



Civil Resolution Tribunal

Date Issued: November 16, 2017

File: ST-2017-00214

Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan LMS XXX v. D.B.*, 2017 BCCRT 117

B E T W E E N :

The Owners, Strata Plan LMS XXX

APPLICANT

A N D :

D.B.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant strata corporation, The Owners, Strata Plan XXX (strata), says the respondent owner D.B. (owner) has repeatedly failed to comply with the strata's noise and nuisance bylaws, including by permitting a visitor known as R to violate

the bylaws. The strata also submits the owner has failed to pay associated fines totaling over \$3,000.00. The strata is represented by a strata council member and the owner is represented by her mother.

2. Due to the impaired capacity of the respondent, as submitted by her mother and not disputed by the strata, I have anonymized the parties' names in the published version of this decision.

JURISDICTION AND PROCEDURE

3. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over strata property claims brought under section 3.6 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness. The tribunal also recognizes any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
4. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
5. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I heard this dispute through written submissions because I find there are no significant credibility issues or other reasons that might require an oral hearing. Neither party requested an oral hearing.
6. Under section 48.1 of the Act, in resolving this dispute the tribunal may make one or more of the following orders:
 - a) order a party to do something;
 - b) order a party to refrain from doing something;

- c) order a party to pay money.
7. Under section 3.8(2) of the Act, the tribunal has discretion to decline jurisdiction to apply the *Human Rights Code* (Code) in a dispute. In the case before me, the owner asks for leniency in a reduction of the fines on the basis of her mental disability. While the strata does not dispute the owner has such a disability or that it causes her to have loud outbursts, the strata essentially argues that it cannot reasonably accommodate those loud outbursts given the history and the serious negative impact the owner's conduct has had on the strata and all owners. I will consider whether and to what extent the strata must reasonably accommodate the owner's undisputed disability.
8. I turn next to the strata's request that I issue a contingent order that if the owner does not comply with the strata's bylaws, that she either leave unit 211 or sell it. While I acknowledge the strata's frustration and that of the owner's neighbours, I decline to make such an order, for the following reasons. Section 3.6(1) of the Act does not expressly include ordering an owner to sell or not occupy their own strata lot. Next, as set out in section 3.6(2) of the Act, the tribunal does not have jurisdiction over the forced sale of a strata lot to collect money owing as described in section 117 of the *Strata Property Act* (SPA), which is some further indication that the tribunal's jurisdiction does not cover the strata's request even if the strata is not asking for the sale to collect money. Further, the SPA's provisions, sections 137 and 138, refer to eviction of a tenant, not an owner. In light of the above, I find that an eviction of an owner or a forced sale are both essentially enforcement mechanisms in the event the owner does not comply with the tribunal's order in this decision. The tribunal does not have enforcement powers under the Act.
9. In coming to my conclusion on this issue, I have also noted the decision in *The Owners Strata Plan LMS 2768 v. Jordison*, 2013 BCCA 484, in which the Court of Appeal concluded that the legislature intended the Supreme Court to have the powers necessary to fashion an effective remedy under section 173(c) of the SPA in order to achieve the objectives mentioned in section 173(a) and (b). In that

case, the respondents had breached the court's earlier order to comply with the bylaws relating to noise, nuisance, and reasonable enjoyment of strata property. The court confirmed that in extreme cases, this can include forced sale. As noted above, I find I lack the jurisdiction to order the remedy sought. Bearing in mind the tribunal's mandate that includes recognition of ongoing relationships between parties, I recognize the strata had sought a vote of the owners to pursue an action in BC Supreme Court and put that on hold pending the outcome of this tribunal decision. If the strata ultimately decides it wishes to pursue the eviction of the owner and/or the forced sale of unit 211, they would need to pursue such matters with the BC Supreme Court, as provided in section 173 of the SPA. In doing so, nothing prevents the strata from bringing this decision and order to the court's attention.

ISSUES

10. These are the issues in this dispute:

- a. Should the tribunal order the owner to comply with the strata's bylaws?
- b. To what extent should the owner pay the strata's imposed fines totaling \$3,250.00?
- c. Should the tribunal order the owner to refuse to permit her visitor R from being on the strata's property at any time?
- d. Should the strata be reimbursed \$225 it paid in tribunal fees?

EVIDENCE, FINDINGS & ANALYSIS

11. While I have read all of the material provided, I have only commented below on the evidence and submissions necessary for this decision. Given the owner acknowledges the strata's concerns and primarily disputes the amount of fines to be ordered, I have been particularly brief in describing some of the material before me.

