



## **Minutes of a Regular Council Meeting**

Strata Corporation VIS 4673  
Lighthouse Community Centre  
240 Lions Way, Qualicum Beach, B.C.  
June 3, 2019



Council Present:

Brian Gallagher, Doedy Reislter, Earl O’Hara, Garry Fisher, Harry Oppenlander, Lorraine Webb, Trish Curtin, Mike McDowell

Observers Present:

Lynn and Helmut Balzer Lot 167, Janet Lot 192, Judy Lot 196, Anita Lot 264, Fran Lot 43, Geoff Lot 21

Garry presented a letter to the strata council (attached) and his resignation.

**1. Call to Order**

Brian Gallagher, President, called the meeting to order at 6:45 p.m.

**2. Approval of Agenda**

Trish requested the following additions to the Agenda in New Business

- RDN Liaison
- CRTC License
- Engineer for well 15

*Moved:* Mike

*Second:* Doedy

**CARRIED UNANIMOUSLY**

**CARRIED UNANIMOUSLY**

**3. Approval of minute from previous Strata Council meeting April 15, 2019**

*Moved:* Trish

*Second:* Brian

**CARRIED UNANIMOUSLY**



## 4. Reports

### a. Policies and Procedures

Nothing to report.

### b. Design Review Committee

- i. Rob has resigned from Strata Council. Doedy will help out where needed. Ongoing DRC issues include Insurance for repairs to storage lockers. There is a new application for a fence, to which Harry will respond.
- ii. Gate – a non-resident has applied to get gate code as he works up here quite often for construction. Trish will write to the owner to say that we can't do that. Brian will modify the DRC application to require insurance and note that damage to common property is the responsibility of the contractor. Brian will call answering service with names of companies entering. Trish is going to talk to the answering service to not let just anyone in. They need names and reasons for entering. We need to stop letting people pass through the gate behind us when we enter. To initiate this we have set up a Gate Committee with Mike, Doedy, Brian, Harry and Lorraine.
- iii. Garbage – John Cross is requesting another dumpster, we will monitor as this will cost money.

**PLEASE DO NOT PUT PLASTIC FILM IN RECYCLING. WASTE MANAGEMENT WILL NOT EMPTY THE DUMPSTER IF THERE ARE PLACTIC BAGS IN IT.**

- iv. Inspections and maintenance schedule – see attached road work and telecom system.
- v. Special Projects – Doedy will discuss.  
Common Water System – There was no response from Tim regarding the payment for completing well 15. We will get an engineer to look at with no cost for a quote. They will be coming in the next week.  
Well 13 arsenic report is down considerable.
- vi. Common Water System – There was no response from Tim Peligren regarding completing well 15 at his cost. We will get an engineer to



look at it and provide a quote. There is no charge for the quote. They will be coming in the next week.

**c. Financial**

- i. See attached statement. Does anyone know why a deposit was made to 4 star waterworks? The previous depreciation report may not be valid as contingency should be 40-50% of value of property and right now it is at 10%.
- ii. Report on collection decisions and directives – A number of fines were reversed. Trish and Doedy will do an audit of all residents to see what is owing.
- iii. Special projects – Road Maintenance – residents will donate equipment for this project at cost. They will be insured and work will be run through Doedy’s husband’s company with no markup. See attached project costs. They will gravel and grade roads, and apply calcium chloride. We will purchase extra to use for for de-icing later in the year. We will need storage for calcium chloride but in the meantime Doedy will store it at no charge. We need to start right away.

*Moved:* Lorraine

*Second:* Trish

**CARRIED UNANIMOUSLY**

Further on projects we need to finish the culvert work, get ditches trimmed when no longer green, and repair asphalt. We need costs for storage units to be repaired to code.

**Council Task List**

Email Brian any suggestions.

**5. Unfinished Business**

- a. **Notice of Civil Claim Suit** – Noel Stephen & Judith Munkholm – Trish reported the claim was amended in December. Attached is a copy of the lawyer’s response. No recent news. In the unlikely case of an adverse judgement, we have more than adequate insurance to cover it.



