



# Civil Resolution Tribunal

Date Issued: August 30, 2021

File: CS-2020-007170

Type: Societies and Cooperatives

Civil Resolution Tribunal

Indexed as: *Pang v. Little Mountain Residential Care & Housing Society*, 2021 BCCRT  
947

B E T W E E N :

LAWRENCE PANG and GORDON YEUNG

**APPLICANTS**

A N D :

LITTLE MOUNTAIN RESIDENTIAL CARE & HOUSING SOCIETY

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Sherelle Goodwin

## INTRODUCTION

1. This dispute is about society governance.
2. The applicants, Lawrence Pang and Gordon Yeung, were members of the respondent society Little Mountain Residential Care & Housing Society (society). The applicants say the society violated its own bylaws and the *Societies Act* (SA) by restricting the

rights of members to vote at electronic meetings, and by intimidating and reprimanding them for their voting choices. The applicants also say the society manipulated the membership list by changing the membership process and deferring or refusing membership and renewal applications from persons that did not support the board of directors (Board). The applicants seek 25 remedies, including apologies, acknowledgment and publication of the society's alleged wrongdoings, commitments for the society to act differently in the future, and reinstatement of former membership lists.

3. The society denies any wrongdoing. The society says its bylaws give the directors discretion to defer or refuse applicants and to change the application process to ensure current and potential members do not act contrary to the society's purpose. It also says it is authorized to set up electronic meeting processes. The society says that if it did make any errors, they are not significant enough to warrant CRT intervention. It asks that the dispute be dismissed.
4. The applicants are represented by Mr. Yeung. The respondent is represented by an employee.
5. As explained below, I refuse to resolve the applicants' claims of discretionary membership approval on September 23 and November 15, 2019 and their claim for refusal to renew their 2020-2021 memberships. I find the society's decision not to consider Mr. Pang's membership application in time for the September 18, 2018 annual general meeting (AGM) was unfairly prejudicial to Mr. Pang. However, I find no order is required to remedy the unfairness. None of the applicants' 25 requested remedies relate to those contraventions and so order no remedies. I dismiss the remainder of the applicants' claims.

## **JURISDICTION AND PROCEDURE**

6. 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.

7. 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.
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.

## **PRELIMINARY ISSUES**

### ***Scope of Claims***

10. In their submissions the applicants say the society incorrectly adjourned the September 18, 2018 AGM without allowing members to speak to a motion, introduced a new membership process after October 6, 2020 intended to “weed out” non-Board supporters, failed to resolve global care issues raised by the family council, failed to supervise or manage the facility operations, and failed to act in good faith as required. These claims were not included in the applicants’ Dispute Notice, even after the applicants amended the notice to clarify their requested relief. I find the society did not receive adequate notice of these claims or the opportunity to provide evidence about or defend against them. So, I find it would be procedurally unfair to consider them in this dispute.

11. In their submissions the applicants also say the society bullied and intimidated Mr. Pang and another member by sending “cease and desist” letters. While the applicants did not include this in their 7 Dispute Notice claims, they did amend the notice to include a remedy that the society retract, and apologize for, these letters. Further, I find the society’s late evidence, mentioned below, addresses this claim. So, I find it is not procedurally unfair to the society to consider this claim in this dispute, as it relates to Mr. Pang. I have therefore addressed this issue in my decision.

### ***Late Evidence***

12. The applicants object to the society’s late submission of society director (B)’s April 13, 2021 signed statement. Although the society submitted the statement after the evidence deadline had passed, the applicants had the opportunity to view the statement and respond to it in their reply submission. So, I find the applicants were not unfairly prejudiced by the lateness of the evidence. I find I am able to address the applicants’ concerns about the reliability and credibility of B’s statement through weighing it, rather than rejecting it outright. Keeping in mind the CRT’s mandate, which includes flexibility, I accept the society’s late evidence and consider it below.

13. The applicants submitted affidavit #3 from MC, former society member, after both parties had completed their submissions. The society opposes the late evidence, both because of its lateness and because of its content. I find the affidavit provides evidence, as well as argument, opinion and speculation, about the society’s conduct and decisions relating to members other than the applicants. As explained below, I find the applicants either have no standing, or the CRT has no jurisdiction in this dispute, to consider the society’s alleged conduct other than in relation to Mr. Pang and Mr. Yeung. So, I find MC affidavit #3 is not relevant to the issues properly before me in this dispute and I have not considered it in my decision.

