

CITATION: Niagara South Condominium Corporation No. 12 v. Kore, 2021 ONSC 8475
COURT FILE NO.: CV-21-60160
DATE: 20211230

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:)	
)	
Niagara South Condominium Corporation)	Danielle Marks, for the Applicant
No. 12)	
)	
)	Applicant
)	
– and –)	
)	
John Kore and Patrick Leblanc)	Adil Habib, for the Respondents
)	
)	Respondents
)	
)	
)	
)	HEARD: December 3, 2021

THE HONOURABLE JUSTICE M. J. DONOHUE

REASONS FOR DECISION

Overview

- [1] This application is brought by the management of a residential condominium against two owners of condominium units, pursuant to ss. 134 and 135 of the *Condominium Act*, 1998, S.O. 1998, C.19 (the “*Act*”).
- [2] The applicant seeks orders declaring the two respondents to be in breach of their obligations under s. 117 and s. 119 of the *Act* and orders that they comply with such obligations, particularly to not harass or disturb the comfort of the other owners, employees or representatives of the condominium.
- [3] For the reasons below, the court finds that the orders sought are appropriate. In my review, the emphasis added is by the court.

The Parties

- [4] The applicant is the condominium corporation as represented by the Board of Directors

(the “Board”).

- [5] The respondent John Kore has owned a unit since 2014 and the respondent Patrick LeBlanc has owned a unit since 2016.

Behaviour of the Parties

John Kore

- [6] Evidence was presented to the court of the aggressive behaviour of John Kore.
- [7] Police were called after an altercation between Mr. Kore and another owner, Mr. LaFlamme, on May 25, 2018. Mr. Kore deposed that Mr. LaFlamme had called him a troublemaker, but that no threats were made by Mr. Kore and there was no physical contact.
- [8] The police report however notes that:
- when Mr. Kore said hello, Mr. LaFlamme chose not to respond;
 - Mr. Kore **followed him**, and got in front of him;
 - Mr. Kore started **bumping his chest** with Mr. LaFlamme’s chest.
- [9] The description of Mr. Kore’s stating that “I will crush you like a f---ing ant” and “you are a nobody” are not denied by Mr. Kore.
- [10] No charges were laid by police and the two men were told to avoid one another. In the context of the condominium community, however, the Board had their lawyers send a “CEASE AND DESIST” letter referencing Mr. Kore’s statement and pushing his chest against the other owner’s chest. The letter also included the following statement:
- The Condominium is aware of a number of complaints from residents regarding your harassing behavior, inappropriate conduct and defamatory and misleading comments regarding the members of the board of Directors of the Condominium and the Condominium’s Property Manager. The Condominium is in receipt of a number of letters from other unit owners advising of numerous instances of offensive and unwelcome conduct on your part, and advising that such conduct negatively impacts on their residency in the Condominium.
- [11] Mr. Kore did not respond to that letter or take any steps to dispute the narrative presented.
- [12] In his reply materials he explains why he was unhappy with the Board’s actions in closing the workshop and his belief that the Board was acting in bad faith in their explanations for its closure.
- [13] A year later the Board had their lawyers send a further “**cease and desist**” letter to Mr. Kore on May 8, 2019 regarding his conduct with the members of the Board and the property

manager at the time. He was told that his harassing and intimidating phone calls to employees of the condominium regarding the outage in the phone entry system were intimidating and inappropriate. The letter notes as follows:

The system went down due to a technical issue and was being addressed by the Condominium. As such, you telephoned employees of the Condominium and proceeded to demand invoices and reports from employees in a manner that was intimidating, accusatory and harassing. Furthermore, you have repeatedly threatened the jobs of employees of the Condominium; a power not afforded to unit owners. Such conduct is considered harassment and will not be tolerated.

