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MEDIA RELEASE

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NATIONAL CONDOMINIUM ASSOCIATION EXPRESSES CONCERN ABOUT FLAG ACT

The National Canadian Condominium Institute (CCI-N) today raised a red flag over the proposed National Flag of Canada *Act*. Institute officials, while recognizing the positive intent of the *Act*, expressed concern about some of its potentially unforeseen implications.

“We support the intent of the *Act*,” said Janice Pynn, CCI-N Chair. “We, too, are proud of our country and our flag. We feel that the unrestricted nature of the *Act* may pose some problems, however, especially for the 11% of Canadians living in condominiums,” she said.

Jim MacKenzie, CCI-N President, agreed, adding “There is nothing in the *Act* that stops people from displaying the flag on property they neither own nor rent, and the property owner could be powerless to prevent this or to remove the flag. This affects all Canadians, not just condominium residents.”

Condominiums generally have rules about what can be displayed outside a unit or attached to its exterior walls, Pynn noted; these are intended to preserve the buildings’ appearance, provide for safety and quiet enjoyment of residents, and enhance units’ resale values. The *Act*, however, trumps those rules, permitting any person to display a Canadian flag in any location as long as it is displayed in a manner befitting its symbolic value, is not displayed for an improper purpose or use, and is not desecrated. These restrictions are somewhat vague; the proposed legislation, nevertheless, does not define them further.

Diane Gaunt, Executive Director of the Institute, identified its concerns:

- Unsafe display of flags causing personal injury or property damage
- Flags obstructing the view of residents
- Faded/tattered flags detracting from a condominium’s overall appearance
- Potential litigation resulting from disputes over flag display
- Exemption of flags from condominium rules, leading to confusion

“The situation is only made more confusing when the *Act*, in theory, permits someone who does not own or rent a condominium unit to display a flag on condominium property. If the flag flies from a pole that breaks or falls, it could hurt some innocent person,” MacKenzie, an insurance broker with the Regina firm of Dusyk & Barlow Insurance Brokers, said. “Who would be liable?”

CCI is looking to have the draft legislation amended to permit Canadian condominiums latitude in dealing with this potential situation. Hamilton lawyer and CCI member Ron Danks, of the firm SimpsonWigle Law, noted that similar American legislation permits condominiums to enforce “reasonable” rules, without further defining what constitutes a reasonable rule. This has been the source of much litigation south of the border. “The American experience is not encouraging for Canadian condominiums,” he said. “If this legislation is approved without some thoughtful amendments, condominiums are going to face yet another source of costly litigation.”

“This is not about being pro- or anti-flag,” said Pynn. “It’s about recognizing and dealing with the very real problems that result when anyone acquires an unrestricted right to do something. We’re urging caution before granting that right, particularly by legislation.” MacKenzie agreed – “There is, both literally and figuratively, a landscape into which this *Act* will be dropped. We need to look at that landscape before passage of the proposed *Act*. We are asking that everyone’s rights be protected.”

The bill, introduced by Ontario Conservative backbencher John Carmichael on September 27, appears to have broad support in the House of Commons. “We plan to encourage MPs to pause and reflect before acting,” said MacKenzie. “We want legislation that balances the perceived right of patriotic display with the established rights of condominium owners for quiet enjoyment and of condominium corporations to enforce standards of safety and appearance to which those owners have agreed.”

CCI-N is currently conducting a survey of its membership on the issues posed by the proposed legislation, and will be providing its conclusions to members of the House.

The Canadian Condominium Institute, founded in 1982, leads the national condominium industry by providing education, information, awareness and access to expertise by and for its members. CCI-N has fifteen Chapters across Canada, from Newfoundland and Labrador to Vancouver. Its membership consists of condominium owners and boards, and the professions and trades that provide service to them. Representing almost half a million condominium owners in Canada, it is the only organization dealing exclusively with issues affecting all of the participants in the condominium community.

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