



NATIONAL OUTLOOK

DIGITAL EDITION

CFAA RENTAL HOUSING CONFERENCE

TO INCLUDE 31 EDUCATION SESSIONS

In June, 2014 CFAA will host its annual Rental Housing Conference in Vancouver. The program includes 31 different education sessions organized into six topic streams.

The conference begins on Monday afternoon, June 9, with a tour of innovative rental buildings in Vancouver.

On Tuesday, June 10, presentations will focus on investment in rental housing, and managing employees. The two investment streams that day will include:

- Benjamin Tal's Economic Update
- Major rental asset sales in 12 markets across Canada (2 sessions)
- Executive Round Table, and a round table for Independent Rental Owners



- Michelle Ray on How to Lead and Succeed
- Topics for Independent Rental Owners, such as how to grow a portfolio, and due diligence for purchases
- Interest rates and lending conditions.

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MARIJUANA GROWERS HIGH ON THE PROSPECTS

BY JOHN DICKIE, CFAA PRESIDENT

The world of medical marijuana is turning upside down again. Starting a few years ago, the federal government allowed licensed marijuana growers to supply marijuana to up to two patients. In reality that meant people approved for medical use could

grow their own marijuana. Over 37,000 people are now licensed, and Health Canada predicts there are likely to be 400,000 licensed medical users within a decade (Globe and Mail, report on Business, April 2014, p. 32.)

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LES PRODUCTEURS DE MARIHUANA MÉDICINALE PRIS DANS LE BROUILLARD

DE JOHN DICKIE, PRÉSIDENT, FCAPI

Le milieu de la marihuana médicinale navigue de nouveau dans le brouillard. Depuis quelques années, le gouvernement fédéral permet à des producteurs autorisés de fournir de la marihuana à des fins médicales à un maximum de deux patients. Ainsi, les personnes étant autorisées à consommer de la marihuana à des fins médicales pouvaient cultiver leur propre marihuana. Plus de 37 000 personnes ont obtenu une licence de production.

De nombreux propriétaires d'immeuble ont signalé que certains de leurs locataires ont obtenu une licence du gouvernement et commencé à cultiver

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CFAA RENTAL HOUSING CONFERENCE *continued from page 1*

The stream on managing employees will cover:

- Hiring and employment contracts
- Orientation and evaluation
- A Health and safety update
- Social media for employees
- Supervising and job discipline.

June 10 will end with the CFAA Supper and the Wyse After-party at the Vancouver Lookout Tower. See beautiful Vancouver in the daylight, dusk and dark, while you network with colleagues, and enjoy good food, drinks and company.

Wednesday, June 11, will cover additional Executive or Investment topics, such as:

- Developing new rental housing by Michael Geller
- New techniques for more economical construction
- The LandlordBC Cost & Revenue survey
- Compensation and organization trends in rental housing
- Revenue management principles and software
- How CMHC considers mortgage insurance applications
- Succession planning.

June 11 will also cover rental operations topics, including:

- The Human Factor in Leasing by Lisa Trosien
- Matching expectations between investor and property managers
- Marketing, both non-paid and paid (e.g. ILs & PPC)
- Screening tenants, and reading credit checks
- Emergency planning and disaster recovery
- New ways to collect payments from tenants
- Recycling building waste – making it happen.

A great many of the topics are relevant for hands-on landlords (“independent rental owners”), not just executives and operational staff in large companies.

Speaking of the 2013 CFAA Conference, Shelley Wittal of Gateway Property Management, said, “The conference was great this year, I’m extremely glad I was able to attend. The education topics were fresh and aimed at current challenges which had not been recently addressed. I am very much looking forward to the next CFAA conference.”

Other speakers

Major landlords committed to speak include Allan Carr of Midwest, Scott Ullrich and Maureen McMahon of Gateway, Kris Boyce and Jenny Affe

of Greenwin, David Horwood of Effort Trust, BJ Santavy of Skyline Apartment REIT, Barry Remai of Remai Group, Wayne Tuck of Centurion Apartment REIT and Rob Hunter of Devon Properties.

Other key industry figures include Peter Altobelli of Yardi Systems, Richard Brown of E-Comm Media, John Dobrowolski of Rent Check, Darren Henry of National Efficiency Systems Inc., John Lynch of CMHC, Tony Manganiello, Kevin Meikle and Tim Sommer of Cushman Wakefield, and Steven Osiel of Pal Benefits Inc.

