

VOC MINUTE 24 October 2017

3. Report on Financial Status

3.1 Resolution of Actions against Long Outstanding Debt

VOC paper No 562-17 was tabled. The Paper was written to recommend the appointment of solicitors to initiate legal proceedings to recover the debt owed by the owner with long term outstanding debt in Brilliance Court.

Reviewing the case, the Committee did not agree to pay any legal costs from Reserve Fund to recover the long outstanding debt of management fee and believed that it was CM's services. The Committee thus requested CM to take immediate actions to recover the debt, and was of the opinion that the interest of late payment should be calculated on a compound basis.

Further, CM should be liable for the difference of any outstanding amount if eventually any right to recover the debt or part was prejudiced by limitation of effluxion.

VOC Minute 18 January 2018

3. Matters Arising

3.1 Resolution of Actions against Long Outstanding Debt

ER pointed out that a resolution needed to be prepared for voting in order to reach a consensus from VOC to approve the funding to take legal actions against the owner with a long-term debt. CM replied that a VOC paper had been issued for the purpose, however, the Committee had a different view as recorded in previous minutes. CM would further elaborate the case and would make such a request to the Committee again for consideration.

VOC MINUTE 15 March 2018

4. Matters Arising

4.1 Resolution of Actions against Long Outstanding Debt

CM mentioned that it was the duty of manager under deeds of mutual covenant to take actions against default owners for debts. CM would institute legal actions against the owner with long outstanding debt (management fee and renovation contribution). Instruction to solicitors would be prepared.

VOC MINUTE 4 July 2018

2. Progress on Recovery of Long Outstanding Debt

GH advised that, since they have revised their fees, Messrs Woo Kwan Lee & Lo were now the recommended solicitor [instead of Messrs Chung & Kwan as recommended at the Meeting No 12] for an advice on the proceedings against the owner with a long-term debt of management fee and renovation contribution. GH further advised that CM had decided to follow the ER's suggestion [which was for the duty to attend to be delegated to ER by CM as suggested in the minutes of Meeting No 12 of 23 May 2018], to attend the first meeting with the solicitors in order to clarify some uncertainty in the context of the calculation of interest to be used as the basis of the claim. CM would revert soon with the details for the first meeting with the solicitor.

VOC MINUTE 2 August 2018

2.2 Arrangements for preliminary meeting with chosen lawyer regarding long overdue debt recovery

ER asked GH if he would go to the meeting or not as this was a very specific request in an earlier letter. GH said he fully understood the view of the VOC that it would be good idea or the Chairman to join the first meeting but that he had not had an answer from his seniors. ER said on behalf of the Committee that they accepted that he [their Estate Manager] believed that it would be a good idea for ER to be at the first meeting and added, "for the record" that they sympathized with his position.

MK asked when will the first meeting with the lawyer would take place? ER added that in any event it was important to know if the lawyer would have access to the legal advice he had obtained [from Carol Wong – barrister]. The Chairman reminded GH that a suggestion had been made that each owner would go after CM, individually through the Small Claims Court if we think that CM has not done everything to recover the debt we think we are due. GH replied "If you don't mind I will copy your legal advice to our in-house lawyer?" ER asked "So the legal advice has not been passed to the in-house lawyer?" Members expressed surprise that this had not already been done. ER said the legal advice was given CM to be used and no permission was needed. This was clearly offered to everybody at the COC. GH conceded that he had not passed the legal advice to the in-house lawyer.

ER asked if the in-house lawyer was in HKR and GH confirmed this to be the case and he also said that he had told the in-house lawyer that there was a dispute between the VOC and CM. They would take this matter to the solicitors for further advice. ER asked why there was a dispute adding that it was not unreasonable to go for the maximum? Why does CM not take the legal advice from the barrister and stop obstructing and use it and see what happens in Court? GH replied that simple interest was their practice. ER said that this was wrong [It should be compound] and that this was Hillgrove [not CM] and asked how often there are debts that go on for so long? Why did it go on so long and why did we [this VOC] have to discover it?

ER asked if the cost of the lawyer would be paid for by CM, since the cost could not come from the Reserve Fund? GH replied that this was to be decided.

