



COUNCIL OF CO-OWNERS OF  
ESJ TOWERS CONDOMINIUM

May 17, 2023

**NOTICE OF SPECIAL MEETING OF THE  
COUNCIL OF CO-OWNERS OF ESJ TOWERS CONDOMINIUM REGARDING THE  
INSURANCE CLAIM, THE HIRING OF PROFESSIONALS AND THEIR COSTS AND FEES;  
TO INFORM OF CHUBB CASE AND BANKRUPTCY CASE DEVELOPMENTS;  
AND TO RATIFY THE BOARD OF DIRECTORS' LITIGATION EFFORTS**

- To: All Members of the Council of Co-Owners of ESJ Towers Condominium (Owners of Unit Interests (Full Owners or FOs) and Premises Interests (Deeded Vacation Owners or VOs));
- From: The Board of Directors of ESJ Towers Condominium, composed by Chana Cohen, President; Ruth López, Vice-President; Raul Rodríguez, Treasurer; and Gia Hutt, Secretary (hereinafter the "Board").

Esteemed Members of the Council of Co-Owners:

Please take notice that the Board of Directors of ESJ Towers Condominium has called an extraordinary meeting of the Council of Co-Owners of ESJ Towers Condominium, which shall be held on **May 31, 2023, at 6:30PM**, at the ESJ Towers Condominium lobby restaurant area (previously known as Mare Restaurant) at 6165 Isla Verde Avenue, Carolina, Puerto Rico and at which all legally eligible members of the Council of Co-owners of ESJ Towers Condominium (Owners of Unit Interests (Full Owners-FOs) and Premises Interests (Deeded Vacation Owners - VOs)) are invited to attend and vote (the "Special Meeting").

**AGENDA AND TOPICS FOR DISCUSSION OF May 31, 2023 SPECIAL MEETING**

All members of the Council of Co-owners of ESJ Towers Condominium (Owners of Unit Interests (Full Owners-FOs) and Premises Interests (Deeded Vacation Owners -VOs)) are hereby informed that this Special Meeting, on **May 31, 2023, at 6:30PM**, is called for to comply with the legal requirements in Article 63 of Act 129 of 2020, with respect to the insurance proceeds to be received from the pending claim on the insurance policy that was issued by Chubb Insurance Company of Puerto Rico (identified as Policy Number 08-95PR-00100607-0) and that, among other things,

insured the ESJ Towers Condominium when the insured property suffered losses and damages on Sept. 20, 2017 from Hurricane María and on Sept. 6, 2017 from Hurricane Irma; the hiring of professionals by the Council to evaluate and prepare a valuation report estimating the losses and damages suffered by the common elements and limited common elements of the Condominium, as well as the interior of the units in the Condominium; the approval of the associated costs and fees and according the manner in which these will be paid; and the ratification of the Board of Directors of the Council of Co-Owners' litigation efforts in the complaint against Chubb: *Council of Co-Owners of ESJ Towers Condominium and others v Chubb Insurance Company of Puerto Rico*, CA2019-003246 and the Bankruptcy Case: *In re ESJ Towers Inc.*, 22-01676(ESL). The legal requirements are set forth in the ESJ Towers Condominium Master Deed and Bylaws, as both were amended in 1980; Article 63 of the *current* Puerto Rico Condominium Act (Act 129 of 2020, as amended); and Article 44 of the *previous* Puerto Rico Condominium Act (Act of 1958, as amended).

