

OPINION

Leaseholders suddenly stuck with big maintenance bills



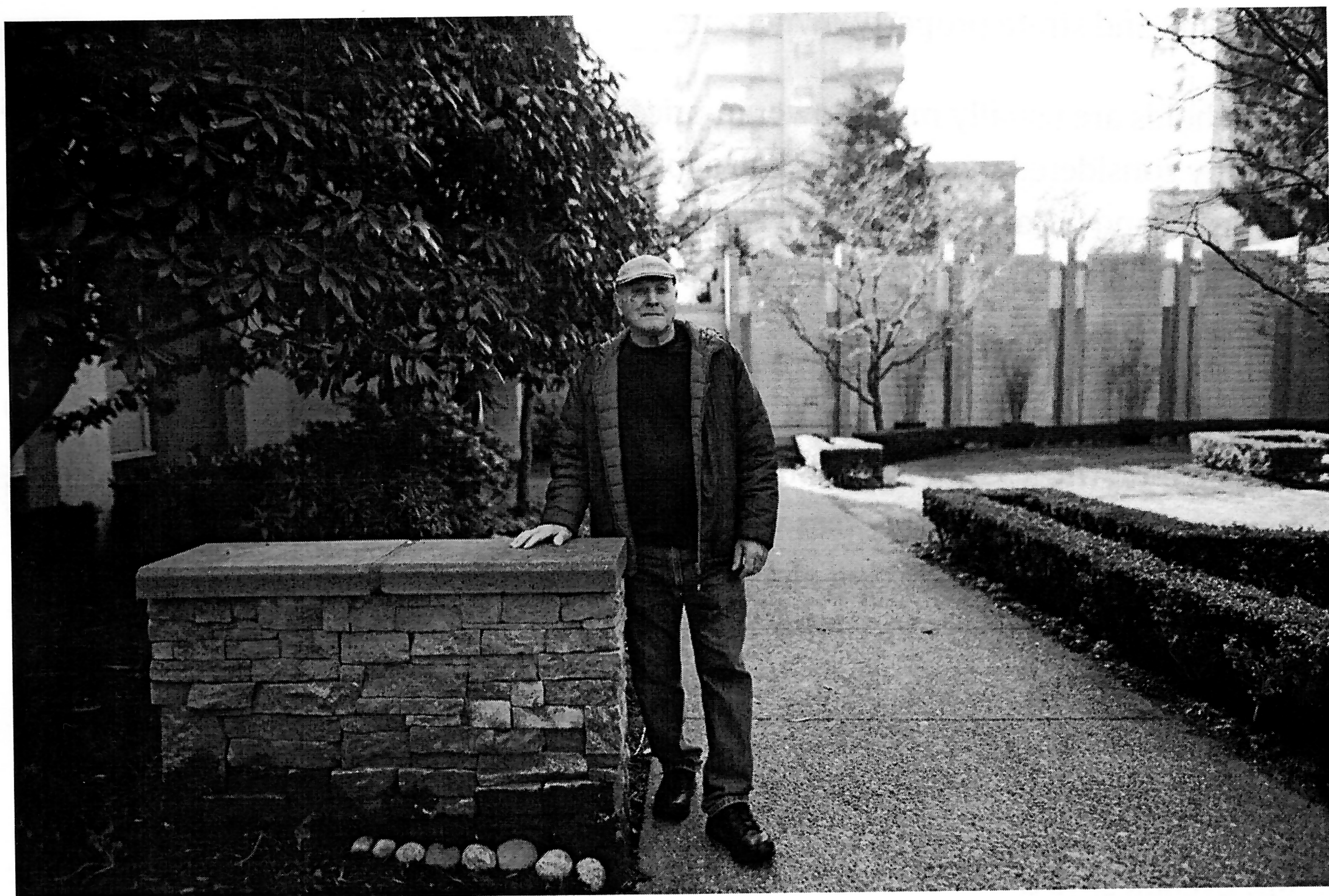
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Ron Fisher, a resident of the El Cid leasehold tower, outside his building in Vancouver, on Feb. 23.

TIJANA MARTIN/THE GLOBE AND MAIL

Faced with hefty new expenses for building improvements, owners of leaseholds in privately owned buildings are pleading with B.C.'s provincial government to create

legislation that would protect them and mandate transparency around escalating costs.

Long-term leasehold is a form of ownership in which the buyer pays a lump sum to purchase a long-term lease to occupy a unit, but without owning the actual property. Leaseholds are popular in England but less common in North America. Most were created in the 1970s and were often rental apartments that converted to leaseholds, choosing not to become strata condos.

Leaseholders pay a monthly fee for operating costs, set by the property owner. And although leasehold ownership is essentially a form of rental, there is no legislation protecting lessees the way that month-to-month renters, manufactured home park residents and strata property owners are.

Leaseholds are usually much lower in price than a condo, and the long-term lease is usually considered more secure than short-term rental. The original lease might be 99 years, and because lease renewal isn't guaranteed, it goes down in value as it gets closer to the renewal date.

