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SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

MAY 13 2022

NO.
VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *STRATA PROPERTY ACT*, S.B.C. 1998, c.43

and

IN THE MATTER OF THE APPLICATION FOR
THE WIND-UP OF STRATA PLAN NWS289

BETWEEN:

THE OWNERS, STRATA PLAN NWS289

PETITIONER

AND:

1161359 B.C. Ltd. and each of the parties set out in
Appendices "A" and "B" to this Petition

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

The Parties set out in Appendix "A" to this Petition

This proceeding is brought for the relief set out in Part 1 below, by

the persons named as Petitioners in the style of proceedings above

If you intend to respond to this Petition, you or your lawyer must

- (a) file a Response to Petition in Form 67 in the above-named registry of this court
within the time for Response to Petition described below, and

- (b) serve on the Petitioners
 - (i) 2 copies of the filed Response to Petition; and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to Petition within the time for response.

Time for Response to Petition

A Response to Petition must be filed and served on the Petitioners,

- (a) if you were served with the Petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service
- (c) if you were served with the Petition anywhere else, within 49 days after that service, or
- (d) if the time for Response has been set by order of the court, within that time.

The address of the Registry is 800 Smithe Street, Vancouver, British Columbia.

The ADDRESS FOR SERVICE of the Petitioners is c/o Lawson Lundell LLP, 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2.

Fax number for delivery is: (604) 669-1620.

The name and office address of the Petitioners' solicitor is: Lawson Lundell LLP, 1600 - 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2 (Attention: Peter J. Roberts, Q.C.).

CLAIM OF PETITIONERS

Part 1: ORDERS SOUGHT

1. An order confirming the resolution passed at the special general meeting of the strata corporation, The Owners, Strata Plan NWS289, held on February 15, 2022, at which it was resolved to:

- (a) approve the voluntary winding-up of strata corporation, The Owners, Strata Plan NWS289, and its dissolution;
- (b) approve the appointment of a liquidator, Derek Lai, CPA, CMA, CIRP, of Crowe MacKay & Company Ltd. (the “**Liquidator**”), to wind-up the strata corporation, The Owners, Strata Plan NWS289;
- (c) cancel Strata Plan NWS289;
- (d) dissolve the strata corporation, The Owners, Strata Plan NWS289;
- (e) confirm the Interest Schedule to be applied pursuant to section 278 of the *Strata Property Act*, S.B.C. 1998, c. 43 (the “**Interest Schedule**”);
- (f) approve the estimate of costs of winding-up of the strata corporation, The Owners, Strata Plan NWS289; and
- (g) surrender to the Liquidator each owner’s interest in:
 - (i) the land shown on Strata Plan NWS289, including the common property (the “**Cameray Gardens Lands**”);
 - (ii) the land held in the name of or on behalf of the strata corporation, but not shown on Strata Plan NWS289; and
 - (iii) the personal property held by or on behalf of the strata corporation, The Owners, Strata Plan NWS289 (the “**Strata Personal Property**”).

2. An order appointing Derek Lai, CPA, CMA, CIRP, of Crowe MacKay & Company Ltd., of 1100 - 1177 West Hastings St., Vancouver B.C., V6E 4T5, as the Liquidator of the strata corporation, The Owners, Strata Plan NWS289.

3. An order that the Liquidator shall incur no liability or obligation as a result of its appointment or the carrying out of the terms of this Order, save and except for:

- (a) gross negligence or wilful misconduct on his part; or
- (b) amounts in respect of obligations imposed on liquidators by applicable legislation.

4. An order that, upon the filing of a certified copy of this order in the Land Title Office, the interest of each of the Petitioner and the Respondents set out on Appendix "A" to the Petition (collectively, the "**Strata Owners**") in:

- (a) the Cameray Gardens Lands; and
- (b) the Strata Personal Property;

be surrendered to and vests in the Liquidator, subject to the mortgages, assignments of rent, land use contracts and other charges registered on title to Strata Lots 1 to 101 and the common property of the Cameray Gardens Lands.

5. A declaration that, upon the surrender to and vesting in the Liquidator of title to the Cameray Gardens Lands, it has been proven to the satisfaction of the court on investigation that the Liquidator has good, safeholding and marketable title to the Cameray Gardens Lands.