The Topics for Discussion and Voting on the Agenda at the **May 31, 2023** Special Meeting are the following:

1. Discussion of status of the litigation against Chubb regarding the Council's insurance claim over the insurance policy issued by Chubb Insurance Company of Puerto Rico (Policy Number 08-95PR-00100607-0) that insured the ESJ Towers Condominium when it suffered losses and damages from Hurricane María and from Hurricane Irma, as well as the Board's recommendations.
  - a. Complaint for payment of \$21,600,462.85; Chubb's response to complaint alleging that ESJ Towers Inc. accepted a settlement offer to settle the claim in full and received a several advances and a final payment of the insurance claims on said policy;
  - b. The Board's position that the Council's approval by majority vote at a Council meeting (as required by Article 44 of the *previous* Puerto Rico Condominium Act (Act of 1958, as amended)) was necessary for Chubb's settlement offer to be accepted on behalf of the Council;
  - c. Chubb's motion to dismiss for lack of joining indispensable parties; the State Court's denial of Chubb's request for dismissal because the Council represents all parties with an interest in the Insurance Claims; Chubb's filing of a *certiorari* petition requesting that the Appellate Court revoke the denial of dismissal; and the Appellate Court's denial of Chubb's *certiorari*;

- d. The Council's request for and the State Court's entry of an Order continuing proceedings; and
  - e. Ratification of the Board of Directors' litigation efforts.
2. Discussion of the most recent developments in the Bankruptcy Case, *In re ESJ Towers Inc.*, 22-01676(ESL) and the Board's recommendations.
- a. Joint Motion filed by Debtor and Attenure to ratify the Debtor's Assignment Attenure of the Insurance Claim; the Council's objection because the assignment is null and void for various reasons including that the assignment was not ratified by the Council; the Council's Motion to Prohibit the Debtor's Use of the Council's Property; the objections and replies thereto and the Debtor's requests to revive the Management Agreement;
  - b. Joint Motion filed by Oriental, Attenure and Debtor to eliminate the Council's ability to approve the settlement sum and distribution of proceeds, as required by Article 63 of the *current* Puerto Rico Condominium Act (Act 129 of 2020, as amended) via the Bankruptcy Court's ratification of assignment to Attenure of the Insurance Claim to make the assignment valid as to the Council without the Council's approval of the assignment documents; and
  - c. Ratification of the Board of Directors' litigation efforts.
3. Presentation of the *currículum vitae* and proposals from professionals to estimate building damages and prepare an engineers' report and assessment.
- a. CV and proposal from Structural Engineer Juan Carlos Santiago to evaluate and prepare a valuation report estimating the losses and damages suffered by the common elements and limited common elements of the Condominium, as well as by the interior of the units in the Condominium;
  - b. Comparison of said proposal to other proposals received by the previous Manager that have not been ratified by the Council: (1) Attenure (\$1,000,000 plus 32% of insurance proceeds plus assignment of the claim and other conditions); (2) Worldclaim (10%) and (3) nFusion (5%).

- c. The Board's recommendation to accept and approve Structural Engineer Juan Carlos Santiago's proposal; and for the Council to bear the costs and fees associated with the hiring of said professional.
4. Voting on the approval or rejection of (i) hiring of Structural Engineer Juan Carlos Santiago as the Council's expert for the litigation against Chubb and to evaluate the damages and prepare a valuation report estimating said damages to aid in said litigation; and to reject all other proposals; and (ii) bearing the payment of litigation costs and fees from the insurance claim litigation, including Structural Engineer Juan Carlos Santiago's proposed fees and costs from the existing funds in the Communal Common Expense Fund and Unit Expense Fund.
5. Voting on the approval or rejection of the Joint Motions filed by Attenure, Oriental and ESJ Towers Inc. to have the Bankruptcy Court approve the Attenure Assignment Documents as to the Council, in order to remove the legal requirements of Article 63 of the *current* PR Condominium Act and/or Article 44 of the *previous* PR Condominium Act, which require that, once any offer from Chubb is received, said offer will be presented to the Council together with a report of the expert's valuations of the losses and damages and a plan of distribution of the insurance proceeds, for both to be approved or rejected by a majority vote of the Council of Co-Owners, at a meeting with 15 days prior notice.

All documents relevant to the agenda matters and discussion topics are available at the HOA office on the mezzanine level of ESJ Towers Condominium. In accordance with Act 129 of 2020 (the *current* PR Condominium Act), only the matters included in this agenda may be discussed in this extraordinary meeting. Voting shall occur at the Special Meeting in person via written ballot to be counted at and during the meeting. Each owner is entitled to one (1) vote, regardless of the number of housing units owned.

