

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

IN THE MATTER OF THE CONDOMINIUM PROPERTY ACT,
BEING CHAPTER C-22 OF THE REVISED STATUTES OF ALBERTA 2000
AND AMENDMENTS THERETO

BETWEEN:

THE OWNERS: CONDOMINIUM PLAN 7722911

Applicant

- and -

RONAE MARNEL

Respondent

ORIGINATING NOTICE

TO: RONAE MARNEL

TAKE NOTICE that a motion will be made on behalf of the Owners: Condominium Plan 7722911, commonly known as Grosvenor House, of the City of Edmonton, in the Province of Alberta, the above named Applicant, before the presiding Justice in Chambers, at the Law Courts, in the City of Edmonton, on Monday, the 7th day of January, 2008, at the hour of ten o'clock in the noon, or so soon thereafter as counsel may be heard for an Order:

1. declaring that the Respondent has committed improper conduct, specifically that she has failed to comply with the Bylaws of the Condominium and specifically clauses 48 and 59 thereof by the application of a bronze tinted window film to the east facing windows of her condominium unit municipally described as unit 1205, 10145 - 118 Street, Edmonton, Alberta;
2. directing the Respondent to cease her improper conduct by the removal, at her cost, of the bronze tinted film on the east windows of her unit 1205 within 10 days of the date of the Order and furnish to the Applicant by inspection proof thereof;
3. further directing that failing the Respondent complying with paragraph 2 above, a further direction that the Applicant be authorized to enter the Respondent's unit on 7 clear days notice and cause the removal of the bronze tinted film at the Respondent's cost;

4. further directing that pursuant to clause 40 of the Bylaws that the Respondent pay the legal expense incurred by the Applicant on a full indemnity basis and any costs incurred by the Applicant since July 30, 2007, on this application, and in the performance of the directions of this Honourable Court;
5. providing such further or other directions as the Court deems fit.

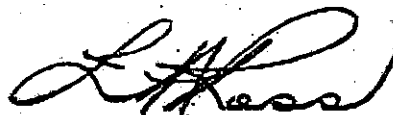
AND FURTHER TAKE NOTICE that the grounds for the application are that:

1. the Respondent is an Owner of a Condominium Unit in the building known as Grosvenor House, in Edmonton, Alberta which Unit is subject to the Bylaws of the Condominium Corporation Applicant;
2. the Respondent had in writing requested the Board of the Applicant to permit her to apply a clear film on the east facing windows of her Condominium Unit, permission for which film application was granted by the Board;
3. the Respondent further requested the Board permit her to apply a bronze tinted film to her east facing windows in place of the clear film earlier approved, permission for which bronze tinted film application was denied.;
4. the Respondent arranged to have the bronze tinted film applied and was informed by the Board that the bronze tinted film was to be removed, which the Respondent has refused or neglected to do, despite repeated demand.

AND FURTHER TAKE NOTICE that in support of the application will be read the Affidavit of Terry Buck, filed, together with such further or other material as counsel may advise.

AND FURTHER TAKE NOTICE that the Applicant relies upon the Bylaws Applicant and the *Condominium Property Act*, being chapter C-22 of the Revised Statutes of Alberta 2000, and amendments thereto, including sections 66 through 68 thereof.

ISSUED out of the Office of the Clerk of the court of Queen's Bench of Alberta,
Judicial District of Edmonton, this 20 day of December 2007.



CLERK OF THE COURT
OF QUEEN'S BENCH OF ALBERTA

TO: CLERK OF THE COURT

SC
QUMCT

ENTERED
by SG

0703 16420

Action No:

NOTICE TO RESPONDENT

TO: RONAE MARNEL

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

An application has been brought involving you. You are the Respondent in this matter. You or your lawyer must attend before the presiding Justice in Chambers at the Court of Queen's Bench, The Law Courts, Edmonton, Alberta, on the date and time set out in this Originating Notice.

IN THE MATTER OF THE CONDOMINIUM
PROPERTY ACT, BEING CHAPTER C-22 OF THE
REVISED STATUTES OF ALBERTA 2000 AND
AMENDMENTS THERETO

WARNING: If you or your lawyer do not appear in Court on the appointed date and time the Applicant may automatically be given the relief asked for.