Delegates will also hear from numerous hands-on landlords, lawyers, accountants, engineers, appraisers, lenders, CMHC, apartment association leaders and others.

ENJOY THE CFAA TRADE SHOW



CFAA limits the Trade Show to 15 exhibitors each day to ensure your experience is relaxed, informative and personal. Delegates like the size of the Trade Show, and often find valuable options for their operations and investments there. Exhibitors will include:

Yardi

- | | | |
|-----------------------------|--|------------------------|
| Gottarent | Wyse Meter Solutions | Visa |
| 4rent.ca | Humphreys and Partners Architects L.P. | Landlord Web Solutions |
| IRC Building Sciences Group | Pal Benefits | Rainmaker LRO |
| Renters Guide | RHB Magazine | Sparkle Solutions |
| Rent Hello | Telus | Water Matrix |
| Rent Moola | WinMar | |
| Assured Thermal | | |
| Bentall Kennedy | | |
| CMLS Financial | | |
| Coinamatic | | |
| Excel Collection Services | | |



LES PRODUCTEURS DE MARIHUANA MÉDICINALE PRIS DANS LE BROUILLARD *suite de la page 1*



de la marihuana à des fins médicales dans leur logement. Dès le 31 mars, ce programme devait être aboli et remplacé par un système réglementé de producteurs concurrentiels qui cultiveraient la marihuana à des fins médicales dans des installations industrielles conformes à la loi.

Toutefois, un avocat de la Colombie-Britannique a contesté devant la Cour fédérale du Canada la constitutionnalité de cette mesure qui porterait atteinte aux droits des utilisateurs d'avoir accès à de la marihuana abordable à des fins médicales en les obligeant à s'approvisionner auprès de ce système réglementé.

Le 21 mars, la Cour fédérale a rendu une injonction provisoire permettant aux personnes étant déjà titulaires d'une licence de production valide de continuer de cultiver de la marihuana à des fins médicales, et ce, à des fins personnelles (et d'en posséder jusqu'à 150 grammes à des fins personnelles). Ainsi, les propriétaires ne sont toujours pas en mesure d'éliminer la culture de toute marihuana dans leur propriété.

Le gouvernement fédéral a interjeté appel de cette injonction provisoire, bien qu'aucune date n'a encore été fixée pour en appeler de l'ordonnance provisoire. Une fois que la contestation constitutionnelle aura été entendue en entier, les tribunaux seront en mesure de rendre une décision sur l'avenir du système de production personnelle.

Peu importe si les tribunaux finissent ou non par permettre au système de production personnelle de perdurer, il y aura un système de producteurs qui se concurrenceront pour la vente de la marihuana

à des fins médicales. Jusqu'à présent, environ une douzaine d'entreprises ont obtenu une licence de production, mais apparemment des centaines d'autres ont fait une demande de licence dans l'espoir que la consommation de marihuana sera légalisée à des fins autres que médicales.

La pleine légalisation de la consommation de marihuana éliminerait probablement le problème de production de marihuana, qui empoisonne la vie de tout propriétaire d'immeuble, petit ou grand. À part les producteurs titulaires de licence de production à des fins personnelles, d'autres personnes se sont souvent lancées dans la culture de marihuana dans des maisons ou des logements loués. Il s'agit d'installations illégales qui peuvent causer de graves problèmes tels des feux sur appareillage électrique et des moisissures toxiques. Ce type d'installation entraîne généralement d'importants travaux d'assainissement à grands frais pour les propriétaires. Ces derniers doivent vérifier l'utilisation qu'on fait de leur bien et surveiller avec vigilance tout signe de culture (fenêtres obstruées, éclairage excessif, condensation anormale dans les fenêtres, peu de neige sur le toit ou déchets particuliers).

La légalisation pourrait éliminer bon nombre de ces problèmes, puisque la culture de marihuana dans les lieux de résidence ne pourra concurrencer la production industrielle, et les profits du marché illicite devraient donc disparaître. Après tout, depuis que l'alcool est vendu légalement, les propriétaires n'ont plus de problème avec les alambics.