- b. The Owners List is still a work in progress. Trish will send a copy to the answering service.
- c. Telus Optik Cable Line –Trish’s contact will try to get us a start date for installing their services. Shaw will only come if we install new poles and lines which could cost up to a million dollars. BC Hydro is coming out to meet Trish to see about using their poles. Council is trying to have something ready by the AGM this fall.

## 6. New Business

- a. There is a **leaky storage unit** at Taylor Walk, Doedy’s husband will take a look.
- b. **Signage request** for Pady Place – We need signs all over so Brian and Doedy will meet to get list going.
- c. **Clicker supply** – 20 clickers need to be reprogrammed and about 20 working. We will need to order more. Candice is looking after.
- d. **Abbey Road** – Mike has arranged an assessment and quote. Aquaparian will do assessment which we need to start. Next is a land survey from an engineer.

*Moved:* Trish

*Second:* Brian

**CARRIED UNANIMOUSLY**

- e. **CRT application** – We will do a survey where land ends at lot 186. Sims from QB will find pins and if we win case we will be repaid.

*Moved:* Lorraine

*Second:* Brian

**ONE OPPOSED**

- f. **Edward Jones Authorization letter** – new signing for moving investment funds requires 2 signatures from Council.
- g. **RDN liaison** – person to act as conduit as complaint from resident and complaint from RDN. This is just for communication there is no power involved as it is not up to us to enforce their bylaws.

*Moved:* Doedy



*Second:* Mike

**3 IN FAVOUR, 4 OPPOSED  
MOTION DEFEATED**

**h. CRTC license** – We want to get rid of CRTC license as it isn't good for anything.

*Moved:* Trish

*Second:* Earl

**CARRIED UNANIMOUSLY**

**i. Well 15** was discussed in reports.

## **7. Events**

**a.** There are no events on the calendar.

## **8. Correspondence**

Harry handed in his resignation letter (attached)

Trish stated we vote to approve all correspondence we sent out last month.

*Moved:* Trish

*Second:* Brian

**CARRIED UNANIMOUSLY**

Lot 67 e-mail re: danger trees.

Lot 288 e-mail re: security concern about suspicious person lurking about.

Lot 167 e-mails re: refundables and request for contracts.

Lot 134 e-mail re: storage unit question.

Lot 79 e-mails re: when next Council meeting is, why council can't manage a meeting in May and suggesting a fire ban.



Lot 29 e-mail with letter noting disagreement with/concerns about: no emergency preparedness plan, gates, downed trees, lack of maintenance, RDN letter being posted on public page of website, previous council incompetence driving home prices down and providing incorrect/incomplete information about costs of bridge, the council president saying owners should bear costs of gate remotes and mailbox keys, lack of emergency generators for the water system, lack of update on civil claim, strata website presenting old information and being used as a real estate marketing tool and receipt of malicious e-mails.

Lot 147 e-mail re: fire hazard of downed trees at Little Qualicum River Falls Provincial Park.

Lot 228 e-mails re: one of the recycling bins not being emptied and mess at garbage collection area.

Lot 277 e-mail requesting mailing address of RDN and a copy of the RDN letter of April 18, 2019.

Lot 158 e-mail offering to assist with emergency preparedness plan.

Lot 270 e-mail offering to be RDN Riparian Liaison.

Lot 231 e-mail noting streets missed by sweeper and mulch still awaiting by Taylor Walk storage units.

Lot 217 e-mail about Telus not providing services and asking about other internet providers.

Lot 177 e-mail about signage at Pady Place/Abbey Road.

RDN e-mail requesting on-site review of ground water at well 13.

Lot 278 e-mail about water leak.



Lot 165 e-mail re: meeting agendas noting correspondence and bylaw enforcement being done in camera.

Lot 267 e-mail requesting pot hole repair, dust control and 'slow down' signs.

Various e-mails were received regarding strata fee invoicing / payment issues, DRC applications and Form B (information certificate) requests.

