

Entered



COURT FILE NUMBER 1001-15771

COURT KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFFS CONDOMINIUM CORPORATION NO. 0610078 and HEATHER MAZUR AS REPRESENTATIVE PLAINTIFFS

\$50.00
CMH
Oct 24 2022

DEFENDANTS POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC., ROYAL & SUN ALLIANCE INSURANCE COMPANY OF CANADA, NATIONAL HOME WARRANTY PROGRAMS LTD. , DAVID T. SYMONS ARCHITECT LTD., ROBERT SPAETGENS ARCHITECT LTD. AND DAVID T. SYMONS ARCHITECT LTD. CARRYING ON BUSINESS AS S2 ARCHITECTURE PARTNERSHIP, S2 ARCHITECTURE, DURWEST CONSTRUCTION SYSTEMS (ALBERTA) LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD. AND R.K.G. DEVELOPMENTS LTD. CARRYING ON BUSINESS AS LENBETH WEEPING TILE CALGARY and LENBETH WEEPING TILE CALGARY

THIRD PARTY DEFENDANTS POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC., ROBERT SPAETGENS ARCHITECT LTD., DAVID T. SYMONS ARCHITECT LTD., ROBERT SPAETGENS ARCHITECT LTD. AND DAVID T. SYMONS ARCHITECT LTD. CARRYING ON BUSINESS AS S2 ARCHITECTURE PARTNERSHIP, S2 ARCHITECTURE, DURWEST CONSTRUCTION SYSTEMS (ALBERTA) LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD., R.K.G. DEVELOPMENTS LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD. AND R.K.G. DEVELOPMENTS LTD. CARRYING ON BUSINESS AS LENBETH WEEPING TILE CALGARY and LENBETH WEEPING TILE CALGARY

**BROUGHT PURSUANT TO THE
CLASS PROCEEDINGS ACT, SA 2003, c C-16.5**

DOCUMENT **APPLICATION OF THE REPRESENTATIVE PLAINTIFFS TO SCHEDULE SETTLEMENT APPROVAL HEARING AND TO APPROVE SETTLEMENT AND DISTRIBUTION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF **PEACOCK LINDER HALT & MACK LLP**
Suite 4050, 400 – 3rd Avenue SW
Calgary, Alberta T2P 4H2

PARTIES FILING THIS
DOCUMENT

Attention: Mylène Tiessen
Telephone: (403) 296-2280
Fax: (403) 296-2299
FILE: 4829

**NOTICE TO RESPONDENTS: THE DEFENDANTS AND THE THIRD PARTY
DEFENDANTS**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date	October 24, 2022
Time	12:45 p.m.
Where	Calgary Courts Centre, Justice Chambers (via WEBEX)
Before Whom	The Case Management Judge - The Honourable Madam Justice G.A. Campbell

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The Plaintiffs seek the direction of this Honourable Court with respect to the scheduling of a hearing to approve a settlement reached between the parties to this action.
2. At the scheduling hearing the Plaintiffs seek an order generally in the form attached as Schedule "A" hereto regarding notice to be given to the class members of the settlement approval hearing.
3. At the settlement approval hearing the Plaintiffs will seek an order, generally in the form attached as Schedule "B" hereto, to approve:
 - (a) the settlement reached between the parties on January 25, 2022;
 - (b) the distribution of the settlement funds as follows:
 - (i) reimbursement to the Plaintiff, Condominium Corporation No. 0610078 (the "Condo Corp") for disbursements, other charges and applicable GST charged by Peacock Linder Halt & Mack LLP (formerly Peacock Linder & Halt LLP) ("Class Counsel") and paid by the Condo Corp in the amount of \$39,928.47;
 - (ii) payment of fees, charges and any applicable GST of Simco Management (Calgary) Inc. ("Simco") in the total amount of \$52,250;

- (iii) payment of legal fees and GST to Peacock Linder Halt & Mack LLP, in the aggregate amount of \$109,725;
 - (iv) payment of an honorarium in the amount of \$1,000 to Heather Hansen (nee Mazur); and
 - (v) distribution of the remaining settlement funds to the class members or their assignee or transferee on a *pro rata* basis based upon the amount paid by each class member who paid levies as a result of special assessments by the Condo Corp dated January 28, 2010 and May 17, 2010; and
- (c) to approve the joint appointment of Class Counsel and Simco to act as claims administrator of the settlement.

