

# Fact Check on Building 1 Rebuttal

1/7/2022

*As a prior board member with experience with this matter, please accept my services to "fact check" assertions (as I understand them) made in this rebuttal(see below). For equal representation and to help ensure the appearance of fairness and lack of bias by the board as a whole, please email it from the Office of the Board of Directors of River Club, as was the rebuttal, and post it on the website notices page, as was the rebuttal.*

"Fact Check" of rebuttal email assertions from Building 1 Representative (B1R) by prior board member involved with the process being referenced

B1R> Here are the facts based on three separate reports. Please see the attached document which highlights the information below.

- **Misleading:** Though some statements are true, others are not, and over-all the statements and piecemeal attachments seem "cherry-picked" to support a biased and unsubstantiated finding.

B1R> In 2015 there was enough cause and concern with building stabilization and the foundation that a study was commissioned by the board and completed by an outside engineering firm (Universal Engineering Sciences).

- **True**

B1R> A Geotechnical report provided to the Board of Directors states loose soils and substrates **are** a contributing factor to the building settlement and uneven settlement.

- **Misstated, but also past tense:** *"The loose soil conditions found in the test borings at locations B-3, B-4, B-5, and B-6 (4 of 6) adjacent to Building No.1 **appears to be** a contributing factor to the building settlement."* (UES 2015).

B1R> Uneven settlement likely resulted from different support conditions.

- **True:** Soil (sand) compaction ratings differ in the substrate to certain degrees, but, again, past tense.

B1R> (it) States that there are two different foundation types between building 1 and 14.

- **True:** ...in as much as that's what it states, but the assertion is in dispute by others. Be it true, this is a concern for improper rain drainage.

B1R> (it) States that the engineering firm recommends three different support systems for the building foundation i.e., Helical Piers, Pin Piles or Micro Piles.

- **True:** ...and applicable, were the settling issue substantial enough to warrant the cost. 2015 board determined it was not, apparently.

B1R> Report is not disclosed to residents of building one. Word goes out that everything is good as Ken Kusen reiterated in his email just a few days ago. He was the president of the board at the time.

- **Unknown,** but disputed by others.

B1R> 2019 nothing to that date has been done to building one.

- **Partially true:** Some patio restoration, drainage repair and plant removal has been completed, though not significant. Lawn still needs to be regraded, plants removed and rain water directed away from building.

B1R> (in) 2019 another report was done over the same concerns. This report is completed by another engineering firm, differing from the 2015 report (MCR Professional Engineering).

- **False:** In 2019 two studies from MCR were requested at the behest of the board, one to address surface water runoff erosion “Building 1 Unit 102 Exterior Patio Settling” (MCR 2/18/19) and one to address the loss of yard behind building #1 due to creek bank erosion as “Embankment Stabilization” (MCR 8/13/19). Neither was for perceived foundation instability. Both recommendations were approved. Work was stopped by current board.

B1R> This report focuses on restoration and stabilization of the bank.

- **True:** One of the two did.

B1R> Engineer on record states that yes riprap is an option but recommends using an upland retaining wall.

- **False:** Both options were listed under Conclusions and Recommendations (MCR 8/2019).

B1R> Engineer is unaware of report from 2015

- **Unknown:** ...but in dispute by others. That said, it's not relevant as bank stabilization was the issue at hand.

B1R> Board goes against recommendation of the engineer and approves riprap.

- **False:** Both options were viable solutions provided as recommendations, though one “...enable(s) 5-7 feet more land for maintenance / mowing.” (MCR 8/13/19). The board deemed the more expensive retaining wall option an “improvement” (one not having been there originally) and not within their approval authority. Reestablishing the original rip-rap configuration with current methods as “maintenance” was chosen to be in concert with their fiduciary responsibility to the association, their documents and FS 718.

B1R> Fast forward to 2021, concern over the stabilization of the building and embankment rises again. Another study is issued by the board and paid for by the condo association. Same engineering firm as 2019 report (MCR Professional Engineering).

- **Partially false:** Embankment stabilization and erosion due to run-off was being addressed in a professional as *recommended* manner and work commencement was imminent. Current board aborted that effort.

B1R> This report recognizes the 2015 study and the results of the soil boring.

- **True:** ...but as background references only. Report does not apply said results to conclusions in meaningful manner, so it's not material information.

B1R> The (A) Recommendations that foundation underpinning that was recommended in 2015 is not necessary (B) but also that the upland retaining wall that was proposed in 2019 would not be enough. The (C) recommendation is for a seawall with greater structural capacity to be installed to stabilize the embankment and enhance the soil stability to the adjacent building soils of Building 1.

