

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

NOVEMBER 2002 ISSUE

SECTIONS

New Publications	2
In the Press	3
Contributors	4
Acknowledgements, Errata and other Miscellaneous Items	5

HIGHLIGHTS

2002 Annual Church & the Law Presentation Materials
The Legal Duties of Directors & Leaders of Churches & Religious Charities
Due Diligence in Avoiding Risks for Directors/Leaders of Churches and Religious Charities
Anti-terrorism Legislation in Canada and its Impact on Charities: An Overview
Ontario Court Declares Fundraising Contract Void and Imposes Penalty

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NEW PUBLICATIONS

The 2002 Annual Church & the Law Seminar

Presentation materials now available, November 5, 2002

The 2002 Annual Church & The Law™ Seminar is a practical seminar for churches and religious charities held every year since 1994. The annual Church & The Law™ Seminar is designed to provide churches & religious charities with practical information on current legal issues in order to assist in avoiding unnecessary exposure to legal liability. Although the topics presented are directed at churches & religious charities, they also have general application to non-religious charities and not-for-profit organizations.

[Web] www.carters.ca/pub/seminar/chrchlaw/2002/index.html

The Legal Duties of Directors & Leaders of Churches & Religious Charities

by Jacqueline M. Connor from the 2002 Church & the Law Seminar, November 5, 2002

Liability risks for directors of charitable corporations can arise at common law and by statute. A director can be held personally liable for his or her own actions or inactions, as well as jointly and severally with the other members of the board of directors. This presentation discusses both the common law as well as statutory duties and liabilities faced by directors of charitable corporations. An explanation of steps that can be taken to protect directors from liability exposure faced by directors will take place in Part II of this presentation.

Read more:

[PDF] www.carters.ca/pub/article/church/2002/jmc-1105.pdf

Due Diligence in Avoiding Risks for Directors/Leaders of Churches and Religious Charities

by Terrance S. Carter, 2002 Church & the Law Seminar, November 5, 2002

Liability risks for directors of charitable corporations can arise at common law and by statute. A director can be held personally liable for his or her own actions or inactions, as well as jointly and severally with the other members of the board of directors. An overview of directors' liability is included in an earlier part of this presentation. This Part discusses several ways in which directors of charitable corporations can help limit his or her exposure to liability through diligence.

Read more:

[PDF] www.carters.ca/pub/article/church/2002/tsc-1105.pdf

Anti-Terrorism Legislation In Canada And Its Impact On Charities: An Overview

by Terrance S. Carter, presented at the Ontario Bar Association Course on Issues in Charity Law, October 22, 2002

The following paper is intended to provide only a brief overview of anti-terrorism legislation in Canada in relation to its impact on charities. As such, the paper is not intended to be a comprehensive analysis of all aspects of the legislation in question.

Read more:

[PDF] www.carters.ca/pub/article/charity/2002/tsc-1022.pdf

Ontario Court Declares Fundraising Contract Void and Imposes Penalty

by Terrance S. Carter and R. Johanna Blom in *Charity Law Bulletin No. 17*, October 11, 2002

A recent passing of accounts in *The AIDS Society for Children (Ontario) v. Public Guardian and Trustee* (9 May 2002), (Ont.Sup.Ct.) [unreported] has raised serious concerns about the enforceability of certain fundraising contracts. For a background to the judicial passing of accounts in this case, reference should be made to "*Charity Law Bulletin No. 9*", dated September 29th, 2001, that provides a commentary on the earlier decision of the Ontario Court of Justice in Ontario (*Public Guardian and Trustee v. The AIDS Society for Children (Ontario)* 105 A.C.W.S. (3rd) 1044 (the "AIDS Society")), as well as an article entitled "Looking a Gift Horse in the Mouth", *Avoiding Liability in Charitable Fundraising* - revised October 5th, 2001, and *Proactive Protection of Charitable Assets*, November 20, 2001, all of which are available at www.charitylaw.ca. In addition, reference should be made to a subsequent decision of the Ontario Superior Court of Justice in the Ontario (*Public Guardian & Trustee v. National Society for Abused Women and Children* [2002] O.J. No. 607 (QL), summarized in *Charity Law Bulletin No. 13* dated April 29th, 2002.

Read more:

[PDF] www.carters.ca/pub/bulletin/charity/2002/chylb17.pdf

[Web] www.carters.ca/pub/bulletin/charity/2002/chylb17.htm

IN THE PRESS

Reaction to Future Directions proposals of Canada Customs & Revenue Agency

Terrance Carter's comments excerpted from **Canadian FundRaiser**, Vol 12, No 19, October 15th, 2002

[Web] www.carters.ca/news/2002/cdnfndrs/tsc1015.htm

[Publisher] www.canadianfundraiser.com

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.antiterrorism.ca.



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™.



R. Johanna Blom – Practices litigation in charity and not-for-profit law and human rights. Ms. Blom has developed a particular interest and experience in the area of international human rights, especially in reference to religious freedom, as well as antiterrorism law. She has also written on various legal topics for *The Lawyers Weekly*, and *Charity Law Bulletin*, as well as *Antiterrorism* and *Charity Law Alert*.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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