



December 2013

Diamantopoulos v. Metropolitan Toronto Condominium Corporation No. 594 [2013] O.J. No. 4275

In this case, the unit owners (Diamantopoulos) applied to court seeking to invoke arbitration pursuant to section 132 of the *Condominium Act, 1998*, in order to resolve alleged disputes with the condominium. The disputes involved the unit owners allegedly leaving sweaty towels in the gym, conflict with neighbours and security personnel, and communicating directly with board members rather than through management. The condominium argued that these matters did not warrant mediation or arbitration, but rather should be brought before the court.

The condominium attempted to resolve these alleged disputes by providing direction to the unit owners, which included: 1) refraining from communicating with the unit owners in unit 903; 2) refraining from communicating with security personnel except in the case of emergencies; 3) refraining from communicating directly with board members, except through property management; and 4) refraining from leaving sweaty towels or adjusting the audio equipment in the exercise room. The unit owners argued that the condominium did not have the authority to provide such direction, and subsequently sought to invoke mediation or arbitration pursuant to section 132 of the *Condominium Act, 1998*. Despite such argument, the court recognized that such directions are a part of managing condominiums, and are provided for the purposes of creating a peaceful environment. The court also recognized the importance of unit owners communicating through property management, rather than communicating directly with members of the board. The court articulated that communicating through property management assists with record keeping and protects members of the board from undue interference. However, the court decided that the matters allegedly in dispute in this case were so small in nature that it did not warrant mediation, arbitration or litigation, and the entire matter was dismissed.

Bottom Line: Although day-to-day conflicts may arise within a condominium, this case serves as a reminder that not every issue experienced between unit owners or with the condominium will be eligible for litigation. In some cases, the best resolution for disputes may be the directions or rules put in place by the condominium and its representatives. Further, this case appears to provide confirmation of the importance of unit owners communicating through property management when issues may arise, rather than communicating directly with members of the board.

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