Parties' positions, order regarding R, and contingent request for eviction or forced sale

12. The owner bought strata lot 27, also known as unit 211, in 2011. The strata submits there is a history of concerns about noise and nuisance coming from unit 211. The strata's concerns are supported by a number of complaints to the strata from different residents dating back to May 2015. It is undisputed that the police have repeatedly been involved due to issues with unit 211.
13. The owner's representative concedes that the strata has at least some valid concerns and agrees to an order that the owner comply with the strata's bylaws, and I so order. The evidence, discussed below with respect to the fines imposed, supports this order.
14. The owner's representative also agrees to an order restricting R from being on the strata's property, stating that "no doubt he has been the cause of many of the issues documented". On this issue, I note that R is not a party to this dispute. There is no last name for R provided in the evidence before me. Therefore, I find I cannot go so far as to issue an order against R that he is restricted from the strata's property, as requested by the strata. However, I order the respondent owner to refuse R permission to enter the strata property and that she not give him any access to do so, either directly or indirectly.

Bylaws, SPA, & the Code

15. The strata's relevant bylaws are summarized as follows:
 - a. *Bylaw 1.1*: All residents and visitors must strictly comply with the bylaws and rules.
 - b. *Bylaw 4.1(a), (b), (c) and (d)*: A resident or visitor must not use a strata lot or common property in a way that causes a nuisance or hazard (a), causes unreasonable noise (b), unreasonably interferes with the rights of others to use and enjoy common property or their strata lot (c), or is illegal (d).

- c. *Bylaw 4.2*: A resident or visitor must not cause damage to the common property.
 - d. *Bylaw 4.2*: An owner is responsible for any damage caused by occupants, tenants or visitors to the owner's strata lot.
 - e. *Bylaw 28.1*: Except where stated, the strata may fine an owner "\$50.00 (up to \$200.00) for each contravention of a bylaw, of rule for each contravention" (underline in original, reproduced as written).
 - f. *Bylaw 28.2*: The council must, if it determines in its discretion that a resident is in repeated contravention of any bylaws or rules, levy fines and the fines must be immediately added to the strata lot's strata fees.
 - g. *Bylaw 44*: A resident must not throw garbage onto common property.
 - h. *Bylaw 47*: Noise bylaw adopted at a March 18, 2015 meeting and filed July 21, 2015. This bylaw states an owner is specifically responsible for the noise made by their guests, and a quiet period in the entire complex in place from 11 p.m. until 8 a.m. every day. The bylaw specifies instances that constitute excessive noise and are not permitted between 11 p.m. and 8 a.m., such as loud music or televisions, sound or vibration from appliances, or noise from a party. This bylaw is a more detailed version of bylaw 45.
 - i. *Bylaw 46(1)*: A resident or visitor must not smoke on common property. There is no express bylaw that prohibits smoking within a strata lot.
16. I pause to comment on bylaw 28.1, which is awkwardly worded. At times, the strata's bylaw infraction letters to the owner quoted that bylaw's language, and at other times the letters simply stated the strata could fine up to \$200 for each bylaw contravention. I find the bylaw's meaning is that fines may range from \$50 to a maximum of \$200, for each bylaw contravention. In almost every case, the strata fined the owner \$200, rather than some lesser amount.

17. Between 2015 and 2017, the strata received over 2 dozen complaints about the owner and in every case it complied with the notice requirements set out in section 135 of the SPA before imposing any fines. Given this compliance is undisputed, I have not detailed it further.
18. It is clear from the complaints in evidence that a number of owners have repeatedly asked the strata to enforce the bylaws against the owner, which the strata must do under section 26 of the SPA. The central issue is the appropriate amount of the fines.
19. The owner's representative submitted October 2016 and August 2017 medical evidence in support of the owner's mental illness, which includes the comment that the owner "will have episodes of outbursts from time to time" and that she is "loud, noisy or irrational due to her illness and other factors". That said, the owner's representative appears to accept the strata should not have to bear the burden of the noise and damage caused by the owner and R. Rather, as noted above, the owner seeks leniency in the form of a reduction in the fines owing, given the owner's undisputed mental illness.
20. As noted in the tribunal's decision *The Owners, Strata Plan LMS 2900 v. Hardy*, 2016 CRTBC 1, a number of Human Rights Tribunal decisions have found that strata corporations provide management services to the public when they enforce bylaws for the control, management, maintenance, use and enjoyment of the strata lots, common property and common assets of the strata corporation. (See *Konieczna v. Strata Plan NW 2489*, 2003 BCHRT 38 and *Williams v. Strata Plan LMS 768*, 2003 BCHRT 165).
21. Section 8 of the Code includes the prohibition that a person must not, without a "bona fide and reasonable justification" discriminate against a person regarding any accommodation, service or facility customarily available to the public, because of a person's physical disability. Further, a person must not deny another person these things. Section 121 of the SPA states that a bylaw is not enforceable to the extent that it contravenes the SPA or the Code.

