

“Conflict Resolution Techniques in Strata Communities”

VISOA SEMINAR – APRIL 17, 2016

First Speaker – Tom Semper of Grace Point Strata Management Services

“Recognizing Conflict”

Introduction:

I first got interested in conflict resolution when I was about ten and my older brother used to walk down the middle of the street picking fights and I used to walk about 10 feet behind saying “He really doesn’t mean it.” As it turned out, that wasn’t a really effective conflict resolution technique. I hope what I share today will be a bit more helpful.

Did everyone get a copy of the Comic when you came in – “the OTHER COAST” comic about Alvin and Alice and Eddy? And the conflict over garbage disposal and perch privileges. Could you relate to the conflict in the comic?

My task is to talk about how to recognize conflict. And while the conflict in that comic story is easy enough to spot, the root causes may not be so obvious. So I’ll unpack the lessons hidden there a bit later. But first I want to set the context and talk about the cost of conflict.



The Context of Conflict: A love-hate relationship

People in BC have a kind of love-hate relationship with Strata living. On the one hand, over 1 million people live in about 30,000 strata communities. That represents about \$180 billion dollars in property values and \$1.5 billion annually in Operating and Contingency fund money. Clearly, a lot of people are heavily invested in stratas, and love them, for the convenience, the security, the added amenities, and the good value they can be. We love the “perch privileges!”

At the same time, we hate the conflict that is often associated with condo living because that conflict can come at a heavy cost.

The Cost of Conflict: Financial and Physical

When a community gets a reputation for conflict, it is costly – both financially and physically.

Financial: There is a direct and significant financial cost to individuals and the community when conflict is continuous or chronic. When there are few, if any, victories the Council or Community can point to and say, “Yes we had conflict over that issue, but we resolved it! When a community can’t say that, the conflict creates uncertainty. Buyers stay away because of the financial risk. Property values go down.

Physical: But the greatest cost is not financial, it’s physical. Your home is where you retreat, regroup, recharge, recreate yourself. If you can’t do that because of unresolved conflict in the community, with your neighbours, the cost to your health can be high.

While a certain measure of financial and physical health is reasonable to expect, sometimes conflict can arise from unrealistic expectations. Nothing brings the physical and the financial together like building repairs. But often our thinking about building repairs is so utterly unrealistic that it creates conflict.

Years ago our family had a printing company and my dad had a poster of the comedian Jonathan Winters by the front door. And the poster had Jonathan Winters yelling into the phone: “You want it GOOD... FAST... and CHEAP! Pick two and call me back. That’s realistic. We get to choose two. We can’t choose all three. That would be unrealistic. We can choose good and fast, but it won’t be cheap. Or we can choose good and cheap, but it won’t be fast. Or we can choose fast and cheap, but more than likely, it won’t be any good.

The closest we can come to getting good, fast *and* cheap is good planning.

In strata management I look for “good and fast” and I work on cheap. And by “cheap” I mean I work on my planning, scheduling, communicating with the contractor. Because if I can say, “I know you are good. And I know you are fast. Here is what I am prepared to offer you if you can be cheap too. I can offer this body of work, at this time so you can schedule it and line up your labour well ahead of time. And you can be sure you will get paid – assuming your record of good and fast holds – you will get paid within 30 days of completion. Guaranteed work! Guaranteed pay! I know that’s attractive to you. Now sharpen your pencil!”

While unrealistic expectations can set the stage for conflict, the root causes of conflict go much deeper.

The Cause of Conflict:

What really causes conflict? It’s the lack of something. And I would suggest that more often than not it is either, a lack of FACTS, a lack of FAIRNESS, or a lack of GENEROSITY. And the lack of all three are illustrated in our comic handout so let’s look at it together.

1. A Lack of Facts causes an owner verses owner conflict – Lesson 1: Be Factual

The comic begins with the words: “Look at that” Good so far. If you see, hear or smell something that you think isn’t right, first check the bylaws and rules – get the facts – and if you still think things aren’t right, and that the bylaws or rules are not being respected, then report in writing to the Council: the date, time, place, and people involved in the alleged offense. Eddy didn’t do that.

