



No. S-1510418  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN

**0790482 B.C. LTD.**

PLAINTIFF

AND

**KBK NO. 11 VENTURES LTD., 1100 GEORGIA PARTNERSHIP,  
PETERSON INVESTMENT (GEORGIA) LIMITED PARTNERSHIP,  
ABBEY ADELAIDE HOLDINGS INC., LJV GEORGIA INVESTMENTS INC.  
and NO. 274 CATHEDRAL VENTURES LTD.**

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER MADE AFTER APPLICATION**

BEFORE ) THE HONOURABLE )  
          ) MR. JUSTICE WALKER ) April 11, 2022

ON THE APPLICATION of 0790482 B.C. Ltd. coming on for hearing via videoconference at the Courthouse in Vancouver, British Columbia on April 11, 2022, and on hearing Melissa Hunt, counsel for the representative plaintiff, and Shane D. Coblin, counsel for the defendants;

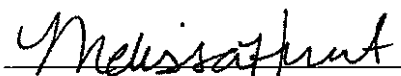
THIS COURT ORDERS that:

1. By consent of the representative plaintiff and the defendants (collectively, the “Parties”), the short-form notice (“**Short-Form Notice**”) and long-form notice (“**Long-Form Notice**”) of certification and of a 30-day opt-out period, appended to this Order as **Schedules “A”** and **“B”**, respectively, are hereby approved.
2. By consent of the Parties, the opt-out form (“**Opt-Out Form**”) appended to this Order as **Schedule “C”** is hereby approved.
3. By consent of the Parties, the defendants will produce to the representative plaintiff, within 14 business days of the issuance of this Order, digital copies of the relevant pre-sale contracts within the defendants’ possession and control. The representative plaintiff will review these records for any contact information of class members for the purpose of providing direct notice.

4. By consent of the Parties, Epiq Class Action Services Canada, Inc. is appointed as the notice administrator (“**Notice Administrator**”).
5. By consent of the Parties, and to provide time to effect paragraph 3 of this Order, the following notice plan (“**Notice Plan**”) is approved for implementation starting as early as is logistically reasonable and no later than May 30, 2022:
  - (a) On the first day of the opt-out period, the Notice Administrator will distribute the Short-Form Notice by email and/or regular mail to class members, directly or in care of their legal representative, for whom a last-known email and/or mailing address has been identified.
  - (b) Throughout the opt-out period, the Notice Administrator will establish and maintain a class action website at <https://ShangriLaWindowsClassAction.com> (the “**Website**”) that, among other things, will:
    - (i) post the Short-Form Notice, Long-Form Notice and Opt-Out Form;
    - (ii) conspicuously display the 30-day opt-out deadline;
    - (iii) provide contact information for class counsel and the Notice Administrator; and
    - (iv) enable class members to register updated contact information.
  - (c) As early in the opt-out period as possible, the Notice Administrator will arrange a one-time publication of the Short-Form Notice in a Saturday edition of *The Globe and Mail*, National Edition.
  - (d) Throughout the opt-out period, the Notice Administrator will arrange for online banner advertisements for the Website to be displayed on the website of the Vancouver Sun article published on February 15, 2022 regarding the certification of this class action.
  - (e) Throughout the opt-out period, class counsel will forward the Short-Form Notice, Long-Form Notice and Opt-Out Form to any person who contacts class counsel and requests copies.
  - (f) Class counsel will cause the Short-Form Notice to be posted in conspicuous common areas of the Shangri-La building throughout the opt-out period, and to be disseminated one time via the electronic distribution list of the community managers for The Owners, Strata Plan BCS 3165 and The Owners, Strata Plan BCS 3206.

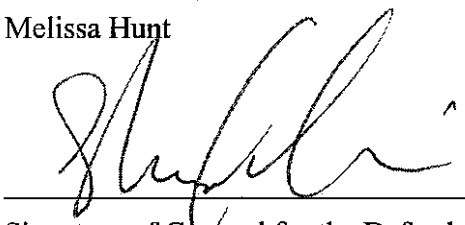
6. By consent of the Parties, no class member may opt out of this class action after the 30-day opt-out period, except with leave of this Court.
7. By consent of the Parties, the costs of the Notice Administrator to implement paragraphs (a)-(d) of the Notice Plan, as described above, will be divided equally between the Parties, with the representative plaintiff bearing 50% of the costs and the defendants, collectively, bearing the remaining 50%. The costs will be initially borne by the representative plaintiff with the defendants reimbursing their 50% portion within 30 days after receiving copies of invoices confirming the amounts expended.
8. By consent of the Parties, the Parties will bear their own costs for this application.
9. This Order may be endorsed by the Parties electronically and in counterpart.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
\_\_\_\_\_

