

# Court of Queen's Bench of Alberta

**Citation: Owners: Condominium Corporation No. 0111505 v. Anders, 2005 ABQB 401**

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**Date: 20050603**  
**Docket: 0501 04087**  
**Registry: Calgary**

Between:

**Condominium Corporation No. 0111505**

Applicant

- and -

**Joan Anders**

Respondent

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**Memorandum of Decision  
of the  
Honourable Mr. Justice P.M. Clark**

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[1] An action has been commenced by the Board of Directors of the Condominium Corporation No. 0111505 against Janice Anders, a member of the Board of Directors and the person designated as the President of the Board. The Applicant seeks an Order:

- i) directing the Respondent Janice Anders, to cease and desist conducting herself improperly;
- ii) removing the Respondent Janice Anders from the Board of Directors;
- iii) confirming that a remaining Board of Directors may meet without the members at large - Robert McNamara and Beverly Garshman;

- iv) declaring "the unauthorized general meeting ... set for March 18, 2005 at 7:00 p.m. as improper;
- v) preventing the meeting from taking place; and,
- vi) costs of the action against Ms. Anders on a solicitor and his own client basis.

[2] Richard I. John appeared as counsel for either certain members of the Board or for the Condominium Corporation. It is not clear who Mr. John is representing. Appearing for counsel on behalf of Janice Anders was Brian P. Reid.

[3] The basis for the application against Ms. Anders is premised on the suggestion that she is guilty of "improper conduct" and defined in section 67(1) of the *Condominium Property Act* and, in particular, that she falls into the category of "a member of a board or an owner" who is in "noncompliance with this Act, the regulations or the bylaws by a developer, a corporation, an employee of the corporation, a member of a board or an owner."

[4] Ms. Anders is the President of the Condominium Corporation and a member of the Board. It is alleged that she publically took a personal position in opposition to that of the Board and in doing so was acting contrary to the best interests of the Condominium Corporation. It is clear from representations of counsel that members of the Board do not always agree with how matters are to be dealt with from time to time.

[5] There was a disagreement between Ms. Anders and other members of the Board. Ms. Anders attempted to call a general meeting of the Condominium Corporation for the purpose of dealing with the issues in dispute. For reasons that are not clear, other members of the Board were against the holding of a general meeting.

[6] The Court was not provided with copies of bylaws of the Corporation and it is presumed for the purposes of this Memorandum, that the bylaws of the Corporation are those found at Appendix 1 of the *Condominium Property Act* R.S.A. 2000 c-22. Article 8 of the bylaw provides the procedure for the removal and replacement of a member of a Board.

Article 8 states:

Except when the Board consists of less than three individuals, the Corporation may by resolution at a general meeting remove a member of the Board before the expiration of the member's term of office and appoint another individual in the member's place to hold that office for the remainder of the term.

[7] It is thus apparent that the appropriate way for the Board to deal with Ms. Anders is to hold a general meeting. Ironically, that is what Ms. Anders was attempting to do.

[8] The Condominium Board, with the advice of legal counsel, chose to proceed with a Court application rather than pursuant to the bylaws of the Corporation. There is no need to seek Court intervention to resolve what is clearly an internal matter. The application before the Court is ill conceived. The Court is not prepared to intervene.

[9] The application is dismissed. Ms. Anders should not have been put to the cost of retaining counsel. She is entitled to her costs against the Board on a full indemnity basis.

Heard on the 29<sup>th</sup> day of April, 2005.

Dated at the City of Calgary, Alberta this 3rd day of June, 2005.

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P.M. Clark  
J.C.Q.B.A.

**Appearances:**

Richard I. John  
for the Applicant

Brian P. Reid, McLeod & Company LLP  
for the Respondent

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