

BUILDING MAINTENANCE AND STRATA MANAGEMENT ACT

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

STB No. 108 of 2021

In the matter of an application under **section 101** of the Building Maintenance and Strata Management Act in respect of the development known as **Beauty World Centre** (MCST Plan No. 2121)

Between

The Management Corporation Strata Title Plan No. 2121

... Applicant(s)

And

Lai Chong Lee and Tan Kock Meng
(Trustees of Beauty World Centre Merchants Association)

... Respondent(s)

GROUND OF DECISION

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[13 May 2022]

Coram:	Mr. Remedios F.G	(Deputy President)
	Mr Lai Huen Poh	(Member)
	Ms Elaine Chew	(Member)

INTRODUCTION:

1. Beauty World Centre is a 25-level commercial cum residential development constructed in 1984 by the Urban Redevelopment Authority. The complex was transferred to Pidemco Land Ltd (“**Pidemco**”) in 1989 and after MCST Plan No. 2121 was constituted on 8 October 1997, it took over the control, management and administration of the complex. It is the applicant in this case.
2. According to the applicant, there are 16 lots on the 4th level. There is one Strata Certificate of Title for Lot MK 16-U2096L which is one of the lots on the 4th level and there are 41 food stalls on the lot which are numbered as #04-18 to #04-28 and #04-38 to #04-67. The registered subsidiary proprietors of the lot, which covers an area of 1255sqm and has 737 share values out of a total of 10000 are Tan Kok Meng and Lai Chong Lee. They are the trustees of Beauty World Centre Merchants Association and respondents in this case.
3. During mediation, the applicant submitted sectional drawings prepared by M/s Lander Loke Architects showing various levels of the building and locations of the horizontal and vertical

- waste discharge pipes. It could be seen from the drawings that water and other waste flowed out of level 4 by way of floor traps into horizontal discharge pipes under the floor. The horizontal discharge pipes then connected to vertical waste stack pipes that drained the water and other waste to a grease trap at the ground level in front of unit #01-46.
4. In this case the horizontal discharge pipes at the 4th level flowed into 3 vertical waste stacks. However, only one was connected to the grease trap at the ground level because at level 2 of the building the other 2 vertical waste stacks joined and connected with the vertical waste stack pipe that ended at the grease trap.
 5. In addition to receiving water and waste from level 4, the grease trap at the ground level received water and waste from horizontal discharge pipes at the ground level.

BACKGROUND

6. This is an application in relation to works carried out by the applicant on a choke in the vertical waste stack pipe (“VWSP”) that affected a unit on the 3rd level viz #03-34 (a foul sewerage odour). According to the applicant, the management agent was on 23 June 2020 informed by a representative of #03-34 that the VWSP that passed through the unit had begun to leak. The applicant was of the view that the respondents were responsible for the necessary repair works but when the respondents denied responsibility, the applicant engaged M/s AA Plumbing Engineering Pte Ltd to do the necessary on 26 June 2020. From the particulars in the invoices at pages 105 and 106 in Form 9 of the Application, a hydraulic machine was used to clear the choke at level 4 at a cost of \$1800 and a 150m section of the pipe at level 2 was cut and replaced at a cost of \$1500. The total cost for repairs was \$3,300.
7. The applicant has applied for various orders in relation to the maintenance of the VWSP and grease trap and for costs incurred when the VWSP was repaired. It is the case for the applicant that the VWSP and grease trap belong to the respondents because they served the respondents exclusively and are not common property. On the part of the respondents, they oppose to the application because it is their case that the VWSP and grease trap are common property.
8. It was a common ground that a finding by the Board as to whether or not the VWSP and grease trap were common property would determine the outcome of the application.
9. Common property is defined in section 2 of the Building Maintenance and Strata Management Act Cap 30C and in respect of parts of land and the building, it must not be comprised in any lot and must be used or capable of being used or enjoyed by the occupiers of 2 or more lots. There was no dispute that the VWSP and grease trap were not comprised in the respondents’ lot. The dispute was as to whether it was used or capable of being used by the occupiers of 2 or more lots.
10. There was no dispute that when the application was filed the VWSP was draining water and waste from not only the respondents’ lot but also from a horizontal discharge pipe from a lot at #02-33. It was also not in dispute that the grease trap was servicing water and waste not only from the respondents’ lot but also water and waste from a discharge pipe from lot at #01-39/40 which had been constructed at some point of time when the building was owned by Pidemco. Also not in dispute was the fact that in the common area of level 4 outside of the