### ***Evidence Requests***

14. The applicants ask the CRT to order the society to produce records in its control, as evidence in this dispute, including full membership lists since January 2018, directors’ meeting minutes approving these memberships, all directors’ and committee meeting

minutes including drafts, and general meeting registration sign in lists and vote logs. I decline to order the society to produce these records. This is partly because there is no indication that the applicants made any efforts to obtain this information on their own, or that they complied with CRT rule 8.8, which requires the applicants to provide certain information about the requested evidence to the CRT case manager to ask for a production order.

15. In addition, I find the requested documents are mostly relevant to the applicants' claims on behalf of other members or claims which I find were not raised in the Dispute Notice. So, I find the requested documents are not necessary for me to fairly decide the issues that are properly before me to decide in this dispute.

## **ISSUES**

16. The remaining issues in this dispute are:

- a. Does the CRT have jurisdiction to consider whether the society's conduct constituted "errors and questionable behaviours", or was unfairly prejudicial?
- b. Did the society contravene its bylaws, the SA, or engage in unfairly prejudicial conduct by:
  - i. Expediting some membership applications while delaying others,
  - ii. Adding new questions to the 2019-2020 membership application form,
  - iii. Creating electronic participation and voting rules for the June 4, 2020 extraordinary (EGM), or
  - iv. Intimidating, reproaching or threatening the applicants at the EGMs, or through "cease and desist" letters in November 2019?
- c. Does the CRT have jurisdiction to consider whether the society refused to renew the applicants' 2020-2021 memberships and, if so, did the society refuse to renew them?
- d. If any of the above answers are yes, what is the appropriate remedy, if any?

## EVIDENCE AND ANALYSIS

17. In a civil claim such as this the applicants have the burden of proving their claims on a balance of probabilities. I have read the parties' submissions and weighed the evidence provided but only refer to that necessary to explain and give context to my decision.
18. According to the society's constitution, filed in 2018, the society's purpose is to develop and operate residential housing and care for senior citizens in need. The applicable bylaws are those that were filed with the Registrar of Companies on March 27, 2018. I will refer to each relevant bylaw in my decision below.
19. The society operates 3 residential care facilities. In spring 2018 the society created a family council for 1 of its 3 facilities. Mr. Pang was a family council member. None of this is disputed.
20. The family council set out a number of residential care and management concerns in its first June 20, 2018 report, a September 18, 2018 petition to the society, and a second report dated January 24, 2019. On July 16, 2019 Mr. Yeung requested the society hold an EGM to vote on various special resolutions, which the society declined to hold due to alleged defects in the resolutions. The resolutions included proposed changes to the society's bylaws, governance, and Board.
21. It is clear from the evidence and the parties' submissions that the family council and current Board fundamentally disagree about both the family council's role in the society and the society's role in managing and overseeing the day-to-day operations of the residential care facilities. The applicants say the society denies rights to those members on, or supporting of, the family council and also says the society deferred or denied membership to family council supporters immediately prior to general meetings to affect the vote results. Essentially, the applicants say the society treats them and other family council members and supporters differently than the Board-supporting members or, in other words, in an unfairly prejudicial manner.

