



January 28, 2011

**All Owners**  
**Strata Plan LMS 4456**  
**"One Wall Center"**  
938 Nelson Street  
Vancouver, BC

Dear Owners:

**RE: STRATA FEE INCREASE – EFFECTIVE JANUARY 1, 2011**

Further to the Annual General Meeting held on January 8, 2011 please be advised that a new budget has been approved and as a result **strata fees for each strata lot have increased**. A schedule of the new monthly strata fees and the approved budget is attached.

If you are currently on the pre-authorized payment plan (PAP), there will be no need to contact our offices, as the amount of your strata fees will be adjusted accordingly. The strata fee retroactive adjustment for January 2011 will be debited from your account on **February 1, 2011**.

However, if you are not presently on the PAP Plan but wish to enroll, a PAP form can be obtained on our website ([www.ascentpm.com](http://www.ascentpm.com)) under the "Forms" section. Please print out and complete this form and return it attention to Tory Matsen, Strata Accountant, as soon as possible.

Should you choose not to enroll in the PAP program, kindly forward your twelve post-dated cheques for your monthly strata fees to Ascent Real Estate Management Corporation for the fiscal year beginning January 1, 2011 to December 1, 2011 inclusive. If you have already paid for your January strata fees, please note that you will need to submit a cheque for the adjustment amount. The adjustment represents the difference from your old strata fees and the newly approved strata fees. Please make your cheques payable to "OWNERS' STRATA PLAN LMS 4456", with your strata lot number quoted on the bottom left.

Should you require any assistance, or have any questions in this regard, please call 604-431-1800 and ask to speak with the Accounts Receivables Department.

Yours truly,

Ascent Real Estate Management Corporation  
Managing Agents  
On Behalf of Owners' Strata Plan LMS 4456

  
Derrin Geisheimer  
Strata Agent

DG/an

2176 Willingdon Ave, Burnaby, BC Canada V5C 5Z9  
Telephone: (604) 431 - 1800 | Fax: (604) 431 - 1818

[www.ascentpm.com](http://www.ascentpm.com)

**Strata Plan LMS4456**  
**One Wall Centre**  
**Approved Budget**  
**Effective January 1, 2011 to December 31, 2011**

	<b>Annual Budget 2011</b>
<b>Revenue</b>	
3000-0000 Operating Income	594,456.00
3010-0000 Contingency Reserve Income	90,000.00
3020-0000 Bylaw Fine Income	500.00
3040-0000 Move In/Out Fee	1,500.00
3055-0000 Fob Sales Income	400.00
3080-5010 Filter Sales	300.00
3095-0000 Transfer from Prior Year Surplus	25,499.00
<b>Total Income</b>	<b>712,655.00</b>
<b>Expense</b>	
4000-0000 Agent Fee	20,100.00
4010-0000 Legal/Consultin fees	55,000.00
4012-0000 Photocopying/Postage	3,105.00
4015-0000 Bank Charges	500.00
4016-0000 Miscellaneous	5,000.00
4040-0000 Insurance	70,000.00
4040-0020 Insurance Deductible Repairs	25,000.00
4050-0000 Electricity	24,000.00
4052-0000 Water & Sewer	7,000.00
4056-0000 Garbage Collection	1,000.00
4058-0000 Gas	46,800.00
4106-0000 Security	55,000.00
4110-0000 Cable	3,200.00
4130-0000 Elevator	28,000.00
4160-0000 Repairs & Maintenance - General	18,000.00
4160-0030 Plumbing & Mechanical Repairs	32,000.00
4162-0000 R & M - Carpet Cleaning	3,200.00
4217-0000 Christmas Decorations - Lobby	3,500.00
4220-0000 Window Cleaning	12,500.00
4232-0000 Janitorial	53,000.00
4300-0000 Landscaping	5,500.00
4400-0000 Amenity Room Expenses	750.00
4500-0000 Caretaker Wages	150,500.00
<b>Total Expense</b>	<b>622,655.00</b>
<b>Surplus(deficit) from Operations</b>	<b>90,000.00</b>
4800-0000 Contingency Reserve Transfer	90,000.00
<b>Total operating surplus(deficit)</b>	<b>0.00</b>

