

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

### FEBRUARY 2009 ISSUE

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## RECENT PUBLICATIONS AND NEWS RELEASES

### **Federal Budget 2009: Grants, Contributions and Earmarks, But No New Tax Incentives**

by Terrance S. Carter and Karen J. Cooper in *Charity Law Bulletin No. 156, January 30, 2009.*

Canada's much anticipated 2009 federal budget was released on January 27, 2009 ("the Budget"). Given the current economic situation, the charitable sector was hoping for a number of measures to stimulate charitable giving, but found the budget to be lacking in key areas.

In early January 2009, Imagine Canada (a national umbrella charity that engages in research and initiatives to assist and promote the work of charities and not-profit organizations in Canada) struck a task force to embark on consultations to provide additional detail to the measures called for in an Open Letter to the Prime Minister published in newspapers on November 21, 2008. The resulting brief, entitled *Short-Term Stimulus Measures for Assisting Canadians and Communities during the Economic Downturn* (the "Brief") was then submitted to the Prime Minister and the Finance Minister on January 15, 2009. In the Brief, the following three key stimulative measures were recommended to assist Canada's vulnerable populations and the charitable and non-profit sector that supports them: 1) maintain direct funding through federal grants and contributions agreements; 2) earmark federal infrastructure funding for community and social services, arts and culture, sports and recreation and green retrofit initiatives; and 3) provide a time-limited enhanced tax credit measure to stimulate giving.

The sector has expressed disappointment that, while the Budget provides for various grants, contributions, and earmarks that will benefit charities and non-profits, it does not establish any new tax incentives that might stimulate charitable giving.

This *Charity Law Bulletin* briefly examines the specifics of the measures contained in the Budget.

#### **Read More:**

[PDF] <http://www.carters.ca/pub/bulletin/charity/2009/chylb156.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2009/chylb156.htm>

### **Reintroduction of Bill C-4**

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

In the December 2008 *Charity Law Update*, it was noted that on December 3, 2008, and one day prior to Parliament being prorogued, Bill C-4, *An Act respecting not-for-profit corporations and certain other corporations* ("the old Bill C-4"), received first reading in the House of Commons of Canada before dying on the order paper.

The old Bill C-4 was recently reintroduced as Bill C-4 (“the new Bill C-4”), which appears to not contain any substantive changes from the old Bill C-4. The new Bill C-4 received its first reading in the House of Commons on January 28, 2009, and its second reading on February 12, 2009. The new Bill C-4 is currently being reviewed by the Industry, Science, and Technology Committee.

The new Bill C-4 is intended to replace Parts II and III of the current *Canada Corporations Act*, a statute first enacted in 1917 and substantively unchanged since that time, which Parts govern federal non-share capital corporations. This is the fourth attempt by the Federal Government to reform the *Canada Corporations Act*, with the old Bill C-4 (2008) dying on the order paper in the House of Commons when Parliament was prorogued and earlier Bill C-62 (2008) (introduced by the Conservatives) and Bill C-21 (2004) (introduced by the Liberals) each dying on the order paper in the House of Commons when Parliament was dissolved for a general election.

For more information, see the new Bill C-4 online at:

<http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3632496&file=4;>

*Charity Law Bulletin* No.139 summarizing the earlier Bill C-62 entitled “Bill C-62: Changes Afoot for Federal Non-Profit Corporation,” available at:

<http://www.carters.ca/pub/bulletin/charity/2008/chylb139.pdf>; and

*Charity Law Bulletin* No. 60 summarizing the earlier Bill C-21 entitled “New Canada Not-For-Profit Corporations Act and Its Impact on Charitable and Non-Profit Corporations,” available at:

<http://www.carters.ca/pub/bulletin/charity/2004/chylb60.pdf>.

## **Commentary on the New T3010B Annual Information Return**

*by Terrance S. Carter, assisted by Jeremy Tam in Charity Law Bulletin No. 158, February 26, 2008*

Canada Revenue Agency (“CRA”) has recently released online the new form T3010B, which is the new annual information return for registered charities that is to be used for fiscal periods ending on or after January 1, 2009. For fiscal periods ending on December 31, 2008 and earlier, the old T3010A is still to be used. Accompanying the new T3010B form are three slightly-revised attachments: T1235(09) – *Directors/Trustees and Like Officials Worksheet*; T1236(09) – *Qualified Donees Worksheet / Amounts Provided to Other Organizations*; and T1259(09) – *Capital Gains and Disbursement Quota Worksheet*. The CRA has also released T4033B – *Completing the Registered Charity Information Return*, which will assist charities in filling out and filing the new information return. These forms and publications are all available online on the CRA’s website. The T3010B will also be available in print as of February 25, 2009.