- [14] Mr. Kore did not respond to that letter.
- [15] In his affidavit, three years later, he denies that he made any such harassing or threatening calls.
- [16] In August 7, 2019 both Mr. Kore and another owner, Mr. Gretsinger, complained to the Board about each other. Mr. Gretsinger said that he was pushed by Mr. Kore saying that he did not see him but then Mr. Kore **followed him** into another building and there was heated discussion. Mr. Kore complained that Mr. Gretsinger bumped into him and told him to "F--- off." The Board did not respond in taking action against either party.
- [17] In February 2021 the garage door malfunctioned and would not close. There were delays in effecting the repair. While it was stuck open there is an allegation that a bicycle was stolen from the garage.
- [18] Mr. Kore and another owner made inquiries of the Board as to how long the door was open and why the owners had not been notified. They did not get a response.
- [19] Mr. Kore deposed that "in protest" on March 25, 2021 he posted images of V for Vendetta on the condominium's notice board because the Board was misinforming the owners about posts on the owners' notice board.
- [20] Ms. Eldridge, for the applicant, deposed that on three different days, March 28, 29, and 31, 2021, Mr. Kore was observed on surveillance posting V for Vendetta images as well as Trump images stating, "I DID NOT LEAVE THE GARAGE DOOR OPEN."
- [21] Mr. Evans, the superintendent, deposed that the images were posted "over the plexiglass of the board's bulletin board". Mr. Evans kept removing them and Mr. Kore kept putting them back up.
- [22] Mr. Kore admitted on cross-examination that the V for Vendetta character was a vigilante; that the character was seeking justice in the film; and that the character murdered his opponents in the film.
- [23] Mr. Evans said he felt threatened and harassed by this behaviour. He deposed that "given the negative connotations associated with the character of V for Vendetta, I felt unsafe as

a result.”

Patrick LeBlanc

- [24] Evidence of Mr. LeBlanc’s aggressive behaviour was presented as well, particularly as against the superintendent, Mr. Evans.
- [25] The initial incident reported by Ms. Eldridge on behalf of the applicant is that Mr. LeBlanc refused entry to his unit by her and some plumbers in September 2020. She says that he aggressively slammed the door in her face and said she was not allowed in.
- [26] Mr. Leblanc deposed that it was a civil exchange. He did not allow her in as no notice was given, as required, and that he did not slam the door.
- [27] Mr. LeBlanc also deposed that Ms. Eldridge constantly “surveils” him and his family to allege some type of non-compliance with condominium by-laws, rules and regulations.
- [28] For the purpose of this application, the evidence is directed at Mr. Leblanc’s behaviour involving a hunting camera.
- [29] Without authorization, Mr. LeBlanc placed a hunting or wildlife camera on a tree located in the common elements. The camera was apparently directed to capture images of wildlife which had been leaving tracks in the snow. The camera also, however, captured part of the side of the condominium building.
- [30] The Board instructed the superintendent, Mr. Evans, to remove the camera which appeared to be directed at units within the condominium. Mr. Evans did not know who the owner was. When Mr. LeBlanc discovered its removal, he contacted Mr. Evans and demanded its return. Mr. Evans advised that he was awaiting direction from the Board to release it.
- [31] An hour later Mr. LeBlanc **called police** to report that the camera had been **stolen**.
- [32] Mr. Evans felt threatened by this action. He feels intimidated by the man. Although Mr. LeBlanc is not a tall man, Mr. Evans said he has a very hard stare and a very aggressive posture.
- [33] The camera was returned to Mr. LeBlanc the same day.
- [34] For the next five days Mr. LeBlanc kept **calling police** and leaving messages alleging that Mr. Evans had deleted images from the camera.
- [35] Mr. Evans continued to feel threatened with criminal liability over this.
- [36] On March 12, 2021 Mr. Evans passed Mr. Kore and Mr. LeBlanc in the hall and heard Mr. LeBlanc say, “They think it’s over, **wait till they get the next call from the police.**” Mr. Evans deposed that he felt this statement was intended by Mr. LeBlanc to be overheard by him.

