caplan in the Library*

*Emily Davidson, Rheta Fines and Lynne Ritchie who continue to advise on decoration for the common areas within the building and, Terry Graham, Claudia Mykiuk and Sydney Mandzuk who have created such interesting and regular issues of ViewPoint50.*

*Not to be forgotten of course are the skillful selections and presentations of Dean Tudor, Bob Howell, Wendy Weaver, Sally Shaw, Eve Douglas, Anne ???? and Aline Henderson who have been responsible for the food and refreshments which we will all soon enjoy following this meeting.*

*I am sure I may have overlooked someone and I apologize for that but you know, I have been living here or a little over four years and I seem to recognize most of them! Is it possible that the "same people" volunteer to do these things every year? Perhaps, next year your President will have cause to recognize some new names?*

*While it may seem, to many of you, that this past year we have been "pre-occupied", perhaps overly so, with development and preparation for the Balcony Repair Project, there are other matters that have been addressed:*

*The Mechanical Penthouse and Canopy Roofs have been replaced and the "falling letters" identifying Quebec Avenue have been removed and suitably re-cycled – never to fall again!*

*Significant concrete repairs have been completed to the West Garage Exit Stairwells and under the Pool Deck – making me a "liar" when I promised you relief from "jack hammering" for a year – Oh well, you can't win them all can you?*

*Previously identified deficiencies in the Tennis Court have been corrected.*

*And administratively:*

*The Garage Easement allowing YCC435 access to our garbage disposal area, has been resurveyed to bring it into line with actual practice and will be incorporated into a revised "Joint Facilities Agreement" which will be negotiated with our sister condominium at 80 and 100 Quebec, during the coming year.*

*Members of your Board were personally involved, with Brookfield, in the search for and selection of a new Property Manager and Isan Murat has brought a new depth and understanding to our management group, which has been much welcomed by our staff, Radu and Carlos and by every one of us on the Board.*

*The need for four new By-Laws has been identified and they have been prepared and approved and will be presented at this meeting, for your confirmation.*

*Much preparatory work has been done developing the form and application of the Section 98 Agreements which will be required for continuing and forthcoming balcony installations following completion of the Balcony Repair Project.*

*As indicated by Yves Fournier, in his President's Report to you last year (and confirmed by me in a recent issue of ViewPoint50), funds have now been identified and set aside for the installation of an electronic key (fob) access system. Preliminary installation work has been initiated – if you have noticed those strange "black boxes" and green wires at some of our key entrances – these are now explained!*

*Our "Key Access" system is becoming more and more expensive to maintain (new keys are now \$25 each!) and the "low" of many keys over the years has left the system less and less secure. Electronic keys can be "de-activated" if lost or mislaid and have the added advantage of allowing us to "identify" their ownership and the time and place of their use in the event of a security breach. Together with the use of strategically placed "motion activated" cameras this system will significantly enhance our security. The progressive introduction of this system, in 2009, will significantly improve our security within the building.*

*Rest assured that the new system will be implemented gradually, probably "floor by floor". The two systems will overlap during the implementation period, with a planned series of "information sessions" to introduce and explain appropriate supporting information, on how to change over to and use the new system.*

## **5. AUDITOR'S REPORT**

### **a) Presentation of Audited Financial Statements for the period ending April 30, 2007**

The Chair called upon the Auditor, Mr. Elliot, to review the audited financial statements for the period ending April 30, 2007.

Mr. Elliot presented the following highlights:

- A standard auditor's report was issued with no reservations.
- The year-over-year Reserve Fund balance rose from \$840,289 to \$850,615 and the General Fund declined from \$68,248 to \$46,770.
- Common element assessments totaled \$1,509,001 from which \$550,000 was allocated to the Reserve Fund and \$948,640 was incurred in other expenditures. The Board also elected to transfer an additional \$60,000 to the Reserve Fund leaving a \$46,770 fund balance at the end of the year.
- Expenditures charged to the Reserve Fund were \$643,203.

Q. Ms Price (unit #2501) questioned whether the current stock market situation was impacting the Corporation's Reserve Fund.

A. Mr. Elliot explained that the Condominium Act restricts the Corporation's investments so there has been no impact. Permitted investments include government secured instruments normally earning between 3.5% and 4.5%.

### **b) Appointment of Auditors**

The Directors recommended the appointment of Arthur Elliot.

It was resolved to appoint Mr. Elliot as auditor for Corporation YCC #323 until the next Annual General Meeting with remuneration set by the Board of Directors. All were in favour and the **motion was CARRIED.**

MOTIONED BY: Mr. Howell (unit #902)  
SECONDED BY: Mr. Fournier (unit #2102)

## **6. NOMINATION FOR DIRECTORS' POSITIONS**

The Chair announced that two positions on the Board were to be elected for 3-year terms. Since Mr. Henderson was standing for re-election, he relinquished the chair to Mr. Thiel.