6. An Order confirming that the authority and powers of the Liquidator includes:

- (a) to be paid reasonable remuneration out of the proceeds of any sale of Cameray Gardens Lands or the Strata Personal Property, subject to the right of any party to assess that remuneration;
- (b) to employ or retain such other professional services or advisors as are reasonably necessary for the winding up of the strata corporation, The Owners, Strata Plan NWS289, the cancellation of Strata Plan NWS289 and the marketing and sale of the Cameray Gardens Lands and the Strata Personal Property, including legal counsel, realtors and appraisers;

- (c) to publish a notice in compliance with section 331 of the *Business Corporations Act* in the Gazette and a newspaper circulating in the Burnaby area;
- (d) to deal with creditors of the strata corporation, The Owners, Strata Plan NWS289, including the payment, compromise or settlement of any claims by those creditors;
- (e) to pay costs, charges and expenses properly incurred and to be incurred in relation to the winding-up of the strata corporation, The Owners, Strata Plan NWS289 and the cancelation of Strata Plan NWS289;
- (f) to market and negotiate the sale of the Cameray Gardens Lands, or any individual strata lot thereof, and the Strata Personal Property;
- (g) to sell the Cameray Gardens Lands, subject either to the requirements of section 282 of the *Strata Property Act*, S.B.C. 1998, c. 43 or further order of the court;
- (h) to distribute the proceeds from the sale of the Cameray Gardens Lands and the Strata Personal Property in accordance with the Interest Schedule; and
- (i) at the sole discretion of the Liquidator, to seek further orders or directions as may be necessary from the Court.

7. An Order confirming the Interest Schedule and that the Interest Schedule shall be the interest schedule for the purposes of sections 278 and 280 of the *Strata Property Act*, S.B.C. 1998, c. 43 and shall be used to determine each individual strata owners' share of the proceeds of distribution on any sale of the Cameray Gardens Lands and Strata Personal Property.

8. Pursuant to section 100(4)(a) of the *Land Title Act*, R.S.B.C. 1996, c.250, an order that the consents of the owners in fee simple of each of the strata units comprising the Cameray Gardens Lands and each holder of a registered charge on title to any of the strata units comprising the Cameray Gardens Lands are deemed to have been obtained and such consent is otherwise dispensed with for the purposes of filing any reference plan or an explanatory plan with the Land Title Office in relation to the Cameray Gardens Lands.

9. An order that the Petitioners are entitled to recover their costs of this proceeding, on a solicitor and client basis, and such costs shall be paid from, and form a charge upon, the proceeds of any sale of the Cameray Gardens Lands or any individual strata lot thereof, including any deposits, and the Strata Personal Property.

10. An order that, if necessary, all or a part of the proceeds from the sale of the Cameray Gardens Lands and the Strata Personal Property shall be paid into an interest bearing trust account held by counsel for the Petitioners, Lawson Lundell LLP, and shall be paid out as directed by the Liquidator in accordance with the Interest Schedule.

11. The parties to this proceeding be at liberty to apply to Court for such further and other directions and orders as may be necessary to carry out the full purpose and intent of these Orders, including the approval of any sale of the land shown on Stata Plan NWS289.

Part 2: FACTUAL BASIS

12. The strata corporation, The Owners, Strata Plan NWS289 (the “**Cameray Gardens**”) is comprised of 101 residential strata lots and the associated common property. Cameray Gardens with municipal addresses 3925 Kingsway and 5715 Jersey Avenue, Burnaby, British Columbia.

13. The Petitioner is the strata corporation, The Owners, Strata Plan NWS289.

14. The Respondent 1161359 B.C. Ltd. and those listed in Appendix “A” to this Petition are the registered owners of the 101 strata lots of Cameray Gardens.

15. The Respondents listed in Appendix “B” are the holders of financial and other charges registered on title to the individual strata lots and the common property of the Cameray Gardens Lands.

16. Cameray Gardens was created and built in about 1975. It is comprised of two three storey residential buildings, constructed of cement foundations and wood framing. Cameray Gardens is facing increasing capital expenditures to maintain and repair the buildings and physical infrastructure.

17. Recent changes in ownership of some of the strata lots at Cameray Gardens have led to ongoing disruptions at Cameray Gardens and has created difficulties in the collection of strata fees to be paid to the strata.

18. Cameray Gardens held a special general meeting on February 15, 2022 (the “SGM”) to consider resolutions to wind-up and cancel the strata plan and to consider the approval and authorization for the costs and expenses associated with the windup as well as purchase and sale of Cameray Gardens.

19. At the SGM, 94 owners were present or otherwise represented by proxy. At the SGM, the resolution to wind-up Cameray Gardens and to approve and authorize the expenditure of funds from the Contingency Reserve Fund for paying Cameray Gardens’ expenses associated with the marketing and sale of Cameray Gardens Lands and the windup of Cameray Gardens, received 93 affirmative votes (92.08%) and 1 negative vote and, requiring an 80% majority vote, passed.

