

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *The Owners, Strata Plan VR 611*,  
2017 BCSC 14

Date: 20170104  
Docket: S1510543  
Registry: Vancouver

**Re: The Owners, Strata Plan VR 611**  
**In the Matter of Section 173 of the *Strata Property Act***

Before: The Honourable Mr. Justice Greuell

## Reasons for Judgment

Counsel for The Owners,  
Strata Plan VR 611:

P.A. Williams

Counsel for the Respondents,  
King S. C. Chan, Catherine P. S. Cheung,  
Siew-Leng Goh, Marion D. Hartley,  
Debra L. Hill, Ivy Hu, See C. J. Lam and  
Yuk L. Leung:

E. Duerr

Place and Date of Trial/Hearing:

Vancouver, B.C.  
October 31, 2016; and  
November 1 and 2, 2016

Place and Date of Judgment:

Vancouver, B.C.  
January 4, 2017

[1] This is an application by the Owners, Strata Plan VR 611 (the “Strata”) pursuant to sections 173(2)(2.1)(3) and (4) of the *Strata Property Act*, S.B.C. 1998, c. 43 (the “SPA”) for an order approving a resolution (the “AGM Resolution”) brought before the members of the Strata at its Annual General Meeting (the “AGM”) seeking approval of a special levy to raise money for the maintenance and repair of Strata common property pursuant to a remediation report obtained by the Strata Council (the “Council”).

[2] The respondents objecting to the application say the AGM Resolution as set out in the petition is not the resolution brought before the AGM; that the AGM Resolution is vague and uncertain; that it would be unfair to impose the financial obligations set out in the AGM Resolution on members; and that there are less onerous financial arrangements which the Council should consider. The respondents also raise other procedural issues concerning the application. The cost of the remediation as set out in the AGM resolution would be \$5,296,000 to be paid by way of a special levy calculated in accordance with section 108(2) of the SPA.

### **Background**

[3] The Strata is known as Park Lane and is located at 7250 Blake Street, Vancouver, BC. The Strata is composed of some 54 duplex buildings which comprise 108 residential strata lots with associated common property. There are a number of paved streets running between the buildings.

[4] The Strata property was developed in two phases: the first was constructed in 1979 and the second in 1980. Each residential building has two stories plus a basement. The strata also has a common property pool house buildings. All the exteriors are clad with wood siding using a building paper moisture barrier with no rain screen.

[5] Over the years the residential buildings and common property have been subject to deterioration. What upgrades and remediation that has occurred has been done on a sporadic and piecemeal basis.

[6] In 2013 the Strata engaged an engineering and management firm, Morrison Hershfield Limited (“Morrison Hershfield”), to prepare a Building Envelope Condition Assessment (the “Assessment Report”) and a Depreciation Report.

[7] The Assessment Report, dated July 9, 2013, noted that the buildings were 34 years old and made two “priority” recommendations (the “First Priority Recommendations” and the “Second Priority Recommendations”). The First Priority Recommendations recommended the replacing of the existing siding on all buildings with rain screen siding, replacing existing windows, existing balcony membranes and the rehabilitation of all balconies. The estimated cost to complete the First Priority Recommendations was \$4,253,895.

[8] The Second Priority Recommendations included rear and front wall cladding rehabilitation to be done within the next three to five years and the removal and replacement of all existing window assemblies. The estimated cost to complete the Second Priority Recommendations was \$3,118,773.

[9] Morrison Hershfield prepared a Depreciation Report dated September 3, 2013 and, at the request of the Council, a formal Depreciation Report (the “Depreciation Report”) on June 17, 2014. The Depreciation Report provided for short-term and middle term projects which mirrored the First and Second Priority Recommendations contained in the Assessment Report.

[10] The owners disagreed on the scope of the remediation required and questioned the cost of remediation.

[11] The Council set a special general meeting which was held August 6, 2014. The owners present at the meeting resolved unanimously to retain BC Building Science Ltd., building envelope and structural consultants, (“BCBS”) to prepare a Building Envelope Condition Assessment and Scope of Work Report (the “BCBS Report”).

[12] As set out at the beginning of the BCBS Report at page S-1:

This assessment has been requested in order to better define potential renewal strategies to address the aged, fatigued, and varied state of the exterior assemblies at this complex - siding, windows, sliding doors, balconies, and related components. These renewal strategies are required to address the aging conditions of this complex as initially defined in a previous Condition Assessment report and Capital Plan Depreciation Report, both prepared by Morrison Hershfield Limited in 2013.

