

# **INFORMATION MEETING**

## **FOR OWNERS AND RESIDENTS OF ROSARIO GARDENS**

### **STRATA PLAN LMS-2461**

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**HELD:** On Saturday, October 27, 2007 at 1:30 p.m. in the Best Western Richmond Hotel & Convention Centre, 7551 Westminster Highway, Richmond, B.C.

**PRESENT:** 15 Representatives from Tower A 6119 Cooney Road  
63 Representatives from Tower B 8297 Saba Road  
Guests, Volunteers & Media  
Gerry Fanaken, Edmond Wong, Sean Cornish & Cory Pettersen from VCS

The meeting was called to order at 2:05 p.m. by Mr. Gerry Fanaken, CEO of Vancouver Condominium Services.

(Note: Mandarin and Cantonese translation services were provided throughout the meeting).

#### **INTRODUCTION**

The strata council President, Ms. Rosanna Ng, welcomed those present to the meeting, extended the appreciation of the strata corporation to all of the volunteers and government organizations that have assisted Rosario Gardens over the past week, and requested those present to be patient and calm throughout the meeting as they discuss how to move forward following the plane crash which occurred on Friday, October 19, 2007.

Mr. Fanaken introduced the head table as follows:

- Mr. Gerry Fanaken - CEO, Vancouver Condominium Services Ltd.
- Mr. Edmond Wong - Strata Agent, Vancouver Condominium Services Ltd.
- Mr. Paul Mendes - Lesperance Mendes (Legal counsel for Strata Plan LMS-2461)
- Mr. Paul Duchaine - BFL Canada (Insurance Broker for Strata Plan LMS 2461)
- Mr. Sean Cornish - Vice-President, Vancouver Condominium Services
- Mr. Cory Pettersen - Vice-President, Vancouver Condominium Services
- Ms. Rosanna Ng - Strata Council President, Rosario Gardens, Strata Plan LMS 2461

Volunteers from the Tzu Chi Foundation sang a traditional song as a means to calm those present and reminded everyone that they are a community and will get through this very unfortunate incident together.

## **MEETING AGENDA**

Mr. Fanaken noted that there were three items for discussion on the agenda for this meeting, following which individuals present may bring forth any issue that they wish to be discussed. The three items for discussion are as follows:

1. Insurance coverage and limitations
2. Time line for reconstruction
3. Legal implications

1. Insurance: Referencing literature handed out prior to the meeting, Mr. Fanaken noted that there are two types of insurance to consider in this situation: (i) building insurance, and (ii) an individual resident's or owner's personal insurance.

He advised that the building insurance is in place, and the policy for the strata corporation covers the damage to the building and any strata lot affected to the original state of construction. The strata corporation will be responsible for one \$1,000 deductible related to this incident and the complete cost of building restoration will be covered by the insurance company.

Included in the restoration under the strata corporation's insurance policy are interior repairs to those strata lots suffering damage (i.e. cabinets, walls, original flooring etc.) from the 10<sup>th</sup> floor down. These units will be returned to the condition of the original state as provided by the developer, but any improvements (i.e. hardwood or laminate flooring) will not be covered by the strata corporation's insurance. Personal losses including furniture, clothing, betterments or improvements made to the unit are not covered and these damages need to be reported to owners' personal insurance providers if residents have purchased insurance coverage.

With respect to all residents displaced from the building, the strata corporation's insurance policy does not have a provision for hotel costs or personal expenses. Personal insurance will cover these costs, but those without personal insurance will not have the expenses covered by the strata corporation or the insurer.

2. Timeline For Reconstruction: While Vancouver Condominium Services Ltd. (VCS) has been in contact with the insurance adjuster and they are currently determining the scope of work and the timeline for both the work and occupancy of the building, no specific timeline information has been provided as of today's date. However, it was noted that the repair program will be in three parts as follows:

- (a) Units Above 10<sup>th</sup> Floor: These units suffered no damage from this incident and will be available for occupancy first.

- (b) 8<sup>th</sup> Floor Down: These units will be available for occupancy once the repairs have been completed. While there has not been a timeline provided by the insurance adjuster yet, a minimum of two to four months is to be expected before residents can move back in. All parties involved will do everything possible to ensure that the work is done as fast as possible and it is hoped this schedule (approx. 2 to 4 months) is the maximum amount of

time these residents will be displaced. The prime objective is to make the timeline shorter; however, there are major repairs involved and the management needs to be as honest and realistic as possible about the situation.

- (c) Impacted Units (9<sup>th</sup> Floor & Parts of 8<sup>th</sup> and 10<sup>th</sup> Floors ): For those units severely damaged from this incident, the approximate estimate for expected occupancy will be four to six months or longer.

