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Citation: *Bahadoor v. York Condominium Corporation No. 82*, 2006 CanLII 40487 (ON S.C.)
Date: *2006-12-04*
Docket: *04-CV-264294CM2*

[Noteup] [Cited Decisions and Legislation]

COURT FILE NO.: 04-CV-264294CM2
DATE: 20061204

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	)	
	)	
BRIDGE BAHADOOR	)	Appearing in person
	)	
	)	
Applicant	)	
	)	
	)	
- and -	)	
	)	
	)	
YORK CONDOMINIUM CORPORATION NO. 82	)	M. Djurdjevac and M. Gwynne, for the Respondent
	)	
	)	
Respondent	)	
and -	))))))))	
SURENDRA LOCHAN, BRIAN RITCHIE, SHEIKH KARRIM, ABDOOL WAHAB and BERNARD PICKETT		D. Fulton and J. Strype, for the Added Respondents
Added Respondents		
	)	

) **HEARD:** November 29, 2006

D. Brown J.

A. Introduction

[1] In early 2004 the Board of Directors of York Condominium Corporation No. 82 ("YCC 82") was dysfunctional. This state of affairs led the applicant, Mr. Bahadoor, a unit owner, to apply to Court under section 131 of the *Condominium Act, 1998* (the "Act") for the appointment of an administrator for the corporation. On March 1, 2004 Hoilett J. appointed Fengate Property Management Ltd. ("Fengate") as administrator of YCC 82 (the "Administrator").

[2] Since its appointment the Administrator has filed four reports with the Court. The first three were approved. The fourth received conditional approval by Spence J. in June, 2006. In his order Spence J. put in place a mechanism to convene a meeting of the unit owners by October 25, 2006 in order to vote on four questions: (i) whether to authorize additional borrowing of $5.9 million by YCC 82; (ii) whether to sell the corporation's property; (iii) whether to continue the role of the Administrator or, if not; (iv) to elect a new Board of Directors. Spence J. stipulated that any vote to terminate the Administrator and elect a new Board of Directors would be subject to Court approval.

[3] A unit owner meeting was held on October 25, 2006. Of the 321 unit owners, 221 cast votes. The results were overwhelming: 215 units voted against the proposed borrowing, while 6 voted in favour; 215 voted against a sale of YCC 82, with 4 in favour; 215 voted to terminate the Administrator, with 4 in favour of it continuing; and five new directors were elected – Messrs. Lochan, Wahab, Sampat, Bahadoor and Sukdeo.

[4] Following the meeting the Added Respondents moved for an order approving the election of the new Board and discharging the Administrator. The Administrator vigorously opposed the motion; it submitted that it should not be discharged or, alternatively, it should not be discharged until May or October, 2007 by which time major repairs will be completed.

[5] I have concluded that the mandate of Fengate as the Administrator should be suspended and that governance of the YCC 82 should be turned over to the duly elected Board of Directors on an interim basis, subject to further reporting requirements and Court review.

B. Brief Background

[6] YCC 82 consists of 321 units, mainly apartment-style condominiums. It is located near Jane St. and Finch St., a low-income area of Toronto. The value of the units ranges between $50,000 and $75,000, and the owners are mostly low income or immigrant families, pensioners and seniors. Monthly common element fees run at about $800.

[7] The circumstances facing YCC 82 in early 2004 were dire. As Hoilett J. recounted in his

endorsement, the corporation had been without a property manager since August, 2003, the Board of Directors was in crisis and dysfunctional, and it was unclear whether insurance was in place for the corporation. Mr. Bahadoor applied for the appointment of an administrator. Although Hoilett J. recognized that resorting to section 131 of the *Act* was a last resort, under the circumstances then prevailing he had no hesitation in concluding that "this is a textbook case for invoking s. 131(1)."

[8] During the hearing before me the Adminstrator's counsel seemed to labour under the impression that the appointment order of Hoillet J. required the Administrator to remain in place until all the major repairs needed by YCC 82 were completed. That is not a correct reading of the order. Hoilett J. appointed Fengate as Administrator "until further order of this Court". The appointment was temporary and subject to termination by the Court under the appropriate circumstances – no long-term project mandate was given by this Court to the Administrator.

