


Certificate of Commissioner

I am satisfied that it was necessary to commission the enclosed affidavit with the process for remote commissioning of affidavits as described in the *Notice to the Profession, the Public and the Media RE: Affidavits for Use in Civil and Family Proceedings* dated March 20, 2020 because it was impossible or unsafe, for medical reasons, for the deponent and me to be physically present together.

Dated August 12, 2021, at Vancouver, British Columbia.



Matthew Nied



This is the 1st affidavit
of James Mok in this case
sworn on August 12, 2021

No.VLC-S-S-215858
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

*RE: THE OWNERS, STRATA PLAN VR456
IN THE MATTER OF DIVISION 2 OF PART 16 OF THE STRATA
PROPERTY ACT, SBC 1998, c. 43*

AFFIDAVIT

I, James Mok, of 401 - 1089 West 13th Avenue, in the City of Vancouver, British Columbia, SWEAR THAT:

1. I am one of the owners of a strata lot in the building which is the subject matter of this proceeding, and as such have personal knowledge of the matters to which I now depose except where stated to be based on information and belief and where so stated I believe them to be true.
2. On August 5, 2021, my counsel sent a letter to counsel to the petitioner. That letter is now shown to me and attached as **Exhibit "A"** to this affidavit.
3. Between August 6 and 10, 2021, my counsel engaged in correspondence with counsel to the petitioner. That correspondence is now shown to me and attached as **Exhibit "B"** to this affidavit.
4. On August 11, 2021, I received a correspondence from the petitioner which stated, with respect to the hearing of this matter, that "we are now looking at November dates, which cannot be scheduled until September 10, 2021." That correspondence is now shown to me and attached as **Exhibit "C"** to this affidavit.

5. The petitioner's materials in this proceeding comprise nearly 900 pages. I and Michelle Mok, another owner of a strata lot in the building which is the subject matter of this proceeding, have identified a number of issues with the evidence upon which the petitioner relies, and we are in the process of gathering evidence in order to make a full response.
6. Ms. Mok and I intend to file an Amended Response to Petition together with our supporting evidence well in advance of the hearing of this matter, which I understand, based on the content of **Exhibit "C"** to this affidavit, the petitioner himself acknowledges cannot occur until November 2021.
7. I was not physically present before the commissioner for the purpose of swearing this affidavit, but I was linked with the commissioner utilizing video technology which I am advised followed the process set out in the relevant directive issued by this Court on March 20, 2020.

SWORN BEFORE ME at Vancouver,)
British Columbia on August 12, 2021:)
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_____)
A Commissioner for taking Affidavits for)
British Columbia)

JAMES MOK

MATTHEW NIED
Barrister & Solicitor
BC Law Society No. 509191

MN

This is **Exhibit "A"** to the Affidavit
of James Mok sworn before me at
Vancouver, British Columbia
this 12th day of August, 2021

A handwritten signature in black ink, consisting of several fluid, overlapping strokes.

A Commissioner for taking affidavits
for British Columbia

NIED LAW

LITIGATION COUNSEL

Matthew Nied*
Direct: (778) 887-6433
E-mail: matthew@niedlaw.com
*Practicing through a law corporation

BY EMAIL

August 5, 2021

Lesperance Mendes
550-900 Howe Street
Vancouver, British Columbia V6Z 2M4

Attention: Paul G. Mendes

Dear Sirs/Mesdames:

**Re: The Owners, Strata Plan VR456, In the Matter of Division 2 of Part 16 of the
Stata Property Act, SBC 1998, c. 43,
SCBC Vancouver Registry Court File No. 215858**

We have been retained by Michelle and James Mok in the above-noted matter. We are in the process of investigating this matter and preparing responsive materials.

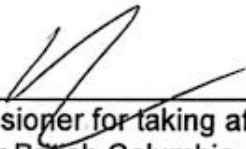
We will serve responsive materials as soon as possible. While those materials will set out our time estimate, our preliminary expectation is that a hearing of this matter will require at least two days.

Yours truly,



Matthew Nied
Nied Law Corporation

This is **Exhibit "B"** to the Affidavit
of James Mok sworn before me at
Vancouver, British Columbia
this 12th day of August, 2021





A Commissioner for taking affidavits
for British Columbia

Subject: RE: VR456 Windup and Sale URGENT
From: "Paul Mendes" <pgm@lmlaw.ca>
Sent: 8/10/2021 1:10:43 PM
To: "Matthew Nied" <matthew@niedlaw.com>;

Hi Matthew

You have my position. I have yours. I will let you know when we are going in. I am going to try to go in next week. If you cannot make it, please consider asking me for a reasonable extension of time, so I can get instructions.

Yours Truly
LESPERANCE MENDES
By PGM Law Corporation
Per: Paul G. Mendes JD.

