



NO. S236296  
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 NW2599**

**BETWEEN:**

THE OWNERS, STRATA PLAN NW2599,  
CROWE MACKAY & COMPANY LTD., AS LIQUIDATOR OF  
THE OWNERS, STRATA PLAN NW2599,  
and each the parties set out in Appendix "A" to the Petition

**PETITIONERS**

**AND:**

VANCOUVER CITY SAVINGS CREDIT UNION,  
RELIABLE MORTGAGES INVESTMENT CORP.,  
TORONTO DOMINION BANK,  
COAST CAPITAL SAVINGS FEDERAL CREDIT UNION,  
ROYAL BANK OF CANADA,  
SCOTIA MORTGAGE CORPORATION,  
COMPUTERSHARE TRUST COMPANY OF CANADA,  
CANADIAN IMPERIAL BANK OF COMMERCE,  
FIRST WEST CREDIT UNION,  
THE BANK OF NOVA SCOTIA,  
THE CROWN IN RIGHT OF BRITISH COLUMBIA,  
CITY OF CHILLIWACK  
and each the parties set out in Appendix "B" to the Petition

**RESPONDENTS**

**NOTICE OF APPLICATION**

**Names of Applicants:** the Petitioners

**To:** the Respondents

TAKE NOTICE that an application will be made by the Applicants to the presiding judge at the Courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia on Thursday, the 26th day of September, 2024 at 9:45 a.m. for the orders set out in Part 1 below.

The Applicants estimate that the application will take 15 minutes.

This matter is not within the jurisdiction of an Associate Judge.

**Part 1: ORDERS SOUGHT**

1. An order, without reference to the Registrar, that the fees and disbursements of the Liquidator be and are hereby approved for the following periods in the following amounts:

- (a) for the period April 13, 2023 to May 28, 2024, legal fees of Lawson Lundell LLP totalling \$126,931.18 (inclusive of taxes and disbursements);
- (b) for the period February 23, 2023 to February 16, 2024, fees of Crowe MacKay & Company Ltd. (the “**Liquidator**”) totalling \$13,500 (inclusive of taxes and disbursements); and
- (c) anticipated fees and disbursements of Lawson Lundell LLP to obtain approval the final accounts and effect the discharge of the Liquidator in the amount of up to \$5,000 (inclusive of taxes and disbursements).

2. An order discharging the Liquidator.

3. An order that the requirement for any party other than the Liquidator to endorse the form of order be dispensed with.

4. Costs of this application, if opposed.

5. Such further and other orders as this Honourable Court may deem just.

**Part 2: FACTUAL BASIS**

1. The strata corporation, The Owners, Strata Plan NW2599 (the “**Hazelwood Manor Strata**”), is comprised of 39 residential strata lots and the associated common property (the “**Lands**”). The Hazelwood Manor Strata is located at 9282 Hazel Street, Chilliwack, B.C.

2. The Petitioners are the Hazelwood Manor Strata and the registered owners of 29 of the 39 strata lots in the Hazelwood Manor Strata.

3. The Respondents listed in Appendix “B” to the Petition are the registered owners of the remaining 10 strata lots of the Hazelwood Manor Strata. The other named Respondents are the financial and other charge-holders registered against title to the individual strata lots of the Hazelwood Manor Strata.

4. The Hazelwood Manor Strata was created in 1987 and was a cement foundation, wooden frame, three-story residential building. The Hazelwood Manor Strata building burned down in a fire on July 29, 2021 and was completely destroyed.

5. Rather than rebuild the building, the owners of the Hazelwood Manor Strata decided to wind-up the Hazelwood Manor Strata and sell the Lands to a developer. The Hazelwood Manor Strata engaged commercial brokers to market the lands.

6. Ratzlaff Development Corp. (the “**Purchaser**”) signed a Purchase and Sale Agreement with strata council of the Hazelwood Manor Strata, dated for reference July 4, 2023 (the “**PSA**”). Under the PSA, the Purchaser agreed to purchase the Lands for a sale price of \$4,750,000.

7. On August 24, 2023, the Hazelwood Manor Strata held a special general meeting (the “**SGM**”) to consider resolutions to wind-up and cancel the strata plan and consider the approval of the PSA. At the SGM, the owners of all 39 strata lots unanimously voted to approve the PSA (which required an 80% majority vote).

8. In approving the winding-up at the SGM, the Hazelwood Manor Strata owners also approved the appointment of Crowe MacKay & Company Ltd. as a liquidator of the Hazelwood Manor Strata (the “**Liquidator**”), and approved the estimated costs of the winding-up. The estimated costs of the winding-up included “legal fees (including conveyancing and liquidator fees) of averaging approximately \$4,500.00 plus disbursements and applicable taxes per strata lot”.

