

December 24, 2020

Strata Plan NW 2050, Cypress Point
#338-7651 Minoru Boulevard
Richmond, BC V6Y1Z3
Canada

Via email: nw2050@telus.net
Original to follow in mail

Attention: Audrey Montero, Strata Office Administrator

**Re: Strata Plan NW 1942, Woodridge Estates
Spa Change of Use**

We write on behalf of the Council of Owners, Strata Plan NW 1942, Woodridge Estates, regarding the hot tubs that are part of the shared facilities. As you are aware, the hot tubs were shut down a long time ago as they were no longer safe to operate.

The Strata Corporation's legal advisor reviewed the 2008 BC Supreme Court decision of Madame Justice Russell in connection with the dispute between NW 2050, NW 1942, NW 1868 and NW 2090 in connection with the shared recreational facilities/shared amenity facilities between these four strata corporations and the 1982 and the 1988 easement agreements (the former which is effectively no longer applicable) which dealt with the granting of easements to the strata corporations who would have access and use of the facilities, and the shared use/shared costs of the facilities referenced in the 1988 agreement.

In their review they concluded that while the Woodbridge facilities are subject to the terms of the 1988 easement agreement, they are also facilities that form part of the common property of the strata corporation. Pursuant to section 71 of the Act a significant change in use of the facilities would require a $\frac{3}{4}$ vote of the owners in Strata Plan NW 1942. However because the Woodbridge facilities are subject to the terms of an easement involving three other strata corporations it is the legal advisor's view that the rights and interests of the other three strata corporations, in terms of their rights of share use and shared costs, trumps the right of Strata Plan NW 1942 to undertake any change in use (significant or otherwise) that would have the effect of undermining or effectively terminating the easement rights of use and enjoyment over the Woodbridge facilities.

That is not to say that some form of change in use might not be possible. That would depend on what is being proposed and the extent to which it affects the current easement rights and whether the other strata corporations that are part of the 1988 easement agreement would be willing to support a change in use and/or the permanent cancellation of the use of the Woodbridge facilities through a formal agreement and formal cancellation of that part of the 1988 easement agreement.

We are approaching you as one of the four partners that have a shared interest in the facility and would like to ask whether you would be open to considering a change of use of the space rather than completing expensive repairs that would be necessary to resume the hot tubs operation. The other two partners (NW 1868 and NW 2090) expressed support to the idea of changing the use and converting the spa into a different recreational facility rather than undergoing an extensive and expensive rebuild of the spa. This would also very likely result in operating cost savings compared to the hot tubs.

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We would appreciate your response at your earliest opportunity so that we can discuss further steps and come to solution that will be agreeable for all four partners and to ensure that the shared facilities do not remain in the current state of providing no benefit to any of the partners, but still incurring some operating cost that have to be shared by all partners.

Yours truly,

THE WYNFORD GROUP
Managing Agents for
NW 1942, Woodridge Estates
Per:


Radek Fesar
Strata Manager

cc: Council President