respondents' lot, there was a floor trap with a horizontal discharge under it that was connected to the VWSP. At the point of time when repairs were being carried out on the VWSP, this floor trap was covered up. According to the applicant (paragraph 27 of AW1), a Mr Siva, who was a technician working for the managing agent, had been instructed to seal the floor trap with silicone sealant sometime between 2015 to 2016. On 28 August 2020, it was discovered that someone had removed the seal without authorisation and steps were taken to reseal the trap on 31 August 2020.

11. Accordingly, when the application was filed, the facts from the physical evidence was that the VWSP and grease trap were being used and capable of being used by the occupiers of 2 or more lots.

THE APPLICANT'S SUBMISSION

12. The submission of the applicant that the VWSP was not common property was based on the evidence in the original building drawings, which did not show the VWSP servicing drainage of water and waste from sources other than the respondents' lot. The applicant submitted that the VWSP was constructed solely for the use of the respondents' lot.
13. The applicant could not deny that it was a fact that there was a water trap in the common area of level 4 that allowed for water and waste to be drained from that area via the VWSP to the grease trap i.e. the VWSP was not servicing the discharge of water and waste solely from the respondents' lot. It was the contention of the applicant that discharge from this area had not been provided for when the building was constructed i.e. the developer did not intend for the VWSP to be used by the owners of lots other than the respondents'.
14. The applicant could also not deny that there was a horizontal pipe that provided for the discharge of water and waste from unit #02-33 via the VWSP to the grease trap. In this case, it was the applicant's submission that this connection from #02-33 was a private arrangement between the subsidiary proprietor of the unit and the respondents. The applicant exhibited a letter (Tab J of AW1) dated 15 March 2015 from the owner of #02-33 to the respondents to inform that there was a need on his part to connect a discharge pipe from his unit to the VWSP. The letter inter alia informed that the applicant had been informed of the connection and terms of an agreement between the owner of #02-33 and the respondents.
15. In relation to the connection of the discharge pipe from #01-39/40 to the grease trap, this connection was made before the applicant was constituted and was constructed by Pidemco who was the owner of the complex at that point of time. It was the submission of the applicant that there was, at the time when the connection was constructed, a private arrangement between the owner of #01-39/40 and the respondents for the maintenance of the grease trap.

THE RESPONDENTS' SUBMISSION

16. The respondents referred to the fact that the VWSP and grease trap were in fact used by the occupiers of 2 or more lots. Whilst the respondent, Lai Chong Lee, did not dispute that he signed the letter dated 15 March 2015 (Lai Chong Lee had initially disputed having any agreement with the subsidiary proprietor of #02-33 but admitted that he did sign the letter dated 15 March 2015), it was submitted that the fact of the connection proved that the VWSP

was capable of being used by occupiers of 2 or more lots. They also denied that there was an agreement with the owner of #01-39/40 for them to maintain the grease trap and denied having any knowledge of the construction of the floor trap at level 4 that was outside the boundary of their lot. It was the case for the respondents that from the materials used and the location of the floor trap, it was constructed when the building was constructed.