## ***Jurisdiction***

22. In a January 7, 2021 preliminary decision, a CRT vice chair found the CRT had jurisdiction to consider the applicants' claims, even though the only remedy they initially sought was declaratory relief. As set out in the non-binding but persuasive decision *Fisher v. The Owners, Strata Plan VR 1420*, 2019 BCCRT 1379, the CRT has no equitable jurisdiction to grant declaratory relief on its own. However, the CRT can make a declaratory order if it is incidental to a claim for relief in which the tribunal has jurisdiction. The vice-chair allowed the applicants' request to amend their Dispute Notice to clarify their requested claims. As the vice chair specifically said her preliminary decision was not binding, I have considered the CRT's jurisdiction over this dispute, after requesting further submissions from the parties.
23. Contrary to the society's arguments, I find not all of the applicants' 25 requested remedies are declaratory in nature. Further, I find the CRT does have jurisdiction to order a party to do something, under section 131(1) of the CRTA, as noted above. I decline to refuse to resolve the entire dispute. However, as explained below, I find the CRT does not have jurisdiction over all the issues raised by the applicants. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside its jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to resolve those issues.
24. Section 129 of the CRTA grants the CRT jurisdiction over society claims concerning the interpretation of the SA or bylaws, or an action, threatened action, or decision of the society, or its directors, in relation to a member. CRTA section 130(1)(c) specifically excludes from the CRT's jurisdiction those claims that may be dealt with by the Supreme Court under Part 8 [Remedies] of the SA.
25. Part 8 contains section 105 of the SA, which gives the Supreme Court authority to make orders to correct or validate omissions, defects, errors or irregularities found in a society's conduct of activities or internal affairs. In their Dispute Notice, the applicants say the society's conduct constitute defects, irregularities and questionable behaviours. However, in their submissions, the applicants say they used that description of the society's alleged conduct without intending to rely on section

105 of the SA. Rather, they rely on section 129 of the CRTA in asking the CRT to determine if the Board's decisions and actions violated its bylaws or the SA, in relation to the applicants and other members.

26. I find the CRT has jurisdiction to consider the society's decisions and actions, in relation to the applicants only. This is because the applicants have not shown they have any authority to bring claims on behalf of other society members or applicants. So, I find they have no standing to make claims about other people's membership applications, other members' meeting participation and voting rights, or allegations of harassment relating to other society members.

27. Part 8 of the SA also contains section 102, which says a society member may apply to the Supreme Court for an order on the grounds that:

- a. the activities or internal affairs of the society are being or were conducted, or the powers of the directors are being or were exercised, in a manner oppressive to the member or to the member and one or more other members, or
- b. an act of the society was done or is threatened, or a resolution of the members or directors was passed or is proposed, that is **unfairly prejudicial** to the member or to the member and one or more other members (my emphasis added).

28. In *H.T. v. R.C.B.A*, 2020 BCCRT 1153 a CRT vice chair relied on CRTA sections 129 and 130(1)(c) in finding that the CRT does not have jurisdiction over allegations of unfairly prejudicial conduct in society claims. However, that decision did not consider section 131(2) of the CRTA, which says that, in resolving a society claim under CRTA section 129(1)(b) or (c), the CRT may make an order directed at a society or its directors, if the order is necessary to prevent or remedy an **unfairly prejudicial** action or decision (my emphasis added). I find CRTA section 131(2) grants the CRT jurisdiction over allegedly unfairly prejudicial conduct, as a narrow exception to the general rule which excludes SA Part 8 [Remedies] type claims from the CRT's jurisdiction.



29. First, this is consistent with the statutory interpretation principle that a specific provision overrides a general one, where the 2 provisions potentially conflict (see *Sullivan on the Construction of Statutes*, 6<sup>th</sup> Ed. 2014, at section 11.58). Second, it is consistent with the principle that each piece of legislation is presumed to contribute something toward accomplishing the intended goal (see *Sullivan*, at section 11.2). If it was the legislature's intention to exclude unfairly prejudicial conduct from the CRT's jurisdiction then CRTA section 131(2) would have no purpose. Finally, I find this consistent with the legislature's purpose in amending the CRTA to include society claims. According to the *Hansard Debates (British Columbia)*, April 25, 2018, 4240, the legislature intended the CRT to have jurisdiction over day-to-day society matters, such as access to records, holdings of meetings, and bylaw interpretation. Further, the legislature specifically modelled the CRT's society jurisdiction on its strata jurisdiction.
30. Section 123(2) of the CRTA says the CRT may make an order directed at a strata, strata council, or majority vote holder, if the order is necessary to prevent or remedy a significantly unfair action, decision, or exercise of voting rights. The court has confirmed this section gives the CRT jurisdiction over significantly unfair conduct in strata property claims (see *The Owners, Strata Plan BCS 1721 v. Watson*, 2018 BCSC 164). I find the similarity in wording between CRTA sections 123(2) and 131(2) show the legislature intentionally granted the CRT parallel jurisdiction over allegations of unfairly prejudicial society conduct in society claims.
31. For these reasons, I conclude the CRT has jurisdiction to decide claims about unfairly prejudicial actions or decisions by a society or its directors.

