

No relief for aggrieved owners of defective Victopia apartments

Miriam Bell · 05:00, Oct 10 2021



ROB STOCK/STUFF

Conflict surrounds the Victopia apartments as the project to fix the leaky building is late and costing more than owners expected.

There is no relief in sight for a group of angry apartment owners in a notorious leaky building, with a deferred payment scheme rejected and a critical meeting postponed indefinitely.

These developments come despite a recent Tenancy Tribunal ruling on debt levies which was in the group's favour but has been appealed by the building's body corporate

The victopia apartment tower has been plagued by cladding and leaky building issues for many years, and in 2016 its unit holders won a \$30 million legal victory relating to them.

While the funds were to fix the building, remediation was far from complete, and it recently emerged the remediation costs had blown out to \$54.9m, from an initial estimate of \$35.2m.

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The escalation in costs meant owners were left owing between \$100,000 to \$150,000 each - and the body corporate committee expected payment in short order.

But 56 of the block's 203 owners objected to this, alleging they were being overcharged and that the repayment schedule's dates were unreasonable.



Swarbrick.

The dissident owners want to remove the body corporate committee and stop what they believe is unneeded additional work being done to the building which is driving some owners towards bankruptcy.

A number of the owners also want a deferred payment plan for the shortfall levies.

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An extraordinary general meeting was scheduled for August 17, but the country's return to level 4 lockdown meant it was postponed.

Shortly after, the Tenancy Tribunal issued its ruling relating to the debt levies.

It found that as proper process had not been followed, the owners were not liable to pay the levies that arose from a committee meeting in June last year, and which were being claimed by the body corporate.

It also found that along with the principal claim for unpaid levies, the body corporate's claim for interest and costs failed.

But Paula Beaton, who is spokeswoman for Body Corporate Administration which administers the committee, said it considered the tribunal's ruling to be incorrect, and it was under appeal.

RICKY WILSON/STUFF

Aggrieved Victopia apartment owners approached Auckland Central MP Chloe Swarbrick for help earlier this year.

“In the meantime, the body corporate has re-resolved the levy and the due date, so there is no argument as to the validity of that historic levy. It has no impact on levy repayments.”

After the meeting was postponed and the tribunal’s ruling was issued, the committee informed owners there would be no deferred payment plan.

In a letter, seen by *Stuff*, the committee said: “We have investigated all options, but the body corporate is unable to fund any owners as there are no funds available that do not belong to all other owners.”

Beaton said that as each owner paid only their duly allocated levy, there were no surplus funds the body corporate held for all the other owners that did not pay on time.

ROB STOCK/STUFF

Victoria apartment owner Ikeda Kas alleges the owners have been overcharged for the repairs and says the current body corporate committee should go.

“If a payment arrangement is made to favour one owner or many owners, the owners who have paid on time would be disadvantaged.

“So if some owners are offered deferred payment arrangements, other owners that have made enormous sacrifices to pay their levies on time are disadvantaged.”

All owners wanted the building remediation work finished as soon as possible to obtain a building code of compliance certificate, she said.

“The costs of remediation cannot be deferred. The requirement for the payment of levies must coincide with the necessary expenditure to achieve code compliance.”



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To help owners with funding, assistance was being provided to owners and the body corporate was facilitating an escrow scheme for those whose banks required it, she said.

Kas Ikeda, who is the spokesman for the dissident owners, said an escrow account was not an acceptable option as it would make all owners liable for huge borrowing and interest repayments.

He had employed quantity surveying company Construction Cost Consultants to scrutinise the costs of work done on balcony repairs last year and claimed to have discovered overspending of more than \$1m.

“The committee says we have a \$20m shortfall to pay, and therefore you must pay it,” he said.

“But it is not a shortfall, it is an overspend, and if they borrow the money and pay it to the contractor, it means the owners can become liable for it.”

Remediation work to fix the leaky Victopia building has been underway since early 2019.

Some owners had no money, which was a problem, he said. “In the worst case scenario, they could be bankrupted and their units would have to be sold.”

financial information relating to the costs and the levies.

Beaton said a new date for a meeting could not be set at this point because of Covid restrictions, but the intention was to have one as soon as the level allowed.

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In response to a request from a minority of owners who objected to the recent levies, the Law Society had appointed an arbitrator, she said.

"The parties are waiting to hear from the arbitrator. This has no impact on the levy payments."

Ikeda said the dissident owners were engaging a barrister to represent them and were considering the various legal options available to them.

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