

# In the Provincial Court of Alberta

**Citation: Yeo v Condominium Corporation No. 062 7724, 2017 ABPC 224**

**Date:** 20170914

**Docket:** P1602100449

**Registry:** Grande Prairie

Between:

**Ralph Yeo**

Plaintiff

- and -

**Condominium Corporation No. 062 7724**

Defendant

## Decision of the Honourable Judge B.R. Hougestol

### Introduction

[1] The Plaintiff, a senior banker by occupation and long-time resident of the Defendant Condo Corporation sues for fees he says he deserves for arranging a series of loans for the Condo Corporation. The Condo Corporation says it had never agreed to any such payments and that it would be contrary to the Condo By-Laws and the law to permit it.

### Parties

[2] The Plaintiff is a gentleman who occupied a number of senior banking positions. Given his age he appears now close to retirement. He is intelligent and well spoken. Someone of his experience would be a boon to most Condo Corporation Boards. He filled the position of President to the Defendant Condo Corporation for a number of years ceasing in September of 2016. At that time he was removed from the Board for non-payment of Condo and special assessment fees. That is when the bill for fees showed up and the litigation in this matter commenced.

[3] There can be no doubt that the Plaintiff was deeply involved in work on long series of problems the Condo Corporation faced. The building was replete with building deficiencies and faults. The builder was insolvent and the value of individual units crashed shortly after the

complex opened. The board was faced with a long list of deficiencies to be fixed with a hefty price tag (apparently in excess of \$2 million). The owners in general and the Board in particular had to scramble to keep the whole complex from sinking into an abyss of debt, liens and foreclosures or people simply walked away. It is clear enough that the Plaintiff quarterbacked these difficult problems and at present the complex seems stable. The Boards efforts saved a sinking ship. It is clear that other Board members were active over the longer haul and also worked towards the solutions.

[4] Like most Boards of this kind the participants are volunteers. The Board by definition give freely of their time. It is quite rare for such Board members to expect to receive compensation for their efforts. The *Condominium Property Act* and By-Laws under that Act anticipate the rarity of such Board compensation and put in place safeguards for the owners at large. There can be instances where Board members receive payment but there are proper procedures required.

### **Argument**

[5] The Plaintiff says that he worked hard and applied his expertise to obtain a financing regime that bailed the Condominium Corporation out of a very deep mess. No one disagrees with this. It may be an exaggeration to say he was instrumental however. The Plaintiff also worked hard at other aspects of the Condominium Corporation's problems; he was their litigation representative.

[6] The Plaintiff says that the Board explicitly approved his being remunerated for the work towards financing. He says this was discussed at the Board and verbally agreed. He also points to a Resolution dated October 8, 2015 and says it approves payment to him, amongst others.

[7] I reject that I can look behind the Final Approved Minutes of the Board at their discussions for evidence on this issue. I further reject that the October 8, 2015 resolution approves in any sense payment to the Plaintiff. The Plaintiff is a professional and must appreciate the need for proper paperwork supporting such a payment.

[8] The October 8, 2015 Resolution may have supported payment to their Treasurer but it did not commit the Board to it. It certainly decided neither vis-a-vis the Plaintiff. If there was an agreement to pay the Plaintiff for services associated with his work I am satisfied that it would have been reflected the same way he was to be re-imbursed for his legal liaison time (see Motion 13-032, October 28, 2013 in Affidavit sworn June 6, 2017)

[9] At the end of the day I am satisfied that there was never any intent to create a contract between the parties wherein the Plaintiff would be paid for his services.

### **Statute of Limitations**

[10] Even if there was intent to create a contract between the parties, or if there was some quantum merit entitlement to the Plaintiff, his claim would be statute barred for Loan one. The first loan was arranged was dated February 28, 2012. The second loan was dated January 5, 2016. There was no necessary connection between the two loans. If a claim for fees/commission was due regarding the first loan the claim would have to have been made sometime in 2014, not November of 2016.

[11] As regards the second loan, on the facts as described to me, the Plaintiff's role was much more limited. The bulk of the work was done by the property managers or the Treasurer.

**Real Estate Act**

[12] The Defendant argues that s.22 of the *Real Estate Act* governs any claim by the Plaintiff and bars recovery of a fee. The *Act* by definition in paragraph 1(d) includes mortgage brokers. I am satisfied that charging a percentage fee or other remuneration for finding or placing a mortgage would be caught by this section. Given that there was nothing in writing as contemplated by s.22 of the *Act* I would also dismiss the Plaintiff's claim on this basis. Apart from s.22, with proper detail and paperwork the Board could have agreed to pay the Plaintiff for services without running afoul of s.22. This did not occur however for the reasons stated above.

**Costs**

[13] The Defendant is entitled to its costs which I assess at 10% of the Plaintiff's unsuccessful claim.

Heard on the 19<sup>th</sup> day of June, 2017.

Dated at the City of Grande Prairie, Alberta this 14<sup>th</sup> day of September, 2017.

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B.R. Hougestol  
A Judge of the Provincial Court of Alberta

**Appearances:**

Self Represented  
for the Plaintiff

J. Bird  
for the Defendant