BETWEEN:

THE OWNERS: CONDOMINIUM PLAN 7722911
Applicant
- and -
RONAE MARNEL
Respondent

This Originating Notice is issued by:

Henning Byrne
1450 Standard Life Centre
10405 Jasper Avenue
Edmonton, Alberta
T5J 3N4

ORIGINATING NOTICE OF MOTION

solicitors for the Applicant, whose address for service is in care of the said Solicitors.

and is addressed to the Respondent whose residence so far as known to the Applicant is Suite 1205, 10145 - 118 Street, Edmonton, Alberta

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2007 12:31:55 PM
MDS
JUDICIAL DISTRICT OF EDMONTON
COURT OF QUEEN'S BENCH
FEE \$200.00
CASE NO. 020203037-001001
LEGAL COUNSEL: 1
TEL: 780-421-1707
FAX: 780-425-9438

Henning Byrne
1450 Standard Life Centre
10405 Jasper Avenue
Edmonton, Alberta, T5J 3N4
Attention: Randolph Langley
Phone: (780) 421-1707
Fax: (780) 425-9438
File No. 7157/ROL

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

IN THE MATTER OF THE CONDOMINIUM PROPERTY ACT,
BEING CHAPTER C-22 OF THE REVISED STATUTES OF ALBERTA 2000
AND AMENDMENTS THERETO

BETWEEN:

THE OWNERS: CONDOMINIUM PLAN 7722911

Applicant

- and -

RONAE MARNEL

Respondent

AFFIDAVIT

I, TERRENCE T. BUCK, of the City of Edmonton, in the Province of Alberta, Retired,
MAKE OATH AND SAY THAT:

1. I am the President of the Applicant herein, and as such have a personal knowledge of the matters hereinafter deposed to except where stated to be based upon information and belief.
2. The Applicant is a Condominium Corporation established under the *Condominium Property Act*, being Chapter C-22 of the Revised Statutes of Alberta 1980, and amendments thereto and arose by the registration of a condominium plan in respect of that high rise residential property municipally described as 10145 - 118 Street, Edmonton, Alberta and is commonly referred to as Grosvenor House.
3. Attached hereto and marked as Exhibit "A" is a true copy of the Bylaws of the Applicant certified under the seal of the Applicant corporation and my hand as presiding officer.
4. The Respondent is an Owner as defined by the Bylaws of that unit municipally described as unit 1205.
5. On or about June 25, 2007 the Board of the Applicant received a letter from the Respondent, a copy of which is attached hereto and marked as Exhibit "B".
6. In response to Exhibit "B" the Board of the Applicant authorized Anne Kozak, Correspondence Secretary to the Board, to correspond with the Respondent and attached hereto and

marked as Exhibit "C" is a copy of that correspondence dated June 26, 2007 whereby authority was given to the Respondent to install clear film to the east windows of her unit at her expense.

7. Attached hereto and marked as Exhibit "D" is a copy of correspondence dated June 28, 2007 from the Respondent to the Board of the Applicant requesting permission to apply a bronze tinted film to her windows noting that "it can be removed when necessary".

8. Attached hereto and marked as Exhibit "E" is a copy of a letter I sent to the Respondent advising of the Board's decision to refuse her request for permission to apply a bronze tinted film to her windows and giving reasons for that decision which reasons I verily believe rely upon the provisions of clauses 48(b) and 59 of the Bylaws, Exhibit "A".

9. Notwithstanding the decision of the Board refusing permission to the Respondent as set forth in Exhibit "E" the Respondent caused the bronze tinted film to be applied to her windows and attached hereto and marked as Exhibit "F" is a memorandum dated July 30, 2007 from the Respondent received by the Board and referring to a discussion I confirm had with her wherein she undertook to replace the bronze tinted film with the clear film authorized by Exhibit "C".

10. Attached hereto and marked as Exhibit "G" and dated August 2, 2007 is a copy of a letter to the Respondent from the solicitor for the Applicant that was prepared on the instructions of the Board and that I delivered to the Respondent.

11. The Respondent did not remove the tinted film from her windows as requested and on September 17, 2007 the Board directed the Correspondence Secretary to prepare and forward to the Respondent a letter, a copy of which is attached hereto and marked as Exhibit "H".

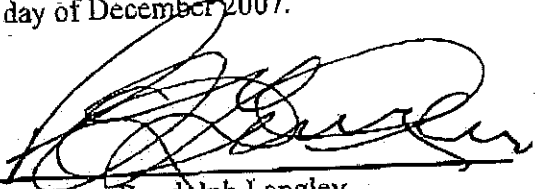
12. As no agreement was made with the Respondent on a time to remove the tinted film a further letter to her dated November 2, 2007 was sent by me offering two times for access to her unit to remove the tinted film and attached hereto and marked as Exhibit "I" is a copy of that letter. No response was received and access was not provided by the Respondent, contrary to Bylaw clause 2(a).