P: 604.685.4894 - F: 604.685.7505 - E. PGM@LMLAW.CA   550-900 Howe Street, Vancouver B.C., V6Z 2M4.

CONFIDENTIALITY NOTICE -- This email is intended ONLY for the person(s) named in the message header. Unless otherwise indicated, it contains information that is privileged and confidential. If you have received it in error, please notify the sender and delete the message. Thank you.

From: Matthew Nied <matthew@niedlaw.com>
Sent: Tuesday, August 10, 2021 1:01 PM
To: Paul Mendes <pgm@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

Hi Paul,

I have already provided you with my availability in November. I am fully booked with other matters in September.

Please advise of a mutually acceptable date in November, following which we can work backwards and agree to a reasonable schedule for the exchange of responsive and reply materials.

I have advised you that it would be safer to book three days, and I had understood you to have agreed that you would do so. If you now insist on limiting the booking to two days, then you bear the risk that the matter may not be able to be heard within that period of time.

Yours truly,

Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----

From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew Nied" <matthew@niedlaw.com>
Sent: 8/10/2021 11:38:35 AM
Subject: RE: VR456 Windup and Sale URGENT

MN

Hi Matthew

That is too bad. I have often found that conversations between counsel can be useful.

Two things are pressing from my point of view.

1. **The deadline for your materials.** The Rule is clear that you have 21 days to file your response materials unless a court orders otherwise. My client will not agree to an open-ended extension of time. I need you to request an extension so that I can get instructions. Otherwise, my instructions are to set it down next week, which would require you to appear and make your pitch for an adjournment. It makes more sense for us to agree on something reasonable. To me, an extra week is reasonable, but I am willing to hear you out.
2. **Hearing length and dates.** I cannot see how this is more than a 2-day hearing. I need about 1.5 hours to complete my submissions. There is no argument on the merits here. The building is derelict, and the building's history makes it clear that the owners have no appetite to repair it. Most of these cases are heard in a single day, even with multiple owners opposing the order. To satisfy you, I agree that it is a two-day hearing, but I hope you can give me dates for September and November. Although I am not optimistic, I want to try and get us a September date from the registry because of the urgency. The urgency is the time-limited nature of the offer.



Normally I do not litigate things this way, and I am always comfortable resolving scheduling issues with opposing counsel, but I need you to be reasonable.

** I am working remotely during the pandemic, and our office is closed to the public. I also use voice-to-text for all correspondence. Please excuse any typos in my email.



LESPERANCE MENDES
By PGM Law Corporation

Per: Paul G. Mendes JD.

P: 604.685.4894 - F: 604.685.7505 - E. PGM@LMLAW.CA   550-900
Howe Street, Vancouver B.C., V6Z 2M4.

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From: Matthew Nied <matthew@niedlaw.com>
Sent: August 10, 2021 9:42 AM
To: Paul Mendes <pgm@lmlaw.ca>
Cc: Kelly Waterman <kmw@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

MN

Hi Paul,

My clients have instructed me to communicate in writing regarding this matter.

Yours truly,

Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----



From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew Nied" <matthew@niedlaw.com>
Cc: "Kelly Waterman" <kmw@lmlaw.ca>
Sent: 8/9/2021 6:15:57 PM
Subject: RE: VR456 Windup and Sale URGENT

Matthew

I misread your email. Sorry.

But I still want to talk to you about this petition. Do you have time to talk tomorrow?

Yours Truly
LESPERANCE MENDES
By PGM Law Corporation
Per: Paul G. Mendes JD.

P: 604.685.4894 - F: 604.685.7505 - E. PGM@LMLAW.CA   550-900 Howe Street, Vancouver
B.C., V6Z 2M4.

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From: Matthew Nied <matthew@niedlaw.com>
Sent: Monday, August 9, 2021 2:50 PM
To: Paul Mendes <pgm@lmlaw.ca>
Cc: Kelly Waterman <kmw@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

Hi Paul,

I have advised you that I am not available in October. You are not entitled to, and must not, unilaterally set the hearing for dates during which you are aware that I am not available.

Please respond to the request in my below email.

Yours truly,

MN

Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----

From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew Nied" <matthew@niedlaw.com>
Cc: "Kelly Waterman" <kmw@lmlaw.ca>
Sent: 8/9/2021 9:57:51 AM
Subject: RE: VR456 Windup and Sale URGENT

Hi Matthew

I was referring to the uncertainty of being able to book a date for lengthy hearings.

We are going to see if we can get three days in October.

You and I should speak soon on the phone so there is no misunderstanding about the offer and the deadline for the confirmation order. Can you please let me know when it would be a good time to call you?

