

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: February 11, 2026

CASE: 2024-00475N

Citation: Essex Condominium Corporation No. 42 v. Zhang, Han, 2026 ONCAT 22

Order under section 1.44 of the *Condominium Act, 1998*.

Member: Mary Ann Spencer, Member

The Applicant,

Essex Condominium Corporation No. 42

Represented by Andrea Thielk, Counsel

The Respondents,

Zaiqing Zhang

Self-Represented

Yuqing Han

Represented by Zaiqing Zhang

Hearing: Written Online Hearing – September 29, 2025, to January 14, 2026

REASONS FOR DECISION

A. INTRODUCTION

[1] The Applicant, Essex Condominium Corporation No. 42 (“ECC 42” or the “corporation”) alleges that the Respondents, Zaiqing Zhang and Yuqing Han, have engaged in a pattern of unreasonable conduct which constitutes harassment and has created a nuisance, annoyance and disruption. Specifically, ECC 42 alleges that the Respondents, in particular Respondent Zhang, have breached its Anti-Harassment Rule as well as other provisions of the *Condominium Act, 1998* (the “Act”) and the corporation’s governing documents. The corporation requests that the Tribunal order the Respondents’ compliance. It also requests its costs in this matter.

[2] Mr. Zhang does not deny all of the conduct cited by the corporation. Rather, his position is that ECC 42’s board of directors is “operating unlawfully” and is bullying the Respondents. He submits that two of the other three owners of the corporation

are unlawfully occupying parts of the common elements and are unduly influencing the operation of the corporation.

- [3] I find that the Respondents, in particular Respondent Zhang, have breached the corporation's Anti-Harassment Rule and I order their compliance; specifically, to cease knocking/banging on and peering into witness Maria Hoffman's bedroom window, placing objects on that window's sill, patrolling around her property, and photographing and/or videotaping her. I also find that in breach of Rule 6 of the corporation's rules, the Respondents are creating a nuisance, and I order them to ensure their visitors do not block their shared driveway, to remove plants blocking Ms. Hoffman's window, and to permanently remove a "[unit address] common element occupier" sign. Finally, I order the Respondents to pay costs of \$18,925 to ECC 42 and \$848 as compensation for damages.

B. BACKGROUND

- [4] ECC 42 is a self-managed corporation comprised of four townhouses which are configured in a modified "U" shape. Two homes at the bottom of the "U" front the street; the other two are at the sides of the "U". There is a shared driveway on each side of the "U" leading to the garages of the two units located on that side of the property. Each unit has a designated exclusive-use outdoor parking area in front of its garage.
- [5] The Respondents purchased one of the street-facing units in 2013. Their unit shares two walls with other units; one is the demising wall for the identical unit next door owned by Patricia Wilcox and her husband, the other forms the wall between the Respondents' unit and two garages. The Respondents' unit has a small exclusive-use outdoor area at its street-facing front door and an exclusive-use common element deck at its back door which leads to its exclusive-use backyard. The deck is enclosed by three walls. Two of these walls form part of the Respondents' unit; the third, which includes a bedroom window and extends along the side of the Respondents' exclusive-use backyard, belongs to Ms. Hoffman's unit.
- [6] The corporation has a three-member board of directors. The current president is Margaret Hoffman, the non-resident daughter of Maria Hoffman. The other members are Ms. Wilcox and non-resident owner Xiong Wang.
- [7] The corporation alleges that the Respondents have engaged in a long-standing pattern of inappropriate and unreasonable conduct which has disturbed the quiet enjoyment of its other owners/occupants by:
- Operating a business from their unit which has created issues of traffic

congestion, obstruction of their shared driveway, and noise;

- Making alterations to the common elements, including plantings which obstruct Maria Hoffman's windows, without the prior consent of the corporation;
- Posting signs about other units in their garage's window and on their vehicle;
- Photographing and video-taping Maria Hoffman; lurking around, peering into and banging on her bedroom window; and patrolling around her unit;
- Improperly storing garbage and recycling bins and other items;
- Inappropriately staring at the medical workers of an owner;
- Abusive and offensive communication with other owners;
- Interfering with the implementation of board decisions.

[8] The corporation states that the Respondents' inappropriate conduct began in 2016 and has escalated over the past two years. Mr. Zhang himself submitted that conflict with the corporation began in September 2020, when he alleges that Maria Hoffman removed more trees from the property than the number which had been approved for removal by the board. Mr. Zhang had not agreed to the removal of any trees.

