

SCHLOCK, *Schmooze* & Superficiality

~ choosing your professional partners wisely

by Michael H. Clifton, MA, LLB, ACCI (Law) & Nelson Amaral, MA, LLB
Clifton Kok LLP Legal Counsel

Choosing professionals is an ongoing issue and obligation of condominium boards of directors and property managers. Condominiums frequently require professionals to handle specialized tasks and, thanks in part to the provisions of sub-section 37(3) of the *Condominium Act, 1998*, (the “Act”) reduce corporate and individual liabilities.¹

Very often, when we speak or write of how to choose professional service providers, we focus on skill sets and experience – each of which is very important – but forget to consider issues of character and commitment. In our view, these are essential considerations when choosing those professionals who will serve your condominium community.

In the “old days” (as we like to say as we get older) the term “professional” meant something special. Today, it refers to almost anyone who gets paid for the use of specific skills and knowledge, and is more specifically applied to a person who requires certification from a governing body to verify the presence of such skill and knowledge; but the term also used to mean, and in our view still should, that the person to whom it applied had not only specialized skill and knowledge and certification, but also exhibited a personal commitment to a high standard of ethics and to “courteous, conscientious, and generally businesslike” conduct.²

Of course, good character combined with ignorance and incompetence is of no benefit; but all the experience and intelligence in the world will not make up for the deficiencies that arise out of such things as a lack of genuine concern or either dishonest or discourteous behaviour.

“...all the experience and intelligence in the world will not make up for the deficiencies that arise out of such things as a lack of genuine concern or either dishonest or discourteous behaviour.”

In short, the real qualities of character exhibited by your professional service providers will have at least as significant an impact on their performance as do knowledge, skill and experience. What follows are brief discussions of some general points that in our view ought to be considered seriously when you are determining who to hire.

¹ Sub-section 37(3) of the Act states that “A director shall not be found liable for a breach of a duty mentioned in sub-section (1) if the breach arises as a result of a director’s relying in good faith upon” the reports or opinions of a variety of persons whose professions “[lend] credibility to the report or opinion”.

² Reference the Merriam-Webster Online Dictionary.

PROFESSIONALISM AND PARTNERSHIP

As is suggested in one part of the title of this article, the professionals who work for your condominium corporation (or for you personally or for any business or organization with which you are associated) should be able to be considered your “partners”.

This does not mean “partner” in the literal sense of being a member of the board or a unit owner, but a professional should be someone who understands the perspectives of the board and unit owners, and who applies his or her skills and knowledge with a *genuine concern for the overall well-being and advancement of your corporation*.

Your professional’s concern for you should complement and be consistent with your own. This means that he or she should not be simply “task oriented” – striving to get done only the specific thing you have asked him or her to do – but should keep in mind the general nature and objectives of the condominium, so that the task at hand is accomplished in a manner that is consistent with them.

“...the term [“professional”] used to mean, and in our view still should, that the person to whom it applied had not only specialized skill and knowledge and certification, but also exhibited a personal commitment to a high standard of ethics and to ‘courteous, conscientious, and generally businesslike’ conduct.”

Thus, for example, a lawyer behaving professionally does not necessarily rush the condominium into court or strike an instantly aggressive and positional pose every time there is a requirement to enforce a condominium rule. Instead, whenever possible, he or she seeks to assist the board and other owners in finding a resolution that matches the objective of the condominium to maintain or create a peaceful and cooperative community. In the event court proceedings or other formal legal action are unavoidable, the professional lawyer seeks to minimize the costs and disruption to his or her condominium client, without sacrificing seeking an appropriate outcome.

Likewise, a professional engineer conducting a reserve fund study will not take a simplistic and formulaic approach to the proposed funding plan, but will consider the actual circumstances and needs of the condominium and its constituents and assist the board in developing a plan that meets the basic statutory objective of “adequacy” (at the appropriate time) without imposing unnecessary burdens on the corporation or individual home owners.

Where genuine concern for your community and its objectives is present, your professional is significantly more likely to give you the service you both desire and deserve, than will a professional whose primary concern is getting the immediate task done (and getting paid for it) with no sense of how this will affect you for the future.

PROFESSIONALISM AND POLITENESS

The importance of considering a professional person's conduct as it pertains to matters of courtesy may be less obvious than the importance of his or her skills, knowledge and genuine concern for your community. However, the manner in which a professional treats people, whether in front of or behind closed doors, can say a great deal about other more clearly serious character traits, such as honesty, integrity and responsibility, all of which impact trustworthiness, which is often considered to be a professional's (as well as a profession's) most critical asset.

Your preference should be to be served by professionals who treat you and your condominium's residents and owners respectfully. In addition, it is advisable to prefer professionals whose conduct towards others within his or her profession is also polite and friendly.