From: Matthew Nied <matthew@niedlaw.com>
Sent: August 9, 2021 8:07 AM
To: Paul Mendes <pgm@lmlaw.ca>
Cc: Kelly Waterman <kmw@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

CAUTION: This email originated from outside of the organization. Do not click on links or open attachments unless you recognize the sender and know the content is safe. (7PT\$&I^NEV%M)

Hi Paul,

Thank-you for your email.

I do not see any connection between "uncertainly over scheduling a 2-day hearing" (assuming there is any such uncertainty) and the timing of responsive materials. Nor do I see why an extension is "impossible". As you know, counsel routinely book long chambers dates in advance of the filing of responsive materials. In fact, your proposal below contemplates exactly that.

On a cursory review of your client's materials, which comprise nearly 900 pages, there are a number of factual and legal issues that must be fully addressed and briefed for the Court. It is not feasible to file responsive materials by the end of this week, and there is no reason for your client to insist on that given the timing of the hearing. The only effect of insisting on that would be to attempt to prevent the issues from being fully addressed and briefed for the Court, which I am sure neither you nor your client wishes to do. Please seek revised instructions and advise.

As for hearing dates, I am not available in October but I am available during the first two weeks of November.

As for hearing length, my preliminary estimate, as noted in my letter, is that the matter will require at least two days. However, I will not be in a position to provide a definitive time estimate until the

responsive materials and any reply materials are filed. If your client insists on booking dates tomorrow, then it would be safer to book three days.

I am in a discovery today, so any responses may be delayed.

Yours truly,

Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----

From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew@niedlaw.com" <Matthew@niedlaw.com>
Cc: "Kelly Waterman" <kmw@lmlaw.ca>
Sent: 8/6/2021 2:11:05 PM
Subject: VR456 Windup and Sale URGENT

Good afternoon Matthew

Further to my voicemail just now, I write in reply to your letter of August 5, 2021. I confirm that I act for Garth Cambrey, the court-appointed administrator overseeing the emergency repairs and windup for VR456.

I attempted to get you additional time for your response materials, but my client has instructed me that an extension is impossible, given the uncertainty over scheduling a 2-day hearing. **Accordingly, we must insist that you provide your response materials no later than August 13, 2021.**



Scheduling for a two-day hearing in October opens on Tuesday. Would you please let me know your dates for October by Monday at the latest?

** I am working remotely during the pandemic, and our office is closed to the public. I also use voice-to-text for all correspondence. Please excuse any typos in my email.



LESPERANCE MENDES
By PGM Law Corporation

Per: Paul G. Mendes JD.

P: 604.685.4894 - F: 604.685.7505 - E. PGM@LMLAW.CA   550-900
Howe Street, Vancouver B.C., V6Z 2M4.

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MN

This is **Exhibit "C"** to the Affidavit
of James Mok sworn before me at
Vancouver, British Columbia
this 12th day of August, 2021



A Commissioner for taking affidavits
for British Columbia

From: <gcambrey@shaw.ca>
Date: Wed, Aug 11, 2021 at 9:36 AM
Subject: RE: VR 456 Updates
To: Agnes Mui <aolmui@shaw.ca>, Peter Tovbis <ptovbis@outlook.com>, Michelle Bergeron Mok <modmod@telus.net>, Dr. James Mok <docmok@shaw.ca>, MacLennan Sisters <maclennan3430@gmail.com>, Dan Sonnenschein <dans@portal.ca>

Dear Owners,

Unfortunately, legal counsel for Dr. and Ms. Mok advised they are not available in October so we are now looking at November dates, which cannot be scheduled until September 10, 2021.

I will take all steps to preserve the current Purchase and Sale agreement with Butterscotch Holdings and keep you apprised as things progress.

However, it will be necessary to extend the strata corporation's insurance policy past the November 1, 2021 expiry and a special levy will be required to raise funds for the premium. I will add this to the SGM agenda I proposed for the exit stair expenses and may include other things. I anticipate calling the SGM in late September.

Regards,

Garth Cambrey

From: gcambrey@shaw.ca <gcambrey@shaw.ca>
Sent: August 6, 2021 6:46 PM
To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>
Subject: RE: VR 456 Updates

Dear Owners,

The City inspected the exit stair work yesterday and has passed the completed work. I attach a copy of the final inspection indicating this for your reference and records. The documents posted in the main lobby of the building may now be removed and I believe they have been.

As for the strata corporation wind up, I was advised by Paul Mendes yesterday that Dr. and Ms. Mok are opposing the windup. The lawyers involved agree a 2-day court hearing will be required. This means that a different process to set the court dates must be followed and the earliest dates available will not be until October. Due to the court booking process, I will not know if October dates have been secured until next Tuesday, August 10th and I will update you at that time.