With respect to occupancy of the building in general, it was noted that occupancy is dependent on the City of Richmond. The City must be satisfied that all mechanical services have been restored including water, sewer, electrical, elevators and the fire alarm system. The City of Richmond will only issue an occupancy permit once these services have been restored. The City is working closely with On Side Restoration and achieving the occupancy permit is the priority at this time.

VCS will be obtaining more information shortly with respect to the timeline for reconstruction and will continue to supply information as it becomes available to owners and residents. It is important that VCS is able to communicate with everyone, and to facilitate this, a website has been established to post information as it becomes available [www.vancondo.com/rosariogardens](http://www.vancondo.com/rosariogardens) .

Mr. Fanaken stated that VCS sympathizes greatly with all those touched by this situation and the terrible circumstances that residents have found themselves. He offered the assurance that VCS will do everything possible to restore the building to liveable state as soon as possible.

Mr. Fanaken advised that he spoke with the Transportation Safety Board (TSB) Chief Investigator yesterday (October 26, 2007) and was advised that they have completed their investigation inside the building. This means that the TSB will not require further access to Rosario Gardens.

Lastly, it was noted that VCS personnel have contacted utilities (B.C. Hydro, Terasen Gas, Shaw Cable, related contractors, B.C. Assessment regarding taxation, etc.) and are working to contact all service companies regarding the temporary stoppage of services and utilities to Rosario Garden's Tower B. So far, the vendors and contractors have been very cooperative and all related information will be provided to owners and residents as it becomes available.

3. Legal Implications: Mr. Fanaken advised that, so far, the strata council has not taken steps regarding legal action, and that Mr. Paul Mendes of the law firm Lesperance Mendes has been retained only to attend today's meeting to answer any legal questions which may arise. The strata council will be meeting in due course and will discuss whether or not to proceed with litigation against any parties. It was noted that, while the direct costs related to this incident will not fall to the strata corporation, there may be other costs not covered by the insurance policy and Mr. Mendes may be utilized to advise the strata council on these matters in the future.

It was also noted that Mr. David Varty of the law firm Varty & Company has been retained by some owners wishing to commence a Class Action law suit and that Mr. Varty is in attendance at today's meeting. It was emphasized that neither the strata corporation nor the management company are involved in this action and that it is being undertaken independently by owners retaining Mr. Varty.

In closing, Mr. Fanaken stated that VCS extends its deepest condolences to the family of the pilot and to the gentleman in unit 908 injured in this incident to whom a speedy recovery is wished. The deepest sympathy of the management company is extended to all those affected and displaced by the plane crash. Mr. Fanaken pledged that VCS will do everything possible to make the repair program move as quickly as possible.

This concluded the three items for discussion on the agenda. The meeting was then opened for a question and answer period during which it was asked that patience and mutual respect be demonstrated to allow those speaking to be heard by the audience.

## **QUESTION & ANSWER PERIOD**

- *What is the warranty for the repairs?*

Mr. Fanaken advised that the building and affected strata lots will be restored to “as new” condition with a complete warranty.

- *Does the building insurance policy include strata corporation legal fees?*

Mr. Paul Duchaine of BFL Canada advised that legal fees to recover a loss which is covered by the insurance policy would be included; however, legal fees to recover an uninsured loss are not covered by the building policy.

- *Who hired Mr. Mendes and what is his role?*

Mr. Fanaken advised that, with the consent of the strata council President, Mr. Mendes of the law firm Lesperance Mendes has been hired only to attend this meeting and there is no further extension to his role at this time. The strata council and the management company felt it was of benefit to the owners and residents to have legal counsel present at this meeting for any legal/law related questions.

- *Is there serious damage to the structure of the building and/or the building elevators and who will certify both are acceptable following repairs?*

Mr. Fanaken advised that VCS representatives have met with the insurance adjuster who noted that there was no structural damage to the building or the elevator shaft, but there was damage to the elevator mechanical devices. One elevator was made operational this week and it is expected that the second elevator will be operational in the next few days. Elevating systems are certified by the Ministry of Labour and, once repaired, inspectors from the Ministry will then inspect and certify them for use. It was further noted that the insurance company has hired a consultant to ensure that the elevators are returned to a fully operational condition.

- *What are the pros and cons of the strata corporation hiring a lawyer versus individual owners hiring their own lawyer regarding Class Action to recover uninsured losses?*

Mr. Mendes noted it is the strata corporation's responsibility to rebuild the building and the common assets of the strata corporation. Individually, residents may have claims separate from the strata corporation, and these individual claims will vary due to different coverage from owner to owner. The strata corporation should, and will, focus on its own responsibilities and it will be up to the individual resident to decide whether or not to pursue personal losses separately either on their own behalf or via a Class Action.

