

IMPORTANT INFORMATION Please have this translated

重要資料 請找人為你翻譯

RENSEIGNEMENTS IMPORTANTS Prière de les faire traduire

これはたいせつなお知らせです。どなたかに日本語に訳してもらってください。

INFORMACIÓN IMPORTANTE Busque alguien que le traduzca

알려드립니다 이것을 번역해 주십시오

CHỈ DẪN QUAN TRỌNG Xin nhờ người dịch hộ

सुदुती नोटवणी विरथा वरवे विमे वेले एम एा सुलेषा वरवर्ष

MINUTES OF THE SPECIAL GENERAL MEETING OF THE OWNERS, STRATA PLAN BCS 1961 – THE TIDES, HELD WEDNESDAY, OCTOBER 24, 2018, AT 7:00 P.M., IN THE CANOE CLUB, AT KLAHANIE DRIVE, PORT MOODY, BC

In Attendance: 56 strata lots represented in person
22 strata lots represented by proxy.
78 strata lots represented in total.

Strata Manager: Susan Russell The Wynford Group

Guest: Mr. Phil Dougan, Lawyer with Citadel Law Corporation

1. CERTIFICATION OF PROXIES

The strata manager, Susan Russell, advised that the proxies were certified to be correct and a quorum had been established.

2. CALL TO ORDER

The Special General Meeting was called to order at 7:00 p.m. by Council President Gil Biderman.

3. ELECTION OF CHAIRPERSON

It was **MOVED / SECONDED** to approve Phil Dougan, Lawyer with Citadal Lawyers, be chairperson for the meeting. **CARRIED**

4. FILING OF PROOF OF NOTICE OF MEETING

The strata manager confirmed that the Notice of the Special General Meeting was mailed to all Owners of record on October 4, 2018, as required by the *Strata Property Act*.

5. APPROVAL OF THE AGENDA

It was **MOVED / SECONDED** to approve the agenda, as presented. **CARRIED (all in favour)**

6. APPROVAL OF PREVIOUS GENERAL MEETING MINUTES

It was **MOVED / SECONDED** to approve the Minutes of the Annual General Meeting held on February 7, 2018. **CARRIED (all in favour)**

7. APPROVAL OF 3/4 VOTE RESOLUTION #1 – AUTHORIZATION OF A LAWSUIT TO EVICT A RESIDENT

It was **MOVED / SECONDED** to approve 3/4 vote resolution #1.

Council and Phil Dougan provided details and further information to the Owners present on incidents that have occurred over the past 2 years at 500 Klahanie Drive.

At this time, an owner left the meeting and didn't return. Quorum is now 77.

BACKGROUND: *On several occasions in the last year or so, damage has been inflicted on common property of the Strata Corporation. The Strata Council is sufficiently convinced of the identity of the wrong doer, and as such, Council wishes to move forward with a civil lawsuit to have Ms. Maria Amiris De Los Angeles Racanelli removed from the strata community; and thereby ending any right of access to the building by her son Mr. Frank Racanelli, who has caused the majority of damage and disturbance in the building.*

The Strata has circumstantial evidence as well as the evidence of staff and residents as to Mr. Racanelli's activities and his actions and threats against owners, residents, and their property. The strata has still photos and video footage of Mr. Racanelli allegedly causing damage and trespassing on strata property.

The Council seeks the Owners' approval to move forward with this action, as a concurrent and independent remedy to the criminal investigation Council is seeking against Mr. Racanelli. If he is also charged and found guilty in the criminal system, he may face other sanctions; but the criminal system does not contemplate eviction of 'tenants' or 'occupants, or 'visitors' (Mr. Racanelli's mother, Maria, owns the unit he lives in on occasion) as a remedy for punishment of a crime. Therefore, if the Strata wants to end Mr. Racanelli's interaction with strata residents and property, it must act on its own action to have Mr. Racanelli removed.

Council has reason to believe this is not the first time Mr. Racanelli has had interactions with the Police.

Council believes seeking Ms. Racanelli's removal from the community, and therefore also ensuring Mr. Racanelli's removal, is the only reasonable way they can act in the best interests of all owners and hope to end all of the violence, intimidation and expense that has accompanied Mr. Racanelli's on-again-off-again tenure in the strata complex.

Legal counsel was also obtained to ask why the cost could not be expensed from the Contingency Reserve Fund and the answer is the owner, Ms. Maria Amiris De Los Angeles Racanelli, contributes to the Contingency Reserve Fund.