Regards,

Garth Cambrey

From: gcambrey@shaw.ca <gcambrey@shaw.ca>

Sent: August 2, 2021 5:53 PM

To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>

Subject: RE: VR 456 Updates

Dear Owners,

The work on the exit stairs is complete and I attach copy of the Certificate of Payment issued by RJC for your information. There was one change order issued relating to HKM attempting to get access to the area below the 1st floor stairway on the south side from below the mailboxes in the lobby. RJC requested the area below the stairs be accessed to determine if the stairway at this location could be reinforced. However, access was not successful because the wall below the mailboxes is concrete. Therefore, RJC is satisfied this level of the south stairway is of different construction and does not need reinforcement.

I have authorized payment from the special levy monies raised for the stair repair, subject to the statutory 10% lien holdback. The holdback will be released in 55 days provided no builders liens are filed relating to the work.

Unfortunately, there were additional fees required of RJC that I did not contemplate that exceeded the contingency I originally calculated. The additional fees were largely related to RJC's time in drafting the CDC2 contract used for the work. I do not yet have the final invoice from RJC, so the total shortfall is unknown. I will be calling an SGM in late August or early September for you to consider approval of a resolution to "re-purpose" some of the funds raised for the legal expenses of Paul Mendes to cover final costs of the exit stairs. If the resolution passes, there will be no need to consider another special levy.

As for the wind up of the strata corporation, all owners have now been served with the court materials and I have instructed Paul Mendes to arrange for a court date. The court application is

MN

expected to be heard in mid-August and you will be advised of the date once it is set. I understand that in the materials that you each received, you were provided with instructions from Paul Mendes on responding. If you have not done so already, and do not have your own lawyer, kindly provide your response to Paul Mendes directly as per his instructions.

Regards,

Garth Cambrey

From: gcambrey@shaw.ca <gcambrey@shaw.ca>

Sent: June 16, 2021 8:59 PM

To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>

Subject: RE: VR 456 Updates

Dear Owners,

HKM advises work on the exit stairs will continue tomorrow and be complete on Monday June 21st.

As for the wind up, all affidavits are sworn and I expect the Petition will be filed by Friday, June 18, 2021. You or your lawyer will be served with the court documents and provided with instructions on how to reply. I will keep you updated as the court process continues.

Regards,

J. Garth Cambrey, Administrator

#2300 – 2850 Shaughnessy Street

Port Coquitlam, B.C., V3C 6K5

From: gcambrey@shaw.ca <gcambrey@shaw.ca>

Sent: June 5, 2021 5:24 PM

MN

To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>
Subject: VR 456 Updates

Dear Owners,

Below is an update on the Insurance renewal, Exit Stairs repairs, and Wind up.

Insurance Renewal

-

Please find attached a copy of the 6-month insurance renewal summary documents for the period May 1 to November 1, 2021, as approved at the April 29th, 2021 AGM. I confirm the premium has been paid in full.

City Work Order re Exit Stairs

-

Work on the exit stairs started on May 25th as per my previous notice. Removal of the failed firestopping material and installation of new firestopping was completed on June 2nd. The contractor is waiting for fabrication of structural steel brackets and expects to start installation about June 14th. Work will be completed on one stairway at a time and is expected to take a total of about 7 days.

I reluctantly agreed to an increase in the contract price with HKM based on ½ the increase in steel costs, as the steel supplier stated it would not provide the steel at the price quoted to HKM. I expect the additional cost to the strata corporation will be \$1,112.50. In weighing the additional material cost against potentially having to stop the work and find a new steel supplier and/or contractor, I decided to negotiate the contract price.

HKM has agreed to a single payment at the end of the project, but it will be subject to a 10% builders' lien holdback for a period of 55 days as required under the *Builders' Lien Act*. Therefore, if the work is completed by the end June as expected, the lien holdback can be released before the end of August provided no liens are filed.

Wind Up

MN

I am advised by Paul Mendes that the court documents required for the wind up application are 95% complete. These include the Petition and supporting affidavit material from an owner, Mark Goodman, Derek Lai, the approved liquidator, and me. The court application is expected to be filed by June 11th and the documents will be served on all of you or your lawyer. The time required for a response is 21 days, but you may recall after the AGM we discussed possible ways of reducing that time, if owners agree to take no position, or consent to the requested order. I have asked Paul Mendes to include information in the documents you will receive that address these options.

You are encouraged to obtain your own legal advice on the wind up application, but if all owners take no position or consent to the wind up order, the process can likely be expedited. If the matter is contested, the court process will very likely take longer, as the individuals that oppose the wind up will need to be given an opportunity to address the court. I will keep you apprised of the when the court application is made and how it progresses.

Lastly, I advise that under the terms of the Purchase and Sale Agreement (PSA) with Butterscotch Holdings, approval of the wind up by the court was to occur by June 4th. This is referenced in the PSA as the "First Mutual Condition". However, also under the terms of the PSA, I have the authority to extend the First Mutual Condition date up to 180 days. I have exercised my authority to do so and I extended the date 90 days, which I calculate to be September 2nd, 2021.

