

Final Words of Advice

(Important article, please ensure you read)

Judgement of the STB and High Court:

The order to take down the awnings is not the most important part of the Judgement, in my opinion, the most important are the adverse comments by the STB and the High Court (which are shown separately in the article entitled “Adverse comments made



Gardens@Bullion: carina iridiflora

in judgements”). As observed in the High Court Judgement there have been abuses probably since the 1st Council was created. SPs must realize that the Council is in overall charge of the MCST, which includes control over ALL our funds. The Council introduced a resolution in 2019 for SP approval to spend money

on legal fees, but withdrew the resolution at the meeting without explanation. But the Council nevertheless went ahead to spend legal fees outside the scope of the 2019 and 2020 budgets, without SP approval. It is vital for SPs to ensure that their welfare and funds are safeguarded by Councils who accept the need for full compliance of the laws of the country, which includes compliance with the BMSMA and the MCST’s by-laws.

SPs need to put in the mechanisms to find out WHY the Councils, probably since the 1st Council was created, chose to ignore written laws and give approvals to SPs on matters that they are not allowed to do so. Not only to find out, but to institute measures to ensure they do not occur again.

The Council:

Council Members are volunteers. They are voted in by SPs, thus they are expected to serve ALL SPs. When there is a need, they are expected to present the full facts to SPs, explain the pros and cons, and then

let the SPs decide. It is a total insult for SPs to walk into an AGM or EOGM and find that they have already been out-voted by the Council thru proxies, like at the 2012 AGM, where the Council secured at least 58% of the total votes, even before the meeting started.

The Council must not take sides on any issue, or present information or take actions that shows it has taken sides. Consider the following:



- The STB and the High Court have made uncomplimentary observations on the conduct of the MCST (which means the conduct of the Council Members).



Gardens@Bullion: Crepe jasmine

- In its 10th August letter to SPs, those who signed the letter did not tell the truth. I find it impossible to believe they are not aware of the Judgement. I leave it to SPs to decide on the intent of the false statement.
- In all notices calling for AGM or EOGM, the Council lists a number of persons who are willing to be proxies, these are usually members of the Council and/or persons associated with them. Why only these people, why not others? This action is itself a non-neutral action. With proxies representing 30% to 40% of total votes in the Council's hands even before the start of the AGM or EOGM, SPs will find extreme difficulties even if they disagree on resolutions proposed by MCST. In my opinion, the Council must present facts for SPs to decide, not present information and then use the proxies to outvote them. The Council must be **working for SPs, not working to control SPs**.
- Staff of the MCST must also be completely neutral. Unfortunately, **they have not been allowed to be neutral** and are



Gardens@Bullion: Euodia

the ones who help “fill up” the quota for the persons nominated as proxies.

SPs have the right to take matters up further if they are upset enough. It is possible for SPs to try to recover the legal costs incurred from Council Members on a personal basis, since the costs were incurred by the Council based on actions that are illegal. And for the

unauthorized use of MCST funds, even though these were used to pay lawyers, SPs could file claims against those who signed the cheques, these Council Members operated the MCST account as if the funds are their personal funds. As it is, the funds lost are huge.

My final words of advice to Council Members, SPs appreciate your involvement as volunteers in serving the MCST, but SPs insist that all Council Members not only try



Gardens@Bullion: Heliconia (lobster claw)

their best, they must do so strictly in accordance with the law.



Gardens@Bullion: *Ixora chinensis*

There must be no deviation.

Subsidiary Proprietors:

We are all living together in the same estate, this is community living in the condo, we share facilities, we meet one another often. All of us have rights in the condo, but these rights are not exclusive, they are shared with other SPs. We need to live together harmoniously. To do so, there is a need for tolerance.

Failure to ensure full compliance of laws and being tolerant can only lead to undesired consequences, such as the need for involvement in litigation. Litigation is one subject that all of us must try to avoid, at all costs. When one litigates, there is one winner, one loser, and two happy lawyers.



Gardens@Bullion: *Oenothera pilosella*

However, most SPs trust the Council, and most of the time, will go with what the Council decides. On this occasion, based on the judgements of the STB and the High Court, it is time for SPs

to begin questioning the actions of the Council. I have explained things in great detail on this web site, it is now up to SPs to stand up and firmly demand that actions be taken to correct the inequities identified, in particular, on the illegal approvals given, and demanding a mechanism to ensure they do not occur again.

One final message to SPs: The BMSMA envisages the use of Managing Agents for MCSTs, the term “Managing Agent” is used all



Gardens@Bullion: Dracaena

over the Act, there is even a separate chapter on Managing Agents. A Managing Agent will never allow the Council to stray beyond the law, they will simply tell the Council they are not allowed to do so. A Managing Agent who allows illegal acts will have their BCA license revoked. In the use of funds, a Managing Agent will not allow the Council to issue cheques unless the cheques are made in payment of expenses already approved by SPs at an AGM or EOGM. If the Managing Agent allows funds to be used unlawfully, their professional indemnity insurance will become liable for losses suffered. SPs must now very seriously consider the use of Managing Agents. It is possible to use a Managing Agent in a way that our existing employees are not affected. If we have been using a Managing Agent all along, our MCST will not suffer any losses during this entire episode.

The cost of litigation:

As an example of what can happen in litigation, a medical Dr was accused of molest, charged and found not guilty, but in the process

Doctor acquitted of molestation charges tells of painful experience



By LOUISA TANG

Published AUGUST 22, 2021
Updated AUGUST 22, 2021
340 SHARES



Dr Yeo Sow Nam in his clinic. The Pain Specialist at Mount Elizabeth Hospital.

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- Dr Yeo, 52, said that he never had "the slightest doubt" that he would be vindicated
- Describing his experience, he recalled being stopped at customs and the humiliation of being handcuffed
- Dr Yeo and his wife also had to fork out more than S\$600,000 for his legal expenses
- Discussions are underway with his counsel on whether to take legal action against the complainant

The Today Newspaper, 22nd August 2021

had to spend \$600,000 in legal fees. An excerpt of his case is shown below. He won, yet he lost. There are countless other examples. And this is likely to happen, when one gets involved in litigation.

I do realize that there may be some situations where the use of lawyers is inevitable,

but, as far as possible, the MCST and SPs should try to resolve these issues, and avoid the use of lawyers. Each day, there are hundreds of demands being sent out, but the bulk of these are settled thru negotiations, not litigation. If we adopt the maxim **if the cap fits, wear it**, problems will be avoided. I advocate the use of Managing Agents and not lawyers. Lawyers are businessmen also, and a larger part of their income comes from litigation.

