



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Perry et al v. The Owners Strata Plan LMS 180*, 2017 BCCRT 135

B E T W E E N :

Jeffrey Perry and Doris Buxton

APPLICANTS

A N D :

The Owners, Strata Plan LMS 180

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kathryn Berge

INTRODUCTION

1. This is a decision of the Civil Resolution Tribunal (tribunal) about whether a strata corporation's council (council) acted properly when it withdrew funds from the strata's contingency reserve fund (CRF) and the operating fund to pay for fence

construction to repair and add to the fencing around the strata's outside boundary. Only the evidence and submissions relevant to this issue are referred to in this decision.

2. The applicants, Jeffrey Perry and Doris Buxton (the applicants), own separate strata lots in the respondent strata corporation, The Owners, Strata Plan LMS 180 (strata). Mr. Perry is their representative. The strata is represented by its current strata council president.
3. The applicants say that council acted improperly in proceeding on its own motion to contract and begin building fencing in 2016 without advance budgeting for it or a resolution being passed by $\frac{3}{4}$ of the owners prior to the construction being undertaken. They ask the tribunal to find that council's decision to build the fencing in 2016 (the 2016 fencing) was invalid because at least half of the voting council members were in a conflict of interest. They want the council members reprimanded and barred from holding office in the future. They also wish the council members to reimburse the strata for the \$22,680 spent by the strata to construct the 2016 fencing, the cost of its removal and restoration of the grounds, the strata's legal fees of \$2,834 associated with the 2016 fencing and this dispute, and their costs of bringing this dispute.
4. The strata says that the applicants' claims should be dismissed because the work was planned and contracted for on a lawful basis, either due to council's reasonable belief that the fencing gaps must be closed in to ensure safety or prevent significant loss or damage and/or because it is obligated to repair and maintain common property of the strata.
5. For the reasons that follow, I allow the applicants' claim in part.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of (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, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.

7. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
8. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether 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.
9. The applicable tribunal rules are those that were in place at the time this dispute was commenced.
10. Under section 48.1 of the Act and the tribunal rules, in resolving this dispute the tribunal may make one or more of the following orders:
 - a. order a party to do or stop doing something;
 - b. order a party to pay money;
 - c. order any other terms or conditions the tribunal considers appropriate.

ISSUES

11. The issues to be decided are:

Issue a: What responsibility do the individual council members holding office in July 2016 have for the 2016 fencing?

Issue b: Did the strata council have the right to build the 2016 fencing?

- Issue c: Did the strata have the authority to pay legal expenses?
- Issue d: If the strata was not entitled to build the 2016 fencing, or legal fees, should the funds be repaid and how?
- Issue e: Did council members act honestly, in good faith, and absent a conflict of interest?
- Issue f: Should the 2016 fencing be removed?

BACKGROUND AND EVIDENCE

12. The strata is a 24 strata lot development located in Maple Ridge, British Columbia. Its strata plan was filed in the Land Title Office in 1991. The 24 strata lots are grouped in two separate blocks of buildings each containing 12 strata lots. One block is near to 116th Avenue (the 116th Avenue block). The other block is near 227th Street (the 227th Street block). For unexplained reasons, the 227th Street block had more original perimeter fencing than the 116th Avenue block.
13. The original development had several gaps in the complex's perimeter fencing. One comparatively long gap ran along the complex's south boundary that drops steeply onto a highway bypass. The two streets bordering the complex, 116th Avenue and 227th Street, were left mainly unfenced and provide vehicle access to the complex.
14. The relevant bylaws are those adopted by the strata in 2001. A copy of them was obtained by the tribunal facilitator on October 12, 2017. They include bylaw 16 which defines what constitutes a quorum for council meetings. A quorum is the minimum number of voting council members required to have a valid meeting authorized to make decisions on behalf of the strata. When the 2017 fencing was built, there were seven council members. Bylaw 16(d) requires at least four of the seven members to be present to have a quorum.

15. Bylaw 21(2) which says that a council member may spend strata assets to ensure safety or prevent significant loss or damage. Bylaw 21(3) clarifies bylaw 21(2) by setting a \$1,000 expenditure limit for an expenditure that is not in the current budget, except in the case of an emergency or authorized by special resolution of the strata corporation.
16. The term “special resolution” used in bylaw 21(3) is not defined in the bylaws or the *Strata Property Act* (SPA). It is commonly understood to mean a resolution passed by a minimum of $\frac{3}{4}$ of the strata’s owners at an annual general meeting (AGM) or special general meeting (SGM). I find that the requirement of strata bylaw 21(3) for a special resolution means a $\frac{3}{4}$ vote as defined by the SPA section 1. In the balance of this decision I refer to such a vote as “a $\frac{3}{4}$ vote”.
17. The amended bylaws also contain bylaw 22(1) which states that a council member who acts honestly and in good faith is not personally liable because of anything done or omitted in the exercise of any power, or the performance or intended performance of any duty of council.
18. Bylaw 22(3)(a)–(c) explains council members’ standard of conduct: they must act honestly, in good faith, and disclose any conflict of interest or potential conflict of interest in respect of decisions before council. If such a conflict or potential conflict exists, they must not vote on the issue, and their presence at the meeting will not be included in determining whether there is a quorum. Bylaw 22(3)(a)-(c) mirrors SPA section 32.
19. The strata last obtained a depreciation report in January 2014. A depreciation report is an expert report that provides a blueprint for the strata about long-term common property repairs and maintenance, and the cost of them that should be planned for by the strata. It does not cover improvements that the owners might wish to consider in the future. The strata’s 2014 depreciation report says that the original fencing was replaced in 2004, and will again need replacement in 2040. No mention is made of any need to repair it or add to it for maintenance purposes.