This *Charity Law Bulletin* summarizes the various changes that have been made to the annual information return.

**Read More:**

[PDF] <http://www.carters.ca/pub/bulletin/charity/2009/chylb158.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2009/chylb158.htm>

### **Further CRA Enforcement Action**

*by Karen J. Cooper, LL.B., LL.L., TEP.*

The Phoenix Community Works Foundation (the “Foundation”) has had its charitable registration annulled, effective February 9, 2009. As a result, the Foundation can no longer issue donation receipts and is no longer a qualified donee under the *Income Tax Act*. In its news release, Canada Revenue Agency (“CRA”) stated that the registration was granted in error since the Foundation did not operate in an exclusively charitable manner. The news release indicated that had the Foundation been registered correctly, its registration would have been revoked because its primary purpose was to further a tax shelter donation arrangement. The CRA audit revealed that 99% of the donated monies were returned to the promoters of the tax shelter arrangement.

The CRA news release is available at <http://www.cra-arc.gc.ca/nwsrm/rlss/2009/m02/nr090209-eng.html>.

Effective February 14, 2009, the charitable registration of the Dominion Christian Centre of Canada (the “Centre”) has been revoked in accordance with subsection 168(1) of the *Income Tax Act*. As indicated by CRA in its news release, the Centre misused its assets for improper private benefit of members, directors, donors and employees. In addition, according to CRA, the Centre issued donation receipts for transactions that do not qualify as gifts and failed to properly establish the fair market value of donated property.

The CRA news release is available at <http://www.cra-arc.gc.ca/nwsrm/rlss/2009/m02/nr090217-eng.html>.

### **Federal Court Decides Operating a Hostel Is Not Charitable**

*by Theresa L.M. Man, M.Mus., LL.B., LL.M.*

The Federal Court of Appeal upheld the Minister of National Revenue’s (the “Minister”) decision to revoke the charitable status of Hostelling International Canada – Ontario East Region in a December 2008 decision. The organization had been registered as a charity since 1973 for the purpose of promoting education by providing affordable accommodation to youth in order to encourage them to have a greater knowledge and appreciation of the world.

As a result of a CRA audit of the organization, the Minister issued a notice of intention to revoke the charitable status of the organization in 2006. This decision was confirmed by the Minister in January 2008 after reviewing the organization's objection. The Minister took the position that operating a hostel is an unrelated business activity, and as such the organization failed to devote all of its resources to charitable activities.

In upholding the Minister's decision, the Court rejected the hostel's argument that facilitating travel by providing low-cost accommodation is a charitable activity that promotes the advancement of education. The Court relied on the Supreme Court's 1999 decision in *Vancouver Society of Immigrant and Visible Minority Women v. M.N.R.*, where Justice Iacobucci states:

To my mind, the threshold criterion for an educational activity must be some legitimate, targeted attempt at educating others, whether through formal or informal instruction, training, plans of self-study, or otherwise. Simply providing an opportunity for people to educate themselves, such as by making available materials with which this might be accomplished but need not be, is not enough.

The Court held that simply providing an opportunity for people to educate themselves by making available tourist accommodation is not sufficient for the activity to be charitable.

Although the organization argued that the Minister should have annulled its charitable status, instead of revoking it, the Court noted that the power of the Minister to annul the charitable status of an organization is a discretionary one and it was open for the Minister to proceed with a revocation in this case.

The decision *Hostelling International Canada – Ontario East Region v. Minister of National Revenue*, 2008 FCA 396, is available at <http://decisions.fca-caf.gc.ca/en/2008/2008fca396/2008fca396.pdf>.

