

**VIA EMAIL & MAIL**

March 15, 2023

To the Owners of Joyce Place, Strata Plan LMS 992  
3362-3376, 3378, 3380, 3382 & 3384 Vanness Avenue  
Vancouver, BC

Dear Sir/Madam:

**RE: STRATA WINDUP – STRATA PLAN LMS 992  
UPDATE FROM LIQUIDATOR**

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The Liquidator would like to provide you with an update on matters that have occurred since its last reporting letter to you dated February 6, 2023 (the "**Letter**").

**Insurance**

As mentioned in the Liquidator's letter dated December 22, 2022, general liability coverage was obtained through the strata corporation's insurance broker CapriCMW. CapriCMW was unable to obtain replacement cost/property coverage due to, among other things, the condition of the property. Accordingly, the strata corporation was in breach of the *Strata Property Act* ("**SPA**") for failing to carry replacement cost property insurance. Out of an abundance of caution, the Liquidator asked its own insurance broker, HUB International ("**HUB**"), to assess the situation and determine whether replacement cost/property coverage is available.

HUB was successful in getting terms for property coverage. Below is a summary of the terms:

- \$8MM property insured;
- Coverage for fire, explosion, windstorm, impact by aircraft, etc.
- Exceptions: no coverage for water damage, flood, burst pipes, etc. due to significant water ingress issues and difficulty determining what is new vs. old damage. Also, no coverage for building collapse type issues, structural, etc. due to prior noted damages.
- Deductible: \$200,000 but 15% of values for earthquakes;
- Premium: \$168,000 for a 6-month term.

The above was communicated by the Liquidator to the owners at the Annual General Meeting held on February 16, 2023 (the "**AGM**").

After much consideration along with discussions with HUB, Lawson Lundell LLP ("**Lawson Lundell**"), members of the strata council, and Dwell Property Management ("**Dwell**"), the Liquidator believes it is in the best interests of the stakeholders to proceed with the binding of the 6-month insurance policy from HUB. While the premium is not ideal (\$168,000), coverage is only for six months, has a high deductible (\$200,000), has many exclusions, and does not clearly comply with the SPA insurance requirements (s.149 and 150) (discussed in greater detail below), the Liquidator, its counsel, and HUB all believe it is the more prudent course of action to meet the SPA insurance requirements and protect the long term interests of the

owners. The provision for property insurance is intended to, among other things, prevent serious financial loss to the strata/owners. Without insurance, the exposure to potential loss for the owners is significant.

HUB has confirmed that the insurance policy for property coverage will not impact the existing policy with CapriCMW for liability coverage. Further, HUB advised that, after taking into consideration the costs of repairs, the policy for property coverage could be viewed as insuring 100% of the actual true/residual value of the property, which in other words would comply with the insurance requirements pursuant to the SPA. However, the Liquidator is not an insurance professional or lawyer, and therefore, cannot confirm whether this is correct.

Pursuant to Section 98(3) and 3.1 of the SPA, the Liquidator has the legal authority to purchase insurance without a strata vote as it is treated as “the prevention of significant loss”. Sections 149 and 150 of the SPA mandate that strata councils (and in their place liquidators) “must obtain” property insurance “on the basis of full replacement value” and covering against major perils (s. 149) and liability insurance “against liability for property damage and bodily injury” (s. 150). The Legislature considers this requirement so important that Section 98(3) and (3.1) of the SPA allows a strata corporation to use operating and contingency reserve funds (“**CRF**”), without a strata vote, to pay for the insurance required under sections 149 and 150. This type of expenditure is considered to be justified as “the prevention of significant loss”.

It is a contravention of the law not to purchase insurance, even where the insurance available does not satisfy the coverage requirements mandated by the SPA. In addition, despite the cost of the policy from HUB, its limits, and exclusions, it is the Liquidator’s view that having it is a prudent safeguard against the prospect of a far greater loss to owners were an insured event to occur and cause catastrophic loss.

The Liquidator confirmed with Dwell that the cash balance in the CRF account was \$206,760 as at March 9, 2023. As there were sufficient funds in the strata corporation’s CRF, the Liquidator believed the use of those funds was warranted and fell under the obligations of the Liquidator to act. Accordingly, the Liquidator gave instructions to Dwell to pay the insurance premium from the CRF and made arrangements with HUB to bind the policy. The balance remaining in the CRF after payment of the aforesaid premium is about \$38,000. In advance of the renewal of this insurance coverage in six months, the Liquidator intends to call a meeting of strata members to further discuss this issue and raise additional funds (if necessary) to replenish the CRF account or to approve the transfer of funds from the existing special levy account. There is also the possibility of revisiting the policy near the end of its term to determine whether the terms could be improved upon (particularly in view of the life-safety work presently being conducted – which was communicated to the owners in previous letters and at the AGM).

A copy of the insurance policy can be provided upon request. Please submit your request to either Dwell or the Liquidator.

### **Structural and Life Safety Concerns**

As discussed at the AGM, RDH Building Science (“**RDH**”) sought a proposal from Steelhead Contracting (“**Steelhead**”) to perform the work required to address the immediate structural and life-safety concerns regarding the townhouses. The quote to assist with the repairs of the existing shoring and to prepare exploratory openings in three of the townhouse units was \$10,675 plus GST. RDH’s initial estimate for this work was \$3,000. RDH believed that the hazmat requirement may, in part, be the reason for the higher-than-expected contractor costs.

RDH sought another proposal from Common Ground Construction; however, they declined to submit a quote.

RDH and Dwell believed the proposal from Steelhead is reasonable given the circumstances and recommended that the work proceed. The Liquidator supported that recommendation. Accordingly, Steelhead was authorized to proceed with the work on the townhouses under RDH's supervision.

### **The City of Vancouver ("COV") prosecution for unsafe conditions**

As discussed at the AGM, the COV has been taking steps to prosecute the strata corporation for failing to comply with certain court orders for unsafe conditions at Joyce Place. It was the Liquidator's intention to appear at the hearing to submit a guilty plea on behalf of the owners for failing to address the COV orders. The estimated costs of disputing the prosecution were expected to greatly outweigh the amount of the fine against the strata corporation. The owners generally supported this decision at the AGM.

On March 9, 2023, Lawson Lundell, counsel for the Liquidator, appeared at the Provincial Court and plead guilty on the aforesaid matter. A fine of \$2,500 was imposed on the strata corporation and a further order was made that an application for any required permits is made to the COV by December 31, 2023 with the possibility of an extension granted based on the circumstances at that time. The Liquidator is considering next steps and will be in communications with, among others, members of the council, Dwell and its legal counsel.

Should you have any questions or concerns, please contact the Liquidator's office at [joyceplace@crowemackay.ca](mailto:joyceplace@crowemackay.ca). You can also get updates with respect to this matter on the Liquidator's website at [www.joyceplacestrata.com](http://www.joyceplacestrata.com). As a reminder, in an effort to minimize the costs of administration, any and all property-related matters, including requests for copies of the HUB insurance policy, Steelhead proposal, or the COV court order, should continue to be forwarded to Dwell at [leo.chan@dwellproperty.ca](mailto:leo.chan@dwellproperty.ca).

Yours very truly,

**CROWE MACKAY & COMPANY LTD.**

in its capacity as Court Appointed Liquidator of  
The Owners, Strata Plan LMS 992 and not in its personal capacity

per:



Mr. Derek Lai, CPA, CMA, CIRP, LIT, CFE

Encl.