[13] BCBS delivered its report to the Strata in June 2015. The BCBS Report contained the following observations:

- (a) The exterior walls siding, especially in exposed areas was in a decayed and deteriorated state;
- (b) The window systems and sliding glass doors showed typical signs of weathering and breakdown and concerns related to their performance and integration to the cladding systems were contributing to the overall deterioration of the siding assembly itself;
- (c) Many balconies were in such poor shape that they were barely functional, exhibiting membrane delamination, open seams and water seepage;
- (d) Various posts and beams that support walls, roofs and balconies above the carports or that support the trellises were decayed due to exposure to rain wetting;
- (e) Other wood components such as wood fascia at the roof level were decayed and needed select replacement;
- (f) The gutters and downpipes were aged and leaking at various locations and some of the interfacing to the gutters such as where they terminated to the exterior walls was contributing to water escape; and
- (g) Many of the wood trellises were decayed and in need of replacement.

[14] Generally the BCBS Report commented that: existing vertical structures were in a failing and deteriorated state; the quality of some past remediation work was inferior; and the approach to remediation should not be done on an ad hoc or superficial basis (as had previously occurred) but rather, on a more quality assured approach to repair and renewal.

[15] Recognizing the concern of the owners with the cost of remediation, the BCBS Report recommended three alternate strategies for the owner's consideration in proceeding with remediation: Strategy A: Comprehensive Renewal; Strategy B: Moderate Priority Renewals; and Strategy C: Selective Repair and Refurbishment.

The cost for each strategy was respectively \$10,263,000; \$7,371,000 and \$5,296,000.

[16] The strategies were summarized at p. S-4 of the BCBS Report:

The three strategies are summarized as:

- Strategy A: Comprehensive renewal of all siding (upgraded to rainscreen assemblies), windows, and sliding doors (with new PVC frame window / doors units), and those balconies not recently renovated along with other related renewals such as trellis replacement and design or scope of work options such as adding canopies at balconies, changing balcony guard-walls to aluminium railings.
- Strategy B: Moderate renewal of all siding only at exposed wall faces (upgraded to rainscreen siding) - those with no to limited overhang protection, combined with full replacement of windows and sliding doors (with new PVC frame window / door units) including at sheltered siding surfaces where the siding is to be retained, renovation of select balconies not previously renovated and the same related work and options as with Strategy A.
- Strategy C: Select renewal of only the siding (upgraded to rainscreen assemblies) observed to have experienced sufficient levels of outward damage warranting full replacement with the retention of all other siding (including all chimney walls below and above roof lines), but also including localized updates such as installation of improved detailing at all gutter interfaces, changing wood corner trims that are decayed, and select replacement of decayed elements, and also still combined with full replacement of windows and sliding doors (with new PVC frame window / door units) including at siding surfaces where the siding is to be retained, renovation of select balconies not previously renovated and the same related work and options as with Strategy A.

[17] The BCBS Report contained a breakdown of estimated project costs under each strategy. For Strategy C the report estimated the costs were estimated to be \$3,834,000 for construction costs and \$1,209,780 "Project Soft Costs". The latter category included \$575,600 for "Construction Contingency"; \$294,000 for "Consulting, Administration and Project management" and \$240,180 for "General Project Contingency".

[18] Strata owners were advised by the Council that the BCBS Report was posted on the building manager's website. The Council circulated a summary of the

recommendations and scheduled two information meetings to discuss and review the BCBS Report with owners on June 16 and 18, 2015 and advised a Special General Meeting (“SGM”) would follow to vote on which strategy the members wished to adopt.

[19] Mr. Andrew Creighton, an engineering technician with BCBS who worked with the Strata’s Building Committee to address the remediation issues and who assisted in preparing the BCBS Report and in developing the strategies, attended the information meetings.

[20] The information meetings generated considerable debate and discussion. From the material before me and the submissions made by counsel it is clear a number of owners were concerned with another assessment of the magnitude being requested (see discussion below re: Progressive Plumbing Ltd. (“Progressive”)) and were generally frustrated with the way the Strata’s Council had dealt with remediation work on the Strata property over the years. Owners recognized remediation work was required but struggled with how to approach such work.