13. I verily believe that the Respondent is guilty of "improper conduct" within the meaning of section 67(1)(a)(i) of the Condominium Property Act, being Chapter C-22 of the Revised Statutes of Alberta 2000 and amendments thereto, specifically in that she has as owner failed to comply with the Bylaws, and specifically clauses 2(a), 48(b) and 59 thereof.

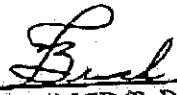
14. The Applicant on this motion petitions this Honourable court, and I make this Affidavit, for relief in directing the Respondent to cease her improper conduct by the removal, at her cost, of the bronze tinted film on the east windows of her unit 1205 within 10 days of the date of the Order and furnish to the Applicant by inspection proof thereof, failing which a further direction that the

Applicant may enter the Respondent's unit on 7 clear days notice and cause the removal of the bronze tinted film at the Respondent's cost. The Applicant further seeks a direction that pursuant to clause 40 of the Bylaws that the Respondent pay the legal expense incurred by the Applicant on a full indemnity basis.

SWORN BEFORE ME, at the City of
Edmonton, in the Province of Alberta this
20 day of December 2007.



Randolph Langley
Barrister and Solicitor



TERRENCE T. BUCK

Action No: 0703/16423

ENTERED
by JF
**IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

**IN THE MATTER OF THE CONDOMINIUM
PROPERTY ACT,
BEING CHAPTER C-22 OF THE REVISED STATUTES
OF ALBERTA 2000
AND AMENDMENTS THERETO**

BETWEEN:

THE OWNERS: CONDOMINIUM PLAN 7722911

Applicant

- and -

RONAE MARNEL

Respondent

AFFIDAVIT



Henning Byrne
1450 Standard Life Centre
10405 Jasper Avenue
Edmonton, Alberta
T5J 3N4

Attention: Randolph Langley
Telephone: (780) 421-1707
Facsimile: (780) 425-9438
File No. 81.7157/ROL

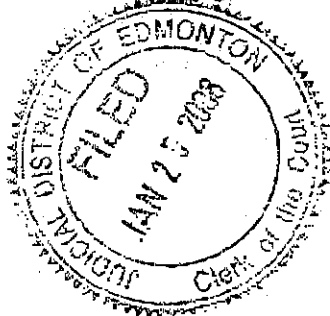
Action No.: 0703 16423
Sworn on: January 24, 2008
Sworn by Ronae Marnel

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

IN THE MATTER OF THE CONDOMINIUM PROPERTY ACT,
BEING CHAPTER C-22 OF THE REVISED STATUTES OF ALBERTA 2000
AND AMENDMENTS THERETO

BETWEEN:

THE OWNERS: CONDOMINIUM PLAN 7722911



Applicant

- and -

RONAE MARNEL

Respondent

AFFIDAVIT

I, **RONAE MARNEL**, of the City of Edmonton, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

1. I am the Respondent herein, and as such have personal knowledge of the facts and the matters hereinafter deposed to except where otherwise stated to be based on information and belief which I believe to be true.
2. I have reviewed the Affidavit of Terrence T. Buck sworn on December 20, 2007, and take issue with many of the statements made by Mr. Buck in his Affidavit.
3. I am the owner of unit 1205 (the "Unit") in the high rise residential property municipally described as 10145 - 118 Street, Edmonton, Alberta ("Grosvenor House").

4. I make this Affidavit in opposition to the application brought by the Applicant to remove the bronze tinted window film from my Unit.

5. On several occasions I approached the Board of Directors (the "Board") of Grosvenor House regarding the excessive heat generated by the sunlight shining through the east facing windows of my Unit. As a courtesy, I requested the Board's permission to place a tint film to my east facing windows; a measure which was required to alleviate the excessive heat in the Unit. I received permission from the Board to place a "clear" tint as an experiment to evaluate its effectiveness.

6. In response to paragraph 9 of the Applicant's Affidavit, I proceeded with the application of a bronze tint film to the east facing windows of my Unit after Mr. Claudio Cattoni, the owner of Pro-Tint, advised that the bronze tint was superior and more effective than the clear tint in: (1) providing privacy; (2) reducing ultra violet rays; and (3) reducing the excessive heat caused from the sun shining through the windows. After my discussion with Mr. Cattoni, I wrote to the Board and requested that I be allowed to apply the bronze tint, as it was clear that the clear tint would be ineffective. Shortly after this letter, an opportunity arose for me to have the bronze tint applied, and as I was confident the Board would approve the bronze tint, I had it applied to the east-facing windows. During a hostile phone call with Mr. Buck where he threatened legal action, I agreed to remove the tint. However, upon review of the Grosvenor House Bylaws and further consideration, I came to believe that the bronze application was a slight modification and did not trigger a violation of the Bylaws. Further, I believed that once the Board was fully apprised of the facts and the interest expressed by other owners wishing to proceed with their own application of such a tint, they would further consider the matter. It was my wish that the matter be tabled at Annual General Meeting where it could be presented to all the owners. I believed that removing the tint before the Board was able to more fully consider the matter would be premature; I did not wish to remove the tint only to find that it was unnecessary to do so.