There are frequently occasions for the members of various professions to rely on or otherwise interact with one another for your benefit. Professionals often seek other opinions or the assistance of specialists in various fields to address particular needs outside of the scope of their own skill set or experience. In a collegial fashion they will "bounce ideas" against one another, or even need to hire another professional to deal with some aspect of a problem. In the legal profession in particular there is a need for common courtesy even towards one's opponent's lawyers, to help ensure that personality clashes do not interfere with dispute resolution or the completion of essential processes. If your professional has burned too many bridges (through, e.g., discourtesy or a failure to use "fair play") amongst his or her peers or the members of other professions, you might find that the services you need cannot be delivered with the efficiency and effectiveness you should be able to expect from a member of that profession.

“...If your professional has burned too many bridges...amongst his or her peers or the members of other professions, you might find that the services you need cannot be delivered with the efficiency and effectiveness you desire.”

You might also consider your own comfort level in working with someone whose language or conduct regularly expresses disrespect for others, a sense of superiority, or a tendency to gossip unkindly, and so forth. Is this the kind of person to whom you want

to trust your condominium's most vital concerns? Can you?

Perhaps if all you want is a "hired gun" or someone to clerically and clinically do exactly what you want without consideration for the consequences (to you or others), these points may not be relevant to you. However, having said this, a condominium director seeking to employ a professional on that basis might, him- or herself, lack the ethical integrity that ought to be expected of a person in that position.

None of the foregoing is meant to say, of course, that a professional may never utter an angry word, or must always perform in a perfectly polite manner – each is human after all – but these comments do rely on time-tested principle that people who care enough about other people to, on balance, express kindness and respect in their daily interactions, even to those to whom they are opposed, are more likely able to be relied upon to treat you and the things that matter to you carefully and responsibly.

PROFESSIONALISM AND PERSONALITY

Of course, good manners can be faked – hence the references in the first part of the title of this article to “schlock, schmooze and superficiality” – and it is hard to get around this except by perceptiveness over time. However, a good start, when selecting a professional service provider, is not to be overly impressed by outward appearances.

The fact of the matter is that most of us are soothed by a silver tongue, impressed with a decent hair-do or stylish clothing, appreciate a fit body or a twinkling eye, get tickled by talent and awed by intellectualism, along with a host of other attractive external traits; but the further fact of the matter is that none of these things actually speaks to the quality of someone’s concern or service, his or her level of integrity, or the capacity to consider responsibly the needs and interests of others. Unfortunately, we are often easily confused about this. It is generally easier to trust unwittingly in the superficial cues of professional “success”, than to research and recognize those cues that indicate true professionalism.

“...a professional whose primary concern is his or her character is more likely to give you, over the long term, competent service that correctly addresses your most crucial needs and objectives, than a professional who is more focused on image than integrity.”

Stephen Covey, in his now seminal book, *The Seven Habits of Highly Effective People*,³ writes,

[My] study took me back through 200 years of writing about success...I began to feel more and more that much of the success literature of the past 50 years was superficial. It was filled with social image consciousness, techniques and quick fixes – with social band-aids and aspirin that addressed acute problems and sometimes even appeared to solve them temporarily, but left the underlying chronic problems untouched to fester and resurface time and again. In stark contrast, almost all the literature of the first 150 years or so focussed on what could be called the Character Ethic as the foundation of success – things like integrity, humility, fidelity, temperance, courage, justice, patience, industry, simplicity, modesty and the Golden Rule.

For the balance of Mr. Covey’s book, he explains how the application of the “Character Ethic” makes us individually and organizationally more successful in long-term and deep-rooted ways, compared with the “Personality Ethic” that provides only an immediate and temporary sense of satisfactory performance.

The bottom line is that a professional whose primary concern is his or her character is more likely to give you, over the long term, competent service that correctly addresses your most crucial needs and objectives, than a professional who is more focused on image than integrity. The challenge is how to test for or discover this when choosing a professional. Perhaps the best you can do is ask.

In addition to questions about such things as certifications, qualifications, skills and experience, you should ask directly about your prospective professional partner’s

³ Page 18; published by Simon & Schuster Inc. as a Fireside book (paperback), 1990.

character and ethics. How would he or she deal with particular situations? What advice would he or she give if...? What does he or she think about...?

Also, find out about your prospect's reputation. Speak to former clients and to other professionals both in and out of the prospect's profession. Speak to non professionals with whom the prospect interacts – e.g., court clerks (lawyers), trades people or contractors (engineers), bookkeepers (accountants), etc. Ask how he or she treats people, answers inquiries, deals with disagreements over invoices, handles stressful situations or cumbersome and inconvenient processes, shares resources and knowledge with other professionals, etc. An often crucial factor is, does he or she admit mistakes readily, take responsibility for them and seek to correct them?

In summary, the traits you should look for in professional service providers (partners) for your condominium are exactly like the traits you would look for in a friend or trustworthy associate or colleague in any context. And, in the end, trusting your "gut" rarely hurts – if the conduct of your professional partner gives you pause, then you likely should take that opportunity to reconsider your relationship.