At the 27-storey, 193-unit El Cid tower at 1850 Comox St., in Vancouver built in 1968, most leaseholders are seniors, about half of them living on a pension. They have 50 years left on the lease in a building owned by a company called Sheridan Investments. Their monthly fees vary, but typically they pay \$800 a month, and they say they are now looking at a special assessment cost of \$25,000 to pay for building improvements, including plumbing, which will cost residents around \$3,000 a month, and any other expenses, such as mortgage payments, says Ken Lychak. And they are expecting further assessments. Their apartments are small, around 500 to 650 square feet in size.

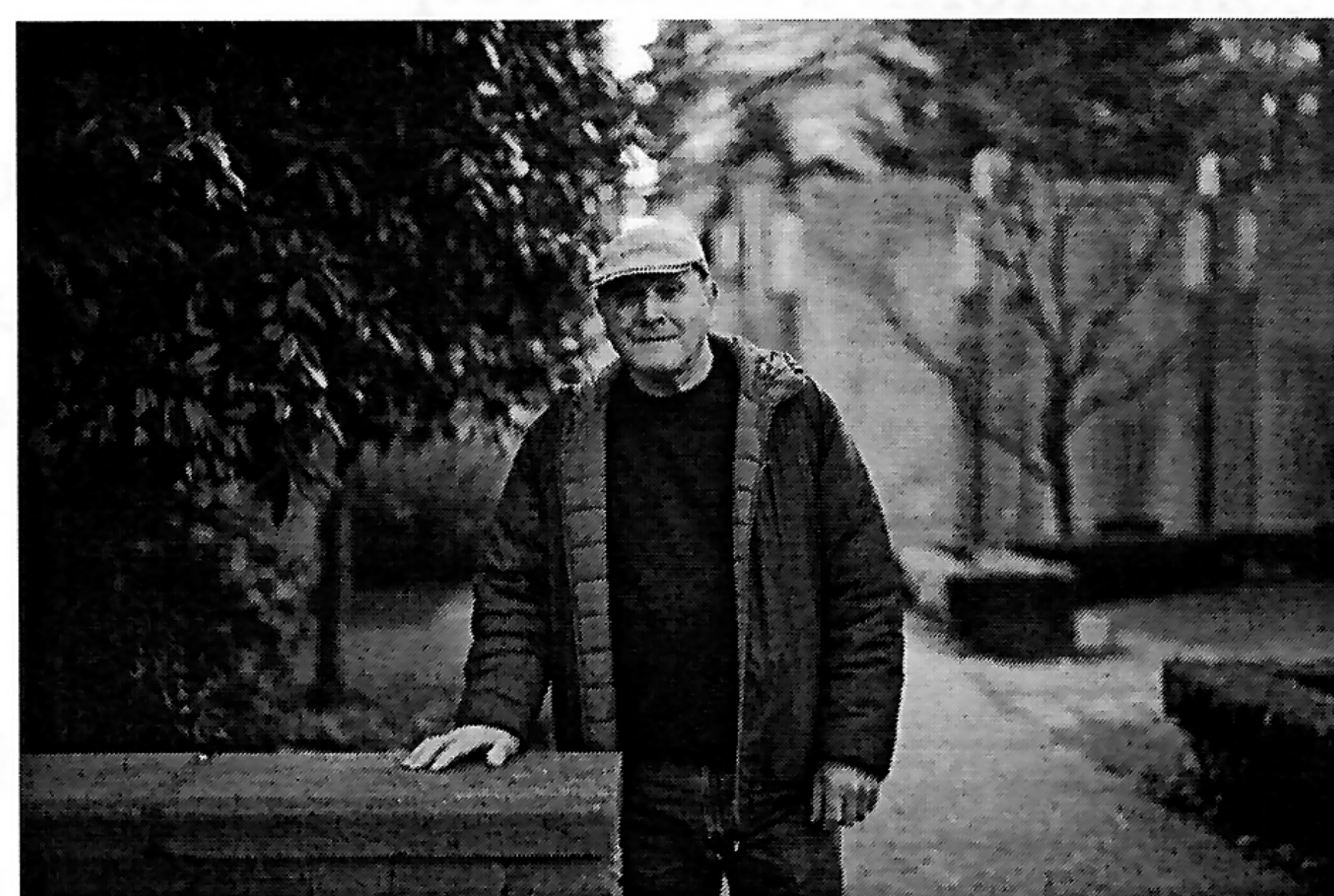
Mr. Lychak says they were only given a few weeks to start making payments at the El Cid, which has "created panic" among the residents. Leaseholders in at least three buildings facing similar hikes have banded together and are petitioning their members of the legislative assembly to address this gap in housing legislation. They are pushing back against what they claim are unfair costs and unfair timelines to pay those costs, as well as a lack of transparency.

