



Program

ICSC CANADIAN *Shopping Centre* LAW CONFERENCE

**Earn CLE
Credits!**

The ICSC 2016 Canadian Shopping Centre Law Conference will seek continuing education credit pre-approval for the Provinces of Ontario, Québec & British Columbia. For more information and updates on our progress, visit www.icsc.org/2016CLC.

April 21 – 22, 2016
The Fairmont Royal York Hotel
Toronto, ON



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THURSDAY, APRIL 21

REGISTRATION

8:00 am – 5:30 pm

CONTINENTAL BREAKFAST

8:00 – 8:45 am

OPENING REMARKS

8:45 – 9:00 am

JULIE ROBBINS

ICSC 2016 Canadian Shopping Centre Law Conference Program Planning Committee Chair
Partner
Dentons Canada LLP
Toronto, ON

MARY ORMOND

ICSC 2016 Canadian Shopping Centre Law Conference Program Planning Committee Vice-Chair
Legal Counsel
Ormond Law / Build Toronto Inc.
Toronto, ON

ROUNDTABLE DISCUSSIONS

9:00 – 10:30 am

NETWORKING BREAK

10:30 – 10:45 am

CONCURRENT SESSIONS

10:45 am – 12:00 pm

A. Words from the Wise: Professionalism and Ethics in Commercial Leasing

In this session, you will hear a lively debate amongst experienced commercial leasing counsel on professionalism and ethics topics including: inadvertent disclosure of information through e-mail error and the duty to maintain confidentiality; as the recipient of an inadvertent disclosure, do you have a duty to notify the sender, and what can you or should you share with your client; how do you act in good faith and avoid sharp practice when dealing with mistakes made by opposing

counsel; what can you do as an in-house counsel when opposing counsel communicates directly with your business people; the overstatement — how far can you go — is it a violation of the duty to not knowingly assist in or encourage dishonesty, or perhaps a violation of the duty to act in good faith; is it a breach of the duty to maintain confidentiality or any other duty if you use concessions you gained in a deal for Client A when negotiating a different deal for Client B; is it a breach of the duty to maintain confidentiality to tell your client that you know the opposing party will agree to a certain concession because you got it from them in another deal; in dealing with difficult clients, how do you handle concerns you might have about the instructions you are getting without damaging your working relationship with the client; and what are best practices for managing business and legal conflicts of interest. These and other professional and ethical topics will be discussed in the context of commercial leasing.

MODERATOR

MARY ORMOND

Legal Counsel
Ormond Law / Build Toronto Inc.
Toronto, ON

PANELISTS

SHELDON DISENHOUSE

Partner
Dentons Canada LLP
Toronto, ON

CELIA HITCH

Director, Retail Legal Services
Oxford Properties Group
Toronto, ON

WILLIAM A. ROWLANDS

Partner
McMillan LLP
Toronto, ON

NATALIE VUKOVICH

Partner
Daoust Vukovich LLP
Toronto, ON

B. You've Got Questions; We've Got the Answers!

How far back can a Landlord go to claim unbilled CAM charges? Can you register your Offer to Lease? Must you continuously operate regardless of what the Lease stipulates? Depending on where the Premises are situated in Canada, the answers can and will be very different. Join our experienced leasing counsels from across the country who will provide you with the answers to these questions and many others for different jurisdictions!

MODERATOR

MARIE SAINT-AMOUR

Attorney
MSA
Montréal, QC

PANELISTS

STÉPHANIE BEAUREGARD

Attorney
Delegatus Legal Services Inc.
Montréal, QC

ABRAHAM COSTIN

Partner
McCarthy Tétrault LLP
Toronto, ON

KENNETH KROHMAN

Partner
MacKensie Fujisawa LLP
Vancouver, BC

DEANNE MacLEOD

Partner
Stewart McKelvey
Halifax, NS

LUNCH SERVED

12:00 – 12:45 pm

KEYNOTE PRESENTATION

12:45 – 1:30 pm

**Entering the Canadian Retail Market:
How to Get It Right?**

A discussion with industry leaders about cross border retailing and the international retailer experience in coming to Canada. What are the barriers to entry? What are the keys for success?