## **Publication of Important CRA Policies Expected by March 31, 2009**

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

At the Ottawa Region *Charity Law* Seminar on February 11, 2009, hosted by Carters Professional Corporation, Terry de March, Director General of the Charities Directorate of the CRA, advised that the much anticipated final version of the CRA Fundraising Policy, as well as the first draft of the CRA policy on Advancement of Religion are expected to be published by March 31, 2009. As well, Mr. de March advised that the draft policy on Foreign Activities and a draft policy on Human Rights Charities are expected to be made public by March 31, 2009. All of these policies will be of significant importance to charities across Canada, and as such will need to be carefully scrutinized once they are released.

## **New Form T2050 Application for Charitable Status**

by *Theresa L.M. Man, M.Mus., LL.B., LL.M.*

In December 2008, CRA released a revised Form T2050, application for charitable status. A revised guide T4063 on how to complete Form T2050 was also released at the same time. CRA's Registered Charities Newsletter No. 31 (winter 2008) indicates that the revisions to Form T2050, which was completed in accordance with legislative amendments, improves the form's general ease of use. Similarly, revisions to Guide T4063 put need to know information about the advantages, requirements, and obligations of registered charities front and centre, all in order to facilitate the process of applying for charitable registration under the *Income Tax Act*.

In this regard, the Guide provides much more detailed information and explanation on the registration process and requirements, which is an improvement from the previous version of the Guide. The revised Form T2050 is similar to the previous version of the Form in many respects, except that it requires more detailed information to be provided in order to allow CRA to make a determination in light of the various policies that were put in place since the release of the last version of the Form T2050 in 2001. These include:

- more detailed questions on fundraising activities and associated costs, such as whether the organization intend to receive non-cash gifts or participated in a tax-shelter arrangement (in preparation for CRA's new fundraising policy, the final version of which will soon be released);
- questions on anticipated source of revenue from major donors (in relation to the new "control test" replacing the "contribution test" in the definition for charitable organizations and public foundations);
- more detailed questions on activities outside of Canada, including intended recipients of funds from the Canadian charity (in light of CRA's policy on charities operating outside of Canada released in 2002, and a new draft foreign activity policy soon to be released);
- questions on revenue from sources outside of Canada (in light of compliance requirements imposed on charities by anti-terrorism legislation);
- questions on ownership of more than 2% of a class of shares of a corporation (in light of the new corporate holdings rules imposed on private foundations);
- questions on anticipated revenue from the sale of goods, services and use of assets; and how each such activity relates to the organization's purposes (in light of the policy on related business released in 2003); and

- clarification on what personal information on the directors is considered public information (i.e. name and position in the organization), as opposed to confidential information (i.e. address, phone number and date of birth).

When completing Form T2050, the applicants will need to carefully review the explanation in the Guide and provide sufficient information to CRA in order to avoid unnecessary delay in the processing of the application.

### **Cabinet Rejects Charity Exemption for National Do-Not-Call Regime**

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

The federal cabinet has denied a request to relieve Canadian registered charities from requirements to register and pay fees in relation to Canada's National Do-Not-Call List ("National DNCL"), according to Imagine Canada and The Association of Fundraising Professionals ("AFP"), the two organizations that made the petition to the Governor in Council. The petition asked the Governor in Council to require the Radio-television and Telecommunications Commission (the "CRTC") to vary or rescind that portion of Telecom Decision CRTC 2008-6 that required all telemarketers, including those that are exempt from the National DNCL rules, to register with the National DNCL operator and to pay a fee to the National DNCL Investigator. Imagine Canada and AFP argued that the Telecom Decision was:

- (i) contrary to public policy principles and values that have long been exhibited by the Government of Canada vis-à-vis Canada's charities, by placing a regulatory burden on charities that is double that imposed on corporate and commercial telemarketers;
- (ii) contrary to Canadian telecommunications policy on the issue of telemarketing by charities; and
- (iii) contrary to public policy principles and practices governing the financing of federal regulatory regimes.

No reasons were given for denying the petition. Since the implementation of the National DNCL on September 30, 2008, registered charities along with all other telemarketers have been required to register with the National DNCL operator, pay fees to the National DNCL Investigator and maintain individual do-not-call lists.