**STRATA PLAN LMS 4456  
ONE WALL CENTRE  
MONTHLY STRATA FEE SCHEDULE  
JANUARY 1, 2011 TO DECEMBER 31, 2011**

OPERATING FEE	594,456.00
CONTINGENCY RESERVE FEE	90,000.00
<b>TOTAL STRATA FEE</b>	<b>\$684,456.00</b>

			<b>2011 MONTHLY STRATA FEE</b>		
<b>S.L.#</b>	<b>UNIT #</b>	<b>U/E</b>	<b>OPERATING FEE</b>	<b>CRF FEE</b>	<b>STRATA FEE</b>
2	3101	1021	\$525.27	\$79.53	\$604.80
3	3102	758	\$389.97	\$59.04	\$449.01
4	3103	738	\$379.68	\$57.48	\$437.16
5	3104	1096	\$563.86	\$85.37	\$649.23
6	3105	740	\$380.71	\$57.64	\$438.35
1	3106	757	\$389.45	\$58.96	\$448.41
8	3201	989	\$508.81	\$77.03	\$585.84
9	3202	756	\$388.94	\$58.88	\$447.82
10	3203	738	\$379.68	\$57.48	\$437.16
11	3204	1099	\$565.40	\$85.60	\$651.00
12	3205	732	\$376.59	\$57.02	\$433.61
7	3206	738	\$379.68	\$57.48	\$437.16
14	3301	990	\$509.32	\$77.11	\$586.43
15	3302	761	\$391.51	\$59.27	\$450.78
16	3303	736	\$378.65	\$57.33	\$435.98
17	3304	1100	\$565.91	\$85.68	\$651.59
18	3305	733	\$377.10	\$57.09	\$434.19
13	3306	760	\$390.99	\$59.20	\$450.19
20	3401	1380	\$709.96	\$107.49	\$817.45
21	3402	1519	\$781.47	\$118.31	\$899.78
22	3403	1447	\$744.43	\$112.71	\$857.14
19	3404	1520	\$781.99	\$118.39	\$900.38
24	3501	1403	\$721.80	\$109.28	\$831.08
25	3502	1442	\$741.86	\$112.32	\$854.18
26	3503	1491	\$767.07	\$116.13	\$883.20
23	3504	1385	\$712.54	\$107.88	\$820.42
28	3601	1406	\$723.34	\$109.51	\$832.85
29	3602	1446	\$743.92	\$112.63	\$856.55
30	3603	1465	\$753.69	\$114.11	\$867.80
27	3604	1368	\$703.79	\$106.55	\$810.34
32	3701	1406	\$723.34	\$109.51	\$832.85
33	3702	1441	\$741.35	\$112.24	\$853.59
34	3703	1490	\$766.56	\$116.06	\$882.62
31	3704	1388	\$714.08	\$108.11	\$822.19
36	3801	1381	\$710.48	\$107.57	\$818.05
37	3802	1519	\$781.47	\$118.31	\$899.78
38	3803	1445	\$743.40	\$112.55	\$855.95
35	3804	1520	\$781.99	\$118.39	\$900.38
40	3901	1379	\$709.45	\$107.41	\$816.86
41	3902	1525	\$784.56	\$118.78	\$903.34
42	3903	1446	\$743.92	\$112.63	\$856.55
39	3904	1520	\$781.99	\$118.39	\$900.38
44	4001	1402	\$721.28	\$109.20	\$830.48

