

## **DRUMMOND STREET BODY CORPORATE**

### **Special General Meeting**

**Greek Orthodox Church, Multi-Media Room**

**5 Hania Street, Wellington.**

**Wednesday 1 October 2014**

#### **Present:**

Rebecca Webster (4), Rick Graham (6), Nancy Kay Yerly (2,9), Steve Ebert (5), Peter Arathimos (11,12,14,17), Grant Watt (16), Koshick Ranchhod (19), Terry Jones (22), Rhys and Lyn Morris (25), Liz Parsons (Property Manager, Homes & Properties 2007 Ltd), Darryl Scott & Regan Stallard (Helfen Limited Building Surveyors) Keith Wedlock (Glendinnings Chartered Accountants, Body Corporate Secretary/Administrator).

#### **Welcome:**

Steve Ebert (Chairman) called the meeting to order at 6.05pm and welcomed those present. He advised that per the notice of meeting there would be an update on remediation and structural strengthening work and discussion regarding the financial implications. He noted there were no matters of voting required at this meeting, the meeting was intended solely to update owners on the remediation process and the additional funding requirements that will now need to be arranged and confirmed by all owners.

#### **Building Remediation:**

##### **Report from the Building Committee**

Steve Ebert presented the report which had been circulated prior to the meeting, noting the three main issues being settlement, structural strengthening and claimability.

##### **Foundations Settlement**

As part of the remediation process Multi-Build had discovered differential settlement to the foundations of Blocks D and E with the eastern side of these buildings being the most affected. Coffey Engineers have provided a useful Geotechnical Report which provides information to Don Thompson Engineers to form a professional view on whether any further structural work is needed in relation to the ground floor slabs.

##### **Structural Re-strengthening**

Steve Ebert spoke to this section of the newsletter going through in some detail what had been found, and the process that the building committee had worked through to determine what options were available. Darryl Scott confirmed that the current status of the buildings would be earthquake "prone".

Steve Ebert then went on to note that there was little option but to accept the Don Thomson Engineers retro fit design and proceed with the structural re-strengthening as part of the remediation process.

### **Claimability**

Steve Ebert noted as outlined in the newsletter that Mike Thornton (Barrister) had been asked to assess the ability of owners to include structural re-strengthening costs in claims being made. Noting further that there was a preliminary view from Mike Thornton that there was an argument for including some of the structural re-strengthening costs in the original claim, depending upon whether or not parts of the work are separate and distinct from the weathertight remedial claim.

This will require Mike Thornton to pursue this inquiry with Thomas Wutzler of Helfen and Bob Tidd. The key to that inquiry being the completion of a defects/damages and responsibility schedule. Rhys Morris queried the legal process particularly in regards to whose responsibility it was in relation to the strengthening issue, and whether they could become party to the legal action being undertaken on owner's behalf.

He particularly noted that the Council must bear responsibility having issued a Code of Compliance, but wanted to know if others who were responsible for the original design and build should also be held to be accountable.

Darryl Scott gave a brief outline of how the Code of Compliance is issued, and reliance the Council would have made on engineering certification at the time when issuing Code Compliance.

Steve Ebert made it very clear that Mike Thornton's advice is not to amend the Statement of Claim, as it is best to focus on the Council, being the party that has already been named with clear responsibilities in the relation to the original build. The time barrier (10 years) and legal status of claims in relation to that time barrier was reinforced during the discussion.

### **Time of Completion**

Steve reiterated the projected delay in completion as outlined in the newsletter noting that this will have further impact on rental proceeds to be received in the 2015 year. He also noted that confirmation of financing becomes critical due to the need to confirm the estimated additional costs are fully funded with the aim of keeping the builders on the worksite, so as not to further effect the time for completion of the whole project.

### **Other Discussion**

Nancy Yerly queried the legal position regarding non *stickering* of the buildings at present and whether the owners had an obligation to tell the tenants that the buildings were presently earthquake prone.

Steve Ebert noted that he had been advised that as works were currently in process to restrengthening the buildings it was an acceptable position to simply move forward and complete that work without telling the tenants. However, if we were to do nothing about the structural strengthening been we would have an obligation to tell the tenants that the buildings were assessed at less than 33%NBS (New Building Standard).