Regards,

J. Garth Cambrey, Administrator

This is the 1st affidavit
of James Mok in this case
sworn on August 12, 2021

No.VLC-S-S-215858
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

*RE: THE OWNERS, STRATA PLAN VR456
IN THE MATTER OF DIVISION 2 OF PART 16 OF THE STRATA
PROPERTY ACT, SBC 1998, c. 43*

AFFIDAVIT

I, James Mok, of 401 - 1089 West 13th Avenue, in the City of Vancouver, British Columbia, SWEAR THAT:

1. I am one of the owners of a strata lot in the building which is the subject matter of this proceeding, and as such have personal knowledge of the matters to which I now depose except where stated to be based on information and belief and where so stated I believe them to be true.
2. On August 5, 2021, my counsel sent a letter to counsel to the petitioner. That letter is now shown to me and attached as **Exhibit "A"** to this affidavit.
3. Between August 6 and 10, 2021, my counsel engaged in correspondence with counsel to the petitioner. That correspondence is now shown to me and attached as **Exhibit "B"** to this affidavit.
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5. The petitioner's materials in this proceeding comprise nearly 900 pages. I and Michelle Mok, another owner of a strata lot in the building which is the subject matter of this proceeding, have identified a number of issues with the evidence upon which the petitioner relies, and we are in the process of gathering evidence in order to make a full response.
6. Ms. Mok and I intend to file an Amended Response to Petition together with our supporting evidence well in advance of the hearing of this matter, which I understand, based on the content of **Exhibit "C"** to this affidavit, the petitioner himself acknowledges cannot occur until November 2021.
7. I was not physically present before the commissioner for the purpose of swearing this affidavit, but I was linked with the commissioner utilizing video technology which I am advised followed the process set out in the relevant directive issued by this Court on March 20, 2020.

SWORN BEFORE ME at Vancouver,)
British Columbia on August 12, 2021:)
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_____)
A Commissioner for taking Affidavits for)
British Columbia)



JAMES MOK



This is **Exhibit "A"** to the Affidavit
of James Mok sworn before me at
Vancouver, British Columbia
this 12th day of August, 2021

A Commissioner for taking affidavits
for British Columbia

A handwritten signature in black ink, appearing to be the initials 'JM' or similar, located in the lower right quadrant of the page.

NIED LAW

LITIGATION COUNSEL

Matthew Nied*
Direct: (778) 887-6433
E-mail: matthew@niedlaw.com
*Practicing through a law corporation

BY EMAIL

August 5, 2021

Lesperance Mendes
550-900 Howe Street
Vancouver, British Columbia V6Z 2M4
Attention: Paul G. Mendes

Dear Sirs/Mesdames:

**Re: The Owners, Strata Plan VR456, In the Matter of Division 2 of Part 16 of the
Stata Property Act, SBC 1998, c. 43,
SCBC Vancouver Registry Court File No. 215858**

We have been retained by Michelle and James Mok in the above-noted matter. We are in the process of investigating this matter and preparing responsive materials.

We will serve responsive materials as soon as possible. While those materials will set out our time estimate, our preliminary expectation is that a hearing of this matter will require at least two days.

Yours truly,



Matthew Nied
Nied Law Corporation



This is **Exhibit "B"** to the Affidavit
of James Mok sworn before me at
Vancouver, British Columbia
this 12th day of August, 2021

A Commissioner for taking affidavits
for British Columbia



A handwritten signature in black ink, appearing to be the initials 'JM' or similar, located in the lower right quadrant of the page.

Subject: RE: VR456 Windup and Sale URGENT
From: "Paul Mendes" <pgm@lmlaw.ca>
Sent: 8/10/2021 1:10:43 PM
To: "Matthew Nied" <matthew@niedlaw.com>;

Hi Matthew

You have my position. I have yours. I will let you know when we are going in. I am going to try to go in next week. If you cannot make it, please consider asking me for a reasonable extension of time, so I can get instructions.

Yours Truly
LESPERANCE MENDES
By PGM Law Corporation
Per: Paul G. Mendes JD.

P: 604.685.4894 - F: 604.685.7505 - E. PGM@LMLAW.CA   550-900 Howe Street, Vancouver B.C., V6Z 2M4.

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From: Matthew Nied <matthew@niedlaw.com>
Sent: Tuesday, August 10, 2021 1:01 PM
To: Paul Mendes <pgm@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

Hi Paul,

I have already provided you with my availability in November. I am fully booked with other matters in September.

Please advise of a mutually acceptable date in November, following which we can work backwards and agree to a reasonable schedule for the exchange of responsive and reply materials.

I have advised you that it would be safer to book three days, and I had understood you to have agreed that you would do so. If you now insist on limiting the booking to two days, then you bear the risk that the matter may not be able to be heard within that period of time.

