

**SPECIAL GENERAL MEETING MINUTES
STRATA CORPORATION VR1428
VANCOUVER, B.C.**

MINUTES OF THE SPECIAL GENERAL MEETING OF THE OWNERS OF STRATA PLAN VR1428, "CAMBRIDGE PLACE" HELD IN THE "COQUIHALLA" MEETING ROOM, 2ND FLOOR, 1190 HORNBY STREET, VANCOUVER, BC, ON TUESDAY, OCTOBER 15TH, 2002 AT 7:00 P.M.

IN ATTENDANCE:

22 owners were represented at the meeting, either in person or by proxy.
(16 in person, 6 by proxy)

Representing Rancho Management Services (B.C.) Ltd.:

Joseph Tsang, Senior Property Manager

GUEST:

David L. Miachika, Ll. B., P. Eng. of Borden Ladner Gervais

1. CALL TO ORDER.

The meeting was officially called to order by Carol Wright (Unit 112) at approximately 7:15pm.

It was confirmed that the total number of represented owners constituted a quorum. Thus, those present could proceed with the business at hand.

Carol Wright then stated that she has been asked by the Strata Council to chair the meeting on Council's behalf. She then asked if there were any objections to her chairing the meeting.

There being no objections, it was **MOVED, SECONDED** and **CARRIED** to have Carol Wright chair the meeting.

2. AGENDA.

The agenda for the meeting was then reviewed.

There were no objections or amendments to the agenda. It was then **MOVED, SECONDED** and **CARRIED** to accept the agenda, as presented.

3. PROOF OF NOTICE OF MEETING.

It was **MOVED** and **SECONDED** that the notice of the meeting dated August 29th, 2002 be deemed in compliance with the notice requirements of the Strata Property Act. **CARRIED**

4. **APPROVAL OF THE PREVIOUS MEETING MINUTES.**

The owners were asked if there were any errors or omissions with respect to the minutes of the Annual General Meeting held on August 14th, 2002.

In vetting through the minutes, an owner (Unit 306) wanted the following comments be added to Item 9(b), on page 5 of the minutes:

- Our hot tub chemicals pollute sea life habitat
- Our hot tub heater discharges carbon-dioxide into the atmosphere
- Over the past six (6) years, the hot tub has costed us about \$26,000.00 (or \$360.00 per month) to heat, repair and maintain.
- Hot tub accounts for about 20% of all nature gas expenses, based on a comparison between consumption when the hot tub was opened and when it was closed.
- Every bit of pollution matters, and every act of environmental care matters.

There being no further errors or amendments, it was then **MOVED** and **SECONDED** to adopt the minutes of the Annual General Meeting held on August 14th, 2002, as amended.

5. **LEGAL PROCEEDINGS TO RECOVER BUILDING ENVELOPE REPAIRS (3/4 Vote Resolution).**

David L. Miachika provided the owners with information pertaining to his background. Some of David's credentials are:

- Practised as a professional engineer (in the construction field) for over ten (10) years before practicing law.
- Has practiced construction laws since 1989, and is currently involved in over 30 cases.
- Is a partner at Borden Ladner Gervais.

Mr. Miachika then proceeded to discuss his summary of opinion, identifying all perspective defendants, including the likelihood of getting a judgement against each of the defendants.

Potential defendants are:

- Developer
- Prime consultants
- Sub-consultants
- The Prime contractors/construction manager
- Sub-contractors, and material suppliers
- Municipality/City
- Real Estate Agents

5. **LEGAL PROCEEDINGS TO
RECOVER BUILDING ENVELOPE REPAIRS (3/4 Vote Resolution) – Cont'd.**

Potential Claim:

The owners were advised that in most cases involving leaky condos, 80% to 90% of the cases are resolved at remediation. Based on his experience, he estimates the potential claim for Strata Plan VR1428 will be anywhere from \$800,000.00 to \$1,200,000.00. This is because the building was already ten (10) years old when being converted into Strata. Therefore, some of the building envelope components (i.e. the original roof and the original waterproofing membranes, etc.) have already achieved their normal life expectancy. The success in getting a judgement for the Strata will depend on establishing relationship between the developer (Wall Financial Corp.) and the numbered company (260561 B.C. Ltd.). A recent asset search has revealed that Wall Financial Corp. has over \$10M in tangible assets. Further searches will need to be conducted to determine if the other parties (i.e. consultant, architect, sub-trades) have proper insurance coverage at the time.

