

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

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HIGHLIGHTS

- Upcoming Seminar (May 5, 2004) – Tax Update for Charities
- Update on the Application of The *Personal Information Protection and Electronic Documents Act* (PIPEDA) to Charitable and Non-Profit Organizations
- Recent Decision Casts Doubt on Use of Matthew 18: 15-18 to Address Church Disputes
- New Search Tool added to Websites
- Materials presented at the CAGP 11th National Conference on Legal Liability in Fundraising.
- Materials presented at the CBA 2nd National Symposium on Charity Law, including articles on;
- Extra-Provincial Compliance,
 - Board Governance,
 - Reform of the Canada Corporations Act, and
 - Trade-Mark Protection for Charities.

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NEW PUBLICATIONS

Update on the Application of The *Personal Information Protection and Electronic Documents Act* (PIPEDA) to Charitable and Non-Profit Organizations

by Mark Wong and Shen Goh in *Charity Law Bulletin No.42* April 23, 2004.

As of January 1, 2004, the *Personal Information Protection and Electronic Documents Act* (“PIPEDA” or the “Act”) applies to every organization that collects, uses or discloses personal information in the course of commercial activities. In November of 2003, *Charity Law Bulletin* No. 28 was published and provides a full discussion of the impact of PIPEDA on charitable and non-profit organizations, it is available at www.charitylawbulletin.ca/2003/chylb28.pdf. On March 31, 2004, the Office of the Privacy Commissioner of Canada (the “Privacy Commissioner”) released a Fact Sheet (the “Fact Sheet”) entitled “The Application of the *Personal Information Protection and Electronic Documents Act* to Charitable and Non-Profit Organizations”, a copy of which can be found at www.privcom.gc.ca/fsfi/02_05_d_19_e.asp. In the Fact Sheet, the Privacy Commissioner stated, “*The bottom line is that non-profit status does not automatically exempt an organization from the application of the Act.*”

Read More:

[PDF] www.carters.ca/pub/bulletin/charity/2004/chylb42.pdf

[WEB] www.carters.ca/pub/bulletin/charity/2004/chylb42.htm

Recent Decision Casts Doubt on Use of Matthew 18: 15-18 to Address Church Disputes

by Mervyn F. White in *Church Law Bulletin No.3*, April 27, 2004.

Matthew 18:15-18 has traditionally been interpreted as directing Christians to resolve their disputes without recourse to the courts. As a result, clergy have frequently recommended the application of Matthew 18:15- 18 to their congregants as being in keeping with the Scriptures. A recent court decision in Ontario, however, has called into question the appropriateness of relying on Matthew 18:15-18 in resolving disputes and the correctness of clergy’s advice to that effect.

Read More:

[PDF] www.carters.ca/pub/bulletin/church/2004/chchlb03.pdf

[WEB] www.carters.ca/pub/bulletin/church/2004/chchlb03.htm

Looking a Gift Horse in the Mouth: Legal Liabilities in Fundraising

prepared by Terrance S. Carter for the 11th National Canadian Association of Gift Planners Conference in Toronto, April 16, 2004.

[Paper] www.carters.ca/pub/article/charity/2004/tsc0416.pdf

[Appendices] www.carters.ca/pub/article/charity/2004/tc0416app.pdf

Extra-Provincial Corporate and Fundraising Compliance for Charities

prepared by Esther S.J. Oh and Jacqueline M. Connor for the 2nd National Symposium on Charity Law, held in Toronto by the Canadian Bar Association and the Ontario Bar Association, April 14, 2004.

[Paper] www.carters.ca/pub/article/charity/2004/esojmc0414.pdf

Board Governance - When Does It Become Director's Negligence

prepared by Donald J. Bourgeois (counsel to Carter & Associates) for the 2nd National Symposium on Charity Law, held in Toronto by the Canadian Bar Association and the Ontario Bar Association, April 14, 2004.

[Paper] www.carters.ca/pub/article/charity/2004/djb0414.pdf

Reform of the *Canada Corporations Act*

prepared by Jane Burke-Roberston (counsel to Carter & Associates) for the 2nd National Symposium on Charity Law, held in Toronto by the Canadian Bar Association and the Ontario Bar Association, April 14, 2004.

