



November 2014

Hogan v. Metropolitan Toronto Condominium Corporation No. 595 [2014 ONSC 3503]

This case involved a group of unit owners seeking a compliance order against the Condominium pursuant to section 134 of the *Condominium Act, 1998* (the “Act”). The application arose when the owners attempted to requisition a meeting to discuss the replacement of tiles in the elevator lobbies, but were refused a meeting when the Condominium declared the requisition to be invalid.

In or around November 2013, the Condominium advised the owners that the Condominium intended on replacing the tiles in the elevator lobbies. The notice also advised owners that they had a right to requisition a meeting within thirty days of receiving the notice pursuant to section 46 of the Act. Section 46 of the Act allows owners who own at least fifteen (15) percent of the units and are entitled to vote, to requisition a meeting when a matter arises that the owners wish to discuss. The requisition must meet several requirements pursuant to the Act, prior to being declared a valid requisition. These requirements include the following: 1) the requisition must be in writing and signed by the owners’ requisitioning a meeting; 2) state the nature of business to be discussed; and 3) be delivered personally or by registered mail to the corporation’s address for service or to the president or secretary of the board. If these requirements are met, a Condominium must generally call and hold a meeting within thirty-five (35) days of receiving the requisition.

In this particular case, two owners within the Condominium prepared a requisition and distributed it to all the owners within the Condominium. In total, sixty-three (63) owners executed the requisition form. However, nineteen (19) of those owners’ signed their names in cursive writing, while forty-four (44) owners’ printed their names. Further, although the Condominium’s address for service was the management office, some forms were delivered to the concierge desk and others were delivered to the management office. The requisition was also submitted in counterparts. Since only 19 owners signed their names in cursive writing, the Condominium determined that the requisite fifteen (15) percent of owners to call a meeting was not met. Further, the Condominium could not determine how many requisition forms were delivered to the concierge desk, which was not the official address for service. Based on these reasons, the Condominium determined that the requisition was invalid and therefore the Condominium would not be required to hold a meeting. The owners subsequently brought an application for a compliance order.

When this matter was brought before the Court, it was held that for the purposes of a requisition, an owners’ name may be in print or cursive. Either method would constitute a requisition being “signed”. It was further determined that there was nothing in the Act that would require a requisition to be submitted in a single document. Overall, the Court held that the intention of the owners was clear from the requisition form(s); namely, that the owners wanted to hold a meeting to discuss the new tiles that were intended to be placed in the elevator lobbies. Given that the Condominium did not hold a meeting after receiving a valid requisition, the Condominium was found to have violated the Act. The Condominium was ordered to call and hold a meeting to consider the requisition which it received in November 2013.

Bottom Line: In order for a requisition notice to be valid, the form must be in writing and signed, state the nature of the business to be conducted, and be delivered personally or by registered mail to the corporation. Although unit owners’ requisitioning a meeting must meet the requirements set out in the Act to produce a valid requisition notice, such requirements should not be strictly interpreted by condominiums. Rather, when a condominium receives a requisition notice, it is often clear that there is a matter that the owners are concerned about and would like to discuss.

Written by Erica Gerstheimer, edited by Robert Mullin.