

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

**BUILDING MAINTENANCE AND STRATA MANAGEMENT
(STRATA TITLES BOARDS) REGULATIONS 2005**

STB No. 69 of 2019

In the matter of an application under Section 101
and/or Section 117 of the Building Maintenance and
Strata Management Act in respect of the
development known as **Spottiswoode Residences**
(MCST Plan No. 4071)

Between

**Management Corporation Strata Title Plan No.
4071**

...Applicant(s)

And

Yeo Swee Neo

... Respondent(s)

GROUNDS OF DECISION

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... Respondent(s)

20 December 2019

8 January 2020

Coram: Mr Seng Kwang Boon (Deputy President)

Mr Chng Beng Guan (Member)

Mr Oommen Mathew (Member)

Background

1. The Applicant is the management corporation of Spottiswoode Residences (“**the Applicant**”). The Respondent is the subsidiary proprietor of the unit at #20-09 of Spottiswoode Residences (“**the Respondent**”). The dispute between the parties concerns the installation of sliding windows at the balcony of the Respondent’s unit.

2. The Applicant sought the following orders in their application to the Strata Titles Boards pursuant to Section 101 and Section 117 of the Building Maintenance and Strata Management Act (“**BMSMA**”):

“..the Respondent be ordered to:-

(i) Remove the unauthorised sliding windows (“Unauthorised Structure”) constructed on the balcony ledge of unit #20-09 of Spottiswoode Residences, and to reinstate and restore the balcony of the said unit to its original state, at her own cost.

(ii) Reimburse the Management Corporation for the legal costs and expenses incurred in relation to this matter and application.”

3. During the first mediation session on 26 September 2019, the Respondent was absent. With respect to the dispute or matter, the Respondent did not file a written submission within the time specified in Form 18 (i.e. by 9 September 2019). The case was fixed for a second mediation and the Respondent was duly informed.
4. During the second mediation/direction hearing on 6 November 2019, the Respondent was again absent. The Applicant and their counsel appeared at the session. Directions were given, and a date for the arbitration hearing was fixed and parties notified.
5. The Applicant and their counsel were present at the hearing on 20 December 2019. The Respondent was absent.
6. The Board was satisfied that pursuant to Regulation 14 of the Building Maintenance and Strata Management (Strata Titles Boards) Regulations 2005 (“**Regulations 2005**”), the Respondent had been duly informed of the arbitration hearing. Accordingly, pursuant to Regulation 15 of Regulations 2005, the Board proceeded with the arbitration hearing.

The Applicant’s Case

7. The Applicant’s case is that the Respondent had not applied for the installation of the sliding windows. The Applicant and the relevant government agencies had not given approval for the installation of the sliding windows at the Respondent’s balcony. The installation of the sliding windows was unauthorised pursuant to the By-Laws of MCST 4071 – Spottiswoode Residences; and was in breach of Section 37 of the BMSMA as the sliding windows affected the appearance of the building for Spottiswoode Residences, and increased the Gross Floor Area (“**GFA**”) of the Respondent’s lot.

8. The Applicant submitted that there was a breach of the following By-Laws:

**“Part 3
GENERAL**

A. Occupancy

...

32. Resident shall not carry out any works which may affect the external façade of the building. Façade shall include walls/windows/sliding doors/fixed glass panels/aluminium and glass railing/ galvanised steel railing, of the living/dining areas, bedrooms, kitchens, bathrooms, yard areas, roof terraces, AC and/or RC Ledge areas, private enclosed space (PESs), balconies, open areas and all other visible parts of the building which constitute or form part of the external appearance of the development; the paint work on the external façade, such as the walls at the balconies, roof terraces and private enclosed spaces (PESs), cannot be repainted to another colour.

...

B. Renovation works

...

14. Resident shall not carry out any works, which may affect the external façade of the building. Façade shall include walls/windows/sliding doors/fixed glass panels/aluminium and glass railing/galvanised steel railing, of the living/dining areas, bedrooms, kitchens, bathrooms, yard areas, roof terraces, AC and/or RC Ledge areas, private enclosed space (PESs), balconies, common areas, open areas and all other visible parts of the building which constitute or form part of the external appearance of the development; the paint work on the external façade, such as the walls at the balconies, roof terraces and private enclosed spaces (PESs), cannot be repainted to another colour.”

9. Section 37 of the BMSMA provides as follows:

“Improvements and additions to lots

37.-(1) Except pursuant to an authority granted under subsection (2), no subsidiary proprietor of a lot that is comprised in a strata title plan shall effect any improvement in or upon his lot for his benefit which increases or is likely to increase the floor area of the land and building comprised in the strata title plan.