**STRATA PLAN LMS 4456  
ONE WALL CENTRE  
MONTHLY STRATA FEE SCHEDULE  
JANUARY 1, 2011 TO DECEMBER 31, 2011**

OPERATING FEE	594,456.00
CONTINGENCY RESERVE FEE	90,000.00
<b>TOTAL STRATA FEE</b>	<b>\$684,456.00</b>

			<b>2011 MONTHLY STRATA FEE</b>		
45	4002	1435	\$738.26	\$111.77	\$850.03
46	4003	1492	\$767.58	\$116.21	\$883.79
43	4004	1385	\$712.54	\$107.88	\$820.42
48	4101	1407	\$723.85	\$109.59	\$833.44
49	4102	1439	\$740.32	\$112.08	\$852.40
50	4103	1491	\$767.07	\$116.13	\$883.20
47	4104	1387	\$713.57	\$108.03	\$821.60
52	4201	1383	\$711.51	\$107.72	\$819.23
53	4202	1519	\$781.47	\$118.31	\$899.78
54	4203	1447	\$744.43	\$112.71	\$857.14
51	4204	1531	\$787.65	\$119.25	\$906.90
56	4301	1380	\$709.96	\$107.49	\$817.45
57	4302	1519	\$781.47	\$118.31	\$899.78
58	4303	1446	\$743.92	\$112.63	\$856.55
55	4304	1520	\$781.99	\$118.39	\$900.38
60	4501	1381	\$710.48	\$107.57	\$818.05
61	4502	1519	\$781.47	\$118.31	\$899.78
62	4503	1447	\$744.43	\$112.71	\$857.14
59	4504	1519	\$781.47	\$118.31	\$899.78
64	4601	1405	\$722.83	\$109.44	\$832.27
65	4602	1438	\$739.80	\$112.01	\$851.81
66	4603	1490	\$766.56	\$116.06	\$882.62
63	4604	1387	\$713.57	\$108.03	\$821.60
68	4701	4641	\$2,387.64	\$361.49	\$2,749.13
69	4703	1497	\$770.16	\$116.60	\$886.76
67	4704	1387	\$713.57	\$108.03	\$821.60
72	4802	1058	\$544.31	\$82.41	\$626.72
70	4803	1444	\$742.89	\$112.47	\$855.36
71	4804	1520	\$781.99	\$118.39	\$900.38
<b>TOTALS</b>	<b>96290</b>		<b>\$49,538.01</b>	<b>\$7,499.98</b>	<b>\$57,037.99</b>
			<b>x 12</b>	<b>x 12</b>	<b>x 12</b>
			<b>\$594,456.12</b>	<b>\$89,999.76</b>	<b>\$684,455.88</b>

**ANNUAL GENERAL MEETING MINUTES  
STRATA PLAN LMS 4456 – "ONE WALL CENTRE"  
938 NELSON STREET, VANCOUVER, BC**

---

**HELD:** Saturday, January 8, 2011

**PLACE:** Galiano Room - 4<sup>th</sup> Floor of the South Tower

**MANAGING AGENT:** Derrin Geisheimer, Strata Agent, Ascent Real Estate Management Corporation

---

**REGISTRATION**

Upon arrival owners signed next to their strata lots on the registration sheet provided and received voting cards prior to being seated.

**CALL TO ORDER**

The meeting was called to order at 10:00 a.m. by Michael Mathews. He welcomed all those in attendance.

**QUORUM REPORT**

Registration confirmed there were twenty-seven (27) owners present in person or by proxy. This exceeded the required quorum and the meeting was declared competent to proceed.

**ELECT PERSON TO CHAIR MEETING**

It was **MOVED** and **SECONDED** to have Michael Mathews chair the meeting.  
**MOTION CARRIED UNANIMOUSLY.**

**PROOF OF NOTICE & APPROVE AGENDA**

It was **MOVED** and **SECONDED** to approve the Notice of Call and the Agenda as presented.  
**MOTION CARRIED UNANIMOUSLY.**

**APPROVAL OF PREVIOUS GENERAL MEETING MINUTES**

It was **MOVED** and **SECONDED** to approve the minutes of the previous Special General Meeting held on April 1, 2010.  
**MOTION CARRIED UNANIMOUSLY.**

**PRESIDENT'S REPORT**

Michael Mathews presented a report from Bruce Gleig, who apologized for being unable to attend the AGM in person. The report is attached to these minutes.

## **PRESENTATION ON WINDOWS**

Brian Hubbs from RDH Engineering gave an update on the information gathering process for the One Wall Centre glazing rehabilitation. A slide show was presented to inform the owners that attended the meeting.

Ed Thiessen from RDH updated the owners on the process of drawing the specifications and noted that RDH is at 80% completion and is now waiting on the decision for the type of glass.

Nick Milkovich, an architect retained by Wall Financial, introduced himself to the owners. He advised that he may present the permit application to City Hall on behalf of the Strata Corporation and Wall Financial. He also advised how the design development-permit process works at City Hall, including the length of time it might take.