### ***Membership Applications***

32. The society held AGMs on September 18, 2018 and September 19, 2019, at which directors were elected. It held an EGM on September 23, 2019 to vote on proposed bylaw and constitution changes which the society says it needed to obtain further funding for its 3 facilities. It also held another EGM on November 15, 2019 to vote on proposed members' resolutions to remove 2 directors and guarantee family council members on the Board. None of the special resolutions at either the September 23

or November 15, 2019 EGMs passed by the required 2/3 vote, according to the meeting minutes.

33. The applicants say the society intentionally expedited membership applications from known Board supporters and delayed membership applications from known family council supporters prior to the general meetings, in order to affect voting results.
34. The evidence shows that Mr. Yeung became a society member during the 2016 to 2017 year and Mr. Pang was accepted as a member in November 2018. So, I find the applicants' memberships were not affected by the society's allegedly discretionary membership approval prior to the 2019 general meetings. To the extent the applicants claim the society generally manipulated the membership list to affect EGM voting results, I find such a claim is not within the CRT's jurisdiction over society claims "in relation to a member" under section 129(1)(b) and (c) of the CRTA, but rather in relation to the society's conduct or internal affairs, under section 105 of the SA. Under section 10 of the CRTA I must refuse to resolve claims that are outside the CRT's jurisdiction. For this reason, I refuse to resolve the applicants' claims of discretionary membership approval on September 23 and November 15, 2019.
35. I turn to the applicants' claim about the September 18, 2018 AGM.
36. It is undisputed that Mr. Pang submitted his society membership application a few days before the 2018 AGM but the society did not consider the application until the next scheduled Board meeting on November 20, 2018. This is confirmed in the 2018 AGM and November 20, 2018 Board meeting minutes.
37. The applicants say the society's delay in processing Mr. Pang's application violates the SA and the bylaws, but do not refer to any specific provision. The society says the Board has discretion over when it approves memberships.
38. Section 67(1) of the SA says a person may, in accordance with the society's bylaws, be admitted as a member of the society. The SA is otherwise silent on membership approval processes. Bylaw 2.4 says a person may apply for membership in writing and with payment of any applicable dues. The applicant will be a member, on

acceptance. The Board may accept, postpone, or refuse an application for membership by Board resolution. Neither the SA nor the bylaws require the Board to consider membership applications within a certain time frame. So, I find the society did not contravene the SA or its bylaws in not considering Mr. Pang's membership application in time for the September 18, 2018 AGM.

39. However, the society says it decided not to approve any new memberships at the 2018 AGM because it was concerned that the applicants, or their supporters, were purchasing bulk memberships. So, I turn to consider whether the society's intentional act of not considering Mr. Pang's membership application was unfairly prejudicial to him.

### ***Unfairly Prejudicial***

40. To be successful in his claim, Mr. Pang must establish that the society failed to meet his reasonable expectations and that, on an objective basis, that failure involved prejudicial consequences (see *Dalpadado v. North Bend Land Society*, 2018 BCSC 835). The focus is on the effect of the allegedly unfairly prejudicial conduct on the society member, rather than on the intention of the society in its conduct (see *Surrey Knights Junior Hockey v. The Pacific Junior Hockey League*, 2018 BCSC 1748, citing *Nystad v. Harcrest Apt. Ltd.*, 1986 CanLII 999 (BC SC)). As noted in *Dalpadado*, there must also be an element of inequity or unfairness to the conduct's effect.
41. The applicants say they reasonably expected Mr. Pang's membership to be accepted before, or at, the 2018 AGM. I find this expectation was reasonable, based in part on Mr. Yeung's undisputed statement that the society had, in the past, approved memberships up to and on the date of the society's AGM. I also rely partly on the society president's August 15, 2018 letter to Mr. Yeung, which specifically said the society would accept memberships at the beginning of the upcoming AGM. I further rely on the Board's statement in the September 19, 2019 AGM minutes that it had previously accepted members at AGMs before the Board had officially ratified their memberships. On balance, I find it objectively reasonable that Mr. Pang expected his membership would be approved just prior to or at the 2018 AGM.

