

This Grounds of Decision is subject to final editorial corrections approved by this Strata Titles Board and/or redaction in compliance with prevailing government regulations/rules, for publication in LawNet and/or on the Strata Titles Boards' website.

**BUILDING (STRATA MANAGEMENT) ACT
BUILDING MAINTENANCE AND STRATA MANAGEMENT
(STRATA TITLES BOARDS) REGULATIONS 2005**

STB No. 34 & 35 of 2026

In the matter of an application under section 101(1) of the Building (Strata Management) Act in respect of the development known as **Villa Des Flores** (MCST Plan No. 973)

Between

Arthur Wee Swee Yang & Patricia Lee Geok Neo

... Applicants

And

**Cheah Siok Hui & Sean Manus Hendriks – STB34 of 2026
Tan Chee Meng – STB35 of 2026**

... Respondents

GROUND OF DECISION

BUILDING (STRATA MANAGEMENT) ACT
BUILDING MAINTENANCE AND STRATA MANAGEMENT
(STRATA TITLES BOARDS) REGULATIONS 2005

STB No. 34 & 35 of 2026

In the matter of an application under section 101(1) of the Building (Strata Management) Act in respect of the development known as **Villa Des Flores** (MCST Plan No. 973)

Between

Arthur Wee Swee Yang & Patricia Lee Geok Neo

... Applicants

And

Cheah Siok Hui & Sean Manus Hendriks – STB34 of 2026
Tan Chee Meng – STB35 of 2026

... Respondents

18 August 2026

5 October 2026

Coram:	Mr Oommen Mathew	(Deputy President)
	Dr Edward Ti	(Member)
	Mr Chan Kim Mun	(Member)

I. INTRODUCTION

1. This case arose from a dispute as to the use of yard areas directly adjacent to certain townhouse units (the “**Common Property Yards**”) in the development Villa Des Flores at 125 Whitley Road, Singapore 297820 (the “**Development**”).
2. The applicants are Mr Arthur Wee Swee Yang and Ms Patricia Lee Geok Neo, subsidiary proprietors of Unit xxxxx in the Development (collectively the “**Applicants**”).

3. The respondents are Ms Cheah Siok Hui and, Mr Sean Manus Hendriks (the “**1st Respondents**”), and Mr Tan Chee Meng (the “**2nd Respondent**”) (collectively the “**Respondents**”). The 1st Respondents are spouses and the subsidiary proprietors (“**SP**”) of Unit xxxx, while the 2nd Respondent is the subsidiary proprietor of Unit xxxx. These were townhouse units adjacent to the Common Property Yards.

II. BACKGROUND AND OVERVIEW OF PARTIES’ CASES

4. On 17 March 2026, the Applicants filed an application before the Stata Titles Board (the “**STB**”), seeking:
 - a. A declaratory order or declaration that the Respondents are exclusively using or enjoying special privileges in respect of the common property yards pursuant to section 33 of the BSMA.
 - b. An Order that the Respondents are in breach of their duty under Section 63(c) of the BSMA and/or Prescribed Statutory By-Laws;
 - c. An Order that the Respondents are in breach of the statutory duties under sections 60 and/or 61 of the BSMA.
5. The Board adopts the term ‘common property yards’ as described by the Applicants. Both parties agree that the property directly in front of the Respondents’ own unit is common property, which have effectively been used as a yard space by the Respondents.
6. The core of the Applicants’ case is that the Respondents have improperly used the common property yards to the exclusion of others, through the putting up of screens, erection of roofs, installation of plumbing for basins, as well as fixing of racks on the external wall for permanent and exclusive use, preventing others from using the common property. The Applicants also alleged that by participating in the deliberations and decision-making processes of the Management Council, the Respondents obtained a clear advantage for themselves by influencing a resolution preventing the MCST from scrutinising their conduct.¹
7. The Respondents raised objections that the Board has no jurisdiction to grant declaratory relief only, and even if there was such jurisdiction, the Board should not exercise it because there was no practical effect because the Applicants had no intention to use the Common Property Yards, such that the matter was purely academic.² The Respondents also argued that the claims were time-barred under section 6(1) of the Limitation Act 1959, and that estoppel by convention or acquiescence applied.³ On the merits,

¹ Pg 6–7 of the Applicants’ Opening Statement.