[9] On November 22, 2021, ECC 42's counsel sent a compliance letter to the Respondents with respect to breaches of the corporation's governing documents relating to running a business in their unit and to alteration of the common elements without permission. A further compliance letter dated October 18, 2023, again cited these breaches as well as, among others, the inappropriate display of a sign relating to Ms. Hoffman's unit and interference with the corporation's contractors.

[10] On January 12, 2024, the corporation enacted its Anti-Harassment Rule. A third compliance letter was sent on April 22, 2024. In addition to the breaches relating to the use of a unit and alteration of the common elements, this letter cited alleged breaches of the Anti-Harassment Rule specifically related to Mr. Zhang's conduct toward his neighbour Maria Hoffman, and enclosed reports dated March 4, 2024, and April 8, 2024, of investigations conducted in accordance with that rule. A final compliance letter was sent on July 3, 2024. This letter cited continuing breaches of the corporation's governing documents, including its Anti-Harassment Rule, and notified the Respondents that an application would be made to the Tribunal if their

non-compliance continued. The corporation subsequently filed its application in July 2024.

C. ISSUES & ANALYSIS

[11] The issues to be decided were set out in the Stage 2 Summary and Order prepared by the mediator as follows:

1. Have the Respondents engaged in conduct that meets the definition of harassment under Rules 3 and 5(a) of the Corporation's Anti-Harassment rule and that is a nuisance, annoyance or disruption under section 117(2) of the Act?
2. Are the Respondents in violation of the Act and/or the governing documents of the corporation, in particular its Anti-Harassment rule and rules governing parking and storage, noise, disruption to quiet enjoyment, interference with board decisions, planting of invasive bamboo and trees, unkempt common areas, dismantling landscaping and removal of downspout extender on the common elements?
3. What is the appropriate remedy in these circumstances?
4. Should there be an award of fees or costs?

The Tribunal's Jurisdiction

[12] ECC 42's counsel submits that the behaviours listed above in paragraph 7, "constitute harassment, a pattern of behaviour designed to cause nuisance, annoyance and disruption, are in non-compliance with many General Rules, the Declaration, as well as the Applicant's Anti-Harassment Rule." She requests that I make a number of specific orders under s. 1.44 (1) 2 of the Act which provides the Tribunal with the authority to make an order "prohibiting a party to the proceeding from taking a particular action or requiring a party to the proceeding to take a particular action." She noted that the Tribunal had made such orders in *York Condominium Corporation No. 444 v. Ryan, 2023 ONCAT 81 (CanLII)*, a case where the respondent was ordered to stop specific behaviour which had been targeted at another owner because of the respondent's displeasure with that owner's smoking.

[13] The Tribunal's jurisdiction, which is established in Ontario Regulation 179/17 ("O. Reg. 179/17"), is limited. O. Reg. 179/17 does not provide specific jurisdiction to the Tribunal with respect to harassment-related disputes. However, in some cases, the Tribunal can address these under section 1 (1) (d) (iii.2) of that regulation, which provides jurisdiction over disputes with respect to "provisions [of the corporation's governing documents] that prohibit, restrict or otherwise govern any

other nuisance, annoyance or disruption to an individual in a unit, the common elements or the assets, if any, of the corporation.”

[14] At the outset of this proceeding, I referred the parties to the Tribunal’s decision in *Halton Condominium Corporation No. 115 v. Holloway, 2025 ONCAT 149* (CanLII), which, at paragraph 21, states that section 1 (1) (d) (iii.2) of O. Reg. 179/17 “does not provide jurisdiction to the Tribunal to hear all disputes over rules that deal with behaviour that is inappropriate or even intolerable, but those which cause nuisance, annoyance or disruption at law, to an individual in a unit or the common elements of the corporation.” Similarly, in *Ryan*, the Tribunal noted at paragraph 17:

The rule relied on must address activities that are nuisances, disturbances or annoyances or the matter is potentially outside the Tribunal’s jurisdiction. Beyond that, it is not necessary that the rule use those specific words. It is sufficient if it is found that Ms. Ryan’s conduct: a) violates the rule and b) is in fact and law a nuisance, annoyance or disruption.

Put simply, the Tribunal can only address breaches of the corporation’s Anti-Harassment Rule that are found to be a nuisance, annoyance, or disruption.