42. I also find the society violated Mr. Pang's reasonably held expectation because it deliberately did not approve his membership until after the meeting. I now turn to consider the effect of the conduct on Mr. Pang.
43. It is undisputed that Mr. Pang was deprived of membership rights under the bylaws, which include making motions, speaking, and voting at the 2018 AGM. While I find it unlikely that Mr. Pang's vote would have changed the outcome of the directors' election or any other matters on the meeting agenda, I find depriving an applicant of the expected right to vote is unfair. This is particularly so, given Mr. Pang's undisputed assertion that he attended the meeting in order to speak to, and vote on, the family council's proposed September 18, 2018 petition to the Board. On balance, I find the society's conduct was unfairly prejudicial to Mr. Pang.
44. I will consider the remedy below.

### ***The 2019-2020 membership application form***

45. It is undisputed the society added 3 questions to its membership application form for the 2019-2020 year.
46. I find the application form applies to both new memberships, and renewals, as it says "application/ renewal" on its face. So, although the applicants' renewal applications for 2019-2020 are not in evidence, I find they were likely required to complete the form. This is consistent with bylaw 2.7, which allows a member to apply for renewal of their membership prior to its expiry, in a manner determined by the Board.
47. The applicants say the requirements and qualification for membership set out in section 61(2) of the SA and bylaw 2.2 are exhaustive and so the society cannot add any further membership requirements. As SA section 61 refers to senior managers, I find the applicants likely intended to refer to section 67(2) of the SA, which says an individual under the age of 19 may be admitted as a member, unless the society's bylaws say otherwise. SA section 67(1) also uses the word "may" rather than "must", which I find means that a society retains discretion over whether it will, or will not, admit individuals as members.

48. I further find bylaw 2.2 is not exhaustive, as bylaw 2.4 allows the Board to refuse a membership application if, in the Board's view, it is "necessary or prudent to protect the reputation and integrity of the society". I find bylaw 2.4 gives the Board discretion to decide on membership applications, within reason.
49. Given bylaw 2.7, I agree with the society that the Board has discretion to determine the manner, and content, of its renewal application forms. So, I find the society did not contravene its bylaws with these additional questions. Nor do I find the society's decision to change the form unfairly prejudiced the applicants as the member lists show their memberships were successfully renewed for the 2019-2020 year.
50. To the extent that the applicants argue the new membership requirements for 2019-2020 are unreasonable or unfair, I find such a complaint falls under former section 85, or new section 105, of the SA (see *Bandel v. Shalom Branch #178 Building Society*, 2007 BCSC 780, cited in *Roberts v. Vernon Pickleball Association*, 2018 BCSC 1834). As section 105 falls under Part 8 of the SA, I find the CRT has no jurisdiction to consider a claim for unreasonable or unfair membership requirements.
51. I dismiss the applicants' claim about the 2019-2020 membership form.

### ***June 4, 2020 Electronic Meeting Rules***

52. The June 4, 2020 EGM was held by Zoom videoconference, due to provincial gathering restrictions during the COVID-19 pandemic. The society required each participating member to use their own computer or device and their own unique email address to participate and vote in the EGM. This is undisputed and supported by the EGM notice and instruction package in evidence.
53. The applicants say the technological requirements precluded some members from participating in the EGM, and some from being able to successfully vote on the special resolutions. Based on the society's June 4, 2020 registration list and vote tallies, I find both applicants participated in the meeting and their votes were counted. So, I find the applicants' claim concerns other members' voting rights which I find the

applicants have no standing to bring. I further find the electronic process did not unfairly prejudice the applicants, as their voting rights were not affected.

54. I dismiss the applicants' claim about the June 4, 2020 EGM.

### ***Intimidation, Reproachful and Threatening Behaviour***

55. In his affidavit Mr. Pang says at the September 15, 2020 AGM, he asked the society to explain why there was little detail about the discussions at the 2019 EGMs in the meeting minutes. Mr. Pang says society director B answered "curtly and with disdain" that Mr. Pang had achieved what he wanted by blocking the society's receipt of funding so why did it matter to Mr. Pang whether the discussion was documented. Mr. Pang also says a director said during the June 4, 2020 EGM that voting against the Board indicated members did not care about the residents. MC also recalls an unnamed director making such a statement, as set out in her Affidavit #1. Based on the meeting vote tally, I find Mr. Pang voted against the Board's proposed bylaw and constitution changes. So, I infer Mr. Pang felt B's comments were directed, in part, at him.

