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Relief as \$13m leaky building claim settled

HANK SCHOUTEN Last updated 05:00 17/05/2014

A \$13 million leaky-building claim taken by the residents of 29 apartments built on top of the Left Bank car park building in central Wellington has been settled out of court.

The Lofts apartments at 185 Victoria St had rotting decks and damage from leaks caused by faulty cladding and detailing around joints, said Dan Parker, who took the case on behalf of the apartment owners.

The apartments were promoted by and developed by Globe Holdings and Pimento Holdings, in which prominent developer Andrew Fawcett was sole director.

They were built by Mainzeal, which was put into receivership last year.

The case was settled last month, just before a High Court hearing that was scheduled to take five

weeks. The owners claimed about \$13m for repair costs, loss of value and consultants costs.

Details of the settlement are confidential, but most of the costs are expected to be paid by Wellington City Council.

Parker said Pimento was cited as a party to the proceedings and appeared as a defendant, but the company was no longer trading.

The Lofts were built on three levels above the parking building and the multi-storey Hub apartments on the corner of Victoria and Ghuznee streets, which were also developed by Globe.

They were built in 2001 and Wellington City Council issued an interim code of compliance, subject to completion of a couple of minor items.

When owners sought a final code of compliance about four years later, an inspector from the Department of Building and Housing found there were weathertightness issues.

Parker said the apartments would now be reclad and rotting balconies, which had been closed off, would need replacing.

Lofts body corporate chairman Herwig Raubal was relieved with the settlement and pleased apartment owners could now get on with repairs.

The Hub apartments below the Lofts were not affected, but the whole building, which used to house the Wellington Trade Centre, has been assessed as quake-prone. The council has served notice that it will need to be strengthened or demolished.

DEAL REJECTION COMES BACK TO HAUNT COUNCIL

The High Court has ordered Wellington City Council to pay extra legal costs for the way it handled a leaky-building claim.

This follows a recent judgment in which the council was ordered to pay \$1.9 million because of its "hopelessly inadequate" attention to its obligations when it consented, inspected and issued compliance certificates for a Glenmore St townhouse development.

The claimants went back to court asking for an increase in the \$115,000 in legal costs awarded because of the extra complexity and time involved in the case.

The council had failed to accept a \$1.6m pre-trial settlement offer, failed to comply with court directions and discovery orders, and increased costs without justification.

Justice Ronald Young ordered an extra 25 per cent in the legal costs award, saying if the council had accepted the settlement offer, both parties would have been substantially better off.

"The offer of settlement was presumably rejected on the basis the council believed it could do better at trial. This did not prove to be so. It is reasonable then that there be some costs consequence for this approach."

- The Dominion Post