20. Cameray Gardens does not have any other land held in the name of or on behalf of it that is not shown on Strata Plan NWS289

Part 3: LEGAL BASIS

21. The Petitioners rely upon Rules 1-3, 2-1, 13-5, 14-1,16-1 of the *Supreme Court Civil Rules*, sections 160 and 272 to 285 of the *Strata Property Act*, S.B.C. 1998, c. 43 (the “SPA”), Part 10 of the *Business Corporations Act*, R.S.B.C. 2002, c. 57 and sections 34 and 100 of the *Land Title Act*, R.S.B.C. 1996, c. 250.

Strata Wind-Up

22. The SPA is intended to create a scheme of land holding that makes home ownership more widely available to the public. The SPA also recognizes that particular strata projects may not work or cease to be appropriate and thus contains specific provision for court ordered wind-ups of the strata corporation.

Buchanan v. S.P. VR 1411, 2008 BCSC 977, para. 28.

23. A resolution to appoint a liquidator and voluntarily wind-up a strata corporation requires an 80% vote of all eligible voters.

Section 277, SPA.

24. Alternatively, on application by an owner or mortgagee, the court may order the winding up of a strata corporation and appoint a liquidator. In such cases, the court may vary or dispense with any of the applicable provisions in Part 16, Division 2 of the SPA.

Sections 160, 284 and 285, SPA.

25. A wind-up resolution, including the interest schedule, being considered at a special general meeting must contain all the required elements set out in the relevant provisions of the SPA. The “interest schedule” is the “roadmap” for the wind-up and ratable distribution of sale proceeds.

The Owners, Strata Plan VR 1966, 2017 BCSC 1661, para. 47.

26. The “estimate of costs” required by s.277(3) of the SPA need not be a precise formulation of anticipated costs and, where it may change, does not require a further vote of the owners. Only where the estimated costs is “totally devoid of reality” could a wind-up resolution be invalidated.

The Owners, Strata Plan VR456 (Re), 2022 BCSC 502 (“*Spruce West*”), para. 131.

27. Section 278.1(5) of the SPA provides:

In determining whether to make an order under subsection (4), the court must consider

- (a) the best interests of the owners, and
- (b) the probability and extent, if the winding-up resolution is confirmed or not confirmed, of
 - (i) significant unfairness to one or more
 - (A) owners,
 - (B) holders of registered charges against land shown on the strata plan or land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, or
 - (C) other creditors, and
 - (ii) significant confusion and uncertainty in the affairs of the strata corporation or of the owners.

28. “Significant unfairness”, in other contexts, is described as encompassing oppressive conduct and unfairly prejudicial conduct or resolutions. It is conduct or consequences that are “burdensome, harsh, wrongful, lacking in probity or fair dealing, or has been done in bad faith.” The modifying term “significant” indicates that the “unfairness” must be oppressive or transcend beyond mere prejudice or trifling unfairness. It must be “unfairness” that is “of great importance or consequence.”

Dollan v. The Owners, Strata Plan BCS 1589, 2012 BCCA 44, paras. 25-26;
The Owners, Strata Plan VR2122 v. Wake, 2017 BCSC 2386 (“*Wake*”), paras. 79-84, 140;
Spruce West, supra, para. 112.

29. The SPA is a foundational document for the strata corporation and strata owners. Strata unit owners give up certain rights and privileges that are otherwise associated with private home ownership when buying into a strata development.

Whitehorse Condominium Corporation No. 95 v. 37724 Yukon Inc., 2013 YKSC 4.

30. A strata operates as a democratic society in which each owner has many of the rights associated with sole ownership of real property, but in which, having regard to their co-ownership with the others, some of those rights are subordinated to the will of the majority. An equitable balance must exist between the independence of the individual owners and the interdependence of them all in a co-operative community.

2475813 Nova Scotia Ltd. v. Rodgers, 2001 NSCA 12 (“*Rodgers*”);
The Owners, Strata Plan NWS 243 (Re), 2020 BCSC 670, para. 10.

31. The justification for the wind-up of a strata corporation and the sale of its lands is not “limited to sales necessitated by heavy capital expenditures”. Crystalizing a financial gain is an equally valid reason to seek a wind-up and sale.

Wake, supra, para. 78.

32. The SPA provides for the termination or amendment of strata corporations and strata plans. The rights, privileges and obligations of the SPA ought to be enforced in a fair and equitable way. Assessing the “probability of unfairness” requires a consideration of the rights of all owners and any inequity in treatment as between them.

Whitehorse Condominium, supra.

33. In determining how to reconcile individual and collective rights in the SPA, the court must consider:

- (a) the number of owners seeking relief;
- (b) whether the order sought was in the best interests of the Strata Corporation; and
- (c) whether inaction would unfairly prejudice the applicants.

