

**BEFORE THE
COMMISSION ON COMMON OWNERSHIP COMMUNITIES
FOR MONTGOMERY COUNTY, MARYLAND**

RAJINDER BOVEJA)

Complainant)

v.)

Case No. 83-14

January 20, 2016

WEST SPRING CONDOMINIUM)
ASSOCIATION)

Respondent)

**DECISION AND ORDER
ON MOTION FOR RECONSIDERATION**

The Commission's hearing panel issued a Decision and Order in this case on December 14, 2015. Thereafter, Respondent moved for reconsideration on various grounds, including that the Complainant who brought this case and prosecuted it lacked standing to do so because he is not the owner of the condominium unit that is the subject of the case.

The Panel need not reach the standing or other grounds raised in Respondent's motion because the motion and Complainant's response thereto demonstrate a more fundamental defect in proceedings before the Commission: the Complainant prosecuted this case in a representative capacity on behalf of the unit owners, but the Complainant is not a member of the Maryland Bar. As a result, the entire proceeding is a nullity and the case must be dismissed. *Turkey Point Property Owners' Ass'n, Inc. v. Anderson*, 106 Md. App. 710, 666 A.2d 904 (1995).

The complaint in this case was signed by "Rajinder K. Boveja." The Commission's complaint form requires a complainant to state the basis for his or her standing to file a complaint. In this case, the Complainant checked the line for "a unit owner in a condominium." The line for "occupant of a unit in a common ownership community" was left blank.

The condominium unit that is the subject of the complaint is Unit W207. According to information submitted by Respondent after the hearing, record title to that unit is vested in Wanda L. Boveja, Rajinder K. Boveja *Jr.*, and Meenakshi Boveja, by virtue of a Trustee's Deed dated January 28, 2014 and recorded February 7, 2014 in the Montgomery County land records at Liber 48292, page 403. Respondent claims that Rajinder K. Boveja *Sr.* signed the complaint in this matter and, by implication, prosecuted the case before the Commission.

A response to the motion was filed, but it is not entirely clear who filed the response, because the filer identified himself only as "Rajinder K. Boveja" without indicating whether he is *Sr.* or *Jr.* However, based on the content of the response, it appears that the filer was Rajinder K. Boveja *Sr.* – the Complainant.

The response states that the filer – presumably, Rajinder K. Boveja *Sr.* – "lives in the unit in question" and that for "estate planning purposes, title is in the name of his wife, son and daughter-in-law." The response goes on to state that the filer "has power of attorney to act on their behalf including acting in these proceedings." Two general powers of attorney in favor of Rajinder K. Boveja *Sr.* were attached to the response, one by Rajinder K. Boveja *Jr.* and one by Wanda L. Boveja. There was no similar power by Meenakshi Boveja and there was no indication in the filing whether Wanda is the wife or daughter-in-law.

In short, the response may fairly be read as admitting that the Complainant is Rajinder K. Boveja *Sr.* and that he prosecuted the complaint on behalf of the owners. The Panel so finds. This admission contradicts the allegation in the complaint that the Complainant has standing as "a unit owner in a condominium."

Complainant's status as an occupant of the unit may give him standing to complain, since presumably he is being denied easy access to the balcony that is a limited common element of the unit. See Mont. Cnty. Code § 10B-8(4) ("dispute" defined in part as "any disagreement between 2 or more parties"); Mont. Cnty. Code § 10B-8(8) (defining "parties" to include an "owner" and "an occupant of a dwelling unit in a common ownership community"). However, Complainant did not pursue this action as an occupant. Rather, he pursued this action as an (undisclosed) representative of the owners.

Filing pleadings before the Commission, appearing before a Commission hearing panel (a quasi-judicial agency), offering testimony and documents in evidence, cross-examining witnesses, and arguing to the panel, all in a representative capacity, constitute the practice of law in Maryland. *Turkey Point Property Owners' Ass'n, Inc. v. Anderson.*

See Md. Code Ann., Bus. Occu. & Prof. § 10-206(b)(6) (allowing certain officials of common ownership communities to represent their communities before the Commission). Md. Code Ann., Bus. Occu. & Prof. § 10-206(a) requires in general that, to practice law in this State, an individual must be admitted to the Bar. A power of attorney cannot be used to bypass this requirement. Since Rajinder K. Boveja Sr. is not a member of the Bar, he was not authorized to represent the owners in this case.¹

What effect does this have on the validity of proceedings before the Commission and its hearing panel? Under Maryland law, a legal proceeding in which a party is purportedly represented by a non-attorney is generally a nullity and must be dismissed. *Turkey Point Property Owners' Ass'n, Inc. v. Anderson*. See *First Wholesale Cleaners Inc. v. Donegal Mut. Ins. Co.*, 143 Md. App. 247, 38, 92 A.2d 325, 334 (2002) (an appellate court has discretion in determining whether to dismiss an appeal where the notice of appeal was filed by a non-lawyer on behalf of a corporate appellant, but "such discretion should be exercised cautiously and used sparingly, in light of the longstanding prohibition of lay persons engaging in the unauthorized practice of law").

Accordingly, it is, this 20th day of January, 2016, ORDERED as follows:

1. The Panel's Decision and Order dated December 14, 2015 is hereby VACATED.
2. The Complaint is hereby DISMISSED WITHOUT PREJUDICE.

Panel member Ken Zajic concurs in this Decision and Order on Motion for Reconsideration. Panel member Eugenia Mays participated in the October 29, 2015 hearing, but she thereafter resigned from the Commission and took no part in the December 14 Decision and Order or in this Decision and Order on Motion for Remand.

This is a final Order. Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit Court for Montgomery County, Maryland within thirty days after this Order, pursuant to the Maryland Rules of Procedure governing administrative appeals.



Charles H. Fleischer, Panel Chair

¹ The Panel takes administrative notice of the records of the Client Protection Fund, which fail to list Rajinder K. Boveja as a Maryland attorney. <http://www.courts.state.md.us> (last visited Jan. 14, 2016).