Mr. Mendes noted that it is extremely important for individual owners that have not already done so to report their claims to their personal insurers. For those that do not have their own insurance, it was suggested that they seek legal advice to see if they can pursue their uninsured loss.

- *Can the restoration company be stopped from removing flooring?*

Mr. Duchaine noted that the strata corporation has authorized On Side Restoration to do the emergency work. When flooring materials are wet, there may be damage that is not visible and the restoration company uses specialized equipment to conduct moisture readings. To prevent mould (a toxic substance) from developing which can take place in as little as 24 to 36 hours, flooring may need to be removed. A consent form has been provided for those residents without personal insurance to provide authorization to the restoration company to remove upgraded flooring and baseboards.

With respect to upgraded flooring (i.e. hardwood or laminate), Mr. Duchaine noted that the strata corporation's insurer covers the cost to return the floor only to the original condition. If a resident has their own insurance, they should pay the difference between the value of the original carpet and the upgraded flooring. If the individual does not have personal insurance, the difference will unfortunately be at the owner's expense.

- *What does the \$1,000 deductible mean and who pays?*

Mr. Duchaine advised that the \$1,000 deductible is the single deductible associated with the claim (NOT per owner) and this is a common expense to be paid by the strata corporation.

- *Who will pay for any physical and emotional damage suffered and who will cover any difference in the value of the unit following the repairs?*

Mr. Mendes noted that these are examples of "intangible" losses such as emotional damage, pain and suffering. With respect to market value, there is simply no way to know at the moment, but there could possibly be some impact. Again, Mr. Mendes suggested that these issues should be pursued by individual owners or residents either individually or via Class Action, and that people should be getting their own independent advice on these matters.

- *How will residents get future information updates and will there be additional meetings in the future?*

Mr. Sean Cornish of VCS stated that the management company will work with the strata council with respect to holding additional meetings and will advise on this matter in due course. Owners and residents are encouraged to contact VCS with their current contact information, temporary mailing address, phone numbers etc. and the management company will endeavour to keep residents as up to date and informed as possible.

- *The Townhouse and upper floor units have not suffered any damage so why can the residents not return?*

Mr. Fanaken noted that it is the City of Richmond that decides when occupancy is allowed and will provide a permit for occupancy once that decision has been made. Neither VCS nor any other party is involved in deciding when residents may return. Furthermore, while some strata lots were not directly damaged, the building cannot be occupied until services such as water, sewage, electricity, fire alarms and elevators have been restored.

- *What is the response from the Transportation Safety Board (TSB) regarding the plane crash and why are they not at the meeting?*

Mr. Fanaken noted that the TSB were advised about the meeting; however their mandate is only to investigate the crash and provide a report. As previously noted, the TSB chief investigator has advised that the portion of the investigation requiring access to the building is complete; however, the report on the incident will not be available for some months. Government of Canada representatives were not invited to attend the meeting.

The Honourable Raymond Chan was present at the meeting and offered to have complaints directed to his office (604-775-5790). It was also noted that complaints may be directed to Transport Canada.

- *Does the building insurance cover replacement of the damaged areas?*

Mr. Duchaine noted that the building insurance policy will cover damages to the building and to interior strata lots including ceilings, replacement of damaged (original) appliances, cabinetry, flooring (up to the original grade installed by the developer), etc. As previously noted, damage to personal belongings, clothing, betterments or improvements plus displacement costs are items that are covered under the individual residents' personal insurance.

- *Who is in charge of the site and the work currently taking place?*

Mr. Fanaken advised that the incident was immediately reported to BFL Canada who in turn contacted an insurance adjuster following which a company was appointed for emergency restoration. This company is On Side Restoration and the property is currently under the control of On Side Restoration.

- *There does not appear to be much coordination, so how does On Side Restoration control their workers?*

Mr. Duchaine noted it is very important that the emergency work be done as fast as possible as this is to the benefit of all residents and this effort was slowed down with no elevator in operation. On Side Restoration is a fire and flood specialist company that does only insurance work and they have the expertise and the equipment to address this matter. Once the emergency work is done, a scope of repairs will be put out to bid to large companies with the capacity to address the repairs as quickly as possible.

Mr. Mendes advised that it is the strata corporation's responsibility to cooperate with the insurer to ensure that the loss is covered by selecting people who are prepared to address the emergency repairs and this has been done. It is important to leave this matter in the hands of the experts and to allow access to do the work. Once the initial emergency work has been completed, the second stage will be to select contractors to perform the remediation work.

- *Can someone post a name and number of the project manager for On Side Restoration?*

Mr. Fanaken advised that this information will be posted on the website which can be linked from [www.vancondo.com](http://www.vancondo.com).

