

## Jordan Hargrave

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**From:** David Tupper <dtupper@miabc.org>  
**Sent:** July-23-19 4:08 PM  
**To:** Tom Yates  
**Cc:** Aniko Nelson; Jordan Hargrave  
**Subject:** New Claim from 1031249 BC Ltd - Maquinna Resort  
**Attachments:** Subro Claim - 1031249 BC Ltd v Strathcona RD - Avivia: 34413560 - SCM: 55610-000051 JOA - MIABCL 2019-0369

**Claimant:** 1031249 BC Ltd - Maquinna Resort  
**MIA file:** 2019-0369  
**Your file:** Unknown (1400 S Maquinna Dr, Tahsis)  
**Cause:** Unlawful Stop Work Order  
**Effect:** Open roof exposed to elements  
**Law firm:** No Lawyer

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Hi Tom,

This e-mail is sent to confirm receipt of the claim you forwarded from ClaimsPro and to let you know that I will be handling this file.

I spoke with Jordan Hargrave and he gave me enough information to deny this claim. Therefore, I have sent the attached denial to ClaimsPro and Avivia. I would be surprised if we hear anything further from them.

If you have any questions or concerns, please feel free to contact me.

Should there be any changes to your contact person or your file information, please contact us so that we can make the necessary changes and continue sending our information to the appropriate person.

Regards,

### David Tupper

Claims and Risk Analyst

Dir: 604.449.6353 | Fax: 604.683.6244 | [dtupper@miabc.org](mailto:dtupper@miabc.org)



**MUNICIPAL  
INSURANCE  
ASSOCIATION  
OF BRITISH  
COLUMBIA**

**Municipal Insurance Association of B.C.**

200, 429 West 2<sup>nd</sup> Ave.

Vancouver, B.C. V5Y 1E5

[www.miabc.org](http://www.miabc.org)



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## Jordan Hargrave

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**From:** David Tupper <dtupper@miabc.org>  
**Sent:** July-23-19 3:58 PM  
**To:** Jonathan Adamo  
**Cc:** Naeema Baksh  
**Subject:** Subro Claim - 1031249 BC Ltd v Strathcona RD - Avivia: 34413560 - SCM: 55610-000051 JOA - MIABCL 2019-0369  
**Attachments:** 2019-0369 Notice Letter 2019-07-16x.pdf

Dear Mr Adamo,

We are the liability insurer for both the Strathcona Regional District and the Village of Tahsis. Your attached notice letter dated July 16, 2019 is addressed to the joint attention of the SRD and the Village of Tahsis Building By-law Department; however, it was only addressed and sent to the SRD. It is not clear that your intent was also to notify the Village, but based on the following, perhaps the question is moot. Avivia's subrogated claim is denied for a multitude of reasons, chief among them are the following.

1. The issuance of a stop work order is an exercise of statutory authority and is exempt from a private law duty of care. If the Maquinna Resort did not agree with the stop work order, its only available remedy would be to file a petition seeking judicial review of the decision. This is clearly established in the Supreme Court of BC decision in Wu v Vancouver.
2. The stop work order was in place for two weeks: from Sept 5 through Sept 19. Weather records do not seem to be available but staff do not recall any rain falling in Tahsis during this period.
3. The stop work order does not prevent the property owner from mitigating the damages by covering the roof with tarps. The building official said the roof was in fact covered in tarps when he inspected. If those tarps were not placed early enough or were negligently placed, that is not the fault of the SRD or the Village.
4. There are various reports and records to indicate that the roof of this building had been leaking for years and that the building also suffered water damage from a frozen pipe at some point in the very recent past. We believe that all or most of the water damages to the building pre-dated the stop work order.
5. The stop work order was placed on the building in reaction to a report that unpermitted works were underway that required a permit. The SRD building official, who works some two hours away, delegated the posting of the stop work order to a person in the Village. That person witnessed the works. By the time the building official was on site to inspect the situation, evidence of work requiring a permit had been removed. The owner said he was only replacing the roof and he provided the building official with a description of the proposed roofing

project. Comforted that roofing was to be the only construction activity moving forward, the building official lifted the stop work order. The building official did not fine the owner for the alleged works giving rise to the stop work order because evidence of such works had been removed and the owner had undertaken that further works would be limited to roofing (which does not require a permit).

6. Section 736 of the *Local Government Act* stipulates that a local government is not liable unless notice of a claim is provided in writing within two months of the loss setting out the time, manner, and place where the damages occurred. Your notice was received by the SRD ten months after the loss.

7. Section 735 of the *Local Government Act* stipulates that:

*All actions against a municipality or regional district for the unlawful doing of anything that*

*(a) is purported to have been done by the municipality or regional district under the powers conferred by an Act, and*

*(b) might have been lawfully done by the municipality or regional district if acting in the manner established by law*

*must be commenced within **6 months** after the cause of action first arose, or within a further period designated by the council or board in a particular case, but not afterwards.*

It is now ten months after the loss, and any lawsuit is statute barred.

Based on the foregoing, your subrogated claim against the SRD and/or the Village of Tahsis is denied.

Regards,

**David Tupper**

Claims and Risk Analyst

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## Jordan Hargrave

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**From:** Tom Yates  
**Sent:** July-23-19 11:48 AM  
**To:** Sherman Chow  
**Cc:** Jordan Hargrave; Aniko Nelson  
**Subject:** Potential Liability Claim  
**Attachments:** SKMBT\_C55019072310560.pdf

Hello Sherman.

The attached letter was received today. For further information or background on this file please contact the SRD building official, Jordan Hargrave.

Thank you.