[9] The first three reports of the Administrator to the Court were approved. The Administrator also sought and received unit owner approval to borrow $4 million to undertake major repairs and build up the reserve fund.

[10] Throughout early 2005 Mr. Bahadoor attempted to bring a motion before the Court to discharge the Administrator, but was not successful.

[11] On July 13, 2005 Somers J. directed the Administrator to file a fourth report by mid-February, 2006, which it did. At the same time as the Administrator sought court approval of its fourth report, a group of unit owners styling themselves as the "Y.C.C. #82 Advisory Committee" sought leave to intervene in the proceeding. Perell J. permitted them to intervene individually as "Added Respondents", and these are the unit owners that have brought the present motion.

[12] The Added Respondents were dissatisfied with the Administrator's management of YCC 82 and wished to hold an election for a new Board of Directors.

[13] Matters came to a head at a hearing before Spence J. on May 19, 2006. The Administrator sought approval of its fourth report and directions to borrow a further $5.9 million; the Added Respondents sought to terminate the Administrator. As I read the endorsement of Spence J. released on June 20, 2006, two major issues separated the Administrator and many of the unit owners: (i) how to finance additional necessary repairs to YCC 82; and (ii) whether the unit owners were competent to govern themselves. It is clear from paragraphs 22 and 25 of Spence J.'s endorsement that the Administrator did not think that the unit owners were capable of acting in their own best interests..

[14] Spence J. concluded that it was time to put a number of key questions to a vote of unit owners and he directed that a meeting of unit holders be held by October 25, 2006 to vote on four questions. His Honour conditionally approved the Administrator's fourth report. At the end of his endorsement he wrote, in para. 31:

> If a decision is taken to terminate the administration and a board of directors is elected and if those decisions are approved by the Court, the further implementation of the Fourth Report after the assumption by the board of directors of its responsibilities would be for the board to decide, subject to contractual obligations then in place.

[15] One would have thought that following the release of Spence J.'s endorsement in late June both sides would have co-operated to convene a meeting of the unit holders. That did not happen. The record before me disclosed an inability (or unwillingness) to settle the terms of Spence J.'s order, and major disputes over the timing and location of the meeting. A meeting scheduled for September 12 was cancelled. Litigation, not co-operation, was the order of the day. Trips by the parties to Triage Court became frequent. Mr. David Morrison, of Morrison Financial Services Limited, the corporation's lender, described the poor state of relations between the Administrator and many unit owners as follows:

> "I think the parties are very polarized on personalities at this point, and there's been a lot of bad blood. I don't know how you get them together at this point in time."

[16] On August 25, 2006 the Administrator delivered a letter to all unit owners that gave them a stark choice: either approve additional borrowing of $5.9 million at the unit owner meeting or face the prospect of an immediate special assessment. This last point is important. Instead of awaiting the results of the meeting and, in the event of a rejection of a by-law authorizing additional borrowing then levying a special assessment, the Administrator notified unit owners that payment of the assessment would start immediately, on September 8, 2006, and continue over 12 months. The special assessment would range from $1,900 to $2,900 per month per unit, in contrast to the mean monthly common element fee of $800 per month. Given the demographics of YCC 82, enforcement of the special assessment could impose severe financial burdens on many of the unit holders.

[17] Shortly after the October 25 meeting that rejected the additional borrowing, the Administrator delivered notices of liens to unit owners in respect of the special assessment. At the hearing I was advised that the Administrator had authorized significant legal expenses to prepare for the registration of certificates of lien against unit owners who had not paid the special assessment. I stayed any further such work until the release of these reasons.

