

Court File Number: CV-14-997709

Superior Court of Justice
Civil Practice Court

FILE/DIRECTION/ORDER

MTC No. 897 et al.
Applicant(s)

RHANSI et al
Respondent(s)

Case Management Yes No by Judge: MTC

| Counsel | Telephone No: | Email: |
|-------------------|---------------------|--------|
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Order Direction for Registrar (No formal order need be taken out)
Above action transferred to the _____ (No formal order need be taken out)

Adjourned to: _____
Time Table approved (as follows): _____

THE APPLICANTS MOVE UNDER S. 134(1) OF THE CONDOMINIUM ACT TO COMPEL THE RESPONDENTS TO COMPLY WITH THE ACT, THEIR DECLARATIONS, BY-LAWS AND RULES. SPECIALLY THEY SEEK AN ORDER ENFORCING THE DUTY OF NARIM BHANSI UNDER S. 119(2) OF THE ACT TO REQUIRE HER ~~DAUGHTER~~ DAUGHTER NORLIN BHANSI, THE TENANT OF THE UNIT TO: 1.) STOP SOLICITING RESIDENTS AND DISTRIBUTING ADVERTISING MATERIAL ^{AND} IN THE BUILDINGS AND TO STOP KNOCKING ON ^{RESIDENTS'} DOORS, WINDOWS, ETC THESE PURPOSES;

Date _____ Judge's Signature _____

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(b) ~~prohibit~~ STOP INTERFERING WITH OR HINDERING STAFF IN CARRYING OUT THEIR DUTIES;

(c) STOP ENGAGING IN CONFRONTATIONAL BEHAVIOR AT OWNERS' MEETINGS, AND AT THE MANAGEMENT OFFICE - AND TO STOP ~~FROM~~ EXAMINING CONFIDENTIAL DOCUMENTS.

(d) STOP PARKING HER CAR IN VISITORS' PARKING FOR MORE THAN THE ALLOWED 20 MINUTES;

(e) TO PROVIDE MANAGEMENT WITH A KEY TO THE NEW LOCK ON HER FRONT DOOR; AND

(f) ~~to~~ TO CALL AHEAD BEFORE ATTENDING AT THE MANAGEMENT OFFICE.

THE APPS SEEK THE SAME ORDER AGAINST NARSEN BANARSI ~~2~~ ² FOL-

(a) - (e) ARE ALL PLAINLY SET OUT IN THE CONDO'S RULES. (f) IS A COMPROMISE DEVELOPED BY THE APPS. TO AVOID SIMPLY PROHIBITING NARSEN BANARSI FROM ATTENDING THE OFFICE AT ALL.

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- NORTHEN BHANSI AFFENDS ON THE BASIS THAT SHE
WAS BEING SINGLED OUT FOR OPPRESSION BY THE
APPS & management ^{THEIR} security ^{CONTRACTOR} due to her enforcement
of her rights.

- There are SUBSTANTIAL CREDIBILITY ISSUES
BETWEEN THE PARTIES THAT I CANNOT RESOLVE
ON AN APPLICATION. BUT I DO NOT NEED TO
ORDER A TRIAL BECAUSE THE CREDIBILITY ISSUES,
EVEN IF RESOLVED IN NORTHEN BHANSI'S FAVOUR,
DO NOT AFFORD A DEFENCE IN THIS MATTER.

There is NO CROSS-APPLICATION. NOR CAN
NORTHEN BHANSI AS A TENANT BRING AN
OPPRESSION REMEDY: See KIM 2014 ONSC 2124;
AND EXTRA GIFT ~~2007 BSC 429~~
ORGAN INDIVIDUAL

IF MANAGEMENT HAS COMMITTED Torts THAT
ARE ACTIONABLE, MS BHANSI HAS REMEDIES
AVAILABLE.

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SHE DOES NOT GET A LICENSE TO PARK IN VISITORS' PARKING TO SOLICIT BUSINESS, ~~AND~~ WITHHOLD ACCESS TO HER UNIT OR TO ORDER MANAGEMENT STAFF WITH WHOM SHE IS UNCOMFORTABLE OUT OF ELEVATORS OR MEETINGS.

IF THERE IS AN EMERGENCY, MANAGEMENT NEEDS KEYS TO UNITS. THE LAWS ON ENTRY ARE CLEAR. MS BHANSI DOES NOT GET TO ATEND THE STATUTE OR RULES.