MK again insisted that GH would tell him when the meeting with the external lawyer outside HKR would take place? GH agreed to find out.

ER asked if the delay in contacting the lawyer is because the VOC would not release the funds? GH replied he had not got an answer. EF suggested that there should be deadline.

MM said that all this has to be absolutely ~~minuted~~, as all this showed many points of failure and that there could be liability issues.

JA asked when CM was last in touch with the "guy that had not paid". It was necessary to have a clear notice on record. GH replied that it was 2 months ago. He was asked to pay the principal but has not followed through. MM asked if a

VOC MINUTE 2 August 2018 cont'd

solicitor's letter has been sent to the owner. JA asked if there was any response. MM asked "Can I take that as a NO?" MK "it is a NO. ER reminded GH that this did not look good.

GH read out some of the questions he had noted:

- a. Confirm the date of first meeting with the solicitors, and whether the Chair or Committee representatives(s) would be invited to join the above meeting;
- b. Which party [Hillgrove fund or CM] to discharge the legal bills? (to be decided by CM)
- c. Why did CM take over ten years to deal with this matter?
- d. When was the last communication with the debtor made and when the first demand letter was sent out;

ER proposed the following question should be added "Has the debtor received a lawyers letter stating his possible liabilities?"

JA Reminded GH that we had asked in the past for regular updates on the progress on the debt recovery. It had been an [standard] agenda item and that should include a report on all outstanding debts. GH promised to resume the agenda item and to send the report on outstanding debts

VOC MINUTE 27 November 2018

7. Report on Financial Status

7.1 Village Finance Update

The latest income and expenditure as at 31 October with a deficit of about HKD394,000.00 against a budgeted deficit of about HKD358,000.00 was presented.

CM commented that despite a deficit being recorded, the village expenses were operated with a saving where the total expenditure to date was about HKD2.4 million against a budgeted figure of about HKD2.5 million. The reasons were due to lesser interest income and higher share of City's expenses.

CM also advised that the aging report was rather healthy and only six (6) flats owed an outstanding balance of management fee of two (2) months.

7.2 Legal Actions for Recovery of Interest over Long Overdue Debt

CM advised that the owner in question had settled the full amount of management fee and renovation contribution including associated legal costs over the past years, while the interest of late payment was outstanding. CM would consult the lawyer through in-house counsel on the chance of recovery of the interest of late payment in full including associated legal costs, if actions being taken, before making a recommendation of legal actions to the VOC.

VOC MINUTE 15 January 2019

4. Report on Financial Status

4.1 Village Finance Update

The latest income and expenditure as at 31 December 2018 with a deficit of about HKD526,000.00 against a budgeted deficit of about HKD461,000.00 was presented.

GH commented that despite a deficit being recorded, the village expenses were operated with a saving. GH gave the reasons for the **shortfall** being due to lesser interest income and higher **contribution needed for** City's expenses (no change in proportion). JA asked how the interest income dropped while a rise of interest rate was expected. GH to provide **more** details.

The cash position exceeded HKD23.2 million. Over 80 percent of the first renovation installment was collected.

The first draft of new budget was prepared. An increase of management fee in June was projected in order to achieve a balanced village account, subject to the confirmation of budgeted City's share shortly. VOC to review the revised draft afterward.

4.2 Legal Actions for Recovery of Interest over Long Overdue Debt

The owner in question had settled the principle of outstanding management fee and renovation contribution including associated legal costs last years, while the interest of late payment was unpaid. CM would invite quotes from the lawyer through in-house counsel to take legal actions (probably to District Court) against the said owner to recover the debt. The draft statement of claims with interest calculation would be submitted to VOC for comment.

The VOC unanimously and very clearly gave their support by show of hands that the claim should be made on the basis of compound interest and not simple interest. ER added that there would be every reason to make a claim against CM due to their evident negligence in this matter.