MODERATOR

SUNITA MAHANT

Director & Assistant Secretary
Ivanhoé Cambridge Inc.
Toronto, ON

SPEAKERS

ANDREA ABRAMS

Time Retail Partners
New York, NY

SEAN WALTERS

Ivanhoé Cambridge Inc.
Toronto, ON

CONCURRENT EDUCATION WORKSHOPS

1:30 – 3:00 pm

A. Top Rooftop Topics

From signage, patios and equipment to solar projects and telecommunications, this workshop addresses all those rooftop questions and concerns that have tormented you for so long! As we delve into the critical issues surrounding these common but complex arrangements, the key considerations for both rooftop users and owners will be presented. Topics include: whether to lease or license installation and alterations to the rooftop, aesthetics, rent and fees, owner's access for maintenance, repairs and replacements, relocation, interference and registration on title. Join us for more than a bird's-eye view.

WORKSHOP LEADERS

MELISSA McBAIN

Partner
Daoust Vukovich LLP
Toronto, ON

MONTY WARSH

Partner
Aird & Berlis LLP
Toronto, ON

ROEY KERT

Partner
Owens Wright LLP
Toronto, ON

B. A House Divided: Issues with Leasing in a Multi-Use Development or Condominium

In this workshop, participants will discuss the issues and risks of leasing space in a multi-use development or in a condominium or strata development. Amongst other points, this workshop will address how costs are apportioned among the different "uses" of a building or development, how condominium by-laws and other condominium documents affect Tenants, how do reciprocal operating agreements help or hinder a Tenant's business, and what control rights or remedies do the parties have in such developments.

WORKSHOP LEADERS

KARSTEN LEE

Partner
WeirFoulds LLP
Toronto, ON

CATHERINE E. BRAY

Partner
Borden Ladner Gervais LLP
Toronto, ON

JEFFREY H. SELBY

Partner
Miller Thomson LLP
Calgary, AB

THURSDAY, APRIL 21 CONTINUED

C. In-depth Workshop on Permitted Assignment and Transfer Provisions

Dear Abby, my business partner's parents are splitting up and going their separate ways. How will this affect our relationship? Is there anything I can do to stop it? PS, his parents have always been more than a little controlling.

Join us while we examine the dynamics between a Landlord's desire to keep the Tenant and its extended family relationships as they were the day they first met and the Tenant's desire to allow its corporate family to grow and change over time. In this workshop we will explore the complicated issues surrounding the triggering of the obligation to seek the Landlord's consent as a consequence of a change in the control of the Tenant. We will work through specific examples during the course in which we will discuss the below questions: How should the triggering event be defined in the lease? What does "affiliated" under the CBCA mean? How is this different from related entities under the Income Tax Act and is there a benefit to using one over the other? What if the entities in question are a joint venture, a partnership or a family trust? Is there any issue with applying Canadian law tests to U.S. parent companies? What information is public? What required information do I need the transferor to provide? And when, e.g., at the beginning of the lease versus the time of the request to transfer?. How do I read/analyze this information? How deep into the family tree do I need to go? Can I rely on an opinion from the transferor's legal counsel and if so, what should it say? What are the usual exceptions to the requirement for consent?

WORKSHOP LEADERS

LAURIE SANDERSON

Partner
Gowling Lafleur Henderson LLP
Ottawa, ON

DENNIS DAoust

Partner
Daoust Vukovich LLP
Toronto, ON

ALISON TORTORICE

Senior Director, Legal, Ontario Portfolio Office
The Cadillac Fairview Corporation Limited
Toronto, ON

D. Locking Down Priority: Effectively Registering Notices of Lease and Negotiating the Best SNDA You Can

In this workshop, participants will explore the interplay between leases and mortgages, including priority issues and practical considerations for Notices of Lease and Non-Disturbance Agreements. More specifically, we will discuss: (1) Priority rules: Common Law vs Registration vs Contract; (2) Registration requirements in all Provinces,

including the disclosure obligations in Ontario and the associated risks; (3) Status of Unregistered Leases in all Provinces; (4) Reversal of priority by Registration (i.e., the dangers of registering a NOL on title following the DeGasperi Muzzo case); (5) How to change priority by Contract (i.e., Subordination Clauses and SNDAs); and (6) SNDAs – the importance, pitfalls and traps from a Tenant's perspective and a Mortgagee's perspective. We will also revisit the seminal Goodyear (1998) case and the infamous Tim Hortons case

WORKSHOP LEADERS

CHRISTINA KOBI

Partner
McLean & Kerr LLP
Toronto, ON

JEFFREY LEM

Director of Titles
Ministry of Government and Consumer Services
Toronto, ON

E. With the Increase in Retail Insolvencies of Late, Landlords Are Heard to Lament, "How Do I Get the Targets Off My Back?"