Grounds for making this application:

- 4. This action was certified as a class proceeding pursuant to the Certification Order pronounced November 26, 2012, by the Honourable Madam Justice J. Strekaf (the “Certification Order”).
- 5. The Plaintiffs, the Defendants and the Third Party Defendants have settled the Action.
- 6. The Plaintiffs seek this Honourable Court’s approval to give notice of the settlement approval hearing in accordance with the *Class Proceedings Act*, SA 2003, c. c-16.5.
- 7. The Parties seek this Honourable Court’s approval of the settlement.
- 8. The settlement is in the best interests of the Class.

Material or evidence to be relied on:

- 9. The affidavit of Heather Hansen sworn October 7, 2022, filed; and
- 10. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable rules:

- 11. *Alberta Rules of Court*, rule 6.3 and Civil Practice Note 6.

Applicable Acts and regulations:

- 12. *Class Proceedings Act*, SA 2003, c C-16.5.

Any irregularity complained of or objection relied on:

- 13. None.

How the application is proposed to be heard or considered:

14. In the case of the hearing to address the scheduling of the settlement approval hearing and related matters - remotely (via Webex) before the Honourable Madam Justice G. A. Campbell; and
15. In the case of the settlement approval hearing – in person and remotely (via Webex) before the Honourable Madam Justice G. A. Campbell.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

Clerk's Stamp

COURT FILE NUMBER	1001-15771
COURT	KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFFS	CONDOMINIUM CORPORATION NO. 0610078 and HEATHER MAZUR AS REPRESENTATIVE PLAINTIFFS
DEFENDANTS	POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC., ROYAL & SUN ALLIANCE INSURANCE COMPANY OF CANADA, NATIONAL HOME WARRANTY PROGRAMS LTD. , DAVID T. SYMONS ARCHITECT LTD., ROBERT SPAETGENS ARCHITECT LTD. AND DAVID T. SYMONS ARCHITECT LTD. CARRYING ON BUSINESS AS S2 ARCHITECTURE PARTNERSHIP, S2 ARCHITECTURE, DURWEST CONSTRUCTION SYSTEMS (ALBERTA) LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD. AND R.K.G. DEVELOPMENTS LTD. CARRYING ON BUSINESS AS LENBETH WEEPING TILE CALGARY and LENBETH WEEPING TILE CALGARY
THIRD PARTY DEFENDANTS	POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC., ROBERT SPAETGENS ARCHITECT LTD., DAVID T. SYMONS ARCHITECT LTD., ROBERT SPAETGENS ARCHITECT LTD. and DAVID T. SYMONS ARCHITECT LTD. CARRYING ON BUSINESS AS S2 ARCHITECTURE PARTNERSHIP, S2 ARCHITECTURE, DURWEST CONSTRUCTION SYSTEMS (ALBERTA) LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD., R.K.G. DEVELOPMENTS LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD. AND R.K.G. DEVELOPMENTS LTD. CARRYING ON BUSINESS AS LENBETH WEEPING TILE CALGARY and LENBETH WEEPING TILE CALGARY
	BROUGHT PURSUANT TO THE CLASS PROCEEDINGS ACT, SA 2003, c C-16.5
DOCUMENT	ORDER REGARDING NOTICE TO CLASS MEMBERS OF SETTLEMENT APPROVAL HEARING

ADDRESS FOR SERVICE **PEACOCK LINDER HALT & MACK LLP**
AND CONTACT Suite 4050, 400 – 3rd Avenue SW
INFORMATION OF Calgary, Alberta T2P 4H2
PARTIES FILING THIS **Attention: Mylène Tiessen**
DOCUMENT Telephone: (403) 296-2280
Fax: (403) 296-2299
File: 4829

DATE ON WHICH ORDER WAS PRONOUNCED: _____

NAME OF JUSTICE WHO MADE THIS ORDER:

Justice G.A. Campbell

LOCATION OF HEARING:

Calgary, Alberta

UPON THE JOINT APPLICATION of the Plaintiffs, the Defendants and the Third Party Defendants (the “Parties”) for an order approving the January 25, 2022 settlement between the Parties (the “Settlement”); **AND UPON NOTING** that this action (the “Action”) was certified as a class proceeding pursuant to a certification order pronounced November 26, 2012 (the “Certification Order”); **AND UPON THE APPLICATION OF** the Plaintiffs seeking approval of their plan to give notice to the class members of the settlement approval hearing; **AND UPON READING** the affidavit of Heather Hansen sworn October 7, 2022, filed; **AND UPON HEARING** from counsel for the Parties;

IT IS HEREBY ORDERED THAT:

1. The settlement approval hearing shall be held on _____, 2022 commencing at _____ ;
2. Notice to class members of the settlement approval hearing shall be given by the Plaintiffs as follows:
 - (a) Class members who are currently residents of Prestwick Pointe Condominiums will receive notice by:
 - (i) a notice posted on a bulletin board located in the common area of the residential buildings;
 - (ii) a notice posted on the Simco Management (Calgary) Inc. (“Simco”) communication portal; and
 - (iii) by email if an email address is available or, if not, by regular mail to the most recent address in the records of Condominium Corporation No. 0610078 (the “Condo Corp”);
 - (b) Class members who are not currently owners and who provided an email address or a forwarding address will receive notice by way of either email, if an email address is available, or regular mail to the address provided to the Condo Corp; and

- (c) Class members who are not currently owners and where no email or forwarding address was provided will receive notice by posting in the Calgary Herald and Edmonton Journal on one Saturday.
3. Notice:
- (a) Pursuant to paragraphs 2(a) and (b) above shall be given in substantially the form set out at Schedule “A1” to this order; and
- (b) Pursuant to paragraph 2(c) above shall be given in substantially the form set out at Schedule “A2” to this order.
4. Notice shall be distributed, posted, emailed or mailed in accordance with this order by no later than , 2022.
5. If a class member wishes to make submissions to the Court supporting or objecting to the settlement, they must do so in writing (by email or mail) and received by counsel for the class by no later than , which written submissions will be provided to the Court, the defendants and third parties by no later than .
6. Costs of giving notice by regular mail and by posting in the newspaper shall, at first instance, be borne by Simco.
7. There shall be no costs payable to any party in connection with this application.

The Honourable Justice G. A. Campbell,
Justice of the Court of King’s Bench of Alberta

SCHEDULE "A1"

NOTICE OF SETTLEMENT APPROVAL HEARING IN POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC. PARKADE CLASS ACTION

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

1. What is this class action about?

Starting in 2011 repairs were undertaken at Prestwick Pointe Condominiums located at 10 Prestwick Bay S.E., Calgary ("Prestwick Pointe") to repair certain parkade and drainage system problems. The costs of these repairs were paid for from contributions from unit owners as a result of two special assessments. An action was commenced to recover these costs. The action was certified as a class action on November 26, 2012. To obtain a copy of the statement of claim or the certification order please contact class counsel using the contact information set out in section 9, below – *How do I contact class counsel?*

2. What settlement has been reached in this class action?

The Representative Plaintiffs, the defendants and the third party defendants have agreed to settle the class action for a total all-inclusive payment of \$1,045,000. The settlement was reached following negotiations between the parties. The defendants and third party defendants do not admit any wrongdoing or fault in this matter, and the settlement does not imply any such liability, wrongdoing or fault on the part of the defendants or third party defendants.

If the settlement is approved by the Court, the \$1,045,000 will address the amounts claimed in the class action as well as legal fees, disbursements, the costs of administration and distribution of money to the Class Members and all applicable taxes. In exchange for the \$1,045,000 payment the defendants and third party defendants will receive a full release of all claims by the Class Members who did not opt out.

The Representative Plaintiffs and class counsel, Peacock Linder Halt & Mack LLP recommend the settlement because it will provide monetary compensation to the Class Members in the near future, weighed against the lawsuit continuing and the risks and unknown results and a potential unfavourable finding by the Court, if the case proceeded to trial.

3. Who is affected by the settlement?

The class members will be affected by the settlement.

