

**STRATA COUNCIL MEETING MINUTES  
OWNERS' STRATA PLAN LMS 4456  
"ONE WALL CENTER"  
938 NELSON STREET  
VANCOUVER, BC**

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Monday, November 29, 2010  
Chart Room – North Tower

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<b>PRESENT:</b>	Philip Jhin Bruce Gleig	Jerre Bradt Yousef Rastar	Nell Dragovan Michael Mathews
<b>REGRETS:</b>	Havana Ulrich		
<b>GUESTS:</b>	David Albrice & Brian Hubbs, RDH Engineering Rahman Somani and Guest – Unit 4004		
<b>STRATA AGENTS:</b>	Rick Dickson, Michele Campbell & Derrin Geisheimer <i>Ascent Real Estate Management Corporation</i>		

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**CALL TO ORDER**

The meeting was called to order at 9:30 a.m.

**MINUTES**

It was moved and seconded to approve the minutes of the September 23, 2010 council meeting, as presented.  
**MOTION CARRIED.**

**GUEST BUSINESS**

David Albrice was requested to attend the meeting and update the council on the Five Year Reserve Fund Study & Maintenance Program. This study will provide the council and owners with an up to date Reserve Study and ensure that the council has budgeted correctly for upcoming maintenance issues as the building ages. The cost to provide this updated study is \$4,000.00. It was moved and seconded to approve this expenditure.

**MOTION CARRIED.**

**BUSINESS ARISING**

1. **Windows:** Brian Hubbs of RDH Engineering reported that they are continuing with the bid drawings. Brian Hubbs noted that there have been some advances in glazing that includes high performance glass that has the coatings on the inside layers of glass.
2. **Update from Lawyer:** Tim Peters provided the following update via email:
  1. "Wall has now filed its Statement of Defence. There are no surprises contained therein and it amounts to little more than a pro forma denial of the claim.
  2. "Supreme Court of Canada just handed down its reasons in a case called Lombard Insurance v. Progressive Homes. In that case, Lombard insured the developer and general contractor under a Wrap-Up liability policy. Progressive was sued for its role in the construction of 4 separate leaky condos. They submitted the claim to its insurers for defence. The insurers denied coverage – based primarily on the principle that insurers only defend claims for resulting

damage and that because the whole of the buildings constituted the insured's work product there could be no resulting damage and therefore no coverage. In essence, they argued that by granting coverage, the insured would be elevating the insurance policy to a performance bond. The insurers won at both the trial and court of appeal levels. The case was appealed to the Supreme Court of Canada. I was reluctant to finalize the Statement of claim until the Supreme Court came down with its decision as I always felt our courts had got it wrong. In an unanimous decision of the court (all 9 judges), the Supreme Court agreed and allowed the appeal and granted coverage. Much of the case is fact driven and highly dependent on the policy wording. One interesting comment from the court (obiter dicta) was that, depending on the policy, there could very well be coverage for the actual defective building component and not just resulting damage. We will want to examine the policy carefully once produced.

3. "Under the new Rules of Court, we no longer must serve a Demand for Discovery of Documents. That obligation follows automatically on serving the Notice of Civil Claim. Accordingly, we expect to receive Wall's List of Documents within the next several weeks. I will push them if no list is forthcoming. However, I would like to do so only after complying with our own document production obligations. To that end, I have asked Rick to start putting together our documents and forward them to me for vetting and listing.
4. "I am still waiting on the warranty provider to appoint counsel. You will recall that the insurer's usual counsel (Clark Wilson) was conflicted from acting as they have acted for the strata corporation in the past. Their back-up counsel, Guild Yule is also in conflict. John Moshonas represents the insurance company who underwrote National's obligations. I have told Mr. Moshonas that I require his client's Response without delay (and we can sort out National's position in due course). I suspect Moshonas will get instructions to defend for both parties.
5. "The next step (once pleadings are closed) is to secure a trial date and request a Case Management Conference, where cut-off dates will be ordered by the court to ensure all parties remain focused on the trial date. We will take those steps as soon as defences are filed by all parties."

