



Civil Resolution Tribunal

Date Issued: June 28, 2024

File: CS-2023-007869

Type: Societies and Cooperatives

Civil Resolution Tribunal

Indexed as: *Newman v. Cultus Lake Holiday Park Association*, 2024 BCCRT 629

B E T W E E N :

CHERILYNN NEWMAN and MLADEN KNEZEVIC

APPLICANTS

A N D :

CULTUS LAKE HOLIDAY PARK ASSOCIATION

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about records access. The applicants, Cherilynn Newman and Mladen Knezevic, are members of the respondent society, Cultus Lake Holiday Park Association. The applicants say that the respondent failed to provide them with 1) general ledger entries, 2) bank statements, and 3) verification of what is on the

respondent's financial statements, including bank account amounts and line entries. They seek an order for these documents from 2018 to the current date.

2. The respondent's position has changed since this dispute started. It initially said the applicants are not entitled to the requested documents. In submissions the respondent contradicted its position in the Dispute Response by stating that it intended to honour the applicants' request. However, it says the bank statements and general ledger entries contain private and confidential information that should be redacted. It also says the applicants should bear the cost of assembling the documents, which will be roughly \$400.
3. Mrs. Newman represents the applicants. A director represents the respondent.
4. For the reasons that follow, I find the applicants have proven part of their claim.

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). CRTA section 2 says the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice and fairness.

7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, even where the information would not be admissible in court.
8. Under CRTA section 131, 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.

ISSUE

9. The issue in this dispute is whether the respondent must provide any of the requested records to the applicants.

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicants must prove their claims on a balance of probabilities. This means more likely than not. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision. The respondent provided no documentary evidence though it had the opportunity to do so.
11. As noted above and shown in a company search, the respondent is a society incorporated under the *Societies Act* (SA). Its constitution says it is a member-funded society. Its objects include organizing and maintaining a membership-based recreational camping club.
12. SA section 11 requires the respondent society to have bylaws. The respondent filed the applicable bylaws with the Registrar of Companies on September 27, 2018, and they are in evidence. I will discuss them below.
13. The history of this dispute is relatively brief. In a May 3, 2023 email, Mr. Knezevic requested electronic copies of general ledger reports and electronic copies of all bank statements and investments accounts from 2018 to present. Mr. Knezevic said his request included general account and contingency bank account statements. He

offered to pay a modest fee for the documents. The respondent's manager forwarded the request to the board. The respondent did not provide the documents.

14. On May 4, 2023, Mrs. Newman emailed a similar request to the manager. She asked for the respondent's bank statements for all accounts and all journal records for the years of 2018, 2019, 2020, 2021, 2022, and 2023 up to April 30. From the submissions I find the applicants' request for journal records is essentially the same as a request for the general ledger. Mrs. Newman also offered to pay a modest fee. The manager forwarded this request to the board as well. There is no indication the respondent complied with the request.

Must the respondent provide any of the requested records to the applicants?

15. As noted earlier, the applicants request 1) general ledger entries, 2) bank statements, and 3) verification of what is on the respondent's financial statements, including bank account amounts and entries, from 2018 onwards.
16. Bylaw H(1) says that any member of the society in good standing may inspect the accounts and books of the society, upon 30 days prior written notice, delivered to the board. It is undisputed that the applicants are both members of the respondent in good standing.
17. In addition to that, SA sections 20(1) and (2) set out detailed lists of the records a society must keep. Section 20(2)(c) says a society must keep "adequate accounting records for each of the society's financial years, including a record of each transaction materially affecting the financial position of the society."
18. SA section 24(2)(b) says a society member may, unless the bylaws provide otherwise, inspect such records. I find the bylaws in this dispute do not restrict the applicants from inspecting the records, and no party suggests otherwise. SA section 27 says that if a member who is entitled to inspect a record under section 24 requests a copy and pays any applicable fee, the society must provide the copy within 14 days.

19. In *Ericson v. Cultus Lake Holiday Park Association*, 2023 BCCRT 256, the CRT held that bylaw H(1) neither restricts nor expands access to the accounting records in SA section 20(2)(c). This is the same bylaw in this dispute.
20. In *Harvey v. Lynn Valley Community Association*, 2021 BCCRT 493, the CRT held that SA section 20(2)(c) does not require a society to keep bank account records, including issued cheque copies, so long as the society keeps other accounting records documenting each transaction.
21. Further, in *Ericson*, after a lengthy analysis, the CRT held that the phrase “accounting records” does not include source documents such as cancelled cheques or banks statements. See paragraphs 17 to 27.
22. Other CRT decisions are not binding on me, but I agree with the reasoning in *Ericson* and *Harvey*.
23. With that in mind I will consider the applicants’ requests. The applicants requested bank statements. I find that under the reasoning in *Ericson*, the applicants are not entitled to such source documents.
24. The applicants requested “verification” of the respondent’s financial statements, including bank account amounts and entries. I find that a request for verification is another request to view source documents. So, under the reasoning in *Ericson*, I find the applicants are not entitled to this information.
25. I next consider the applicants’ request for a general ledger from 2018 onwards. I find that the ordinary meaning of a general ledger is master book or set of accounts that summarizes all transactions occurring within an entity like the respondent.
26. The respondent acknowledges that it has a general ledger. However, it says parts of it should be redacted, and the applicants should bear the actual cost of producing this document. The respondent says its manager has quoted a cost of \$100 per hour for an estimated 4 hours, plus \$0.20 per page, plus GST, to do this work.

