



# Civil Resolution Tribunal

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Type: Societies and Cooperatives

Civil Resolution Tribunal

Indexed as: *Anderson v. Riverside RV Park Society*, 2020 BCCRT 1128

B E T W E E N :

JODI-ANNE ANDERSON

**APPLICANT**

A N D :

RIVERSIDE RV PARK SOCIETY

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Sherelle Goodwin

## INTRODUCTION

1. This dispute is about the society's financial records.
2. The respondent, Riverside RV Park Society (society), is a society incorporated under the *Societies Act* (SA). The applicant, Jodi-Anne Anderson, is a member of the society and a former Board member. Mrs. Anderson raises concerns about

errors and inaccuracies in the society's financial records and financial decisions dating back to 2012 and says the society has not completed its financial statements "in full" since at least November 2019. Mrs. Anderson asks the CRT to order the society to complete its financial records "in full" and order the society to have its financial records audited from 2012 forward.

3. The society says its financial statements have been completed and posted in a timely manner. It denies the need for an audit and says there is no money missing or unaccounted for. The society asks that this dispute be dismissed.
4. The applicant is self-represented. The society is represented by BH, a director.

## **JURISDICTION AND PROCEDURE**

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over certain society claims under section 129 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the CRT's process has ended.
6. The CRT has discretion to decide the format of the hearing, including in writing, by telephone, videoconferencing, email or a combination of these. I am satisfied an oral hearing is not required as I can fairly decide the dispute based on the evidence and submissions provided.
7. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues. As this dispute involves a request for an audit of the society's financial records, I found it necessary to address below whether the CRT has the jurisdiction to hear that part of the dispute.

8. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The CRT may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.
9. Under section 131 of the CRTA and the CRT rules, in resolving this dispute the CRT may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.

## **ISSUES**

10. The issues in this dispute are:
  - a. Does the CRT have jurisdiction to order the society to have its financial records audited and, if so, must the society have its records audited?
  - b. Must the society complete their financial records “in full”, as requested by Mrs. Anderson?

## **EVIDENCE AND ANALYSIS**

11. In a civil dispute such as this one the burden is on Mrs. Anderson, as the applicant, to prove her claim on a balance of probabilities. I have reviewed all submissions and evidence provided but only refer to that necessary to explain my decision.
12. Much of the evidence and submissions relate to conflict between what appears to be at least 2 groups of society members. I acknowledge that conflict and accept that it likely influenced decisions made by various Board members over the years. However, I have only considered that evidence relevant to the society’s financial dealings and financial record keeping.
13. According to the society’s constitution, the society is responsible for managing the real and personal property in the RV park. It is undisputed that the society’s members own one or more lots in the RV park, as tenants in common.

14. Prior to 2018 the society kept its own financial records and produced its own financial statements. In 2018 it retained a property management company (Company A) to manage the society, including its financial records. Company A failed to produce all of the agreed upon financial statements for the society. Around July 2018 the society retained a different property management company (Company B) to manage the society, including its financial records. None of this is disputed.
15. Mrs. Anderson says the society's financial statements have contained errors and irregularities since 2012. She says the society has spent money on items not included in the budget, and not voted on by members, contrary to the SA and the society bylaws. She says that, due to the mistakes and questions, the society and its members have no way of knowing the society's actual financial situation without an audit.

### ***Financial Record Audit - Jurisdiction***

16. Part 9 of the SA relates to society audits. Section 110 of the SA says that Part 9 applies in relation to a society that is required to have an audit or for which an auditor is appointed in any other case. Section 111 governs the appointment of auditors. It says that a society must have an auditor if required to do so under the society's bylaws or regulations and may have an auditor in any other case. This society's bylaws or regulations do not require it to have an auditor. I infer that Mrs. Anderson is asking the CRT to order the society appoint an auditor under section 111(1)(b) of the SA, which says a society may have an auditor in any other case.
17. Section 130(2)(d) of the CRTA says the CRT does not have jurisdiction in relation to a claim respecting Part 9 (audit) of the SA. I find Mrs. Anderson's claim for an order requiring the society to audit its financial records falls squarely within Part 9 (audit) of the SA and therefore the CRT does not have jurisdiction over the claim. I find that I must refuse to resolve Mrs. Anderson's request for an audit order under section 10 of the CRTA.

18. I will now consider the member's request for the society to complete its financials "in full".

### ***Financial Records***

19. Mrs. Anderson says the society has not completed its financial statements "in full" since November or December 2019. She also says the financial statements since July 2019 contain errors. The society says it completes and distributes its financial statements in a timely and accurate manner, and that any errors found are corrected upon review.
20. Under section 20(1)(k) of the SA, a society is required to keep its financial statements as part of its records. Section 23(2) of the SA requires a society to take reasonable precautions to prepare and keep its records in a complete state, to avoid loss, destruction or damage to the records, to avoid falsification of entries in the records, and to facilitate simple, reliable and prompt access to those records.
21. Section 35 of the SA requires a society to prepare financial statements for each financial year and present them at the society's annual general meeting. Section 36 says the society's financial statements must include notes setting out any remuneration paid to the society's directors and any amount over \$75,000 paid to society employees or contractors. The financial statements must also include notes regarding the nature and amount of any financial assistance provided by the society. Section 38 says the financial statements must be approved by the society's directors and signed by one of them, prior to publication or distribution. In *Pandher et al. v. Grewal-Gursikh Temple*, 2003 BCSC 1079, the court found the requirements under the former *Society Act*, existed to ensure a society provides financial information to its members. The financial records requirements of the former *Society Act* are similar to the current SA and so I find the purpose behind sections 35 to 38 of the SA is to ensure society members are provided with financial information.
22. The society's bylaws are those filed with the Registry of Companies on June 14, 2020. The following bylaws are relevant to this dispute:

- Bylaw 8.7 requires the treasurer to keep the society's financial records, including records of the society's assets and liabilities, all money received and distributed, the matter those funds relate to, and every other transaction affecting the financial position of the society. The treasurer must provide financial statements to the board of directors and members when required.
- Bylaw 9.5 requires the society to account for contingency reserve fund monies separately from the society's other money.

23. Mrs. Anderson provided a copy of the society's March 31, 2020 year-end financial statement, completed by Company B. The statement documents the society's assets and liabilities, account balances, revenue and expenses and compares the actual expenses to the society's budget. I find the March 31, 2020 year-end financial statement contains the information required by the SA, and the society's bylaws.
24. It is unclear whether the March 31, 2020 statement was presented at an AGM, as required under section 35 of the SA, given the provincial's March 2020 declaration of a state of emergency due to the COVID-19 pandemic. However, based on her submissions I find Mrs. Anderson clearly received a copy of the statement. I find the purpose behind section 35 of the SA has been met. In other words, I find Mrs. Anderson, and by implication the other society members, have been informed of the society's 2019-2020 financial information.
25. Mrs. Anderson provided an excerpt of the society's contract with Company B, which requires Company B to provide the society with monthly financial statements showing income and expenditures. Mrs. Anderson says Company B's monthly statements and its March 31, 2020 year-end statements contain errors and inaccuracies.
26. Based on emails from Mrs. Anderson to the society and Company B, I find Mrs. Anderson takes issue with the lack of notes in the financial statements, the allocation of certain items to various cost codes, the amount of certain expenses like cleaning, and credits in the statements. Mrs. Anderson also raises her concern

that Company B told her it uses a manual entry system rather than accounting software.

27. Mrs. Anderson provided statements from 2 other society members (X and Q), both of whom were previously directors, along with Mrs. Anderson. These 2 other society members share Mrs. Anderson's concerns with the society's financial statements and say the statements are full of inaccuracies. X did not specify what the errors were but says the society does not use proper accounting principles. Q provided copies of various emails to the society and Company B about categories of cost codes, increases in cleaning costs, asking for details about contract costs, and questioning the difference in an account balance on the financial statement compared to a bank statement balance.
28. I find Mrs. Anderson, Q and X are not concerned with the completeness of the financial statements but, rather, what they see as the correctness of the statements. Specifically, Mrs. Anderson appears to argue that the financial statements should be completed using accounting software and specific accounting principles and that certain items should be documented under certain cost codes.
29. Contrary to Mrs. Anderson's arguments, there is no legislated or bylaw requirement that the society produce its financial statements in any specific format, use computer software to do so, ensure certain cost codes are used, or attach notes to every line item. So long as the statements contain the information required under the SA and bylaw 8.7, the society has met its financial records obligation. Further, there is no legislated or bylaw requirement that the society produce monthly financial statements to its members. Although the property management company is required to provide monthly financial statements to the society by contract, the contract does not require the company to provide those statements to the members individually, including Mrs. Anderson. I find the society has met its obligation to provide financial information to its members.
30. In requesting that the society complete the financial statements "in full" I infer Mrs. Anderson is asking that the society address her questions and concerns and correct

or amend the financial statements to address the inquiries of Mrs. Anderson and Q. As noted above, there is no statutory requirement for the society to do this.

31. Based on the society's monthly board meeting minutes and emails from Company B to Mrs. Anderson and Q, I find the society has answered some of the questions asked, and that Company B has explained some of the financial records entries. I also find not all questions were answered directly. I appreciate that all parties are frustrated by monthly emails questioning the financial statements, however, I encourage the society to continue to provide financial information to the members and work with them to ensure the information is clear and accurate.
32. For completeness, I also find the society has produced the required financial records for the 2018-2019 fiscal year, despite Company A's inability to do so. I reach this conclusion based on X's statement that the society's administrator maintained the financial records from July to December 31, 2018, the December 31, 2018 financial statement produced by Mrs. Anderson and the March 2019 Board meeting minutes which show bank balances and the treasurer's report, which was distributed to the society's members.
33. Further, Mrs. Anderson provided a spreadsheet setting out the society's financial statement figures for each fiscal year from 2010 to 2019, from which I infer she has received all of those yearly financial statements. So, I find the society has met its financial records obligations for those years.
34. I dismiss Mrs. Anderson's claim for an order requiring the society to complete its financial records in "full".
35. In accordance with the CRTA and the tribunal rules, as Mrs. Anderson was unsuccessful in this dispute. I find she is not entitled to reimbursement of her CRT fees or any dispute-related expenses.



## **ORDER**

36. I refuse to resolve Mrs. Anderson's claim for an audit of the society's financial records, as I find the CRT does not have jurisdiction to consider such a request.

37. I dismiss Mrs. Anderson's claim for an order requiring the society to complete its financial records "in full".

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Sherelle Goodwin, Tribunal Member