

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: December 1, 2023

CASE: 2023-00395N

Citation: Gruzdeva et al. v. Toronto Standard Condominium Corporation No. 2510, 2023 ONCAT 184

Order under section 1.41 of the *Condominium Act, 1998*.

Member: Ian Darling, Chair

The Applicants,

Lyudmila Gruzdeva, Nataliya Chernytska, Mussie Abraham, Jun You Zhao, Ali Khajeheian, Elvira Mostyn, Alexei Gratchev, Roozbeh Moayyedean, Wenle Wang, Wenhuan Wang, Fiona Chu, Syed Muhammad Fazalur Rehman, Jacintha Serrao, Ramesh Lal Shrestha, Mirella DiVintantonio, Ahmed Abdi, Nankun Song, Rahim Kabani, Sourabh Sehgal, Ali Yousefi, Shahrooz Mortazi, Mahsa Nosrati, Qiang Fang, Revin Samuel, Aranya Sathanandan, Eleonor Tumbaga, Ken Sherman, Zicheng Li, Jiaying Shi, Min Yao, Duan Zhu, Hanming Gao, Li Xing, Jin Ye, Bao Yong Wang, Antonio Saade, Syed Kazimi, David Truong, Yi-Hung Chen, Nancy Liu and Rui Zhang

Represented by: Jason Cherniak, Counsel

The Respondent,

Toronto Standard Condominium Corporation No. 2510

Represented by: Jake Fine, Counsel

Submission Dates: October 25, 2023 to November 14, 2023

DISMISSAL ORDER

- [1] This order explains the decision to dismiss this application under [Rule 19.1 of the CAT's Rules of Practice](#).
- [2] The Applicants are a group of owners. They own units in a condominium corporation that allows short-term rentals. The Applicant alleges that the condominium corporation has implemented a new Airbnb Program ("the Program") in violation of the *Condominium Act, 1998* (the "Act") and section 21 of the corporation's declaration.
- [3] The Program will require owners to exclusively use Airbnb (an online platform) for short-term rentals. The Applicants claim that this requirement is discriminatory as it

targets owners who offer short term rentals.

- [4] The Applicants claim that the board did not follow the procedures under the Act to implement this program as a Rule of the corporation. The new Rule 9(p) states that:

(p) If the Corporation has entered into an agreement with a company that facilitates the rental of units for Short Term Rentals (a “**Short Term Rental Company**”) Short Term Rentals shall not be permitted except through such Short Term Rental Company, to ensure the protection, safety, and security of the residents, owners, property, and assets of the Corporation.

- [5] The CAT’s jurisdiction is established by the Ontario Government. Ontario Regulation 179/17 contains the specific wording of the CAT’s jurisdiction. The CAT does not have the legal authority to decide issues that are outside its jurisdiction.

- [6] The application was submitted as a dispute about a nuisance, annoyance or disruption that is prohibited, restricted or otherwise governed under the Act and the condominium corporation’s declaration, by-laws or rules (the “governing documents”).

- [7] The CAT issued a Notice of Intent to dismiss the case, and requested submissions from the Parties because the application identified provisions of the governing documents that relate to use of Residential Units, but none of the identified provisions restrict, prohibit or otherwise govern the alleged nuisance activity.

- [8] The Applicants opposed the motion to dismiss. They cited communications from the corporation that demonstrate that an objective of the Program is to address noise caused by short-term rentals.

- [9] The Respondent stated that the intention of the rule was to address a number of issues with short term rentals, but were not limited to prohibiting, restricting or otherwise governing noise. They cited the preamble of the rule which states the purpose:

The Board of Directors has passed these rules to ensure that owners who engage in Short Term Rentals (as defined herein) with respect to Residential Units are aware of, and comply with, the applicable requirements of the Act, the Declaration, and the zoning by-laws pertaining to such rentals;

- [10] I have concluded that this rule is intended to govern, and provide a mechanism to address the consequences of the short term rentals in the building. Although some of the consequences of the short-term rentals include nuisances that fall within the

jurisdiction of the tribunal, the purpose of the rule extends beyond limiting those nuisances.

[11] Since the Program and rules extend beyond the jurisdiction of the tribunal, into areas where the Tribunal has no power to decide, the issues in dispute are not within the jurisdiction of the CAT. Accordingly, I order this case be dismissed.

ORDER

[12] The Tribunal orders the case dismissed.

Ian Darling
Chair, Condominium Authority Tribunal

Released on: December 1, 2023