

Metal Grilles, Aircons And Shoe Racks

In the MCST's letter of 10th August, it was stated that "With the recent appeal decision of the High Court, it is likely that most alterations such as awnings, certain aircon compressors, certain gates and affixed shoe cabinets will fall as items to be removed". I have studied the High Court award several times, and I can clearly state that the judgement concerns AWNINGS ONLY. The judgement DOES NOT require other items to be removed, and any attempt to declare that it also affects other types of alterations is improper.

There is a very strong motive for the council to include the other items in their letter, because if the



Gardens@Bullion: Koi pond



90% resolution they require does not state the other types of alterations, SPs of many units may not be interested to be involved. In addition, [the MCST has failed to inform SPs that even if they succeed in securing a 90% resolution, this will not end the "unending problems"](#), it will start the next chapter of the dispute, as I have explained elsewhere.

Let me state that every legal action is

fought on its own merits, and you cannot lump aircon compressors, gates, shoe cabinets together when the judgement is about awnings only.

For the awnings, the High Court has clearly stated that there is no defense, but for the other items, you CAN defend the actions taken. The gates and shoe cabinets, although installed at common property, are installed at locations where no SPs ever visit, is not a fire hazard and cause no harm or inconvenience to anybody (see newspaper article on shoe rack issue, below).

TOP OF THE NEWS | A7

Court rejects condo MC's bid to clear shoe cabinet from corridor

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A shoe cabinet outside an apartment's front door is arguably a common sight in condominiums. But for the management corporation (MC) at The Infiniti in West Coast Park, it was a big no-no for one unit, with the owners taken to court for refusing to remove the cabinet.

However, District Judge Lim Wen Jun ruled that it was a case of yes-and-no, making it a test case about placing personal items in a common corridor and the extent to which an MC can intervene.

The judge said: Yes, placing the shoe cabinet along the common corridor broke the condo's by-law. But he added: The MC is not getting the court order that will require the unit's owner to remove the cabinet. Such an order would be a "disproportionate" response to the by-law breach, because the cabinet does not obstruct movement in the corridor nor intrude on any person's rights but to the "most negligible degree", he said.

"There is no real harm caused by the presence of the cabinet and thus no real benefit to be had by anyone in its removal," he added.

In decision grounds issued earlier this month, the judge also took issue with the MC's conduct, which he found "unreasonable and objectionable".

The cabinet, placed beside the apartment's front door, is 1.06m long and 0.36m wide.

The MC argued, among other things, that it breached two provisions of the Building Maintenance and Strata Management Act as well as various by-laws prescribed in the Building Maintenance (Strata Management) Regulations 2005.

It also breached additional by-laws set by the MC, it added.

But its submissions and evidence failed to convince the judge.

One of the MC's claims is the cabinet reduced the width of the common corridor available for fire escape. Evidence failed to bear it out.

The defendants' lawyer, Mr Raymond Lye, pointed to the Singapore Civil Defence Force's practice code for fire safety precautions.

It prescribed a minimum width of 1.2m for corridors in high-rise buildings.

As the 0.36m-wide cabinet reduced the corridor width to no less than 1.44m, it satisfied the code.

"I can think of no reason in principle why there should be different standards for public and private high-rise housing," the judge said.

The case eventually turned on one issue - a broadly phrased additional by-law that prohibits storing, leaving or discarding personal belongings in common areas and staircases, regardless of the size, nature and whether the object obstructs people's path.

It is so widely couched that it could be a breach to leave even small items such as a flower pot or a pair of shoes in a common corridor, the judge noted.

In not giving the MC the court order it sought, the judge referenced a 2005 High Court decision and said the issue entails balancing the benefits and burdens to produce a fair result.

He chided the MC for not being even-handed in enforcing its by-laws, as photographs showed many other owners had left personal belongings in the common corridor outside their units, thus breaching the same by-law.

The MC said it targeted the shoe cabinet as it was the newest and largest of the offending cabinets and that it would go after the rest after it succeeded in this case.