VOC MINUTE 28 February 2019

4. Report on Financial Status

4.1 Budget 2019/2020

The draft of budget was tabled. It was noted that the projected deficit reached a level over HKD300,000.00 even if a management fee increase of 9 percent was provided in June 2019. To achieve a balanced budget in two-year time, another increase in the second year was required. Members asked if there was any major component of the expenditure could be trimmed down. JA suggested conducting a workshop with CM through which the detailed calculation of major items could be examined in order to reduce the expenses. JA to confirm the schedule of the workshop after the Meeting.

On the shortfall of actual income of interest, CM explained that in the statement 2018/2019, the interest of late payment was being accrued which resulted in a larger figure than the actual receipts. The impact would diminish in this budget.

4.2 Legal Actions for Recovery of Interest over Long Overdue Debt

The The draft statement of claims with compound interest calculation would be submitted to VOC for comment by next week.

4.3 Aging Report on Management Fee

CM advised that there were two flats owing an outstanding amount over 3-month management fees, excluding the one under item 4.2 above. However, CM had been in contact with these owners and expected an settlement shortly. Both flats were currently under the conveyancing process.

VOC MINUTE 4 April 2019

4. Report on Financial Status

4.1 Budget 2019/2020

An analysis of five year income and expenditure accounts was tabled. As at 28 February, there was a deficit of about HKD612,000 was recorded. The analysis consisted of mainly two groups of expenditures, say, those under a Discovery-Bay-wide master contract where Hillgrove had little control on the costs shared by Hillgrove and items incurred solely by Hillgrove at village level.

NR commented that a reduction of Reserve Fund contribution was able to set off the impact of a deficit account, however, based on fairness to all owners, current owners should have an obligation to make contribution for future maintenance or renovation when the building fabric deteriorated in years. As a result, it was necessary to work out the future maintenance plan and cost estimate in order to assess the level of Reserve Fund contribution. The Committee concluded that a management fee increase was required and it was proposed to adjust the management fee level in August. The Committee agreed.

JA and NR would conduct a separate meeting with CM to review the percentage of increase which would be justified by the planned maintenance work.

4.2 Legal Actions for Recovery of Interest over Long Overdue Debt

As there was no progress on the appointment of solicitors taking legal actions against the long-term debtor, the Chair expressed his disappointment on CM's approach on this issue. The Chair requested for a meeting with CM's senior management for an explanation of the difficulty in making progress and a solution to the issue. CM to reply.

5. Report of Passenger Liaison Group (PLG)

ET advised the Committee that Bus Team had introduced the plan of moving the temporary bus stops along Discovery Bay Road back to the new bus terminal. CM update the Committee that the opening of new bus terminal was scheduled at noon on 13 April and a notice with bus stop map would reach Discovery Bay residents shortly.

Inbound services would move to the new terminal by phases. There was no major change on the existing routes, bus stops or schedules at the initial stage to reduce the impact on the passengers. Bus Team would review the situation and make necessary adjustment when going into next phase. Some of the inbound services would be maintained along Discovery Bay Road with which the passengers could travel from South to North in one single journey.

VOC MINUTE 28 August 2018

about the chasing actions to be taken for the outstanding amounts and CM would provide the record through email by next week.

4.2 Budget 2019-2020

A conclusion from previous meetings in regarding to the Budget 2019/2020 and management fee schedule was summarized and presented. It was suggested that the management fee to be increased by 9.5% in Sep 2019 and another 9.5% in Apr 2020. After discussion, it was agreed to increase the management fee by 9.5% firstly in Oct 2019 so as to provide at least one month advance notice to all owners about management fee increase. CM would provide a draft management notice for VOC's comment by next week.

4.3 Legal Actions for Recovery of Interest over Long Overdue Debt

GH reported that quotations for taking legal action by solicitor have been sought. CM would take the subsequent actions in appointing the solicitor "Chung & Kwan" with the lowest quoted fee for the legal actions and to provide a weekly update to the VOC on Thursdays. CM also reported that the default owner was currently with outstanding record at both management fees and recent renovation contributions. CM would provide a final demand letter within this week to the default owner demanding the full settlement of outstanding amounts within 10 days.

