

1573454 Ontario Ltd.

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Phoenix Genesis Financial Inc.

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May 6th, 2024

Via e-mail Melinda@dhacondolaw.ca ONLY

Davidson Houle Allen LLP
Suite 400
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**Attention: Melinda Andrews – Counsel for Plaintiff – NSCC72 – Court File CV-17-0042
Northumberland**

Dear Sir/Madam.

Further to our letter of May 6th, 2024, and the various correspondence by e-mail between counsel for the Estate of James Doubt and Mr. MacDonald and the council for the Town of Cobourg.

I apologise for not communicating sooner but Laurel's condition remains in a bad way and has not improved at all. She still has double vision, severe headaches, debilitating hearing loss, dizziness and loss of balance and numbness in her left chin. As mentioned in the letter of May 6, 2024, we have now spoken to the Neurosurgeon in Pittsburgh who advised us of the difficulties they had in this operation having to separate the Trigeminal Nerve with another vessel they encountered. There was considerable scarring in her brain.

He previously thought three months of recovery time was the maximum (as the last Brain Surgery on Laurel) but he now seems to feel it could be six months. If her condition does not correct herself by then there will be a need for further surgery. Obviously, this is very depressing for Laurel, and she is not functioning some days at all.

Nonetheless, this lawsuit has been going on for seven years now and we want it concluded as soon as possible. We mentioned in our motion material in June 2022 that we were not getting any younger and did not agree to the time schedule requested by the Plaintiff's counsel even at that time. Mr. James Doubt has passed away through these proceedings, quite possibly because of stress, I do not want to see Laurel suffer any longer than she needs to do or possibly pass away during the new timetable proposed by the Plaintiff's council.

I can imagine that the plaintiff wants to delay the trial as long as possible, in the hope that the housing market will recover and diminish the amount of our twelve-million-dollar counterclaim and possibly for other reasons. I, myself, will be over 80 years of age if the trial is held

mid-2026.

The Plaintiff's proposed timetable is totally unacceptable.

Turning to Mr. McGraff's email, who is the lawyer for Doubt and MacDonald we wholeheartedly agree with his timetable:

Affidavits of documents be ready by June 30th, 2024

Discoveries be held by August 30th, 2024.

Undertakings will be completed by October 31st, 2024.

The matter be set down for trial by December 15th, 2024.

Now referring to the Plaintiff's Case Motion Material dated April 26th, 2024, and, in particular, Mr. Gratton's affidavit, this is without question one of the most amazing documents I have seen in Superior Court proceedings. Mr. Gratton did not move into Mansions on George (MOG) until 2015, (4 years after NSCC72 Registration) and most of his statements are hearsay, and he is deposing based "on information and belief" and not on factual knowledge.

Gratton is simply relying on information that "he believes to be true" as set out in paragraph 1 of his Affidavit dated April 26th, 2024.

Both Laurel Clarry and John Lee were involved in MOG since 2003, when the Gillbard school was purchased by 1573454 Ontario Ltd.

Laurel was never involved in construction but we both have full knowledge of everything that transpired and all the attempts, that the residents and board of NSCC72, have conspired and concocted to prevent the completion of the overall development. Gratton gleefully told John Lee in 2017, *that he realised "that all of the profit from the overall development was when the next Phase was built."*

Laurel Clarry and John Lee have worked on this project for 21 years so far and want to see it completed before nature takes its course and John Lee's brothers take over.

These proceedings alone have already lasted more than 7 years and, if this was a criminal trial, it would be thrown out for want of prosecution and unreasonable delays. Perhaps we should consider that Defence? What went on between 2017 And 2022 between the Plaintiff and the Town is no fault of ours. If NSCC72 did not want to spend their own money to progress the case what a failure on their part not that of any of the Defendants.

We fully endorse recent Ontario Superior Court rulings in this regard.

Perhaps the Town and NSCC72 conspired to delay this project, but the facts are that the Town of Cobourg, the County of Northumberland and the local school boards have lost collectively more than C\$1.2MM (\$1,200,000) in lost Property Tax revenue over the last SEVEN years and no end in sight. This project has been "shovel ready" for more than ten years and now will take a further two or three years to finish at least. By then lost revenue will probably amount to \$2,000,000 for no purpose. The Local Municipalities have lost a small fortune in a case virtually about nothing and without foundation except malicious nonsense.

Patrick Bonneville and I were present when the Town of Cobourg's independent consultant engineers ORR BROWN viewed Mansions on George Building and its appurtenances and it was very clear that they found few, if any, deficiencies.

Despite the Plaintiff's absurd pleadings, most of the items in the Plaintiff's Statement of Claim has nothing to do with the Case brought by the Town of Cobourg and supposed deficiencies were simply lifted into the NSCC72 lawsuit from Pichler Engineering's 2015 Performance Audit without verification. These outdated alleged deficiencies were relied on VERBATIM by Plaintiff's counsel in their entirety. 99% of the alleged deficiencies do not exist and the vast great majority of them were not, in any event, Ontario Building Code issues anyway.

In other words, the Plaintiff's original claim was meritless and frankly, vexatious, and frivolous and will be found so when these proceedings get to Court.

The claim will, in any event, be found to be "Statute barred" and we have stated this on several occasions in our Defence and so have other counsel for The Town of Cobourg and Doubt and MacDonald.

I am attaching a letter I wrote on September 24, 2014, to all owners of NSCC72. Pages 5 to 10 are of particular interest regarding the vitriol spewed by a few misguided owners at Mansion on George Condominiums. An interesting point in the first paragraph on page 6 refers to Mrs. Reilly (owner of Unit 305) rushing out to meet people going into the sales office (Unit 201) and telling them not to buy at MOG. This might be comparable to paragraph 37 of the Affidavit of Gary Gratton dated April 26, 2024. This letter is very useful in setting out the background to these malicious Court Proceedings.

As far as Phoenix Genesis Financial Inc. (PGF) is concerned it was not even incorporated until after NSCC72 Condominium was Registered and as we know was a substitute Defendant after the Statement of Claim was first issued when the plaintiff found out that the previous named Defendant (Phoenix Genesis Investments Inc.) had been dissolved. It was not a mistake. It was to pick another Phoenix Group company in existence and this claim has no merit whatsoever against PGF.

Amazingly, according to Gratton, PGF was the Developer and Builder of NSCC72 but did not exist?

We will be bringing to Court a Motion for Summary Judgement regarding PGF unless the Plaintiff agrees to release PGF from this Case as previously requested. This will save time and costs for all.

Your truly,



John Lee
Authorized Representative
1573454 Ontario Ltd.
Phoenix Genesis Financial Inc.

Melinda Andrews DHA

June 3, 2024,

1573454 Ontario Ltd.

Phoenix Genesis Financial Inc.

NSCC72 v 1573454 Ontario Ltd. etal

cc:

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