7. A housing complex is now under construction which when completed will have residences with large windows facing the east portion of Grosvenor House. The bronze tint will also alleviate this pending privacy problem.

8. In response to paragraph 13, I do not believe that I failed to comply with the Grosvenor House Bylaws. The letters addressed to myself from the Grosvenor House Board marked as

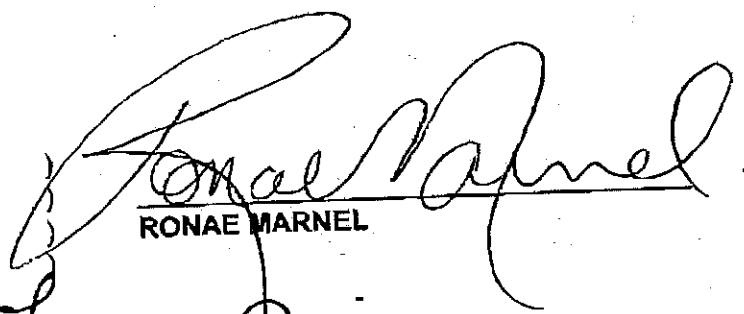
Exhibit "B" and "C" of the Applicant's Affidavit did not suggest that the application of bronze tint to windows contravened any Grosvenor House Bylaws. Further, I repeatedly attempted to maintain open communication with the Applicant regarding my intentions and actions with respect to the window tint in my Unit. I believed that it was a matter which could be resolved to the satisfaction of both parties; it was necessary to consider the facts more fully and more importantly, to consider the wishes of other owners within Grosvenor House.

9. I do not believe that I have contravened Sections 48(b) and 59 of the Grosvenor House Bylaws. First, Section 48 refers to structural alterations which alter the exterior appearance of the building. Tinting is not a structural alteration. Second, the tinting is not aesthetically unpleasing. Attached hereto and marked as Exhibit "A" are photographs of the exterior of the east side of Grosvenor House. Photograph Number 1 evidences that the exterior appearance of Grosvenor House has neither been structurally altered nor is it aesthetically unpleasing. Photographs Numbers 2 and 3 show other "window applications" which arguably may be considered aesthetically unpleasing, but have been allowed by the Board. Furthermore, these applications are certainly more pronounced than the slight tint applied to my Unit.

10. I have spoke to a number of residents of Grosvenor House regarding the application of the window tint. Several have agreed that this matter warrants further investigation and should be tabled at the next Annual General Meeting of the Board. They have also declared that the bronze tinting is not aesthetically unpleasing. Attached hereto and marked as Exhibit "B" is a true copy of name and signatures of several owners of Grosvenor House who are in favour of having this issue tabled at the next Annual General Meeting in order that they, other owners and the Board have the opportunity to consider the matter. I believe these owners represent a small sampling of interested owners.

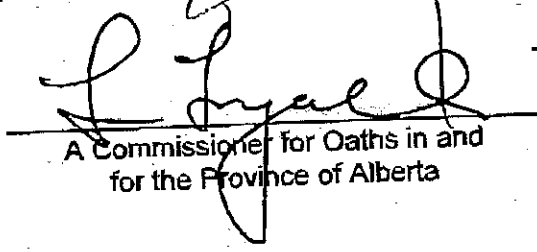
11. I make this Affidavit in opposition to the application brought by the Applicant to remove the bronze tinted window film from my Unit and request for reimbursement of legal costs. I request that this Honourable Court grant an Order requiring that the matter be tabled at a special meeting of the Board and interested owners for further consideration and full reimbursement of my legal costs.

SWORN BEFORE ME at the City of
Edmonton, in the Province of Alberta, this
24th day of January, 2008.