### **Manitoba Takes the Lead in Adopting Provincial Legislation Mandating Child Care Safety Standards**

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

The Province of Manitoba has taken the lead in adopting provincial legislation which mandates minimum prescribed standards to be adhered to by child care service providers. The *Child Care Safety*

*Charter* (the “Charter”) which amends the *Community Child Care Standards Act* of Manitoba (the “Act”), received Royal Assent on June 12, 2008. The Charter is the first of its kind in Canada, requiring providers of child care services, as described in the Act, to establish codes of conduct and safety plans for child care facilities, which plans must be reviewed at least annually. The Act indicates non-application of its provisions in certain situations, including casual babysitting arrangements, care of one’s own family members, public schools and care provided by religious congregations for the purpose of providing religious training to children while religious services are conducted.

The Charter requires that the prescribed code of conduct must include clear statements indicating that bullying, harassing, abuse or discrimination of other persons are unacceptable, and that all staff, children and parents of children enrolled at the child care facility must adhere to the facility’s policies in that regard, as well as other requirements set out in the Charter and the accompanying regulations. Of further interest, a child care facility must also establish policies regarding the appropriate usage of email, electronic devices and the Internet.

The prescribed facility safety plan mandated by the Charter, must provide for secure procedures for controlling visitor access to the child care facility, emergency preparedness procedures to deal with bomb threats, fires, chemical spills, health related emergencies and other emergencies including, but not limited to, threatening behaviour by a person at the facility, as well as other requirements set out in the Charter.

The full text of the Charter is available at <http://web2.gov.mb.ca/laws/statutes/2008/c01808e.php>.

## **Due Process and Anti-Terrorism Initiatives Worldwide – Recent Developments**

*by Terrance S. Carter and Nancy E. Claridge, assisted by Sean S. Carter, in Anti-terrorism and Charity Law Alert No. 16, February 26, 2008*

In recent months, there have been several developments internationally concerning charities and challenges to anti-terrorism legislation and administrative action. Both a report by a panel of the International Commission of Jurists and two U.S. federal court decisions regarding charities facing allegations of connections with terrorist activities seem to signal an increasing recognition of the need to protect basic due process rights, the rule of law and a more open and transparent process generally when carrying out anti-terrorism initiatives both internationally and domestically. This *Anti-terrorism and Charity Law Alert* No. 16 provides a summary of developments in this regard.

### **Read More:**

[PDF] <http://www.carters.ca/pub/alert/ATCLA/ATCLA16.pdf>

## **New U.K. Charity Commission Policy on the Advancement of Religion for the Public Benefit**

*by Terrance S. Carter, assisted by Jeremy Tam in Church Law Bulletin No. 25, February 26, 2008*

In December 2008, the Charity Commission for England and Wales (the “Charity Commission”), released its publication on the advancement of religion for charitable purposes (the “Policy”). The title of the Policy, “The Advancement of Religion for the Public Benefit”, is a reflection of new statutory requirements under the *Charities Act 2006* (the “Act”) that require all registered charities in England and Wales to be established for “charitable purposes” only. The term “charitable purpose” is defined in the Act as any purpose that (1) falls within a category of purposes listed in the Act, one of which is “the advancement of religion”; and (2) is for the public benefit.

At common law, it is well-established that there are four heads of charity: relief of poverty, advancement of education, advancement of religion, and other purposes beneficial to the community not falling under the preceding heads. However, whereas the common law presumes that the first three heads of charity are for the benefit of the public, the Act requires all charities in England and Wales to explicitly demonstrate that their purposes are for the public benefit. This, though, is not the case in Canada, as the common law still prevails. As explained in the Policy, the public benefit requirement is “the legal requirement that every organisation set up for one or more charitable aims must be able to demonstrate that its aims are for the public benefit if it is to be recognised and registered as a charity in England and Wales.” In this regard, this new Policy by the Charity Commission provides guidance on how charities, in England and Wales, which seek to advance religion as a charitable aim, can also demonstrate that they are benefiting the public.

This *Charity Law Bulletin* summarizes the Charity Commission’s Policy, the content and timing of which should be of interest to Canadian religious charities, since it is anticipated that by the end of March 2009, the Charities Directorate of Canada Revenue Agency (“CRA”) will be releasing a draft policy in Canada on advancement of religion.

