

Strata Titles Board Holds That Section 47 Of The BMSMA Cannot Be Used To Obtain Documents For Use In Other Proceedings

Introduction

1. Under Section 47 of the Building Maintenance and Strata Management Act (Chapter 30C) (“BMSMA”), a management corporation shall, upon application made to it in writing by, among others, a subsidiary proprietor, make available for inspection and the taking of copies, certain information, records and documents of the management corporation.
2. The Strata Title Board’s decision in STB 39 of 2014 decided that management corporations do not need to make available for inspection records and documents which are intended to be used in other proceedings.

Facts

3. The Respondents, the Management Corporation Strata Title Plan No. 3330, are the management corporation of the development known as The Grange. Toh Kok Seng, Yik Shu Ying and Daniel Chen of Lee & Lee acted for the Respondents.
4. The Applicant and the Intervener are co-subsiary proprietors of a unit within the development (“the Unit”). The Applicant and Intervener are in the midst of acrimonious divorce proceedings, which are still pending. The Intervener currently resides at the Unit. The Applicant has never lived there.
5. The Applicant had requested under Section 47 of the BMSMA to inspect twenty five (25) categories of records and documents of the management corporation including the following:
 - a. Copies of Logbooks;
 - b. Copies of all correspondence between subsidiary proprietors of the Unit and the management corporation / managing agents;

11 November 2014

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- c. Copies of registration details / ID copies of individuals granted biometric access to the Unit;
 - d. Copies of all biometric fingerprint entry records for all individuals registered at the Unit; and
 - e. Video surveillance.
6. The Applicant's reasons for making the requests included that:
- a. The surveillance information i.e. logbooks copies, video footage and fingerprint access are vital to his defence against the Intervener's allegation in the divorce proceedings; and
 - b. Copies of documents between the managing agent and the intervener are vital to his defence in a defamation suit.
7. The Intervener objected to the Applicant's inspection of those records and documents relating to the Unit, on the grounds that:
- a. The attempt by the Applicant to obtain information to aid himself in other proceedings was an abuse of process; and
 - b. The Board should not allow the Applicant to obtain personal and confidential information relating to the Intervener and her home, thereby invading her privacy.
8. Prior to the hearing of the matter by the Strata Titles Board, the Respondents made available to the Applicant all the documents he had requested save for those which the Intervener objected to, and those which the Respondents argued were not orders that could be made under Section 113 of the BMSMA.

The Board's Holding and Observations

9. The Board held that the Applicant was entitled to the documents which he had already been provided, and agreed with the Respondents' arguments on the documents which could not be the subject of orders under Section 113 of the BMSMA.
10. In respect of documents objected to by the Intervener, the Board held that to allow the Applicant the information that concerned the Intervener's personal affairs would be an abuse of process as the Applicant had clearly stated that he intended to have the information mainly for the purpose of litigation against the Intervener.
11. The Board observed further that the Applicant should use the proper discovery processes available to him in a matrimonial proceeding so that the Court, not the Board, shall determine the relevancy of the documents requested, and whether these documents should be made available.