[21] Following the information meetings an SGM was held on August 5, 2015 with a view to voting on the Strategies. The Building Committee and the Council had determined Strategy A was too expensive. At the SGM two amendments to amend a Strategy B special levy were proposed and defeated. Strategy B was voted on and defeated with 16 in favour with 80 opposed and two abstentions. Strategy C was then tabled and received four motions to amend. The fourth motion passed. The owners then voted on Strategy C. The motion (which required a special or  $\frac{3}{4}$  majority vote) was defeated with 65 owners (66.3 %) of those present in person or by proxy voting in favour and 33 voting against.

[22] The Building Committee and Council decided that given their responsibilities to maintain the Strata property imposed under s. 72(1) of the SPA they would hold a further information meeting and bring the resolution forward again at the forthcoming AGM.

[23] An Information Circular was sent to the owners. The Council held an information meeting for owners on September 10, 2015 (the “Town Hall meeting”). Mr. Creighton and the Executive Director of the Condominium Homeowners Association of BC were present to answer questions in addition to Building Committee and Council members. Again, there was considerable lively debate among owners.

[24] The Strata’s AGM was scheduled for September 23, 2015. The Council decided to present one option to the owners: Strategy C with a revised payment schedule which proposed a schedule of payments commencing December 1, 2015 and ending October 1, 2017. The amendment passed with the vote being 91 in favour and 3 against. The owners then voted whether to accept Strategy C. The vote was 61 in favour and 33 opposed. Again the motion did not achieve the  $\frac{3}{4}$  percent majority vote required under s. 108(2)(a) of the SPA.

[25] Mr. Creighton deposed that at each of the information meetings before the AGM he advised the owners present that the funding requirements of the strategies were budget-driven estimates based on the anticipated scope of the work and that the passing of a  $\frac{3}{4}$  vote funding resolution did not mean the funds set out in each strategy necessarily needed to be spent: that the costing of each strategy was as conservative as possible to protect against later having to explain why there might be a shortfall in funding.

[26] At a Council meeting of November 15, 2015 the Council voted unanimously to commence these proceedings. Under s. 173(3) of the SPA proceedings must be commenced within 90 days of the failure of a special resolution to pass.

**The Position of the Parties**

[27] The petitioner submits the court should approve the resolution rejected at the AGM as the remediation work set out in amended Strategy C is necessary to ensure safety or prevent significant loss or damage, physical or otherwise, to the strata.

[28] The respondents, the owners of eight strata lots in the Strata, argue the resolution before the court for approval is not the same resolution placed before the owners at the AGM; that the court should not, in the circumstances of this case, or lightly, approve a motion which, under the *SPA*, requires a 3/4 majority vote; that the Council has, over the years, mismanaged remediation work at the strata (particularly work done by Progressive described below in or about 2010) and it is unfair to impose a levy of the magnitude sought in the AGM Resolution on strata owners and that there are viable alternatives to the proposed remediation including spreading the remediation work over a longer period in phases which would ease the financial burden to the owners. The petition respondents say that “many owners” have resided in the complex for decades, are now retired or “may have problems obtaining large loans”. In addition, they raised a number of procedural issues to this application proceeding and sought cross-examination on the affidavits that are filed in support of the petition.

[29] I turn first to consider the procedural issues raised by the respondents. A number of these procedural issues were addressed during the course of the hearing. I permitted the applicant to amend the petition to accurately reflect the motion before the AGM. I found there was no prejudice to the respondents in allowing such amendment as each had effective notice of the resolution.

[30] The application to cross-examine the Council members who swore affidavits supporting the petition were dismissed as the basis for such application rested on the difference in wording of the relief sought in the petition and the AGM resolution. As the wording of the resolution was resolved by the amendment granted, the application to cross-examine was moot.

[31] The respondents submitted the application had not been properly served on all owners. I rejected this submission as I find the petition was served in accordance with the Order of Master Talyor permitting substitutional service whereby all owners were advised how to access the petition. The respondent owners clearly had notice of the petition.



[32] The petition respondents say the Council has refused to listen to various submissions and proposals they and other strata owners have put forward at the SGM and the AGM and during subsequent presentations, including proposals for dispute resolution processes and proposals to work out alternate financing schemes which allow some owners more flexibility in financing the remediation work.

[33] Mr. Denovan Hill, an owner who has been one of the strongest advocates against the application, filed three affidavits in response to the petition annexing a significant number of exhibits relating to the past history of remediation work and the efforts he and others have made to approach the Council with proposals with a view to trying to convince Council members to take a more modified approach without success. Mr. Hill is of the view the Council simply wants to proceed regardless of the financial position of a number of strata owners.

