

# You've got to love RMC directors!

**R**esidents Management Company (RMC) directors are royalty and should be treated as such! If the RMC has no directors, the company will be dissolved and any assets will vest in the Crown.

RMC directors are bound by all the laws and regulations that are imposed on all company directors. If you are not prepared to be a director, take a moment to appreciate those who step up and take on what is a thankless, time-consuming, unremunerated role that comes with tremendous responsibilities.

Recently, I was instructed by an RMC director at what is, on paper, at least, a simple freehold of six residential units, owned and managed by the RMC. I met the director when I was invited to a meeting they had arranged with four other tenants. RMC Director is tenant No5, so where was No6? No6 was not invited because they were considered to be a "toxic tenant".

## Think you can live without them? Then think again, argues Shmuli Simon

Toxic tenants are bullies. Regardless of the merits of their original complaint, toxicity sets in when reason and proportionality has been cast aside, in pursuit of what they perceive to be justice, including issuing proceedings against their own company!

Their actions are designed to spread doubt, fear and anger throughout the development. Toxic tenants pile undue pressure on directors. This can cause directors to feel isolated and has mental-health implications.

If the toxic tenant's complaint is valid it must be dealt with, in accordance with the law and the leases. If you are the RMC director, it is your fiduciary duty to put your feelings aside, act in the best interests of the company, isolate the issue and deal appropriately with it.

There are three points to remember:

- You may have bona fide concerns about the management of your development but the law and the leases provide mechanisms to address these. Using the law and the lease to resolve bona fide concerns does not a toxic tenant make.
- It is possible that, inadvertently or otherwise, RMC directors may not manage the development, in strict accordance with the law and the leases. Most often, this takes place because 'that is how we have always done it'. With the exception of fraudulent activity, most, if not all errors can be rectified easily and in such circumstances, honest and transparent communication is critical.

- RMC directors can become toxic but they are not appointed for life. The law provides mechanisms for their removal but it is near-impossible to remove a toxic tenant.

If you are a tenant and your development is infected with a toxic tenant, the only antidote is a united front. A toxic tenant must be starved of attention, so ignore him/her and get behind the RMC director(s). The best strategy is for every tenant to send toxic tenant a one-liner: "I'm giving my unequivocal support to the RMC director(s)" and have nothing else to do with that tenant for as long as the situation prevails. This simple act dilutes the toxicity and provides a much-needed boost to the RMC director(s).

At this meeting, fuelled by the most recent of toxic tenant's emails, the other tenants took turns to attack the director who was sinking ever-lower in his/her chair and looking more miserable by the minute. Even the one who said nothing caused pain by not coming to director's defence. After listening to them regurgitate toxic tenant's poison, I invited each tenant to become a director. In turn, each politely declined. Do you blame them? Would you?

Love your RMC directors! You may think you cannot live with them but without a doubt, you cannot live without them.

*Shmuli Simon is a forensic leasehold solicitor at Setfords*

