



This is the 2nd Affidavit of G. Rotering in this case and was made on March 22, 2022

No. 18 4015
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

WESTSEA CONSTRUCTION LTD.

Petitioner

AND:

**ANDREW SCOTT TAYLOR, DOUGLAS GEORGE ROUTLEY,
LEANNE FINLAYSON, EDITH WOOD, GABRIELLA EVA SCOFIELD, GERALD
JOHN ROTERING, HELEN ELISABETH VERWEY,
HUGH ALEXANDER TRENCHARD, IRIS IRENE HAYS,
JACALYN GAIL HAYS, JAMES SCOT WALKER, JUDITH McNEIL SIM,
MARTINE GODDARD, MICHAEL GORDON CLARK,
CHANTELLE MARIE CLARK, NIGEL JOHN JOSLIN, PATRICIA ANNE SMITH,
PETER JAMES ROURKE, REINER JOACHIN PIEHL,
DOREEN GREETA PIEHL, ROBERT JOHN CALDER,
SANDRA SCOTT JONSSON also known as SANDRA SCOTT GROVER-SAGER,
GORDON WILLIAM GROVE, SEE-LIN SHUM,
STEPHEN JAMES MATTHEW, ANNE UDALE, WENDY ELIZABETH DUVAL**

Respondents

AFFIDAVIT

I, Gerald John Rotering, retired, of 807 -647 Michigan Street, Victoria, British Columbia, MAKE OATH AND SAY that:

1. I am one of the respondents herein and as such have knowledge of the matters hereinafter deposed to, except where the same are stated to be made on information and belief, and as to such matters, I do believe them to be true.
2. Where I refer to other respondents, such statements are based on statements they made to me and which I believe are true.
3. Prior to my move to Victoria and purchase of my unit, I was a realtor specializing in the purchase and sale of condominium units in Alberta, many of which were located in high rise concrete and steel towers. I also had been the chair of a

Westsea Construction Affidavit

concrete tower condominium council for a period of ten years. In addition, I have been an owner of a number of suites in concrete tower condominiums.

4. Many of the non-Trenchard litigation charges do not pertain to any discernible legal proceeding or entail discernible legal issues. Particulars were provided for those charges only after court order.
5. Prior to 2016, conflicts between leaseholders and the petitioner did not involve the application of legal charges. Letters to leaseholders, and the resolution of conflicts between leaseholders were handled by the management of the Petitioner with no legal charges that were then incorporated into the operating expenses for which the petitioner demanded payment from leaseholders.
6. For example, on January 23 2017 the petitioner included as legal expenses enforcement of the lease provisions prohibiting short term rentals. Prior to 2017, this had always been handled by the petitioner's management. Those who engaged in short term rentals, or leased to another their unit without approval from the petitioner were dealt with by the management of the Petitioner, with no involvement with a law firm. The same with leaks – when I had a leak issue in my unit in 2009 and 2010, I did not deal with lawyers acting on behalf of the Petitioner, rather I dealt with the staff of the Petitioner.
7. In their summary of charges dated February 21 2017 the Petitioner seeks to charge the respondents for communication dealing with BBB, which I believe would be the Better Business Bureau. No explanation has been provided as to the connection such a charge would have to the building. Correspondence re: fans may have dealt with my request to install a switch at my expense to control the built in bathroom fan in my unit. No explanation as provided as to why counsel had to be involved. The follow up on personal litigation matters is difficult to reconcile with the fact that we pay for insurance which covers, inter alia, third party bodily injury claims. My experience on managing high rise residential buildings as a council chair is to refer all personal injury claims to our insurer, and work with our insurer in the resolution of such claims. Odour issues and carpet remediation were common issues I dealt with without requiring the intervention of counsel.
8. In regards to charges summarized on March 28 2017 there are references to matters such as marijuana complaints, leaks and flood damage, Aquamist Carpet Care and queries about concrete that used to be handled by the Petitioner

without the involvement of their counsel. In this same time period \$10,000 was charged in regards to the Canada Pension Plan, Old Age Security and a tri-partite agreement, with no information as to the connection of such advice to the building.

9. Additional administrative acts, now billed as legal charges since 2017 include:

- (a) installation of electrical panel in suite and letter to leaseholder re same
- (b) correspondence re power outage
- (c) review Orchard House issues
- (d) marijuana complaint and letter to leaseholder
- (e) review power outage notices and revised notices
- (f) correspondence re smoke issues
- (g) letter to lessee re accounting inquiries
- (h) review Low Voltage report
- (i) review Westsea projects and prepare memorandum
- (j) review Orchard House welcome letter/rules and regulations
- (k) correspondence re cigarette butts
- (l) review Orchard House actuals letter
- (m) review schedule of operating expenses for 2017
- (n) correspondence from leaseholder re past/future special assessments
- (o) email to Westsea re dog issues
- (p) correspondence re door locks
- (q) review and revise welcome letter
- (r) correspondence re broken tap and repairs
- (s) letter to leaseholder re concerns with balcony and deck
- (t) correspondence re leak issues
- (u) follow up letter to leaseholders re repair projects and budget
- (v) review letter re repair of carpet

10. Some ~~charges~~ legal charges were included as operating expenses that were, per the terms of the Lease, not to be charged. This included enforcement proceedings against leaseholders who were delinquent in their payments. An example of this are the charges arising from the Kamble petition proceeding. Ultimately, that petition proceeding lead to a consent order between the Petitioner and the Kambles in which \$63,133.54 was paid to the Petitioner, subject to an accounting. Attached hereto and marked Exhibit "A" to this my affidavit is a true copy of the petition and consent order.

11. A number of charges in 2019 were incurred as a result of 15 leaseholders, including respondents to this proceeding, making a claim in anticipation of Hugh Trenchard being successful in his proceeding against the Petitioner in his claim proceeding. Attached hereto and marked Exhibit B to this are samples of these claims.

12. The petitioner responded by filing nearly identical responses in standard form. Attached hereto and marked Exhibit "C" to this my affidavit is a true copy of the said responses to the claims noted in paragraph 6.
13. Matters that were not Trenchard litigation matters included responding to personal injury claims, which I thought would be handled by our insurers, flooding and water damage claims which I also thought would be handled by insurers as well as other miscellaneous issues. The time involved in this has consumed over \$100,000.
14. A significant charge from 2017 onward was dealing with the issue of dishwashers in some units. Apparently, none of the units had dishwashers when the petitioner was selling the leasehold interests in 1974. Over time, some leaseholders installed dishwashers, and some of those units in which dishwashers were installed were transferred to subsequent leaseholders. In those cases, the dishwashers were included as part of the sale of the leasehold interest.
15. Recently, the petitioner has taken the position that installation of all dishwashers had to be approved in writing before they could take place, and ^{is} ~~are~~ now seeking to have dishwashers installed removed. That issue seems to have consumed tens of thousands of dollars. For all the money spent, including significant sums with a consulting engineer (Tarnopolsky of AME) no dishwashers have been removed and no court proceedings have been initiated to compel the removal of these dishwashers. Attached hereto and marked Exhibit D to this my affidavit is a true copy of the CSO summary for all proceedings involving the petitioner. Those proceedings marked with an X are those issued from the Victoria Supreme Court Registry.

SWORN BEFORE ME at)
 Victoria, British Columbia,)
 on March 22, 2022)



Andrew M. Rafuse
 A Commissioner for taking
 Affidavits for British Columbia



GERALD JOHN ROTERING

+62 pages of docs/evidence