- [37] The Board's lawyer sent a letter on March 19, 2021 to Mr. LeBlanc regarding s. 117 of the *Act* and the placement of the wildlife camera.
- [38] Even after this letter Mr. LeBlanc **involved the police**, who contacted Mr. Evans over photos on the condominium's website. The inquiry was whether those were photos taken by Mr. LeBlanc. Once again Mr. Evans felt threatened. He deposed that the harassment by Mr. LeBlanc (and Mr. Kore) significantly impacted his emotional well-being.
- [39] The applicant explains these incidents as in the context of a history of disruptive behaviour by Mr. LeBlanc.
- [40] Emails to the Board described the LeBlanc children, contrary to the rules, repeatedly running and jumping in the pool area in 2018, and were yelled at to stop. A confrontation ensued involving Mrs. LeBlanc and then Mr. LeBlanc.
- [41] In April 2019 Mr. LeBlanc admits that below a notice stating "unused bikes would be disposed of" he posted, "Will the Board be **stealing** our property?"
- [42] Mr. Evans noted that in October 2020 Mr. LeBlanc got up on a ladder and changed the positioning of a surveillance camera in the garbage room.
- [43] Ms. Eldridge deposed that Mr. LeBlanc spent over a year renovating his unit, which annoyed his neighbours. He posted a notice on the corkboard stating, "I will take **as long as I want.**"
- [44] Ms. Eldridge deposed that Mr. LeBlanc had stated to her, "We do not follow the condominium's rules." Mr. LeBlanc did not deny this statement.
- [45] Mr. LeBlanc had no evidence of the Board actually stealing anything. They did dispose of his dumbbells in error but paid him the value of them.

Action Requested of the Board

- [46] Mr. Kore in his affidavit deposes that the president of the Board, Ms. Eldridge, has targeted him to allege non-compliance with the rules and **she** "continues to create a toxic environment for owners under the guise of 'compliance' with the rules and regulations of the condominium".
- [47] Mr. LeBlanc deposed that the Board "singled out incidents involving myself and Mr. Kore because we are **vocal** about proper governance of the condominium and adherence to due process in the conduct of the affairs of the unit owners."
- [48] Mr. LeBlanc deposed that he has raised issues of a Board member taking part in the voting of and receiving construction contracts paid for by the condominium; lack of transparency regarding construction invoices concerning contracts awarded to the Board member; misinformation concerning changes or removal of amenities, such as closing the wood working shop; and addressing issues of non-transparency of the AGM. He provided no supporting evidence to these allegations.

[49] Ms. Eldridge was asked to produce evidence of emails from other owners complaining of the harassing behaviour of Mr. Kore and Mr. LeBlanc.

[50] One email from 2018 complained of Mr. Kore “ranting about issues”, sending out emails to quite a few residents and putting notices under residents’ doors; some residents asking him to be taken off his email list and being disregarded; some residents trying to hide if they hear him coming; some being afraid of him; and that Mr. Kore believes there is a conspiracy going on with the Board. The owner moved there to have a quiet life and “not to be harassed by an individual who desperately [*sic*] wants to run this complex. It is time for the Board and Shabri to stand up to John Kore.”

[51] In 2018 after the altercation with Mr. LaFlamme, Mrs. LaFlamme wrote about Mr. Kore stating to her husband, “You are a f---ing ant and I can crush you anytime like an ant”. She asked, “What is going to be done and what can be done?”

[52] A number of emails were produced from the end of March 2021:

- [J]ust read latest letter from disgruntled group, enough!! Most of us are here to enjoy our retirement in peace, let’s continue without silly pot stirring over every incident that occurs.
- I am very upset over all the things going on towards the board and the superintendents, they all work so hard, doing so much good around here. I feel very uncomfortable not knowing what is going to happen day by day. This small group are degrading our lovely homes and environment. What can we do about this problem...?
- I moved into this complex 13 years ago and up until the last few years life was peaceful and content. Then like a malignant virus change crept into our Condo in the form of discontent, intimidation, false accusations, agitation, theft and bullying. This result [*sic*] in the need to install security cameras to protect us and our way of life. Then there was the infamous posting of the Joker sketches blocking our access to the notice board.... This stupidity must stop.
- I think Shabri and the board should do what ever it takes to do something about these trouble some [*sic*] people in our complex. They are causing a lot of trouble for everyone, it is now out in the public the unrest we have here. People are refusing to look at places that are for sale witch [*sic*] hurts us all.... I have been here 15 yrs. These problems only started about 4 yrs. ago and progressively got worse. I think the board and superintendence [*sic*] are doing a fine job. I would hate to see us lose any of them because of all the harassment they have to take from these people and now they are defacing our announcement cases by sticking tape and paper all over them. You know who they are, they do it right in front of a camera, they don’t care if you know, they don’t have any respect for anybody else. [*sic*]