[34] The petition respondents also say Mr. Williams, the Strata's legal counsel who represented the Strata in this application, should not have chaired the Strata's AGM as the Strata By-laws require AGMs to be chaired by the Chair of the Strata. In my view this is a curable defect which does not affect the validity of the motions brought before the owners or the voting on those motions: See *Azura Management (Kelowna) Corp. v. Owners of Strata Plan KAS 2428*, 2009 BCSC 506, rev'd on other grounds 2010 BCCA 474, at para. 72.

[35] I will now turn to the issue referred to above relating to Progressive, as it is an underlying factor in the failure of the Council to achieve a 3/4 majority vote. In or about 2010 the Council hired Progressive to fix broken water mains under each of the streets making up the strata property. When the work was completed, the Council became involved in a dispute with Progressive over the payment of Progressive's invoices. Progressive commenced an action against the Strata in May 2014. The action was ultimately settled after mediation wherein the Strata agreed to pay the full amount sought by Progressive plus an allowance for contractual interest.

[36] At an SGM held November 5, 2015 the members voted to pay the amount owing to Progressive from the Strata's Contingency Reserve Fund and by way of a special levy. The special levy amounted to approximately \$825 per strata lot.

[37] In addition to the issue with Progressive, a number of owners have had water ingress problems in their basements and, they say, they have had difficulty obtaining information from the Council including whether such damage is, is not or should be covered by the Strata's insurance policy.

[38] The petition respondents say strata fees have already increased significantly since 2014 and despite such increase "ordinary and routine maintenance continues to be neglected".

[39] The eight respondents have brought an application in response to the petition. The respondent's application seeks an order denying the Council's application on the grounds there are alternate ways of proceeding with the remediation work including phasing prioritizing the work, spreading the span of remediation out over a longer period and considering spreading the payment (levies on the owners) for such work out over a longer period.

## **Discussion**

### **The Relevant Provisions of the SPA**

[40] Sections 173(2), (2.1), (3) and (4) provide the Strata may apply to the court for an order approving a resolution to approve a special levy to raise money for the maintenance or repair of common property or common assets that is "necessary to ensure safety or to prevent significant loss or damage, whether physical or otherwise...":

(2) If, under section 108 (2) (a),

(a) a resolution is proposed to approve a special levy to raise money for the maintenance or repair of common property or common assets that is necessary to ensure safety or to prevent significant loss or damage, whether physical or otherwise, and

(b) the number of votes cast in favour of the resolution is more than 1/2 of the votes cast on the resolution but less than the 3/4 vote required under section 108 (2) (a),

the strata corporation may apply to the Supreme Court, on such notice as the court may require, for an order under subsection (4) of this section.

(2.1) Section 171 (2) does not apply to an application under subsection (2).

(3) An application under subsection (2) must be made within 90 days after the vote referred to in that subsection.

(4) On an application under subsection (2), the court may make an order approving the resolution and, in that event, the strata corporation may proceed as if the resolution had been passed under section 108 (2) (a).

[41] There are several other provisions of the SPA which are relevant to these proceedings. Section 4 provides that the affairs of the Strata will be managed by its elected council. Section 108(1) and (2)(a) provide:

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

...

[42] Section 72(1) of the SPA provides:

72 (1) Subject to subsection (2), the strata corporation must repair and maintain common property and common assets.

[43] The duty of a strata corporation to repair and maintain common property was addressed by this court in *Weir v. Owners, Strata Plan NW 17*, 2010 BCSC 784 where Mr. Justice Josephson said at paras. 23 and 28:

[23] There is little issue regarding the law. The respondent has a fundamental duty to repair and maintain its common property: s. 72 of the Act; *Royal Bank of Canada v. Holden*, 7 R.P.R. (3d) 80, [1996] B.C.J. No. 2360 (S.C.). In performing that duty, the respondent must act reasonably in the circumstances: *Wright v. Strata Plan No. 205*, 20 B.C.L.R. (3d) 343, [1996] B.C.J. No. 381 (S.C.), aff'd (1998), 103 B.C.A.C. 249, 43 B.C.L.R. (3d) 1032. Furthermore, the starting point for the analysis should be deference to the decision made by the strata council as approved by the owners: *Browne v. Strata Plan 582*, 2007 BCSC 206, 70 B.C.L.R. (4th) 102.