[18] The special assessment is another example of the antagonistic relationship that unfortunately has developed between the Administrator and unit owners. I am somewhat surprised that the Administrator pushed forward with the special assessment on September 8, 2006. I recognize the financial realities that the Administrator was trying to address and it is true that paragraph 12 of the 2004 appointment order authorized the Administrator to levy "a special assessment and/or deliver a revised budget for the purpose of obtaining additional funds for the proper operation of YCC 82…" But that was in 2004. Paragraph 5 of Spence J.'s 2006 order contemplated that the Administrator would proceed with a special assessment only if the unit owners failed to approve additional borrowing. The decision of the Administrator to enforce a special assessment on September 8, 2006 before the unit holders had even voted on additional borrowing was confrontational in nature, even if motivated by a hard-nosed sense of the financial realities facing the corporation. The move fostered further distrust between the Administrator and unit owners.

[19] In the result, the unit owner meeting was held on the last possible day, and I described above the outcome of the meeting.

C. Preliminary Objection by Administrator

[20] At the commencement of the hearing counsel for the Administrator objected to Mr. Fulton's

appearance as counsel for the Added Respondents. While submitting that his client did not want to delay the hearing, the Administrator's counsel sought an order permitting the examination of Mr. Fulton as a witness on a pending motion. Pointing to portions of the affidavit of Mr. Wallace filed on behalf of the moving parties as being based on information provided to the deponent by Mr. Fulton, counsel for the Administrator submitted that a lawyer cannot be both witness and counsel in a proceeding, and that Mr. Fulton should be examined on the information he provided to Mr. Wallace: *Trempe v. Reybroek* (reflex-logo) reflex, (2002), 57 O.R. (3d) 786 (S.C.J.).

[21] I reviewed the affidavit of Mr. Wallace in support of the moving parties and that of Mr. Endres in support of the Administrator. Both drew heavily on information from the respective counsel to provide the narrative background to this case. Each used a different style to present the material: Mr. Wallace deposed to information and belief provided by Mr. Fulton, whereas Mr. Endres simply described lawyers' letters as "now shown to me". None of the facts so presented seemed controversial, and Mr. Wallace offered many views in his affidavit that were clearly based on his own experience and training.

[22] I advised counsel for the Administrator that I did not regard Mr. Fulton as acting as both witness and counsel. If the moving parties relied on evidence in Mr. Wallace's affidavit to which the Administrator took issue, I would consider any objection made to such evidence. None was made during the hearing. This incident highlighted the unnecessarily adversarial approach taken by the Administrator to this proceeding.

D. The Governing Test

[23] Under section 131(2) of the Act a court may order the appointment of an administrator for a condominium corporation "if the court is of the opinion that it would be just or convenient, having regard to the scheme and intent of this Act and the best interests of the owners." Section 131 does not contain any express provision addressing the termination of an administrator, and counsel were not able to direct me to a case on point.

[24] In my view it makes sense that the test found in section 131(2) of the Act for the appointment of an administrator should apply equally to its discharge. The question to be asked on this motion is: would it be just or convenient, having regard to the scheme and intent of the *Condominium Act* and the best interests of the owners, to terminate the Administrator?

[25] As to the scheme of the Act, the Court of Appeal observed in *Re Carlton Condominium Corp. No. 279 and Rochon* (reflex-logo) reflex, (1987), 59 O.R. (2d) 545 (C.A.) that:

> The *Condominium Act* was passed to permit individuals to be owners of the freehold estate in residential units in a building as opposed to tenants in an apartment building.

In addition to the investment in their units, owners are tenants in common of the common elements: *Act,* s. 11(2). The objects of a condominium corporation are to manage the property and assets, if any, of the corporation on behalf of the owners, and to control, manage and administer the common elements and assets of the corporation: *Act,* s. 17(1)(2). Since the quiet enjoyment of a unit by its owner, and the value of the

unit, depend heavily on the proper management of the common elements, it is no surprise that the Act vests the power to manage the affairs in the corporation in the unit owners through the board of directors that they elect: Act, s. 27 and 28. The Act establishes self-governance of the corporation by unit owners as the norm. As Hoilett J. noted, a court should utilize the administrator provisions of section 131 "only as a last resort" for the very reason that the Act contemplates that unit owners should govern their own corporate affairs.