CRT Application:

The owner of lot 186 has started a Civil Resolution Tribunal (CRT) Application (ST-2019-002971) against the strata corporation. The owner is asking the CRT to order the strata corporation to either; (a) purchase his lot 186 from him for \$92,000, (b) give him exclusive use of the adjacent common property so he can put an RV there and rent it out to longer-term tenants to use as a residence, or (c) do a lot line adjustment so that part or all of the adjacent common property becomes part of lot 186.

Cameras In Recycle Bins:

Waste Management has confirmed by way of screen shots, that the cameras in the recycling bins only capture images from inside the bins. **NO PLASTIC BAGS OF ANY TYPE** are allowed in the recycling bins. When the camera detects a bag, the bin is not emptied until the plastic bags and any related contamination (ie: household garbage) has been removed by the strata. If owners use plastic bags for collecting and transporting their recyclables, they must dump the contents of the bag into the bin and either throw the plastic bag in a garbage bin or take it home and reuse it.

## 9. Bylaws

Discussion held in camera regarding bylaw infractions.





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**10. Next Meeting Date**

- a. Next meeting is planned for Monday July 15, 2019 at the Lighthouse Community Centre

**11. Adjournment – 10:00 p.m.**

*Moved:* Earl  
*Second:* Brian

**CARRIED UNANIMOUSLY**

\_\_\_\_\_  
Brian Gallagher, President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lorraine Webb, Secretary

\_\_\_\_\_  
Date

June 3/19

A Mary Oppenlander am resigning  
from council and DRC committee  
as of June 3/19, after meeting.

~~from~~



TITLE / PROJECT \_\_\_\_\_

DATE \_\_\_\_\_

PREPARED BY \_\_\_\_\_

PAGE \_\_\_\_\_ OF \_\_\_\_\_

June 3/2019

This is my letter of resignation  
from STIATA Council VIS4673  
Effective June 3/2019

Harry Fisher

TITLE / PROJECT \_\_\_\_\_

DATE \_\_\_\_\_

PREPARED BY \_\_\_\_\_

PAGE \_\_\_\_\_

OF \_\_\_\_\_

①

Five years ago I moved here to my retirement home, I fell in love with the scenery and the river at my back door. When we drove up to the house, I noticed a RV parked on one lot. I asked the realtor about if more RV's would be moving in. He told me that there is a covenant on these property and they can't live here, as they are designed to be just camping spots. He told me that the developer had to disclose all the info on these lots. He also told me that these lots have been for sale for years and nobody is interested in a camping spot which can't do anything with. Once the developer went into receivership the banks sold them as is. This is when the problem started, I watched lots being sold and new owners coming in chopping trees down, making bridges, paths to the river and bringing in fill to make these lots bigger. I was watching my area get destroyed. I was not going to let it happen. I spent two years learning

TITLE / PROJECT

2a

DATE

PREPARED BY

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OF

The RDN. rules,† the provinces ~~and~~  
~~strata rules~~. I read the Strata rules  
and was assured when I read them as  
it stated no full time habitation in a  
RV or a tent. The Strata doesn't seem to  
want to follow or enforce there own  
rules as we have people living full time  
in there RV's. I did my homework when I  
bought here but these RV lot owners didn't  
as if they did they would have realized  
there is a covenant on there property, not my fault  
they didn't spend the \$14.00 to get it.

I have enough knowledge that I can tell if someone  
are not following the riparian rules, Spie and  
the flood plain act. I've informed these  
lot owners on where to go to get information  
on what they can do and can't do on these  
lots. ~~I~~ I met resistance from them. I joined  
Council thinking maybe that would help instead  
where I live has become a very toxic environment  
one lot RV lot owner has went around to all  
the RV lot owners and has slandered me to the  
point no one will talk to me. I have done  
nothing wrong all I have ever done is give

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OF \_\_\_\_\_

② LB

facts. I'm not breaking any bylaws, yet we have 7-8 lot owners at least breaking bylaws from one to many bylaws. I feel my fellow Council members have given me no reinforcement. Instead I have felt like I've done something wrong. I've heard talk in the village that my fellow Council members have been speaking bad of me. This is not acceptable.