The owners were further advised that some of the original purchasers are entitled to sue the numbered company (260561 B.C. Ltd.), the developer (Wall Financial Corp.), and others, to recover damages for the building envelope deficiencies on the following grounds:

- Breach of purchase agreements
- Breach of the disclosure statements
- Negligence and duty to warn
- Negligent misrepresentation
- Municipal liability

However, the viability of such claims will depend on the owners able to prove that the developer and/or their agents had actual knowledge of the building envelope deficiencies before selling the strata lots.

The Delta Case:

Unfortunately, the owners were told that the recent leaky condominium case in the Municipality of Delta, involving a Strata Corporation, successfully obtaining a judgement against the Municipality for not enforcing the nation building code does not apply to the condominiums in Vancouver, as the Vancouver's Charter contains a provision which limits legal claims against the City of Vancouver and its inspectors as a result of building construction related deficiencies.

David's position is that the Charter is not iron clad, and it will be up to the Strata Corporations with deep pocket to challenge such Charter. Owners are reminded that once the legal proceedings are commenced, the City of Vancouver should be named as a defendant as well.

The floor was then opened to questions from the owners. Specifically, the following

questions were addressed:

5. **LEGAL PROCEEDINGS TO
RECOVER BUILDING ENVELOPE REPAIRS (3/4 Vote Resolution) – Cont'd.**

Question: What acts or omissions of Wall Financial render it liable to a legal claim? (On page 1, the summary seems to suggest that Wall Financial was a co-developer with now-defunct 260561 BC Ltd., and on page 2, a separate entity from the Developer).

Answer: More research is needed in order to establish if there was a relationship between Wall Financial Corp. and the number company.

Question: The summary mentions Bruno Wall. In what way is he relevant to any legal proceedings we may initiate?

Answer: Bruno Wall was the sole director of the numbered company.

Question: Our building was constructed 18 years ago under the previous building code. How do these two factors affect our ability to secure a worthwhile settlement?

Answer: The building envelope failed prematurely.

Question: What is the meaning of the paragraph on page 2 beginning with "Based on experience with other leaky condo claims", and is this "experience" relevant to older leaky condos like ours?

Answer: Yes

Question: Isn't it a waste of our time and money to name the City of Vancouver as a defendant if we know that the Vancouver Charter excludes the city from liability?

Answer: No

Question: It's suggested that we might be able to claim against the professional and general liability insurance policies of the architect and others. Will insurance companies pay out a claim for negligence which occurred 18 years ago?

Answer: Yes

Question: The resolution suggests that if we discontinue legal proceedings, we may be liable for the legal costs of the Defendants. Please explain why we might have to pay their legal costs, and how much they might be.

Answer: 1/3 of the legal cost incurred by the defendant.

5. **LEGAL PROCEEDINGS TO
RECOVER BUILDING ENVELOPE REPAIRS (3/4 Vote Resolution) – Cont’d.**

Question: Part 1 of the resolution authorizes the Strata Corporation to initiate legal proceedings on its own behalf on matters relating to the common property, and this means that all owners must share the cost of this action as per Section 171 of the Strata Property Act. Part 3 of the resolution authorizes the Strata Corporation to initiate legal proceedings on behalf of individual owners who execute a written consent relating to matters affecting their strata lot only, and this means that those owners must pay the costs of this action as per Section 172 of the SPA.

(a) Why does Part 4 of the resolution propose that Section 172 legal expenses be paid for by all owners?

(b) How is it possible to separate the legal expenses which must be shared by all owners (Section 171), from the legal expenses which must be paid for by the owners who execute individual consents (Section 172)?

Answer: It is recommended that the Strata sues on behalf of all the owners in one suite.

Question: If the resolution is approved, when will you issue the writ?

Answer: Within the next 2 to 3 weeks.

Question: How long does it usually take to reach a mediated settlement after the writ is issued?

Answer: 1 to 2 years

Question: How likely is it that our initial expenditure of \$120,000 will not be enough to resolve this issue, and you'll need to ask us for more money?

