

December 2015

BODY CORPORATE v NIGHTMARE NEIGHBOUR: COURT TO THE RESCUE

“His demeanour at this time was highly aggressive, flying his arms about and it was clear to me that he had to prevent himself from lashing out at me physically” (Trustee quoted in judgment below)

The irrational, aggressive and disruptive “Nightmare Next Door” owner is regrettably a well-known and much-disliked feature of all too many residential complexes. He or she makes trouble at every opportunity, attacking other owners and the body corporate’s trustees with equal abandon.

What can you do about it? In sufficiently serious cases, our courts will come to your rescue, as a recent High Court decision illustrates.

Harassment – it could be a ticket to prison

- The owner of a sectional title unit harassed the board of trustees in his complex to such an extent that they obtained a court order prohibiting him from raising complaints, objections and the like with the trustees in any way other than through written communication to the secretary of the body corporate.
- Undeterred, he breached this order on at least 3 occasions, threatening for example to remove the trustees’ roof tiles (so that, he said, they could feel what it feels like to live in a unit with roof leaks), and aggressively objecting to the way a trustee was painting some plant pots. It couldn’t have helped his case that the female trustees on the board seem to have borne the brunt of these attacks, and to have felt physically intimidated on at least one occasion – as evidenced in the quoted evidence above.
- Holding the owner to be clearly in contempt of the original court order, the Court sentenced him to 6 months’ imprisonment. It suspended this sentence for 5 years on condition that the owner “does not harass or contact any member of the Board of Trustees personally, but must address all communication regarding complaints, grievances, proposals or commentary to the secretary of the applicant in writing.”

..... and costly

Because it was the owner’s “irrational and acrimonious behaviour” that necessitated the court action, the Court also ordered him to pay the Body Corporate’s legal costs on the punitive attorney and client scale.

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