

Strata Titles Board Holds that Child Safety is Paramount over Concerns of Building Appearance and Uniformity

Introduction

1. Under prescribed by-law 5(3) of the Second Schedule to the Building Maintenance (Strata Management) Regulations 2005 (“the Prescribed By-Law”), subsidiary proprietors are permitted to install structures or devices to prevent harm to children even if the appearance of the building is affected under certain situations.
2. The Strata Title Board’s decision in *Sujit Singh Gill v The Management Corporation Strata Title Plan No. 3466*, STB 52 of 2014 is the first case in which the Prescribed By-Law has been considered in depth and will undoubtedly be of consequence to most if not all management corporations in Singapore.
3. ‘Invisible’ safety grilles are closely spaced steel wires stretched taut vertically by tensioning, which can be anchored at the top and bottom of a balcony.
4. In STB 52 of 2014, the Strata Title Board decided that the ‘invisible’ grilles the Applicant subsidiary proprietor sought to install for the safety of his young children fell within the ambit of the Prescribed By-Law, and in any case would have a minimal impact on the appearance of the building.
5. The Applicant was represented by Toh Kok Seng and Daniel Chen of Lee & Lee.

Facts

6. The Respondent, the Management Corporation Strata Title Plan No. 3466, is the management corporation of the development known as One North Residences (“the Development”).
7. The Applicant, Dr Sujit Singh Gill, is a subsidiary proprietor of a unit within the Development, and resides there with his wife and two young children.

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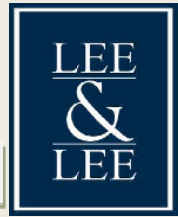
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8. On the balcony of the Applicant's unit is a waist-high glass wall, which in his opinion poses a potential falling hazard. The glass wall is 89.5 cm tall measured from the last toehold, a concrete kerb just inside the glass wall.
9. Prior to his application, the Applicant's wife had written to the management corporation requesting permission to install 'invisible' safety grilles produced by Legate Enterprise on the balcony of their unit after witnessing their daughter's attempt to climb over the glass wall.
10. Following the management corporation's rejection of his wife's application, the Applicant sought an order from the Strata Titles Board that the management corporation consent to the application for the following reasons:-
 - a. The 'invisible' safety grilles are almost invisible and would not affect the façade of the building; and
 - b. Under the Prescribed By-Law, subsidiary proprietors cannot be prevented from installing safety grilles at the balcony to prevent harm to children, even if such grilles affect the façade of the building.
11. The management corporation submitted that the application be dismissed for the following reasons:-
 - a. The grilles do not conform to the approved design specified in the Development by-laws and do not keep with the appearance of the rest of the building;
 - b. The grilles are a permanent barrier and not a locking or safety device. Furthermore they pose a safety concern; and
 - c. The grilles obstruct the management corporation from carrying out their duty to maintain the glass wall.

The Board's Holding and Observations

12. The Board found that the 'invisible' grilles would have a minimal impact on the appearance of the building and would hardly be noticeable by the average observer. Photographic evidence tendered at the hearing showed that such grilles are almost invisible from a distance and do not detract significantly from the appearance of the rest of the buildings in other developments.
13. The Board noted the architectural design of the buildings at One North Residences, that it was intended to be a fenceless and barrier-free community with open view greenery. This was the unique selling point of the Development.
14. Nevertheless, the Board held that prescribed by-laws 5(1) to 5(5) of the Second Schedule to the Building Maintenance (Strata Management) Regulations 2005 serve to prevent the management corporation from refusing to allow subsidiary proprietors from installing safety structures such as grilles, even if such installations alter the appearance and façade of the building.
15. The Board noted that the management corporation was entitled to prescribe guidelines regarding the installation of such structures but found that it had not done so. The Board did not regard the management corporation's insistence that the grilles be installed behind the balcony doors before the start of the balcony to be consistent with the Prescribed By-Law.
16. Other proposals by the management corporation e.g. removal of timber decking or placing potted plants were dismissed as not practical or not long term solutions. Other reasons cited by the management corporation e.g. setting an undesirable precedent and altering the unique characteristic of the Development leading to an adverse effect on the value of the estate were dismissed as far-fetched and without evidential support.

CASE UPDATE



17. The Board commented that the overriding concern must be for the children's safety and that management corporations should be supportive of such applications. The Board observed that the management corporation had been unreasonably difficult with the Applicant's request, and had put its own interest ahead of the Applicant's childrens' safety.

18. In view of the above, the Board ordered that the management corporation permit the Applicant to install the 'invisible' safety grilles at the balcony of his unit.