9. On October 23, 2023, Justice Iyer granted the Petitioners’ application for, *inter alia*, orders:

- (a) approving the voluntarily winding-up of the Hazelwood Manor Strata;

- (b) approving the appointment of Crowe MacKay & Company Ltd. as liquidator (the “**Liquidator**”);
- (c) approving the sale of the Lands to the Purchaser pursuant to the terms of the PSA; and
- (d) directing that the sale proceeds be distributed:
  - (i) firstly, in payment of all matters of adjustment with respect to the sale of the Lands;
  - (ii) secondly, in payment of any legal fees incurred by the Petitioners in relation to this proceeding and the sale of the Lands; and
  - (iii) thirdly, divided rateably among the owners of the Lands in accordance with their entitlement under the interest schedule.

10. The PSA closed in December 2023 (the “**Completion Date**”). In advance of the Completion Date, each of the Hazelwood Manor Strata owners signed an Irrevocable Authorization and Direction to Pay, which directed Lawson Lundell LLP to disburse each owner’s portion of the net sale proceeds, save for a portion of the proceeds that were held back for payment of fees, including those owing to the Liquidator and Lawson Lundell LLP, and attaching a trust reconciliation statement.

11. As required by the Land Title Office, the Liquidator filed a Certificate of Strata Corporation (Form E) wherein the Liquidator confirmed that, prior to its discharge, the Liquidator would complete the final accounts for the Hazelwood Manor Strata and provide all owners with the final accounting (and thereby provide them with the opportunity to dispute the final accounting).

12. The Liquidator’s final accounts are as follows:

<b>Account</b>	<b>Amount Owning</b>
Crowe MacKay & Company Ltd.	\$13,500.00

Lawson Lundell LLP	April 13, 2023 to May 28, 2024	\$126,931.18
	Estimated fees to effect discharge	\$5,000.00
<b>Total:</b>		\$145,431.18

13. The Liquidator’s final accounts provide for an average cost of approximately \$3,729 per strata lot (*inclusive* of taxes and disbursements). This figure is less than the \$4,500 per strata lot (*exclusive* of taxes and disbursements) estimate that the Hazelwood Manor Strata owners approved at the SGM.

14. As the wind-up has completed, the PSA has closed, and all accounts have been finalized, the Liquidator is now in a position to obtain a discharge.

### **Part 3: LEGAL BASIS**

15. Pursuant to s. 276 of the *Strata Property Act*, S.B.C. 1998, c. 43 (the “*SPA*”), the provisions of the *Business Corporations Act*, S.B.C. 2002, c. 57 (the “*BCA*”) that apply to a voluntary liquidation of a company are applicable to the voluntary winding up of a strata corporation with a liquidator.

16. Subsection 350(1) of the *BCA* provides that after a company—or in this case, by operation of s. 276 of the *SPA*, a strata corporation—has been dissolved, a liquidator who has not been discharged may make application to the court to be discharged as liquidator. Subsection 350(2) contemplates that a liquidator’s application for discharge should include the final accounts of the liquidation.

17. Section 283 of the *SPA* provides that the registrar must not file the application for dissolution unless that application is accompanied by a Certificate of Strata Corporation (Form E) in the prescribed form stating that the final accounts referred to in the application have been approved by a resolution passed by a  $\frac{3}{4}$  vote at an annual or general special meeting.

18. Having completed the winding-up of Hazelwood Manor Strata and the sale of the Lands, the Liquidator seeks:

- (a) a discharge; and

- (b) approval of its final accounts, which do not exceed the estimate approved by the Hazelwood Manor Strata owners.

**Part 4: MATERIAL TO BE RELIED ON**

- 19. Affidavit #1 of Derek Lai, made September 12, 2023.
- 20. Affidavit #2 of Derek Lai, made May 8, 2024.
- 21. Affidavit #1 of Elianne Abramovich, made September 1, 2023.
- 22. Affidavit of Jillian Sych, made August 31, 2023.
- 23. Order of Justice Iyer, made October 23, 2023.
- 24. The pleadings and process filed herein.
- 25. Such further and other material as counsel may advise and the court may allow.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application.

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed Application Response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated at the City of Vancouver, in the Province of British Columbia, this 3<sup>rd</sup> day of September, 2024.



Lawson Lundell LLP  
Solicitors for the Applicants

This notice of application is filed by Peter J. Roberts, K.C. / Sarah B. Hannigan, 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, e-mail addresses: proberts@lawsonlundell.com / shannigan@lawsonlundell.com; telephone number: 604-685-3456.

*To be completed by the court only:*

Order made

in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application

with the following variations and additional terms:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date:

\_\_\_\_\_  
Signature of  Judge  Associate Judge

**APPENDIX**

The following information is provided for data collection purposes only and is of no legal effect.

**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- none of the above



NO. S236296  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

THE OWNERS,  
STRATA PLAN  
NW2599 ET AL.

PETITIONERS

AND:

VANCOUVER CITY  
SAVINGS CREDIT  
UNION ET AL.

RESPONDENTS

---

**NOTICE OF APPLICATION**

---



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

Phone: (604) 685-3456

Attention: Peter J. Roberts, K.C. / Sarah B. Hannigan