- I have enjoyed living here for over 7 years.... We are writing you because of the most recent notice placed upon the notice board. The notice board is there for posting by residents of information of general interest. Not for advertising which tends to reflect future political ambitions.... We have spoken with several of our neighbours regarding the situations described or implied, and it was agreed that the management of the Corporation by the past and of course the present board have done and continue to do an excellent albeit demanding job.
- I am writing to express my feelings regarding the atmosphere of conflict that has developed in our community. It has come from a small group of dissidents, mostly newcomers, who want to take over the board and change things. In my opinion, the "duly elected" board is doing a great job looking after my investment and my welfare here despite the fact that they spend hours and hours of time without thanks or remuneration. I personally feel harassed. We should not have to live in this poisoned atmosphere.
- We must not let the band of dissidents gain a foothold and interfere in the operations of this entity.
- I am tired of a small group of complainers who are trying to dominate the majority of owners. I believe that this small group who arrived relatively recently did not read the rules and regulations of the condo before purchasing.... Lookout Village's reputation out in the community is deteriorating and it is probable that the resale value is dropping as well when real estate agents find out about the bickering going on. Recently I was aware of an agent taking clients through the garage area and of course they stopped by the bulletin boards. Hopefully they missed the latest letter to the Board and owners. I am wondering if a lawyer's letter to all of this small group should be considered.
- I cannot stress enough how important it now is to end this harassment. We may even, just a guess, loose [*sic*] another Superintendent.... I reluctantly leave this condominium during the last week of May. It has been an incredible 32 years, very much thanks to always a responsible Board working so hard on behalf of us all. And always strong enough to withstand various criticisms. But no Board has ever experienced anything like this. You are not to be envied. However, you have to end this. It HAS to stop!
- I know that all would agree that the market value of our condo units are of the utmost importance to us. Why are we letting this PUBLIC WAR go on?? There is a responsible, mature way of settling differences (and there will always be differences).... This nonsense must stop. You have my full support to do what ever it takes to put an end to it.
- We resent that these dissidents, have caused such a discomforting

atmosphere, could result in devaluing the ambiance of the condo units should this unfavourable circumstances become more widely known. We thank each member of the Board for their service and hope that the disturbance will soon be resolved.

- [W]e do not feel safe and comfortable around a core group of residents.... We do not think it is right or fair for us or that the Board should be involved with dealing with complaints, inquiries, etc. from a core group of residents that are only interested in pursuing their own agendas.... Thank you to the Board, etc. for all of your ongoing hard work.
- I have nothing but respect and admiration for the Board Members ... who all work so diligently together.... It is my firm belief that the ongoing harassment, bullying etc by a small group of disgruntled residents, ... is absolutely not a way to settle any dispute-large or small!! ... In this crazy world of uncertainty, fear and unrest, happiness would be to finally have these unfortunate matters resolved sooner rather than later and move forward to once again enjoying the camaraderie of each other at Lookout Village!

Law

- [53] Section 117 of the *Act* prohibits any person from permitting a condition to exist or carrying on an activity “if the condition or the activity is likely to damage the property or cause injury to an individual.”
- [54] A course of vexatious comment or conduct against a worker in a workplace as well as threatening behaviours have been found to offend s. 117: see *York Condominium Corp No 163 v Robinson*, 2017 ONSC 2419, at para. 12; *Toronto Standard Condominium Corporation No. 2395 v Wong*, 2016 ONSC 8000, at paras. 39-41.
- [55] The recent decision of *Ottawa Carleton Standard v. Friend*, 2019 ONSC 3899, at para. 117, explained that the phrase “‘injury to an individual’ pursuant to s. 117 of the *Act* includes psychological harm and verbal and written forms of abuse” and can therefore warrant intervention by the court pursuant to s. 134 of the *Act*.
- [56] The decision of Stinson J. in *Metropolitan Toronto Condominium Corporation No. 933 v. Lyn*, 2020 ONSC 196, at paras. 28 and 30, explains the limits on one’s behaviour when residing in a condominium community:

As with living in any community, condominium owners and their guests must enter a social contract which relinquishes their absolute interests to do as they please with their real property, and instead balance their interests with those of the other owners and tenants....

