

Unpaid condo maintenance fees: MC can sell unit to recover sums



The management corporation of Sanctuary Green sought to force the sale of a unit whose owner is said to be owing more than \$10,000 in management and sinking-fund fees, plus interest. ST PHOTO: KHALID BABA

🕒 PUBLISHED NOV 10, 2019, 5:00 AM SGT

Management corporations must still follow certain procedures

✉️ Yuen Sin (mailto:yuen.sin@sph.com.sg) Correspondent ✉️ (mailto:joycel@sph.com.sg)

The management corporation (MC) of a condominium in Tanjong Rhu had sought to sell a unit after the owner repeatedly failed to pay management and sinking-fund bills, which have now come up to a sum of more than \$10,000, including interest.

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The MC at Sanctuary Green had tried to pass a special resolution at its annual general meeting in April, but it did not garner enough votes to carry out the sale of the 73 sq m unit with a 99-year lease.

It is unclear if the owner attended the meeting or if the unit had been rented out.

SRX data showed that the two-bedroom apartment was bought in November 2012 for \$1.08 million.

The Sunday Times understands that the owner has not been living in the apartment and the MC was hoping to recover the sums owing to it through the sale proceeds.

The Sunday Times has contacted the MC but has yet to receive any reply to its queries.

The case has thrown into sharp relief a little-known power of condominium MCs - it can force the sale of a unit to recover monies owed.

A Building and Construction Authority (BCA) spokesman said that Section 43 of the Building Maintenance and Strata Management Act does not impose a duty upon MCs to lodge with or seek approval from the authority before proceeding to sell a unit for the purpose of recovering outstanding amounts from the property owner.

But there are certain legal requirements MCs should fulfil, BCA said, including registering a charge with the Registrar of Titles, passing a special resolution to sell the unit and placing a notice of the intended sale in one or more approved daily newspapers.

If the MC still does not receive any payment from the property owner after six weeks from the publication of the notice, and there is no legal action pending in court to restrain the sale, the MC can sell the unit.



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The MC is given certain powers under the Act to enable it to carry out its duties of administering and maintaining the common property for the benefit of all residents, said lawyer Wilbur Lua of Covenant Chambers.

"For example, it can carry out maintenance work for the common property and the building. In certain circumstances, it also has the power to enter a resident's unit to carry out maintenance work, and it would be an offence for the unit owner to refuse to allow the MC to enter," Mr Lua said.

In May, two apartments were put up for sale by their respective MCs. The sales were handled by real estate company Knight Frank.

The units were an 80 sq m apartment at De Lente on Holland Road, with an asking price of \$1.13 million, and a 127 sq m apartment at Park Green, in the Punggol/Sengkang area, with an asking price of less than \$1 million.

In July last year, a 212 sq m unit at Orchard Scotts was reportedly put up for sale by the MC at an auction. It had a starting price of \$3.5 million.

Knight Frank auction and sales manager Noelle Tan, who handled the sales of the De Lente and Park Green units, said an MC sale usually happens when the owner defaults on monthly maintenance fees.

"The MC does not need to possess the unit and usually there will not be any viewing, especially when the unit is still occupied by the owner or tenant," said Ms Tan.

"The new buyer would have to obtain a court order to evict the current occupiers of the unit after the sale is completed. And that could take about three months."

Ms Tan said she has seen more MC sale listings in recent years, but not all units were sold.

The MC of Park Green eventually dropped the sale after reaching an agreement with the unit owner. The other two units were not sold.

"It is not in the interest of MCs to sell properties. They just want to recover the sums owing to them. If everyone starts defaulting on management fees, they will have problems running the estate," said Ms Tan.

She added that property owners would often get in touch with the MC to negotiate a way to pay the outstanding bills.

Mr Augustine Cheah, chairman of the management council of The Sail@Marina Bay, said he had come across a case where a condo owner owed an "absurd" \$70,000 to the MC, though the debt was settled before a forced sale had to be attempted. He declined to name the development.

An MC is the managing body of a strata-titled property, while a management council is made up of elected unit owners to lead the MC.

Mr Lua said that despite having the power to sell a unit, an MC still has to enforce its by-laws by way of the legal process, that is, through an application for a court order to compel the unit owner to abide by the by-law.

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"This is necessary because it provides a safeguard for the individual unit owner who is accused of breaching the by-law," he added.

Mr Lua said the MC can also recover any damages from the unit owner for loss or injury arising out of a breach of the by-law.

If the unit owner still refuses to comply with the court order, then committal proceedings can be commenced against him for breaching a court order and he may be fined or even jailed.

The power condo MCs wield came in for some scrutiny when one management corporation took a resident to court for refusing to remove a shoe cabinet placed outside his unit. The MC had claimed it caused obstruction but the court rejected the bid to have the cabinet removed.

Mr Victor Ng, vice-chairman and secretary of the management council at Bugis Cube, felt it was a drastic move for an MC to seek a court order to remove a shoe cabinet.

He said repeated attempts at mediation and dialogue are still the right way to go.

MANAGEMENT V RESIDENTS

Other powers that management corporations (MCs) have attempted to exercise:

OCTOBER 2019

The MC of The Infiniti in West Coast Park took a resident to court for a shoe cabinet that was placed outside an apartment's front door, arguing that this, among other things, breached by-laws set by the MC.

But the judge did not grant the MC 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, he said.

The MC is appealing against the decision.

JUNE 2017

The MC of JC Residence in Joo Chiat sought a court order to remove a resident's dog from the condo premises, after a neighbour complained about it.

But the MC's bid was refused by a judge, who said the parties should have tried to resolve the issue amicably before resorting to legal action, and he ruled that removing the dog "would be disproportionate to the alleged complaints as such".

AUGUST 2016

A resident from 19 Shelford condominium, off Adam Road, had his request and subsequent appeal to install window grilles on his balcony rejected by his MC.

When he tried to go ahead with the installation, the MC stopped the workers and called the police.

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After the Building and Construction Authority (BCA) told him that he should be allowed to install the grilles for safety purposes, the MC informed him in a letter that his balcony had been classified as a "roof garden".

It said that since the balcony is a roof garden, the BCA by-law that structures and devices can be built on windows and balconies for the safety of children does not apply.

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