### **Read More:**

[PDF] <http://www.carters.ca/pub/bulletin/church/2009/chchl25.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/church/2009/chchl25.htm>

## **Comment on Delaware Decision and the Possible Need to Consider Director Indemnity Agreements**

*by Esther S.J. Oh in Charity Law Bulletin No. 157, February 25, 2009.*

A U.S. court decision in 2008 may result in individuals who consider becoming a corporate director (whether it be for a for-profit corporation or a non-profit corporation) wanting to explore the option of obtaining personal indemnity agreements from the corporation in order to not face responsibility for paying their own legal costs. This *Charity Law Bulletin* provides a brief commentary on *Schoon v. Troy*

*Corp.*, a Delaware court decision (the “*Troy* case”). In the *Troy* case, the board of directors approved an amendment to the general operating bylaw that resulted in former directors no longer being entitled to the advancement of costs by the corporation when defending against legal actions arising from the execution of director duties. The amendment was upheld by the Delaware court, thereby leaving the director who had resigned shortly before the bylaw amendment was made, responsible for paying his own legal costs.

Whether or not the *Troy* case will be followed by the courts in other jurisdictions, including Canada, is uncertain at this time. However, much of the case law that has emanated from the Delaware courts over the years has proven to be influential throughout the United States and Canada, and for this reason, the legal principles emanating from the *Troy* case may be of interest to corporations and their directors.

**Read More:**

[PDF] <http://www.carters.ca/pub/bulletin/charity/2009/chylb157.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2009/chylb157.htm>

**Article on Agency Problem with Non-profit Corporations**

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

Formed in 2003 by legal professionals and social entrepreneurs, the International Center for Civil Society Law (“ICCSL”) is an organization that seeks to protect human freedoms by improving the laws that affect civil liberties. One of the programs that ICCSL pursues its mission through is The International Journal of Civil Society Law (“IJCSL”).

In issue vii, vol. 1 of the IJCSL (available online at: [http://www.iccsl.org/pubs/09-01\\_IJCSL.pdf](http://www.iccsl.org/pubs/09-01_IJCSL.pdf)), Giovanni Tamburrini (a Rome based lawyer) contributes an article entitled, “The Agency Problem in Non-profit Corporations” (the “Article”). In the Article, Tamburrini asserts that beneficiaries of a non-profit corporation should have more protection from the potentially opportunistic behaviour of self-interested directors. He canvasses not only recent scandals that have been prevalent in the sector, but also the underlying legitimacy of legal theory as it applies to non-profits, which are logically different from for-profit corporations. In this regard, Tamburrini finds that in order to uphold the traditional role of non-profits, the following legal reforms need to materialize: an extension of the right of action available to beneficiaries when directors have failed to uphold their fiduciary duties; an expansion of the concept of fiduciary duty itself; and development of better internal controls for non-profits.

Tamburrini cites the steady and drastic increase since the 1960s in the economic importance of non-profits in order to establish the overall claim in the Article supporting a revision of the relationship existing between constituents and directors, in order to elaborate possible legal solutions aimed at reducing the risk of exploitation.

\* Source: *International Journal of Civil Society Law Newsletter*, January 2009

## **Ottawa Region Charity Law Seminar Materials are Now Available**

*Recent Developments in the Law, Ottawa, Ontario, Wednesday, February 11 2009.*

The Ottawa Region *Charity Law Seminar*, hosted by Carters Professional Corporation in Nepean on February 11, 2009, was sold out with more than 260 attendees from across the sector, including directors of charities, church leaders, government officials, accountants and lawyers. Designed to provide practical information to assist charities in understanding and complying with recent developments in the law, the 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 to Power Point slide shows.

### **Seminar and Speaker Details and Acknowledgements**

[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/handout.pdf>

### **Highlights in Charity Law: The Past Year in Review**

*Karen J. Cooper, Carters Professional Corporation, Ottawa*

[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/kjc0211a.htm>

[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/kjc0211a.pdf>

### **Charity, Business and Profit: A Contradiction in Terms?**

*Jane Burke-Robertson, Carters Professional Corporation, Ottawa*

[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/jbr0211a.htm>

[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/jbr0211a.pdf>

### **Incorporation of Churches and Charities: The Basics and Some Twists to Consider**

*Terrance S. Carter, Carters Professional Corporation, Orangeville*

[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/tsc0211a.htm>

[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/tsc0211a.pdf>

### **GST for Charities: A Primer**

*Karen J. Cooper, Carters Professional Corporation, Ottawa*

[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/kjc0211b.htm>

[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/kjc0211b.pdf>

### **New Thoughts on Child Protection Policies: How to Make Them Work for Your Charity**

*Esther S.J. Oh, Carters Professional Corporation, Mississauga*

[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/eso0211.htm>

[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/eso0211.pdf>

### **Employment Law Update for Charities, Including New Procedures under the *Ontario Human Rights Code* and Wrongful Dismissal Considerations**