Yours truly,

Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----

From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew Nied" <matthew@niedlaw.com>
Sent: 8/10/2021 11:38:35 AM
Subject: RE: VR456 Windup and Sale URGENT



Hi Matthew

That is too bad. I have often found that conversations between counsel can be useful.

Two things are pressing from my point of view.

1. **The deadline for your materials.** The Rule is clear that you have 21 days to file your response materials unless a court orders otherwise. My client will not agree to an open-ended extension of time. I need you to request an extension so that I can get instructions. Otherwise, my instructions are to set it down next week, which would require you to appear and make your pitch for an adjournment. It makes more sense for us to agree on something reasonable. To me, an extra week is reasonable, but I am willing to hear you out.
2. **Hearing length and dates.** I cannot see how this is more than a 2-day hearing. I need about 1.5 hours to complete my submissions. There is no argument on the merits here. The building is derelict, and the building's history makes it clear that the owners have no appetite to repair it. Most of these cases are heard in a single day, even with multiple owners opposing the order. To satisfy you, I agree that it is a two-day hearing, but I hope you can give me dates for September and November. Although I am not optimistic, I want to try and get us a September date from the registry because of the urgency. The urgency is the time-limited nature of the offer.



Normally I do not litigate things this way, and I am always comfortable resolving scheduling issues with opposing counsel, but I need you to be reasonable.

**** I am working remotely during the pandemic, and our office is closed to the public. I also use voice-to-text for all correspondence. Please excuse any typos in my email.**



LESPERANCE MENDES
By PGM Law Corporation

Per: Paul G. Mendes JD.

P: 604.685.4894 - F: 604.685.7505 - E. PGM@LMLAW.CA   550-900
Howe Street, Vancouver B.C., V6Z 2M4.

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From: Matthew Nied <matthew@niedlaw.com>
Sent: August 10, 2021 9:42 AM
To: Paul Mendes <pgm@lmlaw.ca>
Cc: Kelly Waterman <kmw@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

Hi Paul,

My clients have instructed me to communicate in writing regarding this matter.

Yours truly,

Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----



From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew Nied" <matthew@niedlaw.com>
Cc: "Kelly Waterman" <kmw@lmlaw.ca>
Sent: 8/9/2021 6:15:57 PM
Subject: RE: VR456 Windup and Sale URGENT

Matthew

I misread your email. Sorry.

But I still want to talk to you about this petition. Do you have time to talk tomorrow?

Yours Truly
LESPERANCE MENDES
By PGM Law Corporation
Per: Paul G. Mendes JD.

P: 604.685.4894 - F: 604.685.7505 - E. PGM@LMLAW.CA   550-900 Howe Street, Vancouver
B.C., V6Z 2M4.

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From: Matthew Nied <matthew@niedlaw.com>
Sent: Monday, August 9, 2021 2:50 PM
To: Paul Mendes <pgm@lmlaw.ca>
Cc: Kelly Waterman <kmw@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

Hi Paul,

I have advised you that I am not available in October. You are not entitled to, and must not, unilaterally set the hearing for dates during which you are aware that I am not available.

Please respond to the request in my below email.

Yours truly,



Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----

From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew Nied" <matthew@niedlaw.com>
Cc: "Kelly Waterman" <kmw@lmlaw.ca>
Sent: 8/9/2021 9:57:51 AM
Subject: RE: VR456 Windup and Sale URGENT

Hi Matthew

I was referring to the uncertainty of being able to book a date for lengthy hearings.

We are going to see if we can get three days in October.

You and I should speak soon on the phone so there is no misunderstanding about the offer and the deadline for the confirmation order. Can you please let me know when it would be a good time to call you?

From: Matthew Nied <matthew@niedlaw.com>
Sent: August 9, 2021 8:07 AM
To: Paul Mendes <pgm@lmlaw.ca>
Cc: Kelly Waterman <kmw@lmlaw.ca>
Subject: Re: VR456 Windup and Sale URGENT

CAUTION: This email originated from outside of the organization. Do not click on links or open attachments unless you recognize the sender and know the content is safe. (7PTS&1N1EV%M)

Hi Paul,

Thank-you for your email.

I do not see any connection between "uncertainty over scheduling a 2-day hearing" (assuming there is any such uncertainty) and the timing of responsive materials. Nor do I see why an extension is "impossible". As you know, counsel routinely book long chambers dates in advance of the filing of responsive materials. In fact, your proposal below contemplates exactly that.

On a cursory review of your client's materials, which comprise nearly 900 pages, there are a number of factual and legal issues that must be fully addressed and briefed for the Court. It is not feasible to file responsive materials by the end of this week, and there is no reason for your client to insist on that given the timing of the hearing. The only effect of insisting on that would be to attempt to prevent the issues from being fully addressed and briefed for the Court, which I am sure neither you nor your client wishes to do. Please seek revised instructions and advise.