Instead he says, “Hey Alvin, if you don’t remove your garbage from the common branch I’ll report you to Council. He makes the issue personal and takes on the role of Council.

Rather than keeping the conflict between the bylaws/rules and the alleged incident, now it’s personal. Don’t make things personal. And don’t take on the role of Council. Your role as an owner or resident is to report the facts

as you know them in the manner the Strata Property Act provides. Council's role is to consider the facts and administer the bylaws in a fair manner. Conflict is often caused by a lack of facts. It's also often caused by a lack of fairness.

2. A Lack of Fairness causes an owner verses Council conflict – Lesson 2: Be Fair

Now... if Alvin who is on Council, knows the bylaws, he certainly doesn't know the Section 31 of the Strata Property Act or his role on Council. He says, "Go right ahead Eddy. I'm on Council, along with all my buddies." Alvin thinks that because he is on Council, he is above the law. He is so confident in his place of privilege that even if he abstains from voting on this issue, his Council buddies will support his position. That's unfair. Now the issue isn't just between the bylaws and the incident, or even only personal, between Alvin and Eddy... now the conflict is between the Council and Eddy. Now the conflict has deepened, due to a lack of fairness.

3. A Lack of Generosity causes an owner verses Community conflict – Lesson 3: Be Generous

Naturally, all the unfairness causes Eddy to say: "I hate stratas." Who wouldn't! But that's not the end of it. A lack of the facts, and a lack of fairness, leads to a lack of generosity. Not only is Council unfair, they are punitive, which is the opposite of being generous. In so many words they say "For being a complainer and daring to challenge our authority: 'Council has voted to revoke your perch privileges'." In doing so they overstep their authority because it is very unlikely that the Council has the right to deny any owner the use common property. At this point Eddy has two options: he can fight or he can flee. He can take the Council – which means the entire strata community – to court – in which case he would likely win – but what would life be like if he did win – the community would be against him. Or Eddy can move. The situation might have been salvaged if Council had shown some generosity – admitted they had erred – and administered the bylaws correctly.

When there is conflict, ask yourself what is missing? Do I have all the facts? Have I been fair? Have I missed an opportunity to be generous?

There are various ways and means provided in Law to get the facts and ensure fairness, with opportunities along the way for generosity. These are:

1. Observing Council – Getting the Facts
Owners have a right to know when and where Council plans to meet. Owners and their guests are welcome and encouraged to attend Council meeting as “Observers.” They are not permitted to speak at those meetings unless the Council agrees. They are there to listen. To gather facts.
2. Being heard by Council – Getting the Facts
Should owners have something to say to Council, the form and process provided in law is to request a “hearing.” A hearing is exactly what it suggests. An owner wants to be heard by Council on a particular issue. Owners may request a hearing at any time and Council is required to “listen” in order to better understand the concern. Should an owner want a decision from Council on an issue, Council is required to reply in writing with 7 days. So an owner may...
3. Receive a Ruling from Council – Getting Fairness or Generosity
4. Seek Mediation – Agreeable to all parties – Fairness or Generosity
5. Consult the Conflict Resolution Tribunal – Fairness or Generosity
6. Submit to Arbitration – Fairness
7. Get a Judgement in a Court of Law – Fairness

Notice as we get further down the conflict resolution road, generosity becomes less of an option, and justice is all that is left. And while justice may provide a measure of conflict resolution, it rarely brings a deeper level of reconciliation which is possible with generosity.

Justice is getting what you deserve. Generosity is getting what you **don't** deserve. It is getting better than you deserve. With generosity there is an element of

surprise, relief and joy. And therein lies the power of generosity to resolve conflict in a way justice cannot.

Having looked at the Context, the Cost and the Causes of Conflict, let's turn now to the Symptoms of Conflict.

The Symptoms of Conflict: "I told you I wasn't feeling well." – Epitaph

Sometimes recognizing conflict is obvious, like in the comic. Sometimes it is not. It helps if you know the symptoms. Like a tickle in the throat – a cough. It could be just a cold. Or it could be cancer. If it persists it's probably best to have it checked out and dealt with. The same holds true for the symptoms of conflict.