Signature of Counsel for the Plaintiff

Melissa Hunt

  
\_\_\_\_\_

Signature of Counsel for the Defendants

Shane D. Coblin

By the Court



Registrar



## **SCHEDULE "A"**

IMPORTANT INFORMATION Please have this translated

重要資料 請找人為你翻譯

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बुद्धी महत्वपूर्ण बिना इसके किसे कुछ दिना का सुनिश्च करवाएँ

## SHANGRI-LA WINDOWS CLASS ACTION

### NOTICE OF CERTIFICATION AND OPT-OUT DEADLINE

THIS IS AN IMPORTANT NOTICE THAT MAY AFFECT YOUR RIGHTS. PLEASE READ CAREFULLY.

Are you a current or former owner in Strata Plan BCS 3165 or BCS 3206 in the Shangri-La building in Vancouver, British Columbia, who entered into, or took an assignment of, a pre-sale contract with the Developer prior to the completion of construction? If so, you may be a **Member of the Class** in a Class Action lawsuit.

The Court has certified a Class Action that asserts, on behalf of Class Members, that the Developer and other parties (collectively, the “**Defendants**”) breached an implied warranty and the pre-sale contract because of defects in the Shangri-La’s insulated glass window units (“**IGUs**”), and that the Defendants are liable for individual (i.e., non-common property) losses to Class Members arising from the defects.

If you are a Class Member and wish to participate in the Class Action against the Defendants, you do not need to do anything at this time. If you do nothing, you will automatically be included in the Class, which means:

- You will be bound by any judgment in the Class Action, whether favourable or not.
- Class Members will be entitled to the benefits of a successful judgment on the common issues or from any settlement of the Class Action.
- You will not be required to pay the fees or expenses of the lawyers representing the Class, whether the Class Action is successful or not. If the Class Action is successful, there will be a first charge over any proceeds recovered for the amount of the lawyers’ reasonable fees and expenses before proceeds are distributed to the Class.
- If the Class Action goes to trial and is successful, individual issues may remain for determination afterwards. This stage may require individual Class Members to prove their own entitlement to compensation that they wish to claim.

**If you are a Class Member but do NOT want to participate in the Class Action, you must opt out by delivering an Opt-Out Form that is postmarked or emailed no later than May [X], 2022.** The Opt-Out Form, and the information for where to send it, are available at <https://ShangriLaWindowsClassAction.com>.

Please visit <https://ShangriLaWindowsClassAction.com> to read a more detailed Notice about the Class Action. Any questions about the Class Action should be directed to the law firm McEwan Cooper Dennis LLP, which represents the Class, at (604) 283-7856 or [ShangriLaClassAction@mcewanpartners.com](mailto:ShangriLaClassAction@mcewanpartners.com).

002615-0003/00558938 4

This Notice is a summary of some of the terms of the Court’s certification order. If there is a conflict between this Notice and the terms of the certification order, the certification order prevails.

## **SCHEDULE "B"**

**IMPORTANT INFORMATION** Please have this translated

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चुकी जानकारी विषय अवले विने चेहे दिगं दा वुसंय करवर्च

## SHANGRI-LA WINDOWS CLASS ACTION

### NOTICE OF CERTIFICATION AND OPT-OUT DEADLINE

THIS IS AN IMPORTANT NOTICE THAT MAY AFFECT YOUR RIGHTS. PLEASE READ CAREFULLY.

Are you a current or former owner in Strata Plan BCS 3165 or BCS 3206 in the Shangri-La building in Vancouver, British Columbia, who entered into, or took an assignment of, a pre-sale contract with the Developer prior to the completion of construction? If so, you may be a **Member of the Class** in a Class Action asserting claims against the Developer and others.

If you are a Class Member, this Notice describes the factors to consider in making your decision of whether to remain in the Class, or to **request exclusion from the Class by May [X], 2022**.

