CITATION: 3716724 Canada Inc. v. Carleton Condominium, 2015 ONSC 6626
COURT FILE NO.: 14-60973
DATE: 2016/02/26

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	)	
	)	
3716724 CANADA INC.	)	*Nadia J. Authier*, for the Applicant
	)	
	)	
	)	
Applicant	)	
	)	
- and -	)	
	)	
	)	
CARLETON CONDOMINIUM CORPORATION NO. 375	)	*Christy Allen*, for the Respondent
	)	
	)	
	)	
Respondent	)	
	)	
	)	
	)	**HEARD:** October 15, 2015
	)	

ELLIES J.

CORRECTED REASONS FOR DECISION

OVERVIEW

[1] Carleton Condominium Corporation No. 375 ("CCC 375") is a mixed use condominium, containing both commercial and residential units. 3716724 Canada Inc. ("371") is the owner of a number of commercial parking units located in the condominium building, which it presently rents on a monthly basis. 371 wishes to rent the parking units on an hourly basis, instead. However, the Board of Directors of CCC 375 (the "Board") refuses to approve the changes necessary to the common elements in order to permit the change of use. Therefore, 371 has applied for relief under ss. 134 and 135 of the *Condominium Act*, S.O. 1998, c. 19 (the "Act").

[2] Although the amended Notice of Application includes a request for damages, at the hearing, 371 sought only three things:

(a) an order pursuant to s. 134 of the Act requiring CCC 375 to comply with the Declaration by allowing 371 to operate its parking lot within the building on an hourly, rather than a monthly, basis;

(b) a declaration under s. 135 of the Act that CCC 375's refusal to permit 371 to do so is unfairly prejudicial and unfairly disregards 371's interests; and

(c) an order prohibiting CCC 375's conduct.

[3] During argument, counsel for 371 agreed that her client is not actually seeking the order set out in paragraph (a) above. She concedes that the Board is not breaching the Declaration by refusing to consent to the changes 371 proposes to make to the common elements. She agrees that the Board has a right to refuse to approve the changes under the Act. Nonetheless, she argues that the Board must do so in a way that does not infringe s. 135 of the Act.

[4] The parties' dispute centers mainly on whether a full-time security guard should be employed by 371 in order to alleviate the Board's concerns about the safety of residents of the condominium and the users of the commercial parking lot.

[5] For the following reasons, 371's second and third requests are granted. Unfortunately, however, my decision will not finally dispose of the matter.

FACTS

[6] CCC 375 was created by the registration of a Declaration on April 23, 1987. The condominium building is located on George Street, in the Byward Market area of Ottawa. In its factum, CCC 375 indicates that the building is comprised of 117 residential units (which are located on Levels 3 to 24 of the building), 64 commercial units (located on Levels 1 and 2), as well as residential and commercial parking units.[1] CCC 375's factum also indicates that the commercial parking units are located on Level A and that the residential parking units are located on Levels B, C, and D.

[7] 371 purchased Unit 27, Level 1 and the commercial parking units located on Level A in October, 2000. 371 also owns the commercial units located on Level 2.[2]

[8] When the condominium building was constructed in 1986, the commercial parking area included a parking booth at Unit 27, Level 1, between the entrance and the exit driveways. At the time, the area was operated as an hourly parking business. However,

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[1] These facts do not appear to be set out in the evidence filed in the application. However, no issue was taken with them and, in any event, none of them are crucial to the determination of any of the issues between the parties.
[2] The date upon which it purchased these units is not clear from the materials.

the hourly parking was gradually phased out and the commercial parking units were then rented on a monthly basis. This is the way they were being operated when they were purchased by 371.

[9] 371 has operated the commercial parking unit on a monthly basis since it purchased Unit 27, Level 1. However, the Declaration does provide for the operation of the commercial parking business on an hourly or daily basis. The key portions of clause 3.2 of the Declaration reads:

> 3.2 Occupation and Use. The occupation and use of the Units shall be in accordance with the following restrictions and stipulations:
>
> (c) Parking Units located on Levels B, C and D shall be used and occupied only for private motor vehicle purposes ...
>
> All Parking Units owned or leased by the Owner of Unit 27, Level 1 and located on Level A of the Parking Garage may be used for a commercial parking business for the leasing of individual parking spaces for such period of time as the Owner, its assigns, tenants or sub-tenants of such Parking Units may in its sole discretion determine provided that not less than 30 such Parking Units are made available at all times for hourly or daily parking. The parking rates which may be charged for such hourly or daily parking shall not exceed the rate charged from time to time by other similar commercial type parking operations in the City of Ottawa. No Parking Unit located on Levels B, C and D shall be used for commercial parking business.
>
> (d) Unit 27, Level 1 shall be occupied and used for the operation of a commercial parking business and any incidental use thereto.

[10] At present, customers using the monthly parking area access that area through a garage door that is common to both monthly parking customers and the residents of the building. In order to access the residential parking areas on Levels B, C and D, however, residents must pass through another garage door over which only they have control.

[11] There is a stairwell ("stairwell C") that leads from Levels A, B, C and D to the street. At present, it is not possible to access that stairwell from the street, because the door to the stairwell at street level is locked.

[12] 371 says that monthly parking is no longer profitable and estimates that it can earn substantially more money by operating the parking lot on a "pay and display" hourly basis. In order to do so, a number of changes will be required to the common elements of CCC 375. These include:

(a) Installation of a garage loop detector on the garage ramp to allow access for customers wishing to park and use pay and display parking on Level 1;

(b) Installation of a low voltage pay and display meter on Level A, to be connected to an existing electrical outlet;

(c) Replacement of the hardware on the exterior man door on the east side of the building (stairwell C) to allow free access to the commercial parking lot; and

(d) Installation of appropriate signage inside and outside the building to advertise the pay and display commercial parking lot and the presence of security staff and cameras (the proposed signage is specifically addressed and permitted by clause 4.2.4(iv) of the Declaration).

[13] On May 14, 2012, 371 advised the Board of its intention to convert the commercial parking area to a pay and display operation. The Board, however, refused to consent to the changes proposed to the common elements. It cited security concerns and requested that 371 obtain a "security audit" at its own expense.

[14] At a meeting held on August 15, 2012, the Board voted not only to refuse to approve the changes proposed by 371, but also to treat them as "substantial" under s. 97(6)(b) of the Act, thereby requiring the approval of at least two-thirds of the owners of the condominium units.

