

Affidavits for Shangri-La tower class-action lawsuit examine market values

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The Shangri-La tower in downtown Vancouver.
Photo by Francis Georgian /PNG

Lawyers involved in a class-action lawsuit over defective windows at Vancouver's Shangri-La residential condo tower tapped real estate appraisers to assess how the market value of the building's luxury units has been impacted by the problems.

There is no precise answer in the experts' affidavits during this preliminary phase, but arriving at a conclusion about who is responsible for compensating any losses is the crux of a complicated case that dates back to 2015 and is set to be heard this fall.

The trial features one of Vancouver's tallest towers, where the windows frame floor-to-ceiling ocean and

mountain views and some of the city's most expensive condos.

Subject to any appeals, the case is expected to take over 130 days.

Original buyers and current owners who bought a condo from an original buyer had until last week to opt out of the class-action lawsuit against the legal owner of the land, KBK No. 11 Ventures Ltd., the developer, 1100 Georgia Partnership, and its partners, including companies related to high-profile local groups such as the Peterson Group and Westbank Corp.

The case began in December 2015 when the lead plaintiff filed a notice of civil claim, alleging that defective glass windows were fogging, leaking and spontaneously breaking.

In an affidavit filed last year, businessman Amos Michelson, who has owned and lived in a penthouse unit of the building since 2009, said that several months after moving in, he noticed fogging in his windows that would last for hours and then several days, making it difficult to see outside. In total, three inner panes in his unit have spontaneously shattered. One that broke in 2017 sent pieces of glass into the pool of his unit and also onto a plaza area below, as well as into the hotel pool on the fifth floor.

As strata president, he was also aware of other instances in other units where insulating glass was fogging and shattering. He included various photos as exhibits.

In total, there are 307 residential units in the building that are part of two separate stratas. The various legal actions to recover costs under warranty from insurers and from developers, builders and contractors, have been merged into one class-action case.

Prospective buyers have questions about the situation and, in particular, the cost of dealing with it, according to real estate agents.

In one affidavit that is part of the class-action case, Neil Hahn of Garnett Wilson Realty Advisors, an accredited appraiser with the Appraisal Institute of Canada, reviewed all sales for the strata that covers the 234 units on floors 16 to 43 of the tower.

He compared prices for these sales to the Real Estate Board of Greater Vancouver's Housing Price Index for residential apartment units in the downtown core. The index tracks changes in market values over time for a benchmark unit in a given area.

He found that, over time, sale prices for the Shangri-La units were below or underperformed those of the market as a whole.

"From a valuation perspective, the risk of a significant special assessment can impact demand and the willingness to pay from potential buyers," he wrote.

He looked at 188 repeat sales, following units that were presold in 2004 or 2005 and then sold again sometime between December 2008, when the building was completed, and the end of 2021.

Figuring out how much an individual unit could have sold for, "absent the deficiencies," at a given time would take further analysis.

In another affidavit filed last year before the class-action was certified, chartered business valuator Richard Crosson said while it is possible that an appraiser could come up with a single estimate for the decline in value for all units, it was more likely for units to be first grouped by size or other criteria and then assessed.

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