

Court paves way for \$21m leaky claim to settle

VICTORIA YOUNG

FRIDAY APRIL 17, 2015



DAN PARKER: Settement confidential

What is believed to be Wellington's biggest leaky building battle is almost over, following a new court ruling.

Wellington's St Paul's apartment complex is located just up the road from Parliament and counts MP Tim Groser among its 114 owners. It was designed by the late Sir Ian Athfield and completed around 2000.

After it was discovered to be leaky, a 2009 assessor's report found defects and estimated repairs costs at \$5.1 million.

The body corporate began proceedings claiming about \$21 million in damages. The Weathertight Homes Tribunal case has also detoured through the Wellington High Court so the corporate owner of many of the units, Quest, could include its claim.

While an eight-week hearing was set down for March this year, the body corporate's lawyer now says the case is about to settle with parties including Wellington City Council.

“We have very recently made a confidential conditional settlement but there is one stage to go and I expect that to happen over the new few weeks,” Parker & Associates principal Dan Parker says.

Developers included

The pending settlement followed a judge’s ruling which paved the way for developers to be included in the case.

In February Associate Judge Roger Bell said Salamanca Investments, which is linked to developers Tim Dromgool and Allan Frazer and was moved into liquidation in 2005, should be returned to the register.

Wellington City Council said it wanted Salamanca to bear the bulk of the liability.

While lawyers for Salamanca said it was too late for the firm to be joined, it was restored and accountant Bruce Sheppard reappointed liquidator. Mr Sheppard had completed the liquidation in 2006 and his report says that all creditors were paid.

Mr Sheppard refused to discuss the settlement when approached by *NBR*, citing confidentiality.

The council has said it would be remiss to comment when the case is still before the courts.

Insurance key

Home Owners and Buyers Association president John Gray says the council probably went after the liquidated company for insurance reasons.

“If there were insurance, then they will be able to call on that and the insurers can respond to the claim.”

However, he says it is unlikely to ever be made public how much each party paid.

“Payout in a negotiated settlement you will never know, you are not permitted to know, and it will depend on whether there is a strong case against the council.”

The body corporate chairman for St Paul’s Apartments, John O’Connell, says it is too early to comment.

Costs mount

This time last year he told NBR ONLINE legal fees to date had amassed to more than \$1 million, with fees for consultants to be used as expert witnesses being paid on top of that.

To fund the claim, Mr O'Connell says the body corporate has used special levies on its owners but the real concern was that the units' values had dropped by 30% since the claim began.

Meanwhile, the council does not disclose which leaky buildings owners it is negotiating with, as it could prejudice future discussions.

At September 2014 the council had settled nine leaky building claims for that year. It resolved 12 claims in both 2012 and 2013.