As for hearing dates, I am not available in October but I am available during the first two weeks of November.

As for hearing length, my preliminary estimate, as noted in my letter, is that the matter will require at least two days. However, I will not be in a position to provide a definitive time estimate until the



responsive materials and any reply materials are filed. If your client insists on booking dates tomorrow, then it would be safer to book three days.

I am in a discovery today, so any responses may be delayed.

Yours truly,

Matthew Nied*
Nied Law | Litigation Counsel
+1 (778) 887-6433
matthew@niedlaw.com
*Services provided through a law corporation

----- Original Message -----

From: "Paul Mendes" <pgm@lmlaw.ca>
To: "Matthew@niedlaw.com" <Matthew@niedlaw.com>
Cc: "Kelly Waterman" <kmw@lmlaw.ca>
Sent: 8/6/2021 2:11:05 PM
Subject: VR456 Windup and Sale URGENT

Good afternoon Matthew

Further to my voicemail just now, I write in reply to your letter of August 5, 2021. I confirm that I act for Garth Cambrey, the court-appointed administrator overseeing the emergency repairs and windup for VR456.

I attempted to get you additional time for your response materials, but my client has instructed me that an extension is impossible, given the uncertainty over scheduling a 2-day hearing. **Accordingly, we must insist that you provide your response materials no later than August 13, 2021.**



Scheduling for a two-day hearing in October opens on Tuesday. Would you please let me know your dates for October by Monday at the latest?

** I am working remotely during the pandemic, and our office is closed to the public. I also use voice-to-text for all correspondence. Please excuse any typos in my email.



LESPERANCE MENDES
By PGM Law Corporation

Per: Paul G. Mendes JD.

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This is **Exhibit "C"** to the Affidavit
of James Mok sworn before me at
Vancouver, British Columbia
this 12th day of August, 2021

A Commissioner for taking affidavits
for British Columbia

A handwritten signature in black ink, appearing to be the initials 'JM' or similar, located in the bottom right corner of the page.

From: <gcambrey@shaw.ca>

Date: Wed, Aug 11, 2021 at 9:36 AM

Subject: RE: VR 456 Updates

To: Agnes Mui <aolmui@shaw.ca>, Peter Tovbis <ptovbis@outlook.com>, Michelle Bergeron Mok <modmod@telus.net>, Dr. James Mok <docmok@shaw.ca>, MacLennan Sisters <maclennan3430@gmail.com>, Dan Sonnenschein <dans@portal.ca>

Dear Owners,

Unfortunately, legal counsel for Dr. and Ms. Mok advised they are not available in October so we are now looking at November dates, which cannot be scheduled until September 10, 2021.

I will take all steps to preserve the current Purchase and Sale agreement with Butterscotch Holdings and keep you apprised as things progress.

However, it will be necessary to extend the strata corporation's insurance policy past the November 1, 2021 expiry and a special levy will be required to raise funds for the premium. I will add this to the SGM agenda I proposed for the exit stair expenses and may include other things. I anticipate calling the SGM in late September.

Regards,

Garth Cambrey

From: gcambrey@shaw.ca <gcambrey@shaw.ca>

Sent: August 6, 2021 6:46 PM

To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>

Subject: RE: VR 456 Updates

Dear Owners,

The City inspected the exit stair work yesterday and has passed the completed work. I attach a copy of the final inspection indicating this for your reference and records. The documents posted in the main lobby of the building may now be removed and I believe they have been.



As for the strata corporation wind up, I was advised by Paul Mendes yesterday that Dr. and Ms. Mok are opposing the windup. The lawyers involved agree a 2-day court hearing will be required. This means that a different process to set the court dates must be followed and the earliest dates available will not be until October. Due to the court booking process, I will not know if October dates have been secured until next Tuesday, August 10th and I will update you at that time.

Regards,

Garth Cambrey

From: gcambrey@shaw.ca <gcambrey@shaw.ca>

Sent: August 2, 2021 5:53 PM

To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>

Subject: RE: VR 456 Updates

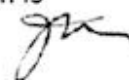
Dear Owners,

The work on the exit stairs is complete and I attach copy of the Certificate of Payment issued by RJC for your information. There was one change order issued relating to HKM attempting to get access to the area below the 1st floor stairway on the south side from below the mailboxes in the lobby. RJC requested the area below the stairs be accessed to determine if the stairway at this location could be reinforced. However, access was not successful because the wall below the mailboxes is concrete. Therefore, RJC is satisfied this level of the south stairway is of different construction and does not need reinforcement.

I have authorized payment from the special levy monies raised for the stair repair, subject to the statutory 10% lien holdback. The holdback will be released in 55 days provided no builders liens are filed relating to the work.