56. The society acknowledges that there was vigorous debate at the 2019 meetings but denies any threats or intimidation. In an April 23, 2021 statement, director S says she was disappointed by the outcome at the September 23, 2019 EGM and likely expressed her dissatisfaction. Based on the June 4, 2020 EGM minutes, I also find director B "expressed his disappointment" in the result of the bylaw vote. Neither director addressed Mr. Pang's statement about what B allegedly said at the 2020 AGM and the meeting minutes were not submitted as evidence. So, I accept Mr. Pang's undisputed recollection.

57. Section 53 of the SA sets out the duty of care for directors. It requires a director to act honestly and in good faith, with a view to the best interests of the society in exercising the care, diligence, and skill of a reasonably prudent person in comparable circumstances. I find a director's duty of care would capture allegations of intimidation, threats, and reproach.

58. I find the directors' comments recalled by Mr. Pang are, at the most reproachful, which I find does not constitute bad faith or otherwise fall below the standard of a reasonably prudent director when bylaw resolutions fail.
59. Mr. Pang also says the society intimidated and bullied him in a November 23, 2019 letter, banning him from the facility and family council meetings and threatening legal proceedings. The letter clearly prohibits Mr. Pang from attending the residential care facility or family council meetings or representing himself as a family council member.
60. According to an October 1, 2019 inspection report, Vancouver Coastal Health investigated the family council based on a complaint it received. The inspector found current family council members were not legal representatives or family members of current facility residents, which contravened residential care regulations. The inspector required the society to remedy the contravention. It is undisputed that, by October 1, 2019, Mr. Pang was no longer a relative or legal representative of any resident.
61. In an October 22, 2019 email to Mr. Pang and MC, co-chair of the family council, the society said it had decided to dissolve the family council. According to MC's October 26, 2019 response and the October 27, 2019 family council meeting minutes, MC and Mr. Pang refused to accept the dissolution decision and continued to operate the family council.
62. Contrary to the applicants' arguments, I find the directors were acting in the best interests of the society in sending the November 23, 2019 letter to Mr. Pang. I find the directors reasonably acted to remedy a regulation contravention, as required by Vancouver Coastal Health. I find the society was entitled to rely on the inspector's decision that Mr. Pang could not remain a family council member, even if the inspector was incorrect, as argued by Mr. Pang. On balance, I find the directors' conduct in sending the letter did not contravene section 53 of the SA.
63. I also find the November 23, 2019 letter was not unfairly prejudicial to Mr. Pang. I find his expectation that he continue to act as a family council chair, directly contradicting the society's October 22, 2019 dissolution of the family council, was not reasonable.

Although Mr. Pang disagreed with the inspector's interpretation of the regulations governing family council membership, I find it was unreasonable for Mr. Pang to simply continue acting contrary to the society's decisions and actions.

64. For these reasons, I dismiss the applicants' claim that the directors threatened, intimidated, or harassed them.

### ***2020-2021 Membership Renewal***

65. The applicants say the society refused to renew their 2020-2021 membership. It is undisputed that the society did not provide a renewal application form with its 2020 AGM package, as it had in years past. This is important because, under bylaw 2.6 membership ends at the conclusion of the next AGM.
66. The evidence shows member (NC) submitted to the society's executive assistant a version of a renewal form for 2019-2020 for 54 members on September 15, 2020. I find the renewal package included the applicants' renewal forms and fees. Based on the society's October 9, 2020 email to NC, I find the society refused to accept the renewal forms and fees and subsequently returned the documents and payment to NC.
67. I acknowledge the society's argument that it did not accept the applicants' renewals because they were not provided in the manner determined by the Board, which the society says is authorized under bylaw 2.7. Whether the refusal to renew was authorized by the bylaws or not, I still find the society refused to renew the applicants' memberships. As the applicants' memberships were not renewed, I find their memberships expired at the end of the September 15, 2020 AGM, under bylaw 2.6.
68. In these circumstances, I find the Board's refusal to renew the applicants' membership is a manner of membership termination. This is consistent with the finding of the court in *Basra v. Shri Guru Ravidass Sabha (Vancouver)*, 2017 BCSC 1696, where refusal to renew the plaintiff's membership was equated to an expulsion. Further, section 69(1)(a) of the SA says a member's membership in a society



terminates when the term of membership expires which I find is what happened to the applicants' membership here.