² Pg 14–17 of the Respondent’s Opening Statement.

³ Pg 17–18 of the Respondents’ Opening Statement.

the Respondents argued that the relevant installations were either present at the time of purchase, installed with the approval of the MCST, or were moveable and did not prevent access of the Common Property Yards.⁴ The Respondents also submitted that the fact that they were required to pay for the utilities in the Common Property Yards also suggests that the original design of the facilities contemplated priority or greater use by the units adjoining the Common Property Yards.⁵

8. On 22 May 2026, the Applicants and Respondents (the “**Parties**”) attended a mediation session. As the dispute was unresolved, an arbitration hearing was conducted on 18 August 2026.

PRELIMINARY ISSUE – BOARD’S JURISDICTION

9. While the Board agrees with the Respondents that the Board’s powers are limited and wholly derived under the BSMA, the Board does not agree that this necessarily precludes the Board from having the capacity to grant the orders the Applicants seek.
10. Section 63(c) of the BSMA states that an SP must not ‘use or enjoy the common property in such a manner or for such a purpose as to interfere unreasonably with the use or enjoyment of the common property by the occupier of any other lot...’
11. Importantly, the title⁶ of section 63 reads ‘Duties of subsidiary proprietors and other occupiers of lots.’ The reference to ‘duties’ is material because section 101(1)(c) of the BSMA explicitly provides that one of the orders a Board may issue is in relation to the ‘failure to exercise or perform... a duty imposed by this Act relating to the subdivided building or limited common property...’
12. The Board’s views in this respect are further bolstered by section 117(2) of the BSMA, which allows the Board to order among others, an SP, from refraining to do ‘a specified act with respect to a subdivided building or the common property or limited common property, as the case may be.’
13. Section 117(2) was not, tellingly, addressed by the Respondents. Given that the Board is clearly empowered to order an SP to refrain from doing something on common property, it would be highly incongruous for the Board to concurrently hold that it does not have the power to simply declare that a breach of duty exists, given that identifying such a breach is a necessary precursor to the Board *ordering* a party to refrain from doing something.

⁴ Pg 3–4 of the Respondents’ Opening Statement.

⁵ Pg 8–9 of the Respondents’ Opening Statement.

⁶ Section 6 of the Interpretation Act 1965 states: When an Act is divided into Parts, Chapters, titles or other subdivisions, the fact and particulars of the division are, with or without express mention thereof in the Act, to be taken notice of in all courts and for all purposes.

14. Accordingly, while the Board may not have *general* declaratory powers,⁷ insofar that powers statutorily provide for a Board to order a party to do or not do something, the Board is of the view that findings of fact which are necessarily a precursor to the logic of any Board's decision (ordering a party to do something) must surely be within the Board's capacity to so grant.
15. Two other points were also considered by the Board, both points militating against the Respondents' submissions that the Board is not empowered to grant the orders sought. First, by seeking a declaratory remedy, the Applicants are simply seeking a *subset* of the Board's powers to actually order specific performance regarding the common property in question. Second, adopting the Respondents' highly technical submissions would simply mean that the Applicants can refile the case seeking an order to restrain the Respondents not to infringe the development's common property.
16. Finally, the Respondents also submitted that even if the Board has such discretion, this is not an appropriate case to exercise it. The factual matrix of the present case is 'not purely hypothetical or relates to circumstances that never existed.'⁸ The use of the common property in question is a longstanding, daily occurrence and is a far cry from being hypothetical or fanciful. Further, the Board attaches no weight to the fact (even if accepted) that the Applicants have never, nor do they intend to use the yards in question. In all common law jurisdictions, property rights are strictly protected, and the Applicants as equitable tenants-in-common of the common property certainly have a sufficiently strong interest to seek the orders sought.