You are a class member if:

- (a) You purchased a condominium unit in Condominium Plan No. 0610078 ("0610078") from Pointe of View Condominiums (Prestwick) Inc. ("Pointe of View"), you paid levies as a result of the special assessments by Condominium Corporation No. 0610078 (the "Condo Corp.") dated January 28, 2010 and May 17, 2010 (the "Special Assessments") and you have not opted-out of the class action; or

- (b) You purchased a condominium unit in 0610078 from other than Pointe of View, you paid levies as a result of the Special Assessments and you have not opted-out of the class action.

4. What will be decided at the approval hearing?

The settlement is subject to Court approval. The Court will decide whether the settlement is fair, reasonable and in the best interests of the class members. The Court will also decide how the settlement funds will be distributed.

To obtain a copy of the approval hearing application and supporting materials filed with the Court please visit www.plhlaw.ca/class-actions.

5. What happens to the money paid under the settlement?

The amounts paid to Class Members will be paid from the money remaining after deducting any Court approved honorarium payable to the representative plaintiff, legal fees, disbursements and any applicable GST, as well as the costs of administering and distributing the money to the Class Members. The amount that individual Class Members receive will be calculated on the basis of the class member’s proportionate share of the remaining money according to the amount paid by each class member toward the special assessments.

Class Members will not have to personally pay class counsel for the work they have done or for the disbursements that have been incurred to pursue this matter. The Representative Plaintiffs entered into a contingency fee arrangement with Class counsel providing that class counsel will be paid only in the event of successful settlement or trial judgment. The contingency fee agreement provides for payment of legal fees of 25% of the settlement funds plus GST. Class counsel will, however, be asking the Court to approve legal fees of 10% of the settlement funds plus GST. Class counsel will also be asking the Court to approve the reimbursement of disbursements paid by the Corporation in the sum of \$39,928.47 (inclusive of GST) and to approve a payment of 5% of the settlement funds to the property manager for the Corporation to cover all the time and expenses incurred by the property manager to assist in the class action and to act as administrator of the settlement. In addition, class counsel will be asking the Court to approve the payment of an honorarium in the sum of \$1,000 to the representative plaintiff, Heather Hansen (nee Mazur).

6. When and how/where will the approval hearing be held?

The hearing will be held at the Court of King’s Bench of Alberta and will be heard both remotely and in person. The details of the hearing are:

Date	[REDACTED]
Time	[REDACTED]
Where	[REDACTED]
Before Whom	The Honourable Madam Justice G.A. Campbell

7. What happens if the settlement is rejected by the Court?

The Court will decide whether to approve the settlement. The Court does not have the authority to change the terms of the settlement. If the Court does not approve the settlement the class action lawsuit will continue. It may take years to complete the remaining pre-trial procedures, trial and any possible appeals.

8. What do I need to do now?

You may attend the settlement approval hearing on [REDACTED], but you are not required to do so. You are entitled, but not required, to express your opinion about the settlement and whether it should be approved. If you wish to make a submission to the Court supporting or objecting to the settlement, you must do so by sending a written submission (by email or mail) to class counsel, at the address below, by no later than [REDACTED]. Class counsel will provide all written submissions to the Court, the Defendants and the Third Parties in advance of the hearing.

The written submission should include:

- (a) Your name, address and telephone number;
- (b) A brief statement of the reasons that you support or oppose the settlement; and
- (c) Whether you plan to attend the approval hearing.

If the settlement is approved and you are a class member who is a current Prestwick Pointe unit owner, you will not need to do anything to receive compensation. Class members who are former Prestwick Pointe unit owners will need to complete a claim administration form in order to receive compensation. The claim administration form is necessary to ensure that the claims administrator has, among other things, the former unit owner's current address.

If the settlement is approved, further notice will be given with the details and deadlines for submitting a claim form, if required.

9. How do I contact class counsel?

Peacock Linder Halt & Mack LLP are class counsel and can be reached at:

4050, 400 - 3rd Ave. S.W.

Calgary, AB T2P 4H2

Telephone: 403-296-2291

Fax: 403-296-2299

Lawyer: Mylène Tiessen

Email: mtiessen@plhlaw.ca

10. What if I have more questions?

For more information, please visit www.plhlaw.ca/class-actions. If you have questions that are not answered online, please contact class counsel at the email address and number listed above.

The court offices are unable to answer any questions about the matters in this notice.

This notice was approved by order of the Court of King's Bench of Alberta.