Kevin Ganzert, a construction specialist from RDH, discussed the information presented in the AGM package and the advantages and potential savings available through the concept of construction management.

Council and owners thanked the representatives for attending.

A discussion took place on how information about the glazing rehabilitation process should be disseminated to owners and outside individuals (including media coverage). A number of owners gave suggestions and council will discuss this further.

An owner also questioned whether the slide show from RDH will be available to the owners on the Strata Corporation's website.

## **UNFINISHED BUSINESS**

1. **Building Fans:** An owner asked for clarification on an item from last year's meeting where the various building fans were discussed. The question arose as to the determination of which fans belong to the strata and which belong to the hotel. It was noted that the reserve study that council has scheduled will help determine exact ownership of equipment such as this.

## **RECEIVE REPORTS**

1. **Legal Report:** Tim Peters provided a written report, which was present by Michael Mathews. Please find a copy of the report attached.
2. **Website Report:** Jerre Bradt gave a brief update on changes to the strata website.

## **APPROVAL OF BUDGET**

It was **MOVED** and **SECONDED** to approve the budget as presented.

**MOTION CARRIED UNANIMOUSLY**

## **MAJORITY VOTE RESOLUTION #1 – OPERATING BUDGET SURPLUS**

### **PREAMBLE**

In accordance with section 105 of the *Strata Property Act*, contributions to the operating fund, which are not required to meet operating expenses accruing during the fiscal year to which the budget relates must

be dealt with in one or more of the following ways, unless the strata corporation determines otherwise by a resolution passed by 3/4 vote at an annual or special general meeting.

- (a) transferred into the contingency reserve fund;
- (b) use to reduce the total contribution to the next fiscal year's operating fund.

## **RESOLUTION**

It was **MOVED** and **SECONDED** to approve the resolution as presented, which reads as follows:

**THEREFORE, BE IT RESOLVED**, by majority vote to direct the strata council to transfer the operating surplus determined at year end to one or more of the following ways;

- (a) transfer into the contingency reserve fund.
- (b) used to reduce the total contribution to the next fiscal year's operating fund.

**MOTION CARRIED UNANIMOUSLY.**

## **SPECIAL (3/4 VOTE) RESOLUTION #1 – CONTINGENCY RESERVE FUND**

### **PREAMBLE**

**WHEREAS**, in accordance with section 93 of the *Strata Property Act*, "Subject to the requirements set out in the *Strata Property Act* regulations, the strata corporation must determine the amount of the annual contribution to the contingency reserve fund"; and

**WHEREAS**, the *Strata Property Act* Regulation 6.1 states:

- 6.1 For the purposes of section 93 of the Act, the amount of the annual contribution to the contingency reserve fund for a fiscal year, other than the fiscal year following the first annual general meeting, must be determined as follows:
- (a) if the amount of money in the contingency reserve fund at the end of any fiscal year after the first annual general meeting is less than 25% of the total annual budgeted contribution to the operating fund for the fiscal year that has just ended, the annual contribution to the contingency reserve fund must be at least 10% of the total contribution to the operating fund for the current fiscal year;
  - (b) if the amount of money in the contingency reserve fund at the end of any fiscal year after the first annual general meeting is equal to or greater than 100% of the total annual budgeted contribution to the operating fund for the fiscal year that has just ended, any contribution to the contingency reserve fund must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting;
  - (c) if the amount of money in the contingency reserve fund at the end of any fiscal year after the first annual general meeting is at least 25% but less than 100% of the total annual budgeted contribution to the operating fund for the fiscal year that has just ended, the annual contribution to the contingency reserve fund may be of any amount.

**WHEREAS**, as at December 31, 2010 the contingency reserve fund will be greater than 100% of the budget, a  $\frac{3}{4}$  vote is required; and

**WHEREAS**, future expenditures may be greater than the current contingency reserve fund.

### **RESOLUTION**

It was **MOVED** and **SECONDED** to approve the resolution as presented, which reads as follows:

**THEREFORE, BE IT RESOLVED**, by  $\frac{3}{4}$  vote of Owners' Strata Plan LMS 4456, authorize to budget additional contributions to the contingency reserve fund.