Ronae Marnel

RONAE MARNEL



Laurie A. Fumagalli

A Commissioner for Oaths in and
for the Province of Alberta

Laurie A. FUMAGALLI
BARRISTER & SOLICITOR

SWORN

Action No.: 0703 16423
Sworn on: January 24, 2008
Sworn by Ronae Marnel

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

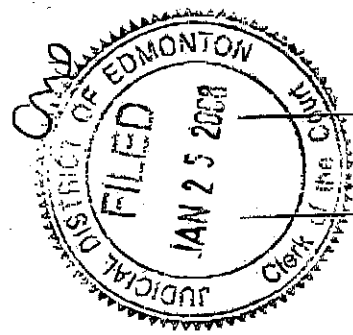
THE OWNERS: CONDOMINIUM PLAN 7722911

Applicant

- and -

RONAE MARNEL

Respondent



AFFIDAVIT

DENNIS B. ROTH
TELEPHONE: (780) 423-8905
FAX: (780) 423-8946

ACKROYD LLP
BARRISTERS AND SOLICITORS
1500, 10665 JASPER AVENUE
EDMONTON AB T5J 3S9

File: 142306/DBR

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

IN THE MATTER OF THE CONDOMINIUM PROPERTY ACT,
BEING CHAPTER C-22 OF THE REVISED STATUTES OF ALBERTA 2000
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BETWEEN:

THE OWNERS: CONDOMINIUM PLAN 7722911

Applicant

- and -

RONAE MARNEL

Respondent

BEFORE THE HONOURABLE
MADAME JUSTICE D.L. SHELLEY

IN CHAMBERS

AT THE LAW COURTS, IN THE CITY OF
EDMONTON, PROVINCE OF ALBERTA
ON TUESDAY, THE 25th DAY OF
MARCH 2008

UPON the Application of the Applicant; AND UPON having reviewed the Originating Notice of Motion and the Affidavit of Terry Buck, filed in support of the Application; AND UPON having reviewed the Affidavit of the Respondent Ronae Marnel filed in opposition to the Application; AND UPON this matter having come before this Honourable Court in chambers on January 29, 2008; AND UPON having heard from counsel appearing for the parties; AND UPON having reserved decision to this date:

ORDER

IT IS HEREBY ORDERED THAT:

1. It is declared that the Respondent is guilty of improper conduct within the meaning of section 67(1)(a)(i) of the Condominium Property Act, being chapter C-22 of the Revised Statutes of Alberta in that she did, in breach of Condominium By-laws 48(b) and 59, install unapproved bronze tinted window film to the east facing windows of her condominium unit municipally described as unit 1205, 10145 - 118 Street, Edmonton, Alberta, and further that she did, in breach of Condominium By-law 2(a), failed to provide access to her unit for the

purpose of removing the said film, following reasonable notice from the Board of the Applicant;

2. the Respondent cease her improper conduct by the removal, at her cost, of the bronze tinted film on the east windows of her unit 1205 within 10 days of the date of service of this Order;
3. failing the Respondent complying with paragraph 2 above, it is further Ordered that the Applicant be authorized to enter the Respondent's unit on 7 clear days notice for the purpose of effecting the removal of the said film, at the Respondent' cost;
4. the Respondent pay the legal expense incurred by the Applicant on a full indemnity basis and any costs incurred by the Applicant since July 30, 2007, on this application, and in the performance of the directions of this Honourable Court under this Order.

#

T. Armstrong



For MADAME JUSTICE D.L. SHELLEY

JUSTICE OF THE COURT

OF QUEEN'S BENCH OF ALBERTA

APPROVED AS BEING THE ORDER MADE:

ACKROYD LLP

Per:

L. Fuzagalli
L. FUZAGALLI

ENTERED THIS 9th DAY OF April 2008

TO

[Signature]
THE CLERK OF THE COURT



AND TO:

ACKROYD LLP
Attention: Dennis B. Roth
Counsel for the Respondent

Action No: 0703-16423

ENT. ENTERED
by CS

**IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

IN THE MATTER OF THE CONDOMINIUM PROPERTY
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BETWEEN:

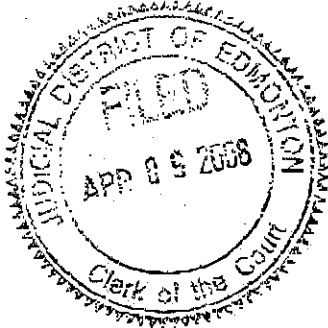
THE OWNERS: CONDOMINIUM PLAN 7722911

Applicant

- and -

RONAE MARNEL

Respondent



ORMSC ex: cease improper conduct

ORNSCK ex: Authorize entry

ORDER

ORCSTX ex: to Applicant

Henning Byrne
1450 Standard Life Centre
10405 Jasper Avenue
Edmonton, Alberta
T5J 3N4

Attention: Randolph Langley
Telephone: (780) 421-1707
Fax: (780) 425-9438
File No. 81.7157/ROL