*Barry W. Kwasniewski, Carters Professional Corporation, Ottawa*

[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/bwk0211.htm>

[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/bwk0211.pdf>

**The Impact of the New CRA Proposed Fundraising Policy for Charities***Terrance S. Carter, Carters Professional Corporation, Orangeville*[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/tsc0211b.htm>[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/tsc0211b.pdf>**Lobbyist Registration Legislation: Impact on Ontario Charities and Non-Profit Organizations***Jane Burke-Robertson, Carters Professional Corporation, Ottawa*[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/jbr0211b.htm>[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/jbr0211b.pdf>**Canada Revenue Agency: Charities Directorate Update***Terry de March, Director General, Charities Directorate, Canada Revenue Agency*[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/tm0211.htm>[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/tm0211.pdf>**CRA Guidelines on Advancement of Religion as a Charitable Purpose***Neil Cochrane, Manager, Strategic and Legislative Policy, Charities Directorate, CRA*[WEB] <http://www.carters.ca/pub/seminar/chrchl/ott/09/nc0211.htm>[PDF] <http://www.carters.ca/pub/seminar/chrchl/ott/09/nc0211.pdf>

## IN THE PRESS

**Linex Legal - Canada Legal Highlights** included a link to *Charity Law Bulletin* No. 156 by Karen J. Cooper and Terrance S. Carter entitled “Federal Budget 2009: Grants, Contributions and Earmarks, but No New Tax Incentives.”

*Linex Legal - Canada Legal Highlights, February 17, 2009.*[Link] [http://www.linexlegal.com/transit.php?content\\_id=80767](http://www.linexlegal.com/transit.php?content_id=80767)

**Federal Budget Analysis: Grants, contributions, earmarks, but no new tax incentives** by Karen Cooper and Terrance Carter.

*Canadian FundRaiser, Vol. 19, No. 3, February 15, 2009.*[Link] <http://www.canadianfundraiser.com/newsletter/article.asp?ArticleID=2886>

**Employment Law: The ins and outs of wrongful dismissal for charities and nonprofits** by Barry W. Kwasniewski.

*Canadian FundRaiser, Vol. 19, No. 3, February 15, 2009.*[Link] <http://www.canadianfundraiser.com/newsletter/article.asp?ArticleID=2893>

**Access to Justice Network** included Carters Professional Corporation’s website, [www.carters.ca](http://www.carters.ca), as a Feature Site.

*Access to Justice Network, February 12, 2009.*[Link] <http://www.acjnet.org>

**The ins and outs of wrongful dismissal for charities and nonprofits** by Barry W. Kwasniewski.

*Village Vibes, Charityvillage.com, Issue 14.06, February 9, 2009.*

[Link] <http://www.charityvillage.com/cv/research/rhr42.html>

**2009 Federal Budget: No New Tax Incentive for Charitable Giving** by Karen J. Cooper and Terrance S. Carter.

*Law Times, February 2, 2009.*

**Linex Legal - Canada Legal Highlights** included a link to *Charity Law Update* January 2009.

*Linex Legal - Canada Legal Highlights, February 2, 2009.*

[Link] [http://www.linexlegal.com/transit.php?content\\_id=79010](http://www.linexlegal.com/transit.php?content_id=79010)

**Linex Legal - Canada Legal Highlights** included a link to *Charity Law Bulletin* No. 155 by Terrance Carter entitled “Charity Law 2008 - The Year in Review.”

*Linex Legal - Canada Legal Highlights, February 2, 2009.*

[Link] [http://www.linexlegal.com/transit.php?content\\_id=79005](http://www.linexlegal.com/transit.php?content_id=79005)

**Linex Legal - Canada Legal Highlights** included a link to *Charity Law Bulletin* No. 154 by Terrance Carter entitled “CRA Releases Publication Outlining Important Changes for Registered Charities.”