22. Though not binding on me, I find the reasoning in the above cases, and those cited below, to be persuasive. I find that section 8 of the Code applies to the strata in this case. Broadly speaking, once a request for accommodation is made, the strata must assess whether accommodation is required under the Code. While the owner's representative has not expressly relied upon the Code, I find that is her intent in her request for leniency.
23. I have considered whether the strata should accommodate the owner's disability by reducing the fines. I find that it would be unreasonable to require the strata to do so, although as noted below I have made reductions to the fines for other reasons. I say this because I accept that the owner's conduct has had such a significant impact on so many of her neighbours and that it has gone on for such a lengthy period of time, escalating in the face of her promises that the conduct would not be repeated.
24. In particular, while I acknowledge the owner has a mental disability that causes her to have loud outbursts, I find her disability in the circumstances does not outweigh the owners' right to quiet enjoyment of their property. I am satisfied that the owner's conduct has significantly disrupted the lives of the other owners in the strata. It would be unreasonable to require those other owners to continue living with that conduct. I am not prepared to accept the owner's representative's promise that the owner will no longer be disruptive because she has started to change the company she keeps. I say that because, again, there has been an escalation in the behaviour rather than any reduction.
25. It may be that the strata's bylaws have an adverse impact on the owner due to her disability, in that her disability often prevents her from being able to comply with the noise bylaw. In that sense, the owner has established a *prima facie* case of discrimination. The question then is whether the strata has what is known in law as a "*bona fide* and reasonable justification" for enforcing the strata's bylaws with respect to the owner. I find the answer is yes. The strata's bylaws are reasonable on their face and I accept they were adopted in good faith. Based on the evidence

before me, I also conclude that the strata cannot reasonably accommodate the owner's disability in the manner requested, without incurring undue hardship. I find that hardship is undue if it threatens the viability of the strata's co-operative framework, which I conclude is what would happen here if the strata were required to act with leniency towards the owner at this point. (See *Alberta v. Hutterian Brethren of Wilson Colony*, [2009] 2 SCR 567, 2009 SCC 37 (CanLII) at paragraph 67, 68, and 70, and *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, 1999 CanLII 646 (SCC) at paragraph 20).

26. Apart from the owner's disability, are there other reasons to reduce the fines? The owner's representative submits that the bylaws permit a range between \$50 and \$200 per violation and the strata has unreasonably imposed the maximum fine of \$200 in every case. Elsewhere, in a "cover document", the owner's representative questions the source of some of the complaints and whether every instance can be proven against the owner, although it appears this general comment may refer to complaints other than noise. I pause to note that the strata is under no obligation to identify a complainant, but the owner is free to make a request for the strata's documents under sections 35 and 36 of the SPA.
27. Courts have held that numerous noise violations on a near daily basis does not amount to a "continuing contravention", but is a series of contraventions for which a maximum fine could be imposed, so long as the SPA section 135 requirements are met with respect to every contravention (see *Strata Plan VR 2000 v. Grabarczyk*, 2006 BCSC 1960, affirmed 2007 BCCA 294). As noted, the strata met its section 135 obligations, which is not disputed. In this case, I do not consider the total amount of fines claimed to be so substantial so as to be unreasonable. The purpose of fines is to discourage violation of the bylaws and the fines in this case reasonably fall within that purpose. As noted above, the strata may wish to consider an application to the BC Supreme Court for an order under section 173 of the SPA should the owner's offending behaviour continue.