Toutefois, compte tenu de la possible légalisation de la consommation de marihuana, les propriétaires voudront peut-être modifier leurs baux pour expressément interdire l'utilisation de lampes infrarouges et d'équipement d'humidification pour cultiver des plantes. ■

CFAA RENTAL HOUSING CONFERENCE *continued from page 2*

Other information, including registration

For the latest updates, or to register, go to the conference page at www.cfaa-fcapi.org. Companies registering 3 or more delegates can obtain a discount code from CFAA at 613-235-0101.

Independent rental owners should remember that the conference registration fees and any hotel and travel expenses are deductible expenses for tax

purposes. After taxes, your net cost is much less than what you pay out to attend.

The education sessions will be held at the Sheraton Vancouver Wall Centre Hotel, in the heart of downtown Vancouver.

The final registration deadline is Tuesday, June 3. Register now so that you don't miss out. ■



MARIJUANA GROWERS HIGH ON THE PROSPECTS

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Numerous landlords report that some of their tenants obtained the government license and began to grow medical marijuana in their apartments. As of March 31, that system was to have been swept away, and replaced by competitive but regulated array of growers, who will grow in legal, industrial-scale facilities.



However, thanks to a court order issued on March 21, the previous system is still allowed for now, and may be

for some time. Therefore, Ontario landlords are not yet able to eliminate all marijuana growing on their property. Once the court challenge is heard, the courts will issue a ruling on the grow-your-own system for the future.

Whether the courts end up allowing the grow-your-own system to continue or not, there will be a system of major growers competing for sales. Until March 31, Prairie Plant Systems had a monopoly on supplying medical marijuana, apart from the home-growers and "compassion clubs." To date, just under a dozen companies have been licensed to grow medical marijuana, but apparently hundreds of other businesses have applied for the licenses.

The government had required Prairie Plant Systems to provide only marijuana with a low level of THC, the active ingredient. But apparently, more potent marijuana will be available under the new system. Many businesses apparently want to begin production soon in the hope that marijuana use will be legalized apart from medical use.

Legalization would address the problems of marijuana grow operations ("grow ops"), which are plaguing landlords large and small. Apart from

the growers with medical grow-your-own licenses, other people have often set up grow ops in rented homes or apartments.

Illegal grow ops

The problems with illegal grow ops are many and severe. The plants require sunlamps and heat, thereby drawing a large amount of electricity. The growers usually bypass the hydro meter because the consumption would otherwise draw attention, and cost them a fortune. Due to the bypass and the amount of hydro usage, the risk of an electrical fire is substantial.

The plants also grow best with ample humidity and water. Together with the heat, the humidity promotes the growth of mold on the walls and in the wall cavities of the building. Fertilizer and pesticides are often used to maximize growth. When spilled they create a toxic environment.

Taken all together, a house or apartment used for a grow op requires major remediation. The City of Ottawa and other cities have established protocols for dealing with those locations. That includes requiring a professional remediation plan, soil and air tests, as well as periodic inspection to ensure that the remediation is done effectively. Substantial fees are charged to property owners to recover the cost of the City's inspections.

Landlords need to check the uses to which their property is put, and watch carefully for the signs of grow ops (such as covered windows, bright lights, abnormal condensation on windows, lack of snow on the roof in winter, or abnormal garbage.)

Legalization could eliminate many of these problems since grow ops in houses will not be able to compete with industrial scale growing, and the profit that comes from the illegal market should disappear. After all, since alcohol is available legally, landlords do not have many problems with stills.

However, given the possible legalization of marijuana, landlords may wish to amend their leases to specifically prohibit the use of heat lamps or humidification equipment to grow plants. ■



VANCOUVER

CFAA Rental Housing Conference 2014

June 9 - 11

eCOM MEDIA GROUP INC

Sheraton Vancouver

Wall Centre Hotel

REGISTRATION CLOSES JUNE 3rd!



CHILDCARE AND ELDERCARE: THE HUMAN RIGHTS CHALLENGES FOR EMPLOYERS

BY DANIEL CHODOS

Recently, demographic shifts have presented challenges for employers in the areas of childcare and eldercare. In several recent cases before Canadian human rights tribunals and arbitrators, these issues have taken centre stage. The net effect for employers across the country is a renewed emphasis on appropriate dialogue with employees who request accommodations to care for their children or their elderly parents.

