

**IN THE DISTRICT COURT  
HELD AT AUCKLAND**

**CIV-2017-004-2861**

**UNDER** the Harssment Act 1997

**BETWEEN** **JACQUIE TURNER** of Unit 14E, 135 Victoria Street West,  
Auckland, Chairperson

**Applicant**

**AND** **KAZUFUMI IKEDA** of Unit 13H, 135 Victoria Street West,  
Auckland, businessman

**Respondent**

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**AFFIDAVIT OF KAZUFUMI IKEDA**

January 2018

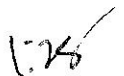
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Next Event Date: Callover on Wednesday 7 February 2018 at 2.15 pm  
Judicial Officer: TBA

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PO Box 60440,  
Titirangi,  
Auckland 0642  
Telephone: 09 320 4616

Solicitor: D A Cowan



K I

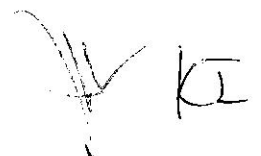
## AFFIDAVIT OF KAZUFUMI IKEDA

I, Kazufumi Ikeda of Auckland, Businessman, swear-

1. My name is Kazufumi Ikeda. I am an owner of unit 13H in 135 Victoria Street West, Auckland, Body Corporate 346799 (**the Body Corporate**). I have been a member of the Body Corporate since its inception in 2005. Annexed and marked **A** is a copy of the Certificate of Title for my unit and the historical search copy.
2. In the last few years, the Body Corporate underwent a High Court litigation claim for over \$40m, and I wished to review the spending by the Body Corporate, the Body Corporate Manager and companies related to Ms Turner (**the Litigation**). Annexed and marked **B** is a copy of an article from the New Zealand Herald reporting on the issues of the Body Corporate.
3. English is not my first language, and I may appear abrasive to other people due to my accent and my way of speaking, but I do not mean harm to others. I can understand English, but I usually need an interpreter during the Body Corporate General Meetings. Annexed and marked **C** are copies of invoices from interpreters I have used during Body Corporate general meetings.

### Background

4. Ms Turner is the Body Corporate Chairperson for the Body Corporate I am part of, Body Corporate 346799. Ms Turner is also a member of the Body Corporate Committee, and is an owner of unit 14E.
5. Ms Turner is also a director and the sole shareholder of Stone Warehouse Limited, a company which provides services to the Body Corporate. Annexed and marked **D** is a copy of the Stone Warehouse Limited's company search. Stone Warehouse Limited provides services to the Body Corporate which include remediation works.



6. The Body Corporate's Manager is Body Corporate Administration Limited (**BCA**).
7. On 17 August 2017, the Body Corporate resolved in an Annual General Meeting (**AGM**) that:
  - (a) The Body Corporate Committee has been delegated all of the powers and duties of the Body Corporate; and
  - (b) That the Body Corporate Chairperson's powers are only part of the duties described in the Unit Titles Regulations.

Annexed and marked **E** is a copy of the 17 August 2017 AGM minutes.

8. Ms Turner was elected as the Body Corporate's Chairperson in this AGM.
9. The Body Corporate has been issuing numerous levies, but I hardly received a response from Ms Turner, or BCA about investigating them until I engaged solicitors.

#### **My history with the Body Corporate**

10. I have requested information from the Body Corporate numerous times, and it was not until I engaged solicitors that I started receiving answers from the Body Corporate.
11. I have, by way of my solicitors, previously written BCA seeking release of financial documents on the following dates:
  - (a) 3 June 2016;
  - (b) 21 June 2016; and
  - (c) 4 July 2016.

Annexed and marked **F** are copies of those letters.

12. These were simple requests from my solicitors for information I was entitled under the Unit Titles Act 2010. I wanted this information

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from the Body Corporate so I could take a closer look and review the Body Corporate's spending in relation to the Litigation.

13. The Body Corporate only released parts of the documents in July 2016 and addressed only part of my concerns about the Body Corporate's levies despite my solicitor's written requests since June 2016.
14. It was not until after a claim in the Tenancy Tribunal was filed and after a Tenancy Tribunal Order on 1 November 2016 that the Body Corporate began to slowly release the further financial documents I asked for, so I could review the Body Corporate's accounts. Annexed and marked **G** is a copy of the Tenancy Tribunal order.
15. It was also through my solicitors and the Tenancy Tribunal that I received a refund from the Body Corporate to settle an amount owed to me by the Body Corporate in relation to levies that should not have been raised against my unit.
16. I have worked with other unit owners to voice their own concerns with the Body Corporate. Annexed and marked **H** are copies of those letters from other unit owners that have asked me to raise their concerns with the Body Corporate through me. The letters have been redacted as parts of them relate to another ongoing matter in the Tenancy Tribunal.
17. I have also included my translator's letter, as it explains why I have felt excluded in Body Corporate General Meetings.
18. I believe the reasons behind Ms Turner's application for a restraining order is to silence my concerns about issues within the Body Corporate.