[26] When a court is considering either the appointment or termination of an administrator, good reason must be shown why unit owners should not manage their corporation's affairs through an elected board of directors. Self-governance is the norm; administrators are the exception. Or, as put by Huddart J. in *Cook v. Strata Plan No. 50*, [1995] B.C.J. No. 2882 (B.C.S.C.): "…the democratic government of the strata community should not be overridden by the Court except where absolutely necessary."

[27] Notwithstanding the centrality of the principle of self-governance, the scheme of the Act takes into account more than just the interests of unit owners. In *York Condominium Corporation No. 482 v. Christiansen*, [2003] O.J. No. 343 (S.C.J.), at para. 5, the Court stated:

> …A principal object of the Act is to achieve fairness among the parties – owners, their tenants, their mortgagees, the corporation itself – in raising the money to keep the common enterprise solvent. Hence the Act provides for owners to contribute to the fund for common expenses in the proportions specified in the Declaration, which normally means in accordance with the number and size of the units which they own. This common expenses fund is the central financial mechanism of the corporation and the duty of contributing to it is the central mechanism to achieve financial fairness among the owners. If one owner fails to pay, the others must bear his burden; the expenses are not optional and they do not just go away.

From this I conclude that on a motion to terminate an administrator the Court must take into account the impact that the discharge might have on other interested persons, including the corporation's creditors and the relevant municipal agencies such as the fire services department and building inspection authorities.

[28] In *Skyline Executive Properties Inc. v. Metropolitan Toronto Condominium Corp. No. 1385,* [2002] O.J. No. 5117 (Sup.C.J.)[1] Hoilett J. drew on jurisprudence from the British Columbia courts to conclude that when considering whether to appoint an administrator a court should consider (i) the ability of the unit owners to manage the affairs of the corporation, including whether they are divided into contending camps; (ii) the need to bring order to the corporation's affairs; (iii) whether only the appointment of an administrator has any reasonable prospect of bringing order to the corporation's affairs; and, (iv) the problem presented by the costs of involving an administrator. Each factor could apply, in reverse, to the question of whether the court should terminate an administrator.

[29] Against this statutory backdrop, in the specific circumstances of this case, I think two basic questions must be asked to determine whether it would be just or convenient, having regard to the scheme and intent of the *Condominium Act* and the best interests of the owners, to terminate the Administrator:

(a) Is there now a reasonable prospect for the orderly self-governance of YCC 82?

(b) Have the elected Board of Directors formulated an operating and project expenditure plan that presents a reasonable prospect of achieving the orderly management of the affairs of

the corporation?

E. Is there now a reasonable prospect for the orderly self-governance of YCC 82?

[30] Based on the evidence, the answer to this question is “Yes”.

[31] The Honourable Mr. Justice Rosenberg chaired the unit owners meeting on October 25, 2006. Ten persons stood for election as directors and five were elected. The election was scrutinized. Detailed minutes were kept of the meeting. They do not contain any objections about the fairness of the election process. They do contain comments from a number of unit owners that are consistent with the results of the various votes – the unit owners want the opportunity to decide their own fate.

[32] The new Board of Directors includes a senior law clerk, a real estate broker, a marketing pricing specialist with Canadian Tire Corporation, an insurance underwriter and a financial services manager with the Bank of Montreal.

[33] After the election the new Board retained the services of Mr. Andrew Wallace, a condominium consultant. His credentials are impressive. A past President of the Association of Condominium Managers of Ontario, Mr. Wallace has spent over 34 years in the industry and in the past two years has been appointed by the Court as an administrator of two condominium corporations. The new Board wants Mr. Wallace to provide services as a facilitator and advisor.

[34] Mr. Morrison, from the mortgagee, confirmed on examination that Mr. Wallace is very experienced and enjoys an excellent reputation in the condominium industry.

[35] Mr. Wallace deposed that he is “confident that the affairs of YCC #82 can be efficiently conducted by the new Board of Directors”. Based on his experience in the industry, he regarded the results of the election as giving an “overwhelming mandate” to the new Board.