He further noted that as of the site meeting carried out by the Building Committee during the day, that there still seemed to be no need for micro-piling in relation to the foundations. There was the possibility of anchor-piling and that will be considered over the next few weeks. Steve Ebert also noted that a minor extra gusset weld would likely be instructed, which will be possible to complete prior to the floors being fully re-instated and which would add to the strengthening process.

Rhys Morris directed questioning toward Helfen in relation to their experience with the Building Act and the local Wellington City Council rules, to query why strengthening work was not considered at the initial stages of the remediation project. Darryl Scott explained that this was simply because the project they were presented with was one of weathertightness, and like the owners they had every right to rely on the original design and build being in compliance with the then building code, and the Code of Compliance Certification process that took place at the time. He was very clear that until the walls had been removed in relation to the weathertight project, they could not have known any strengthening issues would arise.

Rick Graham asked whether the anchor-piling can be done at a later stage and Darryl Scott confirmed that this was possible, but it may be more costly at that point.

Peter Arathimos asked for Darryl Scott's comment on the new exterior cladding being installed and how good it was. Darryl noted it was really good and probably the best around. The aluminium weather boards are extremely durable and the PBS panels are a good quality product. While the powder coating to the aluminium windows has only a 10 year guarantee, windows are regarded as a fitment which can be replaced with comparative ease but the expectation is that the powder coated aluminium windows will last much longer than 10 years.

Terry Jones noted that Multi-Build building contractors had been really good and very helpful in relation to all the issues that had arisen to date on the project.

Rhys and Lyn Morris were very supportive of these comments as was Darryl Scott and the consensus of those present was one of thanks for Multi-Build's efforts.

There was some discussion in regards to the financial claim itself, and the legal steps that were to follow. Steve Ebert noted that when costs are known or at least largely known then a *Calderbank offer* may be considered.

Lyn Morris queried Mike Thornton's current view on percentage of recovery. Steve Ebert simply noted that whilst Mike Thornton was confident in the process that it was difficult to pin down percentage estimates and that the Body Corporate simply had to press on now to achieve the best possible outcome available. If settlement presents itself as a viable option then we will be in touch with owners again to obtain consensus on a settlement range.

## **Financing**

Lyn Morris raised a query regarding the Body Corporate borrowing and recovering using an Escrow Agent. Steve Ebert noted that this could well lead to higher overall costs.

It was noted that additional financing requirements were outlined in the newsletter and budget attached to it. It is essential to arrange and confirm financing urgently.

It was suggested by Terry Jones that it would be sensible to engage one valuer to complete valuations for those who may need these for their Bankers, and given that there could well be multiple valuations required there could be room to negotiate a lower valuation fee on behalf of each of those owners who requires one.

Terry Jones mentioned a couple of potential valuer's and was happy to prepare a draft letter of instruction to prospective valuer's.

Peter Arathimos noted that he had used one valuer for his properties and was happy to provide Terry Jones with the valuer's contact details.

It was noted that with the financing confirmation being required by mid-November that owners be requested to urgently to confirm to Glendinnings in writing (email is acceptable) when finances are arranged.

Glendinnings will keep a record of all of those confirmations.

The additional funds will continue to be drawn down progressively during the extended timeframe for the remediation project.

If valuations are required, owners were asked to communicate with Glendinnings who will be able to relay any valuation arrangements that Terry Jones has been able to organise. It was acknowledged that there should be at least one fully remediated unit available for inspection by a valuer within the near future, (Unit 25-Rhys and Lyn Morris) and it might be helpful for any valuer's engaged to be able to view the fully completed unit so they can understand the high quality of the finished product.

Steve Ebert asked that in future (after full remediation) if there are any maintenance issues that appear in any of the units, could the unit owners please advise the Body Corporate Committee urgently. It would appear some of the unit's problems with the original build were being masked and, while this possibly could have been done by the original builders, any repairs within an apartment by owners needs to be brought to the attention of the Body Corp. It will be incumbent upon all owners to protect what is going to be a valuable asset in the future, one that will exceed 67% and hopefully obtain somewhere around 100% of National Building Standards, capable of attracting rental premium and favourable insurance discounts in the future.

Those owners present acknowledged the outstanding work undertaken on their behalf by the Building Committee.

The meeting was called to a close at 7.55pm.