[15] Counsel for ECC 42 referred me to the Cambridge Dictionary definition of harassment as “behaviour that annoys or upsets someone.” However, the relevant definition of harassment in this case is that set out in the corporation’s Anti-Harassment Rule:

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome or offensive, abusive, threatening or intimidating, whether verbal or physical, including, without limitation, bullying, discrimination or sexual harassment, as defined further below.

Examples of harassment may include, but are not limited to:

- Bullying, pranks, vandalism, hazing or aggressive behaviour;
- Demeaning or abusive supervision, communication or instruction;
- Offensive or intimidating communications of any nature whether in person, by telephone call, email, text, post, blog or other social media communication;
- Offensive or intimidating or verbally abusive comment, jokes, or behaviour that disparages or ridicules any particular individual or group, or an individual’s membership in one of the protected grounds under the Ontario Human Rights Code, R.S.O. 1990, c. H. 19 (the “Code”); and
- Sexual advance, touch or demand that the recipient does not welcome or has not consented to receive. nature whether in person,

Bullying is defined for the purposes of this Rule as any inappropriate act or comment by an individual who knew or reasonably ought to have known that it would harm, humiliate, intimidate or isolate another individual.

- [16] The provision of ECC 42's Anti-Harassment Rule which the Respondents have allegedly breached is part (a) of provision 5. I note that, consistent with the fact it has no jurisdiction over s. 117 (1) of the Act, the Tribunal has no jurisdiction with respect to part (b) of this provision:

Each owner, resident, Board member, officer, employee or service provider of the Condominium acting alone or in concert with others, shall ensure that when interacting with any other resident, Board member, officer, employee or service provider for the Condominium, that the owner, resident, Board member, officer, employee or service provider does not (a) engage in any form of harassment as defined herein, and/or (b) permit any dangerous activity within a unit or the common elements that is likely to cause damage to property or injury or illness to an individual.

In order for the Tribunal to make a finding of harassment, not only must there be evidence that the behaviour at issue both involves interaction between the Respondents and other individuals and meets the definition of harassment contained in the rule, but, as set out above in paragraph 14, it must also be found to be a nuisance, annoyance or disruption at law. Further, because the corporation's Anti-Harassment Rule was enacted effective January 12, 2024, the breaches must have taken place after that date.

- [17] In this case, the corporation also has a provision in its governing documents which prohibits owners from creating noise or nuisance that disturbs the quiet enjoyment of other owners. Rule 6 of EEC 42's rules states:

Owners, their families, guests, visitors and servants shall not create or permit the creation of or continuation of any noise or nuisance which, in the opinion of the Board or the manager, may or does disturb the comfort or quiet enjoyment of the property by other owners, their families, guests, visitors, servants and persons having business with them.

Therefore, if it is found that the Respondents' conduct does not breach provision 5 (a) of the Anti-Harassment Rule, in accordance with section 1 (1) (d) (iii.2) of O. Reg. 179/17, the Tribunal has jurisdiction to consider whether the Respondent's conduct is a breach of Rule 6 and constitutes a nuisance.

- [18] The fundamental question to be addressed in this matter is whether the Respondents are in violation of the sections of the Act and/or the governing documents of the corporation over which the Tribunal has jurisdiction and, if it is

found that they are, what remedy the Tribunal should order.

- [19] Six witnesses, including the three other owners of the corporation, testified on behalf of ECC 42 in this matter. Only Mr. Zhang testified on behalf of the Respondents.
- [20] The evidence submitted in this matter sets out a history dating back to 2020 of the Respondents', in particular Mr. Zhang's, interaction with their neighbours. In some detail, the witnesses described their frustration with what they perceive to be the Respondents' willful disregard of the provisions of the corporation's governing documents. They testified about traffic and parking issues caused by regular attendees at art classes held in the Respondents' unit; the Respondents' removal of alterations to the property made by the corporation and their installation of others, including plants and trees, without the corporation's prior consent; the posting of signs inferring that the owners of two units improperly occupy the common elements; the improper storage of garbage; and, interference with the corporation's contractors.
- [21] Both Maria and Margaret Hoffman testified about numerous incidents where Mr. Zhang banged on Maria Hoffman's bedroom window, placed objects on or against its outdoor sill, and walked on or around her property with no apparent reason. All of the corporation's owners and Margaret Hoffman testified about past incidents when Mr. Zhang yelled and/or used obscenities in either personal encounters or correspondence.
- [22] I have carefully considered all the evidence submitted in this case. I find that only the allegations relating to the Respondents' behaviour towards Maria Hoffman involve interaction with other individuals and therefore potentially breach provision 5 (a) of ECC 42's Anti-Harassment Rule. I cannot address the incidents of inappropriate communication which the witnesses testified about because these all pre-date the effective date of the rule. Similarly, while Margaret Hoffman testified about two interactions Mr. Zhang had with corporate contractors, these also occurred before the rule was enacted. Finally, Patricia Wilcox testified about her husband's personal care workers' discomfort with Mr. Zhang staring at them. I am not addressing this because provision 5 (a) of the Anti-Harassment Rule applies to service providers of the corporation, not to service providers of individual owners.
- [23] With respect to the other items set out in paragraph 7, some of the provisions of the corporation's governing documents which the Respondents have allegedly violated do not fall within the Tribunal's jurisdiction. The Tribunal does not have jurisdiction to address either Article IV (1) of the corporation's declaration which states that the units may only be used for the purpose of a single-family residence