DECISION OF THE BOARD

17. Before dealing with the submissions, it will be in order to note that there was no evidence that i) the construction of the discharge pipe from #01-39/40 to the grease trap, ii) the construction and connection of the horizontal pipe from #02-33 to the VWSP, and iii) the construction of the floor trap in the common area at level 4 was illegal or not in accordance with the requirements of any regulatory body.
18. There was no evidence as to when exactly the discharge pipe from #01-39/40 was constructed but there is no dispute that this took place before the applicant was constituted. After the pipe was constructed, the grease trap was servicing water and waste from #01-39/40.
19. From the contents of the letter (Tab J of AW1), the applicant was, in March 2015, informed of the connection of the discharge pipe from #02-33 to the VWSP and the VWSP was, after the connection, used to drain water and waste from that lot to the grease trap.
20. Before the floor trap in the common area at level 4 was sealed on the instruction of the managing agent at some point of time between 2015 and 2016, water and waste were being drained from the common area at level 4 to the grease trap at ground level via the VWSP. The applicant had, inter alia, applied for an order for the respondents to remove the floor trap and reinstate the affected common area. Other than the fact that the trap was not in the original building drawings, there was no evidence as to when, how and why the trap and pipe beneath were constructed. There was absolutely no evidence that the respondents had anything to do with the construction and installation and no evidence to find that it was installed and constructed at some point of time after the applicant was constituted on 8 October 1997. It was clearly not possible for the Board to make the order sought.
21. The reliance of the applicant on the original building drawings in support of its submission that the VWSP and grease trap were not “common property” because it was the intention of the owner at that time that they were intended solely for the use of the food court, was not helpful. It is not the definition of “common property” that it must be a part of a building that was, at the time of construction, intended to be used by 2 or more occupiers and that if it was at the time of construction used by the occupier of only one lot, it cannot be common property.
22. There was no evidence that when the complex was constructed, the owner of the land intended that it was to be a “subdivided building” and it will be in order to assume that at that point of time a schedule of strata units was not filed and accepted by the Commissioner of Buildings and a strata title plan was not registered by the Registrar of Titles. A finding as to whether or not a part of a building is common property can only be made after the strata title plan had been registered.

Once the strata title plan is registered, the Registrar will issue a subsidiary strata certificate of title for each lot shown on the strata title plan. Each such title is registered in the subsidiary strata land register which is prepared and maintained by the Registrar. Further, on registration of the strata title plan, the Registrar shall enter a memorial in the land register on the volume and folio of the parcel to the effect that a subsidiary strata land register has been created. This leads to the fourth effect of registration of the strata title plan which is that thereupon the common property will be held by the subsidiary proprietors as tenants-in-common proportional to their respective share values and for the same term and tenure as their respective lots are held by them (s 13(1)). The common property thus is vested in the subsidiary proprietors and not in the management corporation. Once the subsidiary strata title certificate of title for each lot has been issued, a purchaser of a lot can be registered as the subsidiary proprietor of that lot and his share of the common property. - Choo Kok Lin and Another v The Management Corp Strata Title Plan No 2405 [2005] SGHC 144 at 26.

23. Even if it was the intention of the owner when the complex was being constructed that the VWSP and grease trap were to be used solely by the respondents, they could not be other than “common property” if they were such when the applicant was constituted on 8 October 1997.
24. The VWSP and grease trap are in this case not comprised in the respondents’ lot and will be “common property” if they are “used or capable of being used by the occupiers of 2 or more lots”. They were in fact being used by the occupiers of 2 or more lots and this would confirm that they are capable of being used by the occupiers of 2 or more lots. It is the finding of the Board that the VWSP and grease traps are common property.
25. The applications for the orders applied for are dismissed.

Dated this 13th day of May 2022

Mr Remedios F.G
Deputy President

Mr Lai Huen Poh
Member

Ms Elaine Chew
Member

Mr Kyle Leslie Sim (Wee, Tay & Lim LLP) for the Applicant.
Mr G. Dinakaran and Mr Lawrence Tan (Prestige Legal LLP) for the Respondents.