28. Whether the maximum \$200 fine was reasonable in each case must be considered in the overall context of the nature of the noise and nuisance complained of and the pattern of the owner's behaviour, in that it escalated rather than decreased over time. While the owner generally denied the conduct alleged, as noted she also apologized on a number of occasions saying she would not cause further complaints. Meanwhile, multiple owners continued to document their ongoing noise and nuisance concerns. I find the evidence is clear that a number of owners had grave concerns about the noise, with one owner adjacent to unit 211 having significant smoke concerns. I note that at least 7 different owners made numerous complaints. As discussed further below, I find it was not unreasonable for the strata to progressively fine the owner.
29. Next, I appreciate the strata's concern that certain suspicious, and possibly illegal, behaviours gave rise to building security concerns. However, I am unable to conclude, based on unidentified people whistling from the street, that the owner is responsible for a violation of bylaws 4.1 or 47. Based on the limited evidence before me, I am also not prepared to conclude the owner is responsible for the dumping of garbage (including drug baggies and used condoms) onto common property. Again, while I appreciate the strata's concern, I am unable to conclude on the evidence before me that the owner engaged in illegal drug dealing or prostitution. I also find the evidence that the owner or her guests held the building door open for unknown people is insufficient. In the result, I have not allowed any fines in respect of this conduct.
30. However, I find the strata has established the owner violated the noise and nuisance bylaws on numerous occasions, which I find warranted the maximum fine in most cases. Bearing in mind the number of complaints coming from up to 7 different owners, I find the weight of evidence favours the strata over the owner's denials in the underlying evidence. This conclusion is supported by the fact that the owner's representative's submission is focused simply on a reduction of the fines on the basis of leniency, and she has generally acknowledged the noise concerns are valid.

31. I find that noise, involving yelling, screaming, fighting and police involvement, was egregious, especially when it occurred in the late evening or in the middle of the night and particularly when it is not an isolated occurrence. When such incidents were repeated, the level of concern understandably rose. While the strata often received multiple complaints, the strata only assessed a single fine for the incident, although at the maximum \$200 permitted. With the exception of the fines imposed in October 2016, discussed below, I find this was reasonable. I have considered whether the strata should have just levied a single \$200 fine in each bylaw infraction notice, even if the notice covered multiple infractions of the same type in a week-long period. Other than the fines imposed on October 31, 2016, I find the answer is no. The strata properly gave the owner a 14-day window of time to respond to the complaints, and the owner bears the responsibility for having continued to create noise disturbances.
32. What about the smoking fines? There is a bylaw prohibiting smoking on common property. I recognize the strata does not have an express 'no smoking' bylaw within a strata lot. That is not the end of the matter however, as the strata's bylaw 4.1 requires all owners to ensure they do not unreasonably interfere with another owners' right to use and enjoy their strata lot or the common property. I find the strata properly fined the owner with respect to the unreasonable smell of smoke coming from unit 211 and when her visitor smoked on common property. The owner admits to smoking cigarettes in her unit and on the evidence before me I accept that R was improperly smoking on common property.
33. The strata's means of enforcing the owners' rights are, essentially, progressive fines and ultimately eviction or forced sale. As noted above, I have decided my jurisdiction is limited to the issue of fines, and have left it to the strata to pursue an eviction or forced sale in Supreme Court should that prove necessary.

Fines - amounts

34. I turn then to the details of the strata's bylaw infraction letters and claimed fines of \$3,250.00. At the outset, I note that \$3,050.00 is the amount outstanding on the strata's August 16, 2017 account statement for unit 211.
35. In the interest of brevity, I have not set out all of the complaints in this decision, but they are detailed and as noted come from a number of different owners. I have also not set out every bylaw infraction letter to the owner, and instead have only set out those letters that are the subject of the fines claimed. That said, I note there were multiple bylaw infraction letters sent for excessive noise, particularly between November 2016 and June 2017, which did not result in any fines being imposed by the strata.
36. As set out below, I order the owner to pay the strata a total of \$2,000.00 in bylaw violation fines for the period up to August 1, 2017. Nothing in this decision addresses any fines that may be imposed for conduct arising after that date. My order is based on the strata's bylaw infraction letters and later "notification of bylaw fines" or "decision to fine" letters to the owner, the underlying complaints, the owner's responses to the strata and in this proceeding, as further summarized below:
 - a. **October 31, 2016:** The strata's account statement for unit 211 shows \$600 in fines for "noise complaints" on September 18, 19, & 25, 2016. The noise involved yelling/screaming, and stomping, in the late evening and early morning hours, including a call to the police. One complaint detailed noise on 15 occasions between September 3 and October 15, 2016, contrary to bylaws 4.1 and 47. The strata separately this date wrote the owner imposing \$600 in fines, in respect of September 28 and 30, 2016 bylaw infraction letters that summarized these complaints. In this letter, the strata manager noted that there had been issues with unit 211 for years that appeared to be escalating in frequency and nature in the past year. The strata warned that should there be

further violations, additional letters and fines under the bylaws and SPA may be issued.