or Article III (2) (b) which states that alterations to the common elements require the prior consent of the corporation. Similarly, section 1. (1) (d) (iii) of O. Reg. 179/17 provides the Tribunal with jurisdiction with respect to provisions that govern storage in an area that is intended for storage. However, in this case, it is unclear that the corporation's rule addresses an area intended for storage; Rule 5 (a) states that garbage may not be stored on an owner's exclusive-use or the corporation's common elements except on days designated as garbage pick up days.

[24] While the owners of ECC 42 may well find the Respondents' non-compliance with these provisions to be problematic, an allegation that this amounts to harassment cannot be used to expand the Tribunal's jurisdiction to include disputes about provisions which O. Reg. 179/17 does not provide it with the jurisdiction to decide. However, the Tribunal may determine whether the breaches of these provisions have resulted in conditions which comprise a nuisance in violation of Rule 6 of the corporation's rules.

[25] I address whether there have been breaches of the Anti-Harassment Rule or of Rule 6 of the corporation's rules separately below.

Have the Respondents breached Provision 5 (a) of the Anti-Harassment Rule?

Photographing and video-taping Maria Hoffman, lurking around, peering into and banging on her bedroom window, and patrolling around her unit

[26] The back deck of the Respondents' unit is enclosed by three walls, one of which belongs to Maria Hoffman's unit and includes a bedroom window with a substantial outdoor sill. Ms. Hoffman testified about multiple incidents of Mr. Zhang banging on this window and placing objects on or against its sill.

[27] Fourteen incidents of banging took place from mid-March to mid-June of 2024; the majority of these occurred after 9:00 p.m. On some dates, there were multiple incidents and the banging was loud enough to awaken Ms. Hoffman; on others, the banging was followed by objects being placed on the windowsill. For example, on March 12, 2024, video evidence from Ms. Hoffman's security camera shows Mr. Zhang peering into the bedroom window and then proceeding to stack items on her windowsill. Photographic evidence shows a variety of objects, including plant pots, stacked halfway up the window. In one case, a large bust of a figure was posed as if to stare into the interior of Ms. Hoffman's unit. There is also photographic evidence of objects, such as a ladder, placed against and blocking the window. I note that Ms. Hoffman testified about only one incident of what she described as Mr. Zhang continuing to "lurk around" after he banged on the window.

Given he was on his deck, it is unclear that this action was directed towards Ms. Hoffman.

