

# CHARITY LAW UPDATE MARCH 2011

**EDITOR: TERRANCE S. CARTER** 

Updating Charities and Not-For-Profit Organizations on recent legal developments and risk management considerations.

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#### RECENT PUBLICATIONS AND NEWS RELEASES

#### **Budget 2011 Will Have Broad Impact on the Charitable Sector**

Theresa L.M. Man, Karen J. Cooper, Terrance S. Carter and Ryan M. Prendergast in *Charity Law Bulletin* No. 245, March 30, 2011.

The 2011 federal Budget introduced on March 22, 2011 (the "Budget") proposes sweeping changes to the regulatory regime affecting registered charities and qualified donees, and in particular Canadian Registered Amateur Athletic Associations (RCAAAs), as summarised below in this *Charity Law Bulletin*. The stated purpose of the Budget proposals concerning the regulation of registered charities and other qualified donees is to equip Canada Revenue Agency ("CRA") as the administrator of the tax system related to the charitable sector with "an effective set of compliance tools to safeguard the donation of Canadian taxpayers and act against any organization that does not follow the rules." In doing so, the government has targeted areas of perceived weakness in the regulation of charities and qualified donees, with a specific focus on RCAAAs, that the government believes requires either more transparency or more equality in treatment, as well as a focus on closing potential tax loop holes, such as the current "double-dipping" involving gifts of flow through shares.

This *Charity Law Bulletin* provides a series of brief overviews of the various proposals contained in the Budget in the order that they appear within Annex 3 of *The Budget Plan*.

#### **Read More:**

[PDF] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb245.pdf">http://www.carters.ca/pub/bulletin/charity/2011/chylb245.pdf</a>
[WEB] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb245.htm">http://www.carters.ca/pub/bulletin/charity/2011/chylb245.htm</a>

#### Bill C-470 (Disclosure of Compensation) Dies on the Order Paper

Terrance S. Carter

As a result of the dissolution of Parliament on March 26, 2011, Bill C-470 (which would have introduced new disclosure obligations for charities under the *Income Tax Act*, and had received first reading in the Senate on March 9, 2011) died on the order paper. For background information concerning the development of Bill C-470 leading up to first reading in the Senate, as well as the details of the Bill itself, reference can be made to *Charity Law Bulletin* No. 244, link below, entitled "Bill C-470 Receives Third Reading and Referred to Senate."



Now that Bill C-470 has died, it is not clear whether the Bill will be re-introduced in the next Parliament, since Bill C-470 had had its genesis as a private member's bill. The charitable sector will no doubt be carefully monitoring developments in this regard.

#### **Read More:**

[PDF] http://www.carters.ca/pub/bulletin/charity/2011/chylb244.pdf

#### **CRA News**

Karen J. Cooper.

#### **Registration for CRA Information Webinar on Compliance**

Registration is now open for the webinar on *Non-compliance issues and how to avoid them*, which will be held on April 27, 2011. More questions and answers about Charities Directorate webinars and registration are available on CRA's website at <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/wbnrs/rgstrtn-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/wbnrs/rgstrtn-eng.html</a>.

#### **CRA Notice on Disbursement Quota Reform**

On February 2, 2011, CRA released a Charities and Giving Notice on Disbursement Quota Reform. The Notice outlines several disbursement quota changes that affect charities as a result of the 2010 federal Budget. Topics include the new requirements under the disbursement quota reform, details surrounding the capital accumulation rule and the anti-avoidance rule, and the repeal of the charitable expenditure rule. For more information on the Notice please visit CRA's website at <a href="http://www.cra-arc.gc.ca/gncy/bdgt/2010/chrt-eng.html">http://www.cra-arc.gc.ca/gncy/bdgt/2010/chrt-eng.html</a>.

#### **CRA Notice on Anti-Avoidance Rules and Designated Gifts**

On March 8, 2011, CRA released a Charities and Giving Notice on Anti-Avoidance Rule and Designated Gifts. The 2010 federal Budget introduced new anti-avoidance provisions regarding gifts made between registered charities that are not at arm's length and also introduced the concept of a designated gift. In the Notice, CRA reviews the provisions and clarifies the concept of a designated gift, which is a type of gift made between registered charities that are not at arm's length. CRA indicates that in order to designate a gift the donor charity must indicate this in its information return for the fiscal period in which the gift is made. The donor charity cannot use the designated gift to satisfy its disbursement quota. For a more detailed explanation of the provisions, please visit CRA's website at <a href="http://www.cra-arc.gc.ca/chrts-gyng/chrts/prtng/gfts/nt-vdnc-eng.html">http://www.cra-arc.gc.ca/chrts-gyng/chrts/prtng/gfts/nt-vdnc-eng.html</a>.



#### IC84-3R – Gifts to Certain Charitable Organizations Outside Canada

On March 15, 2011, a revised attachment was added to CRA Publication IC84-3R, Gifts to Certain Charitable Organizations Outside of Canada. One of the organizations that was added to the list as a result of the devastating earthquake that occurred in Christchurch, New Zealand, several weeks ago is Christchurch Earthquake Appeal. The updated list can be accessed on CRA's website at <a href="http://www.cra-arc.gc.ca/E/pub/tp/ic84-3r-attach/ic84-3r-attach-e.html">http://www.cra-arc.gc.ca/E/pub/tp/ic84-3r-attach/ic84-3r-attach-e.html</a>.