\* \* \*

#### 1. Who is included in the Class?

On February 1, 2022, the Supreme Court of British Columbia certified a Class Action lawsuit against 1100 Georgia Partnership (the Developer), KBK No. 11 Ventures Ltd. (the legal owner of the land), Peterson Investment (Georgia) Limited Partnership, Abbey Adelaide Holdings Inc., LJV Georgia Investments Inc., and No. 274 Cathedral Ventures Ltd. (collectively, the “**Developer Defendants**”).

You are a Class Member in the Class Action against the Developer Defendants if you meet the following definition:

Current and former owners in Strata Plan BCS 3165 or BCS 3206 in the Shangri-La building in Vancouver, British Columbia, except the Developer Defendants and their senior officers and directors, who were either:

- (a) original purchasers of a pre-sale unit who entered into a contract of purchase and sale with a Developer Defendant prior to the completion of construction (a “**Pre-Sale Contract**”), or
- (b) purchasers who took an assignment of an original purchaser’s Pre-Sale Contract before the completion of construction and with the written consent of a Developer Defendant.

The Class, however, does not include those original purchasers who assigned their Pre-Sale Contract to a purchaser who is a Class Member under prong (b).

All persons who fall within this definition are Class Members and automatically included in the Class unless they choose to exclude themselves. This Notice describes the factors for Class Members to consider in making their decision of whether to remain in the Class (see Section 5 below) or to request exclusion from the Class (see Section 6 below).

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## 2. What is a Class Action?

A class action is a type of lawsuit in which one or more persons, referred to as representative plaintiffs, bring a suit on behalf of all of the members of a similarly situated group who have similar claims, except for those who choose to exclude themselves, without the necessity of each member filing an individual lawsuit and incurring all of the expenses or appearing as an individual plaintiff.

## 3. What is this Class Action about?

The Court has appointed 0790482 B.C. Ltd. as the representative plaintiff for the Class and its lawyers (see Section 8 below) as counsel for the Class (“Class Counsel”). Around August 2009, 0790482 B.C. Ltd. took an assignment of a Pre-Sale Contract in respect of lot 64 in Strata Plan BCS 3206. Mr. Amos Michelson is the sole shareholder and director of 0790482 B.C. Ltd.

0790482 B.C. Ltd., as the representative plaintiff, is asserting on behalf of the Class that the Developer Defendants breached an implied warranty and the Pre-Sale Contract because of defects in the Shangri-La’s insulated glass window units (“IGUs”), and that the Developer Defendants are liable for individual (i.e., non-common property) losses to Class Members arising from the defects, such as diminution in property value, loss of amenity, damage to individual property, and loss of rental income.

The Court has not yet determined whether the Class or the Developer Defendants will succeed in this case.

## 4. What benefits does the Class Action seek to obtain for the Class?

The Class Action will proceed in multiple stages.

The Developer Defendants have filed an appeal with British Columbia’s Court of Appeal requesting that this case not be allowed to move forward as a Class Action. Please register at <https://ShangriLaWindowsClassAction.com> to be kept informed about the progress of this appeal.

Subject to the Developer Defendants’ appeal, the Class Action is scheduled to go to trial commencing on October 3, 2022 and continuing for up to 130 days. The trial will determine the common issues of whether the Developer Defendants are liable for breaching an implied warranty and/or the Pre-Sale Contract. If those common issues of liability are decided in favour of the Developer Defendants, then no relief will be awarded to the Class. If the common issues of liability are decided in favour of the Class, then the Court will proceed to determine other common issues concerning certain damages issues, namely whether damages for loss of amenity can be awarded on a Class-wide basis and whether the Developer Defendants should pay interest to the Class. All Class Members will be bound by the outcome (win or lose) of the common issues unless they exclude themselves from the Class Action.

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If the Class Action proceeds to a trial and the Class is successful on the common issues, steps may need to be taken by Class Members after the common issues stage is over. In particular, individual issues may remain for determination for Class Members who incurred other losses not included in the common issues (e.g., diminution in property value, damage to individual property, loss of rental income). The Court will determine what steps Class Members need to take if they wish to prove entitlement to compensation or other relief, and in what amount. An understanding of the process for this stage will be made available at that time. If a Class Member wishes to retain a lawyer to assist with these individual issues, the Class Member may have to pay fees for this service.

