

2018 WL 2214291

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Massachusetts Land Court,  
DEPARTMENT OF THE TRIAL COURT.  
MIDDLESEX COUNTY.

Habib AMINIPOUR and Shahin Aminipour  
Plaintiffs

v.

Hugo CAMARGO and Elena Camargo; and Donald  
Misquitta and Miguel Camargo, Trustees of the  
179 Belmont Street **Condominium** Trust  
Defendants

14 MISC. 488846 (JCC)

May 14, 2018

### JUDGMENT

By the Court (Cutler, C.J.)

\*1 This case involves a dispute among **condominium** owners over parking rights. The Plaintiffs own Unit 1 in a three-unit residential **condominium** in Belmont, Massachusetts, known as the 179 Belmont Street **Condominium** (the "**Condominium**"). Plaintiffs filed their Complaint on December 16, 2013, seeking a declaration that they have rights to the exclusive use of two and one-half parking spaces within the **Condominium's** common area.<sup>1</sup> Defendants Hugo Camargo and Elena Camargo own Unit 2 in the **Condominium**. Defendants Donald Misquitta and Miguel Camargo are named as Trustees of the **Condominium**. Defendants contend that, in accordance with the original Master Deed and the unit deeds, each unit has appurtenant to it the exclusive right to use one parking space, and that none of the recorded instruments relied upon by the Plaintiffs effectively altered the parking space rights described in the Master Deed and granted in the original unit deeds.

On May 27, 2016, Defendant Misquitta moved for summary judgment on Plaintiffs' Amended Complaint, asking the court to declare that each unit in the

**Condominium** is entitled to a single parking space, and to instruct the Trustees to designate and assign the three parking spaces in accordance with the Master Deed. Plaintiffs opposed Misquitta's motion, and cross-moved for summary judgment, asking the court to declare that two and one-half parking spaces have been validly assigned to Unit 1. On September 28, 2016, the court heard the cross-motions for summary judgment, and took them under advisement.

On May 14, 2018, the court issued its Decision Granting Defendants' Motion for Summary Judgment and Denying Plaintiffs' Cross-Motion for Summary Judgment. In accordance with that Decision, it is hereby

**ORDERED, ADJUDGED, and DECLARED** that the February 27, 1987 instrument entitled "Parking Designation"—purporting to assign the exclusive right to use two parking spaces in the **Condominium** to Unit 1, and the exclusive right to use one parking space in the **Condominium** to be shared by Units 2 and 3—is of no force or effect as a **Condominium** Trust designation of parking spaces pursuant to Section 4.E of the Master Deed; and it is further,

**ORDERED, ADJUDGED, and DECLARED** that the February 27, 1987 instrument entitled "Parking Designation"—purporting to assign the exclusive right to use two parking spaces in the **Condominium** to Unit 1, and the exclusive right to use one parking space in the **Condominium** to be shared by Units 2 and 3—is of no force or effect as an amendment to the Master Deed, because it was not recorded within six months of its execution in conformance with Section 10, paragraph (a) of the Master Deed; and it is further,

**ORDERED, ADJUDGED, and DECLARED** that the March 30, 2000 instrument entitled "Amendment of Master Deed" which attempted to amend Section 4.E of the Master Deed to permit Unit Owners to unilaterally transfer their parking rights to other Unit Owners, was an impermissible delegation of the **Condominium** Trust's powers under G.L. c. 183A and, therefore, void *ab initio*; and it is further,

\*2 **ORDERED, ADJUDGED, and DECLARED** that the March 30, 2000 instrument entitled "Parking Space Assignment"—wherein Trapani purported to further assign Unit 3's exclusive rights to use a parking space to Plaintiffs as owners of Unit 1—is of no force or effect because it was not a permissible action under either the Master Deed or the **condominium** enabling statute; and it is further,

**ORDERED, ADJUDGED, and DECLARED** that because no parking spaces have ever been designated and assigned to any of the Units, each Unit in the **Condominium** still has only the “the right to the exclusive use of one parking space” to be assigned by written designation of the **Condominium** Trust, as provided for in the First Unit Deeds and in Section 4.E of the Master Deed, pursuant to which, *one* parking space is to be assigned to each Unit by written designation of the Trustees, “and thereafter the right to use said parking

space shall be appurtenant to the Unit.”

**SO ORDERED.**

**All Citations**

Not Reported in N.E.3d, 2018 WL 2214291

Footnotes

- <sup>1</sup> Plaintiffs filed an Amended Complaint on April 22, 2015, which substituted party defendants but did not alter their original claims.