#### **CRA Updates the Spending Requirement Checklist for Charities**

CRA released an updated checklist for charities on March 17, 2011 that includes information to help registered charities determine if they have met their disbursement quota. The checklist can be accessed on CRA's website at <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/dqb-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/dqb-eng.html</a>.

#### **CRA Revocations**

Theresa L.M. Man.

Canada Revenue Agency issued notices of intention to revoke the charitable registration of Pediatric AIDS Canada/USA on January 5, 2011 and The Organ Donation & Transplant Association of Canada on February 25, 2011. Both charities were subject to audits by CRA and subsequently had their charitable status revoked. CRA's news release indicates that the revocation of Pediatric AIDS Canada/USA became effective on February 19, 2011 and the revocation of The Organ Donation & Transplant Association of Canada became effective on February 26, 2011. These news releases can be accessed at <a href="http://www.cra-arc.gc.ca/nwsrm/rlss/2011/m02/nr110218-eng.html">http://www.cra-arc.gc.ca/nwsrm/rlss/2011/m02/nr110218-eng.html</a> and http://www.cra-arc.gc.ca/nwsrm/rlss/2011/m02/nr110225b-eng.html.

### Countdown to the *Canada Not-For-Profit Corporations Act* Practice Tip #9: Special Act Corporations

By Jane Burke-Robertson and Theresa L.M. Man in *Charity Law Bulletin* No. 247, March 30, 2011.

Instead of being incorporated under the *Canada Corporations Act* (CCA), some federal non-share capital corporations are incorporated by special legislation of the Parliament of Canada. While there are relatively few of these types of corporations, it is important to be aware of the changes that the new *Canada Not-for-profit Corporations Act* (CNCA) brings to these corporations. This Bulletin outlines the key provisions in the CNCA which will apply to special act corporations on proclamation of the CNCA.



#### **Read More:**

[PDF] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb247.pdf">http://www.carters.ca/pub/bulletin/charity/2011/chylb247.pdf</a>

#### Be Charitable During The Election Campaign: The Do's And Don't's For Charities

Jennifer M. Leddy and Ryan M. Prendergast in Charity Law Bulletin No. 248, March 30, 2011.

Canada is now in the midst of a federal election. Charities, like other individuals and organizations, will be interested in the platforms of political parties and candidates and how they impact on their charitable activities. Some will also wish to inform the candidates and parties about various issues of concern to them, and others may be asked to host all candidates meetings. Charities must always be very careful not to participate in <u>partisan</u> political activities but this is especially important at election time. This *Charity Law Bulletin* provides some Do's and Don'ts for charities, particularly around election time.

#### **Read More:**

[PDF] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb248.pdf">http://www.carters.ca/pub/bulletin/charity/2011/chylb248.pdf</a>
[WEB] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb248.htm">http://www.carters.ca/pub/bulletin/charity/2011/chylb248.htm</a>

#### Ontario Legislature Passes Bill 122, the Broader Public Sector Accountability Act

Terrance S. Carter and Ryan M. Prendergast in Charity Law Bulletin No. 249, March 31, 2011.

On December 8, 2010, Bill 122, the *Broader Public Sector Accountability Act* (the "Act") received Royal Assent after being passed by the Ontario Legislature on December 2, 2010. The majority of the Act will come into force on a date to be proclaimed by the Lieutenant Governor, whereas the amendments to the *Freedom of Information and Protection of Privacy Act* described below and other statues will come into force on January 1, 2012. The Act was briefly mentioned in the February 2011 *Charity Law Update*, which can be accessed online at <a href="http://www.carters.ca/pub/update/charity/11/feb11.pdf">http://www.carters.ca/pub/update/charity/11/feb11.pdf</a>. The Act was created to increase the financial accountability of organizations in the broader public sector. The sections of the Act with relevancy for charities and non-profit organizations in Ontario are discussed in this *Charity Law Bulletin*.

#### **Read More:**

[PDF] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb249.pdf">http://www.carters.ca/pub/bulletin/charity/2011/chylb249.pdf</a>
[WEB] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb249.htm">http://www.carters.ca/pub/bulletin/charity/2011/chylb249.htm</a>



#### Social Media: An Emerging Issue in The Workplace

Barry W. Kwasniewski in *Charity Law Bulletin* No. 246, March 30, 2011.

In recent years, Canada has seen a phenomenal increase in the use of social media, such as personal blogs, Facebook and Twitter. Canadians are now among the world's most prolific social media users. Whatever our personal beliefs, social networking is not simply a technological fad. So are charities and not-for-profit organizations to embrace social networking, fear it, or ignore it? While your donors, volunteers and employees over a certain age might not care whether your organization has a social media presence, you can be assured that the younger generation will. It has always been the nature of the law to lag behind social and technological developments. But, as the law catches up to what has been happening in the digital world, employers should expect that they will have to confront the issue of social media use by their employees sooner rather than later.