[36] The unit owners have elected a new board that possesses strong support amongst the owners. The new Board has secured the advisory services of an experienced condominium management expert. As a result, I am satisfied that the conditions have been established for the orderly self-governance of YCC 82.

F. Have the new Board of Directors formulated an operating and project expenditure plan that presents a reasonable prospect of achieving the orderly management of the affairs of the corporation?

[37] This is a more difficult question to answer.

[38] YCC 82 and its unit owners face significant challenges. Over the next few years major sums must be spent on needed repairs and improvements. The Administrator previously secured owner approval to borrow $4 million and has spent those funds on repairs and other matters. More funds must be raised. Toronto Fires Services is demanding that a significant amount of work be done immediately to meet fire code standards and City of Toronto work orders remain outstanding.

[39] No unit owner should underestimate the work that must be done on the buildings and the hard decisions that they will have to make. It is unclear whether all the unit owners have frankly acknowledged the significant financial challenges that face their corporation. Mr. Morrison, from the corporation's lender, attended the October 25 meeting. In a subsequent letter to the counsel for the Added Respondents he voiced strong concerns about whether the unit owners truly understood the fiscal circumstances in which they found themselves. He commented:

> "It was also clear that the owners do not understand the true cost of living in, and properly maintaining, their homes…At the end of the day, the costs are real and, eventually, the owners are going to be forced to recognize them."

On his examination Mr. Morrison called for the emergence of strong, realistic leadership from amongst the unit owners.

[40] Whether such strong, realistic leadership has emerged in the form of the new Board of Directors remains to be seen. I have no doubt that an enthusiastic and dedicated new Board is now in place. I am not yet sure whether its plans are realistic.

[41] The new Board filed a document entitled "Mandate of the New Board of Directors Regarding York Condominium Corporation Plan No. 82." It is a high-level road map.

[42] The 'Mandate' certainly identifies the key areas that a new Board will have to address: immediately deal with fire violations and City work orders; hire a professional property manager satisfactory to the corporation's lender; formulate a budget, including a realistic reserve fund; and secure additional financing. However, the new Board did not file detailed plans for each item nor a timetable for their execution. The new Board provided some comments on the Administrator's draft budget for the next year, suggesting that savings could be made in the area of operational expenses. The new Board also filed some materials about on possible 'hybrid' forms of financing that the unit owners could consider. A meeting of unit owners is scheduled for December 20, 2006 to discuss and vote on additional borrowing.

[43] The new Board submitted that to date the Administrator has denied them access to the books and records of the corporation needed to develop a detailed financial plan. The Administrator's counsel responded that voluminous materials were filed with each of the four reports and the unit owners, including the new Board members, always had access to that historical material.

[44] One aspect of this motion that troubles me is the lack of current financial information about the corporation before the Court. The last report filed with the Court this past spring contained financial information up to December 31, 2005. Such information would be of minimal use in preparing a budget for the forthcoming year. I asked the Administrator's counsel whether audited financial statements of the corporation for the year ended May 31, 2006 were available. I was told they were not. Un-audited financials for that year end were not included in the materials; management *pro formas* showing year-to-date results for the current fiscal year were not filed; nor were any year-over-year comparisons of the corporation's balance sheet or income and expenses statements. Simply put, the Court on this motion is operating in a virtual financial information vacuum. While there are ample materials before the Court showing the significant future expenditures that the corporation must make, there is no information that would enable the Court to assess the current financial health of the corporation.

[45] In April of this year the Added Respondents (some of whom are now new Directors) wrote to the Administrator requesting access to the financial records of the corporation. The April 26, 2006 response from the Administrator's counsel was unduly legalistic and antagonistic. It basically said: "look at the court reports; you aren't entitled to current financial information".

[46] In light of that response I understand why the new Board has not been able to develop a detailed financial plan for the corporation.