I once saw an epitaph on a grave stone that read: "I told you I wasn't feeling well." There are a lot of strata communities with symptoms of conflict but either no-one can recognize the symptoms, or no-one willing admit there is a problem until the situation is so broken, the community life is virtually dead.

In those communities you will hear people saying things like: "Time heals all wounds." In fact, time heals nothing at all. Often things get worse over time. There may be the appearance of peace or resolution, when in reality the people have just rubbed each other the wrong way for so long that callouses have built up between them and the people just don't feel anything anymore. Conflict becomes common – it's the norm – with half the people seems to be looking for a fight and the other half are running from it. Half are saying: "Is this a private fight or can anyone join?" And the other half are saying: "I'm sorry, do I owe you an apology?" Those are communities in conflict

Here's a few other symptoms of conflict to look for:

- When meetings get, either very loud, or very quiet. It may mean that people are either, not feeling heard, or feeling ignored, so they speak up and pick a fight, while others are afraid to speak, and are silent.
- When meetings are either very long or very short. Long meetings can mean Council either can't make decisions or due to poor record keeping they keep repeating or going over the same ground. There is no accumulated corporate wisdom because they can't remember what they decided, or trust the decision they made last month or last year. Very short meetings

may mean a lack of transparency between council members and owners or a lack of confidentiality between council members. When Council members can't discuss things freely without fear of it being repeated on main street, things can get very quiet, and the meetings very short.

- When minutes are either very long or very short. Very long if the minutes are used as a form of “public blaming or shaming” – this person owes money or the strata manager did this or didn't do that. Minutes should record what was decided and done. Not necessarily everything that was discussed. When there is a need to tell everything, there is very little trust or council confidentiality. On the other hand, if the minutes are short, it can mean council as a whole is afraid to say anything.
- If you can't get people to stand for Council or the same people are on Council year after year, it may be a sign of fear or apathy among owners or a lack of community representation on Council. Rarely is it because things are going so well or there are no other people who could do just as good a job or better.
- When any one or two people, like the strata manager or the strata president, are seen to be “in-charge” and “running things” rather than the strata council as a group, you have for sure, the formula for big conflict. Why? Because on Council, all decisions are group decisions by majority vote of council members elected by owners at a General Meeting. As long as the council operates within the limits of its authority, which is set out in the Strata Property Act and the minutes of the Annual General Meeting, things go well. As long as the strata manager operates within the limits of authority set out in the Agency Agreement or the Council meeting minutes, things go well. But if any one of these becomes isolated, separate from the authority of the group, it's a sign of serious trouble, a symptom of conflict.
- When owners send emails to the strata manager and copy all Council members or worse still send the email to only some council members, it may mean that the owner doesn't trust the strata manager to forward the

information to Council. It may be an attempt to divide council or isolate council members.

Let's be clear... owners have a right to communicate with Council. At the same time, Council has the right to determine the form that communication will take.

One Council put it this way in the minutes of a meeting recently:

“All communication of issues or concerns by an owner are to be sent to Tom Semper of Grace Point Strata Management Services. For urgent matters, Tom can be reached at 250-802-5124. For non-urgent matters, please email Tom at tom@GPstrata.com. Please do not copy Council on these emails. It is Grace Point's task to deliver the request to Council in a responsible and timely manner. All decisions by the Strata Council are made by majority vote. Thus, it is imperative that Council be addressed as a group, not on an individual basis.”

Well... that's a word to owners from a Strata Council. Let me add this symptom of conflict as a word from owners to Council:

- When Council members forget Section 31 of the Strata Property Act, conflict is just around the corner. Section 31 that reads:

“In exercising the powers and performing the duties of the strata corporation, each council member must (a) act honestly and in good faith with a view to the best interests of the strata corporation and (b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.”

To each Council member it says: be honest, check your motives for being on Council. Is it the group interest you have at heart? You don't have to be a lawyer or accountant or an engineer to be on council. You need to be careful, consistent and reasonable. And the law figures a group of individuals who act like that will get things right most of the time.

