

Carole James, MLA, Victoria-Beacon Hill,  
Via your community office,  
1084 Fort Street, Victoria, B.C., V8V 3K4

9 June 2018

Re: New levy will cause more Orchard House leaseholders to lose their homes

Dear Carole:

Thank you for speaking with me for a few minutes the evening of June 6, when I was reassured to hear of your familiarity with the plight of long-term leaseholders and the need for basic protections, be that through the Residential Tenancies Act or new legislation specific to the five buildings in your riding, the eight in the West End, one in Richmond and the large leasehold complex in MLA Harry Bains' Surrey riding.

Sadly, only 24 hours after we spoke, Orchard House tower (647 Michigan Street in James Bay) leaseholders received a new bill that will no doubt cause more among us to lose our modest apartment homes. We have been told to pay \$551,954 for additional expenses incurred by owner Westsea Construction during 2017, costing individual lessees up to \$3,700 each.

While some costs are unavoidable, \$426,337 of these additional expenses are for legal services that Westsea incurred opposing leaseholder Hugh Trenchard's suits against it, which a Victoria Provincial Court Judge ruled was inappropriate. To our surprise, the B.C. Court of Appeal put that aside as "premature" and all but recommended a class-action lawsuit against Westsea on this issue (I attended that court session, so heard it first-hand).

But we leaseholders don't have the resources for a class-action suit to defend against a practice that should be illegal; a landlord company should not be able to charge tenants its full legal expenses when a lease dispute arises.

Of course, Westsea's legal expenses that it will also bill to us continue through 2018 as it opposes Mr. Trenchard's legitimate challenges to its secretiveness, to capital improvements that are likely not our responsibility under our lease (\$5,730,487 for upgraded new windows) and challenges this practice of charging us its legal costs to oppose us. Regardless of the outcome in court, though, this is offensive to fair play and threatens 3,000 other B.C. leaseholders with the same double-jeopardy behaviour by landlords: that we pay when we lose, and we pay when we win, even paying the landlord's court-awarded "costs" when we win!

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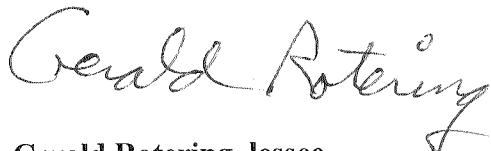
to Carole James, MLA

9 June 2018

As you mentioned on Wednesday, the Housing Policy Branch has been assigned to review long-term residential leaseholds. To inform staff there of this development, I'll send a copy of this letter to the Branch's Executive Director, Trudy Rotgans. A recommendation from that office for legislation to provide basic tenant protections for lessees is urgently awaited.

Just to review, basic points of protection would be:

- \*Prohibit landlords using lessees' money to fund the landlord's legal expenses opposing them.
- \*Cap the rate of annual increase in suite fees for operating expenses.
- \*Require transparency in annual operating budgets, and detailed audits so that lessees can see that funds were properly spent on their behalf.
- \*Require transparency in planning for capital projects and one-year notice of a major expense.
- \*Require recognition by landlords of a leaseholders' association.
- \*Require disputes to be settled via the Civil Resolution Tribunal rather than the courts.
- \*Prohibit landlords from taking default proceedings for minor tenant breaches.
- \*Enact end-of-lease provisions to ensure that lessees may keep their homes, and that to do so will remain affordable.



Gerald Rotering, lessee,  
807 Orchard House tower,  
647 Michigan Street,  
Victoria, B.C., V8V 1S9  
phone: 778-679-5855

Attached: Westsea's 7 June 2018 letter and 2017 schedule of operating costs; three sheets

cc: Trudy Rotgans, Executive Director, Housing Policy Branch

# WESTSEA CONSTRUCTION LTD.

Suite 2108 – 1330 Harwood Street Vancouver BC V6E 1S8  
Telephone (604) 681 – 2727 Facsimile (604) 684 - 8075

June 7, 2018

All Leaseholders of Orchard House

647 Michigan Street  
Victoria, BC  
V8V 1S9

Dear Leaseholder(s),

Enclosed is your December 31, 2017 Schedule of Operating Costs for Orchard House.