- **True but alarming:** (A) MCR (marine engineer) disagrees with UES (geotechnical engineer) recommendations. This is a red flag in my book. Geotechnical engineers are foundation specialists.

(B) 2019 wall option was to address bank erosion. (C) MCR provides no scientific evidence of how the "greater" wall will address perceived foundation issues or why it would be recommended vs. established underpinning methods like helical piers, etc.

B1R> (it) Also recommends roof drainage systems to be incorporated to the overall project.

- **True:** ...but so did the 2019 study. That would have been accomplished and bearing positive results at this time, had previously approved maintenance not been aborted by the current board

B1R> In Summary, (A) the building itself belongs to the River Club of Martin County and as owners of the building it is the responsibility of the association to maintain the physical structural integrity of the building. (B) We have had three reports of the building completed. (C) Building supplies and labor are increasing the longer this takes to get this done the more it is going to cost.

- **False to misleading:** (A) Summary seems to imply physical structural integrity of the building is at imminent risk, so something drastic needs to be done to prevent a failure. In no report is this stated as an engineer's conclusion. Just the opposite, in fact, from MCR 2021: *"Whether the building is continuing to settle, the answer appears to be yes; at a very slow rate. The building being over 40 years old, settlement is well into the secondary phase, and if occurring, is very slow.*

*Regarding the reported anomalies, from a non-owner perspective they are minor. While there were other observations and indications observed or reported, they cannot be decisively ascribed to building settlement. Many of the observations can be found in any building similar to the design and construction at River Club."* (B)

Of the 3 reports referenced, only one is for the building foundation – UES 2015. A second alludes to it, but is speculative in its conclusion – MCR 2021. The third was for run-off erosion undermining a patio – MCR 2/2019, and was addressed. (C) Why pay for something that has no evidence shown (and is contrary to specialists' conclusions) to address unsubstantiated issues? I do agree, however, that aborting the approved embankment refurbishment was a costly mistake and not a prudent decision, due to reasons mentioned.

## Rebuttal to Ken Kusen's Email

**From:** River Club [mailto:riverclubofmartincounty@gmail.com]

**Sent:** Tuesday, January 04, 2022 10:17 AM

**To:** River Club

**Subject:** RCMC BLDG. 1 - Rebuttal to Ken Kusen's Email

This is coming from not as a Board Member, but as a unit owner.

Here are the facts based on three separate reports. Please see the attached document which

highlights the information below.

- In 2015 there was enough cause and concern with building stabilization and the foundation that a study was commissioned by the board and completed by an outside engineering firm. (Universal Engineering Sciences)
  - o A Geotechnical report provided to the Board of Directors states loose soils and substrates are a contributing factor to the building settlement and uneven settlement.
  - o States that there are two different foundation types between building 1 and 14.
  - o States that the engineering firm recommends three different support systems for the building foundation i.e., Helical Piers, Pin Piles or Micro Piles.
  - o Report is not disclosed to residents of building one. Word goes out that everything is good as Ken Kusen reiterated in his email just a few days ago. He was the president of the board at the time.
- 2019 nothing to that date has been done to building one.
- 2019 another report was done over the same concerns. This report is completed by another engineering firm, differing from the 2015 report. (MCR Professional Engineering)
  - o This report focuses on restoration and stabilization of the bank.
  - o Engineer on record states that yes riprap is an option but recommends using an upland retaining wall.
  - o Engineer is unaware of report from 2015
  - o Board goes against recommendation of the engineer and approves riprap.
- Fast forward to 2021, concern over the stabilization of the building and embankment rises again. Another study is issued by the board and paid for by the condo association. Same engineering firm as 2019 report. (MCR Professional Engineering)
  - o This report recognizes the 2015 study and the results of the soil boring.
  - o The Recommendations that foundation underpinning that was recommended in 2015 is not necessary but also that the upland retaining wall that was proposed in 2019 would not be enough. The recommendation is for a seawall with greater structural capacity to be installed to stabilize the embankment and enhance the soil stability to the adjacent building soils of Building 1.
  - o Also recommends roof drainage systems to be incorporated to the overall project.
- In Summary, the building itself belongs to the River Club of Martin County and as owners of the building it is the responsibility of the association to maintain the physical structural integrity of the building. We have had three reports of the building completed. Building supplies and labor are increasing the longer this takes to get this done the more it is going to cost.

**Please Click to open the Attachment.**

Attachments area