In my experience the best Council members don't try to be Council members. They just try to be good owners. They know the bylaws and respect them. They are good neighbours – kind and fair. They lead by example. The best Council members only think of themselves as Council members when they are sitting around the table with all the other Council members. If it's not a formal meeting, and a Council member is missing, they are owners. The only time they get to be Council members is when everyone is together – that's when they “re-member” – which literally means “Getting the parts or members together again” – they “re-member” “Oh ya... now I am a Council member. Now I can do my Council job.”

Conclusion:

We all know the saying, “There's only two things for certain in life: death and taxes.” I would add one more: CONFLICT. Death, taxes and *conflict* are certain. And just as tax avoidance is permitted but tax evasion is illegal, I would suggest that conflict avoidance is a really good idea, all the while understanding that conflict evasion or elimination, will never be entirely possible. So, in closing, here are a few conflict avoidance tips to ponder and perhaps put into practice:

1. See people as the solution, not the problem

I know that VISOA and CHOA both say the most common issues they hear about are the P's: people, pets and parking.” Why these things particularly? I think it is because these areas can be hold an especially strong emotional aspect. People can be especially hurtful. Hurt people... hurt people. We get hurt and more often than not try to return the favour.

We also have a lot emotionally invested in our family pets, and our private parking stalls. And problems may arise. But I would prefer we not see people as problems. People are solutions. Plants are problems. My three P's are “Plants, Pet's and Parking.” Conflicts arise around the subject of plants, pets and parking a lot.

But whenever I start to think of people as problems, my conflict resolution skills diminish. When I see people as the solution, my skills improve.

2. Build a culture of trust. We can do that by asking positive questions like “Where do we want to be 5 years from now? Or by asking negative questions like “What are the things that are working against promoting peace of mind and preserving property value? And set goals to move in that direction. Council goals might be: We aim to create peace of mind for all owners, create a pleasant experience for Council members, and create a partnership with our management company.

It's one thing to get respect from others. It is another thing altogether to get trust from others. A Strata Council can get respect because they hold all the cards legally. There is a lot of legal authority the Strata Property Act gives to the elected Council. But that respect can be more out of fear than support. Trust is respect without the fear. Trust is respect with support. Council and Strata Manager's need to do the things that create a culture of trust.

3. Be Generous: When someone around you hasn't been legal, don't be legal back, be generous. When you want to give someone what they deserve, give them what they don't deserve, better than they deserve. That is how you would like to be treated isn't it? Cut some slack. Show some generosity. Why is that a good idea. Because the next time... and there will most certainly be a next time... you will be the one who was illegal, who did the wrong thing... big or small... we all make mistakes. So don't be surprised when someone disappoints with an error, be really, and really good at handling it. I gave up on perfection this side of heaven a long time ago. I just work on quick recovery! And I look for that in others. That's conflict resolution.

Don't get me wrong, I'm not saying that mediocrity or shoddy work or unethical behaviour is acceptable. All I am saying is “Are you as good at showing generosity as you are in doing the right thing?” As much as I try, I don't do the right thing all the time. And you don't either. So let's show a bit of generosity to others the next time they disappoint and it causes you some pain. Tomorrow it may be you needing a bit of grace.

There is an old Scottish blessing I shared at the funeral of a Strata Council president who was really great at conflict resolution. I think it might be adopted as the officiate blessing of strata owners. It goes like this:

May the roof above

Never fall in;

May we below

Never fall out.

For that to happen, we need to be able to recognize conflict and respond to it well.

Second Speaker – Sandra McCulloch

“Responding to Conflict”

What to do about difficult people?

Tammy Lenski quote:

When we notice something another person resists, it is seductive to interpret their resistance as defense against the truth that we see and they can't accept. When we glimpse something we don't like in another person, it is seductive to characterize it as a character flaw or even a personality disorder. These seductions may well be more examples of evolutionary baggage that isn't very useful in 21st century life. These seductions cause us to mistakenly assume we are a better judge of their life, their experience, and their self-awareness than they are. And they distract us from what is much more likely: That people are better experts in their own experience than we can ever be.