IF MANAGEMENT DETERMINED THAT MS BHANSI WAS A DISPROPORTIONATELY DISRUPTIVE ~~BE~~ UNIT OCCUPIER AND EVEN IF ONE OR MORE EMPLOYEES BREACHED MS BHANSI'S RIGHTS OR TREATED HER HARSHLY, THERE IS NO BREACH OF THE APPLICANTS' DUTIES TO MANAGE THE BUILDINGS IN THE BEST INTERESTS OF ^{UNIT} OWNERS. ~~I AGREE WITH STATE~~

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THE COURT CANNOT MAKE PEOPLE BEHAVE PLEASANTLY OR BE GOOD NEIGHBOURS. CONDO LIVING MAY NOT BE FOR SUBSISTENCE. BUT FOR THOSE WHO ARE LIVING IN CONDOS, RULES FOR THE COMMON GOOD APPLY. IT WOULD BE UNWELLDY, INEFFICIENT, UNFAIR & ARBITRARY FOR THE COURT TO ALLOW SELECTIVE EXEMPTIONS BECAUSE MANAGEMENT AND A UNIT RESIDENT DO NOT GET ALONG NO MATTER WHO MIGHT BE FOUND TO BE AT FAULT, IN A TRIAL.

~~THESE~~ THE RULES BEING ENFORCED ARE NOT IN ALL CASES SPECIFICALLY DEFINED. SOME ARE CLEAR - E.G. NO SOLICITATION OF BUSINESS; MS BHANSI MUST GIVE A KEY & LTO MANAGEMENT ACCESS TO THE UNIT. BUT, THE PARAGRAPHS (b) & (c) ABOVE ARE SUBJECTIVE. WHETHER THEY ARE CLEAR ENOUGH TO SUPPORT A CONTEMPT REVISION IS UNCLEAR. BUT IF THE APPEAL ARE PROCEEDING AS A FIRST STEP TO A - HOPEFULLY UNWELLDY - SUCTION

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PROCEEDING UNDER s. 134 (4), THEN THEY ARE ENTITLED TO A COMPLIABLE ORDER - THE RULES SAY WHAT THEY SAY, ENFORCEMENT, IF ANY, IS FOR ANOTHER DAY.

ORDER TO GO IN TERMS OF (a) THROUGH (f) ABOVE.

THE APPS SEEK PARTIAL INDEMNITY COSTS OF \$42,000. THE RESPONDENTS SUBMIT THAT \$10,000 IS PROPORTIONAL. BUT THE RESPONDENTS' COUNSEL'S BILL OF COSTS ON A PARTIAL INDEMNITY BASIS WAS \$38,000 +/- . THE RESPONDENTS CANNOT HAVE SEEN THE HIGH NUMBER OF AFFIDAVITS AND CROSS-EXAMINATIONS WITHOUT REALIZING THAT BOTH SIDES WERE PLAYING VERY AGGRESSIVE WORDS AND WERE INCURRING SUBSTANTIAL COSTS. IT IS NOT FAIR TO TRY TO LIMIT THE OTHER SIDE TO 25% OF THE COSTS THAT ONE WOULD HAVE SOUGHT IF SUCCESSFUL. CONSIDERING REVENUE, PROPORTIONALITY AND THE FACTORS SET OUT IN R. 57.01, COSTS OF \$30,000 ON A PARTIAL INDEMNITY BASIS SHOULD BE PAYABLE BY MORTEN SHAW'S TO THE APPLICANTS. THERE IS

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TRIED TO, OR,

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NO EVIDENCE THAT NASHIM BHANJI FULFILLED HER DUTY TO ENSURE THAT HER TENANT DAUGHTER COMPLIED WITH THE ACT, DECLARATION OR RULES. IT IS FAIR AND REASONABLE THAT ~~THE~~ NASHIM BHANJI BE JOINTLY & SEVERALLY LIABLE WITH NORSEEN FOR COSTS.

I MAKE NO COMMENT ON THE EFFECT OF OTHER PROVISIONS OF THE CONDOMINIUM ACT THAT MAY OR MAY NOT HAVE EFFECT DUE TO THIS ORDER. IF THE LAW PROVIDES OTHER OUTCOMES, THAT IS WHAT THE LEGISLATURE INTENDS. I MAKE NO FINDING ON WHAT OTHER LIABILITY OR DEFENCES NASHIM BHANJI MAY HAVE BASED ON MY HOLDING HER JOINTLY & SEVERALLY LIABLE FOR COSTS ASSESSED AGAINST NORSEEN BHANJI ON A PARTIAL INDEMNITY SCALE.

Judges Initials