

The Mutual Heights Body Corporate

Eighth annual report from the Chairman of the Trustees: June 2013

This report concerns the management of the building and the activities of your trustees for the period July 2012 to June 2013.

During this year there have actually been more *ad hoc* meetings than meetings of the Trustees, as the pace of work on the damp problems and the legal processes has significantly increased. As usual though, the first meeting of trustees was immediately after the 2012 AGM, at which I was re-appointed chairperson. We then continued to meet as needed.

Composition of the Trustees

In the period of this report, your trustees have included:

- Andrew Bytheway (Chairman)
- Simon Hudson
- Susan Lieberman
- Jonas Thulin
- Dion Williamson

I would like to express my sincere appreciation of the time and effort that trustees have put in this year, for everybody's benefit. Susan Lieberman is standing down this year, as she has sold her unit and will now be moving on. Thanks Susan, we will miss you!

Financial matters

I was particularly pleased that the increase in levies this year is similarly modest, as it was last year. As a simple-minded engineer, it amazes me that Charles and his team are able to contain the costs of running and maintaining the building in the routine way of things. However, there are testing times ahead as we continue to undertake the essential remedial work on the exterior of the building, and continue to battle with the legal processes that will, we hope, deliver a fair settlement with the developer and the contractors responsible for the conversion of the building. The healthy reserve that I referred you to in last year's report will be used to progress these matters, and as I said last year we cannot assume that future increases will be maintained at this low level, the majority of our costs are quite outside our control (rates, electricity, water, and so on) and there is no way of reducing them.

The building

Damp penetration

We continue to undertake essential work that preserves the integrity of the building and deals with unacceptable damp in the most affected units. Based on experiences with the first phase of the work we decided to invest a further R500,000 in order to deal with the worst affected elevation (Longmarket Street side) and this work is in progress now.

Other issues

The adaptation of geysers to conform with SABS standards has concluded, and our plumbing arrangements in the geyser department are now approved. There should be no further problems with certification for sale of properties. The fire detection system is also now completely checked out and upgraded, and so the exceptional items other than the damp problems are now dealt with.

The DSTV service seems to have been somewhat "up and down" this year, perhaps at the meeting we can take a moment to assess the collective feeling about TV services?

Legal process

At last, we have momentum in the legal process that is intended to recover the costs of dealing with the damp. Murray and Roberts (second defendants) and Old Mutual (first defendant) brought in further arguments about the separation of issues: the legal process revolves around three questions:

Prescription – did we leave it too late to make a claim? (South African law only allows five years)

Merit – do we actually have a proper claim that will stand examination in court?

Quantum – how much should we be awarded, if the above matters are found in our favour?

These issues are being resolved at the time of writing, and we expect that prescription and merit will be taken together in the high court, probably at the end of this year or early next year. Pre-trial meetings have been held and the way forward is becoming clear.

However, the main feature of the year for all of us was the defendants insistence on inspecting EVERY unit to assess the evidence of actual damp coming through from the outside. Against all the odds, and despite all our anxieties, Charles Keefer tells me there were only three units that were not made available. Our thanks to everyone for assisting with this, the reports coming out of those inspections are now coming through, and I believe it was not just important, it was absolutely necessary to make this inspection possible. Without it, we would have jeopardised our chances in court. For our own arguments, we have invested in an expert inspection of the *complete* exterior of the building, so that we can see what was done at the time of the conversion and what still needs to be done. The results of this survey we will compare with the evidence to be found in the 1,342 documents that have emerged in the “discovery” process, wherein the plaintiff (ourselves) and the defendants (Old Mutual, Murray and Roberts and the Rigging Corporation) are all required to submit documents relating to the claim. A huge volume of detail is now available that tells us very precisely who did what, and when. Anyone who has not yet provided us with sight of documentation relating to the original purchase of the units, and the promises that were made, is still invited to let us have copies just in case they assist us in the arguments in court.

We will continue to keep you informed.

Community

Once again, there was no party at the start of 2013, perhaps the meeting will decide to re-instate this annual event at the start of 2014?

Communications

I circulated newsletters in December 2012 and May 2013, but as before there has been plenty of email traffic about specific issues. I continue to keep the web site up to date sporadically: <http://www.mutualheights.net>. The scamming problems continue but the warnings on the web site prompt many prospective tenants to contact the management office to make sure that they are dealing *bona fide* owners.

Safety, Security & Services

Services continue to go well. Do *please* let us know if you have any concern or comment about services. We are fortunate that the management team is very pro-active, but if they do not know about a problem they cannot do anything about it. And they cannot be at all places at all times ...

Filming and road works: noise and nuisance

I have heard little this year about nuisances, other than **smoking** which has caused some offence through the smell of it, and cigarette butts being thrown out of the windows. We deal with this insofar as we are able, but this is a difficult one to track down to individuals. Do let the office know if you have a problem, they *will* do what they can to assist.

Final words

I thanked my fellow trustees at the start, let me now thank Charles Keefer and his staff for their excellent work. On your behalf, I extend our collective thanks to the whole management team.

With warm regards,
on behalf of the Trustees,

A handwritten signature in black ink that reads "Andy Bytheway". The signature is written in a cursive style with a long horizontal stroke extending to the right.

(Professor) Andy Bytheway,
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<http://www.mutualheights.net>

Check out "Mutual Building" on Wikipedia: http://en.wikipedia.org/wiki/Mutual_Building