



Civil Resolution Tribunal

Date Issued: January 9, 2018

File: ST-2017-003197

Type: Strata

Civil Resolution Tribunal

Indexed as: *Beach et al v. The Owners, Strata Plan KAS 722*, 2018 BCCRT 2

B E T W E E N :

Charles Beach and Darlene Beach

APPLICANTS

A N D :

The Owners, Strata Plan K722

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Wendy Baker

INTRODUCTION

1. In this dispute the applicants seek to be reimbursed by the respondent strata corporation for expenses they incurred in repairs to a water stop valve. The strata questions whether the water shut off valve is common property and the responsibility of the strata and disputes the amount paid by the applicants for the work done. The parties are self- represented.

JURISDICTION AND PROCEDURE

2. 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, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
3. 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.
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 applicable tribunal rules are those that were in place at the time this dispute was commenced.
6. Under section 48.1 of the Act and the tribunal rules, in resolving this dispute the tribunal may make order a party to do or stop doing something, order a party to pay money, order any other terms or conditions the tribunal considers appropriate.

ISSUES

7. The issues in this dispute are:
 - a. Is the water stop valve common property or a common asset?
 - b. Is the strata responsible for repairs to the water stop valve?

- c. Are the applicants entitled to be fully reimbursed for their costs in repairing the water stop valve?

BACKGROUND AND EVIDENCE

8. The strata is a bare land strata. Each strata owner has a stand alone residence located on a strata lot. While the strata lots themselves share common borders with neighbouring strata lots, the buildings constructed on the strata lots do not share any floors, walls or ceilings.
9. The water to each residence is supplied by a pipe located in each strata lot, which connects to a main pipe located under a common property road which runs through the strata development. Within each strata lot is a water stop valve. The valve controls the flow of water from the central common water main into the water pipe which serves the strata lot. The water stop valve for each strata lot is located entirely within the boundaries of the individual strata lot it serves.
10. The water pipe which is located within an individual strata lot serves that one strata lot alone. It does not provide water to the common water main or any other strata lots.
11. In March 2017 the applicants returned to their strata after being away and contacted the City to turn the water on for their lot. The City advised the applicants that the water stop valve was broken. The applicants discussed the problem with the strata president and a council member and were advised that the applicants were responsible for having the valve repaired.
12. In April 2017 the applicants retained Mavco Plumbing to repair the valve, and the repairs were completed for \$2,089.57.
13. In June 2017 the strata held an AGM and at that meeting a representative of the strata raised a question regarding whether the water stop valve was properly a common property expense, and the responsibility of the strata.

14. The strata considered the question further and determined that the water stop valve was not common property and the strata was not responsible for the costs of repairs.

POSITION OF THE PARTIES

15. The applicants say that the water stop valve is common property as defined in the *Strata Property Act* (SPA) as it is part of a pipe for the provision of water located within a strata lot.
16. The strata says that the water valve is not common property as to be considered common property under the SPA, the pipes must be intended to be, and capable of being, used in connection with the enjoyment of another strata lot or the common property. The strata says the water stop valve located on the applicants' property is only used to provide water to their lot, and not to any other lots or the common property. As such, the applicants' water stop valve is not common property and the strata is not responsible for its repair.
17. The strata also says that the applicants paid too much for the repairs, and offer an example of a bill to repair a different water stop valve which was less than half the cost of the repair bill paid by the applicants.
18. The applicants seek to recover 100% of the repair cost they paid for the water stop valve, and seek to recover the tribunal's filing fee.

ANALYSIS

Is the water stop valve common property or a common asset?

19. The strata plan and diagram of the water pipes and water stop valve introduced into evidence clearly show the applicants' water stop valve to be located entirely within the applicants' strata lot.
20. The SPA defines common property to include pipes for the provision of water if the pipes are located wholly or partially within a strata lot, provided that "they are

capable of being and intended to be used in connection with the enjoyment of another strata lot or the common property”.

21. If the pipes are not available for the enjoyment of another strata lot or the common property, the pipes themselves will not fall within the definition of common property.
22. A common asset is defined under the SPA as personal property or land held in the name of the strata.
23. Having reviewed the evidence I see nothing which establishes that the applicants’ water stop valve is intended to be, or capable of being, used by another strata or the common property. The water stop valve is also not the personal property or land of the strata.
24. As such, I find that the water stop valve is not common property or a common asset of the strata.

Is the strata responsible for repairs to the water stop valve?

25. Under the SPA, the strata is responsible for expenses relating to common property and common assets of the strata.
26. The strata’s bylaws do not create an obligation on the strata to repair or maintain water stop valves located within the boundaries of a strata lot.
27. I find that because the water stop valve is not common property or a common asset of the strata, the strata is not responsible for its maintenance or repair.

Are the applicants entitled to be fully reimbursed for their costs in repairing the water stop valve?

28. Because the strata is not responsible for the repair and maintenance of the water stop valve, the applicants are not entitled to be reimbursed for the cost of the repairs to the water stop valve located in their strata lot.

DECISION AND ORDERS

29. I order that the applicants' claim is dismissed.

Wendy Baker, Tribunal Member