[15] Eventually, 371 retained Paradigm Private Investigation Services ("Paradigm") to prepare the requested audit. On behalf of Paradigm, Ken Williams prepared a report (the "first Paradigm report").[3] In the report, Williams wrote, at page 12:

> As indicated ... in the opinion of the writer physical surveillance including the presence of a Uniformed Security Officer is the best example to (*sic*) a deterrent that can be considered for any property.
>
> ...
>
> If "The HEAFEY Group" and "Val Roca Management" are serious in their adaptation to a 'Pay and Display" parking facility we encourage that consideration be given to the use of additional security personnel and in our respectful submission we believe this can be accomplished by the addition of one extra security officer whose primary duties would be to maintain enforcement, security, and a visible deterrent for anyone considering loitering or engaging in illicit activities on the property.

[3] The date of the report is not indicated anywhere in it. Paradigm's second report says that the first report was "prepared and submitted on 13 May, 2013".

[16] The first Paradigm report was provided to the Board, who reviewed it and wrote to 371's agent on July 12, 2013. It its letter, the Board expressed the view that the report confirmed its key concerns. The Board, therefore, indicated that it would not approve the common element changes unless 371 agreed to provide either (a) a parking booth with a full-time attendant at Unit 27, Level 1, or (b) an extra security officer, as described in the first Paradigm report.

[17] In response, 371 began to question whether it was receiving full value for its share of the security services which were currently in place. Based on that concern, 371 agreed to retain an additional security guard whose sole responsibility would be to monitor the pay and display parking area, provided either (1) that it would no longer be required to make any contribution to the security fees portion of the common area expenses, or (2) that CCC 375 would share in the costs of the additional security guard. 371 refused to provide a manned parking booth on the basis that it was not recommended by Paradigm, nor was it required by the Declaration. The Board refused 371's proposal.

[18] Ultimately, 371 indicated that it would also undertake the following additional changes:

(a) Installation of a new fenced door inside stairwell C to restrict (i.e. prevent unauthorized) access to the lower levels of the parking garage;

(b) Installation of a security camera in stairwell C;

(c) Installation of additional lighting in the commercial parking area;

(d) Installation of emergency call boxes; and

(e) Replacement of an unbreakable glass door at the entrance of stairwell C.

[19] These additional changes were not enough to satisfy the Board, which continued to insist that 371 hire a dedicated security guard. As a result, this application was commenced in May, 2014. According to the evidence of Steve Heafey, the President of 371, the parties did manage at some point after the application was commenced to agree on the wording of a request to Paradigm that it prepare an updated assessment report. That request made specific reference to the changes that would be made to permit the pay and display hourly parking. It also specifically requested that Paradigm *not* comment on the addition of an extra security guard on the premises.

[20] In response to the request, Paradigm prepared a second report (the "second Paradigm report").[4] Williams wrote in the "Observation and Suggestions" section of the report (at p. 15):

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[4] Again, the date of the report is not contained within it, nor does it appear from the evidence filed on the application.

> While physical surveillance such as uniformed Security Officers can be one of the best examples of a deterrent that can be considered for any property, by no means is it the only option available to property management. Security considerations must be relative to existing budgets and sometimes simple physical changes, as mentioned previously in this report can be equally effective tools for security and safety. [Emphasis in original.]

[21] Following receipt of the second Paradigm report, CCC 375 arranged for its own security assessment. On September 23, 2015, CCC 375 received a report prepared by David A. Black, entitled "Physical Security Threat & Risk Assessment" (the "Black report").[5] In it, the author writes (at p. 28):

> On site security guards, dedicated to any pay and display parking areas are critical in reducing the level of risk for both the high priority and medium level risks associated with the Pay and Display as identified above. The proprietary guards already on site work alone and would leave other duties unattended should they have to be responsible for public parking.

[22] The Board relies on the Black report in support of its position that 371 must hire a full-time security guard, dedicated to patrolling the commercial parking area, before the Board will approve the proposed changes.

ISSUES

[23] The arguments advanced by the parties, which I will set out below, give rise to the following issues:

(1) Do the proposed changes to the common elements constitute "additions, alterations or improvements" which require the approval of CCC 375 under the Act?

(2) Does the Board's refusal to consent violate s. 135 of the Act?

(3) Does the Board's decision to treat the proposed changes as "substantial" violate s. 135 of the Act?

(4) If the answer to (1) and either (2) or (3) is in the affirmative, what is the appropriate remedy?

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[5] Again, the date of the assessment report is not contained within it.

ANALYSIS

Issue 1: Are the proposed changes "additions, alterations or improvements"?

[24] Section 98(1) of the Act requires, among other things, that an owner such as 371 obtain approval from the Board with respect to any proposed addition, alteration or improvement to the common elements. The relevant portions of s. 98(1) read as follows:

> An owner may make an addition, alteration or improvement to the common elements that is not contrary to this Act or the declaration if,
> (a) the board, by resolution, has approved the proposed addition, alteration or improvement;

[25] Despite having sought the Board's approval before bringing this application, 371 now maintains that none of the changes it proposes to make as part of the transformation from long-term to short-term parking constitute additions, alterations or improvements within the meaning of s. 98(1)(a), with the possible exception of the pay and display meter. I disagree.

[26] In support of its submission, 371 relies on the decisions of the application judge and the Court of Appeal in *Wentworth Condominium Corporation No. 198 v. McMahon*, 2009 ONCA 870, 257 O.A.C. 323. In *McMahon*, the condominium corporation applied for an order requiring an owner to remove a hot tub, among other things, from the rear yard common element behind his condominium unit. The application was dismissed. So was the appeal. In the course of dismissing the appeal on behalf of the Court of Appeal, MacPherson J.A. approved of the following definitions, found at paras. 22 and 23 of the application judge's reasons (2009 CanLII 9764 (ON SC):

> [22] Therefore, I find that the word "addition" means something that is joined or connected to a structure, and the word "alteration" means something that changes the structure.
>
> [23] I find that the word "improvement" means the betterment of the property or enhancement of the value of the property. I also accept that an "improvement" refers to an improvement or betterment *of the property*. That is, to be an improvement, there must be an increase in the value of the property. If the item increases the enjoyment of the property, but does not increase the value of the property, I find that the item is not an improvement. [Emphasis in original.]

[27] On behalf of a unanimous Court of Appeal, MacPherson J. A. wrote (at para. 22):

> An addition builds on or supplements what is already there. An alteration can add to or subtract from what is already there. And

> an improvement introduces a qualitative factor into the analysis, one not required by the words "addition" and "alteration".