Answer: The \$120,000 is enough to take this matter to mediation.

Question: Will legal proceedings delay the return of any surplus funds from the Building Envelope Project special levy?

Answer: No

Question: What effect will an active lawsuit have on the marketability and value of suites for sale?

Answer: Very little

5. **LEGAL PROCEEDINGS TO
RECOVER BUILDING ENVELOPE REPAIRS (3/4 Vote Resolution) – Cont’d.**

Question: The resolution authorizes the Council to conduct and conclude the legal proceedings as it sees fit. Do you see a potential conflict of interest arising from the fact that our President is the brother of Bruno Wall, and if so, what steps should be taken to avoid it?

Answer: This Council member has excused himself from all matters pertaining to the legal proceedings.

Question: Are the defendants liable for any more than the actual cost of repairing water damage?

Answer: No

Question: Will the recent court of appeal Delta decision have any impact on A) the amount of damages we can sue for and B) new law that may affect the ability to sue the city of Vancouver in the future?

Answer: No

Question: Will Attorney General Geoff Plant's potential plan to take away Joint and Several liability affect our case if this comes to pass during our legal proceedings?

Answer: This plan was more a “trial balloon” to see what the legal community felt about this matter. As there is considerable opposition to this from lawyers, it is unlikely that Attorney General Plant will continue with this idea.

Question: Can legal fees be rolled into the HPO loan?

Answer: The answer is generally no. In discussion it was noted that we have previously voted on and put into the assessment we paid \$120,000 to cover legal expenses. These expenses included the possibility of seeing if we had a legal case for suing the developer and others.

There being no further questions or discussions, the owners then thanked David L. Miachika for his attendance, and excused him from the meeting at 9:05pm.

An owner **MOVED** that the ¾ Vote Resolution in the notice of the meeting of August 29th, 2002, be approved as presented. The motion was **SECONDED** and the floor was opened for discussion.

An owner spoken in favour of commencing the legal proceedings, at least to the discovery stage, to see if relationship can be established between the developer (Wall Financial

Corp.), and the numbered company (260561 B. C. Ltd.).

5. **LEGAL PROCEEDINGS TO
RECOVER BUILDING ENVELOPE REPAIRS (3/4 Vote Resolution) – Cont’d.**

Another owner spoken against commencing the legal proceedings as she felt that the owners would be throwing good money after bad money, and that most owners have already accepted the fact that they have paid their monies to fix the building, and they just want the building fixed. This is evidence by the fact that only 22 out of 57 owners showed up for tonight's meeting.

There being no further discussions, a vote was then taken with the motion being **DEFEATED**, based on the following results:

(16 in favour, 6 opposed, 0 abstention)

After the vote was taken there was some discussion about the fairness of the vote. It was noted that only two people voted in opposition. One of these held 5 proxy votes and used these in opposition. Only 17 votes were required in favour of the motion to commence the legal proceedings.

During further discussion, it was determined that a new vote could be called if there was a petition calling for such an action.

6. **NEW BUSINESS.**

a) **Arch-Way:**

The owners were advised by the Construction Committee that the old arch-way in front of the building on West 13th Ave. had been demolished, and the Committee is looking to the members for further direction on whether a new arch-way should be constructed. The Committee was reminded that as per the previous Special General Meeting held with the owners, it was clear that the majority of the owners would like to see a new arch-way be constructed.

7. **NEXT MEETING.**

The next meeting will be a Strata Council Meeting. Once the meeting has been scheduled, notification will be sent to all the Council members.

8. **ADJOURNMENT.**

It was **MOVED, SECONDED** and **CARRIED** to adjourn the meeting at 9:44pm.

Respectfully Submitted,

Joseph Tsang, Senior Property Manager
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ATTENTION OWNERS

Please keep these minutes on file as a permanent legal record of your Strata Corporation's business. Replacement of either minutes or bylaws will be at the owner's expense and not the Strata Corporation's.

INSURANCE

Strata Corporation wishes to remind all residents that while the building is adequately insured, including your strata lot, owners should ensure that they have current insurance coverage in place for their personal contents (located in suite, storage room and parking garage), personal liability coverage for the tenant or the unit owner and insurance coverage for any changes that which have been made to your unit. For more information, please contact your insurance agent as to personal coverage required.