### **My own issues with the Body Corporate**

*Exclusion*

19. On 14 March 2014, I discovered that Sue Rubanand from BCA was instructed by Ms Turner to hand deliver envelopes with the original to her. Annexed and marked I is a copy of this email correspondence.
20. When I returned to New Zealand in 2015, I was elected as a member of the Body Corporate Committee in the 17 August 2015 AGM. Annexed and marked J is a copy of the 17 August 2015 AGM minutes.
21. Shortly after I returned from Japan, I spoke to Ms Rubanand and asked why she had been hand delivering original copies of Body Corporate invoices to Ms Turner. Ms Rubanand informed me that she was following instructions to do so from Ms Turner and BCA. This again raised my suspicions as it appeared that Ms Turner had been handling invoices without the Body Corporate or the Body Corporate Committee's involvement.
22. I wanted to see the original copies of those invoices, to ensure that everything is in order, and that they are correct. I have asked Ms Turner for these.

*The 17 August 2015 AGM*

23. On 17 August 2015, an AGM was held where I raised the issues of the money being paid to the Body Corporate.
24. I noticed that there were two security guards at the building entrance with Mr Daniel Toresen, a private investigator hired by the Body Corporate Management team who will be addressed further below. Security guards were not a regular feature of Body Corporate General Meetings.
25. During the AGM, I felt that the security guards were hired so I would be silent or were hired to intimidate me.

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26. The Building Manager, Graeme McDonald swore at and yelled at me during the AGM, which upset my interpreter, Rodney Hellyer and another owner. This was not recorded in the minutes.
27. My interpreter, Rodney Hellyer took down his own notes of the meeting and noted that I was sworn at by the Building Manager. Annexed and marked **K** is a copy of Mr Hellyer's notes.

*Body Corporate Committee meetings*

28. I have not been invited to the Committee meetings when relevant. I suspect that I had been excluded from Body Corporate Committee meetings when I was a Body Corporate Committee member. An example of this is the 2 March 2017 committee meeting, where it stated:

It was agreed that the main content of the meeting was remedial related that it was appropriate that only committee members who were plaintiffs were involved in the decision making.

29. As a non-plaintiff owner who was also a Body Corporate Committee member, I should have been invited as a voice of opposition and to take part in discussions surrounding the remedial work of the building. Attached and marked **L** is a copy of the 2 March 2017 Body Corporate Committee meeting minute.
30. I feel as if I had been deliberately excluded by the Body Corporate in attending Committee meetings when I was a Body Corporate Committee member, and I am still unsure if I have been excluded from other meetings.

**Post box notes**

31. I refer to paragraph 8 of Ms Turner's affidavit. I sent a letter to Ms Turner's postbox saying that she is the "cancer" of Victopia, but I deny that this refers to Ms Turner's partner passing.
32. I have no knowledge of Ms Turner hiring bodyguards.

### **Investigation by Daniel Toresen**

33. There has been however a private investigator, Daniel Toresen of The Investigators New Zealand Limited to investigate me. Mr Toresen informed me that he was instructed by the Victoria Body Corporate Administration. Annexed and marked **M** is a copy of the complaint I made to the Police about Mr Toresen.
34. After I found out that the Body Corporate Management team hired a private investigator, I felt unsafe and felt like I was being followed.
35. On 9 February 2016, I submitted a complaint to the Private Security Personnel Licensing Authority. About Mr Toresen Annexed and marked **N** is a copy of the complaint.
36. On 31 May 2016, I attended a meeting for the complaint with my solicitor, Douglas Cowan and my interpreter, Rodney Hellyer.
37. The Department of Internal Affairs Senior Investigators concluded that due to the in-sufficient physical evidence, there would be no action against Mr Toresen as it was a grey area.
38. I still do not appreciate Ms Turner and/or the Body Corporate hiring private investigators to investigate me. This added to my feelings of mistrust against Ms Turner, the Body Corporate Committee, the Building Manager and BCA.

### **Security cameras**

39. I refer to paragraph 10 of Ms Turner's affidavit. I deny that I had a security camera pointed at her unit in 2016.

### **Threats to Ms Turner**

40. I deny that I told Ms Turner to "watch out" in the 17 August 2017 AGM.

### **Emails to Ms Turner**

41. I have written to Ms Turner in her capacity as the Chairperson of the Body Corporate and as a member of the Body Corporate Committee. I have sent those emails because the Body Corporate has, in relation to the Litigation, been raising levies against my unit. The emails also relate to the Body Corporate's Governance and the Body Corporate's Financial issues.
42. I have sent those emails to scrutinise the Body Corporate's spending.
43. I wanted to ensure that the levies have been correctly raised against me and that the Body Corporate's funds have not been misused. I do not want to be charged with levies that should not have been raised against me and I suspect other owners.
44. As mentioned above, I wish to scrutinise and review the Body Corporate's spending especially in light of the Litigation and with Ms Turner's company, Stone Warehouse Limited. Ms Turner has not shown me nor the Committee:
  - (a) the original copies of the invoices I have asked for; and
  - (b) The Body Corporate's trust account balance to the owners.
45. From approximately 2005 to 2017, the Body Corporate voted to opt out of auditing the Body Corporate, which has increased my stress and suspicions about the Body Corporate as I do not think there is any accountability in relation to the Body Corporate's spending.
46. Ms Turner refers to exhibit A as an email dated 14 August 2017 where I refer to her as a thief, but this has not been annexed in her affidavit.
47. I refer to paragraph 11 of Ms Turner's affidavit. When I mention counterfeit or forged documents to Ms Turner, I mean that I have found discrepancies in the Body Corporate's accounts that I