This *Charity Law Bulletin* discusses some of the risk management implications of social media, focusing on the risks associated with employee use of social media, and guidelines/strategies for employers to deal with inappropriate social media use and regulate its use in the workplace.

#### **Read More:**

[PDF] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb246.pdf">http://www.carters.ca/pub/bulletin/charity/2011/chylb246.pdf</a>
[WEB] <a href="http://www.carters.ca/pub/bulletin/charity/2011/chylb246.htm">http://www.carters.ca/pub/bulletin/charity/2011/chylb246.htm</a>

### Important Case on Reconciling Competing Charter Values on Its Way to the Supreme Court of Canada

Jennifer M. Leddy.

In October 2010 the Ontario Court of Appeal rendered an important decision on reconciling competing Charter Values. The complainant in a criminal trial, a Muslim woman, invoked freedom of religion to wear a niqab, a veil covering her face other than her eyes, while testifying in a criminal trial concerning historical sexual assaults. She asserted that her religious beliefs require that she must be covered in public or in the presence of men who are not her relatives. The accused responded by asserting that his constitutional right to a fair trial, to make full answer and defense required the complainant to uncover her face while testifying.

In a considered and fair approach to reconciling competing *Charter* values, the Court of Appeal provided a clear and helpful framework for future cases. It affirmed that no *Charter* right is absolute or inherently superior to another and that when two rights appear to collide the first task is not to obliterate one but to attempt to reconcile them, having regard to the specific factual context and possible "constructive compromises." The decision has been appealed to the Supreme Court of Canada. The top court's



approach to balancing competing *Charter* values will be watched by many with interest. For a fuller analysis of the Court of Appeal decision, please see *Church Law Bulletin* No.31.

#### OLG Launches Public Awareness Campaign to Support Benefits to Local Charities

Ryan M. Prendergast.

On March 16, 2011 Ontario Lottery and Gaming Corporation ("OLG"), in partnership with Ontario Charitable Gaming Association ("OCGA") and Commercial Gaming Association Ontario ("CGAO"), announced a public awareness campaign to revitalize the bingo industry for the benefit of Ontario charities. In this regard OLG, together with OCGA and CGAO, has indicated that new electronic and paper-based games will be introduced at bingo centres along with a "new breed" of charitable games that will result in increased support for local charities. OCGA's executive director, Lynn Cassidy, states that the intent of this effort is to "preserve and enhance" the funding received from charitable gaming for charities in Ontario. The revitalization will focus on pilot sites already operating across Ontario, which OLG states have generated \$30 million dollars for local charities since 2005. OCGA, in information provided on their website, states that the revitalization effort hopes to achieve an easier and more manageable process for charities by eliminating licensing fees and reducing administrative expenses.

The OLG press release can be found online at: <a href="http://media.olg.ca/?p=nmm\_news\_detail&i=2cc9b71a-ad0a-489b-b02a-403b6990cc6a">http://media.olg.ca/?p=nmm\_news\_detail&i=2cc9b71a-ad0a-489b-b02a-403b6990cc6a</a>. Further information from OCGA is also available at: <a href="http://www.charitablegaming.com/Public/Page/Files/51\_Charities%20Information%20Package.pdf">http://www.charitablegaming.com/Public/Page/Files/51\_Charities%20Information%20Package.pdf</a>.

#### Financing Charities: Thinking Outside the Box

Presented by Terrance S. Carter at the C.D. Howe Institute Policy Conference on Strengthening Charity Finance in Canada, March 8, 2011.

The chronic problem faced by charities in Canada is not that they are not doing good work, but rather that they are chronically underfunded. The presentation that follows looks at two possible options for increasing financing for charities. One option involves expanding the parameters for an existing type of charitable program known as "Program Related Investments," and the other involves introducing a new proposal for financing charities, described as "Tax Enhanced Charitable Loans." The following presentation provides preliminary thoughts involving both options for consideration.

#### **Read More:**

[PDF] <a href="http://www.carters.ca/pub/seminar/charity/2011/tsc0308.pdf">http://www.carters.ca/pub/seminar/charity/2011/tsc0308.pdf</a>
[WEB] <a href="http://www.carters.ca/pub/seminar/charity/2011/tsc0308.htm">http://www.carters.ca/pub/seminar/charity/2011/tsc0308.htm</a>



### Ontario Government Releases Recommendations to Strengthen Relationship with Charitable Sector

Jacqueline M. Demczur.

On March 3, 2011, the Ontario Government released a strategy designed to strengthen its relationship with the not-for-profit sector, which includes charities as well as sports and community organizations. The Partnership Project report (the "Report") provides suggestions concerning how the Government can be more responsive and accessible to these not-for-profit organizations. The Report has indicated that a Partnership Advisory Group will be created, which will include a variety of people from the not-for-profit sector, as well as the public and private sectors, together with a Partnership Project Office which is designed to modernize the Ontario Government's relationship with community organizations and provide for better coordination.

For more information on the Report, please see <a href="http://partnershipproject.ca">http://partnershipproject.ca</a>.