Abdoh v. The Owners of Strata Plan KAS2003, 2014 BCCA 270, para. 20;
Wake, supra, para. 80.

34. Lastly, the court must assess whether a refusal to wind-up a strata will result in “significant confusion and uncertainty”. This includes an assessment of whether there is some existing uncertainty or confusion that can only be resolved by winding-up the strata. It involves a consideration of the rights and interests of all owners and a balancing of equitable interests with justice and the “reasonable expectations” of the parties.

Whitehorse Condominium, supra;
Whitehorse Condominium Corporation No. 95 v. 37724 Yukon Inc., 2014 YKSC 2.

35. It is appropriate for wind-up orders for strata corporations to contain terms with respect to Land Title Office requirements and for the protection of the charges of financial institutions.

The Owners, Strata Plan NW422 v. Khlybov, 2016 BCSC 285.

36. Division 3 of Part 16 of the SPA provides the court with greater flexibility to relax the requirements of section 278.1. This part can be invoked in cases where the court is satisfied that it is in the strata owners’ best interests, and involves a balancing of significant unfairness to one or more of the owners and the nature and extent of confusion and uncertainty in the affairs of the strata corporation if a liquidator is appointed, or not appointed as the case may be.

Strata Plan NWS837 (Re), 2018 BCSC 564, para. 24;
Stewart v The Owners, Strata Plan KAS 2601, 2020 BCSC 809, para. 78.

37. Cameray Gardens is facing significant costs to maintain and repair the strata buildings, increasing insurance costs and a significant level of disfunction. As a result, on

February 15, 2022, Cameray Gardens held a special general meeting (the “SGM”) to consider, among other things, a resolution to wind-up. The SGM was attend, in person or by proxy, by the owners of 94 of the 101 strata lots. The wind-up resolution passed with 93 votes for (92.08%) and one against.

38. Subsequent to the SGM, one more strata lot owner, who had not attended the SGM, indicated support for the wind up, raising support for a wind-up to 93.07%.

39. The wind-up of Cameray Gardens is in the best interests of at least 93.07% of the owners. Denial of an order confirming the winding-up of Cameray Gardens condemns the owners to having to maintain increasingly costly buildings and deprives them of an opportunity to realize on the development value of the entire property.

Part 4: MATERIAL TO BE RELIED ON

40. Affidavit #1 of A. Eykelbosh, made May 12, 2022.

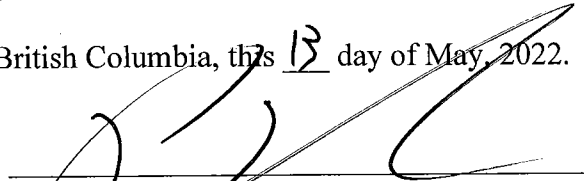
41. Affidavit of D. Lai, made May 9, 2022.

42. Affidavit #1 of J. Williams, made May 11, 2022.

43. Affidavit #2 of J. Williams, made May 11, 2022

The Petitioners estimate that the hearing of the Petition will take 60 minutes.

Dated at the City of Vancouver, in the Province of British Columbia, this 13 day of May, 2022.



Lawson Lundell LLP
Solicitors for the Petitioners

This Petition to the Court is filed by Peter J. Roberts, Q.C., of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____
of Part 1 of this Petition

with the following variations and additional terms:

Date:

Signature of Judge Master

Appendix "A" to Petition

	REGISTERED OWNER NAME(S)	STRATA LOT
1.	Jenny Donna Dickison	1
2.	Fernando Marcelino Dutra De Sousa	2
3.	1276331 B.C. Ltd.	3, 6 14, 24 25, 26 28, 34 39, 41 42, 43 45, 48 53, 54 60, 61 73, 76 78, 82 87, 88 89, 90 91, 92 97
4.	Carmelia Maria Da Silva	4
5.	Hon-Ching Rudolph Cheng	5
6.	1161359 B.C. Ltd.	7, 10 11, 30 51, 55 57
7.	Ricky Hee Meng Lai	8
8.	Pia Faccio	9
9.	1184416 B.C. Ltd.	12, 52 58, 75 67
10.	Mark William Louttit and Sarah Kinuko Louttit	13
11.	Kenneth John Watson	15
12.	Li Ping Duan	16
13.	Norman Victori Leech	17