20. Some of the evidence submitted is that, on an unspecified date, council resolved to construct fencing along at least some of the gap in the fencing along the bypass boundary. In submissions, the strata says that this prior approval exists. The applicants' evidence is that, after a search of the strata records, they found no quotes nor prior resolution regarding this bypass fencing being approved by council or the strata at a general meeting. I accept the applicants' submission that there is no evidence of any additional bypass fencing being approved in advance of the work being done in 2016.
21. On February 14, 2014, the strata council received an undated letter from an owner and council member, Ms. M.. The letter expresses concerns about the unequal level of privacy that various strata lots enjoyed as a result the development's fencing plan. The council member asks council to explain its reasons for its rejection of her request for the fencing of the "back yard on 227th Street". The council member says that 18 strata lots then had fencing or walls across the back of their yards. Three strata lots, including that of applicant owner, Mr. Perry, had their back yards fully enclosed. Ms. M. goes on to say that the 227th Street owners have a "total lack of privacy due to the increase of foot and road traffic which make it next to impossible to use our yards in comfort". She says that her strata lot has even less privacy than others due to the presence of a bus stop behind it on 227th Street. She says that in the past others have requested this change have been refused "out of hand". She notes that "what was appropriate 20 years ago is no longer valid today. We didn't have people living on the street and relieving themselves...".
22. On April 8, 2014, Mr. Perry wrote a letter to council requesting the extension of the dividing wall between his strata lot and the next, out to the common property boundary of the development. He states that he wished this construction to "stop homeless people, dogs, and (the) increasing presence of coyotes in the backyard", and loss of items of property. Council minutes reflect that no other strata lots had the type of fencing Mr. Perry requested. The request was denied.

23. On April 29, 2014, a motion was brought at a SGM by two 2014 council members, Ms. M. and Mr. D., another council member who was then president. Both council members live in the 227th Street block. Their motion proposed that the strata build extra fencing to close three 227th Street fencing gaps, all of which were either immediately behind Ms. M.'s strata lot or nearby. It was supported by 40% of the owners present; less than the $\frac{3}{4}$ majority required to pass the resolution.
24. At the October 28, 2015 AGM, the strata's 2015-2016 budget was approved. Funds of \$28,300 were committed for strata repairs and maintenance that year. No allowance was made for fencing repair or extension. Seven council members were elected, including Mr. D. and Ms. M.. Of the seven 2015-2016 council members, five lived in the 227th Street block and two in the 116th Avenue block.
25. At the May 2016 council meeting, one request for repair of a fence near the parking area near 116th Avenue, was received and referred for a quote (the 116th Avenue repair). The minutes of the May 4 and June 1, 2016 council meetings reflect no discussion about any extension of the perimeter fence. However, the June 1 minutes note that the 116th Avenue repair will be "deferred until July 2016".
26. On June 15, 2016, Mr. D. obtained a quote from a fencing company to fill in some fencing gaps and do the 116th Avenue repair (the June quote). The 116th Avenue repair was quoted at \$4,875. The whole project was to have a total cost of \$13,927, plus GST. A deposit of \$9,500 was required.
27. Later in June 2016, Mr. D. met with a volunteer with the local RCMP's Crime Prevention/Volunteer Program, to discuss the strata's security concerns regarding its fencing, and explore prevention solutions.
28. On July 6, 2016, a council meeting was held, chaired by Ms. M. (the July council meeting). Six of the seven council members were present, including Mr. D.. The CRF balance stood at \$41,804.73. A resolution to do the fencing work set out in the June quote was unanimously approved (the July resolution). The minutes do not say that any council member declined to vote on the July resolution, nor left

the meeting during the discussion regarding it on the basis that they may have a conflict of interest. The minutes say:

- a. "council is trying to catch up on maintenance long overdue because of insufficient funds...council working on a priority basis as fairly as possible for all 24 units...this may cause concern as new requests may not get done, unless of an urgent or safety concern... "council's number one priority is to run within the budget and hold strata dues at the current level",
 - b. "completion of the perimeter fencing of the strata had been recommended by the RCMP crime prevention and the city by-laws department"; (it) "will also affect insurance claims should they arise"; "funds will be taken out of the contingency [reserve] fund."
 - c. council will proceed with "fencing the perimeter as soon as possible",
 - d. SPA sections 98(3) and (5) are quoted as the foundation for the July resolution. Section 98(3) states that an expense may be paid by a strata's operating fund or CRF if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise (the safety exception). Section 98(5) says that the expenditure must not exceed the minimum amount necessary to ensure safety or prevent significant loss or damage.
29. On July 6, 2016, construction started. The July resolution was passed approving it.
30. On July 7, 2016, work continued on some portions of the 2016 fencing. Council paid the \$9,500 deposit. It was specified on the deposit invoice that the work was to be done by July 16, 2016. Strata lot owners were advised by council of the decision to build the 2016 fencing. A group of non-council member owners objected and tried to stop the construction.
31. On July 8, 2016, work continued. Council received a letter from the two applicants and nine other owners petitioning an SGM pursuant to SPA section 43. Of the 11 owners that signed the letter, seven own strata lots in the 227th Street block and

four in the 116th Avenue block. The letter objects to the July resolution because it did not follow the bylaw 21 spending limits or the limits provided by SPA section 98. The letter objected to the July resolution on the basis that strata owners had not been consulted nor approved the 2016 fencing project, and council had no reasonable basis to believe that the absence of the 2016 fencing risked safety or loss or damage. After discussions between some letter writers and council members, it was agreed that fencing construction would stop until an SGM could be held on the issues raised in the letter from the 11 owners.

32. On July 13 and 14, 2016, the RCMP volunteer toured the strata complex with Mr. D.. The following day a letter and an enclosure were received from her addressed to all strata residents (the RCMP letter). The letter says:
 - a. at a meeting at the RCMP offices in late June 2016, Mr. D. told the volunteer that the strata was considering installing “continuous perimeter fencing” (my emphasis). The volunteer said that she told Mr. D. that she was aware of “criminal and suspicious types of activities” in the area, and that she knew that the strata had been experiencing this sort of problem and some reported crimes within the complex,
 - b. the RCMP would “absolutely support” the plans to complete the strata’s perimeter fence from an environmental design crime prevention point of view (my emphasis). A sheet of four recommended principles for such site design was enclosed. The principles include “strategically defining borders through exterior fencing and defined entrances and exits”, maintaining exterior structures, and landscaping and repairs. The RCMP letter also noted “although there are no guarantees of absolutely no crime once the fencing project is complete, the complex should notice less of these undesirable activities and/or it may be easier to detect (them) when unwanted person(s) are on the property. These unfinished sections of the fence leave the entire complex vulnerable to these types of negative and fearful activities”,

