

# In the Court of Appeal of Alberta

**Citation: Kong v Condominium Corporation No 0313339, 2026 ABCA 90**

**Date:** 20260320  
**Docket:** 2501-0187AC  
**Registry:** Calgary

**Between:**

**Zhao Xia Kong**

Applicant

- and -

**Condominium Corporation No. 0313339**

Respondent

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**Reasons for Decision of  
The Honourable Justice April Grosse**

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Application for Permission to Appeal

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**Reasons for Decision of  
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**I. Introduction**

[1] By way of an application filed November 5, 2025, the applicant requests permission to appeal my decision dated October 6, 2025 to a panel of this Court pursuant to Rule 14.5(1)(a) of the *Alberta Rules of Court*. The October 6 decision (communicated by letter of the Case Management Officer) in turn arose out of the applicant’s request for corrections to “certain factual and contextual elements” in a decision I issued on August 7, 2025, denying the applicant’s application for the appointment of legal counsel: *Kong v Condominium Corporation No 0313339*, 2025 ABCA 273. In the meantime, I granted the applicant’s application for permission to extend time to appeal in part: *Kong v Condominium Corporation No 0313339*, 2026 ABCA 3.

[2] When considering whether to grant permission to appeal the decision of a single judge of this Court to a panel, the overarching question is whether it is in the interests of justice to have a panel review the decision: *SRG Takamiya Co Ltd v 58376 Alberta Ltd*, 2019 ABCA 301 at paras 5-8. Permission may be granted where the applicant establishes that there is a question of general importance, a possible error of law, an unreasonable exercise of discretion or a misapprehension of important facts: *SRG Takamiya* at para 5.

**II. Analysis**

[3] I am not satisfied that the applicant has identified an issue or possible error in the October 6 decision that warrants review by a panel.

[4] The applicant argues that I erred in applying Rule 9.12 instead of Rule 9.13 to address her request for correction, initiated by correspondence filed August 7, 2025. First, I note that the correspondence included the following subject line: “Re: Correction Request under Rule 9.12 of the Alberta Rules of Court”. Further, even if I were to accept the applicant’s submission that she erred in referring to Rule 9.12 and that I should have recognized her error and applied Rule 9.13 of my own motion, there is no viable appeal to a panel on this point. Rule 9.13 could not apply because I am advised by the Case Management Officer that the order arising out of the August 7 decision had been entered before the applicant’s correspondence requesting correction was filed. In any event, I am satisfied that the application of Rule 9.13 would have led to the same end result.

[5] The applicant also takes issue with the costs assessed against her in the October 6, 2025 decision. One of the underlying premises of the applicant’s argument on costs is incorrect. A party cannot insulate themselves from a costs award by seeking specific relief pursuant to the *Rules of Court* by letter, and then, when unsuccessful, argue that the court improperly treated the letter as a formal application. In this case, the applicant knew the Court offered the respondent

Condominium Corporation an opportunity to respond and she did not withdraw the request for relief. Further, contrary to the applicant's submissions, the potential for a costs award existed regardless of whether the request for relief was addressed pursuant to Rule 9.12 or Rule 9.13.

[6] With respect to the applicant's complaint that the costs decision was unreasonable and inconsistent with other costs dispositions in this matter, costs are discretionary and must be assessed in context. The costs direction in each application that I have handled in this matter has been explained by reference to the facts of that application. I understand the applicant disagrees with the costs direction set out in the October 6 decision, but I am not satisfied that she has identified any potential unreasonable exercise of discretion or other issue that merits review by a panel.

[7] Another plank in the application for permission to appeal to a panel is an alleged "Misapprehension of Important Facts and Continuing Procedural Unfairness". The applicant submits, as she did in her original request for correction, that I made unsupported findings in the August 7 decision. She argues that my findings contradicted her memorandum of argument filed in support of the application to appoint counsel. I have reviewed the alleged factual errors again and I am not convinced that the August 7 decision contained material factual errors or that the applicant has identified an issue for appeal to a panel in this regard.

### **III. Disposition**

[8] The application for permission to appeal the October 6 decision to a panel filed November 5, 2025 is dismissed. Upon request from the Court, the respondent Condominium Corporation submitted a two-paragraph letter advising that it opposes the application for permission to appeal to a panel. The respondent relied on previously filed submissions and did not request costs. In the circumstances, each party will bear their own costs of the application for permission to appeal to a panel.

[9] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order.

Application heard by written submissions filed November 5, 2025, December 10, 2025 and December 15, 2025

Reasons filed at Calgary, Alberta  
this 20th day of March, 2026

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Grosse J.A.

**Appearances:**

Applicant Z. X. Kong (written submissions only)

J.R.R. Gilbert (written submissions only)  
for the Respondent