Check our assumptions. Become curious. Ask questions about the other person's concerns.

In order to reach a collaborative solution, both sides need to

- Recognize a conflict exists
- Want to resolve the conflict
- Be willing to try a collaborative approach
- Depersonalize the conflict and work together on issues

Assertion: put forward info about yourself is important but may be received with

resistance, defensiveness or hostility. You need to balance assertion with the other person's reactions. Be aware of your own defensiveness and defuse it.

Empathy: Put yourself in the other person's shoes, and this can reduce defensiveness and increase rapport.

Clarity: Reflect what you think the other person said to make sure there's understanding and clarity. Ask the other person to reflect what you said to ensure your words were understood.

COMMUNICATION ISSUES

Challenges to effective communication:

We don't say what we really mean

We're not in touch with our feelings

We find it hard to vocalize our feelings

We interpret words differently

We hear what we want to hear

We are so busy thinking about what we're going to say next that we don't hear what the other person is saying.

We don't give accurate feedback or confirm our understanding

We have different backgrounds

We lack empathy and understanding

To communicate in a way that promotes collaboration, we aim to

Reduce defensiveness

Encourage openness and flexibility

Promote cooperation and positive rapport between parties and improve relationships

Listen to understand rather than to defend and argue

Create shared meaning (Get on the same page)

De-escalate conflict (Listen!)

Explore the common and different ideas you share.

How to speak collaboratively – Hard on the issue, easy on the people

Qualifying: "The only time noise is really a problem is in the evening."

Taking responsibility: "I was too quick to shut you down. Please tell me the how you feel."

Describing: "I notice whenever I talk to you, you don't make eye contact."

Self-disclosing: "I've been really stressed about this issue and feel like giving up."

Soliciting and disclosing feedback: "What impact did the strata council's decision have on you?"

Empathy/Support: "I understand you are annoyed when you don't understand the reasons behind the decision."

Emphasizing commonalities: "We both agree it's important to resolve this conflict."

Initiating problem solving: "I believe we can work towards a solution that will satisfy us both."

POWER and CONFLICT

Power can help or hinder conflict resolution. It's an energy source which we can use to advance our own goals and influence the ability of others to meet their goals. Power is largely a perception and is often at the root of conflict.

Constructive uses of power tend to de-escalate conflict while destructive uses tend to escalate conflict.

Sources of power....

If you believe you have more power,

- Consider finding a location that's more comfortable for the other person,
- Share the resources you have
- Be willing to listen to the other person first
- Seek to develop a level playing field

If you believe you have less power,

- Find ways to increase your power sources
- Assert yourself and continue to listen and acknowledge the other person's interests.
- Think about ways to lessen your dependence on the other person's source of power

ASKING GOOD QUESTIONS

What is important to you about the (issue)?

What is it about.....that is important to you?

What was your intention when.....?

What was your understanding of.....?

If things don't change, what will happen for you?

What do I need to understand about

What am I missing?

ASSERTING YOURSELF IN A CONFLICT

Request a change of behavior

Acknowledge the other person's experience

Commit to a resolution

Describe their behavior objectively, descriptively.

Express the impact of their behaviour on you using "I" language. Speak for yourself about yourself.

Specify your preference. "I would prefer we take a break and talk about this in an hour once we're calm."

If this doesn't work, set a limit. Express the impact the behavior has on you.

Request an immediate change. State the consequence if the request is ignored.

Disengage: Express the impact of the behaviour on you. State the time you will reconnect. Stop talking and leave.

DEALING WITH ANGER

Anger can be expressed by blaming, attacking, judging, getting even or punishing.

When expressed in this way, anger is misdirected, unhealthy and destructive.

Your task is to learn how to focus angry energy constructively on behalf of perceived needs or interests in the present situation. Anger can help those in a conflict to work out the best possible situation.

Some common buttons: perceived threat, perceived injustice, hurt, frustration, perceived power imbalances, belonging, respect.

Being present with anger and examine it with curiosity, acceptance and compassion in order to focus on our anger without acting it out.

EXAMPLES OF DISTORTED THINKING

Exaggerating/catastrophizing: expecting the worst and imagining only negative outcomes.