33. On July 20 and 22, 2016, two emails were received from the strata's insurers acknowledging the additional fencing. They do not mention the topic of any risk, or any lessening of risk because of the construction of the 2016 fencing. One email refers to the additional fencing as an "enhancement to security".
34. On August 3, 2016 council received a revised quote for fencing. The cost had increased to \$22,680. The \$8,753 increase from the June quote was not clearly accounted for by the strata, but it did involve the addition of extra fencing plus some gates in the new fencing to allow for fire and maintenance access to the complex.
35. On August 7, 2016, the SGM requested by the 11 owners took place (the August SGM), at which:
 - a. the RCMP letter and handout were circulated to all strata owners. The RCMP volunteer gave an oral report and answered questions,
 - b. no cost estimates or the quote or invoices for the 2016 fencing were provided, although requested by Mr. Perry. He brought a motion for council to immediately cancel all work on the new 2016 fencing order, remove the work done, restore the grounds to their original condition, and for council members associated with the July resolution to bear all the costs of the 2016 fencing, and be barred from serving as council members in the future. The meeting chair made it clear that a vote against Mr. Perry's motion meant that the fencing work would continue. The motion was rejected with 48% of the votes present in favour of the motion.
36. On August 9, 2016 the owners were provided with the information that the cost of the 2016 fencing was \$17,561.25.
37. By August 12, 2016, the 2016 fencing had been completed and the second invoice paid. Out of the total of \$22,680 paid by the strata, \$9,500 was paid from the operating fund in July 2016 and the \$13,180 balance from the CRF in August 2016.

38. Neither before nor after the 2016 fencing was built did the strata budget or pass any $\frac{3}{4}$ vote resolution approving the 2016 fencing nor any portion of it. The strata has not allowed for repayment of the two funds for the monies spent by allowing for this in a budget or by authorizing the funds' reimbursement by a $\frac{3}{4}$ vote resolution.
39. On October 26, 2016, the 2016 AGM was held. The minutes reflect that:
- a. no fencing-related motions were brought before the meeting. Objections were expressed about the membership not being provided with correspondence relating to the various concerns regarding council's conduct about the 2016 fencing and procedural concerns regarding the August SGM,
 - b. the ultimate cost of the 2016 fencing was reported and voted on by the strata. It was accepted that the proper amount to be considered as the 2016 fencing cost was \$17,561.25. Using approximate terms, this amount notionally reduced the total 2016 fencing expenditure of \$22,680 by the \$4,875 cost of the 116th Avenue repair. There is no indication of the reason for this decision nor that it was approved by a $\frac{3}{4}$ vote,
 - c. council's financial report was approved and a new budget passed. The fencing-related items approved are maintenance expenses noted in the operating fund budget for fence-washing and the installation of a gate,
 - d. all but one of the 2015-2016 council members were re-elected to the new 2016-2017 council, including Mr. D. and Ms. M..
40. The evidence contains conflicting first-person accounts from various owners regarding the number of incidents and severity of the criminal activity which took place on strata property before and after the 2016 fencing. There is no independent evidence on this point, nor that the criminal activity affecting strata owners created an emergency. I draw no conclusions from any of the evidence presented, except to note I find that criminal activity of some degree has clearly

taken place and increased in recent years, thereby lessening the complex's overall security.

41. At my request, the strata provided a site plan illustrating the location of the old and new 2016 fencing, as well as evidence about which strata lots are owned by which of the July 2016 council members.

POSITION OF THE PARTIES

42. The applicant owners say that council, in approving the completion of the 2016 fencing, acted improperly and without reasonable cause. They say that several of the council members were in a conflict of interest in deciding to build the 2016 fencing. The applicants wish the tribunal to order that:

- a. the July 2016 council members be held responsible for:
 - i. the 2016 fencing costs,
 - ii. the cost of the removal of 2016 fencing and grounds' restoration,
 - iii. the strata's legal fees associated with obtaining advice regarding the 2016 fencing and this dispute,
 - iv. the strata's costs of bringing this claim, and that
- b. the July 2016 council members be reprimanded, removed from office, and ordered to be ineligible to serve on council in the future.

43. The respondent strata says that the applicants' claims should be dismissed because:

- a. council had reasonable grounds to believe that the 2016 fencing expenditure was necessary for safety and security reasons and to prevent significant loss or damage or, alternatively,

- b. the work had to be done to maintain and repair the strata or to repair a defect in the strata's original construction,
- c. council acted properly because no funds were paid out associated with the 2016 fencing costs until after a SGM of the strata was held and the expenditure was approved by a majority vote,
- d. while the strata admitted that four of the council members who voted for the July resolution were in a conflict of interest, it submitted that the July 2016 council members should not be reprimanded, barred from future council office, nor be made liable for any costs associated with the 2016 fencing or associated legal fees incurred by the strata.

ANALYSIS

44. After reviewing the evidences, I find the following:

- a. the 2016 fencing cost \$22,680. Of this sum, \$13,180 was paid from the CRF, and \$9,500 from the operating fund,
- b. the strata did not pass any $\frac{3}{4}$ vote resolution approving any or all the 2016 fencing before or after its construction, nor has it ever budgeted for any portion of the expense, nor planned to replenish the CRF and/or operating fund for the monies spent,
- c. the strata has spent \$2,834 to obtain legal advice regarding the 2016 fencing and this dispute. Of this total:
 - i. the unbudgeted sum of \$1,235 was spent in the strata's 2015-2016 financial year for advice regarding the July resolution,
 - ii. \$1,599 was spent in the strata's 2016-2017 financial year for legal advice, including regarding the August SGM and this dispute. This amount was less than the strata's \$2,000 budgeted allowance already approved at its AGM,

- iii. \$364 of the \$1,599 spent in the strata's 2016-2017 financial year, was spent to obtain legal advice regarding this dispute.