[28] In my opinion, 371's proposal that the hardware on the exterior man door of stairwell C be replaced to allow free access by individuals to the commercial parking lot constitutes a planned alteration of the structure. So does the proposal to replace the glass with unbreakable glass. Similarly, the installation of a new fenced door inside stairwell C would constitute an addition. With the exception of the proposed signage, the other proposed changes constitute improvements, in my view, given the evidence adduced on behalf of 371 that those changes will make the operation of the parking lot more profitable by allowing it to be operated on an hourly basis.

Issue 2: Does the Board's refusal to consent violate s. 135 of the Act?

[29] Section 135 of the Act reads as follows:

> 135. (1) An owner, a corporation, a declarant or a mortgagee of a unit may make an application to the Superior Court of Justice for an order under this section.
>
> (2) On an application, if the court determines that the conduct of an owner, a corporation, a declarant or a mortgagee of a unit is or threatens to be oppressive or unfairly prejudicial to the applicant or unfairly disregards the interests of the applicant, it may make an order to rectify the matter.
>
> (3) On an application, the judge may make any order the judge deems proper including,
> (a) an order prohibiting the conduct referred to in the application; and
> (b) an order requiring the payment of compensation.

[30] In interpreting s.135, courts have consistently applied principles and jurisprudence developed with respect to the oppression remedy available in corporate law. In one of the earliest cases to consider s.135, Juriansz J. (as he then was) wrote in *McKinstry v. York Condominium Corp. No. 472* (2003), 68 O.R. (3d) 557 (S.C.J.), at para. 33:

> This new creature of statute should not be unduly restricted but given a broad and flexible interpretation that will give effect to the remedy it created. Stakeholders may apply to protect their legitimate expectations from conduct that is unlawful or without authority, and even from conduct that may be technically authorized and ostensibly legal... It must be remembered that the section protects legitimate expectations and not individual wish lists, and that the court must balance the objectively reasonable expectations of the owner with the condominium board's ability to

> exercise judgment and secure the safety, security and welfare of all owners and the condominium's property and assets.

[31] In *Girgoriu v. Ottawa-Carleton Standard Condominium Corp. No. 706*, 2014 ONSC 2885, Warkentin J. adopted the definition of "oppressive conduct" set out by the Supreme Court of Canada in *BCE Inc. v. 1996 Debentureholders*, 2008 SCC 69, 3 S.C.R. 560, a corporate oppression case. She held that oppressive conduct for the purposes of s.135 is conduct that is "burdensome, harsh and wrongful", "a visible departure from standards of fair dealing" and an "abuse of power". At para. 20, she held that:

> To be oppressive, the conduct of the Board of the Corporation must both (a) undermine the reasonable expectations of the parties and (b) be coercive, abusive, of unfairly disregard the interests of the applicants.

[32] There is really no issue in this application that 371's plan to operate a short-term parking facility in the condominium is a reasonable expectation. The Declaration not only permits it, it also specifically provides for the operation of a minimum number of hourly parking spots. The issue is whether the Board's decision not to permit 371 to do so disregards that expectation unfairly.

[33] Conduct which unfairly prejudices or unfairly disregards the interests of a condominium owner may be conduct which is less egregious than conduct amounting to oppression. In *Niedermeier v. York Condominium Corp., No. 50* (2006), 45 R.P.R. (4th) 182 (S.C.), Shaw J. held that "unfair prejudice" consisted of a "limitation or an injury to a complainant's right or interest that is unfair or inequitable" (para. 7). He also held that to unfairly disregard the interests of a complainant means "to ignore or treat the interests of the complainant as being of no importance" (para. 8). As he noted, however, the use of the words "unfairly" in describing both prejudice and disregard under s. 135 implies that *some* prejudice or disregard is acceptable, provided that it is not unfair (para. 9).

[34] In her submissions on behalf of 371, counsel made it clear that she is not alleging that CCC 375's conduct is oppressive on the basis that it is either coercive or abusive. Instead, she argues that, by withholding its consent, the Board's conduct is oppressive in the sense that it unfairly disregards the interests of 371. I agree.

[35] Counsel for CCC 375 submits that the Board's decision is entitled to deference. She submits that the Board need only demonstrate that its concerns about safety are reasonable. She relies on the decision in *Metropolitan Toronto Condominium Corp. No. 985 v. Vanduzer*, 2010 ONSC 900 in which Low J. wrote, at para. 27, that it was not necessary for the Board to prove that it was objectively correct in its assessment of the safety concerns upon which it relied in seeking removal of a gazebo, which had been installed by a condominium owner on the common elements.

[36] I have no doubt that the Board's concerns with respect to the safety of the occupants of the condominium and those who will attend on the property as clients of the commercial

parking area are reasonable concerns. In the first Paradigm report, submitted on behalf of 371, Williams wrote, at page 14:

> It is logical to assume that people who live in an area such as the Byward Market, understand that it is heavily populated, not only with bars and restaurants, but homeowners, transients, tourists and even vagrants. Problems can occur with any demographics such as those that are found within the Byward Market.

[37] However, that does not end the inquiry. Any inquiry into the reasonableness of the Board's actions must include a consideration not only of the reasonableness of their concerns, but also the reasonableness of the steps that they insist be taken to address those concerns. In my view, the Board is not being reasonable by insisting on a full-time security guard.

[38] While a dedicated full-time security guard would be the best option, based upon the evidence, it is not viable. According to evidence adduced on behalf of 371, the projected gross yearly revenue that would be earned by operating the parking lot on an hourly basis is $154,300. According to the evidence of CCC 375's own expert, Mr. Black, the annual cost of a dedicated full-time security guard would exceed that sum by over $1,000.

[39] However, a dedicated full-time security guard is not the only option. 371 has put forward a combination of other proposals that significantly lower the safety risks to a point at which, in my view, insisting a full-time security guard becomes unreasonable.

[40] With respect to the possibility that intruders might gain access to the building through the main garage door, it must be remembered that such intruders would have to follow a vehicle into the garage and that they would, therefore, be visible to the operator of the vehicle. Once inside the garage, an intruder would still not be able to gain access to the residential parking area, unless they were able to do the same thing with respect to the garage door leading to that particular area. In any event, this possibility already exists, even with the parking area being operated on a monthly basis.