	REGISTERED OWNER NAME(S)	STRATA LOT
14.	Rolando Vinas Dizon and Narcisa Dizon	18
15.	Nicholas George Karamouzos and Maria Karamouzos	19
16.	Cui Ming Chen	20
17.	Yankui and Xin Tian	21
18.	Maria Da Natividade Almeida	22
19.	1237765 B.C. Ltd.	23, 36
20.	Ju-Shan Chiang and Flora Fu	27
21.	1184414 B.C. Ltd.	29, 44
22.	Amar Singh Bhatia and Naranjan Kaur Bhatia	31
23.	Phung Kim Vuong and Tuong Lam	32
24.	Monica Paola Aliaga	33
25.	Marcelino Lopes De Sousa and Olga Maria Dutra De Sousa	35
26.	1184413 B.C. Ltd.	37, 47
27.	Lualhati Ongkeko Crisostomo	38
28.	Richard Raymond Ravensbergen and Dawn Marie Ravensbergen	40
29.	Yuk Far Cheung and Yin On Cheung	46
30.	Gary Lucien Drees	49
31.	Thomas Patrick Fleming	50
32.	Wan Chen and Hong Yang	56
33.	Su Juan Situ	59
34.	Van Dao Nguyen and Thi Bich Hang Nguyen	62
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		70
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42.	Suzanne Juanita Kudelski	72
43.	Yan Qiong Lu	74
44.	Ping He	77
45.	Edward Lawrence Thue	79
46.	Richard Charles Patrick Spencer and Diane Marie Spencer	80

	REGISTERED OWNER NAME(S)	STRATA LOT
47.	Arthur Summers Williamson	81
48.	Gary Dale Charter and Cristina Rimando Gapal	83
49.	Ju Tai Zhou and Yu Qing Li	84
50.	Zhi Hao Yang	85
51.	Daisy Cueto Evangelista and Maria Cherry Evangelista	86
52.	Megan Mary Burghall	93
53.	Nasim Bhaloo	94
54.	Hui Lin Dong and Li Wang	95
55.	Mansour Meshki	96
56.	Hsiang Chiao Huang	98
57.	Grace Joanna Levsen	99
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Appendix "B" to Petition

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A. Personal Charge Holders
1. Richard John Hui
1.1 #351 – 255 Newport Drive, Port Moody, BC V3H 5H1

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
3, 6, 11, 14, 24, 25, 26, 28, 34, 39, 41 42, 43, 45, 48, 53, 54, 55, 60, 61, 69, 70, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 116, 119, 210, 211, 212, 215, 202, 307, 309, 310, 311, 314, 317, 303, 304	112, 102, 103, 111, 214, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	Richard John Hui	#351 – 255 Newport Drive Port Moody, BC V3H 5H1	Mortgage CA6769663

1.2 c/o 200 – 8338 – 120th Street, Surrey, BC V3W 3N4

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
3, 6, 11, 14, 24, 25, 26, 28, 34, 39, 41, 42, 43, 45, 48, 53, 54, 55, 60, 61, 69, 70, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 116, 119, 210, 211, 212, 215, 202, 307, 309, 310, 311, 314, 317, 303, 304	112, 102, 103, 111, 214, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	Richard John Hui	c/o 200 - 8338 - 120 th Street Surrey, BC V3W 3N4	Certificate of Pending Litigation CA7540699
3, 6, 14, 24, 25, 26, 28, 34, 39, 41, 42, 43, 45, 48, 53, 54, 60, 61, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 119, 210, 211, 212, 215, 202, 307, 309, 310, 311, 314, 317, 303, 304,	102, 103, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	Richard John Hui	c/o 200- 8338- 120 th Street Surrey, BC V3W 3N4	Judgment CA7736273 Transfer of Charge CA9342997

2. **Andre Hing Chuen Lee, Executor of the Will of Fong Kiu Lee**

2.1 **3298 24th Avenue East, Vancouver, BC V5R 1G2**

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
3, 6, 14, 24, 25, 26, 28, 34, 39, 41, 42, 43, 45, 48, 53, 54, 60, 61, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 119, 210, 211, 212, 215, 202, 307, 309, 310, 311, 314, 317, 303, 304	102, 103, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	Andre Hing Chuen Lee, Executor of the Will of Fong Kiu Lee	3298 24 th Avenue East Vancouver, BC V5R 1G2	Judgment CA7909159 Cancellation CA9744405

3. **Kulwant Chauhan, Harpreet Chauhan, and Neelujeet Chauhan**

3.1 **2233 West 35th Avenue, Vancouver, BC V6M 1J4**

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
7, 10, 11, 30, 51, 55, 57, 69, 70	111, 115, 116, 217, 301,	112, 115, 111, 214	Kulwant Chauhan, Harpreet Chauhan, and Neelujeet Chauhan	2233 West 35 th Avenue Vancouver, BC V6M 1J4	Judgment CA9343042
7, 10, 30, 51, 57, 11, 69, 55, 70	111, 115, 217, 301, 116	115, 111, 112, 214	Kulwant Chauhan, Harpreet Chauhan, and Neelujeet Chauhan	2233 West 35 th Avenue Vancouver, BC V6M 1J4	Judgment CA7736273 Transfer of Charge CA9342997

