



Condo Connection

Wilson, Blanchard Management Inc. – *Condominium Management with Experience and Integrity*
www.wilsonblanchard.com

The WB Condo Connection highlights Ontario condominium related articles and educational items that may be of interest to Boards of Directors and condo owners. It is published online and available on our website (www.wilsonblanchard.com) as well as in hard copy format to each of the members of our Boards of Directors.

We hope you enjoy this edition and we welcome your comments, suggestions, or article topic requests by email to newsletter.editor@wilsonblanchard.com or by mail to:

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WILSON BLANCHARD ACMO2000 RECERTIFIED

By: Dean McCabe RCM, ACCI, AIHM
Vice President of Operations - Toronto

Wilson Blanchard is pleased and proud to announce that our ACMO2000 recertification audit was a complete success and that our standing as an ACMO2000 Certified management company has been renewed for a three year period.

The ACMO2000 program has been designed to allow an independent auditor to look at the business practices of a condominium management company and compare them with the approved best practices and standards set by the Condominium Management Standards Council. This type of certification and review of normal operating procedures, to ensure that they comply with company policies and provincial legislation, is used in many arenas of the business world.

Many in the public are aware of ISO standards as they relate to a variety of manufacturing operations. The ACMO2000 designation is the ISO style standard that applies to condominium management firms.

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It is a voluntary practice that we at Wilson Blanchard dedicated ourselves to three years ago. It affects every facet of our operations and we believe it provides a level of comfort and trust to our clients, in knowing that they have selected a leader in the industry as their management company.

Wilson Blanchard has been preparing for our recertification audit since the spring and has looked at all facets of our policies and procedures to update them as necessary, and ensure that the standards and practices that those policies set are being followed. We also advised our managers of the impacts on property management practices since an important part of the re-certification process was the selection of random properties for review by the independent auditor.

Our financial reporting department and HR department policies were scrutinized and a report from the auditor was filed by BSI, the auditing firm that performed the review. BSI is an ISO auditor conducting reviews for that program and we are very proud of the clean report that was filed on our operations.

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A great vote of thanks goes out to every member of the WB Team. We took this review very seriously and the results show in our accomplishments. This success belongs to every one of us and it solidifies our company's position as a leader in our industry.

This is how you become the most trusted name in Condominium Management.

A Bit of Planning Means No Surprise! Snow Maps Are Good For Everyone!

By: Darren East
Property Manager – Waterloo Region

It does not matter if you are a townhouse site or a multi residential building; a snow map is a good thing!

Each year, take a few minutes with your snow clearing service provider to review your snow map for the year. Your snow map will clearly identify how snow clearing operations are to be executed at your property.

Most contractors will “push” snow in a straight line. This is the most time efficient and cost effective way to clear snow. A snow map will show the direction of travel for the contractor when they are on site and where snow will be piled and stored through the snow season.

By reviewing your snow map, you will proactively be ensuring there are no new obstacles for the contractor or corporation assets, such as fencing or other items that can be damaged as a result of snow clearing and snow piling. Tricky areas or zones that have had problems in previous years can be identified early in the game, and a plan put in place to effectively deal with them for the coming season.

Many Boards of Directors will recall the heavy snow season we had last year that resulted in many additional and unexpected costs such as relocating snow on site or complete snow removal from the property.

Remember that clear communication is ALWAYS the key to reduce frustration with your owners. Consider issuing a pre-winter notice about snow clearing, including your snow map and even suggest the strategies and solutions available when snow management becomes an issue in January and February.

A few minutes of planning today will help to eliminate surprises, and will give everyone clear direction on what to do when the need for decisions about snow arise.



Employee vs. Independent Contractor

By: Jeff Lack, BACC, CPA, CGA
Manager of Financial Reporting

As most people are aware, residential condominium corporations in Canada do not pay income tax – they are registered as not-for-profit entities under the tax act thereby exempting them from paying federal and provincial income tax (assuming they maintain their not-for-profit status, which is a discussion beyond the scope of this article). However, that not-for-profit status does not exempt the corporation from having to follow the many other sections of the Canadian Income Tax Act. For example, the corporation must still file an annual tax return despite not being taxable.

Likewise, the corporation must continue to abide by the rules that pertain to employee vs. independent contractor status of the individuals that perform work on behalf of the condo. This is an important distinction to make for both the corporation and the individual performing the work as the difference has an effect of many factors including (but certainly not limited to):

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- The corporation's liability for employment benefit contributions;
- Insurance; and,
- How the worker is treated under the Canada Pension Plan and personal Income Tax rules.

