

**Date:** June 10, 2002  
Re-convened June 13, 2002

**Location:** Meeting Room - 1272 Comox Street, Vancouver, B.C.

**Present:** **June 10, 2002**  
Rusty Ker, President  
Patricia Pracher, Treasurer  
Mike Ghafarzadeh, Member      Stan Bennett, Member  
    Pat Rose, Member

Also present: John Christenson, Unit #304  
    Stephen Bese, Unit #602  
    Kevin Guidera, Barrister & Solicitor  
    Dexter Sterling, Unit #602  
    John Rose, Unit #502

**Present:** **June 13, 2002**  
Rusty Ker, President  
Patricia Pracher, Treasurer  
Mike Ghafarzadeh, Member      Stan Bennett, Member  
    Pat Rose, Member

Also present: Aida Davis, Unit #302  
    John Rose, Unit #502  
    Adriaan C. deVries, Unit #404

#### **Meeting - June 10, 2002**

The meeting was called to order at 7:30 p.m., by Rusty Ker, President.

It was acknowledged that Mr. Fleming, Vice-President, was in grave condition in hospital in Seattle and that all members of the Strata Council wish him all the best for his recovery.

#### **PURPOSE OF MEETING**

The purpose of the meeting was to conduct a hearing requisitioned by Mr. Dexter Sterling of full Council, to address and resolve the decisions requested by Mr. Sterling, and to address any other business, if applicable.

#### **APPROVAL OF LAST MINUTES**

MOTION was made by Stan Bennett that the Minutes for the last Strata Council Meeting held on June 4, 2002 as tabled, be approved. The Motion was SECONDED by Mike Ghafarzadeh, and CARRIED unanimously.

It was noted that the minutes from the May 28, 2002, meeting had not yet been received from Barker, Ross & Associates.

#### **HEARING**

As this hearing was taking place at a Strata Council Meeting, the issue arose as to who may attend this meeting. According to the Strata Property Act, owners may attend as observers and tenants may attend at their request, duly approved by Council. Mr. Sterling advised the Council that all those present at the meeting met those requirements. Mr. Ker enquired as to the attendance of Mr. Bese and Mr. Guidera. Mr. Sterling advised that all tenants of unit #602 had requested the hearing. Mr. Ker confirmed whether all members who had requested the hearing were indeed tenants of unit #602. Mr. Sterling confirmed that all members requesting the hearing, he himself, Mr. Bese and Mr. Guidera are registered tenants of unit #602. The hearing portion of the meeting then proceeded.

Mr. Sterling began by calling into question the re-adoption of Roberts Rules of Order, as referred

to in the Minutes of the meeting held May 17, 2002. Mr. Sterling pointed out that a by-law may not be amended by Council but only at an Annual General Meeting of all owners.

This fact was not new to Council as the Motion from the June 4, 2002, meeting states:

**"All Meetings of the Council shall be governed by Roberts Rules of Order (re-adoption) and by-laws to be amended at next A.G.M."**

Roberts Rules of Order had been a part of the previous Strata by-laws but had been inadvertently omitted upon adoption of the new by-laws in 2001. Re-adoption of these Rules was deemed necessary by the Council in order to conduct the Strata's business in an orderly fashion.

Mr. Sterling then proceeded to read a letter provided to him by Pat Rose. The letter was written by Ms. Valerie Lindstrom of Barker, Ross & Associates dated June 10, 2002. The letter is appended hereto.

Mr. Sterling continued by describing numerous complaints he had about certain Council members (conflicts of interest with Mr. Ker and Mr. Bennett) and expressed dissatisfaction with the Council's actions on various building repair & maintenance issues (garden issues, in particular) and called into question Council's "honesty and integrity", the details of which may be found in Mr. Sterling's numerous letters which are presented later in the hearing and are appended hereto (see Request #9).

Mr. Sterling referred to the Strata Property Act, reading aloud various sections of the Act, applicable to his particular complaints.

Mr. Ker reminded Mr. Sterling to summarize his information into the form of "requests for a decision" to be made by Council.

**Request #1**

Conflict of interest with unit #602 - Mr. Bennett and Mr. Bese

Mr. Bennett came from a ten-year acrimonious relationship with Mr. Bese's mother. Mr. Sterling requested that Mr. Bennett be removed from any discussion or vote and be absent from the meeting room with respect to any discussions about unit #602.

Mr. Bese, having nothing further to add to this, left the meeting.

**Request #2**

Mr. Sterling stated that Mr. Ker had been making personal enquiries regarding unit #602 residents, guests and business associates. Mr. Sterling requested to ascertain whether these enquiries were undertaken with the consent, written or otherwise, of the Strata Council; or whether these enquiries were undertaken "as a personal individual".

**Request #3**

Mr. Sterling stated that Mr. Ker made a telephone call to Valerie Lindstrom on February 19 stating "I am running an illegal drug operation from my suite". Mr. Sterling requested to ascertain whether this call was undertaken with the consent, written or otherwise, of the Strata Council; or whether this call was undertaken "as a personal individual".