#### 5. How do I participate in the Class Action?

If you fall within the definition of the Class, **do nothing at this time if you wish to participate in the Class Action.** If you do nothing, you will automatically be included in the Class, which means:

- You will be bound by a judgment on the common issues, whether favourable or not. Class Members will not be entitled to bring a separate legal action against the Developer Defendants for the common issue claims described in this Notice.
- Class Members will be entitled to the benefits of a successful judgment on the common issues or from any settlement of the Class Action.
- You will not be required to pay Class Counsel for their fees and expenses. If the Class Action is successful, whether by way of a settlement or judgment, there will be a first charge over any proceeds recovered for the amount of Class Counsel's reasonable fees and expenses before proceeds are distributed to Class Members. If the Class Action is unsuccessful, Class Members will not receive any compensation, however, Class Members will have no financial obligations in respect of the lawsuit.
- If the Class Action goes to trial and is successful on the common issues, individual issues may remain for determination afterwards. This stage may require individual Class Members to prove their own entitlement to compensation that they wish to claim (see Section 4 above).

#### 6. How do I request to be excluded (i.e., opt out) from the Class Action?

If you are a Class Member but do NOT want to participate in the Class Action, you must opt out from the Class Action. To opt out, you must complete, sign and deliver the Court approved Opt-Out Form that is available for download in the Documents section at <https://ShangriLaWindowsClassAction.com>.

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**Opt-Out Forms must be postmarked or emailed no later than May [X], 2022, and sent by prepaid mail, courier or email to:**

McEwan Cooper Dennis LLP  
Attention: Shangri-La Windows Class Action  
900-980 Howe Street  
Vancouver, BC V6Z 0C8  
Email: [ShangriLaClassAction@mcewanpartners.com](mailto:ShangriLaClassAction@mcewanpartners.com)

If you opt out, you will **NOT** be bound by any judgment or result in the Class Action. Instead, if you intend to pursue claims that the Developer Defendants are liable for your individual losses arising from the alleged IGU window defects, you must do so on your own. You should consult with your own lawyer, at your sole cost, regarding your rights. If you opt out of the Class Action, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your claim. The certification of this Class Action suspended the running of the limitation period from the time the action was filed on December 15, 2015. The limitation period will resume running against you if you opt out of the Class Action. By opting out of the Class Action, you will take full responsibility for taking all legal steps necessary to protect your claim.

**Do NOT opt out if you wish to participate in the Class Action.** If you are a Class Member and do not opt out of the Class Action by May [X], 2022, you will be part of the Class Action and bound by any judgment or settlement in the Class Action.

#### **7. Preservation of Documents**

All Class Members wishing to participate in the Class Action should take reasonable steps to collect and preserve all documents and receipts relating to any individual (i.e., non-common property) losses arising from the alleged IGU window defects, such as diminution in property value, loss of amenity, damage to individual property, and loss of rental income.

#### **8. Who is Class Counsel and how do I find out more information?**

The lawyers for the Class are McEwan Cooper Dennis LLP. Class Members can contact Class Counsel using the following contact information:

McEwan Cooper Dennis LLP  
Attention: Shangri-La Windows Class Action  
900-980 Howe Street  
Vancouver, BC V6Z 0C8  
Email: [ShangriLaClassAction@mcewanpartners.com](mailto:ShangriLaClassAction@mcewanpartners.com)  
Telephone: (604) 283-7856

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In addition, information about the Class Action will be updated from time to time at <https://ShangriLaWindowsClassAction.com>.

While the representative plaintiff, 0790482 B.C. Ltd., will instruct Class Counsel during the common issues stages, Class Counsel must act in the interests of all Class Members. If any Class Members wish to participate in the common issues stages directly, they must apply to the Supreme Court of British Columbia. Each Class Member has the right, at their own cost, to be separately represented by a lawyer of their own choice.

#### **9. Purpose of this Notice**

This Notice is given to you on the basis that you may be a Class Member whose rights are affected by the Class Action. This Notice should not be understood as an expression of any opinion of the Court as to the merits of any claims or defences in the Class Action. If you have any questions regarding this Notice or about the Class Action, please contact McEwan Cooper Dennis LLP at (604) 283-7856 or by email at [ShangriLaClassAction@mcewanpartners.com](mailto:ShangriLaClassAction@mcewanpartners.com).