45. From the evidence, I also find that:

- a. prior to the construction of the 2016 fencing, the 116th Avenue block had significantly more perimeter fencing than the 227th Street block,
- b. the effect of the 2016 fencing was to make the partial perimeter fencing approximately equivalent for both blocks,
- c. the construction of the 2016 fencing made a major change to the use and appearance of the strata's common property,
- d. since at least 2014 there has been a division of views within the strata regarding spending strata funds to build additional perimeter fencing. No consensus existed sufficient to pass a $\frac{3}{4}$ vote motion approving any fencing extension,
- e. the six portions of the 2016 fencing (the 116th Avenue repair and the five gap fences, including the bypass fence) all provide a significant benefit to the strata lots owned by six of the seven July 2016 council members. Specifics of these benefits are:
 - i. it was a 2015-2016 council member who requested the fencing repair to the 116th Avenue strata lot that is noted in the May 2016 council minutes. The fence involved is located immediately behind her strata lot. She voted to approve the July resolution. She has benefited by now having an improved fence located immediately behind her strata lot,
 - ii. three of the strata lots receiving gap fencing run along the 227th Street strata boundary. These three lots belong to three 2015-2016 council members, including Ms. M.. One of these three council members was absent for the July council meeting but sent word that he supported the July resolution,

- iii. the fourth gap fence primarily protects the privacy of the strata lot of another 2015-2016 council member who lives in the 1116th Avenue block,
 - iv. the fifth gap fence runs along the bypass. It provides boundary definition and some safety benefit to one side of the 227th Street block. Two further 2015-2016 council members' strata lots are located in the 227th Street block. The bypass fencing provided a particular benefit to the 227th Street block, although it also provides a general safety benefit to the whole complex,
 - f. only one 2015-2016 council member who voted for the July resolution received no particular benefit from the July resolution. He owns a 116th Avenue strata lot reasonably far removed from all the 2016 fencing,
 - g. prior to building the 2016 fencing, the strata had a valid concern about criminal activity linked to gaps in the perimeter fencing,
 - h. because the 2016 fencing did not provide a complete perimeter enclosure of the development, there has not been any dramatic increase in the security of the complex. Nevertheless, I am persuaded that there has been some improvement in the strata residents' privacy and security, particularly in the 227th Street block.
46. Some of the evidence filed by the parties was contradictory or incomplete. I asked questions to clarify the evidence and was provided with answers and the further evidence that I determined was required to make a fair decision. Two recordings of the August SGM and the 2016 AGM were submitted by the applicants. I found them difficult to hear and no transcript of them was available. Therefore, I give them little weight. However, both parties filed other evidence regarding these general meetings, which has provided me with sufficient evidence regarding them to make a fair decision, despite the poor quality of the recordings.

47. The evidence reflects significant communications problems within the strata. Many owners objected to council not providing the ownership with correspondence it received addressed to all owners, or delaying its circulation. An example of this is the RCMP letter which was addressed to all occupants of the strata. It was an important letter at a sensitive time, and yet was not distributed until approximately three weeks after its receipt, at the August SGM. I find that these poor communications from council to the owners contributed to the breakdown in the functioning of the strata.

Are any or all of the individual council members holding office in July 2016 personally liable?

48. The applicants ask the tribunal to make orders holding the individual July 2016 strata council members personally liable for all costs associated with the 2016 fencing, including legal fees. They also wish for them to be reprimanded and barred from being council members in the future.
49. The applicants did not individually name these council members as respondents in this claim. Only the strata was named as a respondent.
50. Tribunal Rule 93 permits a facilitator to recommend that additional parties be added to a dispute at any time prior to the dispute being referred for adjudication. Once in the adjudication phase, additional parties can be added with the consent of the adjudicator. The applicants did not ask for them to be added as parties. If a party is added, they must be given an opportunity to review the claim and the evidence, make submissions, attempt settlement, bring a claim of their own against the owners, and seek legal advice if they so choose.
51. As the individual council members are not parties to this dispute, they have not had any opportunity to take any of these actions. It is my view that I do not have the jurisdiction to make orders against individuals who are not parties to the dispute. Further, in my view, it would not be procedurally fair to make such orders now. I dismiss each portion of the owners' claim that requests the tribunal to make orders against any July 2016 council member personally.

Did the strata have the right to build the 2016 fencing?

52. A strata council exercises the powers and performs the duties of the strata corporation, subject to the SPA, the SPA Regulation, and the strata's own bylaws and rules (SPA, section 26). The strata may direct or restrict council's exercise of powers and performance of duties by a resolution passed by a majority for at a general meeting, subject to certain restrictions (SPA section 27(1)).
53. The SPA Part 6 and other SPA provisions strictly regulate the management and preservation of all strata monies. For example, SPA Regulation 6.3 permits a strata to loan CRF monies to its operating fund for operating fund expenses caused by a temporary shortfall in monthly in monthly contributions from owners, on two conditions: the loan is repaid by the end of that same financial year of the strata corporation, and the owners are advised of the loan as soon as possible. In this case, \$13,180 was withdrawn from the CRF and deposited into the operating fund to pay for the second invoice. Despite SPA Regulation 6.3, no repayment of the CRF loan has been made by the strata, nor has there been any planning for repayment, and certainly not in the strata's 2015-2016 financial year in which the withdrawal was made. The strata has breached SPA Regulation 6.3.
54. The SPA section 71 also directs that the strata must not make a significant change in the use or appearance of common property or land that is a common asset unless the change is approved by a resolution passed by a $\frac{3}{4}$ vote at a general meeting, or there are reasonable grounds to believe that immediate change is necessary to ensure safety or prevent significant loss or damage.
55. A strata has an obligation to manage and maintain the common property and assets of the strata for the benefit of the owners (section 3 of the SPA). To meet its common expenses, a strata corporation must maintain two funds: an operating fund to meet day to day expenses and a CRF to provide savings to meet major future repairs and improvements. In this dispute, each fund paid a portion of the 2016 fencing expenses. It is a fundamental principle of the SPA that the monthly strata fees and other contributions paid by the owners are only used in a manner

that approved of by the owners in advance to the greatest extent possible. Unless otherwise specified by the bylaws, an expense must only be paid by council if it is contained in a budget approved by a majority of owners at the strata's AGM, by a $\frac{3}{4}$ vote passed at a general meeting, or if the safety exception discussed below applies under the circumstances.