“A lot of them are in the last decade or 15 years of their lives and they have a fixed income and they thought that they were okay. And now they’re very worried about losing their homes and going bankrupt because of these assessments, with seemingly no humanity attached to them,” said Mr. Lychak, seated in a coffee shop on Denman Street.

“One of the more outrageous aspects of this, is that all the building owners’ legal fees are charged back to residents, as an operating expense,” he adds. “So even if a resident decides to go to court to legally challenge the building owners, all the building owners’ legal expenses are charged back to all residents within the building.”

Residents say they haven’t seen the bids for the work to be done, or the breakdown for costs, which they feel is a basic request if they’re footing the bills.

“We have zero legislation, nothing,” says Ron Fisher, a one-time union rep. “What’s happened is a lot of people have sent letters, not only from our area in the West End, but also in Surrey, Richmond and Victoria, and now [the province is] starting to take a little bit of notice. But they’re not ready to move with legislation at this point.”



'We have zero legislation, nothing,' Mr. Fisher says.

TIJANA MARTIN/THE GLOBE AND MAIL

Mr. Lychak says the problem with not having proper regulation is the reliance on a contract with vague wording and a reliance on good faith. When problems arise, there is no mechanism for conflict resolution, other than going to court.

“These massive assessments are coming down with arbitrary timelines imposed on us for payment, which is going to force people into a state of poverty or desperation because they have no other choice.”

According to a report from last fall, one in four B.C. seniors had after-tax incomes of \$21,800 in 2020. The report, prepared by United Way and not-for-profit seniors’

groups, said there's an increasing homelessness crisis among seniors with inadequate incomes.

Mr. Lychak bought into the building years ago because he liked the location, near English Bay, and he liked the fact that the building was maintained by the owners. But in the past four years, they started to see substantially higher costs, including legal expenses, he says.

The leaseholders are a relatively small group. The Ministry of Housing said in an e-mail that there are 20 buildings of this sort in the province, not to be confused with leasehold condos that are protected by the Strata Property Act. Owners of leasehold condos form a strata corporation and own the building, but not the land.

Residents at these non-strata leaseholds have been told to seek legal advice because the contracts are private. But that's an expensive proposition for people on a fixed income, especially if they're paying for legal fees as part of the building's operating expenses.

"That's why it's such a disincentive for people to speak out, because I certainly don't want to trigger the lawyers," says Mr. Lychak. "So, we're in a Catch-22.

"It's not that we refuse to pay. It's just that we would like to know what's going on."

The Ministry of Housing said it's encouraging leasehold building owners to increase transparency and communicate with leaseholders.

MLA Spencer Chandra Herbert, the premier's liaison for renters, says he's addressing the problem because seniors deserve to feel safe in their homes. He said in an e-mail that he would be leading an engagement process this spring to expand protections.

"In the meantime, the Ministry of Housing is listening to the issues long-term residential leaseholders face," he says. "Ministry staff are monitoring this issue, including relevant court decisions, and will continue to explore additional avenues to expand protections."

Gerald Rotering is a leaseholder in the Victoria-based Orchard House building owned by Westsea Construction, part of the same group that owns the El Cid

building in the West End. Westsea also owns rental and leasehold buildings in Victoria and Richmond.

Mr. Roterling has been advocating on behalf of leaseholders facing increased costs in his own building as well as the Sun Creek building, in Surrey, also owned by Westsea. He said that financing is not always available to lessees who need bigger mortgages to cover unexpected costs. Some people have had to get second jobs; others have had to sell; and others are going into retirement homes earlier than they planned. He's one of the fortunate residents who could afford to pay the bills.

"My bills for refurbishing this building over a few years were \$40,000, and I have the smallest suite plan," he said.

Surrey's Suncreek Estates is a 301-unit complex built in the 1980s. Nearly half of Suncreek is leasehold units and the other half is rental. Many of the residents are newcomers to Canada, and many are low income, according to Mr. Roterling.

A Suncreek resident provided a letter from the owner from last August, requesting additional payment for the previous year's operating costs, which came in higher than estimated, at \$3.8-million. The letter asks for \$13,068 in 12 postdated cheques from the leaseholder, starting Oct. 1. The letter also cites future "financial obligations" for Suncreek leaseholders over the next couple of years, including work estimated at \$25.8-million.

For the past eight years a building remediation project has been carried out, which residents agree was necessary, but, they argue, could have been started earlier and spread out over many years. They object to sudden escalating costs they are expected to cover, as well as the short timeline they are given and the lack of detailed quotes, where they are from, and the portion paid by the owner. They say they are facing monthly costs for improvements of about \$3,500 a month, on top of any mortgage payments they might personally owe.

The Suncreek resident also provided a letter from the company's lawyer that said the company regularly sends copies of audited operating expense statements and letters about budgets and ongoing projects at Suncreek.

The company said it would not be a cost-effective use of its administrative resources to continually respond to specific questions, a cost which is transferred to leaseholders by way of operating expenses.

Sheridan Investments and Westsea Construction declined to comment on the situation.

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