The panel consists of insolvency experts and solicitors representing Landlords in negotiation of Leases. The discussions will start with an overview of recent retail insolvency court filings followed by a discussion of some of the interesting features of the Target proceeding. The panel will then turn to possible ways those Landlords can mitigate the loss associated with a Tenant's insolvency through negotiation of Lease terms.

WORKSHOP LEADERS

MICHAEL KENNEDY

Partner
Patterson Law
Halifax, NS

LINDA GALESSIERE

Partner
McLean & Kerr LLP
Toronto, ON

AUBREY E. KAUFFMAN

Partner
Fasken Martineau DuMoulin LLP
Toronto, ON

D. FRASER MacFADYEN

Partner
Stewart McKelvey
Halifax, NS

NETWORKING BREAK

3:00 – 3:15 pm

PLENARY SESSION

3:15 – 4:30 pm

Defaults: It's All Your Fault

This session will discuss defaults from both a Landlord and Tenant perspective, and how to exercise your rights and remedies without waiving your rights.

MODERATOR

KEN BEALLOR

Partner
Torkin Manes LLP
Toronto, ON

1. Conduct Yourself Properly: Stop, Look & Listen!

Lease provisions may not be drafted in a way that will protect your interests when it comes time to interpreting them in the light of the conduct of the parties.

SPEAKER

STEVE MESSINGER

Partner
Minden Gross LLP
Toronto, ON

2. The En-forcement Awakens: Remedies for Tenants

Tenants have remedies, too! The Lease terms, the statute and the common law provide the Tenant with remedies which are not always understood and utilized. We will review some of the highlights of equitable set-off, special negotiation rights and remedies, the need for security and the limitations of liability.

SPEAKER

SHARON ADDISON

Partner
McLean & Kerr LLP
Toronto, ON

3. Anchors Away: Where Did All the Big Boxes Go?

With the failure of many large retailers in Canada in recent years, Co-tenancy Provisions have taken on a greater significance. We will review the various types of Co-tenancy Clauses, who the Co-tenancy should apply to, what should have to happen before a remedy applies, how long the remedy will last and who can be brought in to cure the Co-tenancy failure.

SPEAKER

JANET DERBAWKA

Partner
McMillan
Vancouver, BC

4. The Terminator's Guide To Tenancies

How to properly terminate tenancies and remove personal property with the least amount of risk and rebound.

SPEAKER

DAVID THOMPSON

Partner
WeirFoulds LLP
Toronto, ON

5. It Ain't Over Till It's Over

Tenant's repair and restoration obligations upon expiration of the Lease. With abandoned goods and chattels, what should a Landlord do?

SPEAKER

STEVE CYGELFARB

Partner
Fogler, Rubinoff LLP
Toronto, ON

6. You Are Not Alone in a Default: Third-party Interests in Leased Premises

Though a Lease between a Landlord and Tenant is seen as a two-party agreement, a number of third parties have an interest in the leasing arrangements, the premises and the business operated from the premises. This presentation will highlight the interests which lenders to the parties, franchisors, creditors (including suppliers and other third parties) may have in the leasing relationship and how they are impacted when there is a default as well as what rights they may have when there is a default.

SPEAKER

ALLAN DICK

Partner
Sotos LLP
Toronto, ON

7. Defaults in Québec: Distinct Society

What can the Landlord and the Tenant do when faced with a Lease default? Do you need a court order? Self-help? Self-Preservation? Offset? Mutual mutilation? We will address typical reflexes parties have when faced with a default and a Lease Agreement that may provide more rights that may or may not be enforceable and how to act and abide by the Lease and the case law to avoid undesired results. We will discuss the standard Landlord and Tenant remedies as well.

SPEAKER

YAN BESNER

Partner
Dentons Canada LLP
Montréal, QC

MEMBER-HOSTED RECEPTION

4:30 – 5:30 pm

If you are interested in being a sponsor, visit www.icsc.org/2016CLC for more information.

DINNER EVENT

6:00 – 9:00 pm

TOCA Restaurant

The Ritz-Carlton Toronto
181 Wellington Street West
Toronto, ON M5V 3G7

Separate registration and additional fee are required. For further information please visit www.icsc.org/2016CLC or contact Kiran Balladin at kballadin@icsc.org.