- *Can VCS or On Side Restoration identify the units requiring repair?*

Mr. Fanaken advised that VCS has no authority or jurisdiction to determine this information. It is up to the insurance adjuster to determine the scope of work and to advise once this information is compiled. VCS will continue to inform residents as information becomes available, but the management company has no authority in this situation.

- *Can or should individual owners or the strata corporation arrange to move out the contents of the units to make the work easier?*

Mr. Duchaine advised that the strata corporation policy does not cover the cost of moving out the contents and no party other than the individual resident has the right to remove the contents. The individual residents' personal insurance should cover the movement of contents and the cost for storage. If an individual does not have personal insurance, it is up to them to arrange the movement of their contents if they so wish.

- *Can On Side Restoration be asked to stop work for up to two weeks to allow residents the opportunity to remove their contents?*

Mr. Fanaken agreed to raise this issue with the insurance company.

- *Why are all the costs not covered by the insurance of the plane or the pilot?*

Mr. Fanaken again noted that the cost of repairs to the building and the strata lots are paid for by the strata corporation's insurance company and they may in turn seek compensation for these costs against the responsible parties at a later date.

- *What are the costs associated with the employment of the lawyer by an individual owner?*

Mr. Mendes noted that it will make sense for some residents to hire a lawyer together (Class Action) and for some to hire a lawyer on their own. A Class Action law suit is often a more economical way to pursue legal remedies, but residents will have to make that decision for themselves.

The Honourable Raymond Chan requested the opportunity speak with those present as he needed to depart the meeting. Mr. Chan extended his thanks to the panel for doing a good job of informing the residents. It was noted that his office will be following up to ensure that the residents are properly looked after, that proper compensation is pursued and also to make sure that this kind of event does not happen again.

Mr. Chan advised he had discussed this matter with a friend who is an aviation lawyer who has stated that the TSB investigator will likely provide a report within two to three months which will state whether this was a responsibility of the pilot or a mechanical problem with the airplane. Mr. Chan noted that his friend is willing to give a briefing to owners and residents and that he may be contacted if the strata corporation wishes to arrange a meeting. Mr. Chan again offered his office phone number (604) 775-7590 and asked that residents contact his office if they need help of any kind and leave a detailed message with contact information or come to the office.

*Mr. Chan was thanked for his time and he departed the meeting at 4:15 p.m.*

### **QUESTION & ANSWER PERIOD (CONTINUED)**

- *Can On Side Restoration provide a unit by unit damage list to the residents?*

Mr. Fanaken agreed to request this information from the restoration company.

- *Will the building insurance policy cover the loss of strata fee revenue due to owners not paying?*

Mr. Duchaine advised that, if owners are not capable of paying their strata fees due to this loss while they are displaced from their strata units, there is a provision in the policy to cover the payments. Individuals with personal insurance will have their own insurance to cover payment of strata fees, and those that cannot pay should send a letter to VCS to advise in order that these costs may be added to the claim.

- *Are there any examples of uninsured items not covered by the building insurance that owners will have to pay for?*

Mr. Duchaine noted that the policy purchased by the strata corporation through VCS is a very good policy which covers all related security guard costs, extra management fees, non payment of owner strata fees, etc. in addition to the repairs of the building and the individual strata lots. Mr. Duchaine does not foresee any expense beyond the single \$1,000 deductible for which the strata corporation will be responsible.

Mr. Mendes stated that, as the process moves along, should there be losses found not to be included or covered by the building insurance policy, the council can then ask for legal advice on how to proceed.

- *What plans are in place for the strata council with respect to making the large decisions that will be required of them in the near future?*

Council President Rosanna Ng advised that the strata council will be meeting shortly and will be deciding on how to split up the tasks that need to be done and how council will move forward.

In conclusion, Mr. Fanaken thanked all owners, residents and guests for coming out and attending today's meeting. Thanks were extended to Mr. Paul Mendes and Mr. Paul Duchaine and the rest of the panel. Sincere thanks and appreciation were extended to Alice Wong, Members of S.U.C.C.E.S.S. and other volunteers for providing translation services. A deep appreciation and thanks were extended to the Tzu Chi Foundation, the Red Cross, S.U.C.C.E.S.S., Alliance Church, the Best Western, Hilton and Marriott and other local hotels and other volunteer associations and governmental agencies that have assisted the residents during this extraordinary circumstance.

Those present responded with a round of applause.

The meeting was adjourned at 4:27 p.m.

Cory Pettersen  
Vice-President  
Vancouver Condominium Services Ltd.  
#400 - 1281 West Georgia Street  
Vancouver, B.C. V6E 3J7

Telephone: 604-684-6291  
Toll free: 1-877-684-6291/Fax: 604-684-1539  
CP/md