LIMITATION AND/OR ESTOPPEL

17. The Board has previously made its views pertaining to limitation and/or estoppel known, most recently in *MCST 2909 v Tan Siew Kuan* ([2025] SGSTB 1. In a nutshell, the Board is of the view that these procedural defenses may apply to STB proceedings. In this regard, the Board notes that both parties agree this to be a correct principle of law (see [34] of Applicants' closing submissions).
18. Limitation must be specifically pleaded, with the burden of proof squarely on the party seeking to rely on it.
19. In this case, the Respondents submit that the limitation defense applies simply because both Respondents have lived in the development for more than 6 years and should thus be time-barred (see [81] of Respondents' closing submissions). This is erroneous because the 6-year period must be computed from the end of 3-year exclusive use by-law which was passed on 14 July 2018 at the development's 33rd AGM. As the exclusive use by-law operates as a statutory contract between the MC

⁷ See *Narang Ravinder Pal v MCST 3019* [2012] SGSTB 3.

⁸ *Karahas Bodas Co LLV v Pertamina Energy Trading Ltd* [2006] 1 SLR(R) 112, [50].

and the Respondents, they were contractually entitled to use the common property exclusively until 13 July 2021.

20. On this view, the Board is of the opinion that at the *earliest*, limitation may only operate to bar actions taken on or after 13 July 2027. Indeed, a case may even be made that any breaches committed by the Respondents are *continual* breaches. If so, limitation would only run 6 years from each breach. Regardless, the Board holds that the limitation defense would not apply to aid the Respondents in this case.

BOARD'S DECISION

I. ISSUES RELATING TO COMMON PROPERTY

21. As there is no factual dispute regarding the legal status of the yards (being common property), the Board's primary task is to decide whether the Respondents have been exclusively using or enjoying special privileges to the exclusion of other SPs, in respect of the yards. This is addressed first because the conclusions relating to the common property determine how the orders sought by the Applicants may be answered.
22. There are three aspects to this query – (i) the fact that certain installations were made on common property (such as a roof, laundry rack, utility cabinet and basin) and were used by the Respondents; (ii) the ongoing use of the yards through the placement of items resting on their own weight which belong to the Respondents', and (iii) the placement of gate-like structures/screens in front of the common property (in relation to STB 34/2026).

Installations made on common property

23. Implicit in the Applicants' submission relating to point (i) is that the items installed on the common property are an infringement to the common property. The Board disagrees with this assumption, holding instead that unless statutorily excluded,⁹ any item installed on the common property (which does not merely rest on their own weight) is *prima facie* part of the common property due to the doctrine of *superficies solo cedit* (*Holland v Hodgson* (1872) LR 7 CP 328).
24. While there is no judicial authority in Singapore which explicitly applies the test of fixtures and fittings to items installed on common property, the Board notes that British Columbia's Civil Resolution Tribunal, in *Young v The Owners, Strata Plan 111* [2022] BCCRT 793, applied the common law fixtures

⁹ Section 29(1)(c) BSMA 2004 states: "The installation of any fixed EV charger in the common property does not in itself make the fixed EV charger part of the common property." The Board notes this is the only provision excluding the *superficies solo cedit* doctrine.

doctrine to determine that a chimney and sundeck were part of the development's common property such that the strata corporation was responsible for maintaining and repairing them under section 72 of the British Columbia Strata Property Act (at [35]–[40]). The Tribunal considered that the items were affixed to the common property and required significant 'unscrewing' to remove (at [39]). Similarly in the present case, the high degree of annexation of the erstwhile fittings have resulted in them becoming fixtures, which are now part and parcel of the common property.

25. The Board therefore does not agree that the mere use of these now installed items can be an infringement of the common property yards. There is no evidence to indicate that the Respondents' use of these fixtures seeks to exclude other SPs from using them.
26. In this respect, the letter of indemnity referred to in the Respondents' closing submissions ([58] to [62]) also supports the view that no action should be taken, nor any breach recognised against the Respondents merely because they happen to be SPs of units which were adjacent to common property which has been altered. The indemnity letter is recognition that the MCST does not want to be saddled with the financial cost of any alterations made to the common property yard outside the ground floor units. The fact remains that the items installed in the common property are now part of the common property and all SPs have a proportionate share in them. In this regard, the Board agrees with the Respondents ([69]) of their closing submissions).
27. While the Respondent in STB 35/2026 admitted that he was the party who installed the laundry / wash basin fixtures on the common property, the MCST, being the appropriate party to vindicate the rights of the development in relation to alteration of the common property,¹⁰ is not before the Board. All other installations were not done either by the Respondents in STB 34/2026 or STB 35/2026.