Those owners who have not accredited their "status" of owner by delivering a copy of their deed of purchase sale or any legal document that recognizes them as the owner of the unit may not vote. Also, those owners who owe: three (3) or more installments of monthly maintenance dues installments, and/or assessments, and/or special installments, and/or fines with overdue payment of sixty (60) days or more, and/or any premium for communal insurance for any of the units of which they are the owner, may not vote nor may they give their consent or express themselves in the Special Meeting of the Council of Co-Owners, until they satisfy the debt in full or the Treasurer certifies compliance with a payment plan approved by the Board of Directors prior to the Special Meeting.

When one (1) or more units belong to a legal person, the entity will designate, by corporate resolution, the person who will represent it to attend the Special Meeting and exercise the right to the vote that corresponds to the legal person. If a unit belongs jointly to different owners (whether these owners are natural persons, legal entities or a combination of both), they will appoint one (1) single person to represent the unit via a designation. The deadline to submit a corporate resolution or designation is **May 30, 2023 at 6:30 pm** and those resolutions or designations received after the deadline (on or after **6:31pm of May 30, 2023**), may not be counted.

If you cannot attend the Special Meeting, you can be represented with a power of attorney or proxy, as long as you meet the requirements to participate and vote in the Special Meeting and your proxy and proxyholder meets the requirements for a proxy established in Article 51 of Act 129 of 2020, with a proxy duly completed and delivered to the HOA Administration email: [esjtowers1975@gmail.com](mailto:esjtowers1975@gmail.com) at least 24 hours before the Special Meeting. Article 51 of Act 129 of 2020 requires that the proxyholder be another owner who is entitled to vote not in arrears, a family member within 2<sup>nd</sup> degree of the proxy giver, a person married to the proxy giver or a lessee, or that they are authorized by a Power-of-attorney that is duly registered and executed before a Public Notary or that they are an attorney admitted to exercise in Puerto Rico that duly verifies that they are the legal representative of the owner. Each proxyholder may represent only one (1) owner at a time. As required by Article 51 of Act 129 of 2020, the deadline to submit a proxy is **May 30, 2023, at 6:30 pm** and proxies received after the deadline (on or after **6:31pm of May 30, 2023**), may not be counted. A copy of the proxy form is included with this notice and may be requested at the HOA office on the mezzanine floor of the ESJ Towers Condominium. After completing the proxy in its entirety, remember to sign it, hand in the signed original to the HOA office before the deadline and give a copy to the person who will represent you (the proxyholder).

This Notice shall be displayed in the bulletin board; and shall be sent by email or first-class mail or hand delivered to each Unit or notified by any other means that includes a validation of its receipt, to the address on file for each owner in the owner registry or that the owner has designated for such notifications. If you need to update the owner's information; want to designate an email or other address for notifications; need to make a payment to cure overdue balances of assessments, special assessments, insurance premiums, fines or maintenance fees; or want to examine or request additional copies of this notice, the agenda, the documents relevant to the agenda matters or the proxy form, please call 1-787-691-9973; or send an email to Carmen Pimentel or Sophymar Hernández at [esjtowers1975@gmail.com](mailto:esjtowers1975@gmail.com), or submit a request in person at the HOA office on the mezzanine level of ESJ Towers Condominium. The list of units qualified to vote with payments calculated up to the date of this Notice will be available for inspection at said HOA office. The voting list maintained by the Board will be the official information used to verify the

owner's status and ability to vote. This list will be updated frequently, up to the date of the Special Meeting, to ascertain the final eligible owners entitled to vote at the Special Meeting. If you would like to verify your owner status or unit's eligibility to vote, please do so as soon as possible, on or before **5:00 pm on May 25, 2023**.

A copy of this Notice, all notifications of the notice, all designations and proxies received, the recording of votes at the meeting, a certification of the results, and all notifications of the results shall be kept at the HOA office and may be inspected upon request.

Best Regards,

The Board of Directors of ESJ Towers  
Condominium