27. I will first consider whether the respondent is obligated to provide copies of the general ledger. In *Ottens v. The Owners, Strata Plan LMS 2785*, 2022 BCCRT 19, the CRT considered section 35(1)(d) of the *Strata Property Act*, which requires the strata to prepare “books of account showing money received and spent and the reason for the receipt or expenditure”. The CRT held that books of account must show each receipt and expenditure, and the reason for each. The books of account could be in ledger format, but that was not required.
28. As noted earlier, SA section 20(2)(c) says a society must keep adequate accounting records that include a record of each transaction materially affecting the financial position of the society. *Ottens* is not directly applicable as it is a strata dispute and considers different legislation. However, I find its reasoning applicable here. I find that the phrase “each transaction” in section 20(2)(c) means that documents that group expenses together and name them in a general fashion are insufficient to meet the requirements for “adequate accounting records”. As noted earlier, these must record each transaction materially affecting the society’s financial position. So, I find they must show each receipt and expenditure, and the reason for each. The adequate accounting records may be in ledger format, but this is not required.
29. The respondent says it provided the applicants balance sheet reports and statements of operations. While these are not in evidence, I find from their titles that they are likely documents that aggregate or group expenses together and are insufficient to count as “adequate accounting records” under SA section 20(2)(c).
30. The respondent says that the general ledger must be redacted. In *Neetz v. Kawkawa Camp Society*, 2024 BCCRT 96, I considered whether a society had to redact records under the *Personal Information Protection Act* (PIPA). I will briefly repeat some of my reasoning from that decision here.
31. PIPA sets out how private organizations, such as the respondent, can collect, use, or disclose an individual’s personal information. PIPA section 18(1)(o) says that an organization may only disclose personal information about an individual, without

consent, if, among other things, the disclosure is required or authorized by law. In *Neetz*, I found that a society's bylaw required or authorized the disclosure at issue.

32. I find that the same reasoning applies here. I find that SA sections 24(2)(b) and 27, cited earlier, require or authorize the disclosure by law. There is nothing in these provisions or the bylaws that provide the respondent any discretion to refuse the applicants' request or redact the requested records. So, I disagree with the respondent's submission that it must, or can, redact the general ledger.
33. The respondent also says that the applicants should bear the actual cost of producing the requested records. SA section 27(3) says that a society may charge a reasonable fee for providing the records. Section 5 of the *Societies Regulation* says the maximum fee that a society may charge under SA section 27(3) is \$.50 per page unless by email, in which case the maximum is \$.10 per page.
34. The respondent provided no evidence to support its submissions about the cost of producing the records. I also find that the estimated cost of \$400 likely breaches section 5 of the *Societies Regulation*, given the modest per page fees outlined in that provision. I note that the SA also requires the respondent to create such records in any event. So, I find it would be counter to the SA to order the applicants to bear the cost of creating such records. For all those reasons, I decline to order the applicants to pay these costs.
35. In addition to that, as the society was unsuccessful on this issue, I find it appropriate to order that the society must not charge the applicants any fee for providing a copy of the accounting records. The CRT took this same approach in *Wheatley v. Victoria Canoe and Kayak Club*, 2022 BCCRT 1033. Future requests may be subject to a fee, and I make no findings about that.
36. In summary, I find the respondent did not provide books of account from 2018 to the date of this decision after receiving the applicants' request to do so. I find the respondent breached SA section 27. So, I order the respondent to provide unredacted copies of its books of account from 2018 to April 30, 2023, showing each receipt and expense and the reason for them. I select this date because it was one of the dates

given in the requests noted above, and I find a month-end date would be logical for financial documents. I find that the books of account may be in ledger format, but that is not required. I also order that the respondent must not charge the applicants a fee for providing the copies of the books of account ordered above.

CRT FEES AND EXPENSES

37. 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. I see no reason in this case not to follow that general rule. The CRT waived its fees, so I need not order reimbursement. The parties did not claim any dispute-related expenses.

ORDERS

38. Within 30 days of the date of this decision, I order the respondent to provide the applicants unredacted copies of its books of account from 2018 to April 30, 2023, showing each receipt and expense, and the reason for them.

39. The respondent must not charge the applicants a fee for providing the copies of the books of account ordered above.

40. I dismiss the applicants' remaining claims.

41. This is a validated decision and order. 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.

David Jiang, Tribunal Member