- [28] The March 29, 2024, incident is illustrative of the conflict between Ms. Hoffman and Mr. Zhang. Margaret Hoffman, who was assisting her mother in installing a privacy film on the bedroom window, testified that she “swept” the objects the Respondents had placed on it to their deck floor. Mr. Zhang then came out of his unit and spit on the bedroom window, a fact confirmed by photographs. He then proceeded to replace the objects. Ms. Hoffman removed them again. Mr. Zhang then later replaced them. While Margaret Hoffman’s initial action was doubtlessly provocative, I note that Mr. Zhang had been advised that objects were not to be placed on that sill in counsel’s compliance letter dated October 18, 2023.
- [29] Maria Hoffman also testified about incidents that occurred in June 2023, March 2024, and June and July 2025, when Mr. Zhang walked around her patio and unit for no reason she was able to discern, making her sufficiently uncomfortable on one occasion that she went inside.
- [30] Mr. Zhang denies that the Respondents were responsible for banging on Ms. Hoffman’s window. He maintains that the windowsill is on his exclusive-use property and that Ms. Hoffman is “invading” it because there is a communication cable which enters her unit affixed to the wall below the window. His testimony is that repairs made to the roof of her unit damaged his deck and that she has damaged his garage window. He submitted that she is harassing him by blocking the shared driveway leading to the backyards, intimidating him with a garden hose, and taking photographs of him.
- [31] I prefer Ms. Hoffman’s testimony. Not only is it supported by photographs of objects on the windowsill and deck, but a log of the cited incidents was maintained. While Mr. Zhang submitted photographs which he testified showed damage to his deck and garage window, no such damage is visible and his response when asked if he had advised the corporation of the damage to what are common elements was the nonresponsive statement that “the condo board bullying and unlawful operation are persistent in this condo.” He also submitted two videos taken in June 2025 to support his assertion that Ms. Hoffman is harassing him. These show Ms. Hoffman, who I note is an octogenarian, watering her plants with a garden hose while sitting on a chair on the common element pathway leading to the backyards and while standing on the shared driveway. Neither video shows her either reacting to Mr. Zhang’s presence or obstructing Mr. Zhang’s access to the backyards.
- [32] I find that Mr. Zhang, apparently acting on his expressed belief that the windowsill

of Ms. Hoffman's window is his to treat as he wishes, breached the corporation's provision 5 (a) of the Anti-Harassment Rule; banging on the window and deliberately placing items on its sill is targeted vexatious behaviour towards Ms. Hoffman, which Mr. Zhang, having received both the October 18, 2023 and the April 22, 2024 compliance letters from counsel, knew or ought to have known was unacceptable. However, this behaviour continued in June and July of 2024.

[33] I also find that Mr. Zhang's behaviour constitutes a nuisance. In its decision in *Carleton Condominium Corporation No.132 v. Evans*, 2022 ONCAT 7 (CanLII), summarizing *Antrim Truck Centre Ltd. V. Ontario (Transportation)* 2013 SSC 13 (CanLII), the Tribunal wrote at paragraph 20:

... it is instructive to consider the well-established jurisprudence on the law of nuisance. To support a claim of nuisance, the interference must be substantial and unreasonable; the requirement for substantial interference can incorporate a component of frequency and duration of the interference. A 'trivial' interference will not suffice to support a claim in nuisance.

Repeated incidents of banging on the bedroom window, creating noise and awakening Ms. Hoffman, and deliberately placing objects to obstruct it constitute a substantial interference with Ms. Hoffman's quiet enjoyment of her unit as do photographing and videotaping her and wandering around her property without apparent reason while she is outside. Therefore, I am ordering the Respondents to comply with Rule 5 (a) of the Anti-Harassment Rule. I note that the Stage 2 Summary and Order prepared by the mediator in this matter indicates that the issues of banging on the window and placing objects on it were resolved. However, for certainty, I will order that the Respondents cease this behaviour.

Have the Respondents breached Rule 6 of ECC 42's rules?

Operating a Business, creating issues of traffic congestion, driveway obstruction, and noise

[34] The corporation alleges that the Respondents are running an art school from their unit and that this has created issues of traffic congestion, driveway obstruction, and noise. As noted above in paragraph 23, the Tribunal has no jurisdiction with respect to the provision of the corporation's declaration which states that units may only be used as a single-family residence. Nor does the Tribunal have jurisdiction to address Rule 10 of the corporation's rules which states that sidewalks, roadways, and common areas shall not be obstructed.

[35] The Tribunal does have jurisdiction to consider whether the Respondents' visitors are creating a nuisance or noise in violation of Rule 6 of the corporation's rules or,

specifically with respect to noise, in accordance with s. 117 (2) of the Act.