**This Notice has been approved by the Supreme Court of British Columbia.**

**DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

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## **SCHEDULE "C"**

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No. S-1510418  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

0790482 B.C. LTD.

PLAINTIFF

AND

KBK NO. 11 VENTURES LTD.,  
1100 GEORGIA PARTNERSHIP, PETERSON INVESTMENT  
(GEORGIA) LIMITED PARTNERSHIP, ABBEY ADELAIDE HOLDINGS INC.,  
LJV GEORGIA INVESTMENTS INC. and NO. 274 CATHEDRAL VENTURES LTD.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**OPT-OUT FORM**  
**SHANGRI-LA WINDOWS CLASS ACTION**

ONLY SUBMIT THIS FORM IF YOU DO **NOT** WANT TO PARTICIPATE IN THE CLASS ACTION. If you wish to be excluded from the Shangri-La Windows Class Action, this completed form must be postmarked or emailed **no later than May [X], 2022** in order to be valid.

**1. OWNER IDENTIFICATION**

Please provide contact information for the current or former Shangri-La unit owner submitting this opt-out request. **PLEASE PRINT.**

Last Name:		First Name:		Middle Initial:	
Address:			Unit Number:		
City:	Province/State:	Postal Code/Zip Code:	Country:		
Phone Number:			Email Address:		

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## 2. SHANGRI-LA UNIT IDENTIFICATION

Please provide the following information concerning the pre-sale strata unit purchased prior to the completion of construction of the Shangri-La building that has a civic address of 1111 Alberni Street or 1128 West Georgia Street in Vancouver, British Columbia. If there is more than one unit, provide the following information for other units in an attachment. **PLEASE PRINT.**

Unit number:
Unit's strata plan: <input type="checkbox"/> BCS 3165 (live-work parcel) <input type="checkbox"/> BCS 3206 (residential parcel)
Date of purchase of unit:
Did you purchase the unit as: <input type="checkbox"/> An original purchaser who entered into a contract of purchase and sale with the Developer prior to the completion of construction (a "Pre-Sale Contract"), or <input type="checkbox"/> A purchaser who took an assignment of an original purchaser's Pre-Sale Contract before the completion of construction.
If you were the original purchaser of this unit, did you assign your Pre-Sale Contract to another purchaser before the completion of construction? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, the date of the assignment: _____
Are you a current or former owner of this unit? <input type="checkbox"/> Current Owner <input type="checkbox"/> Former Owner
If you are a former owner, the date you sold the unit: _____
Are you a senior officer or director of any of the companies listed below? <input type="checkbox"/> Yes <input type="checkbox"/> No <ul style="list-style-type: none"><li>• 1100 Georgia Partnership</li><li>• KBK No. 11 Ventures Ltd.</li><li>• Peterson Investment (Georgia) Limited Partnership</li><li>• Abbey Adelaide Holdings Inc.</li><li>• LJV Georgia Investments Inc.</li><li>• No. 274 Cathedral Ventures Ltd.</li></ul>

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सबसे ज़रूरी बिषय बरने बिसे जेहे हिम दा धुकेण बरबदि

### 3. I WISH TO OPT OUT OF THE CLASS ACTION

I understand that by opting out of this class action, I am confirming that **I DO NOT WANT TO PARTICIPATE** in this class action. I have read the detailed Notice about this class action available at <https://ShangriLaWindowsClassAction.com>. I understand that if I opt out, I will not be bound by any judgment (whether favourable or unfavourable) or settlement in the class action.

I also understand that a lawsuit must be commenced within a specified limitation period or it will be legally barred. The certification of the class action suspended the running of the limitation period from the time the action was filed on December 15, 2015. The limitation period will resume running against me if I opt out of the class action. By opting out of the class action, I take full responsibility for taking all legal steps to protect my claim.

Check the box to confirm your intention to opt out of the Shangri-La Windows Class Action:

I OPT OUT

### 4. SIGNATURE

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY MM DD

If you wish to opt out of the Shangri-La Windows Class Action, this completed and signed form, including any attachments, **MUST be postmarked or emailed no later than May [X], 2022** and sent by prepaid mail, courier or email to:

McEwan Cooper Dennis LLP  
Attention: Shangri-La Windows Class Action  
900-980 Howe Street  
Vancouver, BC V6Z 0C8  
Email: [ShangriLaClassAction@mcewanpartners.com](mailto:ShangriLaClassAction@mcewanpartners.com)