[Paper] www.carters.ca/pub/article/charity/2004/jbr0414.pdf

Avoiding Wasting Assets II - Trade-Mark and Domain Name Protection for Charities

prepared by Terrance S. Carter for the 2nd National Symposium on Charity Law, held in Toronto by the Canadian Bar Association and the Ontario Bar Association, April 14, 2004.

[Paper] www.carters.ca/pub/article/charity/2004/tsc0414.pdf

IN THE PRESS

The Lawyers Weekly recently published "Income Tax Act Changes and Charities" by Terrance S. Carter and Theresa L.M. Man (Vol. 23 No. 46, April 9, 2004).

View this article at www.carters.ca/news/2004/lawyerwkly/tax0409.PDF

Christianity.ca article on Same-sex Marriage includes quotes from Terrance Carter's presentation at the 2004 Annual *Church & the Law Seminar*TM.

View this article at www.christianity.ca/church/leadership/2004/03.001.html.

Terrance Carter quoted in **Christian Week** article titled "Federal Budget Rewrites Tax Rules for Churches and Charities" (Vol. 18 No. 02, April 13, 2004).

View an excerpt at www.carters.ca/news/2004/chrstnwk/tax0413.pdf

View the issue at www.christianweek.org

RECENT EVENTS AND PRESENTATION MATERIALS

Search Tool added to our sites at www.carters.ca, www.charitylaw.ca, www.churchlaw.ca and www.antiterrorism.ca.

11th National CAGP Conference was held in Toronto, April 16, 2004, with Terrance S. Carter presenting "Looking a Gift Horse in the Mouth: Legal Liabilities in Fundraising".

[PDF] www.carters.ca/pub/seminar/charity/2004/tsc0416.pdf
[WEB] www.carters.ca/pub/seminar/charity/2004/tsc0416.htm
[Paper] www.carters.ca/pub/article/charity/2004/tsc0416.pdf
[Appendices] www.carters.ca/pub/article/charity/2004/tc0416app.pdf

2nd National Symposium on Charity Law (April 14, 2004) "What's New and What's Coming", was held in Toronto by the Canadian Bar Association (CBA), Ontario Bar Association (OBA) and the Canadian Association of Gift Planners (CAGP), Co-Chaired by Terrance S. Carter with talks from Carter & Associates lawyers on;

"Extra-Provincial Corporate and Fundraising Compliance for Charities"
by Jacqueline M. Connor and Esther S.J. Oh,
[PDF] www.carters.ca/pub/seminar/charity/2004/esojmc0414.pdf
[WEB] www.carters.ca/pub/seminar/charity/2004/esojmc0414.htm
[Paper] www.carters.ca/pub/article/charity/2004/esojmc0414.pdf

"Board Governance - When Does It Become Director's Negligence"
by Donald J. Bourgeois (counsel to Carter & Associates),
[PDF] www.carters.ca/pub/seminar/charity/2004/djb0414.pdf
[WEB] www.carters.ca/pub/seminar/charity/2004/djb0414.htm
[Paper] www.carters.ca/pub/article/charity/2004/djb0414.pdf

"Reform of the Canada Corporations Act"
by Jane Burke-Roberston (counsel to Carter & Associates), and
[Paper] www.carters.ca/pub/article/charity/2004/jbr0414.pdf

"Avoiding Wasting Assets II - Intellectual Property Protection for Charities"
by Terrance S. Carter.
[PDF] www.carters.ca/pub/seminar/charity/2004/tsc0414.pdf
[WEB] www.carters.ca/pub/seminar/charity/2004/tsc0414.htm
[Paper] www.carters.ca/pub/article/charity/2004/tsc0414.pdf

UPCOMING EVENTS AND PRESENTATIONS

Tax Update for Charities, an informative morning seminar hosted by Carter & Associates and Fasken Martineau in Toronto with presentations on:

"Proposed new Tax Rules" by Terrance Carter, and
"Proposed 2004 Budget Provisions" by Elena Hoffstein.

May 5, 2004 - There is no charge for this seminar.