- [36] Linda Rettig, who resides in the apartment building next to the corporation, testified that she has witnessed vehicles dropping children off at the corporation's property two to three times a week during the school year and twice weekly during the summer, creating traffic congestion at the condominium and in the surrounding area. She stated that she has observed the driveway shared by the Respondents and Maria Hoffman blocked on multiple occasions. Photographs and video evidence indicates that vehicles both park on the street, blocking part of the entrance to the driveway, and in the driveway itself, blocking access to Ms. Hoffman's unit. I note that the driveway is narrow at its entrance and then widens to provide access to Ms. Hoffman's unit.
- [37] Mr. Wang testified that on June 22, 2025, he witnessed one group of parents picking up their children at 3:10 p.m. and a second group dropping off children at 3:30 p.m. Two vehicles parked side by side in the shared driveway, blocking access to Ms. Hoffman's unit. Teresa Sartor, Maria Hoffman's daughter, testified that on October 5, 2025, she had to wait to leave the complex when three vehicles consecutively drove in to drop off students. Similarly, witnesses Maria Hoffman and Margaret Hoffman both testified about traffic congestion and the blocking of access to Maria Hoffman's unit on multiple occasions. Maria Hoffman also testified that she is disturbed by the headlights of vehicles idling in the driveway shining into her windows. I note that none of the witnesses testified about noise and therefore I find there is no violation of s. 117 (2) of the Act.
- [38] Mr. Zhang denied that his visitors use the shared driveway for drop-offs and pick-ups or parking, testifying that they use the street or his designated parking area. However, the consistency of the witnesses' anecdotal testimony and the photographic and video evidence persuade me that the Respondents' visitors are creating a nuisance when they idle their vehicles or park, however temporarily, in the shared driveway, thereby blocking access to Maria Hoffman's unit. While the duration of the interference with access to the unit may not be lengthy, I find that the frequency of its occurrence, as Ms. Rettig testified, is sufficient to comprise a substantial interference. Therefore, I am ordering the Respondents to comply with Rule 6 and to take steps to ensure their visitors do not block access to Ms. Hoffman's unit by idling or parking their vehicles, even on a temporary basis, on any part of the shared driveway other than the Respondents' designated parking area. I make no finding with respect to traffic congestion or street parking violations; the Tribunal's jurisdiction does not extend to municipal matters.

Making alterations to the common elements, including plantings which obstruct Maria Hoffman's windows, without the prior consent of the corporation

- [39] The Tribunal does not have jurisdiction with respect to Article III (2) (b) of ECC 42's declaration which states that alterations to the common elements require the prior consent of the corporation. The question to be addressed is whether the alterations the Respondents have made, whether with or without approval, have created a nuisance.
- [40] Mr. Zhang does not dispute that the Respondents have planted trees and other plants in their exclusive-use backyard including along the wall of Maria Hoffman's unit which borders one side of that yard. Photographs indicate that bamboo, along with other species, has been planted in the area directly in front of one of Ms. Hoffman's basement windows. Ms. Hoffman testified that these plants obstruct both light from entering her unit and her view from it, thereby interfering with her quiet enjoyment on an ongoing basis.
- [41] I find that the Respondents have allowed the bamboo and other plants to become a nuisance in breach of Rule 6 of the corporation's rules. The photographic evidence confirms that both a basement window of Ms. Hoffman's unit and the ground floor window directly above it are almost completely obstructed. Therefore, I am ordering the Respondents to immediately remove all plantings from the area in front of and beside Ms. Hoffman's windows. There is no evidence that other plants are creating a nuisance. The corporation would need to address these, and any other allegedly unauthorized alterations to the common elements in another venue.

Posting signs about other units in their garage's window and in their vehicle

- [42] Two of the units of ECC 42 have added structures on the common elements. Maria Hoffman has a shed located in the back corner of the property outside of her exclusive-use outdoor space. Xiong Wang's unit has a large deck which extends from the unit itself to the property boundary, covering both the unit's exclusive-use and the corporation's non-exclusive use common elements. Outdoor access to the backyards of the corporation's units which front the street is from pathways leading off the shared common element driveways on each side of the complex. To reach of these backyards, individuals would either cross the exclusive use backyards of the units forming the side of the "U" or follow the non-exclusive common elements at the perimeter of the property. This latter route is now impeded by the additional structures.
- [43] The Respondents object to what the corporation submits were authorized alterations to the common elements. Mr. Zhang characterizes the additional structures as "illegal occupation" and testified that he is being "robbed" of his unit's "share" of the corporation's common elements. In apparent protest, he has made

large signs which state “[unit address] common element occupier” with respect to the units owned by Maria Hoffman and Mr. Wang.

[44] The sign with respect to Maria Hoffman’s unit is posted in and covers the entirety of the Respondents’ garage window which is located adjacent to Ms. Hoffman’s garage door. Ms. Hoffman testified that the sign has been in the window since September 2023. In her April 22, 2024, compliance letter, the corporation’s counsel demanded it be immediately removed as Ms. Hoffman found it disturbing. Mr. Zhang did not comply.

