

DRUMMOND STREET BODY CORPORATE

AGM -2014

Greek Orthodox Church, Multi-Media Room

5 Hania Street, Wellington.

Wednesday 18 June 2014

Present:

Grant Watt (16), Koshick Ranchhod (19), Peter Arathimos (11,12,14,17), Steve Ebert (5), Barry Doyle (7,26), Spencer Wong (28), Nancy Yerly (2, 9), Marg Garvie (23), Rebecca Webster (4), Jey Thiagalingam (15) , Terry & Marina Jones (22), Richard Cooke (1), (Secretary/Administrator), Donna Walford (Building Manager) & Mike Thornton, Solicitor

Proxies/Postal Votes:

Peter & Trish Bellringer (3), Rhys & Lyn Morris (25), Richard Graham (6), Kitty Chang (24), Tony & Judy Charlton (13), Mike & Linda Wong (28) & Geoff Rothwell (10)

Welcome and Confirmation of Quorum:

Steve Ebert welcomed those present to the meeting and confirmed a quorum had been reached.

Method of Voting:

Voting is to be by a show of hands.

Building Remediation:

Report from the Building Committee:

- Steve Ebert presented the report which had been circulated prior to the meeting.
- Remediation is now due to be completed by the end of January 2015. There was a considerable delay in starting caused by a hold up during the building consent process. Because of this delay, unit upgrades will need to be carried out during the construction period in order to achieve full completion by 1 February 2015 which means owners will need to use the builder's contractors.
- The shower mixers have been found to be faulty and because any leakage from these could cause structural damage to common property in the future the committee have made the decision that all mixers are to be replaced at the approximate cost of \$370.00 per unit.
- A decision is needed urgently from all owners whether they want the interior walls of their unit that may not be part of the remediation process, to be painted. Also, re-carpeting of some areas will be part of the remediation process so owners need to decide if they wish to re-carpet the rest of the apartment at the same time. There is an argument that all carpet replacement is claimable but for practical purposes the committee advises that owners plan on contributing some capital cost here. A bulk order will be placed for the carpet and the quote per unit is approx. \$3400.00.
- Steve showed the meeting a sample of the heavy duty commercial carpet (with a 10 year guarantee) that has been selected by the building committee. It is a good serviceable colour.

- Owners cannot be forced to replace their carpet or undertake a full interior repaint but it was agreed that the overall standard of the complex would be improved if all apartments were completed the same. Those owners who elect not to re-carpet or re-paint the full interior of their unit may find that any rental loss incurred during the 'collective rent' period is set off against their unit entitlements under the provisions of the CDA.
- There was discussion concerning the future financial benefit by upgrading the units as part of the remediation. These include higher rentals and increased sale value.
- Block C with six apartments is nearing completion and students will be moved into this block about the end of July.
- The meeting was shown a sample of the new cladding which is powder coated aluminium and very robust. Steve and Mike Thornton had inspected the complex in the afternoon prior to the meeting and were pleased with the appearance and progress of the work.
- Steve advised that the problems with the foundations and floor slab to Block D will be an extra cost and engineers have been engaged to advise what is required to remediate the problem.

Up-date from Mike Thornton and other comments:

- While the remedial works are in progress it is likely that only minor attendances will be required in the High Court proceedings.
- In respect to the further defects that have been discovered during the remediation process it may be argued by WCC that these defects are outside the 10 year time limit therefore it will be necessary to convince the High Court that these new issues are consequential to the original defects and the subject of negligent Council inspections during the original construction. Michael needs to work with Helfen and a structural engineer to be able to argue that the defects are not time barred because they are either further manifestations of existing defects or that it will be impossible to repair other defects without repairing the new defects because the damage resulting from the new defects cannot be separated from damage resulting from defects already identified. A structural engineer has inspected the foundation in Block D and made the assumption that the plan was adhered to and the sinking has occurred because the ground was not prepared properly. This indicates the pre-pour inspection may not have been carried out correctly. Once the exact nature of the new defects has been determined by the structural engineer it will be necessary for Helfen and the owner's Council liability expert to comment on Council's liability. At this stage, Michael has no concerns about the recoverability of the cost involved in remediating the new defects but he cannot offer a final view on that issue until the process described above is complete.
- Final payment claim should be made within 60 days of the final completion of the remediation and the CCC being issued. Blocks A, B & C are covered by one consent and Blocks D and E each have a separate consent.
- Assuming that the final payment plans are lodged in March it should be possible to arrange a mediation with Council after May 2015 once Council has had time to review the total cost of remediation and Michael has filed an updated claim in the High Court providing full details of all the owners losses (i.e. remedial costs, consequential losses i.e. lost rent, upgrades etc, interest, and general damages where appropriate). Once the repairs are complete Michael will need to provide Council with all of the invoices and photographs of the repairs. Jennifer will be contacting the owners to obtain their documents relating to consequential losses and interest.
- Mediation takes place external to the High Court and the proceeding will only carry on if settlement cannot be reached at mediation. Most claims of this type settle for around

70% of the total losses and at this stage there is no reason to think that this matter should be any different.