B. Financial Institution Charge Holders
1. Bank of Montreal
1.1 1216 – 10th Avenue S.W., P.O. Box 4500, Station C, Calgary, AB T2T 5N3

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
50	319		Bank of Montreal	1216 – 10 th Avenue S.W. P.O. Box 4500, Station C Calgary, AB T2T 5N3	Mortgage BK215117

1.2 c/o Beck Robinson & Company, #700, 686 West Broadway, Vancouver, BC V5Z 1G1

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
86		314	Bank of Montreal	c/o Beck Robinson & Company #700, 686 West Broadway Vancouver, BC V5Z 1G1	Judgment CA2937354

2. Bayfield Mortgage Investment Corp.
2.1 101 – 19909 – 64 Avenue, Langley, BC V2Y 1G9

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
23, 36	209, 204		Bayfield Mortgage Investment Corp.	101 – 19909 – 64 Avenue Langley, BC V2Y 1G9	Mortgage CA8007956 Assignment of Rents CA8007957

3. Canadian Imperial Bank of Commerce
3.1 100 University Avenue, 3rd Floor, Toronto, ON M5J 2X4

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
01	105		Canadian Imperial Bank of Commerce	100 University Avenue, 3 rd Floor Toronto, ON M5J 2X4	Mortgage CA4891163

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
84		211	Canadian Imperial Bank of Commerce	100 University Avenue, 3 rd Floor Toronto, ON M5J 2X4	Mortgage CA5528395

3.2 PO Box 115, Commerce Court Postal Stn, Toronto, ON M5L 1E5

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
63		105	Canadian Imperial Bank of Commerce	PO Box 115 Commerce Court Postal Stn Toronto, ON M5L 1E5	Mortgage CA7060449 Assignment of Rents CA7060450

4. GC Capital Inc.

4.1 1816 – 1177 West Hastings Street, Vancouver, BC V6E 2K3

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
3, 6, 11, 14, 24, 25, 26, 28, 34, 39, 41, 42, 43, 45, 48, 53, 54, 55, 60, 61, 69, 70, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 116, 119, 210, 211, 212, 215 202, 307, 309, 310, 311, 314, 317, 303, 304	112, 102, 103, 111, 214, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	GC Capital Inc.	1816 – 1177 West Hastings Street Vancouver, BC V6E 2K3	Mortgage CA6769537 Assignment of Rents CA6769538 Change of Name CA7978675

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
3, 6, 11, 14, 24, 25, 26, 28, 34, 39, 41, 42, 43, 45, 48, 53, 54, 55, 60, 61, 69, 70, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 116, 119, 210, 211, 212, 215 202, 307, 309, 310, 311, 314, 317, 303, 304	112, 102, 103, 111, 214, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	GC Capital Inc.	1816 – 1177 West Hastings Street Vancouver, BC V6E 2K3	Judgment CA8042787

4.2 c/o 900 – 885 West Georgia Street, Vancouver, BC V6C 3H1

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
3, 6, 11, 14, 24, 25, 26, 28, 34, 39, 41, 42, 43, 45, 48, 53, 54, 55, 60, 61, 69, 70, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 116, 119, 210, 211, 212, 215 202, 307, 309, 310, 311, 314, 317, 303, 304	112, 102, 103, 111, 214, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	GC Capital Inc.	c/o 900- 885 West Georgia Street Vancouver, BC V6C 3H1	Certificate of Pending Litigation CA7654661

5. **Genesis Mortgage Investment Corp.**

5.1 c/o 19th Floor – 885 West Georgia Street, Vancouver, BC V6C 3H4

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
7, 10, 12, 29, 30, 37, 44, 47, 51, 53, 57, 58, 67, 75	111, 115, 117, 216, 217, 305, 312, 316, 301, 303	115, 116, 109, 202	Genesis Mortgage Investment Corp.	c/o 19 th Floor- 885 West Georgia Street Vancouver BC V6C 3H4	Certificate of Pending Litigation CA8358866
4, 5, 11, 69, 55, 70, 18	108, 109, 116, 104	111, 112, 214	Genesis Mortgage Investment Corp.	c/o 19 th Floor, 885 West Georgia Street Vancouver BC V6C 3H4	Judgment CA8924371

