

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT
BUILDING MAINTENANCE AND STRATA MANAGEMENT
(STRATA TITLES BOARD) REGULATIONS 2005

STB No. 52 of 2013

In the matter of an application under section **101/103/ 104** of the Building Maintenance and Strata Management Act in respect of the development known as **CASHEW HEIGHTS CONDOMINIUM** (MCST Plan No. 1706)

Between

Lim Liong Chye/ Tan Cheng Siew

... Applicant(s)

And

MCST Plan No. 1706

... Respondent(s)

Coram: Mr Remedios F.G (Deputy President)
Mr Chan Kim Mun (Member)
Mr Raymond Lye (Member)

Counsel: i) Mr Michael Por and Ms Li Jiaxin (Michael Por Law Corporation) for
MCST Plan No. 1706
ii) Mr Lim Liong Chye (in person)

GROUNDINGS OF DECISION

On 4 July 2013, the management corporation of Cashew Heights Condominium (the Condominium) gave notice for an Extraordinary General Meeting (EGM) on the 27 July 2013.

2. On 22 July 2013, the Applicant, a subsidiary proprietor in the Condominium filed an application (STB 52 of 2013) against the management corporation and applied for orders in connection with the proxy forms; resolutions proposed by the Applicant and for the EGM to be declared null and void in the event that it was held before STB 52 of 2013 was dealt with by the Board.

3. Following the mediation on 30 August 2013, the Applicant, via a letter dated 5 September 2013 from his lawyer, informed that he was withdrawing STB 52 of 2013 *“with each party bearing its own costs, if any”*. The Respondent via a letter dated 6 September 2013 from their lawyers informed that at the mediation they had indicated that they would be claiming for costs and requested that the matter proceed for hearing for the Board to make a decision on costs.

4. Sometime before 11 September 2013, the Applicant informed that he was prepared to pay costs of \$1000. This was not acceptable to the Respondents who wanted costs on an indemnity basis. The Applicant was not agreeable to paying costs on an indemnity basis.

5. Via a letter dated 11 September 2013, the lawyer for the Applicant informed that he had been discharged by the Applicant and that the Applicant would be representing himself before the Board. The only issue outstanding between the parties was the issue of costs.

6. Via a letter dated 12 September 2013, the lawyer for the Respondent informed that the Respondents were prepared to settle the matter amicably subject to the Applicant paying costs of \$1000 and in addition to this required that the Applicant issue a written apology *“...upon such terms as are satisfactory...such apology to be posted on the Notice board at the Condominium for a period of 30 days...”*

7. The matter was not resolved and an arbitration hearing was scheduled for the parties to make their submissions on costs.

8. It was the submission of the Respondents that costs in the sum of \$3500 should be awarded against the Applicant. Inter alia, STB 38 of 2011 was cited as a precedent. In that case, there was a full hearing after the Respondent had refused to accept that he was responsible for damages caused to the Applicant and had indicated that he was not willing to settle in any way. The Board did not consider that it would be useful to refer to the amount awarded in that case.

9. It was the submission of the Applicant that no order for costs should be made. Reference was made to the events following the filing of the application and previous cases before the Board where no orders for costs were made.

10. The general principle for awarding costs is compensation for the successful litigant. What has to be compensated is time and expenses necessarily incurred.

11. In this case the nature of the application was such that the Applicant without any undue delay acknowledged that there was hardly any scope for success in pursuing with the application. Notice that he was withdrawing his application was given after the first mediation. An offer was made to pay costs of \$1000 after the Respondents informed that they intended to claim for costs.

12. After taking into account the nature of the application and work done for the filing of the submission (on 21 August 2013) disapproving the application, the Board is of the view that a fair and reasonable amount for costs would be \$1000 and it is ordered that the Applicant should pay costs fixed at \$1000.

13. In connection with an arbitration hearing before the Board, a fee of \$300 is payable for each day or part thereof [The Schedule of the Building Maintenance and Strata Management (Strata Titles Boards) Regulations 2005], the Board is of the view that this matter could have and should have been resolved without the need for a hearing.

14. It is ordered that the fee of \$300 be borne equally by the parties.

Dated this 1st day of November 2013

MR REMEDIOS F.G
Deputy President

MR CHAN KIM MUN
Member

MR RAYMOND LYE
Member