TITLE / PROJECT

(2)

DATE

PREPARED BY

PAGE

OF

I feel we are catering to the bylaw offenders to scared to hurt there feelings. We are not enforcing the bylaws. I donate my time and I don't need to feel like I'm living on pins and needles. I cannot live in a place that will not enforce there bylaws and let the bylaw breakers rule my area. ~~I'm setting my house and letting someone else clean up this mess.~~ I have contacted two lawyers one is a strata lawyer and the other is a environmental lawyer.

# MAY 2 2019 Daily Reservoir Readings

Date	Time	depth	Temp.	Well#1	Well#2	Well#9	Well#13	Res.Flow	total	
Meter				6262658602				180597		
1	830	10.6						180749		
2	835	10.7						180903		
3	825	10.6						181071		
4	805	10.6						181248		
5	740	10.7						181430		
6	720	10.1						181626		
7	710	9.2						181823		
8	740	8.7						182026		
9	730	10.3						182197		
10	750	10.3						182365		
11	850	9.8						182561		
12	845	9.0						182758		
13	730	9.3						182947		
14	646	10.7						183126		
15	755	10.9						183285		
16	620	10.8						183397		
17	855	10.7						183537		
18	830	10.6						183668		
19	830	10.7						183856		
20	735	10.5						184045		
21	810	10.7						184247		
22	730	10.6						184404		
23	735	10.3						184603		
24	815	10.3						184807		
25	830	10.8						184978		
26	850	10.4						185142		
27	825	9.8						185336		
28	820	9.9						185534		
29	735	9.9						185726		
30	735	9.9						185924		
31	715	10.5						186119		
Meter Readings				64380161027						
Total consumption				1754		2425		TOTAL = 5520 <sup>cm</sup>		
comments										or 1,214,400 Gal.
Don Buchner										

- We have used a total of 5520 <sup>cm</sup> or 1,214,400 Imp Gal this month
- This is an average daily usage of 178 <sup>cm</sup> or 39,173 Imp. Gal. Daily
- This usage is still comparatively a little high and Water Conservation should be monitored tightly if we are to sustain our water levels.

• Well 13 is up and running and the Arsenic levels are very low coming out of the reservoir. Well below Canadian Drinking Water Guidelines.

All else is good for now!!

Don Buchner  
operator # 6464



MAY		2019 Daily Residual Chlorine Readings					
Date	reservoir	SL 51	SL 27	Washrooms	SL 201	SL 177	SL 269
1	.2			.2			
2	.2				.2		
3	.2			.2			
4	.2				.2		
5	.2			.2			
6	.2				.2		
7	.2			.2			
8	.2				.2		
9	.2			.2			
10	.2				.2		
11	.2						.2
12	.2			.2			
13	.2				.2		
14	.2				.2		
15	.2			.2			
16	.2				.2		
17	.2			.2			
18	.2				.2		
19	.2				.2		
20	.2			.2	.2		
21	.2				.2		
22	.2			.2			
23	.2				.2		.2
24	.2				.2		
25	.2			.2			
26	.2				.2		
27	.2				.2		
28	.2			.2			
29	.2				.2		
30	.2			.2			
31	.2				.2		



**FullyLinked  
Systems Inc.**  
2101 Bishops Gate  
Victoria, BC  
Canada V9B6R4  
**Tel. (250) 590-6655**  
rick@fullylinked.ca

**April 30, 2019**

**RE: Outside Plant Communications Distribution Infrastructure for Strata Corp. VIS 4673  
173 Country Road, Qualicum BC, V9K2S3**

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Dear Trish,

We are providing this letter to Strata Corp. VIS 4673 to sum up our opinion regarding the state of the outside plant communications cabling throughout the property. Please note that we are not engineers and do not assume expertise as such. FullyLinked is a diverse low voltage company and some of our services involve contract work for Telus and Shaw.