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have calculated and have asked the Body Corporate to formally address these issues. For example, I have asked the Body Corporate to explain:

- (a) Why one of the committee meetings have different contents (records) sent to me and to other owners by BCA and Ms Turner;
  - (b) Why there was a \$16,000 payment to Ms Turner and to the Building Manager's private business accounts;
  - (c) A double payment of \$100,000 to Maynard Marks on one invoice;
  - (d) A transfer of \$300,000 from our operational account to our remedial account; and
  - (e) Questionable proxies.
48. I have raised the issue of the \$16,000 payments to Ms Turner's business account during the 2017 AGM, but Ms Turner failed to answer my question. The minutes record that the allegation was denied, but the minutes are incorrect.
49. The discrepancies I found have still not been formally addressed by the Body Corporate.
50. I have still sought answers from Ms Turner, BCA and the Body Corporate Committee about the number of levies being charged to the Body Corporate.
51. The past four years have been a stressful time for me, as the Body Corporate has been raising levies related to the litigation, and I have been unsure if those levies have been mistakenly raised against my unit when I opted out of the litigation, or if the Body Corporate has been spending money for unnecessary works.
52. The emails referred to in Ms Turner's affidavit were sent to:
- (a) Ms Turner;



- (b) The Body Corporate Committee; and
- (c) BCA.

The emails are related to the administration of the building, and how the Body Corporate's funds have been allocated.

- 53. I have continually sought answers from Ms Turner as the chairperson and from BCA, to no avail.
- 54. The emails I sent to Ms Turner are not related to Ms Turner's personal matters, and the persons involved in the Body Corporate's administration are also copied in to the emails. I am not otherwise interested in other details of Ms Turner's life, other than to ask questions related to her role as the Body Corporate Chairperson and her company, Stone Warehouse Limited.
- 55. I do not interact with Ms Turner outside of the Body Corporate General meetings or Body Corporate Committee meetings, or with matters that do not relate to the Body Corporate's affairs.
- 56. However, my emails or other owners' emails have usually been ignored by Ms Turner or BCA when I ask for answers.

### **Conclusion**

- 57. It is not practicable for a restraining order to be made against me. Ms Turner and I live in the same building and are part of the same Body Corporate. As I have mentioned above, Ms Turner is the Body Corporate Chairperson and a member of the Body Corporate Committee since approximately 2005.
- 58. I attend the Body Corporate's general meetings and having Ms Turner as the Chairperson chair the meetings while I attend them while I have a restraining order is unrealistic.
- 59. From approximately 2005 to 2017, the powers delegated to the Chairperson were to:

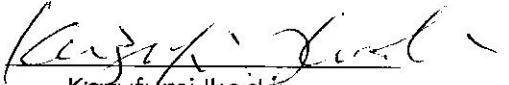
- (a) Chair each general meeting (unless it is agreed at the start of a general meeting that another person will chair that meeting); and
- (b) Notify the body corporate committee of any delegation of a duty or power by the body corporate to the body corporate committee under section 108 of the Act

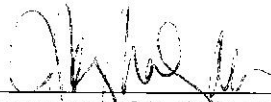
Ms Turner should not be taking on the role of Chairperson if she is not prepared to answer questions from unit owners, especially after the Body Corporate's general meetings.

- 60. I have an issue with a restraining order made against me by a Body Corporate Chairperson. As a unit owner who has who has expressed a minority dissent in terms of the building remediation, it will be unfair if I cannot contact her. There are over 200 owners within the Body Corporate, who are stressed out about the uncertainty of the cost to remediate the building, including me.
- 61. As I have mentioned above, I also assist other unit owners who have concerns with the Body Corporate.
- 62. I have been frustrated with the lack of answers from the Body Corporate Committee, the Body Corporate Chairperson and BCA about the Body Corporate's affairs and the money being spent by the Body Corporate and the Body Corporate Management team.
- 63. Until recently, I have been part of the Body Corporate Committee from approximately 2005 to 2009, and from 2015 to 2016. I have attended Body Corporate general meetings when I am able. If Ms Turner will chair general meetings as the Chairperson, a restraining order will not be practical.
- 64. My concerns about the Body Corporate are not baseless. I want more transparency involved with the Body Corporate's financial management, and I have asked Ms Turner in her capacity as Body Corporate Chairperson, the Body Corporate Committee

and BCA to answer my legitimate queries and concerns and respect that I have concerns about the Body Corporate.

**SWORN** at Auckland )  
this 31 day of January 2018 )  
before me: )

  
Kazufumi Ikeda

  
\_\_\_\_\_  
A Solicitor of the High Court of New Zealand/A Justice of the Peace  
Jhona Malijan  
Deputy Registrar  
District Court  
Auckland