69. Under section 109.2 of the SA and section 130(2) of the CRTA, the CRT does not have jurisdiction over society claims relating to termination of membership. So, I find the CRT does not have jurisdiction to consider the applicants' claims for refusal to renew their 2020-2021 membership. I refuse to resolve this claim under section 10 of the CRTA.
70. In summary, I refuse to resolve the applicants' claims of discretionary membership approval on September 23 and November 15, 2019. I also refuse to resolve the applicants' claim for refusal to renew their 2020-2021 membership.
71. I dismiss the applicants' claims about the 2019-2020 membership form changes, the June 4, 2020 electronic meeting processes, and their claims that the directors threatened, intimidated or harassed them.
72. I find the society's decision not to consider Mr. Pang's membership application in time for the September 18, 2018 AGM was unfairly prejudicial to Mr. Pang.

### ***Remedy***

73. The applicants requested several more remedies in their rebuttal submissions, including to amend meeting minutes, changing the Board's prior actions and decisions and ordering the Board to consider member proposals in the future. I find it would be procedurally unfair to consider these requested remedies, as the society did not have the opportunity to address them. So, I will only address the 25 remedies requested by the applicants in their amended Dispute Notice.
74. I find the applicants are not entitled to orders for publication of records or suspension of resolutions because record access and resolutions were not issues properly before me in this dispute. I also find the applicants are not entitled to any orders about reinstating membership, or membership lists, as that would be a remedy for membership termination or refusal to renew, which I found the CRT does not have jurisdiction over. The applicants are also not entitled to orders that the society retract

its November 23, 2019 letter to Mr. Pang and stop harassing members as the applicants were unsuccessful in that claim.

75. I do not order the society to publish my findings in its annual report, on its website, or in any other format because this decision is already available publicly. I also do not order the society to make any apologies because forced apologies are generally not productive or helpful.
76. I do not order the Board to follow the SA, its bylaws, or otherwise act in the best interests of the society and in accordance with its constitution, because the Board is already required to do these things under the SA so making such orders would be redundant and have no effect.
77. Finally, I do not order the society to establish a Board oversight committee, as I find such a remedy would be excessive and disproportional to remedy the Board's unfairly prejudicial behaviour toward Mr. Pang. It is also not contemplated by the SA or bylaws.
78. So, what is the appropriate remedy for the society's unfairly prejudicial conduct?
79. I find it would be unfair and impractical to order the society to reconvene the September 18, 2018 AGM to allow Mr. Pang to exercise his membership rights to participate and vote in the meeting, given the applicants did not request this remedy and because of the length of time that has passed. Further, there is no indication that Mr. Pang's participation or vote would change the outcome of any of the 2018 AGM events or election. So, although I find the society acted unfairly prejudicially in not considering Mr. Pang's membership application in time for the September 2018 AGM, I find no order is required to remedy the conduct.

## **CRT FEES and EXPENSES**

80. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable

dispute-related expenses. As the applicants were only partially successful, I find they are only entitled to reimbursement of \$112.50, which is half their paid CRT fees.

81. The applicants claim \$282.75 in expenses which, they say, includes notary fees for swearing affidavits submitted in evidence. The CRT rules do not require statements to be sworn under oath, as an affidavit. So, I find the applicants' expenses were not necessary for this dispute or reasonably incurred. The applicants are not entitled to reimbursement of the notary fees.

## **ORDERS**

82. I order the society to pay the applicants \$112.50 as reimbursement for CRT fees within 30 days of the date of this order.
83. The applicants are entitled to post-judgment interest under the *Court Order Interest Act*.
84. I refuse to resolve the applicants' claims of discretionary membership approval on September 23 and November 15, 2019 and refusal to renew their 2020-2021 memberships.
85. I dismiss the remainder of the applicants' claims.
86. Under section 57 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under section 58 of the CRTA, the order can be enforced through the British Columbia Provincial Court if it is an order for financial compensation or return of personal property under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

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Sherelle Goodwin, Tribunal Member