

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: June 1, 2022

CASE: 2022-00090N

Citation: Bridglall v. York Condominium Corporation No. 202, 2022 ONCAT 60

Order under Rule 4 of the Condominium Authority Tribunal's Rules of Practice.

Member: Laurie Sanford, Member

The Applicant,

Aroma Bridglall

Represented by Xavier Bridglall, Agent

The Respondent,

York Condominium Corporation No. 202

Represented by Rosemary Kelly, Condominium Manager

MOTION ORDER

- [1] Ms. Bridglall is a unit owner in York Condominium Corporation No. 202 ("YCC202"). She complains of noise from the unit above her, which is owned by two unit owners, the names of whom YCC202 wishes to be kept confidential. They will be referred to as the "Upstairs Owners". Ms. Bridglall says that ever since the Upstairs Owners renovated the floor of their unit to install vinyl flooring, she is experiencing loud noises and vibration from the upstairs unit. She wants action to be taken to reduce the noise transference to a tolerable level. YCC 202 takes the position that the noise that Mr. Bridglall alleges is the noise of everyday living and that it has exhausted its resources in dealing with the issue.
- [2] The case has now entered Stage 3 of the Tribunal's process, that is the hearing stage. The Tribunal asked the parties to make submissions about whether or not the Upstairs Owners should be added as "Intervenors" or parties to this proceeding. YCC 202 takes the position that the Upstairs Owners should be added as parties as they may be affected by these proceedings. Ms. Bridglall defers to the Tribunal in deciding whether to add the Upstairs Owners or not.
- [3] Subsection 1.38 (3) of the *Condominium Act, 1998* (the "Act") states that the "Tribunal may add or remove a person as a party if the Tribunal considers it appropriate." Subsection 1.39(1) of the Act requires the Tribunal to ensure that all "persons directly affected by the proceeding" have an opportunity to know the issues and to be heard.

- [4] The question is whether the Upstairs Owners are “directly affected” by this hearing. In order to grant Ms. Bridglall the remedy she seeks, the parties to this matter would first submit evidence as to whether any noise coming from the upstairs unit is a nuisance, annoyance or unreasonable disruption either under the *Condominium Act, 1998*, the governing documents of YCC 202 or some other relevant legislation. The Upstairs Owners, because they are the source of the alleged noise, should be afforded the opportunity to give evidence and make submissions on this issue. If the alleged noise is found to be a nuisance, annoyance or unreasonable disruption, then some form of cessation or diminution of the noise would be called for. Any order of that nature would necessarily involve the Upstairs Owners.
- [5] The potential liability of the Upstairs Owners for remedial action leads me to conclude that they are directly affected by this proceeding and should be added as parties. Under the Condominium Tribunal Authority Rules of Practice, effective January 1, 2022, added parties are called “Intervenors” but are considered parties for all purposes.
- [6] It should be noted that the names of the Upstairs Owners will be used in future as they are named parties to this proceeding, which is public.
- [7] I will post instructions for the process of adding an Intervenor on the web site where the hearing is being conducted.

ORDER

- [8] Under the authority of subsection 1.38 (3), the Tribunal adds the Upstairs Owners as Intervenors in this matter.

Laurie Sanford
Member, Condominium Authority Tribunal

Released on: June 1, 2022