56. In this case, bylaw 21(3) and section 98 of the SPA provided that council only had discretion to approve an expenditure of \$1,000, except in the case of emergency or as authorized by a $\frac{3}{4}$ vote of the strata corporation. The \$22,680 spent by council on the 2016 fencing far exceeded bylaw 21(3)'s spending limit, unless council had a reasonable basis to believe there was an emergency.
57. In terms of the bypass fencing, the strata says that it was entitled to proceed with it, because it had earlier been approved by a previous strata council. Earlier in these reasons, I held that the evidence did not support this assertion by the strata. I note that, even if such a prior council approval existed, the approval by council of a major expenditure is not what is required. Except in cases of urgency, only the owners' approval of the expenditure in the strata's annual budget or by way of a $\frac{3}{4}$ vote could authorize council to spend a sum in excess of the \$1,000 discretionary limit set out in bylaw 21(3).

Could any of the 2016 Fencing Costs Properly be paid out of the Operating Fund?

58. The \$9,500 fencing contract deposit was paid directly from the strata's operating fund in two payments: one for the bypass gap fence for \$4,825 and the other for the 116th Avenue repair at a cost of \$4,875.
59. Allowable payments from a strata's operating fund are defined in SPA section 92. Relevant options for payment are:
- a. an expense is one that usually occurs at least once a year (SPA section 92(a)(i)). None of the 2016 fencing costs would be expected to occur more than once a year, so the expenses for the bypass fence or 116th Avenue repair should not have paid from the operating fund, or

- b. an expense to obtain a depreciation report as required under section 94 of the SPA, which does not apply here (SPA section 92(a)(ii)).
60. Was the lack of more complete perimeter fencing a pre-existing defect? The five gap fences were all built to enhance the strata's perimeter fencing. The strata's submission on this point was not particularly clear, but I understand it to say that the fact that the gap fencing fixed a pre-existing defect so the strata is not bound by the general terms of SPA section 71 requiring the owners' $\frac{3}{4}$ vote approval of significant changes to common property, or by SPA section 97(b) which requires that the owners must approve an expense in a budget or by $\frac{3}{4}$ vote at a general meeting.
61. The strata submits that the case of *Taychuk v, The Owners, Strata Plan LMS 744*, 2002 BCSC 1638, defined a pre-existing defect. It held that the primary meaning of the word "repair" is to restore to sound condition that which has previously been sound. However, the word is also properly used in a sense of "to make good", including making something good or sound, regardless of whether it was good or sound before.
62. In *Taychuk*, supra. the court held that the strata's obligation to repair included making good the strata's original water system so that it functioned properly. The expense was held to have been a type of repair, even though it would not be expected to occur more than once a year. Therefore, it was properly an operating fund expense.
63. Additional fencing is different than a defective water delivery system or other vital feature of the strata's construction. The incomplete fencing was a design feature valued by some and disliked by others. Further, the 2016 fencing does not actually enclose or secure the strata, as the development is still almost entirely open on one side, and other fencing gaps remain. The strata had been functioning without the 2016 fencing since 1991. In making the decision regarding whether the incomplete perimeter fencing was a defect requiring repair, I must consider that

the strata's 2014 depreciation report did not identify extension of the perimeter fencing.

64. I am not persuaded by the evidence that adding to the perimeter fencing in 2016 was necessary to make the strata sound or good. I dismiss the strata's argument that the 2016 fencing was a repair necessary to fix a pre-existing defect and, therefore, properly payable from the operating fund for this reason.

Could the 2016 fencing costs properly have been payable out of the CRF?

65. In terms of the 116th Avenue repair, I accept that, although the strata's fence should not need to be replaced until 2040, it is reasonable to expect that fence repairs will be required from time to time. There was no evidence that the 116th Avenue repair could be expected to occur more than one per year. Therefore, I find it was properly an expense payable from the CRF. Generally speaking, except in cases of emergency, expenses from the CRF must be approved by a $\frac{3}{4}$ vote of the strata owners.
66. The cost of the five gap fences, including the bypass fence, would have been an allowable CRF expense provided that it had been pre-approved by the strata at a general meeting by a $\frac{3}{4}$ vote pursuant to SPA section 96. Alternatively, it might have been paid from either fund pursuant to the further exception discussed below.

Did the lack of the 2016 fencing amount to an emergency?

67. A separate option is open to a strata council to pay for unapproved strata expenses from either the operating fund or the CRF: SPA sections 71 and 98(3) both refer to test for a "safety exception". This safety exception permits changes to the use or appearance of common property (section 71) and unapproved expenditures from the operating fund or the CRF (section 98(3)) if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise. This exception is reflected in strata bylaw 21(3), which states that, in an

emergency, council may exercise its discretion to spend more than \$1,000 from either fund without a $\frac{3}{4}$ vote or advance approved budgeting for the expense.

68. The strata says that it had reasonable grounds for council to conclude that the lack of the 2016 fencing constituted an emergency. It stresses that the bypass fencing closed off a dangerous drop off a cliff onto a highway, and that the criminal activity in the strata justified immediate action. The applicants disagree that the circumstances were so pressing that there was a reasonable foundation for the council's belief that it was necessary to construct the 2016 fencing in order ensure safety or prevent significant loss or damage, pursuant to bylaw 21(3), or SPA sections 71 or 98(3).
69. In July 2016 when council resolved to build the 2016 fencing, no documents or professional reports were before it concerning the need for further fencing of the complex or any other objective basis for urgency. Mr. D. reported regarding his late June 2016 visit to the RCMP detachment, and the RCMP's general support for the principle of complete perimeter fencing. It is not clear who reported to council that the city by-law department supported for the project, nor who said that it "will also affect insurance claims".
70. The RCMP letter was not received until a week after construction began. It states that the RCMP's support for further fencing is based upon Mr. D.'s statement that the strata was considering construction of complete perimeter fencing. The July council meeting minutes resolve that the strata would proceed with fencing the perimeter as soon as possible. The 2016 fencing did not create a complete perimeter boundary enclosure as recommended by the RCMP volunteer, or as was implied by the July meeting minutes. I cannot find that an RCMP volunteer's discussion with Mr. D. about the advantages of complete perimeter fencing provided a reasonable, objective basis for council to decide that it was urgent that the strata must start building the extra partial perimeter fencing immediately without the strata owners' approval. The strata now says that it never intended to completely enclose the perimeter of the whole complex, but that the partial further enclosure of the perimeter was still urgently required.