**MOTION CARRIED UNANIMOUSLY.**

### **NEW BUSINESS**

**1. Lobby Floors:** A company has been contracted to restore the floors in the lobby and elevators.

### **COUNCIL ELECTIONS**

The owners were advised that a new council must be elected at each Annual General Meeting; members of the current council were also eligible for re-election. The floor was then opened for nominations. The following owners were nominated:

Michael Mathews  
Jerre Bradt

Philip Jhin  
Yousef Rastar

Nell Dragovan  
Bruce Gleig

It was **MOVED**, **SECONDED** and **CARRIED** that nominations be closed. There being no further nominations, it was **MOVED** and **SECONDED** to elect the slate of nominees by acclamation.

**MOTION CARRIED UNANIMOUSLY.**

The council was thanked by the owners for their hard work and dedication.

### **ADJOURNMENT**

There being no further business, it was moved to adjourn the meeting at 12:45 p.m.

Ascent Real Estate Management Corporation  
Managing Agents  
On Behalf of Owners' Strata Plan LMS 4456

Derrin Geisheimer  
Strata Agent

DG/an

Direct Number: 604-293-2452  
After Hours Paging Service: 604-293-2459

Ascent Real Estate Management Corporation - 2176 Willingdon Avenue, Burnaby, BC V5C 5Z9  
Phone: 604-431-1800 Fax: 604-431-1818 Email: [ascent@ascentpm.com](mailto:ascent@ascentpm.com) Website: [www.ascentpm.com](http://www.ascentpm.com)



## **PRESIDENT'S REPORT**

2010 has been a challenging year for us on council. Many issues came before us, but the main ongoing challenge is our window replacement program. I wish to summarize what has taken place and where I see us going this year.

### **Significant Events in 2010**

At our AGM on January 16, the owners voted to retain an engineering firm to carry out the tasks needed to perform the window replacement program recommended by RDH Building Engineering, voted to petition the City to authorize replacement of our windows with tinted glass, and voted to proceed with the window replacement. However, the owners failed to approve financing for the repairs for this project. The general consensus from those opposed to the financing resolution was that they wanted to see the results of competitive bidding for the work. In order to obtain competitive pricing, we need the bid documentation to be complete. We could not proceed with the engineering work to get bids without spending approval for retaining the engineers. As a result, on April first, we held a Special General Meeting and the owners voted to approve spending from the Contingency Reserve Fund to instruct the engineers at RDH to prepare bid documentation.

At our September council meeting, RDH reported that progress on the bid documents was delayed, because no mechanical drawings were available to complete the mechanical work necessary to specify the windows for the bid documents. (Apparently, after Wall Financial made the compromise with the City for tinted glass for the hotel and clear glass for the residences, no new mechanical drawings were made for the residences. This omission might explain why the suites on the south side of the building were not built with sufficient HVAC systems.) However, our mechanical repairer Latham's was helping with information obtained while doing repair work in the building. RDH is working under instructions to take the steps necessary to petition the City for tinted glass and prepare bid documents.

On December 9, Kevin Ganzert of RDH proposed that we replace the windows using the construction management method, rather than the traditional, general contractor method, which could reduce the cost by \$2.5 million and reduce the time involved to 6-7 months. Kevin's proposal is attached to the AGM materials, and Kevin will be at this year's AGM to discuss this option.

Following our council meeting on November 29, a three person committee appointed by council consisting of Philip Jhin, Yousef Rastar and me, met with Bruno Wall to discuss the window replacement program and several other issues irritating our ongoing relationship with the hotel. Mr. Wall expressed great interest in our plans to replace the windows and our petition to the City. He offered to assist us make our petition to the city and has introduced RDH to an architectural firm which has good relations with the planning department at City Hall. Mr. Wall also warned that the application to the City could be slow moving and may not succeed. He also took note of our other issues with the conduct of the hotel and indicated he would assist.

On the legal front, our lawyer Tim Peters has reported that our Claim has been served and Replies have been received from all, but one, of the defendants. Tim has asked for and council has given him instructions to move forward with mediation of our claim.