...

[28] In resolving problems of this nature, there can be “good, better or best” solutions available. Choosing an approach to resolution involves consideration of the cost of each approach and its impact on the owners, of which there is no evidence before the court. Choosing a “good” solution rather than the “best” solution does not render that approach unreasonable such that judicial intervention is warranted.

[44] While I agree with the respondent’s position the court must be hesitant before overwriting the failure of the petitioner to achieve a 3/4 majority vote, there are a number of factors the court must consider in determining whether to grant the order sought by the petitioners.

[45] First, the petitioners must establish under s. 173(2) the repairs and maintenance are “necessary” to ensure safety or prevent loss and damage: see *The Owners, Strata Plan VIS114 v. John Doe*, 2015 BCSC 13 at para. 59; *The Owners, Strata Plan LMS 1383*, 2015 BCSC 1816 at para. 36 and 39. In the latter decision Mr. Justice Pearlman referred to and agreed with the comments of Madam Justice Fitzpatrick, *The Owners, Strata Plan VIS114* at para. 135:

[135] Section 173(2) is a new tool available to strata corporations to seek court intervention in appropriate circumstances. I would not, however, expect that court intervention would be appropriate simply because there is a dispute. Clearly, the test under s. 173(2) must be met before the court’s discretion can be exercised. Importantly, there must be issues of safety or in the event of loss or damage, that loss or damage must be “significant”. Further, the court’s discretion is only to be exercised in appropriate circumstances and in accordance with the overall objectives in the *Act*.

[46] Whether such repairs are “necessary” will in large measure depend on the professional advice the Strata Council has received from its engineers regarding the timing, extent and method of repairs (see para. 38 of *The Owners, Strata Plan LMS 1383*). Extracts from the BCBS Report read:

This assessment has been requested in order to better define potential renewal strategies to address the aged, fatigued, and varied state of the exterior assemblies at this complex — siding, windows, sliding doors, balconies, and related components. These renewal strategies are required to address the aging conditions of this complex as initially defined in a previous Condition Assessment report and Capital Plan Depreciation Report, both prepared by Morrison Hershfield Limited in 2013.

...

The siding itself is in a variable state with many exposed walls (exposed being defined as wall surfaces with little to no overhang) and with higher sun exposure such as south and west facing and to a lesser degree east, and north) in a decayed and deteriorated state. The siding at many of these locations is deteriorated to the point that replacement is an imminent requirement.

...

Many balconies are observed to be in a poor state and are considered in a high priority condition with many found to be barely functional (membrane delamination, open seams, water seepage, etc). Many of the issues are related to poorly executed past repair work such as a lack of upturns behind the siding, lack of adhesion at seams, poor drainage, etc. Other balcony membranes that have been somewhat more appropriately renewed in the past, though they appear to be in a more moderate priority state their condition is such that they may not function overly well as part of an upgraded exterior system — given the work required to the siding, flashings, and sliding doors, and such around and adjacent to them.

Balconies that have been more recently renovated to a more current and durable standard including correction of drainage to a new side wall scupper drain are considered to be in a low priority condition. These balconies appeared sufficiently functional such that their renewal should not be required for the next ten to fifteen plus years. These balconies appear suitable for retention with any renewal strategy proposed in this report. With the typical quality of membranes as observed in these application we commonly see effective serviceable use in the range of 20 to 25 years from original installation.

...

There are various related elements at the complex exterior that are also in a substantially aged and fatigued state such as:

- Various posts and beams that support walls, roofs, and balconies above the carports or that support the trellises are decayed due to exposure to rain wetting. Sheltered posts and beams appear relatively stable.
- Other wood components such as wood fascia at the roof level are decayed and need select replacement.
- The gutters and downpipes are aged and leaking at varying locations and some of the interfacing to the gutters such as where they terminate to the exterior walls are contributing to water seepage. Given these concerns and to allow for more effective integration to the building siding their replacement is recommended.
- Many of the wood trellis assemblies are decayed and in need of systematic replacement.
- Some balconies have had full canopies installed over their balconies which will have to be removed to facilitate repairs and renewals to the

complex exterior. Reinstatement of full size canopies is not permitted by the City of Vancouver so modifications will have to be made if canopies are to be reinstated.