71. Was there any other objective evidence upon which council could reasonably base its July 6, 2017 decision to immediately proceed with the 116th Avenue repair or the gap fencing? The minutes note that the city bylaw department supported complete perimeter fencing. However, the strata did not produce any concrete evidence of support for the perimeter fencing from the municipal by-laws department. I reject this as having formed a reasonable foundation for council's decision.
72. The July meeting minutes also note that insurance claims could be affected by the fencing. I note that the two emails from the strata's insurers were received approximately two weeks after the July council meeting. They say nothing about the perimeter's fencing's effect on insurance claims, nor that the construction of the 2016 fencing must be completed on an emergency basis. The two emails only confirm the amendment of the policy to add the further perimeter fencing to the description of the insured property and its cost.
73. Though not binding on me, I have considered the tribunal's conclusions reached in other matters that relate to what might constitute reasonable grounds for council proceeding based on SPA section 98(3). In *Woytiuk v. The Owners Strata Plan LMS 5970*, 2017 BCCRT 3, underground pipes were replaced by the strata council, without prior budgeting or approval by a $\frac{3}{4}$ vote, on the basis that council had reasonable grounds to believe the work was urgently required. The tribunal found that that council made the decision to replace the pipes because, pursuant to an engineering report, it appeared to be a prudent step for the strata to take. The tribunal found that acting with prudence, on the basis of a recommendation and evidence of risk, does not in itself constitute an emergency justifying an unapproved expenditure. It disallowed the expenditure.
74. In *Hodgson v. The Owners Strata Plan LMS 908*, 2017 BCCRT 66, the strata council spent strata funds to pay for two previously unapproved expenditures on an emergency basis. The first sum was spent to install security gates that had been repeatedly recommended by the RCMP after it conducted a study of the structure due to frequent break-ins to the strata's parking garage. The second sum

covered the expense for emergency repairs to deteriorated balcony guardrails. Repair of the balcony guardrails had been earlier specified in the strata's depreciation report and the funds to repair them had been approved by a $\frac{3}{4}$ vote resolution that took place in an earlier year. The tribunal reviewed the detailed third-party evidence considered by the strata council when it came to its decision when the decisions were made. The tribunal accepted that the evidence provided as a reasonable foundation for council's decisions to build the 2016 fencing on an emergency basis.

75. In contrast to *Hodgson*, supra., council in this dispute had a no independent evidence before it that the 2016 fencing was urgently required. Unlike *Hodgson*, this strata's depreciation report makes no recommendation for this perimeter fencing extension be done at all. This situation appears to be more similar to the situation existing in *Woytiuk*, supra., where there was evidence that the expenditure was prudent, but not urgent. I conclude that there was no reasonable basis for council to think that the work must be done on an emergency basis. The strata's submission that the expenditures for the 2016 fencing could be made based on the SPA section 98(3) safety exception fails.
76. I conclude that the respondent strata did not have the right to build the 2016 fencing under the circumstances existing in July of 2016. Consequently, I make the orders set out below.

Did the strata have the authority to pay legal expenses?

77. The evidence reflects that council paid \$2,834 for legal fees to obtain advice regarding the 2016 fencing and this dispute. Of that sum, \$1,235 was paid from the strata's operating fund in the 2015-2016 financial year. The balance in the 2016-2017 year. No budget for legal expenses existed in 2015-2016.
78. I conclude that the strata's legal fees expenditure of \$1,235 in July 2016 exceeded the council's \$1,000 spending limit. Bylaw 21(3) notes that the \$1,000 spending limit may be breached if the expense was approved in a budget or by a $\frac{3}{4}$ vote resolution, or in an emergency. I find that none of these three exceptions to the

\$1,000 spending limit existed at the time this account was paid by the strata in July 2016. Council did not have the authority to spend this money in 2016-2016.

79. In contrast, \$2,000 was budgeted for legal expenses in 2016-2017 and \$1,599 was spent. Of the \$1,599 spent on legal fees in the strata's 2016-2017 financial year, \$364 was spent in December 2016 to obtain advice regarding this dispute. The 2016-2017 legal expenses are within the \$2,000 amount budgeted for legal fees and are permitted on that basis.

If the strata was not entitled to build the 2016 fencing, or spend the money on the legal fees, should the funds be repaid and how?

80. As noted, of the \$22,680 spent on the 2016 fencing, \$13,180 was paid from the CRF, and \$9,500 from the operating fund. I have concluded that neither the strata's operating fund nor the CRF were properly authorized to pay any portion of the 2016 fencing costs, nor have they been repaid. Therefore, both funds must be replenished by the amounts spent.
81. SPA section 108 provides a mechanism for a strata corporation to raise money from the owners when it is needed, by way of a special levy. This tribunal has the authority under section 48.1 of the Act to order a party to do something or pay money. Although not binding on me, I agree with the tribunal's conclusion in *Chapel v. The Owners, Strata Plan VIS 1517*, 2017 BCCRT 5 that I have the authority to order a strata corporation to assess a special levy.
82. Therefore, I order the strata to assess a special levy in the total amount of \$22,680 to recoup the strata monies improperly spent on the 2016 fencing. The special levy must be paid by all owners in proportion to their unit entitlement. The special levy payments will be due to the strata in one lump sum and paid no later than April 30, 2018. I find the applicant owners must contribute to the special levy as they, like all others, have derived a general benefit from the improved perimeter fencing and will benefit from the restoration of the operating fund and CRF.