Mr. Thiel stated that the following candidates met the requirements noted and were included in the Notice of Meeting package and appear on the proxy forms:

Bill Henderson (unit #508), standing for re-election  
Sean Cumming (unit #2405), nominated by Gordon Hamilton (unit #306)  
Jock Galloway (unit #1908), nominated by Robert Howell (unit #902)  
Devis Cekani (unit #1504), nominated by Yves Fournier (unit #2102)

The Chair then opened the floor to further nominations and noted that these do not require a formal motion. No additional nominations were forthcoming.

It was resolved to close the floor to further nominations. All were in favour and the **motion was CARRIED.**

MOTIONED BY: Ms Weaver (unit #402)  
SECONDED BY: Ms Ginzel (unit #2308)

Each of the candidates was afforded the opportunity to introduce themselves.

## **7. APPROVAL OF BY-LAWS NO.8, 9, AND 10**

Mr. Thiel explained that only 109 units were represented at the meeting either in person or by proxy so the Board has requested that this portion of the meeting be adjourned and reconvened in a couple of months.

Ms Komorowski (unit #2607) insisted that a full written explanation, in layman's terms, be provided to the Owners in advance of a vote.

It was resolved to adjourn the approval of By-Laws No. 8, 9, and 10 to a future date. All were in favour and the **motion was CARRIED.**

MOTIONED BY: Ms Komorowski (unit #2607)  
SECONDED BY: Ms Donnelly (unit #705)

### **a) To consider By-Law No. 8 and to confirm same or otherwise**

Mr. Thiel explained that a Standard Unit By-Law clearly defines items that the condominium insures including those items within the units.

Each unit may have different fixtures, wall coverings, ceilings, floors, etc. which introduce uncertainty that can lead to increased insurance premiums, disputes regarding valuation, etc. For example, an owners' insurer and the corporation's insurer may dispute one or more of these items. This can even lead to litigation.

A Standard Unit By-Law lists the basic components within the units that will be covered by the Corporation's insurance. All other items should then be covered by the Owners' own insurance for contents and betterments.

Mr. Thiel noted the proposed by-law only includes units in the high-rise building.

Q. Mr. Virak (unit #1707) felt that the Corporation's Declaration already contained a detailed description of unit boundaries.

A. Mr. Thiel agreed but added that a Standard Unit By-Law would further refine this definition for the purposes of insurance.

Q. Mr. Leies (unit #1702) questioned how the townhouses would be covered.

A. Mr. Thiel stated that the Board intends to add townhouses in the future but they would be handled on a case-by-case basis for the time being. Specifically, the insurers will need to determine what is considered to be standard. This is the situation the Board trying to eliminate, first for the high-rise and soon for the townhouses as well. If the by-law does not pass, the status quo will remain and this can lead to disputes, delays, etc. As a result, the by-law provides additional certainty and helps control insurance premiums.

Q. Ms. Ostafew (unit #2301) requested an example of a possible dispute.

A. Mr. Thiel cited a scenario where an Owner may have installed expensive solid oak cupboards. If a fire occurs in the absence of a standard unit by-law, there is no definition of what is insured and what is not. The Corporation's insurer could simply state that they will replace the cupboards with builders grade material. This dispute could then escalate to litigation.

Mr. Thiel reiterated that the Corporation is responsible for only basic building components so Owners should ensure they carry their own insurance for contents, as well as betterments/improvements. In fact, the Condominium Act requires that a standard unit by-law be established immediately for new condominiums.

Mr. Thiel also noted that an element that does not affect all units was listed in the proposed by-law so a minor amendment will be required to this clause before a vote is taken at the next meeting. He encouraged owners to also raise any questions/suggestions for amendments to Board in advance.

Q. Ms Vadakkan (unit #1706) questioned whether replaced carpet would be covered under the new by-law.

A. Mr. Thiel explained that replacement of carpet with hardwood or improved carpeting would only be covered by the Corporation's insurance to builder's grade.

Q. Ms Bull (unit #302) recalled a water leak after which she was permitted to select carpeting for replacement. Unfortunately, the installed material was inferior and she was told that it was replaced with material equal to the original carpets.

A. Mr. Thiel noted that the new by-law will help avoid such disputes by defining such items in advance.

Q. Ms Durasevic (unit #2001) asked whether wear and tear would be covered.

A. Mr. Thiel advised that wear and tear was not insurable.

Q. Ms Komorowski (unit #2607) requested comment on situations where damage recurs in a unit.

A. Mr. Thiel explained that any such cases, if insurable, would be dealt with on a case-by-case basis.

**b) To consider By-Law No. 9 and to confirm same or otherwise**

Mr. Thiel next introduced the Extended Damage Recovery By-Law.