Therefore; the Council seeks your consideration and approval of the following resolution to sue and to raise money for the lawsuit. If you are unable to attend the meeting itself, Council urges you to sign a proxy form in advance of the meeting:

WHEREAS:

- 1. Section 171(1) of the Strata Property Act (the "Act") provides that The Owners, Strata Plan BCS 1961 (the "Strata Corporation") may sue as a representative of all owners, except any who are being sued, about any matter affecting the Strata Corporation if the suit is authorized by a 3/4 vote at an annual or special general meeting;*
- 2. Section 171(2) of the Act provides that before the Strata Corporation can sue under Section 171(1), the suit must be authorized by a resolution passed by a 3/4 vote at an annual or special general meeting;*
- 3. The Strata Council for the Strata Corporation wishes to instruct legal counsel to commence legal proceedings against Ms. Maria Amiris De Los Angeles Racanelli and her son Mr. Frank Racanelli,*

Ms. Racanelli being the owner and primary resident of Unit #201-500 Klahanie Drive, Port Moody, BC (the "Law Suit") by first obtaining authorization pursuant to section 171(2) of the Act;

4. *The Strata Corporation wishes to now ratify and authorize the Law Suit by a resolution passed by a 3/4 vote at an annual or special general meeting;*
5. *Pursuant to section 108 of the Act a strata corporation may raise money from the owners by means of a special levy if the levy is approved by a resolution passed by a 3/4 vote at an annual or special general meeting;*

BE IT RESOLVED pursuant to Section 171 of the Act by a 3/4 vote of the Owners, Strata Plan BCS 1961 (the "Strata Corporation") that the Law Suit is hereby ratified;

BE IT ALSO RESOLVED by a 3/4 vote resolution of the Strata Corporation pursuant to section 108 of the Act that the Strata Corporation levy on the strata lots comprising the Strata Corporation in proportion to the unit entitlement of each strata lot and in the amounts shown opposite each strata lot in **Schedule "A"** (attached to and forming part of this resolution) the sum of \$50,000.00 (the "Special Levy") to be utilized for legal costs and expenses required for the Law Suit;

Each strata lot's share of the Special Levy, as shown in Schedule "A" is due and payable immediately on the date of passage of this resolution. Pursuant to section 109 of the Act, in the event of a sale of a strata lot the Special Levy must be paid in full by the seller. The average share for each owner to finance this levy is approximately \$307.

This special levy of \$50,000.00 shall be assessed on October 24, 2018 (date of general meeting or any adjournment thereof), and shall become due and payable in full immediately on the passing of this resolution by the registered owners on title as at the end of that day. Any owner who wishes to sell, convey or transfer his / her title, or remortgage, must pay the special levy in full before a "Form F – Certificate of Full Payment" can be issued pursuant to Section 115 of the Strata Property Act.

As a matter of financial convenience only, the Owners may pay this special levy at any time up until December 1, 2018. Notwithstanding the foregoing, this special levy is not considered as an "installment" levy as contemplated by Section 108(3) (e) of the Strata Property Act, and Section 109 of the Strata Property Act therefore does not apply.

Any owner who fails to make any payment(s) in accordance with this resolution may be assessed a fine per the Strata Corporation Bylaws, and / or interest at a rate of up to 10% per annum compounded annually and charged on a monthly basis. Sections 116, 117 and 118 of the Strata Property Act shall be applicable where an owner fails to make the required payment as authorized by the passing of this 3/4 vote.

Strata corporation may sue as representative of all owners

171 (1) *The strata corporation may sue as representative of all owners, except any who are being sued, about any matter affecting the strata corporation, including any of the following matters:*

- (a) the interpretation or application of this Act, the regulations, the bylaws or the rules;*
- (b) the common property or common assets;*
- (c) the use or enjoyment of a strata lot;*
- (d) money owing, including money owing as a fine, under this Act, the bylaws or the rules.*

(2) *Before the strata corporation sues under this section, the suit must be authorized by a resolution passed by a 3/4 vote at an annual or special general meeting.*

(3) *For the purposes of the 3/4 vote referred to in subsection (2), a person being sued is not an eligible voter.*

(4) *The authorization referred to in subsection (2) is not required for a proceeding under the Small Claims Act against an owner or other person to collect money owing to the strata corporation, including money owing as a fine, if the strata corporation has passed a bylaw dispensing with the need for authorization, and the terms and conditions of that bylaw are met.*

(5) *All owners, except any being sued, must contribute to the expense of suing under this section.*

(6) *A strata lot's share of the total contribution to the expense of suing is calculated in accordance with section 99 (2) or 100 (1) except that*

(a) an owner who is being sued is not required to contribute, and

(b) the unit entitlement of a strata lot owned by an owner who is being sued is not used in the calculations.