[41] When operated as a pay and display parking area, however, intruders into the parking garage would be detectable by virtue of the hourly patrols of the lot to be conducted by Precise Parking personnel and the installation of additional lighting in that area, neither of which are features of the parking lot at present.

[42] With respect to the possibility of intruders gaining access through stairwell C, 371 proposes to erect a fenced door inside the stairwell that would block access to the lower residential levels of the parking garage. Such intruders would also be visible to the security cameras which 371 proposes to install in stairwell C.

[43] In my view, the changes proposed by 371 do not put the residents of the condominium building at any significantly greater risk than they are at present.

[44] With respect to non-residents using the commercial parking area, it strikes me that such users would be in no different position than most people using similar parking facilities in downtown Ottawa and in many other centers throughout Ontario. CCC 375 has adduced no evidence to indicate that similar parking facilities employ full-time security guards. Indeed, during his cross-examination, Mr. Black admitted that another such facility, located at 700 Sussex Drive, did not have any dedicated security guards patrolling two levels of public parking.

[45] While both sides were critical of the expertise of the authors of the security assessments and the investigation undertaken by them, I would note that there is no reference in the Black report to any of the changes to the common elements proposed by 371 that would reduce the security threats, with the possible exception of a camera in stairwell C and proper signage.[6] Mr. Black also admitted during his cross-examination that the suggestions made by Mr. Williams in the reports prepared on behalf of Paradigm "will greatly reduce the risk and probability" of the occurrence of the events with respect to which Mr. Black expressed concern in his report.

[46] By insisting that 371 hire a prohibitively expensive full-time dedicated security guard as a prerequisite to approving the changes to the common elements, the Board is disregarding the interests of 371. By failing to give appropriate weight to the alternative measures 371 proposes to address the Board's security concerns and by relying on a report that completely ignores them, the Board is doing so unfairly, in my opinion.

[47] For these reasons, a declaration will issue that the Board of CCC 375 is unfairly disregarding 371's interest by insisting that a full-time, dedicated security guard be hired and an order shall issue prohibiting CCC 375 from doing so as a condition of approving the proposed changes to the common elements.

Issue 2: Does the Board's decision to treat the proposed changes as "substantial" violate s. 135 of the Act?

[48] Sections 97 and 98 of the Act deal with changes to the common elements of a condominium by the corporation or the owners, respectively. By the combined operation of ss. 98(1)(c) and 97(4), neither a corporation nor an owner may make a "substantial" addition, alteration, or improvement to the common elements unless the owners of at least 66 and two-thirds per cent of the units of the corporation vote in favour of approving it.

[49] Section 97(6) defines "substantial" as meaning, among other things, an addition, alteration, or improvement that the board of the corporation elects to treat as substantial.

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[6] The "High Priority Recommendations" listed in the Black report include recommendations that security cameras be placed in stairwells C and D and the use of appropriate signage. However, these recommendations appear to have been arrived at by the author independently of the proposals made by 371 and Paradigm, which are not referred to in the report.

[50] 371 argues that the Board has breached s. 135 of the Act by electing to treat as substantial the changes that it proposes to make in order to change the use of the parking units. It submits that the Board's act of deeming the changes to be substantial demonstrates a lack of good faith on the part of the Board. I disagree.

[51] There is no evidence that the Board elected to treat the proposed changes as substantial for any reason other than because of its concerns about safety. As I have already stated, those concerns are reasonable, even if the conditions the Board seeks to impose to address them are not. The fact that the Board elected to treat as substantial proposed changes which raised reasonable safety concerns affecting residents of the condominium does not, *per se*, demonstrate any lack of good faith of the part of the Board.

[52] For these reasons, 371's argument fails. However, the Board's decision to treat the proposed changes as substantial does pose a problem in terms of the remedy, as I shall now discuss.

Issue 3: What is the appropriate remedy?

[53] As I indicated at the outset of these reasons, 371 seeks several orders against CCC 375. The submissions of both parties have been directed at the conduct of the Board. Neither party has addressed the scenario where, as I have found, the Board has breached s. 135 by insisting on a dedicated security guard as a condition of approval of the changes, but not by treating those changes as substantial. It is unclear to me whether, or to what extent, the declaration and any order of prohibition will, or should, bind the owners in a vote held under s. 97(4) of the Act.

[54] For this reason, although the declaration and order of prohibition will issue, I require further submissions on the part of counsel directed to the specific issue I have raised, namely, whether that relief will, or should, compel the owners to approve of the changes proposed by 371, or whether further relief must be sought and, if so, what that further relief must be.

[55] I will also require the parties' submissions as to costs, which I will invite once the issue related to the appropriate remedy has been fully addressed.

CONCLUSION

[56] A declaration shall issue, declaring that by insisting that 3716724 Canada Inc. hire a full-time dedicated security guard as a condition of approving the changes necessary to operate its commercial parking units on an hourly basis, the conduct of Carleton Condominium Corporation No. 375 unfairly disregards the interests of 3716724 Canada Inc. under s. 135 of the *Condominium Act*, S.O. 1998, c. 19.

[57] An order shall issue, prohibiting Carleton Condominium Corporation No. 375 from requiring that 3716724 Canada Inc. hire a full-time dedicated security guard as a

condition of the approval of the changes necessary to operate its commercial parking units on an hourly basis.

[58] The parties shall make submissions on the issue of the appropriate remedy *vis* the owners of CCC 375 as follows:

(a) 371 shall make written submissions, limited to 15 double-spaced pages, accompanied by a bound book of any authorities referred to therein that have not already been provided, within 45 days of the release of these reasons;

(b) CCC 375 shall make written submissions, similarly limited, within 20 days of the receipt of 371's written submissions; and

(c) 371 shall make any necessary reply in writing, limited to 5 type-written pages, within 10 days of the receipt of CCC 375's submissions.

[59] All written submissions shall be submitted to the court by forwarding them to the trial coordinator, in North Bay.

Ellies J.

Released: February 26, 2016

CORRIGENDUM

Corrections made on February 26, 2016: (the change is italicized):

Paragraph 5 was amended to read: For the following reasons, 371's second and third requests are granted. *Unfortunately, however, my decision will not finally dispose of the matter.*

Paragraph 28 was amended to read: In my opinion, 371's proposal that the hardware on the exterior man door of stairwell C be replaced to allow free access by individuals to the commercial parking lot constitutes a planned alteration of the structure. So does the proposal to replace the glass with unbreakable glass. Similarly, the installation of a new fenced door inside stairwell C would constitute an addition. With the exception of the proposed signage, the other proposed changes constitute improvements, in my view, given the evidence adduced on behalf of 371 *that* those changes will make the operation of the parking lot more profitable by allowing it to be operated on an hourly basis.