#### **United Nations Emphasizes Need For Fair and Clear Delisting Procedures**

Nancy E. Claridge.

On the heels of the release of the first Report of the Office of the Ombudsperson pursuant to Security Council Resolution 1904 (2009), the UN Security Council on February 28, 2011 affirmed the important role of the Ombudsperson in ensuring fair and clear procedures for groups and individuals wanting to be delisted from its designated terrorist list created pursuant to Resolutions 1267 (1999) and 1333 (2000) (the "Consolidated List"). The current process has been criticized for violating human rights and not providing adequate notice and opportunity to respond. The Ombudsperson's Report called on UN member countries to provide additional co-operation, the Ombudsperson has initiated bilateral and multilateral consultations with approximately 40 Member States. In a statement made by the President of the Security Council, the importance of sanctions against Al-Qaida and the Taliban were cited as essential tools in combating terrorism, but encouraged individuals seeking delisting from the Consolidated List to pursue their case through the Ombudsperson, whose mandate will now be renewed. The Ombudsperson oversees delisting requests submitted by, or on behalf of, an individual or group.

For more information, see

http://www.un.org/ga/search/view\_doc.asp?symbol=S/2011/29&Lang=E&Area=UNDOC and http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CT%20S%20PRST%202011%205%201267%20Ombudsperson%20Report.pdf.



#### New Uniform Law Commission (U.S.) Project on Charities

Terrance S. Carter.

The Uniform Law Commission in the United States is a non-partisan organization, composed of practicing lawyers, judges, legislators and law professors, who seek to bring clarity and stability to state statutory law by working towards uniformity in state laws where it is desirable. One of the Uniform Law Commission's new projects is the "Protection of Charitable Assets Act." The Proposed Act would deal with the authority of state attorney's power in relation to governing charities, including protection of charitable assets, notice requirements and remedies. In addition, the Proposed Act would require that notice of certain "life events" be filed. In this regard, the Proposed Act would require a charity in the U.S. to file notice with the Attorney General, prior to any amendment to the charity's purposes or a material change in its structure, governance, or activities. The charity would also have to provide advance notice before the intent to dissolve or terminate would be filed. The charity would need to provide a plan of dissolution and couldn't transfer assets until receiving written consent from the Attorney General or written notice that the Attorney General would take no action. If there had been no response within 20 days from the Attorney General, the charity would proceed to transfer assets.

The Committee drafting the Proposed Act also wanted to provide guidance with regard to interstate and multistate cases. The Drafting Committee plans on meeting in early April 2011 and hopes to have a final version of the Act in time for their July Annual General Meeting. This is an interesting initiative that is worth tracking, since U.S. developments in the law often have a subsequent impact in Canada.

See more at:

http://www.uniformlaws.org/Committee.aspx?title=Protection%20of%20Charitable%20Assets%20Act.

#### Countdown to the Canada Not-for-Profit Corporations Act Client Seminar

The New *Canada Not-for-Profit Corporations Act* (CNCA) is expected to come into effect in early fall, 2011 (expected to be delayed because of the recent dissolution of Parliament). It will have a significant impact on charitable and not-for-profit organizations incorporated under the *Canada Corporations Act*.

To get a closer look at the CNCA, clients of Carters are invited to attend an in depth practical breakfast seminar being offered in Toronto, Thursday, April 7, 2011, or Ottawa, Wednesday, April 13, 2011, to help those organizations understand the process of continuing under the CNCA. Registration details are available at www.carters.ca.



#### Ottawa Region Charity & Not-for-Profit Law Seminar Materials Now Available

The Ottawa Region *Charity & Not-for-Profit Law* Seminar, hosted by Carters Professional Corporation in Nepean, Ontario, on February 16, 2011, was attended by more than 250 leaders from the sector, including directors of charities, government officials, accountants and lawyers. Designed to provide practical information to assist charities and not-for-profits in understanding and complying with recent developments in the law, the related *Church & Charity Law* seminar has been held annually in Toronto since 1994, with an Ottawa seminar first added in 2008. All handouts and presentation materials are now available at the links below in the order as presented, with the web links being Power Point slide shows.

#### Seminar and Speaker Details and Acknowledgements

[PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/handout.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/handout.pdf</a>

#### **Essential Charity and Not-for-Profit Law Update**

Terrance S. Carter, Carters Professional Corporation, Orangeville [WEB] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tsc0216.htm">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tsc0216.htm</a> [PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tsc0216.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tsc0216.pdf</a>

#### Recent Update on Tax Exempt Status for Not-for-Profits

Karen J. Cooper, Carters Professional Corporation, Ottawa
[WEB] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kjc0216.htm">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kjc0216.htm</a>
[PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kjc0216.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kjc0216.pdf</a>

#### Social Media: An Emerging Issue In The Work Place

Barry Kwasniewski, Carters Professional Corporation, Ottawa
[WEB] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/bwk0216.htm">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/bwk0216.htm</a>
[PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/bwk0216.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/bwk0216.pdf</a>