As Ms. Racanelli and Mr. Racanelli are, pursuant to s. 169 of the Strata Property Act not entitled to know of the contents of this meeting or entitled to vote on this resolution, we ask that you do not share this information with anyone, at this time.

Limit on owner's responsibility for costs

169 (1) *If the strata corporation joins or sues an owner in the owner's capacity as owner or as owner developer, or if an owner sues the strata corporation, that owner*

(a) is not liable to contribute to legal costs that a court or arbitrator requires the strata corporation to pay,

(b) does not, despite being an owner, have a right to information or documents relating to the suit, including legal opinions kept under section 35 (2) (h), and

(c) does not, despite being an owner, have a right to attend those portions of any annual or special general meeting or council meeting at which the suit is dealt with or discussed.

(2) *If the strata corporation pays an amount to an owner in full or partial satisfaction of the owner's claim against the strata corporation, whether or not under a judgment, the owner is not liable to share in the cost of the payment with other owners.*

Special levy

108 (1) *The strata corporation may raise money from the owners by means of a special levy.*

(2) *The strata corporation must calculate each strata lot's share of a special levy*

(a) in accordance with section 99, 100 or 195, in which case the levy must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or

(b) in another way that establishes a fair division of expenses for that particular levy, in which case the levy must be approved by a resolution passed by a unanimous vote at an annual or special general meeting.

- (3) *The resolution to approve a special levy must set out all of the following:*
- (a) *the purpose of the levy;*
 - (b) *the total amount of the levy;*
 - (c) *the method used to determine each strata lot's share of the levy;*
 - (d) *the amount of each strata lot's share of the levy;*
 - (e) *the date by which the levy is to be paid or, if the levy is payable in installments, the dates by which the installments are to be paid.*
- (4) *The strata corporation must*
- (a) *account for the money collected separately from other money of the strata corporation,*
 - (b) *invest all of the money collected in one or both of the following:*
 - (i) *investments permitted by the regulations;*
 - (ii) *insured accounts with savings institutions in British Columbia,*
 - (c) *use the money collected for the purpose set out in the resolution, and*
 - (d) *inform owners about the expenditure of the money collected.*
- (4.1) *A strata corporation may, by bylaw or by a resolution approving a special levy, establish a rate of interest, not to exceed the rate set out in the regulations, to be paid if an owner is late in paying his or her strata lot's share of the special levy.*
- (4.2) *The interest payable on a late payment of a special levy in accordance with a bylaw or resolution referred to in subsection (4.1) is not a fine, and forms part of the special levy for the purposes of section 116.*
- (5) *If the money collected exceeds the amount required, or for any other reason is not fully used for the purpose set out in the resolution, the strata corporation must pay to each owner of a strata lot the portion of the unused amount of the special levy that is proportional to the contribution made to the special levy in respect of that strata lot.*
- (6) *Despite subsection (5), if no owner is entitled to receive more than \$100 in total under subsection (5), the strata corporation may deposit the excess in the contingency reserve fund.*
- (7) *In subsections (4) and (5), "**money collected**" means the money collected on a special levy and includes any interest or income earned on that money.*

Owners from unit #404-400, #207-400 and #303-400 volunteered to oversee the counting of the votes.

The vote was called to approve 3/4 vote resolution #1, as presented, and although the Motion received a majority vote by the quorum, the Motion did not meet the 3/4 vote support and was **DEFEATED (44 in favour, 28 opposed, 4 abstentions)**.

8. **MEETING TERMINATION**

There being no further business to discuss, it was **MOVED / SECONDED** to terminate the Special General Meeting at 9:00 p.m. **CARRIED**

ATTENTION – LEGAL RECORD

Please keep these minutes as a permanent legal record of your strata corporation's business. Replacement of minutes will be at the owner's expense and not the strata corporation's.

WYNFORD OFFICE HOURS & CONTACT INFORMATION

Office Hours:	Monday to Friday (except for statutory holidays) 9:00 am to 5:00 pm		
General Office:	p: 604 261 0285	f: 604 261 9279	e: property@wynford.com
Website:	wynford.com		
Accounts Receivable:	p: 604 261 0285	press “3”	e: ar@wynford.com
After-hour Emergencies:	p: 604 261 0285	press “1” for <u>emergencies only</u> outside of office hours	

REMEMBRANCE DAY OFFICE CLOSURE

Please be advised that the offices of The Wynford Group will be closed for Remembrance Day on:

Monday, November 12, 2018

24-hour emergency service is provided by calling 604-261-0285

These Minutes have been reviewed and edited by Council prior to distribution.