3. **Website Update:** Jerre Bradt provided council with an option to streamline the website at a cost of \$75.00 per hour. It was estimated that the upgrades would take approximately two hours. It was moved and seconded to proceed with the upgrade.

**MOTION CARRIED.**

4. **Water Shutdown:** The council discussed the recent water shut down and noted that Latham's had neglected to turn the recirculating pumps back on and therefore, many residents were without hot water. Once this was realized, Latham's was requested to return to the building and the pumps were turned back on. Council noted that this shutdown was required because the building was constructed without valves to isolate the strata from the hotel. Now that these valves have been installed, strata council will be able to proceed with repairs that have been on hold, without needing to coordinate with the hotel.
5. **Common Area Damage:** The council approved going ahead with repairs to a common hallway due to damage from an individual unit. The costs will be charged back to the unit in question.

## **FINANCIAL**

1. The treasurer reviewed the financial statements for the period ending October 31, 2010. It was then moved and seconded to approve the financial statements as presented.

**MOTION CARRIED.**

2. **Accounts Receivable:** The council reviewed the accounts receivable and instructed the strata agent to write to owners who are delinquent in paying their strata fees.

## **CORRESPONDENCE**

1. The strata council reviewed two letters from an owner with respect to bylaw fines. The strata agent was requested to respond to the owner as directed by council.

## **NEW BUSINESS**

1. The strata agent provided council with a breakdown of the repairs performed to the buildings fans, as the council had received another quote to replace the bearings in fan #26. The council requested that the agent follow up with Latham's regarding this quote, as fan #26 had the bearings replaced in June of this year.
2. **AGM:** The Annual General Meeting will be held on Saturday, January 8, 2011. Registration at 9:30 a.m. and Call to Order at 10:00 a.m. The Notice of Call will be mailed out shortly.
3. The strata agent was instructed to obtain quotes for touching up the elevator and for securing a loose tile in one of the elevators.
4. **Property Manager:** Council noted that Rick Dickson has sold Ascent Real Estate Management Corporation to new investors. Rick will no longer be associated with Ascent as of the end of the year. In addition, Michele Campbell has received a promotion within Ascent and will be transitioning away from One Wall Centre over the next two months. Derrin Geisheimer has been assigned to LMS 4456 as the new strata agent; he attended today's meeting along with Rick and Michele. Council thanked Rick and Michele for their many years of service to our property and welcomed Derrin.

Council is budgeting to hire Rick Dickson on a consulting basis next year. Council expects Rick to assist us with the windows project and a few other matters that may arise. Given the changes taking place at Ascent, Council feels it is important to retain access to Rick's expertise in the industry and his history with our strata for the time being.

5. **Meeting with Bruno Wall:** The strata council formed a committee of Bruce Gleig, Philip Jhin and Yousef Rastar to meet with Bruno Wall to raise some current problems created by the hotel staff such as unilateral severance of our security cameras and internet connection and to discuss a resolution of our claim for the cost of reglazing the residences.

The committee reported that a meeting with Mr. Wall took place with Brian Hubbs of RDH in attendance immediately following the council meeting. The following summarizes the committee's report on the meeting.

Mr. Wall expressed great interest in our plans to apply to the City to change the glass in the residences to tinted glass similar to the hotel and our plans to reglaze the residences. Mr. Wall expressed interest in how the application to the City would be made, which architects would be best to use for the application, which firms should be considered for the supply and the installation of the glazing, and how the glazing will be transported to the suites. Mr. Wall also asked if the owners were considering adding to the number of operable windows in the residences with some additional cost when the new glazing is manufactured and installed.

The committee also raised concerns about several current problems created by the hotel staff. The committee also suggested that a senior member of the hotel management attend our council meetings periodically to discuss problems as they arise. Mr. Wall took note of these problems and suggestions, and the committee was hopeful that some or all would be addressed.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 12:00 p.m.

The next meeting will be the Annual General Meeting on January 8, 2011.

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

R. S. (Rick) Dickson  
Strata Agent

RSD/mc