SCHEDULE "A2"

**NOTICE OF SETTLEMENT
APPROVAL HEARING OF POINTE OF
VIEW CONDOMINIUMS
(PRESTWICK) INC. PARKADE CLASS
ACTION LAWSUIT**

On November 26, 2012, the Alberta Court of Queen's Bench certified a class action involving Pointe of View Condominiums located at 10 Prestwick Bay S.E., Calgary, with respect to various problems involving the parkade and drainage system. The action has been settled subject to court approval. The settlement approval hearing is being held **virtually/in person on _____**. To determine if you are a member of the class and to obtain a copy of the settlement approval hearing application and supporting materials please visit www.plhlaw.ca/class-actions or contact class counsel, Peacock Linder Halt & Mack LLP at 403-296-2280.

SCHEDULE "B"

Clerk's Stamp

COURT FILE NUMBER 1001-15771

COURT KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFFS CONDOMINIUM CORPORATION NO. 0610078 and HEATHER MAZUR AS REPRESENTATIVE PLAINTIFFS

DEFENDANTS POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC., ROYAL & SUN ALLIANCE INSURANCE COMPANY OF CANADA, NATIONAL HOME WARRANTY PROGRAMS LTD. , DAVID T. SYMONS ARCHITECT LTD., ROBERT SPAETGENS ARCHITECT LTD. AND DAVID T. SYMONS ARCHITECT LTD. CARRYING ON BUSINESS AS S2 ARCHITECTURE PARTNERSHIP, S2 ARCHITECTURE, DURWEST CONSTRUCTION SYSTEMS (ALBERTA) LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD. AND R.K.G. DEVELOPMENTS LTD. CARRYING ON BUSINESS AS LENBETH WEEPING TILE CALGARY and LENBETH WEEPING TILE CALGARY

THIRD PARTY DEFENDANTS POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC., ROBERT SPAETGENS ARCHITECT LTD., DAVID T. SYMONS ARCHITECT LTD., ROBERT SPAETGENS ARCHITECT LTD. and DAVID T. SYMONS ARCHITECT LTD. CARRYING ON BUSINESS AS S2 ARCHITECTURE PARTNERSHIP, S2 ARCHITECTURE, DURWEST CONSTRUCTION SYSTEMS (ALBERTA) LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD., R.K.G. DEVELOPMENTS LTD., PRAIRIE PIPE SALES LTD., 789072 ALBERTA LTD. AND R.K.G. DEVELOPMENTS LTD. CARRYING ON BUSINESS AS LENBETH WEEPING TILE CALGARY and LENBETH WEEPING TILE CALGARY

**BROUGHT PURSUANT TO THE
CLASS PROCEEDINGS ACT, SA 2003, c C-16.5**

DOCUMENT **ORDER APPROVING SETTLEMENT AND DISTRIBUTION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTIES FILING THIS DOCUMENT **PEACOCK LINDER HALT & MACK LLP**
Suite 4050, 400 – 3rd Avenue SW
Calgary, Alberta T2P 4H2
Attention: Mylène Tiessen
Telephone: (403) 296-2280
Fax: (403) 296-2299
File: 4829

DATE ON WHICH ORDER WAS PRONOUNCED:



NAME OF JUSTICE WHO MADE THIS ORDER:

Justice G.A. Campbell

LOCATION OF HEARING:

Calgary, Alberta

UPON THE JOINT APPLICATION of the Plaintiffs, the Defendants and the Third Party Defendants (the “Parties”) for an order approving the January 25, 2022 settlement between the Parties (the “Settlement”); **AND UPON NOTING** that this action (the “Action”) was certified as a class proceeding pursuant to a Certification Order pronounced November 26, 2012 (the “Certification Order”); **AND UPON THE APPLICATION OF** the Plaintiffs seeking court approval regarding the distribution of proceeds of settlement as set out in the affidavit of Heather Hansen, filed; **AND UPON READING** the affidavit of Heather Hanson sworn October 7, 2022, filed; **AND UPON NOTING** the affidavit of service confirming that notice of the Settlement and the proposed distribution of the proceeds of the settlement have been delivered to the class members; **AND UPON NOTING** the consent of the Parties; **AND UPON HEARING** from counsel for the Parties;

IT IS HEREBY ORDERED THAT:

1. The Settlement is approved by this Honourable Court and the Court declares that the Settlement is fair, reasonable and in the best interests of the Class.
2. It is further ordered and declared that that Settlement is binding upon each member of the Class (the “Class Members”) and the Class Members do not include those persons who opted out of the class proceeding in accordance with paragraph 9 of the Certification Order.
3. In accordance with the Settlement, the Action is hereby dismissed as against the Defendants and the Third Party Defendants on a without costs basis and with prejudice.
4. It is further declared that each member of the Class and their heirs, executors, administrators, legal representatives, successors and assigns, fully, finally and forever absolutely releases and discharges the Defendants and any of their predecessors, successors, principals, agents, partners, employees and insurers from and in respect of all claims or potential claims arising out of or in any way relating to the facts and allegations pleaded in the Action.
5. It is ordered that Peacock Linder Halt & Mack LLP (formerly Peacock Linder & Halt LLP) (“Class Counsel”) and Simco Management (Calgary) Inc. (“Simco”) are hereby jointly appointed as Administrator to effect the administration of the Settlement and shall ensure

that each Class Member may make a claim to a portion of the settlement funds without any requirement to report to the Court on their distribution of settlement proceeds to the Class. The procedures to be put in place beyond what is set out in this order are to be set by Class Counsel, and all costs of distribution to the Class are to be borne by Simco.

6. This Court declares that this order and the settlement approved pursuant to this order are not based upon any findings or admission of liability or wrongdoing by the Defendants or the Third Party Defendants, and there has been no admission in respect of liability by the Defendants or the Third Party Defendants.
7. This Court approves:
 - (a) the reimbursement to the Plaintiff, Condominium Corporation No. 0610078 (the “Condo Corp”) for disbursements, other charges and applicable GST charged by Class Counsel and paid by the Condo Corp in the sum of \$39,928.47;
 - (b) the payment to Simco in the sum of \$52,250;
 - (c) the payment to Class Counsel in the sum of \$109,725; and
 - (d) the payment of an honorarium in the sum of \$1,000 to Heather Hansen (nee Mazur).
8. The net proceeds of settlement shall be paid, after deduction of the payments set out above, and shall be distributed to the Class Members or their assignees or transferees, as applicable, on a *pro rata* basis, based upon the amount paid by each Class Member who paid levies as a result of the special assessments by the Condo Corp dated January 28, 2010 and May 17, 2020.
9. In the case of a condominium unit owned by more than one Class Member, the *pro rata* payment made pursuant to paragraph 8, will be divided equally between each Class Member being an owner of that condominium unit.
10. Notice of the Settlement Approval Order to the Class Members shall be given by the Plaintiffs as follows:
 - (a) Class members who are currently residents of Prestwick Pointe Condominiums will receive notice by:
 - (i) a notice posted on a bulletin board located in the common area of the residential buildings;
 - (ii) a notice posted on the Simco Management (Calgary) Inc. (“Simco”) communication portal; and
 - (iii) by email if an email address is available or, if not, by regular mail to the most recent address in the records of Condominium Corporation No. 0610078 (the “Condo Corp”);

SCHEDULE “B1”

**NOTICE OF SETTLEMENT APPROVAL IN THE
POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC. PARKADE
CLASS ACTION**

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

TO CLASS MEMBERS:

You are a class member if:

- (a) You purchased a condominium unit in Condominium Plan No. 0610078 (“0610078”) from Pointe of View Condominiums (Prestwick) Inc. (“Pointe of View”), you paid levies as a result of the special assessments by Condominium Corporation No. 0610078 (the “Corporation”) dated January 28, 2010 and May 17, 2010 (the “Special Assessments”) and you have not opted-out of the class action; or
- (b) You purchased a condominium unit in 0610078 from other than Pointe of View, you paid levies as a result of the Special Assessments and you have not opted-out of the class action;

The Alberta Court of Queen’s Bench has approved a settlement in the class action commenced to recover the costs associated with repairs undertaken, starting in 2011, at Prestwick Pointe Condominiums located at 10 Prestwick Bay S.E., Calgary (“Prestwick Pointe”) to repair certain parkade and drainage system problems. The costs of these repairs were paid for from contributions from unit owners as a result of two special assessments. An action was commenced to recover these costs. The action was certified as a class action on November 26, 2012.