Paragraph 36 was amended to read: I have no doubt that the Board's concerns with respect to the safety of the occupants of the condominium, ~~*both its residents*~~ and those who will attend on the property as clients of the commercial parking area are reasonable concerns. In the first Paradigm report, submitted on behalf of 371, Williams wrote, at page 14: ...

Paragraph 45, footnote 6, was amended to read: [6] The "High Priority Recommendations" listed in the Black report include recommendations that security cameras be placed in stairwells C and D and ~~to~~ the use of appropriate signage. However, these recommendations appear to have been arrived at by the author independently of the proposals made by 371 and Paradigm, which are not referred to in the report.

Paragraph 48 was amended to read: Sections 97 and 98 of the Act deal with changes to the common elements of a condominium by the corporation or the owners, respectively. By the combined operation of ss. 98(1)(c) and 97(4), neither a corporation nor an owner may make a "substantial" addition, alteration, or improvement to the common elements unless the owners of at least 66 and two-thirds *per cent* of the units of the corporation vote in favour of approving it.

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SUPERIOR COURT OF JUSTICE

3716724 CANADA INC.

Applicant

– and –

CARLETON CONDOMINIUM CORPORATION NO. 375

Respondent

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SUPERIOR COURT OF JUSTICE

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Applicant	
- and -	
CARLETON CONDOMINIUM CORPORATION NO. 375	*Christy Allen*, for the Respondent
Respondent	
	HEARD: October 15, 2015

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REASONS FOR DECISION

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[2] Although the amended Notice of Application includes a request for damages, at the hearing, 371 sought only three things:

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(c) an order prohibiting CCC 375's conduct.

[3] During argument, counsel for 371 agreed that her client is not actually seeking the order set out in paragraph (a) above. She concedes that the Board is not breaching the Declaration by refusing to consent to the changes 371 proposes to make to the common elements. She agrees that the Board has a right to refuse to approve the changes under the Act. Nonetheless, she argues that the Board must do so in a way that does not infringe s. 135 of the Act.

[4] The parties' dispute centers mainly on whether a full-time security guard should be employed by 371 in order to alleviate the Board's concerns about the safety of residents of the condominium and the users of the commercial parking lot.

[5] For the following reason, 371's second and third requests are granted.

FACTS

[6] CCC 375 was created by the registration of a Declaration on April 23, 1987. The condominium building is located on George Street, in the Byward Market area of Ottawa. In its factum, CCC 375 indicates that the building is comprised of 117 residential units (which are located on Levels 3 to 24 of the building), 64 commercial units (located on Levels 1 and 2), as well as residential and commercial parking units.[1] CCC 375's factum also indicates that the commercial parking units are located on Level A and that the residential parking units are located on Levels B, C, and D.

[7] 371 purchased Unit 27, Level 1 and the commercial parking units located on Level A in October, 2000. 371 also owns the commercial units located on Level 2.[2]

[8] When the condominium building was constructed in 1986, the commercial parking area included a parking booth at Unit 27, Level 1, between the entrance and the exit driveways. At the time, the area was operated as an hourly parking business. However, the hourly parking was gradually phased out and the commercial parking units were then

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[1] These facts do not appear to be set out in the evidence filed in the application. However, no issue was taken with them and, in any event, none of them are crucial to the determination of any of the issues between the parties.
[2] The date upon which it purchased these units is not clear from the materials.

rented on a monthly basis. This is the way they were being operated when they were purchased by 371.

[9] 371 has operated the commercial parking unit on a monthly basis since it purchased Unit 27, Level 1. However, the Declaration does provide for the operation of the commercial parking business on an hourly or daily basis. The key portions of clause 3.2 of the Declaration reads:

> 3.2 Occupation and Use. The occupation and use of the Units shall be in accordance with the following restrictions and stipulations:
>
> (c) Parking Units located on Levels B, C and D shall be used and occupied only for private motor vehicle purposes ...
>
> All Parking Units owned or leased by the Owner of Unit 27, Level 1 and located on Level A of the Parking Garage may be used for a commercial parking business for the leasing of individual parking spaces for such period of time as the Owner, its assigns, tenants or sub-tenants of such Parking Units may in its sole discretion determine provided that not less than 30 such Parking Units are made available at all times for hourly or daily parking. The parking rates which may be charged for such hourly or daily parking shall not exceed the rate charged from time to time by other similar commercial type parking operations in the City of Ottawa. No Parking Unit located on Levels B, C and D shall be used for commercial parking business.
>
> (d) Unit 27, Level 1 shall be occupied and used for the operation of a commercial parking business and any incidental use thereto.

[10] At present, customers using the monthly parking area access that area through a garage door that is common to both monthly parking customers and the residents of the building. In order to access the residential parking areas on Levels B, C and D, however, residents must pass through another garage door over which only they have control.

[11] There is a stairwell ("stairwell C") that leads from Levels A, B, C and D to the street. At present, it is not possible to access that stairwell from the street, because the door to the stairwell at street level is locked.

[12] 371 says that monthly parking is no longer profitable and estimates that it can earn substantially more money by operating the parking lot on a "pay and display" hourly basis. In order to do so, a number of changes will be required to the common elements of CCC 375. These include:

(a) Installation of a garage loop detector on the garage ramp to allow access for customers wishing to park and use pay and display parking on Level 1;

(b) Installation of a low voltage pay and display meter on Level A, to be connected to an existing electrical outlet;

(c) Replacement of the hardware on the exterior man door on the east side of the building (stairwell C) to allow free access to the commercial parking lot; and

(d) Installation of appropriate signage inside and outside the building to advertise the pay and display commercial parking lot and the presence of security staff and cameras (the proposed signage is specifically addressed and permitted by clause 4.2.4(iv) of the Declaration).

[13] On May 14, 2012, 371 advised the Board of its intention to convert the commercial parking area to a pay and display operation. The Board, however, refused to consent to the changes proposed to the common elements. It cited security concerns and requested that 371 obtain a "security audit" at its own expense.

[14] At a meeting held on August 15, 2012, the Board voted not only to refuse to approve the changes proposed by 371, but also to treat them as "substantial" under s. 97(6)(b) of the Act, thereby requiring the approval of at least two-thirds of the owners of the condominium units.