Unfortunately, there were additional fees required of RJC that I did not contemplate that exceeded the contingency I originally calculated. The additional fees were largely related to RJC's time in drafting the CDC2 contract used for the work. I do not yet have the final invoice from RJC, so the total shortfall is unknown. I will be calling an SGM in late August or early September for you to consider approval of a resolution to "re-purpose" some of the funds raised for the legal expenses of Paul Mendes to cover final costs of the exit stairs. If the resolution passes, there will be no need to consider another special levy.

As for the wind up of the strata corporation, all owners have now been served with the court materials and I have instructed Paul Mendes to arrange for a court date. The court application is



expected to be heard in mid-August and you will be advised of the date once it is set. I understand that in the materials that you each received, you were provided with instructions from Paul Mendes on responding. If you have not done so already, and do not have your own lawyer, kindly provide your response to Paul Mendes directly as per his instructions.

Regards,

Garth Cambrey

From: gcambrey@shaw.ca <gcambrey@shaw.ca>

Sent: June 16, 2021 8:59 PM

To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>

Subject: RE: VR 456 Updates

Dear Owners,

HKM advises work on the exit stairs will continue tomorrow and be complete on Monday June 21st.

As for the wind up, all affidavits are sworn and I expect the Petition will be filed by Friday, June 18, 2021. You or your lawyer will be served with the court documents and provided with instructions on how to reply. I will keep you updated as the court process continues.

Regards,

J. Garth Cambrey, Administrator
#2300 – 2850 Shaughnessy Street
Port Coquitlam, B.C., V3C 6K5

From: gcambrey@shaw.ca <gcambrey@shaw.ca>
Sent: June 5, 2021 5:24 PM



To: Agnes Mui (aolmui@shaw.ca) <aolmui@shaw.ca>; Peter Tovbis (ptovbis@outlook.com) <ptovbis@outlook.com>; Michelle Bergeron Mok (modmod@telus.net) <modmod@telus.net>; Dr. James Mok (docmok@shaw.ca) <docmok@shaw.ca>; MacLennan Sisters (maclennan3430@gmail.com) <maclennan3430@gmail.com>; Dan Sonnenschein (dans@portal.ca) <dans@portal.ca>
Subject: VR 456 Updates

Dear Owners,

Below is an update on the Insurance renewal, Exit Stairs repairs, and Wind up.

Insurance Renewal

-
Please find attached a copy of the 6-month insurance renewal summary documents for the period May 1 to November 1, 2021, as approved at the April 29th, 2021 AGM. I confirm the premium has been paid in full.

City Work Order re Exit Stairs

-
Work on the exit stairs started on May 25th as per my previous notice. Removal of the failed firestopping material and installation of new firestopping was completed on June 2nd. The contractor is waiting for fabrication of structural steel brackets and expects to start installation about June 14th. Work will be completed on one stairway at a time and is expected to take a total of about 7 days.

I reluctantly agreed to an increase in the contract price with HKM based on ½ the increase in steel costs, as the steel supplier stated it would not provide the steel at the price quoted to HKM. I expect the additional cost to the strata corporation will be \$1,112.50. In weighing the additional material cost against potentially having to stop the work and find a new steel supplier and/or contractor, I decided to negotiate the contract price.

HKM has agreed to a single payment at the end of the project, but it will be subject to a 10% builders' lien holdback for a period of 55 days as required under the *Builders' Lien Act*. Therefore, if the work is completed by the end June as expected, the lien holdback can be released before the end of August provided no liens are filed.

Wind Up



I am advised by Paul Mendes that the court documents required for the wind up application are 95% complete. These include the Petition and supporting affidavit material from an owner, Mark Goodman, Derek Lai, the approved liquidator, and me. The court application is expected to be filed by June 11th and the documents will be served on all of you or your lawyer. The time required for a response is 21 days, but you may recall after the AGM we discussed possible ways of reducing that time, if owners agree to take no position, or consent to the requested order. I have asked Paul Mendes to include information in the documents you will receive that address these options.

You are encouraged to obtain your own legal advice on the wind up application, but if all owners take no position or consent to the wind up order, the process can likely be expedited. If the matter is contested, the court process will very likely take longer, as the individuals that oppose the wind up will need to be given an opportunity to address the court. I will keep you apprised of the when the court application is made and how it progresses.

Lastly, I advise that under the terms of the Purchase and Sale Agreement (PSA) with Butterscotch Holdings, approval of the wind up by the court was to occur by June 4th. This is referenced in the PSA as the "First Mutual Condition". However, also under the terms of the PSA, I have the authority to extend the First Mutual Condition date up to 180 days. I have exercised my authority to do so and I extended the date 90 days, which I calculate to be September 2nd, 2021.

Regards,

J. Garth Cambrey, Administrator