FRIDAY, APRIL 22

REGISTRATION

8:00 am – 1:00 pm

CONTINENTAL BREAKFAST

8:00 – 8:30 am

ROUNDTABLE DISCUSSIONS

8:30 – 10:00 am

CONCURRENT SESSIONS

10:00 – 11:15 am

A. Is the Grass Really Greener on the Other Side of My Lease?

A look at how to deal with “Green Lease” and “Brown Lease” (Environmental) issues from the Landlord and Tenant perspective. Who pays and how much ‘green’ will it cost going “Green” and/or dealing with “Brown”.

MODERATOR

MICHAEL HOROWITZ

Partner
Minden Gross LLP
Toronto, ON

PANELISTS

MICHAEL BROOKS

CEO, Real Property Association of Canada (REALpac), and Partner, Aird & Berlis LLP
Toronto, ON

JOSEPH GRIGNANO

Partner
Blake, Cassels & Graydon LLP
Toronto, ON

SARAH V. POWELL

Partner
Davies, Ward, Phillips & Vineberg LLP
Toronto, ON

B. Dirt Wars: The Planning Menace

Leasing in development projects is more complex than “regular” in-line/CRU leasing. This session will shed some light on the role of the municipality and the approvals which may be required, as well as highlight issues which may be critical to construction and opening timelines for both Landlord and Tenant. The panel will also discuss typical Tenant and Landlord concerns related to such projects and how they may be effectively addressed in the Lease. Understanding the development process and how the various moving parts work together are key to ensuring a smooth transaction for both parties.

MODERATOR

GENEVIEVE WONG

Director, Real Estate Management, Legal
Oxford Properties Group
Toronto, ON

PANELISTS

ANNE BENEDETTI

Partner
Goodmans LLP
Toronto, ON

MIA COOPER

AVP, Legal Counsel
Canadian Tire Corporation Limited
Toronto, ON

JOHANN SCHUMACHER

VP, Development
Oxford Properties Group
Toronto, ON

NETWORKING BREAK

11:15 – 11:30 am

PLENARY SESSION

11:30 am – 12:45 pm

LEGAL UPDATE

This perennial favourite is back yet again! Haven't read any case law this year? This session packs 12 months' worth of case law in just over one hour! It's the can't-miss session of the conference!

PANELISTS

JEANNE BANKA

Partner
Daoust Vukovich LLP
Toronto, ON

STEVEN CHAIMBERG

Partner
Miller Thomson
Montréal, QC

RICHARD B. MASK

Partner
Parlee McLaws LLP
Calgary, AB

CLOSING REMARKS

12:45 – 1:00 pm

JULIE ROBBINS

ICSC 2016 Canadian Shopping Centre Law Conference
Program Planning Committee Chair
Partner
Dentons Canada LLP
Toronto, ON

MARY ORMOND

ICSC 2016 Canadian Shopping Centre Law Conference
Program Planning Committee Vice-Chair
Legal Counsel
Ormond Law / Build Toronto Inc.
Toronto, ON

CONFERENCE ADJOURNS

1:00 pm

NETWORKING LUNCH

1:00 – 2:00 pm

Program information current as of March 1, 2016.

PROGRAM PLANNING COMMITTEE

CO-CHAIRS

JULIE ROBBINS

ICSC 2016 Canadian Shopping Centre Law Conference
Program Planning Committee Chair
Dentons Canada LLP

MARY ORMOND

ICSC 2016 Canadian Shopping Centre Law Conference
Program Planning Committee Vice-Chair
Ormond Law / Build Toronto Inc.

COMMITTEE

KEN BEALLOR, Torkin Manes LLP

MICHAEL HOROWITZ, Minden Gross LLP

MICHAEL KENNEDY, Patterson Law

CHRISTINA KOBI, McLean & Kerr LLP

KARSTEN LEE, WeirFoulds LLP

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MELISSA McBAIN, Daoust Vukovich LLP

MARIE SAINT-AMOUR, MSA

LAURIE SANDERSON, Gowling Lafleur Henderson LLP

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ICSC CANADIAN Shopping Centre LAW CONFERENCE

April 21 – 22, 2016
The Fairmont Royal York
Toronto, ON

REGISTRATION FEES

	Advance	HST 13%	Total
Member*:	\$384.96	\$50.04	\$435.00
Non-Member:	\$561.95	\$73.05	\$635.00
	On-site	HST 13%	Total
Member*:	\$473.45	\$61.55	\$535.00
Non-Member:	\$694.69	\$90.31	\$785.00
	Advance	HST 13%	Total
ICSC Student Member**	\$47.15	\$6.13	\$53.28

*To qualify for the member rates, each registrant must be a member or an affiliate member of ICSC. To become an ICSC member, call ICSC information services at +1 646 728 3800.
**ICSC Student Members are required to register in advance to receive the discounted student registration fee. No discounted registration will be offered on-site.