[15] Eventually, 371 retained Paradigm Private Investigation Services ("Paradigm") to prepare the requested audit. On behalf of Paradigm, Ken Williams prepared a report (the "first Paradigm report").[3] In the report, Williams wrote, at page 12:

> As indicated ... in the opinion of the writer physical surveillance including the presence of a Uniformed Security Officer is the best example to (*sic*) a deterrent that can be considered for any property.
>
> ...
>
> If "The HEAFEY Group" and "Val Roca Management" are serious in their adaptation to a "Pay and Display" parking facility we encourage that consideration be given to the use of additional security personnel and in our respectful submission we believe this can be accomplished by the addition of one extra security officer whose primary duties would be to maintain enforcement, security, and a visible deterrent for anyone considering loitering or engaging in illicit activities on the property.

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[3] The date of the report is not indicated anywhere in it. Paradigm's second report says that the first report was "prepared and submitted on 13 May, 2013".

[16] The first Paradigm report was provided to the Board, who reviewed it and wrote to 371's agent on July 12, 2013. It its letter, the Board expressed the view that the report confirmed its key concerns. The Board, therefore, indicated that it would not approve the common element changes unless 371 agreed to provide either (a) a parking booth with a full-time attendant at Unit 27, Level 1, or (b) an extra security officer, as described in the first Paradigm report.

[17] In response, 371 began to question whether it was receiving full value for its share of the security services which were currently in place. Based on that concern, 371 agreed to retain an additional security guard whose sole responsibility would be to monitor the pay and display parking area, provided either (1) that it would no longer be required to make any contribution to the security fees portion of the common area expenses, or (2) that CCC 375 would share in the costs of the additional security guard. 371 refused to provide a manned parking booth on the basis that it was not recommended by Paradigm, nor was it required by the Declaration. The Board refused 371's proposal.

[18] Ultimately, 371 indicated that it would also undertake the following additional changes:

(a) Installation of a new fenced door inside stairwell C to restrict (i.e. prevent unauthorized) access to the lower levels of the parking garage;

(b) Installation of a security camera in stairwell C;

(c) Installation of additional lighting in the commercial parking area;

(d) Installation of emergency call boxes; and

(e) Replacement of an unbreakable glass door at the entrance of stairwell C.

[19] These additional changes were not enough to satisfy the Board, which continued to insist that 371 hire a dedicated security guard. As a result, this application was commenced in May, 2014. According to the evidence of Steve Heafey, the President of 371, the parties did manage at some point after the application was commenced to agree on the wording of a request to Paradigm that it prepare an updated assessment report. That request made specific reference to the changes that would be made to permit the pay and display hourly parking. It also specifically requested that Paradigm *not* comment on the addition of an extra security guard on the premises.

[20] In response to the request, Paradigm prepared a second report (the "second Paradigm report").[4] Williams wrote in the "Observation and Suggestions" section of the report (at p. 15):

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[4] Again, the date of the report is not contained within it, nor does it appear from the evidence filed on the application.

> While physical surveillance such as uniformed Security Officers can be one of the best examples of a deterrent that can be considered for any property, by no means is it the only option available to property management. Security considerations must be relative to existing budgets and sometimes simple physical changes, as mentioned previously in this report can be equally effective tools for security and safety. [Emphasis in original.]

[21] Following receipt of the second Paradigm report, CCC 375 arranged for its own security assessment. On September 23, 2015, CCC 375 received a report prepared by David A. Black, entitled "Physical Security Threat & Risk Assessment" (the "Black report").[5] In it, the author writes (at p. 28):

> On site security guards, dedicated to any pay and display parking areas are critical in reducing the level of risk for both the high priority and medium level risks associated with the Pay and Display as identified above. The proprietary guards already on site work alone and would leave other duties unattended should they have to be responsible for public parking.

[22] The Board relies on the Black report in support of its position that 371 must hire a full-time security guard, dedicated to patrolling the commercial parking area, before the Board will approve the proposed changes.

ISSUES

[23] The arguments advanced by the parties, which I will set out below, give rise to the following issues:

(1) Do the proposed changes to the common elements constitute "additions, alterations or improvements" which require the approval of CCC 375 under the Act?

(2) Does the Board's refusal to consent violate s. 135 of the Act?

(3) Does the Board's decision to treat the proposed changes as "substantial" violate s. 135 of the Act?

(4) If the answer to (1) and either (2) or (3) is in the affirmative, what is the appropriate remedy?

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[5] Again, the date of the assessment report is not contained within it.

ANALYSIS

Issue 1: Are the proposed changes "additions, alterations or improvements"?

[24] Section 98(1) of the Act requires, among other things, that an owner such as 371 obtain approval from the Board with respect to any proposed addition, alteration or improvement to the common elements. The relevant portions of s. 98(1) read as follows:

> An owner may make an addition, alteration or improvement to the common elements that is not contrary to this Act or the declaration if,
> (a) the board, by resolution, has approved the proposed addition, alteration or improvement;

[25] Despite having sought the Board's approval before bringing this application, 371 now maintains that none of the changes it proposes to make as part of the transformation from long-term to short-term parking constitute additions, alterations or improvements within the meaning of s. 98(1)(a), with the possible exception of the pay and display meter. I disagree.

[26] In support of its submission, 371 relies on the decisions of the application judge and the Court of Appeal in *Wentworth Condominium Corporation No. 198 v. McMahon*, 2009 ONCA 870, 257 O.A.C. 323. In *McMahon*, the condominium corporation applied for an order requiring an owner to remove a hot tub, among other things, from the rear yard common element behind his condominium unit. The application was dismissed. So was the appeal. In the course of dismissing the appeal on behalf of the Court of Appeal, MacPherson J.A. approved of the following definitions, found at paras. 22 and 23 of the application judge's reasons (2009 CanLII 9764 (ON SC):

> [22] Therefore, I find that the word "addition" means something that is joined or connected to a structure, and the word "alteration" means something that changes the structure.
>
> [23] I find that the word "improvement" means the betterment of the property or enhancement of the value of the property. I also accept that an "improvement" refers to an improvement or betterment *of the property*. That is, to be an improvement, there must be an increase in the value of the property. If the item increases the enjoyment of the property, but does not increase the value of the property, I find that the item is not an improvement. [Emphasis in original.]