[45] In addition to stating “common element occupier,” the sign with respect to Mr. Wang’s unit states “no access to backyard.” Patricia Wilcox testified that when she and her husband attempted to sell their unit in the summer of 2025, Mr. Zhang displayed the sign on the windshield of his car which he parked on the public street on the three days they held an open house. As Mr. Wang does not reside in the unit and given Mr. Zhang’s testimony about “illegal occupation,” I conclude that this sign was intended to deter potential buyers of the Wilcoxes’ unit. Ms. Wilcox testified that she asked Mr. Zhang to remove the sign but he refused.

[46] While the signs do not go as far as to include the word “illegal,” they were clearly designed to imply that the unit owners have done something wrong. Anyone wishing to reach Ms. Hoffman’s unit must pass by the sign which contains her unit’s address, making it likely that she must provide explanations. Ms. Hoffman herself will see it any time she accesses her garage or her exclusive-use parking area or when she waters the plants located on the common elements directly below the window where it is displayed. I find that Mr. Zhang’s placement of the sign and his apparent refusal to remove it is a substantial interference with Ms. Hoffman’s quiet enjoyment of her unit and therefore I am ordering its immediate and permanent removal. Similarly, the sign about the Wang unit undoubtedly required the Wilcoxes to provide explanations to potential buyers of their unit and as counsel submitted, may have interfered with their attempt to sell their property. However, that sign is no longer displayed and therefore I make no order with respect to it.

Improperly storing garbage and recycling bins and other items

[47] Margaret Hoffman testified, and the photographic evidence is, that the Respondents have left debris around Ms. Hoffman’s basement window and stored their garbage bin and other debris at the corner of their garage. I cannot conclude that these actions violate Rule 6; while there was a submission that this activity created an “unkempt” appearance, there was no evidence provided with respect to either the frequency of the occurrences or to how this activity interfered with the

owners of the corporation.

Should the Tribunal award costs in this matter?

[48] ECC 42 requests costs of \$26,946.94 comprised of the \$200 it paid in Tribunal fees and \$26,746.94 in legal fees and disbursements it incurred in respect of this proceeding. It also requests compensation of \$10,708.89 with respect to the legal fees it incurred before this case was filed. The Respondents request costs of \$791, representing their legal fees.

Costs

[49] The award of costs is discretionary. Section 1.44 (2) of the Act states that an order for costs shall be made in accordance with the rules of the Tribunal. The cost related rules of the Tribunal's Rules of Practice applicable to this case are:

48.1 If a Case is not resolved by Settlement Agreement or Consent Order and a CAT Member makes a final decision, the unsuccessful Party will be required to pay the successful Party's CAT fees unless the CAT member decides otherwise.

48.2 The CAT generally will not order one Party to reimburse another Party for legal fees or disbursements ("costs") incurred in the course of the proceeding. However, where appropriate, the CAT may order a Party to pay to another Party all or part of their costs, including costs that were directly related to a Party's behaviour that was unreasonable, undertaken for an improper purpose, or that caused a delay or additional expense.

[50] I am also guided by the "Tribunal's Practice Direction: Approach to Ordering Costs" which provides that the factors to be considered include: the conduct of all parties and representatives; whether the parties attempted to resolve the issue in dispute before the CAT case was filed; the potential impact an order for costs would have on the parties; and the provisions of the corporation's governing documents.

[51] Since ECC 42 was successful in this matter, I will order the Respondents to pay \$200 in respect of the Tribunal fees the corporation paid. I dismiss the Respondents' request for costs for legal fees; they were not successful and they were not represented in this matter.

[52] ECC 42 requests costs of \$26,746.94 on a full indemnity basis. Any legal fees not awarded by the Tribunal become operating expenses of the corporation which are paid by all owners. Counsel submits that the other three owners of the corporation should not be penalized because of the Respondents' non-compliance. She further

submits that the corporation made multiple attempts to resolve the matters at issue in this case before it filed its application with the Tribunal. Finally, she argues that the Respondents' conduct in this proceeding was unreasonable and caused the corporation to incur additional legal fees.