#### **Recent Corporate Law Reform: Overview and Practical Tips**

Jane Burke-Robertson, Carters Professional Corporation, Ottawa
[WEB] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/jbr0216.htm">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/jbr0216.htm</a>
[PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/jbr0216.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/jbr0216.pdf</a>

#### An Overview of Human Rights Issues for Charities and Not-for-Profits

Mervyn F. White, Carters Professional Corporation, Orangeville
[WEB] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/mfw0216.htm">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/mfw0216.htm</a>
[PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/mfw0216.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/mfw0216.pdf</a>

#### **Fiduciary Considerations Involving Charitable Property**

Kenneth R. Goodman, Deputy Public Guardian and Trustee - Director Legal Services [WEB] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kg0216.htm">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kg0216.htm</a> [PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kg0216.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/kg0216.pdf</a>

#### What the Federal Budget Disbursement Quota Reform Means for your Charity

Theresa L.M. Man, Carters Professional Corporation, Orangeville [WEB] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tlm0216.htm">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tlm0216.htm</a>



[PDF] <a href="http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tlm0216.pdf">http://www.carters.ca/pub/seminar/chrchlaw/ott/11/tlm0216.pdf</a>

#### **Basic Tax Considerations in Gift Planning**

M. Elena Hoffstein, Fasken Martineau DuMoulin LLP, Toronto

[WEB] http://www.carters.ca/pub/seminar/chrchlaw/ott/11/meh0216.htm

[PDF] http://www.carters.ca/pub/seminar/chrchlaw/ott/11/meh0216.pdf

#### Freedom of Religion - Reconciling Rights

Jennifer M. Leddy, Carters Professional Corporation, Ottawa

[WEB] http://www.carters.ca/pub/seminar/chrchlaw/ott/11/jml0216.htm

[PDF] http://www.carters.ca/pub/seminar/chrchlaw/ott/11/jml0216.pdf

#### What's New at the Charities Directorate

Cathy Hawara, Director General, Charities Directorate, Canada Revenue Agency

[WEB] http://www.carters.ca/pub/seminar/chrchlaw/ott/11/ch0216.htm

[PDF] http://www.carters.ca/pub/seminar/chrchlaw/ott/11/ch0216.pdf

#### IN THE PRESS

#### **Compensation Disclosure for Charities Causes Controversy** by Terrance Carter.

The Lawyers Weekly, Vol. 30, No. 40, March 4, 2011.

[Link] http://www.carters.ca/news/2011/tsc0304.pdf

### The Evolution of Advocacy and Political Activities by Charities in Canada: An Overview by Terrance S. Carter and Theresa L.M. Man.

The Philanthropist, Vol. 23, No. 4 (2011).

[Link] http://www.thephilanthropist.ca/index.php/phil/article/view/890

### Bill To Prevent Gender Identity and Expression Discrimination Passed By House of Commons by Barry Kwasniewski.

Employment Practices Risk Management Column, Imagine Canada, February 2011.

http://nonprofitrisk.imaginecanada.ca/files/insuranceinfo/en/publications/barry\_kwasniewski\_feb\_20\_11.pdf

#### What the New Spam Rules Mean For Charities, Not-For-Profits by Ryan Prendergast.

Canadian Fundraising & Philanthropy eNews, Vol. 21, No. 4, February 31, 2011.

[Link] <a href="http://www.canadianfundraiser.com/newsletter/article.asp?ArticleID=3600">http://www.canadianfundraiser.com/newsletter/article.asp?ArticleID=3600</a>

**Inside Internal Control** refers readers to the January 2011 *Charity Law Update* on CRA Revocations as well as to *Charity Law Bulletin* No. 239 on "Countdown to the *Canada Not-For-Profit Corporations Act*-Practice tip #8: Corporate Records" by Jane Burke-Robertson and Theresa L.M. Man.

Inside Internal Control, Vol. 4 Iss. 2, February 2010.

[Link] http://www.firstreference.com/past\_icl/Vol4\_Issue2.html



Charity Law 2010 Year in Review by Terrance S. Carter, Karen J. Cooper, and Theresa L.M. Man. *International Journal of Civil Society Law, Vol. IX, Iss. I, January* 2011. [Link] http://www.iccsl.org/pubs/11-01\_IJCSL.pdf

New Brunswick Court Awards Dismissed Employee Punitive Damages by Barry Kwasniewski.

Employment Practices Risk Management Column, Imagine Canada, January 2011.

<a href="http://nonprofitrisk.imaginecanada.ca/files/insuranceinfo/en/publications/barry\_kwasniewski\_jan\_20">http://nonprofitrisk.imaginecanada.ca/files/insuranceinfo/en/publications/barry\_kwasniewski\_jan\_20</a>

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#### RECENT EVENTS AND PRESENTATIONS

**Ottawa Region** *Charity & Not-for-Profit Law* **Seminar** was held on Wednesday, February 16, 2011, at the Arlington Woods Free Methodist Church in Nepean, Ontario, with several guest speakers. This seminar is designed to provide practical information on current legal issues to assist charities and not-for-profit organizations understand developing trends in the law and avoid unnecessary exposure to legal liability.

Materials now available at http://www.charitylaw.ca.