The Condominium Act dictates that, where a tenant or guest causes damage to a unit (ex. sets fire to a carpet) and the item is insurable, the specific Owner will be liable for the Corporation's \$1,000 deductible as this represents a reasonable allocation of the charge. The Condominium Act also allows the Corporation to extend the by-law to circumstances where damage is caused to multiple units. This is particularly important as damage frequently occurs to units below.

Another example where the by-law may be enacted is where damage results and originates from outside a unit such as in the parking garage area. Alternately, an Owner may cause damage to a hallway carpet by moving furniture and he/she would be liable. Mr. Thiel reiterated that Owners should also consider purchasing a liability extension to their own insurance coverage if they do not already have this.

Q. Mr. Fournier (unit #2102) questioned whether damage to several units would result in a \$1,000 deductible chargeback for each.

A. Mr. Thiel noted that this would result in only one insurance claim so only one \$1,000 deductible would apply.

Q. Ms Drop (unit #1708) reported a consistent leak in the area of her locker. She stated that she had written to the board but has not received an answer and the leak is causing damage from the common element area.

A. Mr. Thiel clarified that owners would not be responsible for damage caused by the common elements of the Corporation. The proposed by-law does not cover acts or omissions of the Corporation (exp. due to lack of maintenance) for items charged back to an Owner.

Q. Mr. Leies (unit #1702) questioned how an Owner's refusal to pay for a deductible would be handled.

A. Mr. Thiel explained that the amount could be added to the common expenses for the unit and treated under the usual procedures for collecting arrears. This includes provisions to register a lien on the property after notice was given regarding a delinquent amount. Amounts collected by the Corporation will be used to pay the deductible to the insurance company.

**e) To consider By-Law No. 10 and to confirm same or otherwise**

By-Law No. 10 deals with mediation and arbitration procedures.

The Condominium Act which came into force in 2001 states that disputes between an Owner and the Corporation are to be dealt with through mediation and, if necessary, proceed to arbitration; however, it does not detail the procedures. The proposed by-law establishes a procedure by which an Owner can serve notice, sets timelines that must be met, and also describes the procedure to appoint a mediator/arbitrator, etc. For example, under the current situation, an Owner with a complaint against another for excessive noise must initiate legal proceedings if a resolution cannot be achieved. The courts may then appoint an arbitrator. The new by-law will reduce costs and expedite this process to the benefit of both the Owners and the Corporation itself by clearly defining responsibilities and timelines.

**8. ELECTION RESULTS**

Mr. Thiel announced that Bill Henderson and Jock Galloway were elected to the Board for 3-year terms.

Mr. Thiel then returned the chair to Mr. Henderson.

**9. OTHER BUSINESS**

Mr. Henderson recognized Lena Belanger for her extensive contributions to ViewPoint50.

Q. Ms Vadakkan (unit #1706) requested that the security camera feed be divided into two separate channels or that the screen to be divided to capture video from each entrance. This will make it easier to monitor for visitors over the current system which alternates between camera locations.

A. Mr. Henderson stated that the Board would investigate options available to implement the change.

Q. Ms Vadakkan (unit #1706) expressed concern that there was a lot of seepage/water leaking from the ceiling into the P2 level even though the Corporation invested heavily to repair the membrane on the P1 level.

A. Ms Gillespie explained that the area in question was actually in a different section of the garage and that repairs were being made to the garage roof slab below the pool. Ms Gillespie confirmed that sections where the membrane was fixed remain under warranty.

Q. Ms Vadakkan (unit #1706) stated that the door to the left of parking spot P2-109 was experiencing drippage.

A. Ms Gillespie agreed to investigate.

#### **Announcements**

##### Fern Stimpson - Vice President

Mr. Henderson stated that Ms Stimpson was leaving the Board. He recognized her for her significant service to the Corporation as a director for six years including support to the HR Committee and playing a key role in the selection of the new property management firm. Ms Stimpson served while also very busy as a Assistant Vice-President of a large corporation. Mr. Henderson thanked Ms Stimpson mentoring him and expressed sadness that she will not be on the next Board.

Ms Stimpson thanked the Board and all the Owners for their support.

##### Art Show

It was announced that an on-site art show was scheduled for Sunday October 19<sup>th</sup>.

##### Proxy Forms

Owners were reminded to provide a completed proxy form if they had not already done so.

#### **10. TERMINATION OF MEETING**

It was resolved to adjourn the meeting at 8:49 PM. All were in favour and the **motion was CARRIED.**

MOTIONED BY: Mr. Howell (unit #902)



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**President**



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**Secretary**