Generalizing/global labelling/filtering: stereotyping, developing negative expectations, selective memory.

Mind reading: believing you know how others think so you don't check your assumptions. Assuming the other person deliberately intended to effect their action has on you.

Personalizing: believing others' actions reflect upon your character or value as a person, thinking you are the target, victim, martyr or savior.

Blaming self or other: Seeing yourself or the other as the cause of a negative effect or conflict.

Absolutes, imperatives, and dictates: believing there are clear-cut rules that should never be broken, that everyone should follow. Using "should" in a commanding way. Need to control.

Recall a recent situation that angered or frustrated you. Record some of your thoughts associated with that situation and identify which of the above categories your thoughts fall into.

Expressing Anger through "I" Language

Use "I" language to assert yourself in a conflict: "I'd prefer not to loan my car."

Fuller assertion message: "I'm upset that you took my car without asking. From now on, I'd like you to ask before you borrow it. If you would agree to do that, I'd be happy to continue letting you use it."

Or: "I'm upset that you took my car without asking. From now on, I don't want you to use it anymore."

Express your expectations, values, beliefs etc. related to the situation. Check out your assumptions. Set limits if necessary. Use empathy (putting yourself in the other person's shoes). Acknowledge their feelings, their perceptions as much as possible.

MEDIATION - FAQ

What is mediation?

Mediation is a process where a third, neutral person assists two parties to address a conflict by exploring deeper issues and motivations, seeking common interests that point to a solution that's agreeable to both sides. Anything said to the mediator is confidential.

Isn't mediation just for situations where a conflict is really bad?

The longer you wait to call in a mediator, the more difficult it can be to reach a consensus. People get dug into their positions and are less likely to look at other perspectives. Mediation can allow both sides to gain an understanding of where the other person is coming from so future conflicts are less likely to happen. The

success of mediation depends on the willingness of the conflicting parties to come together.

I thought mediation was something used in the court process or something used during labor disputes.

Mediation is a preferred method in solving disputes in both court and labor because it is collaborative – both sides agree to the outcome. If mediation is not possible (both sides are entrenched in their positions) then the decision for the outcome is made by someone else, either a judge or an arbitrator. Neither side gets a say in the outcome. Mediation is gaining popularity as a way to deal with disputes before they get bad, and the lessons learned during the process allow both sides to communicate in a clearer, more meaningful way.

How does mediation work?

The process begins with both sides agreeing to speak to the mediator about the issues. The mediator meets separately with both sides to see if the conflict is one has potential to succeed. The mediator may give some guidance to each side on how to prepare for the mediation (bring documents). The mediator will also stress the importance of being willing to listen, and change how you see things. Both sides will be asked to sign a document called “Agreement to Mediate” which spells out the mediator’s neutrality, confidentiality and fee.

The mediation session begins with both sides briefly describing their positions. Then the mediator will guide the two parties into the details of the dispute, often asking questions that probe deeper feelings, motivations and assumptions. The two parties will be asked to direct their comments to each other. It’s not uncommon for people to get emotional during the session, but the mediator’s job is to keep the discourse constructive while supporting each side. This exploration of deeper feelings may take some time but it’s important in order to get to the next stage.

Once both sides have a good understanding of where each is coming from, the mediator will ask them to brainstorm options for resolution. The resulting list may include a wide range of solutions that range from those already stated at the beginning to new and innovative resolutions. Once an agreement is reached, the mediator will write it down and ask each party to sign it. This is a memorandum of

understanding and the mediator may suggest each party have their lawyers review it.

Do I need a lawyer?

Having a lawyer sit in on a mediation session can be helpful, but it's not necessary.

How much does it cost?

Mediation can cost upwards of \$500/hr, however many certified mediators on Vancouver Island range from about \$200 an hour, with a three-hour minimum. Mediators may specialize in certain fields.

Costs will be split by each side.

For more information:

<http://www.mediatebc.com/About-Mediation/What-is-Mediation-.aspx>

www.sandramcculloch.com

Email: sandradianemcculloch@gmail.com