First Annual Canadian Society of Association Executives (CSAE) Trillium Chapter Winter Summit held in Hamilton, Ontario included the following presentations in the "Legal Update 101: What You Need to Know" session on February 25, 2011.

Essential Charity & Not-for-Profit Law Update by Terrance S. Carter, and

[Web] http://www.carters.ca/pub/seminar/charity/2011/tsc0225.htm

[PDF] http://www.carters.ca/pub/seminar/charity/2011/tsc0225.pdf

Key Legal Compliance Issues for Charities and Not-for-Profits by Theresa L.M. Man.

[Web] http://www.carters.ca/pub/seminar/charity/2011/tlm0225.htm

[PDF] http://www.carters.ca/pub/seminar/charity/2011/tlm0225.pdf

Hiring to Firing: How to Avoid Employer Liability Workshop hosted by Volunteer Ottawa was presented by Barry W. Kwasniewski on March 1, 2011.

[Web] http://www.carters.ca/pub/seminar/charity/2011/bwk0301.htm

[PDF] http://www.carters.ca/pub/seminar/charity/2011/bwk0301.pdf

**C.D. Howe Conference "Strengthening Charity Finance in Canada"** included a presentation by Terrance S. Carter entitled "Financing Charities: Thinking Outside of the Box" on March 8, 2011.

[Web] http://www.carters.ca/pub/seminar/charity/2011/tsc0308.htm

[PDF] http://www.carters.ca/pub/seminar/charity/2011/tsc0308.pdf

Emerging Issues in Directors' and Officers' Liability 2011, a professional development course from the Law Society of Upper Canada, included a presentation on Directors' and Officers' Liability for Charities and Not-for-Profit Organizations by Terrance S. Carter on March 29, 2011.



#### **UPCOMING EVENTS AND PRESENTATIONS**

How to Prepare your Client for a CRA Audit is being presented by Karen J. Cooper for the Ontario Bar Association CLE program in Toronto, Ontario, on April 5, 2011.

Details available at <a href="http://www.softconference.com/oba/eventdetails.aspx?&code=11CHA0405T">http://www.softconference.com/oba/eventdetails.aspx?&code=11CHA0405T</a>.

Client Breakfast Seminar – Get a Closer Look at Continuance Under the Canada Not-for-Profit Corporations Act (CNCA) hosted by Carters for clients in Toronto on Thursday, April 7, or in Ottawa on Wednesday, April 13, will provide in depth practical information to help charitable and not-for-profit organizations incorporated under the Canada Corporations Act understand the process of continuing under the CNCA.

Registration details available at <a href="http://www.carters.ca/nfp/index.htm">http://www.carters.ca/nfp/index.htm</a>.

Canadian Association of Gift Planners (CAGP) 2011 National Conference being held in Toronto on April 13-15, 2011, will include the following presentations:

"Why the T3010B Matters to Gift Planners and What You Need to Know" by Theresa L. M. Man and Mark Climie-Elliott CFRE, Climie-Elliott,

"Essential Charity Law Update: What Every Gift Planner Needs to Know" by Terrance S. Carter, and "Considerations in Developing Gift Acceptance Policies" by Karen J. Cooper and Bruce R. Hill CFRE, Consultant.

Details and registration available at http://www.cagp-acpdp.org/en/education/2011conf.aspx.

**2011 National Charity Law Symposium** hosted by the Canadian Bar Association and the Ontario Bar Association in Toronto on May 6, 2011, will include the following presentations:

"Disbursement Quota Reform: The Ins and Outs of What You Need to Know" by Theresa L. M. Man, and "Here Comes the CNCA: Are You Ready to Advise Your Clients?" by Jane Burke-Robertson and Linda J. Godel, Torkin Manes LLP.

Details and registration available at <a href="http://www.cba.org/pd/details.aspx?id=NA">http://www.cba.org/pd/details.aspx?id=NA</a> CHAR11.



#### **CONTRIBUTORS**

Editor: Terrance S. Carter Assistant Editor: Nancy E. Claridge



**Jane Burke-Robertson** – A partner with Carters' Ottawa office, Ms. Burke-Robertson practices in the area of charity and not-for-profit law and has been ranked by *Lexpert* and *The Best Lawyers in Canada* as a leader in her field. She is co-author of *Non-Share Capital Corporations* published by Carswell, and a contributor to Industry Canada's *Primer for Directors of Not-for-Profit Corporations*. Ms. Burke-Robertson is a frequent speaker and lecturer on charitable and not-for-profit matters and recently taught an advanced seminar on the law of charities and non-profit organizations at the Faculty of Law, University of Ottawa.



**Terrance S. Carter** – Managing Partner of Carters, Mr. Carter practices in the area of charity and not-for-profit law, is counsel to Fasken Martineau DuMoulin LLP on charitable matters, is a member of the Technical Issues Group of Canada Revenue Agency's (CRA) Charities Directorate representing the Canadian Bar Association (CBA), a past member of CRA's Charity Advisory Committee, Chair of the CBA National Charities and Not-for-Profit Section, and is recognized as a leading expert by *Lexpert* and *The Best Lawyers in Canada*. He is also consulting editor of *Charities Legislation and Commentary* (LexisNexis Butterworths, 2010), and editor of <a href="https://www.charitylaw.ca">www.charitylaw.ca</a>, <a href="https://www.charitylaw.ca">www.churchlaw.ca</a> and <a href="https://www.antiterrorismlaw.ca">www.antiterrorismlaw.ca</a>.