83. From the \$22,680 raised by the special levy, I order the strata to deposit \$13,180 into the CRF and \$9,500 into the operating fund. The strata must account in writing to the owners no later than the 15th day of each month after the special levy is assessed and report on the amount collected in the previous calendar month, and the amount still due to each fund as of the end of that previous calendar month. These accountings must continue until the full sum due to each fund has been fully repaid.
84. The strata's July 2016 legal expenses of \$1,235 exceeded the bylaw 21(3)'s \$1,000 spending limit for unbudgeted expenses. No emergency existed at the time that merited the expense, nor had a $\frac{3}{4}$ vote resolution authorized the expenditure from the operating fund. These monies should be refunded to the operating fund.
85. I find all of the strata owners, including the applicants, derived some benefit from the strata having legal guidance in July 2016. For example, this advice provided the strata with guidance on its obligations under the SPA and planning the SGM. They like other owners will benefit from the restoration of the funds to the operating account.
86. I order that the July 2016 legal expense of \$1,235 be refunded to the operating account by way of a separate strata levy upon the same terms as the 2016 fencing costs special levy ordered above.

Did council act honestly, in good faith, and without conflict of interest?

87. The applicants say that the July 2016 council members did not act honestly or in good faith in their conduct of council business in their decision to build the 2016 fencing, and that they acted when they were in a conflict of interest when making the decision to proceed with it.
88. SPA section 31 specifies the standard of care for strata council members. They must act honestly and in good faith with a view to the best interests of the strata, while exercising the care, diligence and skill of a reasonably prudent person in comparable circumstances. Each strata council member owes both a statutory

fiduciary duty and duty of care in the management of the affairs of the strata (*Dockside Brewing Co. Ltd. V. Strata Plan LMS 3837*, 2007 BCCA 183).

89. I am satisfied that, subjectively, the July 2016 council members were sincerely of the view that the incomplete perimeter fencing was a pressing issue that created inconvenience and risk. There is no evidence of dishonesty or fraud. However, acting with honesty and good faith under the SPA is not assessed from the point of view of sincerity or subjective conviction. It is assessed objectively from the point of view of a reasonably prudent person in comparable circumstances.
90. Honesty and good faith are characterized by conduct that is objectively fair open and honest. The council members investigated, agreed to, and began construction on the 2016 fencing in apparent haste without informing the other owners. Work began on the same day as the resolution approving it was passed. Their conduct gives the appearance of seeking to keep the planning process to themselves, if not secret, until the construction was underway and the strata was bound by the fencing contract. They did not act in the strata's best interests by acting unilaterally on a project that, they knew or ought to have known, was unlikely to be agreed to by the required $\frac{3}{4}$ of the owners. They breached a range of SPA provisions and committed more than half of the monies then in the CRF, or almost the whole of the operating fund's 2015-2016 repair allowance. These actions risked the strata's financial stability. Once the construction was underway, they did not act in an open and frank manner. Instead, they reacted defensively, insisting upon council's right to build the fencing, and withholding facts and documents from the owners in the face of multiple requests. I find that the July 2016 council members did not act in a manner that was objectively open and honest.
91. A further example of council's lack of honesty and good faith in this 2016 fencing matter is its argument put to the tribunal that it should not be criticized because it acted properly because no funds were paid out for the 2016 fencing costs until after the strata's August SGM, when the expenditure was approved by a majority of owners. The strata's position that no funds were paid out before the August AGM is contradicted by the evidence. The first invoice dated July 7, 2016 notes

on its face that the required \$9,500 deposit was paid. Further, the strata's July 2016 financial statement indicates that \$9,500 was paid during that month.

92. Council's actions have the appearance of seeking to do indirectly what some council members, including Ms. M., the chair of the July council meeting, and Mr. D., 2015-2016 council president, had tried to do directly in their April 2014 SGM resolution. In response, the strata says that, it was acting in the best interests of all owners because the construction of the 2016 fencing resulted in the whole complex having a more consistent overall level of privacy and security. I accept the inequality of fencing amenities between the two blocks of strata lots resulted in frustration, as it had become difficult to gain the support of $\frac{3}{4}$ of the owners for fencing improvements that would benefit at most half of the strata lots. Nevertheless, that did not justify the July 2016 council members acting on the basis of their personal interests and preferences without being guided by the will of the strata owners in the manner required by the SPA. This conduct does not meet the objective good faith standard required of council members by the SPA and bylaw 22.
93. The applicants also allege that the July resolution was voted on when several of the council members were in a conflict of interest. They say that if those council members votes are disallowed due to the conflict of interest, the July council meeting did not have a quorum that could pass a binding resolution.
94. The general law, bylaw 22, and the SPA say that council members must avoid making strata decisions if their personal direct or indirect interests may be, or may reasonably be perceived to be, in conflict with the strata's interests. Bylaw 22 and SPA section 32 are specific about the process that a council member must follow if they have a direct or indirect interest in a decision before council. If they are in a conflict of interest, they are required to disclose their conflict of interest and remove themselves from being present for the vote or any discussion regarding the issue, unless council asks them to be present for information purposes.

95. Decisions interpreting the SPA conflict of interest provisions recognize that almost all council members are also owners and may benefit from council's decisions. To establish a conflict of interest, "something more" is required beyond the fact that a council member may have received some benefit from a council decision (*Page v. Section 1 of The Owners, Strata Plan NW2099* 2017 BCCRT 84 at para. 60, where the tribunal decided that the conflict of interest provisions must not, in the strata management context, be given a very broad interpretation or council's work would be stymied because everyone would be in a conflict). I accept the conclusion reached by the tribunal in *Page* and recognize it is not binding on me.
96. I find that, in this case, that "something more" existed due to the fact that all but two of the July meeting council members derived a benefit directly to his or her own strata lot. As noted, four of the five gap fences were built immediately outside the homes of four 2015-2016 council members. The 116th Avenue repair was immediately behind the home of another. Of these five members, four were at the July council meeting. The strata admits that these four members were in a conflict of interest. I agree and find that all four of them should have left the meeting when the issue was discussed and voted upon. That left two council members present for the motion to build the 2016 fencing. Two members do not qualify as a quorum when four are required by bylaw 16(d). I find that the July resolution was invalid both on the basis of the conflict of interest of four of six council members and due to the resulting lack of quorum for the vote on the July resolution itself.
97. In summary, the 2015-2016 council breached its duties to the general strata ownership concerning the 2016 fencing four of the six councillors who passed the July resolution were in a conflict of interest when they voted on it, and the July 2016 resolution was invalid due to the lack of a quorum at the July council meeting. I find that strata council members failed to follow sections 31 and 32 of the SPA.