From the Board of Directors perspective, improperly classifying and paying an individual as an independent contractor rather than an employee can have a significant impact if the corporation is audited. The Canada Revenue Agency (CRA) does perform audits for reasons other than income taxes and they may hold the condo responsible for un-remitted employment deductions, including the employer's portion of CPP and EI. This may also then extend to related legislation such as WSIB and create significant liability for the corporation, not to mention the triggering of an audit on the individual's personal tax return. From the individual's perspective, there are advantages and disadvantages that exist in either case, whether the individual is considered an employee or an independent contractor.

So how should a condo corporation know whether an individual should be treated as an employee or an independent contractor? Unfortunately, it is not as simple as choosing whichever one the corporation (or the individual) wants. The factors that determine an individual's status have been set by precedence in many previous court cases including **67112 Ontario Ltd. v. Sagaz Industries Canada Inc.**, [2001] 2 S.C.R. 983, 2001 SCC 59 in which it was stated:

"The central question is whether the person who has been engaged to perform the services is performing them as a person in business on his own account. In making this determination, the level of control the employer has over the worker's activities will always be a factor.



However, other factors to consider include whether the worker provides his or her own equipment, whether the worker hires his or her own helpers, the degree of financial risk taken by the worker, the degree of responsibility for investment and management held by the worker, and the worker's opportunity for profit in the performance of his or her tasks."

The CRA has therefore developed four general tests to determine an individual's employment status:

1. Control

- a. An employment relationship is indicated if the payer determines how, what, where and when work will be done
- b. An employee often performs specific, recurring tasks (i.e. that could be outlined in a job description) and often has specific, but not necessarily regularly, scheduled hours
- c. A self-employed individual is generally free to work when and for whom he / she wishes and usually works for more than one payer
- d. The working relationship of a self-employed individual does not present a degree of continuity, loyalty, security or subordination

2. Chance of Profit / Risk of Loss

- a. Self-employed individuals usually have a degree of financial risk and an opportunity for profit
- b. Employees are not usually responsible for costs incurred, including insurance, where self-employed individuals are

3. Integration

- a. Is the work an integral part of the normal activities of the corporation? If so, the individual is more likely to be considered an employee
- b. Employees report to a specific individual / group (i.e. the Board of Directors) within the corporation and have their performance reviewed
- c. Employees are remunerated on a regular basis where remuneration for self-employed individuals is at risk based on performance

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5. Tools & Equipment

- a. Self-employed individuals usually provide their own tools and equipment and are responsible for their maintenance, as well as providing the materials and supplies used
- b. Independent contractors are able to sub-contract and / or hire additional individuals to complete the work whereas employees usually can not

As you may notice, the CRA has significantly slanted the rules to ensure that individuals are more likely to be considered employees than self-employed. The above are only some of the examples used and many more specific facts may be used by CRA to determine the actual relationship, however it should be noted that most commonplace attempts to create the appearance of an independent contractor relationship – such as issuing invoices, entering into a “service contract” etc. – when the above factors clearly indicate an employment relationship, have been tried in court and have failed.

Additional specific examples within condominiums that may indicate an employee relationship include submitting time sheets, providing building specific benefits such as reduced rent or common fees, providing regular pay increases or bonuses, and requiring vacation approval / tracking. Boards should also be careful when paying employees, for example Superintendents, for “extra” work such as weekend or after-hours coverage, additional landscaping or special cleaning / maintenance requests as CRA will very likely consider this to be overtime worked by an employee rather than payment to an independent contractor.

It is almost impossible under the existing rules to have an individual work as both an employee and an independent contractor during the same time period for the same payer.

As such, regular payroll withholdings should be applied to these extras rather than being paid separately to ensure compliance with the Income Tax Act and employment laws.

You may wish to take a moment to consider the individuals working within your condo community and ask yourself “Based on the criteria set out by CRA, is this individual truly an employee or an independent contractor and are we as a Board of Directors following the proper procedures in paying this individual in order to comply with legislation and reduce any potential risks to the corporation?”

Welcome!

Wilson, Blanchard would like to welcome our newest managed properties:

H.C.C. 19	W.S.C.C. 498
H.C.E.C.C. 513	W.C.C. 134
T.S.C.C. 2194	T.S.C.C. 1530
W.S.C.C. 552	W.S.C.C. 515
W.C.E.C.C. 446	
B.S.C.C. 103	

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