After reviewing the property, evidence indicates that the current cabling is not up to today's standards and needs to be replaced in the near future. In all my years working in the communications industry, I haven't seen cabling installed like this. I observed outdoor rated multi pair cable buried directly in the earth without any protection such as conduit. Some of the cables have become exposed and damaged. There is even some cabling not buried and just running along the surface of the ground. Cable slices are laid in open bottom irrigation boxes and not the typical communications rated tubs. There are some aerial cables installed on undersized poles that service providers will likely refuse to use in the future.

It is my understanding that Telus has given notice to say that they will no longer add new services using the current cabling. For this important reason, we recommend that the strata begin to inquire into pricing to replace the existing infrastructure. Additionally, traditional copper cabling does not have the data bandwidth to handle the latest high-speed internet packages offered by Telus. Telus is currently upgrading all their outside infrastructure to fiber optics so this would be a good time to replace and upgrade the strata's infrastructure.

One last consideration is that Telus has the exclusive distribution within the subdivision, so it would be advantageous to offer home owners the choice of service providers. As an extension to this point, I contacted Shaw Cable Systems, which has service at the property line, and they are willing to work with the strata to provide a cost to access their services within the community OR to provide a cost to distribute their services within the community.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Chamberlin", with a long horizontal stroke extending to the right.

Rick Chamberlin  
Owner/Director



May 31, 2019

Strata Corporation VIS4673  
1773 Country Road  
Qualicum Beach, BC V9K2S3

**Project: Strata Common Property – Road Grading Maintenance & Partial Rehabilitation**

**Scope of Work**

- All gravel roads on common property (approx. 4.1 Kms) will be assessed for condition and receive grading to achieve 4% crown, sound shoulder and ditch conditioning as needed
- Calcium chloride (1.4 lbs. per square yard of road area, as per industry standard) will be applied in sequence with watering, turning and compacting
- Road base will be applied as needed
- Address and correct driveway transitions at road edge where needed
- One speed bump will be added on Country Road just before Dar's Place

**Note:**

- All work performed by industry professionals that reside in the Village and willing to work at a reduced rate as a service to our community
- Balance of calcium chloride to be stored for ongoing dust control
- All work will be performed on time & materials basis, all receipts will be provided as backup with invoice
- No margins or profit to be applied Mara Industries
- Project Management & Administration provided at No-Charge
- See Estimated Cost Breakdown – Page 2
- Estimate amount not to be exceeded with Strata Approval

**Total Estimated – NOT TO EXCEED**

**\$46,536.42**

**Exclusions:**

- Applicable Taxes
- Work not listed in the scope of work



May 31, 2019

**Project: Strata Common Property – Road Grading Maintenance & Partial Rehabilitation**

<b>Equipment, Materials &amp; Manpower</b>		
Grader Rental	\$ 6,800.00	Based on 7 days
Delivery of Grader by low bed	\$ 2,000.00	
Roller Packer Rental	\$ 2,500.00	Based on 7 days
Delivery of Grader by low bed	\$ 700.00	
Bobcat (Owner Supplied)	\$ 2,240.00	\$40 per hour for machine only (40HRS)
Spreader Truck (Owner Supplied)	\$ 1,500.00	\$50 per hour for machine only
Water Truck	\$ 3,000.00	Red Williams Water & Drilling Co
6x6 with Trailer (Owner Supplied)	\$ 750.00	\$25 per hour for machine only
<b>Estimate for Equipment</b>	<b>\$ 19,490.00</b>	
Gravel Road Base	\$ 5,000.00	\$16.50 per ton & \$135 per hour trucking
Calcium Chloride	\$ 8,000.00	Full order to maximize trucking
Calcium Chloride Delivery	\$ 1,400.00	
<b>Material</b>	<b>\$ 14,400.00</b>	
Manpower - \$40 per hour	\$ 6,400.00	All manpower provided by Owners at reduced rates
<b>Manpower</b>	<b>\$ 6,400.00</b>	
Fuel	\$ 1,000.00	
Speed Bump	\$ 250.00	
WCB Coverage	\$ 115.84	
Insurance	\$ 150.00	
Signage	\$ 250.00	
Protective Equipment	\$ 250.00	
<b>Other Costs</b>	<b>\$ 2,015.84</b>	
Estimated Costs	\$ 42,305.84	
Contingency 10%	\$ 4,230.58	
	<b>\$ 46,536.42</b>	