## **Where Do We Go From Here?**

I think our best interests will be served if we press forward as soon as we reasonably can to make our petition to the City for tinted windows and then replace our windows. Progress on this project has been very slow for the reasons set out above, and I would like them to move forward more quickly. Many of us would like to have our property values return to normal so that we can sell our units if we wish. I think we should also use good advice from and work with Mr. Wall, when it seems appropriate. He is very knowledgeable and experienced in construction matters and has numerous helpful contacts in the industry.

Also, when we are ready to solicit bids, we should obviously consider construction management, if it can save time and money. Right now, our focus is on preparing detailed specifications and the petition to the City for tinted glass. Once these steps are nearing completion, our next focus should be on how to get the best price and shortest time to replace our windows.

On the legal front, we should continue our efforts to resolve our claim as soon as possible using the mediation process. I think the mediation process is preferred over a full trial because of the cost and time involved in taking a construction matter like this to trial. Success at mediation is not certain because all parties must be prepared to compromise their positions and they cannot be forced to do so. However, almost all of these kinds of construction cases are resolved at mediation. We have asked Mr. Wall to help us accelerate this process.

I would have preferred to make this report in person, but the cost of traveling from California is too high this year.

I am prepared to continue to serve on council, if the owners wish it. My goal is to bring a successful conclusion to our window replacement program.

Best regards, Bruce Gleig (Suite 4502)



Jenkins Marzban Logan LLP  
lawyers

## Memorandum

To: President, Strata Council  
From: Tim Peters  
Date: January 28, 2011  
File No: 5674-001

**Re: One Wall @ WALL FINANCIAL CORPORATION et al.**

### Pleadings

I attach for your review, the Strata Corporation's Notice of Civil Claim and Responses filed by the Wall Group of defendants and by ING Insurance. We have not yet received a Response from National Home Warranty. In all likelihood, National and ING will be represented by the same law firm. However, because of a suggested conflict between the two parties, common counsel has not yet been appointed. Rather than delay the close of pleadings further, ING has filed its Response and I have given National until January 21, 2011 to locate counsel and file a Response to the Claim.

There are no surprises in the two Response filed to date. The Wall Group's defence can be summarized as follows:

- a. the IGU Deficiencies do not result in a substantial danger to the health and safety of the building's occupants (a requirement to make out a claim in negligence) and at best the damage suffered by the owners constitutes pure economic loss and thus, not recoverable as a matter of law
- b. there are no HVAC deficiencies;
- c. the windows need not be replaced to address the IGU Deficiencies;
- d. the window replacement program constitutes betterment; and
- e. the Disclosure Statements were accurate as issued (and do not contain omissions or misrepresentations around material facts).

ING's primary defence is that no notice of the Claim was provided within the appropriate timelines set out in Warranty certificates and the IGU Deficiencies are not otherwise caught by the Warranties.

### Case Planning Conference

Under the new Rules of Court a party to a proceeding may request a case planning conference. The purpose of the conference is to establish timelines leading up to trial including dates that certain tasks must be completed by, including:

- a. discovery of documents;
- b. examinations for discovery;
- c. production of expert reports; and
- d. circulation of witness lists.

We anticipate a CPC occurring in early February, 2011.

#### Discovery of Documents

Each party of record within 35 days after the end of the pleading period, must prepare a list of documents that lists all documents that are or have been in the party's possession or control and that could, if available, be used by any party of record at trial to prove or disapprove a material fact. Ascent is currently in the process of compiling the strata corporation's documents. Once we are in receipt of the documents, we will forward them to a data management company to scan and code the documents and prepare a list consistent with our obligations under the Rules of Court. In our experience, working from an electronic database saves the client considerable legal fees as the initial upfront costs of creating the database is more than offset by a reduction in legal fees in working with the electronic documents.

#### Trial Date

We anticipate setting a trial for the latter part of 2012. Those dates can only be confirmed once the Registry opens up those time slots (18 months prior to the desired start date).

#### Mediation

The vast majority of disputed claims settle prior to a trial on the issues. More often than not, settlement is achieved with the assistance of a mediator. Attendance at a mediation session is mandatory. We see no reason why mediation should not be pursued in this case. Subject the strata corporation's approval, we will take steps to serve a Notice to Mediate and have a mediator appointed. A mediation session should not occur until there has been discovery of the parties. To that end, we should be looking to late 2011 or early 2012 to convene a mediation session.