In *Devaney v. ZRV Holdings Inc.*, 2012 HRTO 1590 (CanLII), the Human Rights Tribunal of Ontario was asked to consider whether it was discriminatory to terminate a 27-year employee who missed a great deal of work to care for his ailing mother. At the hearing, the employer relied on an older line of cases which held so-called “family status” decisions to a higher standard than other human rights areas, submitting that a workplace rule had to result in a “serious interference with a substantial parental or other family duty of obligation of the employee” to be discriminatory.

The Tribunal flatly rejected this approach, instead holding that an employer’s decision can be discriminatory if it results in an “adverse impact on the (employee’s) care-giving needs.” If the employee can establish such a need, the employer can still argue that accommodating that need would result in an “undue hardship.”

Fatal to the employer’s argument in the *Devaney* case was its failure to engage in any meaningful discussion with the employee; the Tribunal found that it made no real inquiries regarding the employee’s eldercare needs, thereby violating at least the procedural aspect of a company’s duty to accommodate.

Communications, Energy and Paperworkers Union, Local 707 v. SMS Equipment Inc. (Cahill-Saunders Grievance), [2013] A.G.A.A. No. 41, is a similar case, this time involving childcare obligations. In that case an Alberta-based arbitrator held that a welder’s employer violated the province’s human rights legislation by refusing to switch her shift with another employee so that she could be home with her children after dark. The employee in this case was a single mother without local family support, who rotated between day and night shifts for seven-day periods. Her union successfully argued that the employer should have agreed to let another welder

switch shifts with her.

Since the suggested accommodation would have resulted in no undue hardship to the company’s operation, the arbitrator held that the employer’s refusal amounted to a discriminatory decision. In so doing, the arbitrator also rejected the “serious interference” test described above, instead asking whether the decision adversely impacted on the employees’ family caregiving needs.

Despite these decisions, employers can rest assured that there are some family obligations which will not force their hand. In a 2012 decision involving federally-regulated employer, *Telus*, reported at 226 L.A.C. (4th) 34, an employee was denied an interview for a job relocation she requested specifically to allow her to be closer to her elderly and ill parents. Because the employer based its refusal on the employee’s poor performance and attendance record – which evidently were not themselves related to family-care obligations – the arbitrator held it was a rational and non-discriminatory decision. As a result, *Telus* was not required to accommodate the job transfer request.

Of note, however, the *Telus* arbitrator found no distinction between eldercare and childcare issues, stating bluntly, “The obligations of a daughter vis-à-vis her parents are, for human rights purposes, worthy of the same protection as that of the obligations of a parent with her children” (para 133).

Canadian employers wading through the waters of family status issues are nevertheless frustrated because they tend to arise repeatedly and sporadically for years on end, often without warning. Furthermore, unlike for employees who routinely call in sick, it can be difficult to insist on obtaining a doctor’s note or some other form of objective evidence that the absences are necessary.

For these reasons, it is very important that employers – big and small – recognize both their substantive and procedural obligations in addressing their duty to accommodate employees with family-care needs.

For this reason, we recommend the following considerations to avoid potential liability, and ensure employees are aware of their rights and obligations:

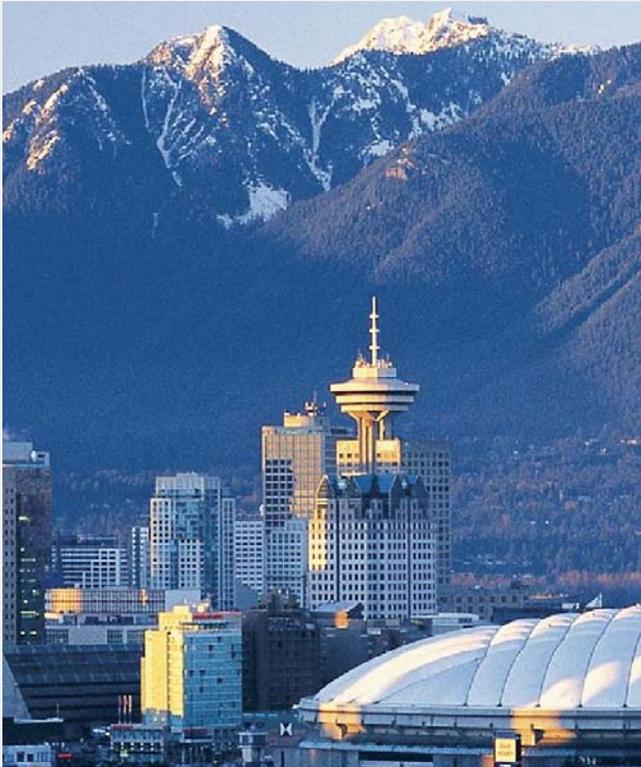
- Where an employee raises an eldercare or childcare issue, sit down with the employee