6. **HNK Lending Ltd.**

6.1 2233 West 35th Avenue, Vancouver, BC V6M 1J4

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
7, 10, 12, 29, 30, 37, 44, 47, 51, 52, 57, 58, 67, 75	111, 115, 117, 216, 217, 305, 312, 316, 301, 302	115, 116, 109, 202	HNK Lending Ltd.	2233 West 35 th Avenue Vancouver, BC V6M 1J4	Mortgage CA7467880 Assignment of Rents CA7467881 Transfer of Charge CA9108523- CA9108526

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
55, 69		112, 111	HNK Lending Ltd.	2233 West 35 th Avenue Vancouver, BC V6M 1J4	Mortgage CA6752672 Assignment of Rents CA6752673 Certificate of Pending Litigation CA7464280 Transfer of Charge CA9727180- CA9727182
52, 67	302	109	HNK Lending Ltd. Should CA7603813 be Genesis???	2233 West 35 th Avenue Vancouver, BC V6M 1J4	Extension of Mortgage CA7603813 Transfer of Charge CA9108523- 9108526

7. **HSBC Bank Canada**

7.1 1550 Marine Drive, West Vancouver, BC V7V 1H8

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
85		212	HSBC Bank Canada	1550 Marine Drive West Vancouver, BC V7V 1H8	Mortgage CA7318577

8. Royal Bank of Canada8.1 10 York Mills Road, 3rd Floor, Toronto, ON M2P 0A2

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
38	306		Royal Bank of Canada	10 York Mills Road, 3 rd Floor, Toronto, ON M2P 0A2	Mortgage CA3784365
93		304	Royal Bank of Canada	10 York Mills Road, 3 rd Floor, Toronto, ON M2P 0A2	Mortgage CA4330712

8.2 1st Floor, 180 Wellington Street West, Toronto, ON M5J 1J1

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
18	104		Royal Bank of Canada	1 st Floor, 180 Wellington Street West Toronto, ON M5J 1J1	Mortgage CA1984395

9. Scotia Mortgage Corporation

9.1 4299 Kingsway, Unit 9, Burnaby, BC V5H 1Z5

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
74		201	Scotia Mortgage Corporation	4299 Kingsway, Unit 9, Burnaby, BC V5H 1Z5	Mortgage CA4121372
31	218		Scotia Mortgage Corporation	4299 Kingsway, Unit 9, Burnaby, BC V5H 1Z5	Mortgage CA5140987

10. The Bank of Nova Scotia

10.1 6498 Fraser Street, Vancouver, BC V5W 3A5

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
08	112		The Bank of Nova Scotia	6498 Fraser Street Vancouver, BC V5W 3A5	Mortgage CA5381882

10.2 2800 East 1st Avenue, Unit 244, Vancouver, BC V5M 4P1

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
56		114	The Bank of Nova Scotia	2800 East 1 st Avenue, Unit 244 Vancouver, BC V5M 4P1	Mortgage BX477477

11. The Toronto Dominion Bank

11.1 500 Edmonton City Centre E., 10205 – 101 Street, 5th Floor, Edmonton, AB T5J 5E8

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
49	318		The Toronto-Dominion Bank	500 Edmonton City Centre E. 10205 – 101 Street, 5 th Floor Edmonton, AB T5J 5E8	Mortgage CA9604816
64		106	The Toronto-Dominion Bank	500 Edmonton City Centre E. 10205 – 101 Street, 5 th Floor Edmonton, AB T5J 5E8	Mortgage CA4604829
62		104	The Toronto-Dominion Bank	500 Edmonton City Centre E. 10205 – 101 Street, 5 th Floor Edmonton, AB T5J 5E8	Mortgage CA5366063
17	103		The Toronto-Dominion Bank	500 Edmonton City Centre E. 10205 – 101 Street, 5 th Floor Edmonton, AB T5J 5E8	Mortgage CA9188453
94		305	The Toronto-Dominion Bank	500 Edmonton City Centre E. 10205 – 101 Street, 5 th Floor Edmonton, AB T5J 5E8	Mortgage CA2071264

11.2 3rd Floor, 10004 Jasper Avenue, Edmonton, AB T5J 1R3

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
33	201		The Toronto-Dominion Bank	3 rd Floor – 10004 Jasper Avenue Edmonton, AB T5J 1R3	Mortgage BB0694135

12. Vancouver City Savings Credit Union

12.1 5590 Victoria Drive, Vancouver, BC V5P 3W1

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
68		110	Vancouver City Savings Credit Union	5590 Victoria Drive Vancouver, BC V5P 3W1	Mortgage CA3760285

12.2 4302 Hastings Street, Burnaby, BC V5C 2J9

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
86		314	Vancouver City Savings Credit Union In Trust	4302 Hastings Street Burnaby, BC V5C 2J9	Mortgage CA1118489