[E-1/6]

NO. S-1611350  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

NOEL STEPHEN and JUDITH MUNKHOLM

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA  
AS THE MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE,  
CITY OF NANAIMO, REGIONAL DISTRICT OF NANAIMO,  
JOHN DOE GOVERNMENT ENTITY 1-3, 0528872 BC LTD., 0761349 BC LTD.,  
TIMOTHY BRUCE PELIGREN, JOHN DOE CORP 1-10, JOHN DOE 1-5  
AND THE OWNERS STRATA PLAN VIS4673

DEFENDANTS

**RESPONSE TO CIVIL CLAIM**

**FILED BY:** The Owners, Strata Plan VIS 4673 ("**Little Qualicum**")

**Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS**

**Division 1 - Defendant's Response to Facts**

1. The facts alleged in paragraphs 1, 2, and 11 of Part 1 of the Notice of Civil Claim are admitted.
2. The facts alleged in paragraphs 19, 20, 32-34, 41 and 42 of Part 1 of the Notice of Civil Claim are denied.
3. The facts alleged in paragraphs 3-10, 12-18, 21-31, and 35-40 of Part 1 of the Notice of Civil Claim are outside the knowledge of Little Qualicum.

## Division 2 – Defendant’s Version of Facts

1. Little Qualicum denies each and every allegation contained in the Notice of Civil Claim except as expressly admitted herein, and puts the Plaintiffs to the strict proof thereof.
2. For purposes of this Response to Civil Claim, Little Qualicum adopts the terms defined in the Notice of Civil Claim, except where otherwise noted.
3. Little Qualicum admits that the Landslide occurred on or about December 10, 2014, but does not know its cause and had no reason, at any material time, to expect that the Landslide would take place.
4. The Hill is not common property of the Strata. The Landslide did not take place on common property of the Strata or common property of the Strata.
5. In response to the whole of the Notice of Civil Claim, Little Qualicum denies that it owed a duty of care to the Plaintiffs as alleged or at all.
6. Little Qualicum specifically denies that the Plaintiffs have suffered any loss, damage, or expense as the result of any act or omission on its part, as alleged or at all, and puts the Plaintiffs to the strict proof thereof.
7. In the alternative, if Little Qualicum owed a duty of care to the Plaintiffs, which is not admitted, but specifically denied, then it denies that it breached any such duty, as alleged or at all. Little Qualicum says that:
  - (a) it acted reasonably and appropriately in carrying out its obligations under the *Strata Property Act* and otherwise at law; and
  - (b) no act or omission on its part caused or contributed to any loss, damage, or expense as pleaded or at all.

8. In further response to the whole of the Notice of Civil Claim, if any loss, damage or expense, as pleaded or at all, was caused or contributed to by a negligent or wrongful act or omission, then Little Qualicum pleads that such acts or omissions were those of others, including but not limited to the Plaintiffs, the other Defendants, and other parties unknown to Little Qualicum.

### **Division 3 - Additional Facts**

9. In or about late 2013 or early 2014, the Plaintiffs carried out excavation work on lot 261 of the Strata Property (the "Plaintiffs' Lot") without prior notice to the Strata.

### **Part 2: RESPONSE TO RELIEF SOUGHT**

1. Little Qualicum opposes the granting of all of the relief sought in the Notice of Civil Claim.
2. Little Qualicum submits that the action against it be dismissed with costs.