[47] Mr. Wallace deposed that he had reviewed the new Board's 'Mandate' and thinks that "it is reasonable and achievable and its implementation will ensure the smooth running and maintenance of YCC #82 while allowing any and all fire violations and work orders to be addressed and cleared." He has been retained to assist the Board in executing the 'Mandate'. His retainer gives me assurance that the new Board has access to the appropriate resources to put together more detailed budgets, reserve fund plans, project expenditure plans and financing plans, all of which must candidly recognize the obligations the corporation owes to its creditors, Toronto Fire Services and the City of Toronto.

G. Conclusion

[48] The polarized relationship existing between the current Administrator and the unit owners cannot continue. Although I have expressed some concerns about certain aspects of the Administrator's conduct, it must be emphasized that the Court has approved prior reports of the Administrator and commented on the good faith manner in which the Administrator performed its duties. I have no doubt that conduct on both sides has contributed to the current breakdown in relations between the Administrator and unit owners. I think the time has arrived to transition corporate governance from the Administrator to the new Board, as long as certain conditions are met.

[49] In his affidavit Mr. Wallace opined that it would be most effective and efficient in this case if the Administrator were terminated immediately. In principle that advice is sound; however, on the facts of this case I have some reservations in view of the absence of detailed plans from the new Board. Some transition process is required.

[50] I therefore make the following orders:

> (1) Effectively immediately the appointment of Fengate as Administrator to exercise all of the powers and discharge all of the duties of the Board of Directors of YCC 82 is suspended, subject to the reporting and court review requirements set out below;
>
> (2) Effective immediately the persons duly elected as Directors of the corporation at the meeting held on October 25, 2006, namely, Bridge Bahadoor, Irwin Sampat, Abdool Wahab, Surendra Lochan and Mark Sukhdeo, shall assume all of the powers and discharge all of the duties of the Board of Directors of YCC 82 **on an interim basis**, subject to the reporting requirements set out below and approval of the Board's plans by this Court on Wednesday, January 31, 2007;
>
> (3) Fengate shall continue as property manager of YCC 82 until January 31, 2007 or until

such earlier time as the Board of Directors puts in place another professional property manager who is approved by the corporation's lender in accordance with the provisions of the relevant loan or financing agreements between the parties. Until replaced by a new property manager, Fengate shall be compensated for its services by YCC 82 at the current level it receives as Administrator;

(4) Effective immediately the Board of Directors shall have unrestricted access to all books and records of the corporation, but those records shall continue to be kept at their present location on the corporation's premises in order to ensure that the property manager can continue to perform its duties. To be clear, the corporation's books and records must be maintained at a location that permits the property manager to perform its duties and enables the Board of Directors to discharge its duties and prepare the plans described in paragraph 8 below;

(5) Fengate and the new Board of Directors are to co-operate fully, professionally and politely with each other, and with their respective representatives or advisors, during this transition period. Each side must extend such assistance to the other as is necessary to effect a transition that is smooth and furthers the best interests of YCC 82;

(6) Fengate and the new Board of Directors must co-operate to put in place immediately banking arrangements that are typical in the industry for a condominium corporation/ property manager relationship and that ensure the uninterrupted receipt by the corporation of revenues to which it is entitled;

(7) The special assessment commencing September 8, 2006 issued by the Administrator is rescinded, and any Notices of Lien delivered in furtherance of the special assessment are set aside;

(8) By January 15, 2007 the Board of Directors must file with the Court a report that includes the following information:

i. A Board-approved budget for the balance of the fiscal year ended May 31, 2007 and for the fiscal year ending May 31, 2008;

ii. A realistic Board-approved reserve fund plan;

iii. A realistic Board-approved project expenditure plan and construction program that ensures YCC 82 will satisfy any work requirements directed by the Toronto Fire Services and the City of Toronto within a time frame satisfactory to those agencies;

iv. A realistic Board-approved plan to finance the corporation's operating, reserve and project expenditure requirements, including proof of availability of any planned borrowing;

v. Evidence that the accounts payable of YCC 82 are in good

standing;

vi. Evidence of the appointment of a new, professional property manager;

vii. A report on the results of the unit owners' meeting scheduled for December 20, 2006 to approve further borrowing; and,

viii. Confirmation that any work that the Toronto Fire Services or City of Toronto requires be completed by December 31, 2006 has been performed to the satisfaction of those two agencies or that the agencies have agreed to another timetable for completion of the work.