...

[W]here someone chooses to live in a condominium community – whether as

an owner or a tenant – they do not enjoy unlimited freedom to do as they please. Rather, they must conduct themselves in accordance with the rules of the community and with due respect and consideration for their neighbours and fellow residents. Further, they must govern and limit their personal activities taking into account the impact of those activities upon other residents, as regulated by the condominium rules.

Analysis

- [57] Each of such cases is a matter for discretion of the court, considering the particular facts of the case.
- [58] It comes down to respect: Respect for the rules. Respect for the employees, the Board and one's neighbours. Respect for the common and shared space of others.
- [59] On the material before me, it is apparent that the two respondents have made themselves unpopular and irritating to the Board, the employees, and the other owners with their behaviour. It has escalated to threatening and harassing behaviours early in 2021 and led the Board to pursuing this application to ensure the peace of the condominium community.
- [60] The uncontradicted evidence supports:
- The flouting of rules.
 - Physical aggression.
 - Intimidation.
 - Harassment.
 - Disrespect of others.
- [61] The respondents present **justifications** for their criticism of the Board and its employees. That is not the issue for the court's determination. Rather, it is the **manner** in which they have each behaved toward the Board, its employees and to the other owners which must result in the sanctions sought by the applicant.
- [62] I am satisfied that the two respondents have breached their obligations under s. 117 and s. 119 of the *Act* and appropriate orders are required.

Disposition

- [63] Accordingly, the application is granted.
- [64] I order:
- a. a declaration that the respondents have breached their obligations pursuant to s. 117 and s. 119 of the *Act*;

- b. the respondents shall comply with their obligations pursuant to s. 117 and s. 119 of the *Act*;
- c. the respondents shall not disturb the comfort and quiet use and enjoyment of the units and common elements of the condominium by owners and occupants of other units in the condominium, or of their family members, guests and visitors;
- d. the respondents shall not harass or intimidate other owners and occupants of other units at the condominium, or their family members, guests and visitors;
- e. the respondents shall not harass or intimidate the management, superintendent or other staff of the condominium;
- f. the respondents shall not affix signs anywhere on the common elements of the condominium without express prior written consent from the Board of Directors of the condominium;
- g. in the event of the respondents' failure to comply with this order, the condominium may seek further relief to enforce compliance with this order on a motion in the within proceeding, and that the time for providing notice of such motion to the respondents is hereby abridged, and such motion may be brought by the condominium on not less than seven days' notice to the respondents.

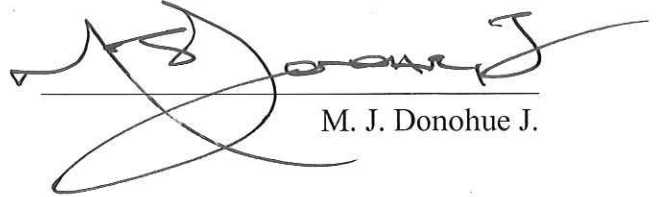
Costs

Costs of the Application

- [65] The applicant seeks an order that the respondents are jointly and severally liable for the applicant's legal costs and disbursements of the within application and that if unpaid within 30 days of the date of this order may be added to the common expenses attributable to the respondents' respective units and shall be collectible as such.
- [66] The applicant submits that the costs are payable on a full indemnity basis in light of the respondents' contractual obligation to indemnify and save harmless the condominium from and against the costs incurred in seeking compliance with the *Act*.
- [67] Their bill of costs, as prepared and detailed in their costs outline of December 2, 2021, is \$44,980.59.
- [68] At the hearing my decision was reserved and I did not hear responding submissions on costs.
- [69] If the respondents wish to make submissions on costs, they may serve and file a one-page submission plus any necessary attachments by Tuesday, January 11, 2022.
- [70] The applicant, if required, may file reply submissions by Tuesday, January 18, 2022.
- [71] Such written submissions are to be forwarded to my chambers at 59 Church Street,

St. Catharines, Ontario, L2R 7N8 or may be emailed to my assistant at St.Catharines.SCJJA@ontario.ca.

[72] Failing submissions as noted above by January 21, 2022, the court will determine the costs based the on the materials filed.



M. J. Donohue J.

Released: December 30, 2021

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