Ongoing use of the yards through the placement of items resting on their own weight ('moveable property')

28. There is no general test for determining what constitutes "exclusive use and enjoyment" and the inquiry is contextual and factual. The placement of chattels on common property does not necessarily mean that there is exclusive use. The principles surrounding this inquiry have been explored in *Soo Hoo Khoon Peng v Management Corporation Strata Title Plan No 2906* [2024] 4 SLR 824 ("*Soo Hoo Khoon Peng*"), where the court explained (at [12]):

In my view, the approach to assessing how common property may be "used" or "enjoyed" (such that exclusion of such use and enjoyment by other subsidiary proprietors gives rise to the exclusivity contemplated by s 33(1)(c)(i) of the BMSMA) must hinge on the property's location within the

¹⁰ By-law 5 (prescribed by-laws), 2nd Sch, *Building Maintenance (Strata Management) Regulations 2005*, read with section 429(2)(b), Building (Strata Management) Act 2004.

development, as well as the role(s) that the property plays given that location. [emphasis added]

29. Thus, the issue of whether there is ‘exclusive use or enjoyment’ of common property was regarded as “an issue which is factual in nature” (*Soo Hoo Khoon Peng* at [16]). The Board has also previously noted that whether there is exclusive use of common property is a question of fact (*Abmad bin Ibrahim v The MCST Plan No 4131* [2018] SGSTB 8 at [28]). For common property, the *general* inquiry is whether “such use prevents other subsidiary proprietors from accessing a similar resource” (at [28]).
30. A contextual inquiry is also consistent with the plain meaning of “use” and “enjoy” under section 33 of the BSMA, which should be adopted (*Sit Kwong Lam v. MCST 2645* [2018] SGCA 14 at [58]). “Use” is to “take, hold or deploy (something) as a means of accomplishing or achieving something”, whereas “enjoy” means “to get pleasure from something” (*ibid*). Accordingly, whether something could be “enjoyed”, for example, depends on the context, where an installation affecting the appearance of a building could be “enjoyed” by its mere presence, without requiring physical access (*Sit Kwong Lam* at [59]).
31. In *MCST 3436 v Tay Beng Huat* [2019] SGDC 208, the MCST opposed the placement of a cabinet meant for shoes which was placed in the common corridor beside the front door of the respondents’ unit. It stood with its long side touching the wall but was not in any way attached or affixed to the wall. The court held that there was no “exclusive” use or “special privilege”. The court held that taking the MCST’s argument to its logical conclusion would mean that even one flowerpot in the common corridor could constitute “exclusive use”. Applying section 33 to such triviality would “render unnecessary and otiose the fine balance between the potentially competing rights of subsidiary proprietors in respect of the common property that the by-laws in the Second Schedule endeavour to achieve” (at [12]). Instead, the court noted that it was the ability for SPs (and other users) to walk through the common corridor which constituted its “use and enjoyment.” Clearly, while an excessive number of items placed on common property could prevent other SPs from walking through the common property (and thus constitute a breach), the principle requires the Board to make a reasonable, context-driven determination.
32. Based on the evidence presented during the arbitration hearing, the Board is of the view that neither the Respondents in STB 34/2026 nor STB 35/2026 have exclusively used the common property merely by placing their movable property. Based on the images sighted (see below), and where the entrance to the common property is not boarded up, there is sufficient space for other SPs to walk through this area.



Unit XX-XX



Unit XX-XX

33. Accordingly, the Board is of the view that the placement of the items resting on their own weight in the common yard does not constitute an exclusive use of common property.

Placement of gate-like structures in front of the common property (STB 34/2026)

34. While the Board agrees that neither the use of the installations on common property, nor the placement of items on the common property amounts to exclusive use per se, the Board is of the view that ‘bordering up’ the entrance of the common property yard by the Respondents in STB 34/2026 is an improper use of the common property which signals exclusive dominion of the common property. Indeed, this is a clear breach of prescribed by-law 3: ‘A subsidiary proprietor or an occupier of a lot shall not obstruct the lawful use of the common property by any person, except on a temporary and non-recurring basis.’ On the evidence, the Respondents in STB 34/2026 have obstructed the common property, beyond that of a ‘temporary and non-recurring basis’ (see below para [37]).
35. The liberty of all SPs to enter all parts of the common property freely (including that of the yards) must be freely exercisable and unhampered. In this regard, the placement of the screens in front of xxxx seeks to deter other SPs from exercising their rights of movement within the development’s common property.
36. Specifically, under section 63(c) of the BSMA, this amounts to the Respondents in STB 34/2026 ‘interfering unreasonably with the use or enjoyment of the common property’ by other SPs.