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MORE CONFERENCE FEATURES

VANCOUVER LOOKOUT SUPPER AND WYSE AFTER-PARTY



On Tuesday, June 10, CFAA Conference delegates are invited to join their colleagues at the Vancouver Lookout Supper and Wyse After-Party.

Guests will be treated to an evening filled with food, entertainment and networking, while enjoying the 360° aerial view of Vancouver. The adventure starts with a 40 second glass elevator ride, whisking guests 553 feet (169 meters) skyward to the panoramic observation deck.

Three different guided tours will each be offered at several times throughout the evening, both in daylight and darkness, namely the general tour, the Rental Housing tour and the Crimes and Ghosts tour.

Running from 7:30 to 10:30 pm, the Wyse After-Party includes the views from the Vancouver Lookout, a choice of the three guided tours, a host bar, snacks and networking with your colleagues.

In addition to the guided tours, the Lookout Tower has four 60-inch television screens allowing for the viewing of a Stanley Cup game, an historic hockey game or highlights.

Transportation will be provided between the Sheraton Vancouver – Wall Centre Hotel and the Vancouver Lookout Tower.

BUILDING INNOVATION BUS TOUR

On Monday, June 9, CFAA will be presenting a building innovation tour from 1:00 pm to 5:00 pm. Among the buildings on the tour will be The Gardens, which is a new mixed use development consisting of residential rental, retail and strata title (condo) units.

The Gardens has many features of interest, including a unique construction, parkland donated to obtain an increase in density, and a master-planned community.



For the other buildings on the tour, go to the conference page at www.cfaa-fcapi.org.

Delegates must register for the building tour in advance, preferably when they register for the education sessions.

For more information or to register

Exact topics and speakers are subject to change if need be. For the latest updates, or to register go to the conference page at www.cfaa-fcapi.org.

Companies registering three or more delegates can obtain a discount code from CFAA at 613-235-0101.

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CHILDCARE AND ELDERCARE: THE HUMAN RIGHTS CHALLENGES FOR EMPLOYERS *continued from page 5*

to engage in a meaningful dialogue... and document that discussion;

- If excess absenteeism is becoming a problem, determine whether the absences are related to such responsibilities or other human rights issues, and address them accordingly;
- It may be appropriate to ask for documentation of the care needs (to the extent such documentation exists) before a particular decision is made;
- Never dismiss an accommodation request out-of-hand; consider whether it would amount to an undue hardship, and whether there is an

alternative measure which could address the issue;

- Consider allowing employees to work from home periodically, if possible; and
- If you have any doubts as to the right approach, get specialized legal advice. ■

Daniel Chodos is a lawyer at Whitten & Lublin, Employment Lawyers. Daniel advises and represents both employers and employees. He has particular expertise in workplace violence and harassment matters, including conducting work place investigations. Daniel can be reached at 416-640-2667 or at dchodos@whittenlublin.com

RENTAL HOUSING TAX REFORM STATUS

CFAA continues to advance the interests of private landlords in housing and tax policy. Many people and groups are concerned that too little purpose-built rental housing is being constructed. CFAA takes every opportunity to explain that the cause of the shortfall is the federal tax system, and the key way to encourage more purpose-built rental housing is to reduce the tax burden on the rental housing sector.

CFAA will be making that point again when we next meet the Conservative Housing and Construction Caucus, when we meet Minister Kenney and when we meet the new Finance Minister, Joe Oliver.

The Finance Department officials are always concerned about the revenue the government would give up through any reduction in the taxes on rental housing. However, new rental development would provide jobs and contribute tax dollars, both at the time of construction and while the new rental buildings are operated. CFAA has obtained estimates of those offsets, which show that the net cost of tax relief for rental housing would be modest.