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

1. In response to the whole of the Notice of Civil Claim, if the Plaintiffs suffered any loss, damage, or expense, as alleged or otherwise, which is denied, then no act, omission, negligence, breach of duty, or fault of Little Qualicum caused or contributed to any of the loss, damage, or expense alleged in the Notice of Civil Claim.
2. Little Qualicum denies that it owed a duty to the Plaintiffs, as alleged or at all. In the alternative, if Little Qualicum owed any duty of care to the Plaintiffs, statutory or otherwise, as alleged or at all, which is denied, then Little Qualicum denies that it breached its duty of care. More specifically, and without restricting the generality of the foregoing, Little Qualicum had no right or obligation whatsoever to inspect or investigate the Hill.

3. In the further alternative, if Little Qualicum owed any duty of care to the Plaintiffs, as alleged or at all, which is denied, then Little Qualicum acted in a proper, reasonable, competent, and diligent manner at all times.

4. If Little Qualicum owed any duty to the Plaintiffs regarding the Plaintiffs' Lot, as alleged or at all, which is denied, then Little Qualicum pleads that the Plaintiffs prevented it from fulfilling that duty by failing to give Little Qualicum notice of the Plaintiff's excavations on the Plaintiffs' Lot.

5. If the Plaintiffs suffered any loss or damage, which is denied, then such loss or damage was caused wholly or in part by the negligence and breach of contract and breach of duty of others, including the other Defendants, and other parties who are not known to Little Qualicum. Little Qualicum adopts, for purposes of this alternative pleading only, the matters alleged at paragraphs 27 through 32 of Part 1 of the Notice of Civil Claim as they may be framed against the other Defendants.

6. If the House was damaged as alleged, and if the Plaintiffs have suffered loss and damage, as alleged, all of which is expressly denied, Little Qualicum pleads that such damage, loss and damages were caused or contributed to by breaches of duty of the other Defendants. Little Qualicum adopts, for purposes of this alternative pleadings only, the matters alleged at paragraphs 33 and 34 of Part 1 of the Notice of Civil Claim as they may be framed against the other Defendants.

7. If the Leased Premises were damaged as alleged, and if the Plaintiffs have suffered loss and damage, as alleged, all of which is expressly denied, Little Qualicum pleads that such damage, loss and damages were caused or contributed to by the Plaintiffs' negligence, including:

- (a) carrying out excavation works without taking reasonable steps to ensure that such works did not pose a risk of damage to the House;



- (b) failing to have a geotechnical/slope stability assessment and/or geohazard assessment carried out by a qualified geotechnical professional engineer prior to the excavation;
- (c) failing to employ competent professionals in the design and completion of the excavation; and
- (d) such further and other particulars as become known to this Defendant.

8. Little Qualicum pleads and relies on the provisions of the *Negligence Act*, R.S.B.C. 1996, c.333, as amended.

9. Little Qualicum pleads and relies on the provisions of the *Strata Property Act*, S.B.C. 1998, c.43, as amended.

10. In further response to the whole of the Notice of Civil Claim, Little Qualicum denies that the Plaintiffs suffered any loss, damage, or expense as alleged or at all.

11. In the alternative, if the Plaintiffs suffered any loss, damage, or expense as alleged or at all, then such amounts are not recoverable because:

- (a) The Plaintiffs have failed to mitigate such loss, damage, or expense;
- (b) The amounts incurred in respect of loss, or damage are excessive, unreasonable, and constitute betterment; and
- (c) The amounts claimed constitute pure economic loss.

<b>Defendant's address for service:</b>	Dolden Wallace Folick LLP 18 <sup>th</sup> floor - 609 Granville St. Vancouver, BC V7Y 1G5
<b>Fax number address for service (if any):</b>	604-689-3777
<b>E-mail address for service (if any):</b>	<a href="mailto:swallace@dolden.com">swallace@dolden.com</a>
<b>Place of trial:</b>	Vancouver, BC

**The address of the registry is:**

651 Carnarvon Street  
New Westminster, BC

Date: 4/ Apr/2019



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Counsel for the Defendant  
The Owners, Strata Plan VIS 4673

Rule 7-1(1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.