Deficiency of collections over expenses (\$ 12,901.00)

Represented by:

Normal operating	(\$529,695.00)
Special Assessment – Window remediation project	538,753.00
Special Project – Access system replacement	<u>(21,959.00)</u>
	<u>(\$ 12,901.00)</u>

Amount to be recovered from the leaseholders for 2017 is as follows:

Normal operating	(\$529,695.00)
Special Project – Access system replacement	<u>(\$ 21,959.00)</u>
	<u>(\$551,954.00)</u>

The window remediation project was completed in 2017. The final project costs exceeds the budgeted costs by \$181,089. That amount was collected from leaseholders in early 2018.

Special Assessment – collected in 2016	\$1,850,487.00
Special Assessment – collected in 2017	\$3,700,973.00
Project deficiency – collected in early 2018	\$ 181,089.00
2016 Expenses	(\$2,389,239.00)
2017 Expenses	<u>(\$3,343,310.00)</u>
	<u>\$ 0.00</u>

⇒ The net amount owing by the leaseholders for 2017 is \$551,954. ⇐

Please find enclosed your portion of the total deficit expense as noted and defined in the Lease.

The individual suite amounts shown are charged to your account. You may verify your share of the deficit by multiplying by your unit entitlement.

Leaseholder's full payment is due on **August 1, 2018**.

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Suites ending in '01	\$2,559.41	Suites - 310, 510, 710, 910
Suite 102	\$2,638.35	1110 & 1410, 1610
Suites ending in '02 & '03	\$2,509.73	1810, 2010, 2210
Suites ending in '04 & '09	\$2,509.73	\$3,714.65
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Suites ending in '05	\$3,694.23	Suites - 210, 410, 610, 810
Suites ending in '06	\$2,464.47	1010, 1210, 1510, 1710, 1910
Suites ending in '07 & '08	\$1,883.82	2110 & 2310
		\$3,497.73

**Please include your File number (8-digits) on your cheques.**

Each leaseholder is reminded that applicable prescribed interest charges as your lease will be charged on all overdue balances.

Yours truly,

**WESTSEA CONSTRUCTION LTD.**

Encl.

**Westsea Construction Ltd.**  
**Orchard House**  
**Schedule of Operating Costs**

<b>For the year ended December 31</b>	<b>2017</b>	<b>2016</b>
<b>Operating expenses recoverable</b>	<b>\$ 810,399</b>	<b>\$ 806,940</b>
<b>Special assessment (Note 2)</b>	<b>3,882,063</b>	<b>1,850,487</b>
	<b>4,692,462</b>	<b>2,657,427</b>
<b>Expenses</b>		
Accounting and administrative costs	60,000	60,000
Audit	4,231	4,284
Electricity	31,495	30,780
Elevator maintenance	30,721	29,806
Heat	73,119	71,950
Insurance	123,712	84,106
Legal	426,337	6,980
License	1,812	1,791
Operating supplies	1,750	6,495
Pool and sauna	3,737	2,992
Property taxes	187,648	216,356
Repairs and maintenance	206,682	71,372
Salaries and employee benefits	80,522	77,293
Scavenging	30,830	30,606
Telephone and enterphone	4,335	3,719
Water	73,163	76,333
<b>Expenses before extraordinary expenses</b>	<b>1,340,094</b>	<b>774,863</b>
<b>Extraordinary expenses</b>		
Access system replacement	21,959	-
Window remediation - planning & assessments (Note 2)	-	56,468
Window remediation project (Note 2)	3,343,310	2,332,771
<b>Total extraordinary expenses</b>	<b>3,365,269</b>	<b>2,389,239</b>
<b>Total expenses</b>	<b>4,705,363</b>	<b>3,164,102</b>
<b>Deficiency of collections over expenses</b>	<b>\$ (12,901)</b>	<b>\$ (506,675)</b>
<b>Represented by</b>		
Normal operating	\$ (529,695)	\$ 32,077
Special assessment - window remediation project	538,753	(538,752)
Special project - access system replacement	(21,959)	-
	<b>\$ (12,901)</b>	<b>\$ (506,675)</b>