**Request #4**

With regards to work performed on the back garden (south-east corner) of the building, question arose as to who bears responsibility for the costs of such work. Mr. Sterling stated that he is of the opinion that this work is not the responsibility of the Strata but rather the responsibility of the owners of the unit associated with this section of the garden. Mr. Sterling referred to a Form "B". Mr. Sterling requested that "Mr. Ker be held solely responsible for the work on the back garden" on the basis of s.33(b) of the Strata Property Act & Form "B".

Request #5

Mr. Sterling referred back to the work performed on the back garden (as outlined in Request #4) and stated that it was his opinion that the "back membrane had failed". It was Mr. Sterling's opinion that the work performed on the back garden should have been coupled with repair to the back membrane in order to conserve costs.

Mr. Sterling requested that the Strata Council "stop Mr. Ker from interfering with professional people who are here to maintain and deal with this building"; "If this does not happen, then this Strata Council will bear the full responsibility under s.31" of the Strata Property Act.

Request #6

Mr. Sterling proceeded to present several photographs to the Council stating that they had been taken on certain dates which did not exist. Mr. Sterling pointed out Mr. Ker's handwriting next to the photographs. Mr. Ker denied that the handwriting was his. It was not explained why these photographs were being presented or why they may have been taken. The only photograph(s) that appeared to show anything were those showing dog excrement on a balcony. Other photographs appeared to be photographs of the south side of the building. Mr. Ghafarzadeh reminded Mr. Sterling that such "evidence" was not useful to Council as "we are not experts".

Conflict of interest with unit #602 - Mr. Ker

Mr. Sterling brought up the subject of Mr. Adam Cowan's presence in the building.

Mr. Sterling brought up a conflict of interest with Mr. Ker. Details of the conflict were not presented to the Council. Based on such conflict of interest, Mr. Sterling requested that Mr. Ker be removed from any discussion or vote and be absent from the meeting room with respect to any discussions about unit #602.

Mr. Sterling brought forward a letter from Belgrave Construction dated June 7, 2002. The letter is on file with Barker Ross & Associates.

Request #7

Mr. Sterling requested that Strata Council advise Mr. Ker of the rules of the Strata Council regarding minutes of Strata Council meetings and the fact that these "are not private documents".

Request #8

Mr. Sterling requested that the adoption made of motions at the Strata Council Meeting held on May 17, 2002, pertaining to "tenants and the Roberts Rules of Order" be declared null and void.

Request #9

Mr. Sterling proceeded by requesting that all letters addressed to this Council be entered into new correspondence "and not edited out for the convenience of Mr. Ker and Mr. Bennett". He listed the correspondence as follows:

- 1) letter dated February 19, 2002
- 2) letter dated February 26, 2002
- 3) letter dated April 5, 2002
- 4) letter dated April 6, 2002
- 5) letter dated April 9, 2002
- 6) letter dated February 19, 2002 (duplicate?)

the letters are on file with Barker Ross & Associates. Further, Mr. Sterling handed another letter to all Council members. This letter was from Mr. John Christenson dated June 10, 2002, requesting another hearing further to his hearing held on June 4, 2002. The letter is on file with Barker Ross & Associates.

Request #10

Mr. Sterling then voiced a complaint about an incident where he parked his car behind the building for a number of hours and was questioned about the timing of the parking. As this area is free for

use by building owners, tenants, and/or guests for a period of 12 hours, Mr. Sterling requested that Mr. Ker be "apprised regarding the back of the building including the City by-laws".

Request #11

Mr. Sterling requested a letter of resignation from Messrs. Ker and Bennett.

The hearing portion of the meeting adjourned.

As the hearing portion of the meeting proceeded longer than anticipated and members of the Council had other time commitments that evening, it was decided that due to the large number of requests made, the meeting reconvene on Thursday, June 13, 2002.

The meeting was adjourned at approximately 9:00 p.m. MOTION made by Mike Ghafarzadeh, SECONDED by Pat Rose, CARRIED unanimously.

**Meeting - June 13, 2002**

The meeting was called to order at 6:00 p.m., by Rusty Ker, President.

This meeting served as a continuation of the June 10, 2002 meeting where a hearing took place on behalf of Mr. Dexter Sterling.

As there was further correspondence received regarding dissatisfaction with the garden committee, it was deemed efficient to deal with the issue of maintenance of the landscaping of the strata property first as it was also one of the issues addressed during the hearing.

With respect to work performed on the south-east patio removing the bamboo and re-planting the area with new vegetation, **MOTION** was made by Pat Rose, **SECONDED** by Patricia Pracher that the Strata Property be responsible for the cost of removing the bamboo but that the cost of re-planting the patio area with new plants, be borne by the owners of the unit in question (#203). This motion was **CARRIED** unanimously. Reasoning behind this decision was that the bamboo was seen to potentially cause damage to the Strata Property and had to be removed professionally in order to avoid such damage.

Further, regarding the landscaping issue, general dissatisfaction with the landscaping over the past nine months or so, **MOTION** was made by Pat Rose, **SECONDED** by Patricia Pracher, that the garden contract be put out for bid and that three quotes be obtained for the landscaping maintenance of the property. This motion was **CARRIED** by a majority of Strata Council Members (Stan Bennett abstained),

The meeting continued to deal with the hearing portion of the June 10, 2002 meeting. Mr. Bennett noted that he had received some professional advice on some of the issues in question. The "requests" made by Mr. Sterling were dealt with according to the Strata Property Act ("SPA") and the Strata Property's by-laws ("the By-laws").