- [53] I have reviewed the invoices submitted by ECC 42 and find the legal fees to be reasonable for a matter which had multiple issues and in which six witnesses testified and were cross-examined. I note that the legal fees claimed include those incurred during the Stage 2 – Mediation which was lengthy, extending over approximately 11 months.
- [54] This is a case in which the corporation made multiple attempts to obtain the Respondents' compliance before it brought this matter before the Tribunal. Those included two opportunities to comply after being sent reports of investigations under the corporation's Anti-Harassment Rule and three legal letters. Mr. Zhang made it clear in his answers to cross-examination questions that he believes that he is not bound by either the corporation's governing documents or the decisions of its board of directors if he disagrees with them.
- [55] In terms of his conduct during this proceeding, Mr. Zhang was responsible for multiple delays. On three occasions he requested time extensions on the basis that the CAT-ODR system was unavailable to him for lengthy periods although there was no disruption to the system during this proceeding. He posted an additional 18 documents with his case submission after disclosure in this matter had ended, resulting in a further delay and requiring both the Applicant's counsel and the Tribunal to spend additional time to review them. He had to be reminded about requests to provide dates of photographs, witness names, and clarifications to proposed cross-examination questions.
- [56] Finally, this is a case where failing to award legal fees would impose a significant burden on the unit owners. The three owners of the other units, particularly Maria Hoffman, have all been affected to some degree by Mr. Zhang's behaviour. It would not be reasonable or fair for them to absorb the fees incurred in this proceeding given the corporation's previous efforts to obtain his compliance.
- [57] For the reasons set out above, I am ordering the Respondents to pay \$18,725 in costs on a substantial indemnity basis. The total cost award therefore is \$18,925, comprised of \$200 in respect of Tribunal fees and \$18,725 in respect of legal fees and disbursements.

Compensation

- [58] In accordance with s. 1.44 (1) 3 of the Act, the Tribunal may order compensation

for damages incurred by a party to the proceeding as a result of an act of non-compliance. These damages can include legal fees incurred to obtain compliance. However, the non-compliance must fall within the range of the Tribunal's jurisdiction.

[59] The corporation has claimed \$10,708.89, the amount of legal fees it incurred between June 2021 and July 2024, when it filed its application with the Tribunal. While counsel did submit that all of the Respondents' past behaviour formed a pattern of harassment, as I noted at paragraph 24, allegations that non-compliance constitutes harassment cannot be used as means to extend the Tribunal's jurisdiction to address disputes which O. Reg. 179/17 does not provide. In this regard, the compliance letters sent to Mr. Zhang in 2021 and 2023 addressed issues which do not fall within this Tribunal's jurisdiction.

[60] Further, much of the more recent legal fees claimed are related to the provision of advice to the corporation on matters such as conducting an investigation in accordance with its Anti-Harassment Rule and issuing a special assessment to pay for legal fees. The only fee I am considering is that charged on April 20, 2024, for preparation of the compliance letter which was ultimately sent to the Respondents on July 3, 2024. The fee charged was \$1,696.13. I find this to be disproportionate and award 50% of the fee, totalling \$848, as compensation for damages.

D. ORDER

[61] The Tribunal Orders that:

1. The Respondents shall comply with the Anti-Harassment Rule of Essex Condominium Corporation No. 42. In particular, and without limiting the generality of this order, they shall comply with Provision 5 (a) and:
 - a. cease peering into, knocking and/or banging on the windows of Maria Hoffman's unit;
 - b. cease placing any objects against the windows or on the sills of the windows of Maria Hoffman's unit;
 - c. cease walking on or around Maria Hoffman's property other than as required to reach their backyard;
 - d. cease taking photographs and videos of Maria Hoffman.

2. The Respondents shall comply with Rule 6 of the rules of Essex Condominium Corporation No. 42. In particular, and without limiting the generality of this order, the Respondents shall:
 - a. take steps to immediately and hereafter ensure visitors to their unit do not block access to the driveway shared with the unit owned by Maria Hoffman by either idling or parking their vehicles anywhere other than the Respondents' designated parking area;
 - b. within 90 days of the date of this decision, permanently remove all plants and/or trees located either in front of or within 30 centimeters to the side of the basement window located on the wall of Maria Hoffman's unit which borders the Respondents' exclusive-use backyard; and
 - c. immediately and permanently remove the "[unit address] common element occupant" sign.
3. Within 90 days of the date of this decision, the Respondents shall pay \$18,925 in costs and \$848 as compensation for damages to Essex Condominium Corporation No. 42.

Mary Ann Spencer
Member, Condominium Authority Tribunal

Released on: February 11, 2026