

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) THURSDAY, THE 30TH
)
JUSTICE PERELL) DAY of NOVEMBER, 2023
)

B E T W E E N:

ETIENNE DE MUELENAERE AND JONATHAN GUY

Plaintiffs

and

GREAT GULF HOMES LIMITED, GREAT GULF (JARVIS-CHARLES) LTD.
and JARVIS-CHARLES G.P. INC.

Defendants

Proceedings under the *Class Proceedings Act, 1992*

CERTIFICATION ORDER

THIS MOTION, made by the Plaintiffs for an order amending the title of proceedings, certifying this action as a class proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c.6, as amended, and fixing the date for the Approval Hearing was heard this day in writing at Toronto, Ontario.

ON READING the Plaintiffs' motion record and on being advised of the consent of the Parties to this Order;

1. For the purposes of this Order, the following definitions apply:

- (a) "Action" means Action CV-14-51244700CP.

- (b) “Agreement” means the Settlement Agreement attached as Schedule A to this Order.
- (c) “Approval Hearing” means the date of the hearing to be held by the court on a date to be scheduled to decide whether to approve the Agreement, fix Legal Fees and approving the method of distribution to the Class Members and any other matters as the court deems appropriate.
- (d) “Approval Judgment” means the judgment of the court including the approval of the Agreement, the method of distribution, Class Counsel’s fee and this judgment becomes final.
- (e) “Charney” means Charney Lawyers PC.
- (f) “Claims Administrator” means a person appointed by the Court in the Approval Judgment to administer the Settlement Agreement.
- (g) “Class Counsel” means SSS and Charney.
- (h) “Class Period” means the period from occupation of Units on or after November 8, 2010 to September 5, 2023.
- (i) “Condominium Corporation” means 110 Charles Street, Toronto Standard Condominium Corporation Plan No. 2117.
- (j) “Defendants” means Great Gulf Homes Limited, Great Gulf (Jarvis-Charles) Ltd. and Jarvis-Charles G.P. Inc.
- (k) “Plaintiffs” mean Etienne De Muelenaere and Jonathan Guy.
- (l) “Notice” means notice of the Certification Order to the Class pursuant to the terms of this Order.
- (m) “Opt-Out Deadline and the Objection Deadline” is January 19, 2024 at 4:30 P.M Eastern Time.
- (n) “Pressure Balanced Valves” means pressure balanced valves that regulate the temperature of the water coming from a shower fixture at a Unit;
- (o) “Release” means a release prepared by one of the Defendants, to be signed by a person who owns, owned, rents or rented a Unit.
- (p) “RicePoint” means RicePoint Administration Inc.
- (q) “SSS” means Strosberg Sasso Sutts LLP.
- (r) “Unit” means each of the 417 condominium residential units of the Condominium Corporation.

- (s) “Website” means the website at <https://www.strosbergco.com/class-actions/xcondos/> and www.charneylawyers.com/x-condos-class-action.

2. THIS COURT ORDERS THAT Jonathan Guy is added as a plaintiff and the title of proceedings in this action and in this order are amended as follows:

Court File No. CV-14-512447-00CP

B E T W E E N:

ETIENNE DE MUELENAERE and JONATHAN GUY

Plaintiffs

and

GREAT GULF HOMES LIMITED, GREAT GULF (JARVIS-CHARLES) LTD.
and JARVIS-CHARLES G.P. INC.

Defendants

Proceedings under the *Class Proceedings Act, 1992*

3. THIS COURT ORDERS that this Action is certified as a class proceeding.
4. THIS COURT ORDERS that the words “*Class*” and “*Class Members*” means:

during the Class Period, all persons who did not sign a release and who own, owned, rent, rented, was ordinarily resident in a Unit and their family members and their guests, excluding the defendants and their senior officers and directors.
5. THIS COURT ORDERS that the Class Period means the period of occupation of the Units on or after November 8, 2010 until the September 5, 2023.
6. THIS COURT ORDERS that Etienne De Muelenaere and Jonathan Guy are hereby appointed as representative plaintiffs of the Class.
7. THIS COURT DECLARES that the causes of action asserted and certified are a breach of contract and negligence.
8. THE COURT ORDERS that the common issues are:

- (a) Did any of all of the defendants owe a duty of care to the Class Members in relation to the monitoring, design, installation and supply of the Non Pressure Balanced Valves in the bathtubs and/or showers in the bathrooms of each Unit in the Building?
- (b) Did any of all of the defendants breach the standard of care expected of them in relation to the monitoring, design, installation and supply of the Non Pressure Balanced Valves in the bathtubs and/or showers in the bathrooms of each Unit in the Building?
- (c) Did the defendant Great Gulf (JC) breach the contract with Class Members in relation to the monitoring, design, installation and supply of the Non Pressure Balanced Valves in the bathtubs and/or showers in the bathrooms of each Unit in the Building?
- (d) if Great Gulf (JC) breached the contract with Class Members who purchased Units from Great Gulf (JC) in relation to the Non Pressure Balanced Valves in the bathtubs and/or showers in the bathrooms of each Unit in the Building, are the other defendants liable with Great Gulf (JC) for that breach on the basis that they are one economic unit or single group enterprise, and/or each of them acted as agents of the other?

9. THIS COURT ORDERS that the Approval Hearing will be held on the 8th day of February, 2024 by video conference.

10. THIS COURT ORDERS that the Class will be given Notice of the date, time and place of the Approval Hearing, the Opt-Out Deadline of January 19, 2024 at 4:30 p.m. Eastern Time and the Objection Deadline of January 19, 2024 at 4:30 p.m. Eastern Time in the following manner and no other notice is necessary:

- (a) Class Counsel posting the Certification Order with the Agreement attached, the date, time and place of the Approval Hearing and the Opt-Out Deadline on SSS' website <https://www.strosbergco.com/class-actions/xcondos/> and Charney's website <https://www.charneylawyers.com/x-condos-class-action;>
- (b) RicePoint posting the Certification Order with the Agreement attached, the date, time and place of the Approval Hearing and the Opt-Out Deadline on www.xcondosettlement.com;

- (c) Class Counsel sending the Certification Order with the Agreement attached, the date, time and place of the Approval Hearing to each person who registered with Class Counsel and provided a valid e-mail address;
- (d) RicePoint sending the Certification Order with the Agreement attached, the date, time and place of the Approval Hearing and the Opt-Out Deadline by prepaid mail or delivery to 110 Charles Street, Toronto to each current owner(s) of a Unit at the Unit number, except units that are listed in Schedule “B”;
- (e) RicePoint publishing one notice in the Toronto Star at a cost of about \$6,300 plus HST and undertaking a digital social media campaign at a cost of about \$3,000 plus HST; and
- (f) Class Counsel sending the Certification Order with the Agreement attached, the date, time and place of the Approval Hearing and the Opt-Out Deadline to the Condominium Corporation and requesting that it post the Certification Order with the Agreement attached, the date, time and place of the Approval Hearing and the Opt-Out Deadline on its website.

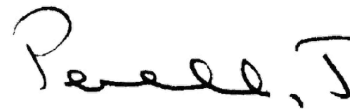
11. THIS COURT ORDERS that the term and manner of notice as set out above and approved herein, are the best notice practicable under the circumstances, constitute sufficient notice to all persons entitled to notice and satisfy the request under s.19 of the *Class Proceedings Act*.

12. THIS COURT ORDERS that a Class Member may opt out of this Class Action or object to the Agreement by sending a written election to opt out or object to the Agreement by ordinary mail, email or courier which must be received on or before January 19, 2024 at 4:30 P.M Eastern Time and must be signed by the Class Member or such Class Member’s authorized representative, stating that the Class Member opts out of this Class Action or that he/she/it objects to the Agreement and also stating the Class Member’s full name, address or email address, and telephone number:

By E-mail to:
RicePoint Administration Inc.
xcondosettlement@ricepoint.com

13. THIS COURT ORDERS that no Class Member may opt out of this Class Action or object to the Agreement after January 19, 2024 at 4:30 p.m. Eastern Time.

14. THIS COURT ORDERS that RicePoint, on or before 5 days before the Approval Hearing, report by affidavit to the Court under seal and to counsel for the parties and advise the names and addresses of those persons, if any, who have opted out of this Class Action or objected to the Agreement.

A handwritten signature in black ink, appearing to read "Perell, J.", is written above a horizontal line.

Justice Perell