

DRUMMOND ST BODY CORPORATE

SGM - Executive Seminar Suite – Massey University, Wellington

20 December 2012 at 5.00pm

MINUTES

Present: Peter Arathimos - Chairman (11,12,14,17), Nancy Yerley (2,9), Mike & Spencer Wong (60), Koshick Ranchod (19), Rhys & Lyn Morris (25), Richard Graham (6), Rebecca Webster (4), Grant Watt (16), Terry Jones (22), Richard Cooke (Secretary), Michael Thornton (Solicitor)

Proxies: Tony Charlton (13), Kitty Chang (24), Victor Yen (1), Bob Stewart (27), Geoff Rothwell (10), Marg Garvie (23), Kurt Gibbons (20), Mark Cook (8), Steve Ebert (5), Brian & Jessica Astridge (18), Peter & Trish Bellringer (3)

Apologies: K Thiagalingam (15),

Confirmation of a Quorum:

Richard Cooke confirmed that with proxies the meeting had a quorum.

Method of Voting:

It was agreed that it be by a show of hands.

Presentation by Michael Thornton

Mike spoke to his Agenda and Reporting Notice #7 as emailed to owners on 19/12/12. He confirmed that the reason for proceeding with the High Court action is because of opportunity to get most of the remedial costs paid by the Wellington City Council (WCC).

He commented on the following:

- High Court proceedings
- Weathertight Homes
- Financial Assistance Package (FAP)

High Court proceedings:

- Discovery process – following up with owners where document/checklists are incomplete. Once complete affidavits will need to be sworn
- Conduct & Distribution Agreement (CDA) needs to be completed
- Remediating the complex first will enable the exact cost to be ascertained prior to meeting the WCC in the High Court
- Aiming to achieve a mediation settlement with the WCC instead of going to the High Court. Most cases settle in mediation
- Will claim for damages associated with fixing the complex, consequential loss eg. lost rentals and interest on cost of funding repairs, and compensation for pain and suffering.
- The costs for new design plans, specifications, testing for damage, accounting and secretarial are recoverable.

- Recovery in mediation – usually 60% to 80% assuming there is a strong claim against the WCC
- Now need an expert to assist with this – Eddy Saul appointment
- Biggest issue is funding remediation to ascertain total cost before going to mediation

Weathertight Homes Tribunal

- The process is quicker, the cost about the same but costs are not recoverable.
- Issue as to the calibre of tribunal members

FAP

- Is the option if there is not a strong case in the High Court
- Question is what the 50% payment will include
- Opportunity to recover from other parties
- Cannot start repairs until FAP settled
- Cannot recover costs

Conduct and Distribution Agreement (CDA) – reasons for completing are:

- Governs conduct and distribution of settlement proceeds
- Suing as a group therefore decisions are made collectively
- Permitted to set up a committee to act for all owners. Their decisions are binding.
- Owners should talk to own lawyers if necessary but need to sign the CDA

The following matters were discussed:

1. Richard advised that there is considerable difficulty in setting a Budget for ongoing professional costs and that at this stage a further one off payment will be required on 20 January 2013
2. Mike suggested that when remedial work starts one person be appointed to manage costs involved in moving tenants etc
3. Mike has a date in February by which he needs to report to the High Court.
4. Terry Jones asked that if the cost is \$4.5million is it better to demolish the existing and build a new complex. Mike advised that it is not an option as the settlement proceeds must be used for remedial of the existing building.
5. Benefits of FAP or High Court – FAP is only 50% of the value set by DBH whereas the High Court should be a higher percentage of the total remedial cost plus other professional costs
6. GST is not claimable as the complex is a residential dwelling
7. With remedial to be completed prior to the mediation, Richard to prepare a spread sheet showing interest on the cost of funding on projected payment dates thought out the remedial process.
8. Mike explained a time frame could be as follows;
 - a. 12 months to complete the remedial work
 - b. The following 6 months to finalise matters for mediation
 - c. Mediation after 18 months from commencement date of remediation
 - d. High court action would follow if not settled at mediation

Mike summarised the present timeline as follows:

- Complete the discovery process
- Obtain report from Eddy Saul
- Report to owners as to strength of case against the WCC through the high court.

At this stage Mike left the meeting

Other matters:

The meeting expressed concern in respect to the rising cost of professional fees in relation to the claim. Richard has discussed ongoing costs with Mike and he is fully aware that substantial costs have already been incurred and is working to attend to all matters in the most cost effective way but cannot give the Body Corporate an indication of future costs.

There was discussion as to the time frame for the completion of the remedial work and that it should be completed over an academic year. There was some concern as to what input Helfen was having in respect to the time frame. Unfortunately Helfen could not comment as although invited a representative did not attend the meeting.

Additional one off payment

- Richard discussed the one off payment as shown on the spread sheet provided prior to the meeting and it was moved that this payment be made to the Body Corporate by direct debit on 20/1/13. *Apts 6/28 carried* (Richard is to provide owners with an invoice for the one off payment).

Budget – 12 months to 31/12/13

- Richard discussed the Budget as presented to owners prior to the meeting. After discussion it was moved that the Budget be approved with monthly payments as scheduled in the spread sheet to commence from 20/1/13 and that the Budget be review and amended if necessary at the AGM to be held late May 2013. *Apts 6/11 carried*

New Body Corporate Operational Rules

- Richard advised that the new rules had been prepared by Dennis Smith and then reviewed by the Body Corporate lawyer John Harkness.
- The new rules have been sent to all owners. After discussion it was agreed that the rules be approved because they need to be provided to Property Management Companies acting for owners as they must be given to tenants. The one typing error in the agreement is to be corrected. It was also agreed that the committee review and discuss any changes that may be required at the next committee meeting.

It was agreed that the committee meet between 7 and 17 Jan 2013 to discuss the building issues and the new rules.

Meeting closed at 7pm