- i. ***I find \$200 is a reasonable sum for the late night and excessive noise that occurred on September 18, 19, and 25, 2016. In particular, I find a single \$200 fine is appropriate for the noise on September 18 and 19, 2016 as it is not entirely clear that the September 18 and 19th noise do not reflect a single event. I also say this because a lower fine for one bylaw infraction letter is appropriate at the beginning of the owner's fine history, though I recognize an earlier isolated fine in 2015 that was paid.***
- b. **November 28, 2016:** The strata's account statement for unit 211 shows \$600 in fines for "noise complaint" on September 3, October 24 and 30, 2016. The strata's separate letter this date detailed the fines imposed: 6 separate \$200 fines for the October 25, 26, and November 3 bylaw infraction letters, with respect to September 3, 7, 18, October 24 and 30, 2016 incidents.
 - i. While the strata's November 28, 2016 letter to the owner imposed \$1,200.00 in fines, the owner's strata lot account reflects that only \$600.00 fines were imposed and the latter is the figure reflected in this dispute. I note the September 18th complaint was purportedly addressed in a September 30, 2016 bylaw infraction letter that I do not have before me, and for which I did not give a separate fine above.
 - ii. The October 25, 2016 bylaw infraction letter detailed 15 occasions of excessive noise, between September 3 and 7, 2016, with loud yelling and door banging. October 26, 2016 and November 3, 2016 infraction letters detailed noise (loud party and door slamming and arguing, respectively) on October 24 and 30, 2016, which required police attendance on at least 1 of those occasions. Overall, **I find \$600.00 is an appropriate sum for the fines related to excessive noise on**

September 3, October 24 and 30, 2016, given the progressive history.

- c. **February 1, 2017:** Strata council meeting minutes indicate the owner attended to discuss the several bylaw infraction notices and fines issued. It was noted that despite council having assessed fines, the behaviour remained unchanged. The owner was advised the strata intended to file this tribunal proceeding, having explained the strata's and owners' concerns about the owner's conduct affecting the residents. The owner stated she could not afford the assessed fines. The strata stated that it would not reverse the assessed fines, but if the underlying behaviour giving rise to the fines ceased completely for a period of time, the council would consider some relief on the fines at a future time.
- d. **February 16, 2017:** The strata's account statement for unit 211 shows \$200 fine imposed for "cigarette smoke & noise complaint". In the evidence before me, there is no related notification of bylaw fines or "decision to fine" letter to the owner. Further, it appears this \$200 charge was covered under the March 31, 2017 notification of bylaw fines letter, discussed below. As such, I have not allowed this \$200 February 16, 2017 fine.
- e. **March 31, 2017:** The strata's account statement for unit 211 shows \$800 in fines imposed for "Jan 30/17 to Mar 13/17, noise complaint, cigarette smell, unknown individuals to the building". The strata manager sent a letter this same date to the owner imposing fines for violations of bylaw 4.1 as follows:
 - i. \$200 – for a January 30, 2017 infraction letter, re noise on January 27, 2017. This complaint involved police attendance at 5:30 a.m.
 - ii. \$200 – for a February 16, 2017 infraction letter, re 17 instances of noise and smoke from unit 211 between December 31, 2016 and February 13, 2017.

- iii. \$200 – for a February 27, 2017 infraction letter, re unit 211 noise and smoke on common property between February 21 and 22, 2017. The complainant had detailed the owner was yelling and screaming in the lobby with R, which was an “ongoing regular nuisance”. As for the smoking, the complainant had stated it was not R but the owner’s “other male friend” who she saw smoking in the elevator, down the hall, and then sat inside the lobby smoking. As was generally the case with the owner’s responses to the strata, the owner denied she was responsible, saying she was not at home and that she felt discriminated against.
- iv. \$200 – for the March 13, 2017 infraction letter, re the owner’s visitors allowing unknown individuals into the building.
 - i. ***I find these noise complaints are proven and a total of \$600 in fines was reasonable in the circumstances***, in part because of the number of instances of disruptive noise, which was at that point almost daily, including late at night. As noted above, there were other bylaw infraction letters sent to the owner that did not result in a fine, but which put the owner on notice her conduct was serious and potentially the subject of a fine up to \$200 per contravention.
 - ii. I do not allow the \$200 fine for the security concerns set out in the March 13, 2017 letter relating to a March 7th complaint. While concerning, the evidence of this event is not sufficient to establish that R did not know the person he waved into the building was known to the building. The balance of the March 7th complaint relates to noise and banging on the front doors, but those concerns were not the subject of the bylaw infraction letter.
- f. ***April 25, 2017:*** The owner wrote the strata about the strata’s February 24 to March 24, 2017 violations, noting that they seemed to largely concern cigarette smoking inside unit 211. The owner wrote that she felt she should be