[27] On behalf of a unanimous Court of Appeal, MacPherson J. A. wrote (at para. 22):

> An addition builds on or supplements what is already there. An alteration can add to or subtract from what is already there. And

> an improvement introduces a qualitative factor into the analysis, one not required by the words "addition" and "alteration".

[28] In my opinion, 371's proposal that the hardware on the exterior man door of stairwell C be replaced to allow free access by individuals to the commercial parking lot constitutes a planned alteration of the structure. So does the proposal to replace the glass with unbreakable glass. Similarly, the installation of a new fenced door inside stairwell C would constitute an addition. With the exception of the proposed signage, the other proposed changes constitute improvements, in my view, given the evidence adduced on behalf of 371 those changes will make the operation of the parking lot more profitable by allowing it to be operated on an hourly basis.

Issue 2: Does the Board's refusal to consent violate s. 135 of the Act?

[29] Section 135 of the Act reads as follows:

> 135. (1) An owner, a corporation, a declarant or a mortgagee of a unit may make an application to the Superior Court of Justice for an order under this section.
>
> (2) On an application, if the court determines that the conduct of an owner, a corporation, a declarant or a mortgagee of a unit is or threatens to be oppressive or unfairly prejudicial to the applicant or unfairly disregards the interests of the applicant, it may make an order to rectify the matter.
>
> (3) On an application, the judge may make any order the judge deems proper including,
> (a) an order prohibiting the conduct referred to in the application; and
> (b) an order requiring the payment of compensation.

[30] In interpreting s.135, courts have consistently applied principles and jurisprudence developed with respect to the oppression remedy available in corporate law. In one of the earliest cases to consider s.135, Juriansz J. (as he then was) wrote in *McKinstry v. York Condominium Corp. No. 472* (2003), 68 O.R. (3d) 557 (S.C.J.), at para. 33:

> This new creature of statute should not be unduly restricted but given a broad and flexible interpretation that will give effect to the remedy it created. Stakeholders may apply to protect their legitimate expectations from conduct that is unlawful or without authority, and even from conduct that may be technically authorized and ostensibly legal... It must be remembered that the section protects legitimate expectations and not individual wish lists, and that the court must balance the objectively reasonable expectations of the owner with the condominium board's ability to

> exercise judgment and secure the safety, security and welfare of all owners and the condominium's property and assets.

[31] In *Girgoriu v. Ottawa-Carleton Standard Condominium Corp. No. 706*, 2014 ONSC 2885, Warkentin J. adopted the definition of "oppressive conduct" set out by the Supreme Court of Canada in *BCE Inc. v. 1996 Debentureholders*, 2008 SCC 69, 3 S.C.R. 560, a corporate oppression case. She held that oppressive conduct for the purposes of s.135 is conduct that is "burdensome, harsh and wrongful", "a visible departure from standards of fair dealing" and an "abuse of power". At para. 20, she held that:

> To be oppressive, the conduct of the Board of the Corporation must both (a) undermine the reasonable expectations of the parties and (b) be coercive, abusive, of unfairly disregard the interests of the applicants.

[32] There is really no issue in this application that 371's plan to operate a short-term parking facility in the condominium is a reasonable expectation. The Declaration not only permits it, it also specifically provides for the operation of a minimum number of hourly parking spots. The issue is whether the Board's decision not to permit 371 to do so disregards that expectation unfairly.

[33] Conduct which unfairly prejudices or unfairly disregards the interests of a condominium owner may be conduct which is less egregious than conduct amounting to oppression. In *Niedermeier v. York Condominium Corp., No. 50* (2006), 45 R.P.R. (4th) 182 (S.C.), Shaw J. held that "unfair prejudice" consisted of a "limitation or an injury to a complainant's right or interest that is unfair or inequitable" (para. 7). He also held that to unfairly disregard the interests of a complainant means "to ignore or treat the interests of the complainant as being of no importance" (para. 8). As he noted, however, the use of the words "unfairly" in describing both prejudice and disregard under s. 135 implies that *some* prejudice or disregard is acceptable, provided that it is not unfair (para. 9).

[34] In her submissions on behalf of 371, counsel made it clear that she is not alleging that CCC 375's conduct is oppressive on the basis that it is either coercive or abusive. Instead, she argues that, by withholding its consent, the Board's conduct is oppressive in the sense that it unfairly disregards the interests of 371. I agree.

[35] Counsel for CCC 375 submits that the Board's decision is entitled to deference. She submits that the Board need only demonstrate that its concerns about safety are reasonable. She relies on the decision in *Metropolitan Toronto Condominium Corp. No. 985 v. Vanduzer*, 2010 ONSC 900 in which Low J. wrote, at para. 27, that it was not necessary for the Board to prove that it was objectively correct in its assessment of the safety concerns upon which it relied in seeking removal of a gazebo, which had been installed by a condominium owner on the common elements.

[36] I have no doubt that the Board's concerns with respect to the safety of the occupants of the condominium, both its residents and those who will attend on the property as clients

of the commercial parking area are reasonable concerns. In the first Paradigm report, submitted on behalf of 371, Williams wrote, at page 14:

> It is logical to assume that people who live in an area such as the Byward Market, understand that it is heavily populated, not only with bars and restaurants, but homeowners, transients, tourists and even vagrants. Problems can occur with any demographics such as those that are found within the Byward Market.

[37] However, that does not end the inquiry. Any inquiry into the reasonableness of the Board's actions must include a consideration not only of the reasonableness of their concerns, but also the reasonableness of the steps that they insist be taken to address those concerns. In my view, the Board is not being reasonable by insisting on a full-time security guard.

[38] While a dedicated full-time security guard would be the best option, based upon the evidence, it is not viable. According to evidence adduced on behalf of 371, the projected gross yearly revenue that would be earned by operating the parking lot on an hourly basis is $154,300. According to the evidence of CCC 375's own expert, Mr. Black, the annual cost of a dedicated full-time security guard would exceed that sum by over $1,000.

[39] However, a dedicated full-time security guard is not the only option. 371 has put forward a combination of other proposals that significantly lower the safety risks to a point at which, in my view, insisting a full-time security guard becomes unreasonable.

[40] With respect to the possibility that intruders might gain access to the building through the main garage door, it must be remembered that such intruders would have to follow a vehicle into the garage and that they would, therefore, be visible to the operator of the vehicle. Once inside the garage, an intruder would still not be able to gain access to the residential parking area, unless they were able to do the same thing with respect to the garage door leading to that particular area. In any event, this possibility already exists, even with the parking area being operated on a monthly basis.