Should the 2016 fencing be removed?

98. The applicants ask the tribunal to order that the 2016 fencing be removed, and the grounds restored to their original condition. Under the Act, section 3.6(1)(f), the tribunal's mandate extends to resolving claims concerning a decision of a strata corporation, including its council. The strata corporation's duty under section 3 of the SPA is to manage and maintain the common property in the best interests of all strata owners. This over-riding duty is the tribunal's concern when considering making an order overturning a strata decision.
99. I have found that the 2016 fencing was improperly authorized and built. However, now that it is built, for the applicants to succeed on this point, they must establish that, on the balance of probabilities, it is in the best interests of the strata to remove it.
100. Since at least early 2014, some owners, including Mr. Perry, wished the strata to build additional perimeter fencing. Some benefits have come from the 2016 fencing's construction. I am satisfied that criminal activity that affected many owners to varying degrees has lessened, although not eliminated by the construction of the 2016 fencing. There was a valid basis for concern regarding privacy for some strata lots, particularly in the 224th Street block. The two blocks of strata lots had somewhat different perimeter fencing. They are now more equivalent.
101. I have considered that, even though no $\frac{3}{4}$ majority vote resolution supporting the 2016 fencing was achieved at the August SGM, a majority of owners supported its completion. To take down the fence and restore the grounds would be wasteful of scarce strata resources already spent on a comparatively prudent strata improvement. I conclude that it is not in the best interests of the strata to order the 2016 fencing be removed. Such a decision should properly be considered by the strata owners at a general meeting. I order that this portion of the applicants' claim be dismissed.

102. Nothing in this order prohibits the applicants from requesting the strata consider the removal of the 2016 fencing at a future general meeting.

COSTS

103. In this dispute, the applicants were successful in some aspects of their claim and unsuccessful in others. They succeeded in having the 2016 fencing costs and some of the legal costs be found to have been improper strata council expenditures and establishing that the July 2016 council members acted in bad faith and when a majority of them were in a conflict of interest.

104. The applicants were unsuccessful in obtaining orders to have the 2016 fencing removed and the 2016 council members found personally liable for the 2016 fencing costs, some of the strata's legal costs, and in having other personal orders made against the council members.

105. Under section 49 of the Act, and the tribunal 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. Although the applicants had mixed success in this dispute, they succeeded on the issues of fundamental importance: whether the 2016 fencing and some of the legal expenditures were properly authorized and whether the July 2016 council members acted improperly. Therefore, I see no reason in this case to deviate from the general rule.

106. I order the respondent, The Owners, Strata Plan LMS 180, to reimburse the applicant owners, for tribunal and adjudication fees of \$225.00.

107. The applicants did not claim any dispute-related expenses for bringing this claim. Therefore, none are ordered.

DECISION AND ORDERS

108. I find that:

- a. the July 2016 council members are not parties to this dispute. The tribunal does not have the jurisdiction to made orders against them personally,
- b. the respondent strata did not have reasonable grounds to believe that the 2016 fencing must be constructed to ensure safety or prevent significant loss or damage, nor was the expenditure otherwise authorized under the SPA or the strata's bylaws,
- c. the respondent strata breached SPA sections 71, 96, 97, and 98, and SPA Regulation section 6.3, when approving and spending funds on the 2016 fencing The operating fund and the contingency reserve fund must be repaid the monies withdrawn for the 2016 fencing,
- d. the legal fees spent by the strata in July 2016 were not authorized and must be repaid by the owners to the operating fund,
- e. of the legal fees paid by the strata in the strata's 2016-2017 financial year, \$364 was spent to obtain legal advice regarding this dispute in December 2016,
- f. the July 6, 2016 council motion approving the construction of the 2016 fencing was invalid because:
 - i. four of the six strata council members who voted to approve members the July resolution were in a conflict of interest when they voted on the issue, so their votes cannot be counted; and
 - ii. as a result, only two council members were present at the meeting, short of the four required to have the quorum required to hold a council meeting.
- g. it is not in the best interests of the strata to have the 2016 fencing removed,

- h. the applicants are the more successful party in this dispute.

109. I order that:

- a. In no more than 45 days from the date of this order, the respondent will assess a special levy of \$22,680, payable no later than April 30, 2018 by all strata lot owners in proportion to their unit entitlement. From the funds received by way of special levy, the respondent will deposit \$9,500 into its operating fund and \$13,180 into its contingency reserve fund.
- b. In no more than 45 days from the date of this order, the respondent will assess a further special levy of \$1,235, payable no later than April 30, 2018 by all strata lot owners in proportion to their unit entitlement. The funds collected from the further special levy will be deposited into the respondent's operating fund.
- c. The respondent's council will report to the strata owners in writing no later than the 15th day of each month after the special levies are assessed, until both special levies are fully collected. Each report will advise the owners of the following:
 - i. the amount collected in the previous calendar month on account of each special levy, and
 - ii. the amount of each of the two special levies that remains outstanding as of the end of the previous calendar month.
- d. In the future, the respondent will abide by the terms of the SPA, including SPA sections 31, 32, 71, Part 6, and SPA Regulation section 6.3.
- e. The respondent will provide each owner of a strata lot with a copy of these reasons and the associated order within 7 days of receiving them.
- f. The strata will pay the applicants' costs of bringing this claim in the amount of \$225.00.

- g. All other relief sought by the applicants is dismissed.
110. Under section 189.4 of the SPA, an owner who brings a tribunal claim against a strata corporation is not required to contribute to the expenses of bringing that claim. I order the respondent to ensure that no part of the respondent's expenses with respect to this claim are allocated to the applicants, including the sum of \$364 spent by the respondent in December 2016.
111. 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.
112. 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 applicants 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.

Kathryn Berge, Tribunal Member