OPTIONAL DINNER EVENT

Member*: \$88.50 (+HST)
Non-Member: \$88.50 (+HST)

Toca
The Ritz-Carlton
181 Wellington Street West
Toronto, ON M5V 3G7

DEADLINES

To qualify for the advance registration rates, your registration must be received by **April 14, 2016**.

CANCELLATIONS

All cancellations will be subject to a \$25 cancellation fee. No refunds will be given for cancellations received after **April 14, 2016**. All requests for refunds must be received by ICSC in writing.

SPECIAL NEEDS

Anyone desiring an auxiliary aid for this meeting should notify **Kiran Balladin** at **+1 416 486 4511** or **kballadin@icsc.org** no later than **April 14, 2016**.

CONTINUING EDUCATION CREDITS

CSM/CMD: TBA; CLS: TBA; LSUC: TBA; LSBC: TBA; Barreau Du Québec: TBA

NOTE: This program will be pre-approved for CLE Credits from the Law Society of Upper Canada, Barreau Du Québec, and the Law Society of British Columbia. Lawyers will be able to submit proof of attendance for this conference when applying for CLE credit status.

TERMS, CONDITIONS AND RULES

This Registration Form is subject to ICSC Terms, Conditions and Rules for Event Registrants available at www.icsc.org/event-terms-and-conditions, which are hereby incorporated by reference.

Please check one: Member Non-Member Student Member

I will be attending the Optional Dinner Event.

Name _____

Company _____

Address _____

City _____ Province/State _____ Postal/ZIP Code _____

Telephone _____ Fax _____

E-mail Address _____ Your Membership I.D.# _____ (2016CLC)

Please check here if any of the above information has recently changed.

METHOD OF PAYMENT

Cheque made payable to ICSC enclosed for \$ _____

MasterCard Visa AMEX Discover \$ _____

Name (as it appears on credit card) _____ Signature _____

Credit Card Number (include all digits) _____ Expiration Date (month/year) _____

Please photocopy forms as needed.



Sponsorships serve as an advertising or PR opportunity to get your company name out in front of a select audience of industry professionals. Be sure to take advantage of this opportunity!

YOUR SPONSORSHIP OF \$1,000 WILL INCLUDE:

- Sponsor sign and/or PowerPoint display of your company logo at the Member-Hosted Reception from 4:30 – 5:30 pm on Thursday, April 21, 2016.
- Recognition in the At-Door Program.
- Logo Recognition on the attendee gift.
- Logo Recognition on the ICSC conference website: www.icsc.org/2016CLC.
- Recognition in the Final Program mailed out to ICSC membership in Canada (provided that the sponsorship and a high-resolution logo is received no later than **January 29, 2016**)
- Sponsor ribbons that can be worn with your badge throughout the conference.

WHERE
The Fairmont Royal York Hotel

100 Front Street West
 Toronto, ON M5J 1E3

DEADLINES

- Sponsorship must be received by **March 15, 2016** to be recognised on the attendee gift.
- Sponsorship must be received by **March 14, 2016** to be recognised at the conference.

ICSC SPONSOR CONTACT
Kiran Balladin

Tel: +1 416 486 4511

E-mail: kballadin@icsc.org

**SPONSORSHIP CONTACT/RETURN
 COMPLETED FORM TO:**
ICSC

1221 Avenue of the Americas

New York, NY 10020-1099

Fax: +1 732 694 1800

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- \$1,000 payment by credit card or cheque made payable to ICSC. Payment must accompany the Sponsorship Form.
- Your company logo (jpeg or eps format) to kballadin@icsc.org.

 Name

 Company

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 City Province/State Postal/ZIP Code

 Telephone Fax

 E-mail Address Your membership I.D.# (2016CLC-S)

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 Credit Card Number (include all digits) Expiration Date (month/year)

Please photocopy forms as needed.

International Council of Shopping Centers, Inc.
120 Eglinton Avenue East, Suite 605
Toronto, ON M4P 1E2

Program

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