Nancy E. Claridge – Called to the Ontario Bar in 2006, Ms. Claridge is an associate with Carters practicing in the areas of charity, anti-terrorism, real estate, corporate and commercial law, and wills and estates, in addition to being the firm's research lawyer and assistant editor of *Charity Law Update*. After obtaining a Masters degree, she spent several years developing legal databases for LexisNexis Canada, before attending Osgoode Hall Law School where she was a Senior Editor of the *Osgoode Hall Law Journal*, Editor-in-Chief of the *Obiter Dicta* newspaper, and was awarded the Dean's Gold Key Award and Student Honour Award.



**Karen J. Cooper** – A partner with the firm, Ms. Cooper practices charity and not-for-profit law with an emphasis on tax issues at Carters' Ottawa office, having formerly been a Senior Rulings Officer with the Income Tax Rulings Directorate of Canada Revenue Agency, as well as former counsel for the Department of Justice in tax litigation. Ms. Cooper also has considerable teaching experience, including as part-time professor at the University of Ottawa, Faculty of Common Law, and is a contributing author to The Management of Charitable and Not-for-Profit Organizations in Canada (LexisNexis Butterworths).



**Jacqueline M. Demczur** – A partner with the firm, Ms. Demczur practices in charity and not-for-profit law, including incorporation, corporate restructuring, and legal risk management reviews, as well as wills, estate planning and estate administration. She is a contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and has written numerous articles on charity and not-for-profit issues for the *Lawyers Weekly*, *The Philanthropist* and *Charity Law Bulletin*, among others. Ms. Demczur is also a regular speaker at the annual *Church & Charity Law*<sup>TM</sup> Seminar.

# **CARTERS**



**Kenneth R. Goodman** - Deputy Public Guardian and Trustee - Director Legal Services, he was called to the Ontario Bar in 1982. He was in private practice before joining the Ministry in 1990 and joined the Office of the Public Guardian and Trustee in 1998. While in private practice Mr. Goodman was actively involved as a director and officer of several charities. He is a member of the OBA (Ontario Bar Association) Charity and Not-For-Profit Law Section Executive, and the 2007 recipient of the AMS John Hodgson Award.



Cathy Hawara —Director General, Charities Directorate with the Canada Revenue Agency, since October 2009. In this capacity, she is responsible for the overall management of the federal regulation of registered charities under the *Income Tax Act*. Prior to joining the CRA, Ms Hawara served as the Director of Appointments with the Senior Personnel Secretariat at the Privy Council Office from 2007 to 2009. She was responsible for providing advice and support to the Clerk of the Privy Council, the Prime Minister and his Office on all matters related to selection processes and appointments to Governor in Council positions, including Deputy Ministers and heads of agencies.



**M. Elena Hoffstein** – Partner and a member of the Wealth Management and Charities practice group at the Toronto office of Fasken Martineau DuMoulin LLP, Ms. Hoffstein practices in the area of charity and not-for-profit law and estate planning, received the Estate Planning Award of Excellence, the Lexpert Zenith Award celebrating Leading Women Lawyers, and has been ranked by Lexpert as one of the most frequently recommended Toronto private client practitioners and charity law lawyers, and as one of the top 500 lawyers in Canada. Ms. Hoffstein was also a consulting editor of *Charities Legislation & Commentary*, 2011 Edition (LexisNexis Butterworths).



**Barry W. Kwasniewski** - Mr. Kwasniewski joined Carters' Ottawa office in October 2008 to practice in the areas of employment law, charity related litigation, and risk management. Called to the Ontario Bar in 1990, Barry has a wide range of litigation experience, including in commercial disputes, personal injury, long-term disability, employment, insurance defence, and professional liability. Barry is a volunteer lawyer at Reach Canada, is on the Board of directors of the Vista Centre, and has assisted in several United Way campaigns.



**Jennifer Leddy** – Ms. Leddy joined Carters' Ottawa office in March 2009 to practice charity and not-for-profit law following a career in both private practice and public policy. Ms. Leddy practiced with the Toronto office of Lang Michener prior to joining the staff of the Canadian Conference of Catholic Bishops (CCCB). In 2005, she returned to private practice until she went to the Charities Directorate of the Canada Revenue Agency in 2008 as part of a one year Interchange program, to work on the proposed "Guidelines on the Meaning of Advancement of Religion as a Charitable Purpose."



**Theresa L.M. Man** – A partner with Carters, Ms. Man practices in the area of charity and not-for-profit law, with particular emphasis on tax issues. She is an Executive Member of both the Charity and Not-for-Profit Sections of the Ontario Bar Association and the Canadian Bar Association. In addition to being a frequent speaker at the annual *Church & Charity Law*™ Seminar, seminars hosted by the Canadian Bar Association and the Ontario Tax Foundation, Ms. Man has also written articles for *The Lawyers Weekly*, *The Philanthropist*, *Planned Giving Pulse*, *International Journal of Civil Society Law, The Bottom Line*, *Canadian Fundraiser eNews*, and *Charity Law Bulletin*.



