

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

BOYANG SONG and :
TRAVIS MCCUNE :
Plaintiffs, :

v. :

C.A. No. PC-2023-02781

EVAN LEMOINE, in his capacity as :
former President of The 903 :
Condominium Owner’s Association, :
Inc., and STEPHEN RODIO, in his :
capacity as former Secretary of The 903 :
Condominium Owner’s Association, :
Inc. and MATTHEW SIMKO in his :
capacity as President of The 903 :
Condominium Owner’s Association, :
Inc., and THE 903 CONDOMINIUM :
OWNER’S ASSOCIATION, INC., :
Defendants. :

DECISION

STERN, J. Before this Court a Renewed Motion for Mandatory Injunction following remand from the Rhode Island Supreme Court filed by Plaintiffs Boyang Song (Mr. Song) and Travis McCune (Mr. McCune).

I

Facts and Travel

Mr. Song and Mr. McCune are owners of a unit in The 903 Condominium Complex (the Complex). *Song v. Lemoine*, 334 A.3d 958, 959–60 (R.I. 2025). In response to a dispute over how to best allocate gas costs among all unit owners, Plaintiffs filed a petition with the association’s board to “increase [b]oard to [o]wner transparency on the decisions, process, and plans on the gas metering and billing that has resulted in high estimates for gas bills.” *Id.* Mr.

Lemoine, then President of the owner's association, declined to do so and instead suggested that Plaintiffs raise their concerns at the next public meeting. *Id.* at 959-960. Plaintiffs were unsatisfied with this response. *Id.* Along with twenty-five other unit owners, Plaintiffs submitted a second petition requesting a special meeting and listing four matters they wanted the association board to act upon. *Id.* at 960. This petition complied with the association board's signature requirements. *Id.* The petition listed the matters as follows:

FIRST MOTION: To prohibit the Executive Board from using any formula for assessing gas expense that conflicts with the declaration of condominium, as amended, or with the Rhode Island Condominium Act.

SECOND MOTION: To direct the Executive Board to obtain and provide every unit owner with cost estimates for repairing and/or replacing the gas metering and submetering infrastructure of the condominium within 60 days after the Special Meeting.

THIRD MOTION: To direct the Executive Board to call a second special meeting of the Association not less than 30 days or more than [sic] 60 days after the Executive Board provides cost estimates for repairing and/or replacing the gas metering and submetering infrastructure of the condominium at which the Association may vote whether to perform the necessary repairs.

FOURTH MOTION: To adjourn the Special Meeting.” *Id.* at 960–61.

The association board reviewed the petition and determined it was improperly narrow. *Id.* at 961. Rather than sending out Plaintiffs' notice as written, Mr. Lemoine sent out a much shorter notice that stated

Please be advised that in accordance with Article [2], Section 5 of the [b]ylaws, a special meeting of the [a]ssociation will be held for the purpose of discussing and entertaining motions relating to the methods by which utilities that are billed to the association in bulk from providers are apportioned and billed to individual units. *Id.*

Plaintiffs were displeased with this notice, and filed a complaint in Superior Court against Mr. Lemoine and the association board's secretary Mr. Rodio. *Id.* The Verified Complaint included two counts. The first was a request for injunctive relief under G.L. 1956 § 34-36.1-4.17. *Id.* The second was a request for punitive damages and attorneys' fees under G.L. 1956 § 34-36.1-4.17. *Id.* Prior to trial, this Court granted Defendants' Motion to Sever Count II and Count I proceeded to trial. *Id.* At trial, this Court issued a decision finding that the notice sent out by the association board was insufficient. *Id.* at 961-62. This Court also found that Plaintiffs' proposed notice failed to set forth actionable business and rejected Plaintiffs' "attempt to 'micromanage' the board." *Id.* at 962. Accordingly, this Court found for Defendants on Count I. *Id.*

Plaintiffs filed a timely appeal. *Id.* The Rhode Island Supreme Court noted that the Rhode Island Condominium Act "contains a strong consumer protection flavor." *Id.* at 963. The Supreme Court ultimately reversed this Court's decision, finding that "[r]efusing to issue the notice of the special meeting, which comports with the bylaws and the act, runs afoul of that intent. These unit owners were entitled to the meeting they sought." *Id.* at 964. The Supreme Court also concluded that "proceedings on count II are warranted as a result of this decision." *Id.* at 965.