Tom Yates  
Corporate Services Manager  
Tel: 250.830.6704  
Toll free: 1.877.830.2990



July 16, 2019

ClaimsPro File No: 55610-000051 JOA  
Our Insurer's File No: 34413560

Strathcona Regional District  
Unit 301 – 990 Cedar Street  
Campbell River, BC V9W 7Z8

Attention: Strathcona Regional District & The Village of Tahsis Building By-Law Department



RE: **Date of Loss:** Sep 7, 2018  
**Insured:** 1031249 BC Ltd. o/a Maquinna Resort  
1400 South Maquinna Drive  
Tahsis, BC, V0P 1X0  
**Policy:** 81660600

We are the independent adjusters appointed by Aviva Insurance to assist with the above-noted loss. A stop work order was received by our insured during the course of roof repairs, halting the progress of those repairs and creating an environment that resulted in water damage to the building and contents.

Our investigation indicates that the delay caused by the un-validated stop work order on our insured's property issued by the Strathcona Regional District and the Village of Tahsis stopped vital roof repairs and directly resulted in the ensuing water damages. The stop work order was then lifted with no violations found or orders given.

Please be advised that we believe you could be held 100% liable for our insured's damages. We are taking this opportunity to place you on notice and advise that our principals will be seeking recovery of costs associated with this claim. Please have your liability insurers contact the writer in order to discuss settlement.

We await your reply.

Thank you,

Jonathan Adamo, Adjuster  
[jonathan.adamo@scm.ca](mailto:jonathan.adamo@scm.ca)  
ClaimsPro LP, An SCM Company

on behalf of,  
**Naeema Baksh, BA(Hons)**  
Head Office Intermediate Claims Analyst | Claims | National Recovery Unit  
Toll-free: 1 800 387 4518, Ext. 44489  
10 Aviva Way, Suite 100, Markham, Ontario, L6G 0G1

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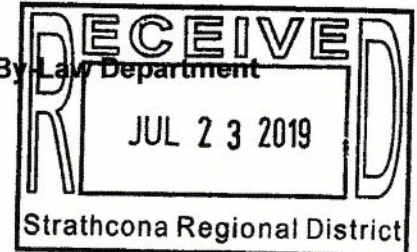
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Thank you,

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[jonathan.adamo@scm.ca](mailto:jonathan.adamo@scm.ca)  
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Head Office Intermediate Claims Analyst | Claims | National Recovery Unit  
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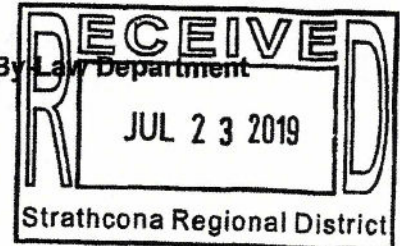
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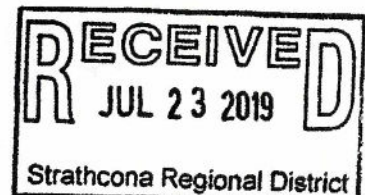
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Thank you,

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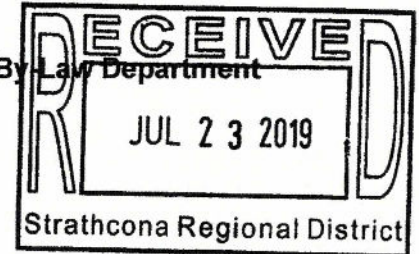
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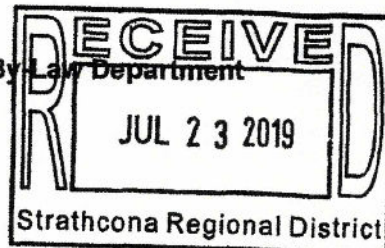
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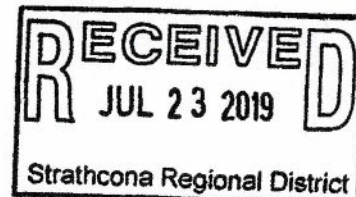
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## Jordan Hargrave

---

**From:** Mary Ellen Swift  
**Sent:** September-06-18 11:16 AM  
**To:** Jordan Hargrave  
**Subject:** Stace Nielsen

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Stace was in the office this morning about the stop work order on her roof in Tahsis. 1400 Maquinna Drive. Please call her at 250-287-1111 or (cell) 780-717-2669

She wants to know what she is supposed to do as she has no roof on and it is supposed to rain. Mark Tatchell told her to contact you.



**Mevi Swift, PCP**  
**Financial Services Technician I - Accounts**  
301-990 Cedar Street, Campbell River, BC V9W 7Z8  
mswift@srd.ca, t. 250.830.6717 | f. 250.830.6710

## Enzo Calla

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**From:** Jon Schmuland  
**Sent:** October 28, 2021 2:04 PM  
**To:** Enzo Calla; Karl Neufeld  
**Subject:** Video for Stacey Neilson?

Hey gents,

I got a call from a Stacey Neilson ([lady-smithbc@yahoo.com](mailto:lady-smithbc@yahoo.com)) and she said she's unable to open whatever video file you guys sent her. Are you able to share via OneDrive to her? That might be the easiest way to hook her up (she asked for it to be emailed, but that's not a great way to send a big file).

1031249 Ltd ... 1400 South Macquinna Drive South, Tahsis.

Let me know if you have questions or need a quick tutorial.

J



**Jon Schmuland, ASCT (he/him/his)**

**Information Technology Manager**


990 Cedar St. Campbell River, BC V9W 7Z8

o. 250.830.6725 | c. 250.830.8349 | [jschmuland@srd.ca](mailto:jschmuland@srd.ca)



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