[41] When operated as a pay and display parking area, however, intruders into the parking garage would be detectable by virtue of the hourly patrols of the lot to be conducted by Precise Parking personnel and the installation of additional lighting in that area, neither of which are features of the parking lot at present.

[42] With respect to the possibility of intruders gaining access through stairwell C, 371 proposes to erect a fenced door inside the stairwell that would block access to the lower residential levels of the parking garage. Such intruders would also be visible to the security cameras which 371 proposes to install in stairwell C.

[43] In my view, the changes proposed by 371 do not put the residents of the condominium building at any significantly greater risk than they are at present.

[44] With respect to non-residents using the commercial parking area, it strikes me that such users would be in no different position than most people using similar parking facilities in downtown Ottawa and in many other centers throughout Ontario. CCC 375 has adduced no evidence to indicate that similar parking facilities employ full-time security guards. Indeed, during his cross-examination, Mr. Black admitted that another such facility, located at 700 Sussex Drive, did not have any dedicated security guards patrolling two levels of public parking.

[45] While both sides were critical of the expertise of the authors of the security assessments and the investigation undertaken by them, I would note that there is no reference in the Black report to any of the changes to the common elements proposed by 371 that would reduce the security threats, with the possible exception of a camera in stairwell C and proper signage.[6] Mr. Black also admitted during his cross-examination that the suggestions made by Mr. Williams in the reports prepared on behalf of Paradigm "will greatly reduce the risk and probability" of the occurrence of the events with respect to which Mr. Black expressed concern in his report.

[46] By insisting that 371 hire a prohibitively expensive full-time dedicated security guard as a prerequisite to approving the changes to the common elements, the Board is disregarding the interests of 371. By failing to give appropriate weight to the alternative measures 371 proposes to address the Board's security concerns and by relying on a report that completely ignores them, the Board is doing so unfairly, in my opinion.

[47] For these reasons, a declaration will issue that the Board of CCC 375 is unfairly disregarding 371's interest by insisting that a full-time, dedicated security guard be hired and an order shall issue prohibiting CCC 375 from doing so as a condition of approving the proposed changes to the common elements.

Issue 2: Does the Board's decision to treat the proposed changes as "substantial" violate s. 135 of the Act?

[48] Sections 97 and 98 of the Act deal with changes to the common elements of a condominium by the corporation or the owners, respectively. By the combined operation of ss. 98(1)(c) and 97(4), neither a corporation nor an owner may make a "substantial" addition, alteration, or improvement to the common elements unless the owners of at least 66 and two-thirds of the units of the corporation vote in favour of approving it.

[49] Section 97(6) defines "substantial" as meaning, among other things, an addition, alteration, or improvement that the board of the corporation elects to treat as substantial.

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[6] The "High Priority Recommendations" listed in the Black report include recommendations that security cameras be placed in stairwells C and D and to the use of appropriate signage. However, these recommendations appear to have been arrived at by the author independently of the proposals made by 371 and Paradigm, which are not referred to in the report.

[50] 371 argues that the Board has breached s. 135 of the Act by electing to treat as substantial the changes that it proposes to make in order to change the use of the parking units. It submits that the Board's act of deeming the changes to be substantial demonstrates a lack of good faith on the part of the Board. I disagree.

[51] There is no evidence that the Board elected to treat the proposed changes as substantial for any reason other than because of its concerns about safety. As I have already stated, those concerns are reasonable, even if the conditions the Board seeks to impose to address them are not. The fact that the Board elected to treat as substantial proposed changes which raised reasonable safety concerns affecting residents of the condominium does not, *per se*, demonstrate any lack of good faith of the part of the Board.

[52] For these reasons, 371's argument fails. However, the Board's decision to treat the proposed changes as substantial does pose a problem in terms of the remedy, as I shall now discuss.

Issue 3: What is the appropriate remedy?

[53] As I indicated at the outset of these reasons, 371 seeks several orders against CCC 375. The submissions of both parties have been directed at the conduct of the Board. Neither party has addressed the scenario where, as I have found, the Board has breached s. 135 by insisting on a dedicated security guard as a condition of approval of the changes, but not by treating those changes as substantial. It is unclear to me whether, or to what extent, the declaration and any order of prohibition will, or should, bind the owners in a vote held under s. 97(4) of the Act.

[54] For this reason, although the declaration and order of prohibition will issue, I require further submissions on the part of counsel directed to the specific issue I have raised, namely, whether that relief will, or should, compel the owners to approve of the changes proposed by 371, or whether further relief must be sought and, if so, what that further relief must be.

[55] I will also require the parties' submissions as to costs, which I will invite once the issue related to the appropriate remedy has been fully addressed.

CONCLUSION

[56] A declaration shall issue, declaring that by insisting that 3716724 Canada Inc. hire a full-time dedicated security guard as a condition of approving the changes necessary to operate its commercial parking units on an hourly basis, the conduct of Carleton Condominium Corporation No. 375 unfairly disregards the interests of 3716724 Canada Inc. under s. 135 of the *Condominium Act*, S.O. 1998, c. 19.

[57] An order shall issue, prohibiting Carleton Condominium Corporation No. 375 from requiring that 3716724 Canada Inc. hire a full-time dedicated security guard as a

condition of the approval of the changes necessary to operate its commercial parking units on an hourly basis.

[58] The parties shall make submissions on the issue of the appropriate remedy *vis* the owners of CCC 375 as follows:

(a) 371 shall make written submissions, limited to 15 double-spaced pages, accompanied by a bound book of any authorities referred to therein that have not already been provided, within 45 days of the release of these reasons;

(b) CCC 375 shall make written submissions, similarly limited, within 20 days of the receipt of 371's written submissions; and

(c) 371 shall make any necessary reply in writing, limited to 5 type-written pages, within 10 days of the receipt of CCC 375's submissions.

[59] All written submissions shall be submitted to the court by forwarding them to the trial coordinator, in North Bay.

Ellies J.

Released: December 8, 2015

CITATION: 3716724 Canada Inc. v. Carleton Condominium, 2015 ONSC 6626
COURT FILE NO.: 14-60973
DATE: 2015/12/08

ONTARIO

SUPERIOR COURT OF JUSTICE

3716724 CANADA INC.

Applicant

– and –

CARLETON CONDOMINIUM CORPORATION NO. 375

Respondent

REASONS FOR DECISION

Ellies J.

Released: December 8, 2015