On September 1, 2025, Defendants filed a Motion for Partial Summary Judgment on Count II. (Docket.) Plaintiffs filed their objection on November 16, 2025. *Id.*

II

Analysis

In making their motion, Plaintiffs asserts that the Supreme Court ruled that Count I, which requested this Court provide Plaintiffs with an injunction forcing Defendants to send out

Plaintiff's Notice of Meeting, must be granted. (Pls.' Renewed Mot. for Mandatory Inj. Following Remand from Supreme Court (Pls.'s Mot.) 6-7.) Accordingly, Plaintiff is now requesting that this Court effectuate the Supreme Court's orders. *Id.* at 7.

In their objection, Defendants claim that the Supreme Court only remanded Count II for consideration. (Obj. of Defs. To Pl.'s Renewed Mot. for Mandatory Inj. Following Remand from Supreme Court (Defs.' Mot.) 3.) Accordingly, all other parts of the previous judgment remain valid and enforceable. *Id.* They also claim that the underlying issue is now moot as a 2025 amendment to the Rhode Island Condominium Act (RICA) means the board is no longer required to call special meetings for this subject matter. *Id.* at 4. In a related fashion, they also argue that there is no clear procedure for how this vote would take place as such votes are banned in the newest version of the RICA. (Dec. 10, 2025 Hr.g' Tr. 13:19-14:22.) Similarly, they also argue the issue is moot as Plaintiffs' proposal has been adopted. *Id.* at 5. Finally, Defendants claim that Plaintiffs have failed to allege sufficient facts to warrant injunctive relief. *Id.* at 5.

This Court will grant Plaintiff's motion. Granted, Defendant is correct that the Supreme Court did not explicitly instruct this Court to command the Defendants to send out Plaintiffs' notice. But the Court clearly wrote that "[t]hese unit owners were entitled to the meeting they sought." *Song*, 334 A.3d at 964. Accordingly, this Court is satisfied that the Supreme Court intended for Plaintiff to have their desired notices sent out and meeting held.

Second, this Court is also not persuaded that mootness applies in this case. The current text of RICA is irrelevant to the current dispute. "Only when the Legislature, by express language or necessary implication, manifests its intent that a statute be given retroactive effect, will the courts apply it retrospectively[.]" *State v. Briggs*, 58 A.3d 164, 168 (R.I. 2013) (citing *In re Alicia S.*, 763 A.2d 643, 646-47 (R.I. 2007)). There is no allegation by Defendants that is the

case here. Moreover, whether this case has been rendered moot by the Defendants' supposed implementation of the Plaintiffs' proposal can only be determined by further development of the record.

Third, and finally, this Court has no concerns about whether Plaintiffs have sufficient support for their motion. As discussed *supra*, the Supreme Court has already determined that Plaintiffs are entitled to this remedy. *Song*, 334 A.3d at 964. This Court will not second guess their judgment.

This Court will also address Defendants' claim that there is no procedure for how a vote would be carried out. At the December 10, 2025 hearing, Defendants claimed that the subsequent changes to RICA have effectively banned votes on this topic. Accordingly, there is no applicable guidance in the condominium bylaws to govern such a meeting. (Dec. 10, 2025 Hr.g' Tr. 13:19-14:22.) However, this Court disagrees. Plaintiff cites to Article 2, § 2 of the bylaws, which states that residents may vote on only those matters allowed by RICA. However, the Rhode Island Supreme Court has said that there should be a vote on the present matter. Accordingly, for all intents and purposes, this is a votable matter under Article 2, § 2.

It is fairly easy to deduce the rest of the voting procedure with this standard in mind. Plaintiffs' petition would seem to fall squarely under Article II, § 5, which states that a special meeting must be called if the President is served with a petition signed by at least twenty residents. Article II, § 6 establishes that a quorum of 60% of all unit owners is required for "transactions of any business of the annual meeting or any other meetings of the Association." Article II, § 9 establishes that a majority vote is required to pass any measure. Article II, § 10 establishes that Robert's Rules of Order shall govern the conduct of all meetings. The only aspect of the special meeting that is not clearly established by the rules is the time and place of

the meeting. Article II, § 4 establishes only that the meetings shall be held at the office of the Association or “at such other suitable place convenient to the Unit Owners as may be designated by the Executive Board.” However, both Plaintiffs and Defendants have indicated that they are willing to come together to find a mutually agreeable time and place for such a meeting. (Dec. 10, 2025 Hr.g’ Tr. 12:1-9, 13:1-13.) Therefore, this Court is unpersuaded that there is no guidance on how such a meeting would be governed. Granted, this is no guarantee that Plaintiffs’ petition will receive a majority of votes or even a quorum. However, as the Rhode Island Supreme Court decided, Plaintiffs are entitled to at least the opportunity to have a vote.

III

Conclusion

Plaintiffs’ Motion for Mandatory Injunction is **GRANTED**. Counsel shall submit the appropriate order for entry.