EF suggested provide the previous legal advice about compound interest to Chung & Kwun for reference and review. In case that Chung & Kwan has taken the advice for adopting compound interest calculation, the previous legal advice fee of \$18,000 should be reimbursed to ER.

5. Discuss the latest proposal from DBTSL, and seek agreement from the VOC on the response to the HAD Consultation on replacing part of the 24 Hour Ferry Service with a Bus Service (consultation period extended to 30th August)

ER told that DBTSL did not provide details about the saving in cost if adopting bus service to replace part of the 24-hour ferry service and invite VOC members to express their view about the proposal. All presents voted by show of hand to object the proposal of DBTSL unanimously and agreed the Chair to represent Hillgrove Village Owners' Committee to reply to the Consultation Paper.

6. Any Other Business

Nil

VOC MINUTE 29 October 2019

6.1 Village Finances Update

As at 30 September, there was an accumulated deficit of about \$596,000 since April 2019 for the new financial year of 2019/20 against a budgeted deficit of about \$505,000. The deficit was a result of the higher repair cost for outsider and also the debit of \$80,000 at cleaning cost for removal of fallen tree which was a damage cost from the super typhoon last year. This damage cost has also been submitted to insurance company for compensation and assessment was still pending from insurance company.

NR has prepared the calculation and reported to the VOC about the assessment of renovation contribution against renovation expenses. After consolidation of additional expenses in variation works and savings from the exclusion of works from the original contracts, there was surplus available for further improvement works without the need for additional contributions.

A collection schedule of renovation contribution as at 15 October 2019 was tabled and presented. The total collected renovation contribution was more than 97% and there were a total of 11 units with outstanding record of one or more installments. As per CM's schedule, final demanding letters would be issued in November to those owners/flats with outstanding records.

6.2 Legal Actions for Recovery of Interest over Long Overdue Debt

CM reported that the formal instruction to Messrs Chung and Kwan to commence the process of legal proceedings against the default owner(s) for the outstanding has been done. It was expected the process would go through the District Court as the case was beyond the jurisdiction of tribunal level.

Apart from the above, the legal advice of Messrs Carol Wong was sent to CM's in-house legal and Messrs Chung and Kwan as well. As agreed in previous VOC meetings, such legal advice would be studied by the appointed solicitors when drafting the demand which would also become a supporting in preparing the statement of claim. Since the interest calculation method has been a lengthy argument and both CM and VOC would take this opportunity to sort out a proper and reasonable definition to the enquiry. In this case, CM has asked Messrs Chung and Kwan to pay special attention to this point which would be a reference to not only this case, but also the future ones.

(draft) VOC MINUTE 4 June 2020

6.1 Village Finances Update

CM advised that the new budget for the Year 2020 – 2021 was drafted and posted at the Village for general consultation. The existing management fee level would remain unchanged in view of the economic outlook. To strike a balance, the monthly reserve fund contribution was reduced as to yield a surplus budget. CM received no adverse comment and the new budget was adopted.

6.2 Legal Actions for Recovery of Interest over Long Overdue Debt

CM reported that the formal instruction to Messrs Chung and Kwan to commence the process of legal proceedings against the default owner(s) for the outstanding has been done. **CM informed the committee that case would go to the District Court as the case was beyond the jurisdiction of the Land Tribunal.**

CM had instructed Messrs. Chung and Kwan give a legal advice on the appropriate basis for such calculation. The Chairman challenged this remark and reminded the Committee that legal advice had already been independently provided by the Chairman himself and that it showed that there is a strong arguable case that any eventual claim should be based on compound interest, in line with the VOC's unanimous interpretation of the PDMC. The VOC remained unanimous on this point, albeit aware that CM had for years failed to convince the committee that the PDMC implies simple interest.

The Chairman reminded those present that the objective is to have a judge make the decision on the interpretation of the PDMC, and that the committee has no freedom to concede to the opinion of CM.

The committee confirmed to the CM Estate Manager that the release of funds from the Hillgrove reserve was strictly conditioned on any claim for outstanding debts to be based on the Carol Wong legal counsel.

Include elsewhere

CM would also circulate the latest aging report on management fees and renovation contribution to the Committee for reference.