

Unit Owner Sues Condominium Directors and Manager for Conspiracy

A dispute between a commercial condominium unit owner and the condominium corporation concerning access to a garbage room and service laneway, resulted in the unit owner [suing the condominium corporation](#), as well as the individual directors and the condominium manager.

For approximately twelve years the unit owner's tenants had the use of a retail garbage room and access to a door to the service laneway at the rear of the building to accommodate deliveries to the commercial units. The condominium corporation then excluded the tenants from the garbage room, the lock on the door to the service laneway was changed and tenants' delivery vehicles were prohibited from making deliveries from the laneway. Deliveries to the residential units were still permitted.

Originally the owner's statement of claim alleged wrongful interference with the intent of causing damage to the owner, and nuisance. The owner then sought to amend the statement of claim to allege conspiracy to cause injury to the owner by the individual directors and the property manager. The crux of the conspiracy claim was that the predominant purpose of the actions of the individual directors and the manager was to cause financial injury to the owner by disrupting the business of the tenants – the owner would suffer economic loss by either having to compensate its tenants or by losing tenants.

The defendants brought a motion to have the Court strike the statement of claim on the basis that it disclosed no reasonable cause of action or reasonable prospect of success. With respect to the conspiracy claim, they took the position that the owner's claim did not set out sufficient particulars of the overt acts of each individual and that the actions taken targeted the tenants and not the unit owner.

After noting that “the court's power to strike a claim is exercised only in the clearest of cases” and concluding that the amended statement of claim did contain the “necessary facts to allege the torts of intentional interference, nuisance and conspiracy” the Judge refused the motion to strike the statement of claim.

“Generally speaking, the case law imposes a very low standard for the demonstration of a cause of action, which is to say that, conversely, it is very difficult for a defendant to show that it is plain, obvious and beyond doubt that the plaintiff cannot succeed with the claim.”

While the unit owner was successful in this motion, the owner's battle is still just beginning. The denial of the defendant's motion to strike the statement of claim merely allows the owner to proceed with the lawsuit and no decision was made regarding the conduct of the directors and the manager. It will be interesting to see the outcome of this case and in particular, the Court's finding as to whether or not the individual directors and the property manager engaged in conspiracy.