**Ryan Prendergast** - Ryan was called to the Ontario Bar in 2010 and joined Carters to practice in the areas of charity and not-for-profit law, corporate and commercial law, and human rights law. A graduate of the University of Ottawa, Faculty of Law, Ryan was a student caseworker for the Criminal Division at the University of Ottawa Community Legal Aid Clinic, completed a research project for Ecology Ottawa on municipal by-laws, and worked for the Crown Attorney's Office in Toronto as a summer student. During his articles, Ryan acquired experience in charity and not-for-profit law, and contributed to several *Charity Law Bulletins* and other publications.

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## **CARTERS**



**Kate Robertson** - Kate graduated from the University of Ottawa, Faculty of Law, in 2010, and obtained her Bachelor of Arts (*cum laude*) in Philosophy, Politics and Law from Binghamton University. During her studies, Kate was recognized by the National College Athlete Honour Society, the East Coast Athletic Academic Award of Merit, and elected as a Vice President for the Common Law student council. She also has experience as a Policy Analyst and Charities Officer for the Charities Directorate of the Canada Revenue Agency where she reviewed charitable applications and assisted with legal research and writing.



Colin Thurston- A graduate of Queen's University, Faculty of Law, in 2010, Colin volunteered at the Queen's Legal Aid clinic throughout his three years at Queen's and his responsibilities grew from hands-on legal research, writing, and litigation, to supervision and training of his fellow law students, to input on clinic operations from a policy level. Colin has gained litigation experience before numerous courts and tribunals and received numerous awards recognizing his work, including the Sabbath Prize in Wills and Estate Planning from Queen's University, Faculty of Law.



**Jason Todoroff** - Jason graduated from the University of Western Ontario Faculty of Law with a Juris Doctorate after having completed a B.A. (Hons.) in Political Science and History from the University of Waterloo. Jason also holds an Airline Transport Pilot Licence and worked in the aviation industry as a commercial pilot and flight instructor. Before his articling term at Carters, Jason worked for the firm as a summer student for two years and gained experience in a number of practice areas at Carters, and contributed to articles published in the *Charity Law Bulletin* and the 2008 and 2009 editions of *Charities Legislation and Commentary* (LexisNexis).



**Mervyn F. White** –A partner with Carters, Mr. White practices litigation and dispute resolution in areas of the law including charity and not-for-profit law, human rights complaints, and risk management assessments relating to insurance law and human rights. Mr. White is a contributing author to The Lawyers Weekly, Charity Law Bulletin and Church Law Bulletin, and a regular speaker at the annual *Church & Charity Law*<sup>TM</sup> Seminar and guest speaker for organizations such as Canadian Fundraiser, the Association of Fundraising Professionals, and the Christian Legal Intervention Academy.



#### ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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#### CARTERS PROFESSIONAL CORPORATION SOCIÉTÉ PROFESSIONNELLE CARTERS

**PARTNERS:** 

Terrance S. Carter B.A., LL.B.

(Counsel to Fasken Martineau DuMoulin LLP)

Jane Burke-Robertson B.Soc.Sci., LL.B.

Mervyn F. White B.A., LL.B.

Karen Cooper B.Soc.Sci., LL.B., LL.L., TEP

Theresa L.M. Man B.Sc., M.Mus., LL.B., LL.M.

Jacqueline M. Demczur B.A., LL.B.

Esther S.J. Oh B.A., LL.B.

**ASSOCIATES:** 

Jennifer M. Leddy B.A., LL.B.

Barry W. Kwasniewski B.B.A., LL.B.

U. Shen Goh LL.B., LL.M.

Nancy E. Claridge B.A., M.A., LL.B.

Ryan Prendergast B.A., LL.B.

**COUNSEL:** 

Bruce W. Long B.A., LL.B.

211 Broadway, P.O. Box 440

Orangeville, Ontario, Canada L9W 1K4

Tel: (519) 942-0001 Fax: (519) 942-0300

2 Robert Speck Parkway, Suite 750

Mississauga, Ontario, Canada, L4Z 1H8

Tel: (905) 306-2791 Fax: (905) 306-3434 tcarter@carters.ca

janebr@carters.ca

mwhite@carters.ca

kcooper@carters.ca

tman@carters.ca

jdemczur@carters.ca

estheroh@carters.ca

ileddy@carters.ca

bwk@carters.ca

sgoh@carters.ca

nclaridge@carters.ca

rprendergast@carters.ca

blong@carters.ca

Ottawa · Toronto

Mississauga · Orangeville Toll Free: 1-877-942-0001

70 Gloucester Street

Ottawa, Ontario, Canada

Tel: (613) 235-4774

Fax: (613) 235-9838

TD Canada Trust Tower

161 Bay Street, 27th Floor, PO Box 508

Toronto, Ontario, Canada M5J 2S1

Tel: 416-675-3766 Fax: 416-576-3765

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