- Other associated work not specifically described such as replacing exterior vents, chimney caps, etc.

...

[47] A schedule addressing the condition of the balconies taken from a review completed by the Council in 2011 found some 18 to be in “poor condition”; six to be in “very bad” condition and four to be in “dangerous” condition. Common problems included soft spots in balcony membrane and wood siding at the base of walls decayed or in poor condition.

[48] In reviewing the condition of the balconies the BCBS Report stated at p. 24:

As can be seen we show a total of 27 high or moderate priority condition balconies. Some examples of conditions observed are shown in the following photographs.

- The membrane is poorly terminated at the base of the balcony parapet or wall siding. In some cases there is no upturn in behind the siding.
- The parapet cap flashings are not properly countered up in behind the siding. The water tightness of these joints is totally reliant on sealant which is not a suitable waterproofing product.
- The joints on the older parapet cap flashings are poorly fitted and there is no secondary waterproofing membrane below the joints to shed water that will seep in.
- The membrane is pulling away at the seams and perimeters as a typical indication that these membranes are past their effective life.
- The quality of membrane products used in some applications appears low - fuzzy backed, non-reinforced membranes can have an effective life as low as ten years. Example problems include seams pulling apart, the membrane is contracting away from the walls, and delamination around drains.
- The membranes do not extend in and under the sliding doors thereby creating a path way for water to potentially seep into the concealed, balcony structure.

[49] At p. 26 the BCBS Report reads:

The balconies considered to be in the high priority condition are barely functional and should be renovated in the near to imminent future.

[50] The “General Conclusions” portion of the Report (p. 31) includes this comment:

The condition of the building envelope assemblies varies to some degree from location to location and assembly to assembly. In general terms the existing vertical assemblies - the wood siding, windows, sliding doors, and interfacing of related components such as balconies - are in a failing and deteriorated state but only at selected locations. Notably the exposed wall surfaces are the most vulnerable and that therefore are not surprisingly experiencing varying levels of deterioration and in some cases decay.

...

In our experience and opinion, there are no superficial measures that can suitably resist the problems currently occurring with the existing siding where decay and deterioration have already set in. In addition we feel a more quality assured approach to repair and renewal is required.

[51] I am satisfied from the content and recommendations made by BCBS Strategy C represents a reasonable compromise between remediation work which is necessary and which would prevent further loss and damage to the Strata’s common property and the financial burden on the owners which such remediation work will entail. I am also satisfied that the special levy is necessary to prevent significant loss or damage to the complex pursuant to s. 173(2)(a).

[52] Certainly the remediation work will entail an unfortunate financial burden on many of the owners. However, a majority of owners have endorsed proceeding with Strategy C. I find all owners were properly served with a copy of the petition. Only eight of the owners have responded by opposing the petition. The respondents have not put forward any alternate plan to proceeding with the remediation work.

[53] While it may be financially difficulty for some owners to raise financing to fund the remediation work, there are options available to owners, as evidenced by Exhibit Z1 to Mr. Hill’s first affidavit. A considerable majority of owners should not be prejudiced in preserving their ownership interest because a minority cannot afford to proceed with necessary remediation work in a timely and cost efficient manner.

[54] One of the exhibits to Mr. Hill’s affidavit listed a number of owners who are alleged to have signed a petition urging the Council to adopt a dispute resolution

process in resolving the issues of remediation rather than the matter proceeding to court. I find the exhibit to be suspect on close examination as many of the owner's signatures appear to be written in the same handwriting. Regardless, the Council is responsible for determining the action it will follow. Given the process followed by the Council in obtaining the studies it has obtained from Morrison Hershfield and BCBS, and the fact it held a number of information meetings and discussions with owners at the SGM and AGM I am of the view had the Council not had opted for the present course there would have simply been further and protracted delay over work which must be done.

[55] Notwithstanding the evidence of Mr. Hill, who filed several affidavits in support of the respondents, I find the Council has acted in a bona fide manner in difficult circumstances. While there is support for the position that past maintenance and repairs have been done on an inconsistent and piecemeal basis and strata owners have borne increased fees and assessments, the Council is trying to proceed with necessary remediation work on a phased high priority repair first basis. The conclusion I draw from the facts before me is that if the remediation does not proceed strata owners will be faced with even higher assessments (and even further loss in the value of their property) in the future.

[56] Accordingly, I grant the order sought by the Council.

"Mr. Justice B. M. Greyell"