(2) A management corporation may, at the request of a subsidiary proprietor of any lot comprised in its strata title plan and upon such terms as it considers appropriate, by 90% resolution, authorise the subsidiary proprietor to effect any improvement in or upon his lot referred to in subsection (1).

(2A) To avoid doubt, subsections (1) and (2) do not affect the operation of the Planning Act (Cap. 232), or any requirement under that Act for written permission for any improvement in or upon a lot which increases or is likely to increase the floor area of the land and building comprised in the strata title plan.

(3) Except pursuant to an authority granted under subsection (4) by the management corporation or permitted under section 37A, no subsidiary proprietor of a lot that is comprised in a strata title plan shall effect any other improvement in or upon his lot for his benefit which affects the appearance of any building comprised in the strata title plan.

(4) A management corporation may, at the request of a subsidiary proprietor of any lot comprised in a its strata title plan and upon such terms as it considers appropriate, authorise the subsidiary proprietor to effect any improvement in or upon his lot referred to in subsection (3) if the management corporation is satisfied that the improvement in or upon the lot –

- (a) will not detract from the appearance of any of the buildings comprised in the strata title plan or will be in keeping with the rest of the buildings; and*
- (b) will not affect the structural integrity of any of the buildings comprised in the strata title plan.*

(4A) Where the management corporation for a strata title plan is satisfied that an improvement in or upon a lot comprised in the strata title plan is effected in contravention of subsection (1) or (3), the management corporation may, by notice in writing given to the subsidiary proprietor of the lot (whether or not the subsidiary proprietor is responsible for the contravention) require the subsidiary proprietor to carry out and complete, at his own costs, such works or alteration to the lot to remedy the breach within a reasonable time specified in the notice.”

10. The Applicant submitted that the Urban Redevelopment Authority (“URA”) had investigated the matter and had informed them via an email dated 20 March 2017 that “... We have taken enforcement action against the SP...” and again on the 9 May 2017 that “...The resident has appealed against our enforcement action. The matter is now with the Ministry of National Development and undergoing the appeal process...”. The Ministry of National Development (“MND”) had on 24 May 2018 wrote to the Applicant as follows:

“RE: UNAUTHORISED WINDOWS AT UNIT #20-09, SPOTTISWOODE RESIDENCES (MCST 4701)

1 We refer to your letter dated 19 April 2018 requesting for an update on MND’s

position regarding the unauthorised windows at unit #20-09 of Spottiswoode Residences.

2 In your letter, you mentioned that the MCST had not been able to resolve the matter with Ms Yeo Swee Neo, the owners of the said unit, due to a lack of decision by MND on Ms Yeo's "second appeal". We would like to clarify that MND had first conveyed our rejection of Ms Yeo's appeal in a letter dated 7 July 2017 and had subsequently issued three more rejection letters in response to her further appeals which did not raise new grounds – these replies were issued on 27 July 2017, 25 August 2017 and 23 May 2018 respectively.

3 We hope this makes clear MND's position on the matter, so that you may proceed to take further action as you deem fit. Thank you."

Issues to be determined

11. The issues were as follows:

- (a) Whether the Respondent's sliding windows were in breach of the MCST's By-Laws and/or not approved by the relevant government agencies/authorities; and
- (b) Whether the Respondent's sliding windows were in breach of Section 37 of the BMSMA in that it affected the appearance of the building and/or increased the GFA of the Respondent's lot.

Board's Findings

12. On the evidence adduced by the Applicant and in the absence of any submissions made by the Respondent, the Board finds as follows:

- (a) The Respondent had breached the By-Law of the MCST as she did not apply for the installation of the disputed windows in her application.
- (b) The Respondent's disputed windows were also not approved and/or authorised by the Applicant pursuant to Section 37 of the BMSMA as there was no 90% resolution to increase the floor area of her lot.
- (c) The URA had after investigation issued enforcement action against the Respondent for the installation of the unauthorised windows at her unit and her numerous appeals against the enforcement action had been dismissed by the MND.

- (d) The disputed windows installed at the Respondent's unit affected the building façade as it is the only unit in the whole development that had such windows.

Board's Orders

13. The application in STB 69 of 2019 is allowed.
14. The Respondent is to remove the unauthorised sliding windows ("Unauthorised Structure") constructed on the balcony ledge of unit #20-09 of Spottiswoode Residences, and reinstate and restore the balcony of the said unit to its original state, at her own cost within one (1) month from the date of the order made herein.
15. The Respondent will pay costs and disbursements fixed at \$12,000 to the Applicant.

Dated this 8th day of January 2020

MR SENG KWANG BOON
Deputy President

MR CHNG BENG GUAN
Member

MR OOMMEN MATHEW
Member

Mr Lim Yee Ming & Ms Chloe Chong (M/s
Kelvin Chia Partnership) for the Applicant.

Respondent absent.