- If the cost per apartment is \$125,000 and say \$80,000 (64%) is recovered, the net cost to owners will be \$45,000 so for this cost they will have a newly clad building and a freshly painted and refurbished unit.
- If the claim is not settled at mediation Mike will make the call to make a "Calderbank" Offer. This is a letter to the Council containing an offer to settle the case which if Council does not accept and the case goes to Court and the owners recover more than the amount offered in the letter the Court can order Council to pay an increased level of the owners legal and expert costs. This is what happened recently in the Glenmore Street decision. It is a good way to put pressure on the Council to negotiate a settlement.
- Steve thanked Mike for flying down from Auckland at his own cost to inspect the complex and for his time in attendance at the meeting.

Confirmation of Minutes of 2013 AGM and SGM:

Minutes had been circulated prior to the meeting and there were no matters arising.

Moved that the minutes be accepted as a true and correct, Units 16/2. Carried.

Receive and Approve Reports:

Financial Statements for Year ended 31.03.2014:

Financial statements were circulated prior to the meeting.

- Secretarial fees have increased substantially from last financial year due to extra work generated by the remediation. Steve noted that any of the secretarial fees directly related to remedial work could be claimable and requested Richard keep a separate schedule of those fees. Donna's fees are to also be reviewed and any work in relation to the remediation is to be separated out.
- Richard also explained the situation with Unit 1 which has been taken over by a group of existing owners as well as some outsiders.
- The huge costs of both Helfen's and Mike Thornton's bills were raised and Steve expressed his confidence in Thomas from Helfen who is documenting the remedial process and who will be an expert witness when the claim moves to mediation. He is held in high regard and his evidence is respected throughout the country. Mike's bill has increased due to the ongoing issues being found during the remediation which may be subject to the claim.
- Steve is also very impressed with Multi-Build Schwass who are well organised and professional, they have 18 men working on the complex and work is progressing well.

Moved that the Financial Statements for year ended 31.03.2014 be approved subject to any change required to secretarial and building managers fees for remediation. Units 23/22. Carried.

Budget for 12 month Period ended 31.03.2015:

- The actual cost for maintenance for the last period was \$17,127 seemed high and Richard is to send out details of maintenance carried out in 2013/2014 year.
- Insurance costs have risen and due to the remediation there will be reductions in maintenance, caretaker and secretarial fees and rubbish removal costs.
- The leaky building legal, consultants and secretarial fees have been left at \$100k and may well be too low based on the current ongoing payments due to issues with the building that are surfacing during the remediation.
- There was concern that monthly Body Corporate Fees should not be increased because the level of rental income while the building is being remediated is approximately 33% rather than the expected 50% of normal. Steve advised that rentals should improve as

Blocks are completed and students are moved in and there is an opportunity to take short term tenants.

- It was agreed that there be no increase in the monthly fees and that a special levy to cover legal, and consultants fee be imposed later in the year if necessary.

Moved that the Budget for the year ended 31.03.2015 as circulated prior to the AGM be approve Units 7/22.

Caretaker/Building Manager:

- Donna's report has been circulated prior to the meeting. There were no questions arising from it.
- Donna informed the meeting that the \$9,000 worth of false alarm call-out fees from the Fire Service had been waived after much negotiation.
- Steve proposed a vote of thanks to Donna for her work and dedication.

Moved Units 11/16. Carried.

Election of Body Corporate Chairperson:

One nomination was received for Steve Ebert who agreed to carry on in this position.

Terry Jones thanked Steve for all the work he has done using his expertise as a lawyer and former quantity surveyor.

Election of a Committee:

Nominations received: Peter Arathimos, Terry Jones, Steve Ebert, Marg Garvie, Richard Graham, Grant Watt, Jey Thiaglingam. (Jey's nomination is subject to confirmation as to her ownership in the unit)

Moved that the nominations for Chairperson and Committee be accepted Units 1 /2. Carried.

Appointment of Auditor if Necessary and approval of Accounting and Secretarial Fees:

Moved that an auditor not be appointed Units 7/23. Carried.

Moved that the all accounting and secretarial fees as detailed in the Financial Statements be approved Units 22/5. Carried.

General Business:

Terry suggested a Special General Meeting be held in late November to update owners on remediation work.

Moved that a SGM be held in late November Units 12/22. Carried.

Barry Doyle expressed his thanks to Steve, Terry and Richard for all the work done for the remediation.

Meeting Closed at 8.30pm.