The judge said: "Even if the cabinet is the 'newest', I do not see how that is a reason to single it out - if anything, I would have thought the 'newest' object presents the least prolonged breach and hence the least compelling case for enforcement to be taken."

It was "not at all obvious" the cabinet was the largest object, he added.

The judge also had doubts the MC intended to take any steps against the other owners.

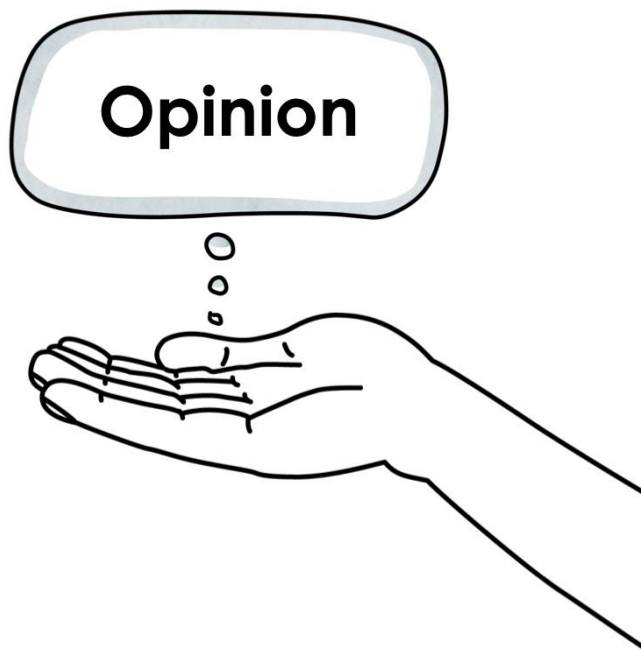
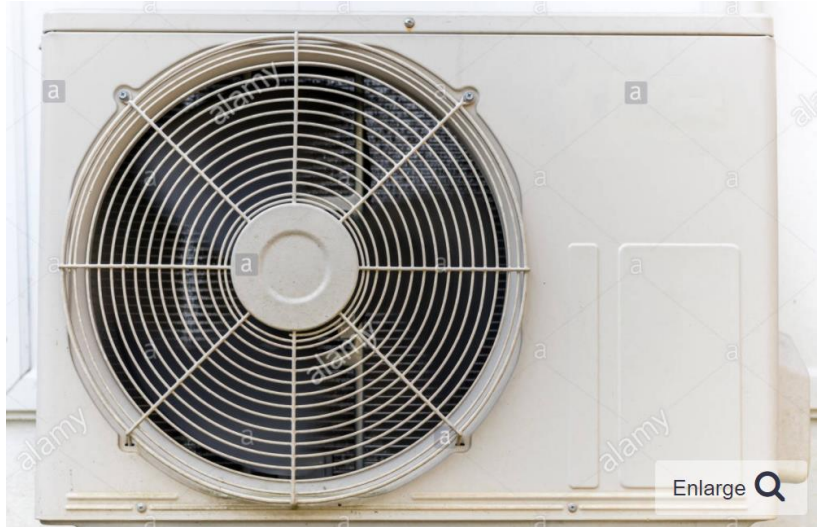
"It seems to me that in making this application, the MC is attempting to secure the cabinet's removal without having to risk the ire of the other offending subsidiary proprietors by asserting an intention to enforce the additional by-law against them too, and I do not think it is right and proper for the MC to do that," he said, adding its conduct made it unjust to grant the order.

The MC is appealing against the decision, said its lawyer Leo Cheng Suan. Meanwhile, the shoe cabinet remains outside the unit.

The flat's co-owner, Mr Charles Tay, 61, told The Straits Times they contested the case with "reluctant members' efforts and work as volunteers in looking after the estate."

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The aircon compressors are installed on common property because there was a design problem in this development, the developer provided aircon ledges for all levels except the 15th level. In addition, aircon manufacturers will also state categorically that aircon compressors are designed for installation outside the home, if it is installed within the home, it will become a safety hazard. Once a safety hazard is identified, there are many precedents that the STB will allow.



I am therefore of the opinion that if the MCST takes an SP to Court to remove these items, they will fail.