*Linex Legal - Canada Legal Highlights, February 2, 2009.*

[Link] [http://www.linexlegal.com/transit.php?content\\_id=78998](http://www.linexlegal.com/transit.php?content_id=78998)

**Linex Legal - Canada Legal Highlights** included a link to *Charity Law Bulletin* No. 153 by Barry W. Kwasniewski entitled “The Ins and Outs of Wrongful Dismissal for Charities and Non-Profits.”

*Linex Legal - Canada Legal Highlights, February 2, 2009.*

[Link] [http://www.linexlegal.com/transit.php?content\\_id=78997](http://www.linexlegal.com/transit.php?content_id=78997)

## **RECENT EVENTS AND PRESENTATIONS**

**Imagine Canada** hosted a one-day workshop for child & youth serving nonprofits “Managing Risk With Confidence” in Toronto, Ontario, on January 27, 2009, with Esther S.J. Oh presenting “New Thoughts on Child Protection Policies: How to Make Them Work for Your Charity or Non-Profit Organization.”

**Canadian Association of Gift Planners (CAGP) Ottawa Chapter** hosted a session in Ottawa, Ontario, on February 5, 2009, with Karen J. Cooper presenting “Gifts of Land – Changing Ground Rules!”

[WEB] <http://www.carters.ca/pub/seminar/charity/2009/kjc0205.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2009/kjc0205.pdf>

**The Ottawa Region Charity Law Seminar 2008**, hosted by Carters Professional Corporation in Nepean on February 11, 2009, was sold out with more than 260 attendees from across the sector, including directors of charities, government officials, accountants and lawyers. Designed to provide practical information to assist charities in understanding and complying with recent developments in the

law, the seminar has been held annually in Toronto since 1994, with an Ottawa seminar first added in 2008.

Materials available at <http://www.carters.ca/pub/seminar/chrchlaw/ott/09/index.html>.

**Directors' and Officers' Liability: The Essentials and Beyond for Your Nonprofit** was presented by Terrance S. Carter for a workshop hosted by Canadian Fundraiser in Toronto, Ontario, on February 19, 2009.

## **UPCOMING EVENTS AND PRESENTATIONS**

**Niagara Estate Planning Council Meeting** on March 3, 2009, will include a presentation by Terrance S. Carter entitled "Recent Legal Developments Affecting Charities."

**CANNEXUS 2009 National Career Development Conference**, being held in Toronto, Ontario, will include a presentation by Karen J. Cooper on April 6, 2009, entitled "Charities and Not-for-Profits: Surviving a CRA Audit."

More details at <http://www.cannexus.ca/CX/?q=en/node/80>.

**Modernizing Charity Law Conference**, hosted by Queensland University of Technology in Brisbane, Australia, from April 16 through 18, 2009 will include a presentation by Terrance S. Carter on "Tax Credits and Capital Gains Strategies." Mr. Carter will also be participating as a discussant in a session on "Religion" and as part of an international panel discussing "Overview of the Main Policies Used to Encourage Philanthropy."

More details at <http://www.cpncharity.org/>.

**The 16<sup>th</sup> Annual National CAGP-ACPDPTM Conference "Planned Giving: Harnessing the Power"** in Niagara Falls, Ontario, Apr 23 & 24/09 with the following presentations.

"Developing a Gift Acceptance Policy" by Theresa L.M. Man of Carters;

"Essential Charity Law Update: What Every Gift Planner Needs to Know" by Terrance S. Carter and Karen J. Cooper of Carters;

"Donors Rights & Remedies: What Gift Planners Need to Know" by Laura West of Fasken Martineau DuMoulin LLP; and

"Understand Private Foundations as a Gift Planning Tool" by M. Elena Hoffstein of Fasken Martineau DuMoulin LLP.

More details at <http://www.cagp-acpdp.org/en/education/conf09.aspx>.

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**Jane Burke-Robertson** – A partner with Carters’ Ottawa office, Jane 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 in this area at the Faculty of Law, University of Ottawa.