37. Images for XX-XX (screens).



II. ISSUES RELATING TO STATUTORY DUTIES

38. The Applicants refers to sections 60, 61 and 63(c) of the BSMA in its second and third prayers.
39. Section 60 pertains to ‘Disclosure of interests in contracts, property, offices, etc,’ with subsection (10) providing penal sanctions for any breach. Section 61 pertains to ‘Duty and liability of council members and officer’ with subsection (3)(a) providing that the member/officer in question be civilly liable to the MCST while subsection (3)(b) also providing penal sanctions for any breach. Like section 60, the Board is not empowered to grant an order under section 61. Breaches of either of these sections attract criminal sanctions.
40. Unlike sections 60 and 61, section 63 does not contain a subsection providing penal sanctions, nor for the breaching SP to be civilly liable to the MCST (‘Duties of subsidiary proprietors and other occupiers of lots’). Among other things, section 63(c) states that an SP must not ‘use or enjoy the common property in such a manner or for such a purpose as to interfere unreasonably with the use or enjoyment of the common property by the occupier of any other lot (whether that person is a subsidiary proprietor or not) or by any other person entitled to the use and enjoyment of the common property.’
41. The Board is of the view that its own jurisdiction in relation to any breaches committed by an SP described in the BSMA must map onto Part 6 (Division 2) of the BSMA (‘Types of Orders by Board’). In this regard, section 101(1)(c) empowers a Board on the application of an SP (among others) to make

an order in relation to the exercise or performance of, or the failure to exercise or perform, a power, duty or function conferred or imposed by this Act or the by-laws relating to the subdivided building or limited common property, as the case may be...’

42. Accordingly, the Board is of the view that section 101(1)(c) allows it to deal with any breaches of duties committed by SPs under section 63(c), though this is not to include any breaches of by-laws. While the word ‘by-laws’ is mentioned in section 101(1)(c), the Board declines to exercise any jurisdiction in relation to any breach of a by-law where the MC is not before the Board. Section 29(2)(b) of the BSMA specifically obligates the MC to enforce by-laws. Indeed, as the High Court noted in *Prem Shamdasani v MCST 920*,¹¹ the by-laws of a management corporation constitute a binding statutory contract *between* the management corporation and the subsidiary proprietors. Where there is a breach of a by-law and the MCST refuses to act, the proper recourse is for an SP to act against the MCST for failing to enforce the by-law.

43. Having said that, the Board may take reference from the prescribed by-laws to determine the scope of an SP’s duties under section 63(c). In this regard, the Board noted (at [35] above) that obstructing the lawful use of common property is a breach of prescribed bylaw 3 and is a clear example of ‘interfering unreasonably with the use or enjoyment of the common property.’

CONCLUSIONS

44. In consideration of the Board’s findings above, the Board dismisses all prayers against the Respondent in relation to STB 35/2026.

45. In relation to the Respondents in STB 34/2026, the Board dismisses all prayers save one. In this regard, the Board grants a declaratory order under section 101(1)(c) that the Respondents in STB 34/2026 are in breach of section 63(c) for interfering unreasonably with the use or enjoyment of common property by installing the gate-like screens in front of the common property yard.

46. In respect of STB 34 of 2026, the Respondents are to pay the Applicants total costs of \$4500.

47. In respect of STB 35 of 2026, the Applicants are to pay the Respondents total costs of \$5500.

¹¹ [2022] SGHC 280 at [78].

Dated this 5th day of October 2026

MR OOMMEN MATHEW
Deputy President

DR EDWARD TI
Member

MR CHAN KIM MUN
Member

Francis Chan & Alexius Chew (M/s Titanium Law Chambers) for the Applicants.
Vicki Loh & Elsie Lim (M/s Characterist LLC) for the Respondents.
Daniel Sum Rui Kang as young amicus curiae (YAC).