To obtain a copy of the order approving the settlement please visit www.plhlaw.ca/class-actions. Or contact class counsel using the contact information set out in section 3, below – *Contacting Class Counsel*

1. Summary of the Settlement Approved by the Court

The plaintiffs, the defendants and the third party defendants agreed to settle the class action for a total all-inclusive payment of \$1,045,000. In exchange for the \$1,045,000 payment the defendants and third party defendants have received a full release of all claims by the class members who did not opt out.

Pursuant to the Court’s approval deductions for legal fees, disbursements, other expenses and legal fees will be paid from the settlement funds. The net settlement funds will be distributed to the class members on a *pro rata* basis according to the amount each class member paid as a result of the special assessments.

SCHEDULE "B2"

**NOTICE OF SETTLEMENT
APPROVAL ORDER OF POINTE OF
VIEW CONDOMINIUMS
(PRESTWICK) INC. PARKADE CLASS
ACTION LAWSUIT**

On November 26, 2012, the Alberta Court of Queen's Bench certified a class action involving Pointe of View Condominiums located at 10 Prestwick Bay S.E., Calgary, with respect to various problems involving the parkade and drainage system. The action has been settled and the settlement was approved by the Court on [REDACTED]. To determine if you are a member of the class, to obtain a copy of the settlement approval order or to make a claim please visit www.plhlaw.ca/class-actions or contact class counsel, Peacock Linder Halt & Mack LLP at 403-296-2280.

SCHEDULE "C"

CLASS ACTION CLAIM FORM

**POINTE OF VIEW CONDOMINIUMS (PRESTWICK) INC.
PARKADE CLASS ACTION**

INSTRUCTIONS:

1. Please complete this form if you are a class member and a former Prestwick Pointe unit owner.
2. Please ensure you complete all sections of the Claim Form that apply to you.
3. The form may be completed, signed and submitted electronically; or by printing the form, completing it (please write clearly and legibly) and submitting it to the claims administrator:

Simco Management (Calgary) Inc.
2478 – 91st Street SE
Calgary, AB T2C 5H3
Facsimile: 403-234-0172
Email: povclassaction@simcomgt.com
Attention: Verna Penner

CLAIMANT INFORMATION:

NAME (FIRST AND LAST): _____

PRESTWICK POINTE UNIT(S) YOU PREVIOUSLY OWNED (unit number): _____

MAILING ADDRESS (Unit Number/Street/P.O. Box/City/Province/Country/Postal Code):

EMAIL ADDRESS: _____

TELEPHONE NUMBER: _____

WERE YOU THE SOLE OWNER OF THE PRESTWICK POINTE UNIT(S) AT THE TIME
(check one):

YES NO

IF NO, PROVIDE THE NAME, ADDRESS, EMAIL ADDRESS AND TELEPHONE NUMBER
OF THE OTHER OWNER(S):

NAME (FIRST AND LAST): _____

MAILING ADDRESS (Unit Number/Street/P.O. Box/City/Province/Country/Postal Code):

EMAIL ADDRESS: _____

TELEPHONE NUMBER: _____

HAVE YOU TRANSFERRED YOUR INTEREST IN THE ACTION (check one)?

NO YES

IF YES, PLEASE EXPLAIN: _____

IF YES, PLEASE ALSO PROVIDE A COPY OF ANY SUPPORTING DOCUMENTATION WHEN SUBMITTING THIS FORM.

SIGNATURE: _____ DATE: _____

REMINDER CHECKLIST:

1. Please complete and sign the claim form where indicated.
2. Attach only a copy of any supporting documentation as these documents will not be returned to you.
3. Keep a copy of the claim form for your records.
4. The claims administrator will acknowledge receipt of your Claim Form by mail or email within 20 days. Your claim is not deemed submitted until you receive an acknowledgement from Simco Management (Calgary) Inc. If you do not receive an acknowledgement within 20 days, please call Simco Management (Calgary) Inc. at 403-234-0166.
5. If you move after submitting this Claim Form please notify Simco Management (Calgary) Inc. of the change in your address, otherwise you may not receive additional notices or payment.
6. **CLAIM FORMS SUBMITTED AFTER _____ WILL BE REJECTED.**