**Terrance S. Carter** – Managing Partner, Terrance practices primarily in the area of charity and not-for-profit law and is counsel to Fasken Martineau DuMoulin LLP. Mr. Carter is a member of Canada Revenue Agency’s Technical Issues Group, past member of CRA’s Charities Advisory Committee, past Chair of the National Charity and Not-for-Profit Section of the Canadian Bar Association, and has been recognized as a leading expert in Canada by *Lexpert* and *Best Lawyers in Canada*. Mr. Carter is also editor of [www.charitylaw.ca](http://www.charitylaw.ca), [www.churchlaw.ca](http://www.churchlaw.ca) and [www.antiterrorism.ca](http://www.antiterrorism.ca), and a consulting editor of *Charities Legislation and Commentary* 2007 Ed.



**Sean S. Carter** – A graduate of Osgoode Hall Law School with a Bachelor of Laws degree, having obtained his Bachelor of Arts in Political Science and Philosophy from the University of Toronto, Sean has gained valuable experience as a summer and now as an articling student with Fasken Martineau DuMoulin LLP, as well as being a research assistant at Carters, with considerable experience writing on anti-terrorism law, including publications in *The International Journal of Not-for-Profit Law*, *The Lawyers Weekly*, *Charity Law Bulletin* and the *Anti-Terrorism and Charity Law Alert*.



**Nancy E. Claridge** – Called to the Ontario Bar in 2006 after articling with the firm, Ms. Claridge joins Carters to practice in the areas of charity, corporate and commercial law, 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* and Editor-in-Chief of the *Obiter Dicta* newspaper, and was awarded the Dean’s Gold Key Award and Student Honour Award.

**Neil Cochrane** - Neil Cochrane was born and raised in Ottawa and is a graduate of the University of Ottawa’s Business Administration program. Neil spent many years with the department of Citizenship and Immigration, working in operations in Canada and abroad before specializing in policy development. In 2005, Neil joined the CRA’s Charities Directorate as the Manager of Public Education and External Relations. Last March, he became the Manager, Strategic and Legislative Policy.



**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).



**Terry de March** - Terry de March is currently the Director General, Charities Directorate with the Canada Revenue Agency, responsible for the overall management of the federal regulation of registered charities under the *Income Tax Act*. Immediately prior to assuming this position, Terry was the Director, Policy, Planning and Legislation within the same Directorate responsible for all federal policy relating to the federal regulation of Canadian charities, as well as public education and work with provinces, territories and other external partners and stakeholders on charity regulatory matters.



**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. Mrs. Demczur is also a regular speaker at the annual *Church & Charity Law<sup>TM</sup> Seminar*.



**Barry 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.



**Theresa L.M. Man** – A partner with Carters, Mrs. 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 regular speaker at the annual *Church & Charity Law<sup>TM</sup> Seminar*, Mrs. 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*.



**Esther S.J. Oh** – A partner with the firm, Ms. Oh practices in charity and not-for-profit law at Carter’s Mississauga office. Ms. Oh is a frequent contributor to [www.charitylaw.ca](http://www.charitylaw.ca) and the *Charity Law Bulletin*, and has spoken at the annual *Church & Charity Law<sup>TM</sup> Seminar* as well as at the Canadian Bar Association/Ontario Bar Association’s 2nd National Symposium on Charity Law. Ms. Oh’s volunteer experience includes formerly serving as director and corporate secretary of the Evangelical Fellowship of Canada, and involvement with speaking engagements to various university student groups across Ontario.



**Pamela Shin** – A graduate of the University of Western Ontario Faculty of Law, Pamela was active in the client counselling, contract drafting, and mooted competitions, as well as a number of programs and clubs, including Pro Bono Students Canada, Negotiation/Mediation practice and the Christian Legal Fellowship executive council. Pamela was nominated by her peers at Western Law for the Malcolm J. McKinnon Award and was awarded the Gold Medal for achieving the highest GPA in her undergraduate degree program. Currently articling with Carters, Pamela also gained experience as a summer student at a management counsel labour and employment boutique in Toronto.



**Jeremy I. Tam** – Jeremy graduated from the University of Western Ontario, Faculty of Law. Prior to his legal studies, he graduated with an Honours Bachelor of Arts from the University of Toronto, focusing on Urban Studies, History, and Sociology. Outside of law school, Jeremy gained experience as a summer student at two Hong Kong law firms, interning at International Justice Mission Canada, researching and writing for Pro Bono Students Canada, and serving as President of the UWO Christian Legal Fellowship.

## ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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