Providing tax deferral on sale and reinvestment in rental property is at the top of CFAA's list of prospective tax reforms. For that, the offset



calculations suggest that the initial net cost would be in the order of \$100M per year, which would all be a deferral of tax, not tax given up permanently. After three to five years, the deferral cost would decline to zero, and then the government could expect to collect more tax revenue than it does now.

Besides any support for new construction, existing rental housing also needs to pay less tax so that investors want more rental assets, and old rental housing is not crowded-out by the new supply.

CFAA is working hard to advance the tax reform agenda now that the end of the federal deficit is in sight. Stay tuned for more updates, both at the CFAA Rental Housing Conference, and in National Outlook. ■

Upcoming Events

June 9-11

CFAA Rental Housing Conference

June 16

16th Annual PPMA Golf Tournament – SOLD OUT

June 16

2014 HDAA Golf Tournament

June 25

LandlordBC – 2014 Education Day and Trade Expo (Victoria)

July 14

GTAA - Charitable Golf Tournament

August 21

LandlordBC – Charity Golf Tournament



CONTROLLING PROSTITUTION IN RENTAL BUILDINGS

BY JOHN DICKIE, CFAA PRESIDENT

In December 2013, the Supreme Court of Canada struck down a large part of Canada anti-prostitution laws. However, the Court delayed the effect of its ruling until the end of the year 2014 so that the government could re-write the law to comply with the Court’s ruling. What impact will the ruling and a new law have on landlords?

Ontario landlords have had the authority to prevent sex work from taking place on their properties under section 61(1) of the Residential Tenancies Act, which allows a landlord to terminate a tenancy because the tenant or another occupant committed an illegal act or carried on an illegal trade, business, or occupation on the rented

premises or in the complex or permitted a person to do so.

However, the Supreme Court struck down the current Criminal Code prohibitions against:

- Keeping, being inmate of, being in, or knowingly permitting use of a place as a common bawdy-house
- Living off the avails of prostitution
- Communicating in public for the purposes of engaging in prostitution or obtaining sexual services of a prostitute.

Whether landlords can still use illegal act as a basis for terminating a tenancy will depend on what action the federal government takes to re-write the prostitution laws.

In its recent consultation on that subject, the government invited feedback from the public on specific questions, including the following:

1. Do you think that purchasing sexual services from an adult should be a criminal offence? Should there be any exceptions?
2. Do you think that selling sexual services by an adult should be a criminal offence? Should there be any exceptions?
3. If you support allowing the sale or purchase of sexual services, what limitations should there be, if any, on where or how this can be conducted?
4. Do you think that it should be a criminal offence for a person to benefit economically from the prostitution of an adult? Should there be any exceptions?

From other information and comments, it seems that the government may well be leaning toward making buying sex illegal, while selling sex would not be illegal. That would allow landlords to proceed much as they are able to do now, since in the usual transaction the prostitute-tenant would be permitting someone to perform an illegal act in the rental unit.

If the new laws do not make sex for money illegal on either side, then a landlord’s recourse would be to rely on City by-laws about land use. In Toronto and most cities, most businesses cannot be operated in residential zones. Assuming the business of selling sex is not a permitted use in the zone of the rental unit, then operating that business there would violate the zoning by-law, and allow the landlord to evict for illegal act (namely breaking the zoning bylaw.) ■

CFAA ALLIED MEMBERS:

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EnerCare Connections	Visa
Gottarent.com	Wyse Meter Solutions
My Ideal Home Network	Yardi Systems
RHB Magazine	

Silver

Excel Collection Services	Noble Building Supplies
IRC Building Sciences Group	Places4Students.com
Landlord Web Solutions	RentMoola

Bronze

4Rent.ca	InSinkErator
Assured Thermal	Orkin Canada
bazinga! Technologies	Pattison OneStop
BCAP	Rainmaker LRO
Belanger Engineering	Rent Check Credit Bureau
Bentall Kennedy (Canada) LP	Renters Guide
Carma Industries	Rogers Communications
CMLS Financial	Sparkle Solutions
Cohen Highlye LLP	Suite Collections
Coinamatic	Telus
Enbridge Gas Distribution	Water Matrix
H&S Building Supplies	WinMar Property
Humphreys & Partners Architects L.P.	Restoration
	Zipsure.ca