13. Van Tel / Safeway Credit Union

13.1 515 Sixth Street, New Westminster, BC V3L 3B9

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
99		310	Van Tel / Safeway Credit Union	515 Sixth Street New Westminster, BC V3L 3B9	Mortgage BW395075

14. West Five Enterprises Ltd.

14.1 1100 – 510 Burrard Street, Vancouver, BC V6C 3A8

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
37, 47, 44, 29, 67, 58, 12, 75, 52, 51, 30, 10, 7, 57	305, 316, 312, 216, 117, 302, 301, 217, 115, 111	109, 116, 202, 115	West Five Enterprises Ltd.	1100 – 510 Burrard Street Vancouver, BC V6C 3A8	Mortgage CA8900660

15. Westward Mortgage Ltd.15.1 21795 – 119th Avenue, Maple Ridge, BC V2X 8E3

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
33	201		Westward Mortgage Ltd.	21795 – 119 th Avenue Maple Ridge, BC V2X 8E3	Mortgage CA5172724

C. Other Charge Holders1. 1076737 B.C. Ltd.1.1 2233 West 35th Avenue, Vancouver, BC V6L 1J5

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
70, 11, 69, 55	116	214, 111, 112	1076737 B.C. Ltd.	2233 West 35 th Avenue Vancouver, BC V6L 1J5	Mortgage CA6752674 Assignment of Rents CA6753240
7, 10, 12, 29, 30, 37, 44, 47, 51, 52, 57, 58, 67, 75	111, 115, 117, 216, 217, 305, 312, 316, 301, 302,	115, 116, 109, 202	1076737 B.C. Ltd.	2233 West 35 th Avenue Vancouver, BC V6L 1J5	Mortgage CA8163849 Assignment of Rents CA8163850

1.2 c/o 1200 – 1075 West Georgia Street, Vancouver, BC V6E 3C9

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
70, 11	116	214	1076737 B.C. Ltd.	c/o 1200-1075 West Georgia Street Vancouver, BC V6E 3C9	Certificate of Pending Litigation CA7562087

2. 1162037 B.C. Ltd.

2.1 2300- 550 Burrard Street, Vancouver BC V6C 2B5

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
3, 6, 7, 10, 11, 14, 24, 25, 26, 28, 30, 34, 39, 41, 42, 43, 45, 48, 51, 53, 54, 55, 57, 60, 61, 69, 70, 73, 76, 78, 82, 87, 88, 89, 90, 91, 92, 97	107, 110, 111, 115, 116, 119, 210, 211, 212, 215, 217, 202, 307, 309, 310, 311, 314, 317, 301, 303, 304	112, 115, 102, 103, 111, 214, 217, 203, 205, 209, 315, 316, 317, 301, 302, 303, 308	1162037 B.C. Ltd.	2300- 550 Burrard Street, Vancouver BC V6C 2B5	Judgment CA7954787 Judgment CA9607109

3. The Owners, Strata Plan NW2893.1 c/o 210 – 10330 152nd Street, Surrey, BC V3R 4G8

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
69		111	The Owners, Strata Plan NW289	c/o 210- 10330 152 nd Street Surrey, BC V3R 4G8	Strata Property Act Lien CA8483227
55		112	The Owners, Strata Plan NW289	c/o 210- 10330 152 nd Street Surrey, BC V3R 4G8	Strata Property Act Lien CA8480140
70		214	The Owners, Strata Plan NW289	c/o 210- 10330 152 nd Street Surrey, BC V3R 4G8	Strata Property Act Lien CA8480142
11	116		The Owners, Strata Plan NW289	c/o 210- 10330 152 nd Street Surrey, BC V3R 4G8	Strata Property Act Lien CA8479939

4. City of Burnaby

4.1 4949 Canada Way, Burnaby, BC V5G 1M2

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
75		202	City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388997
58		116	City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388994
57		115	City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388992
47	316		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388982
44	312		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388981
37	305		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388979
52	302		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388978
51	301		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388975
30	217		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388974

Strata Lot	3925 Kingsway Unit No.	5715 Jersey Ave. Unit No.	Registered Charge Holder	Charge Holder Address	Nature of Charge & Charge No.
29	216		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388972
12	117		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388970
10	115		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388968
7	111		City of Burnaby	4949 Canada Way, Burnaby, BC V5G 1M2	Notice of Tax Sale CA9388963

NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE OWNERS, STRATA PLAN NWS289

PETITIONER

AND:

1161359 B.C. Ltd. and each of the parties set out in
Appendices "A" and "B" to this Petition

RESPONDENTS

PETITION TO THE COURT



Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2

Phone: (604) 685-3456
Attention: Peter J. Roberts, Q.C.

PJR/flj