Request #1

Conflict of interest with unit #602 - Mr. Bennett and Mr. Besé

s.32 of the SPA defines as conflict of interest as follows: "A council member who has a direct or indirect interest in a contract or transaction with the strata corporation"

No conflict of interest exists with respect to Request #1 under the SPA.

Request #2

"personal enquiries regarding unit #602 residents, guests and business associates"

The members of the Strata Council are not aware of and have no knowledge of the alleged

personal enquiries made by Mr. Ker.

Request #3

"telephone call to Valerie Lindstrom on February 19"

The members of the Strata Council are not aware of and have no knowledge of the alleged telephone call made by Mr. Ker.

Request #4

With regards to work performed on the back garden (south-east corner) of the building... who bears responsibility for the costs of such work.

This issue and other landscaping issues have been addressed in the first two motions of this meeting.

Request #5

Mr. Sterling requested that the Strata Council "stop Mr. Ker from interfering with professional

people who are here to maintain and deal with this building";

s. 31 of the SPA states:

"In exercising the powers and performing the duties of the strata corporation, each council member must

- (a) act honestly and in good faith with a view to the best interests of the strata corporation, and
- (b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances."

Strata Council acts as the managing body for the Strata Corporation and this includes dealing with outside professionals. Strata Council feels that its members have exercised due standard of care in dealing with each issue at hand.

Request #6

Conflict of interest with unit #602 - Mr. Ker

s.32 of the SPA defines as conflict of interest as follows: "A council member who has a direct or indirect interest in a contract or transaction with the strata corporation"

No conflict of interest exists with respect to Request #6 under the SPA.

Request #7

"Strata Council advise Mr. Ker of the rules of the Strata Council regarding minutes of Strata Council meetings"

s. 35 of the SPA states as follows:

"(1) The strata corporation must prepare all of the following records:

- (a) minutes of annual and special general meetings and council meetings, including the results of any votes..."

Minutes are distributed by the Strata's management company, Barker Ross & Associates, to all owners of the Strata Property in the required time frame.

Request #8

Mr. Sterling requested that the adoption made of motions at the Strata Council Meeting held on May 17, 2002, pertaining to "tenants and the Roberts Rules of Order" be declared null and void.

Strata Council acts according to the SPA with respect to who may attend Council Meetings.

Roberts Rules of Order had been part of the Strata's by-laws since inception and were inadvertently omitted upon adoption of the new by-laws in November of 2001. The motion of May 17, 2002 was made to re-adopt Roberts Rules of Order to be passed at the Annual General

Meeting.

Request #9

"...all letters addressed to this Council be entered into new correspondence."

The letters are on file with Barker Ross & Associates. Issues raised in those letters are being addressed at this meeting.

Prior to the May 28, 2002, meeting no proper procedure dealing with owners' complaints was in place. A "Hearings Committee" was established. This Committee is to deal with all complaints and/or concerns that may arise from time to time. It is Strata Council's belief that all outstanding concerns have been addressed at the last two hearings.

Request #10

"Mr. Ker be "apprised regarding the back of the building including the City by-laws".

Regarding an incident with respect to parking in the back lane, the members of the Strata Council are not aware of and have no knowledge of the alleged incident with Mr. Ker.

Request #11

Mr. Sterling requested a letter of resignation from Messrs. Ker and Bennett.

Instruction Guide #4 (The Role and Responsibilities of the Strata Council) states under s.5: "a strata council member can be removed, with or without cause, by a majority vote of the owners at a general meeting, and the owners must then elect a replacement strata council member;"

The Annual General Meeting of this Strata Property is scheduled to be held some time in August, 2002.

**Other Business**

Caulking work - Belgrave Construction

Belgrave construction has, in a discussion with an owner of the Strata Property, agreed to go ahead with the caulking work on the north side of the building subject to no guarantees and no involvement of Mr. Ker. On this basis, Strata Council decided to inform Barker Ross & Associates of this development and to direct them to proceed with the work.

Minutes of May 28, 2002

**MOTION** was made that the May 28, 2002 minutes be approved with the following changes: On page 3 under "Nominating Committee", the members should read: "Council members Patricia Pracher, Mike Ghafarzadeh and Pat Rose will serve on this Committee." In the same paragraph, last two lines, the sentence should read: "Council member Stan Bennett stated that this was not in the Strata Property Act and that the Act calls for a one year term." On the last page, paragraph (e) needs to be re-formatted to fit the page.

This motion was **SECONDED** by Mike Ghafarzadeh and **CARRIED** by a majority of Council Members (Pat Rose abstained).

Resignation from Garden Committee

Mr. Bennett announced his resignation from the Garden Committee. His duties will be absorbed by the Strata council as a whole.

There being no further business it was **MOVED** by Stan Bennett that the meeting be adjourned. The meeting adjourned at 7:00 p.m.

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