(9) At the same time as it files its report, the Board of Directors must file a further affidavit from Mr. Wallace containing his professional opinion on whether the Board's filed plans are realistic and achievable in light of (i) the specific needs of the corporation; (ii) the work directions issued by Toronto Fire Services and the City of Toronto; and (iii) the corporation's obligations to its creditors.

(10) By January 15, 2007 the Administrator shall file with the Court a report, in a form similar to that of its previous reports, for the period from January 1, 2006 until December 4, 2006. The report shall detail all legal expenses incurred by the Administrator during 2006 and shall indicate which legal expenses have been paid and which remain due and owing. The report should also contain an accounting of the Administrator's fees since January 1, 2006;

(11) The Administrator and the new Board of Directors shall schedule a motion before me returnable on Wednesday, January 31, 2007 at which time:

i. The Administrator shall present its report for approval and pass its accounts; and,

ii. The Board of Directors shall present for review the plans specified in paragraph 8 of this Order.

If the Court finds the plans to be realistic and achievable, the Court will grant final approval of the election of the Board of Directors and formally discharge the Administrator; and,

(11) The Board of Directors shall deliver to each unit owner a copy of these reasons by no later than 5 p.m. on Thursday, December 7, 2006. I want to ensure that each unit owner appreciates the need to implement immediately a realistic plan that addresses YCC 82's challenging financial situation. Costs of photocopying and delivery are to be borne by the corporation.

[51] If the parties cannot agree on any material, urgent transitional matter, they may make an appointment with the Motions Office to appear before me at 9 a.m. for one hour during the next two weeks.

I strongly encourage the parties to work together in order to avoid the necessity of such an attendance. Co-operation and common sense must prevail during the transition period.

Costs

[52] The Added Respondents may file written cost submissions by December 15, 2006. The Administrator may file its written cost submissions by January 5, 2007. Each submission shall be no longer than 7 typed pages, including schedules.

[53] Since I was concerned about the costs of litigation involving a condominium corporation located in a low-income area of Toronto, at the end of the November 29 hearing I stayed payment by the Administrator of any legal expenses incurred, but not paid. I continue that stay until January 31, 2007 when I will review the Administrator's accounts. However, I recognize that the Administrator will incur legal expenses to prepare its next report and present it to the Court, so the Administrator will be permitted to recover its reasonable legal expenses for such work once the report has been considered by the Court.

Final Comment to the Unit Owners and the new Board of Directors

[54] I must emphasize to the new Board of Directors and to all unit owners that they are not yet out of the woods. Major repair expenditures must be made and the pressing concerns of Toronto Fire Services and the City of Toronto must be addressed. Had the new Board not retained an experienced professional such as Mr. Wallace to provide them with advice and guidance, it is unlikely I would have made this order. If realistic and achievable plans are not placed before this Court for review on January 31, 2007, the corporation may find itself back under the management of an administrator. Mr. Morrison has stated that realistic leadership must emerge at YCC 82; it is time for this new Board to demonstrate that it can provide such leadership.

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D. Brown J.

Released: December 4, 2006

COURT FILE NO.: 04-CV-264294CM2
DATE: 20061204

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

BRIDGE BAHADOOR

Applicant

- and -

YORK CONDOMINIUM CORPORATION NO. 82

Respondent

and -

SURENDRA LOCHAN, BRIAN RITCHIE, SHEIKH KARRIM, ABDOOL WAHAB and BERNARD PICKETT

Added Respondents

REASONS FOR JUDGMENT

D. Brown J.

Released: December 4, 2006

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[1] Appointment of the administrator approved by the Ontario Court of Appeal, [2003] O.J. No. 5116.

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