

To: Vintage Grand Condominium Association Members

At today's Board of Directors meeting the Board approved a motion to ratify a settlement that has been negotiated to resolve what we have been referring to as "The Developer Lawsuit". That lawsuit was filed four years ago to seek justice and compensation for the construction defects in our buildings that came to light shortly after the developer passed control of the Association to the members in December of 2014.

Many of us will recall how shocked and angry we were when it was revealed to owners at the January 2016 Association Annual Membership meeting that one of our buildings had serious hidden wood frame damage behind the stucco which would require, at a minimum, removal of the stucco, extensive repairs and replacement of the stucco cladding, resulting in hefty price tag that we would all need to share. "How could this be?", we asked. We were provided with the photographs of the damage found on building 19 where holes had been cut in the stucco walls to reveal the insect infestation and wood rot behind the walls. Later our Board had our engineer investigate other buildings and discovered similar problems with all of them. After hearing those results and repeated urgent messages from the Board over the next several months, most of us began to reluctantly accept the notion that we indeed had a serious problem that would cost a lot of money to fix.

Tempering the bad news was the announcement that the Association had initiated a lawsuit against the conversion developer to seek justice and compensation for their failure to identify and properly address the defective conditions and hidden wood damage in our buildings when they managed the Vintage Grand complex. That lawsuit gave us hope that the needed building remediation work would be funded in large part by the proceeds of that lawsuit.

In 2016 and 2017, the legal work on that lawsuit and on a separate lawsuit that the Association filed against its 2016 property insurance carrier slowly moved forward. In January of 2018, the baton was passed from our first owner elected Board of Directors lead by Bill Wild to this Board. As this Board continued to pursue the avenues for justice that had been pursued by our predecessors, it became increasingly apparent to us that a huge victory would not be easy.

Our primary opponents in the developer lawsuit were companies that were carefully set-up and managed to avoid any financial pay-out for adverse events or wrongdoing. Typically, for an apartment to condo conversion project such as ours, a real estate development and investment company will form a subsidiary "Limited Liability Company (LLC)" to hold the asset – a property such as Vintage Grand – and capitalize that LLC with sufficient funds to purchase the property plus the minimum amount of additional funds needed to carry out the conversion. The amount of remodeling work performed when converting an apartment complex to a Condominium may be minimal, so the capitalization of the LLC on a conversion project is often not much more than the purchase price of the property. That was the case with the LLC that handled the final phase of the Vintage Grand conversion. After all of the Vintage Grand units had been sold and conversion expenses had been subtracted from the sales proceeds, the net profit was fully distributed to the owners of the LLC and the LLC went dormant, with no assets...no funds to pay to any aggrieved party. Typically owners of an LLC, including the real estate development and investment companies that own the LLC and sell shares to individual investors, and those individual investors that buy shares of a given conversion project, are not liable for the LLC's liabilities, and cannot be personally sued to collect on the company's debt. We theoretically could attempt to get to the

investment company and/or those individuals who owned shares of the Vintage Grand LLC through a legal proceeding which would “pierce the corporate veil”. However, over time we arrived at the conclusion with our attorney that attempting to do so would be a very costly and risky endeavor.

Our only other option to obtain a cash recovery through this lawsuit was to seek payments from the investment company’s and LLC’s insurance carrier and from the insurance company that covered the developer-appointed directors and officers of the Vintage Grand Condominium Association. The absolute maximum settlement that we could hope to receive from them was the total amount of coverage available under those various policies. That total was significantly less than the damage that we had suffered. And, as we waded into negotiations with those insurance companies, it became clear that they were firm on their opinion that their only responsibility to their insureds was to provide a defense to the lawsuit but not pay any loss.

During this time the Board kept owners advised of the status of the lawsuits in each bi-weekly, then monthly, newsletter, but under strict advice from our attorney we could not share any monetary figures or estimates with members. This brings us to today when, after two successive Boards of the Vintage Grand Condominium Association have worked with an experienced attorney going down various avenues looking for justice and money to repair our buildings, we have now achieved a negotiated settlement on the developer lawsuit which will be paid entirely by the insurance carriers of our opponents.

With this settlement ratified today, we can now put the developer lawsuit behind us and focus our attention on the damage claim that we filed against our own insurance carrier, which was summarily denied, and our attempt to reverse that decision through an arbitration process some time in mid-2020, which is required to be held in New York. In that case, we will be going up against Lloyds of London, one of the largest and oldest insurance and reinsurance businesses in the world. We expect those proceedings to be just as difficult if not more difficult than those that we have just completed.

What the Board voted and agreed on today was a motion to accept a negotiated settlement of \$435,000 which will result in a net cash in-flow of approx. \$360,000 after legal costs (law firm’s non-legal expenses and their contracted reduced contingency fee percentage of the award). Yes, this is a lot less money than we all originally hoped to obtain from the conversion developers of our complex, and a figure which “barely puts a dent” in the total cost of our \$16 million building remediation project. However, our negotiations team strongly believed that the board should ratify this negotiated settlement based on a realistic, business case analysis of the potential costs and risks of going forward to a jury trial. That business case, as well as the details and timeline of the developer lawsuit, will be posted to the Owners section of the website early next week.

In order to finalize this settlement, our attorneys must obtain a waiver of subrogation rights from the Lloyds of London policy insurers. This has been requested and we are waiting for their decision. If that waiver is obtained, the timing of the receipt of the settlement funds will be advised by our attorney in the coming weeks.

Regards,
Dave Carter
President - Vintage Grand Condominium Association