For more details see the brochure at www.carters.ca/pub/seminar/notice/2004/tax0505.pdf.

Law & Church Leadership, a one day symposium co-sponsored by The Evangelical Fellowship of Canada and Christian Legal Fellowship to be held in Moncton on May 14, 2004 with Carter & Associates lawyers presenting on the following topics;

"Privacy Legislation" by Mervyn F. White,
"Bill C-250 (Hate Propaganda)" by Bruce W. Long,
"Same Sex Marriage" by Terrance S. Carter and Mervyn F. White,
"Changes under the *Income Tax Act*" by Terrance S. Carter,
"Investigating Sexual Abuse" by Bruce W. Long, and
"Bill C-45" by Mervyn F. White and Bruce W. Long.

More details available on the EFC and CLF websites.

EFC - www.evangelicalfellowship.ca/calendar/event_viewer.asp?Event_ID=172

CLF - www.christianlegalfellowship.org/lawchurchevent.htm

Fundraising Day 2004 is being held in Toronto by the Association of Fundraising Professionals (AFP) on May 26, 2004, and will feature a presentation by Terrance S. Carter entitled "Looking a Gift Horse in the Mouth: Avoiding Legal Liability in Charitable Fundraising".

CONTRIBUTORS



Terrance S. Carter – Practices primarily in the area of Charity and Not-for-Profit Law, Mr. Carter is member of the Charities Advisory Committee and the Technical Issues Committee advising Canada Revenue Agency, as well as a consulting editor of *Charities Law, 2003/2004 Ed.* published by Butterworths, contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and editor of www.carters.ca, www.charitylaw.ca and www.antiterrorismlaw.ca.



Donald J. Bourgeois – Counsel to Carter & Associates in the area of Charity and Not-for-Profit Law, governance and fundraising, Mr. Bourgeois is author of *The Law of Charitable and Not-for-Profit Organizations, 1st, 2nd and 3rd Editions*, the *Charities and Not-for-Profit Fundraising Handbook*, *Charities and Not-for-Profit Administration and Governance Handbook* and *Public Law in Canada* published by Butterworth.



Jane Burke-Robertson – Counsel to Carter & Associates in the area of Charity and Not-for-Profit Law, Ms. Burke-Robertson is agent of the Attorney General of Canada and outside counsel to the Corporate Law Policy Directorate of Industry Canada to provide legal advice on the reform of the *Canada Corporations Act* effective March 12, 2004, as well as co-author of *Non-Share Capital Corporations* published by Carswell and contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*.



Bruce W. Long – Counsel to Carter & Associates, Mr. Long practices out of his office in London, Ontario, on Hearings, Tribunals, Inquests and Enforcement Matters, and is the former Regional Director of Crown Attorneys for South-western Ontario and Assistant Deputy Attorney General (Acting), as well as the author of "Prosecutors Handbook" published by the Attorney General of Ontario.



Mervyn F. White – Practices primarily in 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 *Charity Law Bulletin* and *Church Law Bulletin*, and a regular speaker at the annual *Church & the Law™* Seminar and guest speaker for organizations such as the Association of Fundraising Professionals, and the Christian Legal Intervention Academy.



Jacqueline M. Connor – Practices in Charity and Not-for-Profit Law, including Incorporation and Corporate Restructuring, 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 *Charity Law Bulletin*. Ms. Connor is also a regular speaker at the annual *Church & the Law™* Seminar.



Mark J. Wong – Practices in Intellectual Property, focusing on Trade-Marks, Copyrights, and Privacy and Information Protection, Employment law and General Litigation. Mr. Wong has been an invited speaker for charitable organizations and also contributes regularly to www.charitylaw.ca and the *Charity Law Bulletin*, having written articles ranging anywhere from Employment to Privacy and Trade-Mark Law.



Esther S.J. Oh – Practices primarily in Charity and Not-for-Profit Law, as well as in Immigration Law. Ms. Oh is also a frequent contributor to www.charitylaw.ca and the *Charity Law Bulletin*, and has spoken at the annual Church & the Law™ Seminar as well as at the Canadian Bar Association/Ontario Bar Association's 2nd National Symposium on Charity Law.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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