able to smoke inside her strata lot, but if it is causing a disturbance she would go outside for a walk if she chooses to smoke. The owner denied the whistling from outside was directed at her strata lot. The owner denied knowledge of the police attendance on March 28, 2017 for a fight. The owner acknowledged the altercation in the lobby where the police were called and that “the situation was handled properly”. The owner wrote “Sorry if any neighbours were bothered”.

- g. **May 4, 2017:** The strata’s account statement for unit 211 shows \$850 in fines imposed for “April 3-15/17 – altercation, fights, excessive noise, loitering and excessive noise”. This same date the strata wrote the owner imposing the \$850 in fines for the strata’s bylaw infraction letters relating to the March 13, 24, 27, 30 and April 6, 2017 incidents of noise, loitering, illegal activities, and breach of building security.

i. I have noted above that I will not order payment of fines related to alleged illegal activities, which here was a \$50 fine. I also find the evidence in the March 13, 2017 complaint about the owner’s visitor allowing an unknown visitor into the building to be insufficient proof, and that fine was \$200.

ii. Of the remaining \$600 in fines in this “decision to fine” letter, I find that sum is reasonable. The excessive noise on March 27, 30 and April 6, 2017 was egregious, in some cases after midnight and requiring the attendance of the police. **I order the owner to pay \$600 in fines for these complaints.**

37. As noted above, there were several other complaints and related bylaw infraction notices, which for reasons unknown to me did not become the subject of a fine against the owner’s strata lot. I have generally referenced those other instances here as they add to the overall picture of why I have found the strata was entitled to progressively fine the owner the maximum fine amount of \$200 per contravention, for the proven instances of excessive noise. I also mention those other instances generally as support for my conclusion that I do not simply accept

the owner's promises that she will comply with the bylaws in future. Here, I note the several complaints in May and June 2017, to which owner repeated her earlier denials of making any noise at all. My decision is limited to conduct up to and including August 1, 2017, which is the last entry on the August 16, 2017 account statement. Nothing in this decision prevents the strata from imposing fines for conduct occurring after August 1, 2017, so long as the strata complies with section 135 of the SPA.

38. The strata was substantially successful in this dispute. Under section 49 of the Act, and the tribunal's rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable expenses related to the dispute resolution process. I see no reason to deviate from that general rule and I order the owner to reimburse the strata \$225 it paid in tribunal fees. The strata did not claim any dispute-related expenses.

DECISION & ORDER

39. I decline jurisdiction to decide the strata's claims for a contingent order for eviction or forced sale of the owner's strata lot.
40. I order the owner to comply with the strata's bylaws.
41. I order the owner to refuse to allow her associate known as R any access to the strata property.
42. I further order the owner to do all of the following, within 30 days of this decision:
- a. Pay the strata \$2,000.00 for fines imposed under bylaws 4.1 and 47, with respect to the period up to and including August 1, 2017.
 - b. Pay the strata \$225 as reimbursement for its tribunal fees.
43. The strata is entitled to post-judgment interest under the *Court Order Interest Act*.

44. I order that the published version of this decision be anonymized to protect the identity of the respondent owner, due to her impaired capacity.
45. Under section 57 of the Act, a party can enforce this final tribunal decision by filing, in the Supreme Court of British Columbia, a validated copy of the order which is attached to this decision. The order can only be filed if, among other things, the time for an appeal under section 56.5(3) of the Act has expired and leave to appeal has not been sought or consented to. Once filed, a tribunal order has the same force and effect as an order of the Supreme Court of British Columbia.
46. Orders for financial compensation or the return of personal property can also be enforced through the Provincial Court of British Columbia. However, the principal amount or the value of the personal property must be within the Provincial Court of British Columbia's monetary limit for claims under the *Small Claims Act* (currently \$35,000). Under section 58 of the Act, the Applicant can enforce this final decision by filing in the Provincial Court of British Columbia a validated copy of the order which is attached to this decision. The order can only be filed if, among other things, the time for an appeal under section 56.5(3) of the Act has expired and leave to appeal has not been sought or consented to. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

Shelley Lopez, Tribunal Vice Chair