Civil Resolution Tribunal

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Civil Resolution Tribunal

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B E T W E E N :

The Owners, Strata Plan VIS 3437

APPLICANT

A N D :

Townsite Marina Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about allocation of parking stalls. The applicant strata corporation, The Owners, Strata Plan VIS 3437 (the strata) wants an order that the respondent

Townsite Marina Ltd. (Townsite) return 11 common property underground parking stalls (Stalls) to the strata, for allocation to residential owners.

2. Townsite owns strata lot 43, a commercial strata lot. Strata lot 43 operates as a marina. When Townsite bought strata lot 43, it paid the vendor for the assignment of the Stalls' parking leases. Townsite says that even if the Stalls are common property, the strata is obliged to honour the parking lease assignment. The strata says the parking lease assignment is invalid and not enforceable. For reasons that follow, I agree with the strata.

3. Townsite is represented by its principal and the strata is represented by a council member.

JURISDICTION AND PROCEDURE

4. 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. It must also recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.

5. 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.

6. 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.

7. 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.

8. Section 48.1(2) of the Act is substantially similar to section 164 of the *Strata Property Act* (SPA) and addresses remedies for significant unfairness in strata property disputes. Section 48.1(2) provides that the tribunal has discretion to make an order directed at the strata, the council or a person who holds 50% or more of the votes, if the order is necessary to prevent or remedy a significantly unfair action, decision or exercise of voting rights.

ISSUES

9. The issues in this dispute are:

   a. Is the strata's claim out of time under the *Limitation Act*?

   b. Is Townsite entitled to rely upon a parking lease assignment agreement for the 11 Stalls?

   c. Would an order that the strata can allocate the Stalls for residential use be significantly unfair to Townsite?

   d. Is the strata entitled to reimbursement of $225 in tribunal fees?

BACKGROUND

10. The issue in this dispute is whether Townsite is entitled to exclusive use of the 11 Stalls, or, whether the strata is entitled to allocate them for residential use. To answer that question, I will review whether the strata is bound by the parking lease assignment Townsite obtained in 2006 from a company that appears to have been the successor to the owner developer (developer) or an affiliated company. For the

purposes of this decision, I find that nothing turns on the vendor's precise relationship with the developer. I will first briefly set out the relevant breakdown of parking stalls.

11. The 3-building strata is comprised of 43 residential strata lots and 4 commercial strata lots. As noted above, the respondent Townsite owns strata lot 43, one of the commercial strata lots.

12. The strata has a total of 94 parking stalls. As discussed below, in the developer's 1994 amended disclosure statement, a minimum of 72 common property stalls were to be for residential use only, which left 22 limited common property (LCP) parking stalls for commercial use.

13. In particular, each of the 4 commercial strata lots have an equal share of 14 LCP stalls. In other words, 14 stalls have been designated as LCP for use by the 4 commercial strata lots. In addition, the 4 commercial strata lots each have exclusive use of 2 LCP stalls, which totals 8 stalls, leading to the total of 22 LCP stalls allocated to commercial use.

14. The 11 Stalls at issue, common property underground stalls that Townsite says it should also have exclusive use of, are in addition to those 22 LCP stalls. The Stalls' numbers are: 1, 2, 3, 4, 10, 14, 21, 22, 23, 60, and 71. Without the 11 Stalls, there are 61 remaining stalls for residential use. As noted by the strata, this is less than the 71 residential stalls required by the City of Nanaimo.

15. In 1993, the City of Nanaimo told the developer that the commercial marina, now owned by Townsite, required 15 parking stalls. However, at the time, the developer negotiated an 8 stall requirement, on the basis that most marina users would be strata lot owners who already had their own parking stall. In 2008, the City of Nanaimo advised the strata that the variance runs with the land and therefore the marina (now operated by Townsite) still requires 8 stalls. Townsite says the commercial strata lot owners have mutually agreed to equally share the 14 LCP stalls allocated for commercial use. Without the 11 Stalls, Townsite has exclusive

use of 2 LCP stalls, plus 3.5 stalls as its share of the 14 commercial LCP stalls, for a total of 5.5 stalls. I have no evidence before me as to what requirements the City has imposed for the other 3 commercial strata lots.

16. The strata's current bylaws, filed on May 13, 2015 and which repealed and replaced all prior bylaws, have no provisions about parking stall assignment. However, I will set out the strata's relevant bylaw history and the timing of the disclosure statements and the filing of the strata plan.

17. As referenced above, it is undisputed that in 1993, the original development permit and the City of Nanaimo stated there should be 71 underground parking stalls for residential use. The proposed bylaws, including a clause 23, were disclosed to prospective purchasers. Clause 23 stated that once all parking stalls were assigned, the strata would put before the owners a special (¾ vote) resolution to designate the assigned stalls as limited common property for the benefit of the assigned strata lots. I note that this clause 23 did not, and could not, bind future owners as to how they would vote.

18. The September 15, 1994 amended disclosure statement expressly states that 72 underground parking stalls will be available for allocation to residential strata lot purchasers. It also states that the commercial strata lots will have 16 underground LCP stalls, instead of 12 as set out in the 1993 disclosure statement.

19. The developer filed bylaws at the Land Title Office on September 28, 1994, under the SPA's predecessor, the *Condominium Act*. These bylaws were filed on the same day the strata plan was filed, presumably in accordance with section 27(2) of the *Condominium Act* in that the relevant parking bylaw appears the same as clause 23 in the 1993 proposed bylaws. The 1994 bylaws were the strata's bylaws when Townsite bought strata lot 43 in 2006.

20. The strata's bylaw 23 states that each residential strata lot owner is entitled to the exclusive use of one or more parking stalls in the underground parking garage, under the Parking Facility Lease created by the developer. It also says the strata

will “automatically assume all of the covenants and obligations” of the developer under the parking facility lease upon the registration of the strata plan. Bylaw 23 further says that the strata will ask the owners to pass a special (3/4 vote) resolution at the next general meeting to designate the parking stalls in the Parking Facility Lease as the LCP of the owner who, at such time, is entitled to the exclusive use of the relevant parking stall. As written, I find bylaw 23 applies only to residential strata lots. In any event, apart from the 2006 vote discussed below, the owners have never voted for that designation, and in particular, no such designation has ever been filed at the Land Title Office.

21. On September 15, 1994, the developer entered into a 99-year head lease with a numbered company controlled by the developer, which company also purchased strata lot 43. This head lease was for the lease of all of the parking stalls in the underground parking facility “shown outlined in heavy black line on the plan”, which I find was for the Stalls. The strata corporation did not yet exist at that point and was not a party to that agreement. This purported lease includes parking stalls that are now common property, as per the strata plan and the strata’s bylaws. The lease was not registered against the strata title. The September 15, 1994 head lease contemplates the strata development and that the developer will own all strata lots.

22. As referenced above, on September 15, 1994, an amended developer’s disclosure statement set the minimum at 72 stalls for allocation to residential strata lot purchasers. It also increased the underground commercial parking stalls from 12 to 16 and made the 6 stalls adjacent to Building C commercial stalls. This gave the commercial strata lots a total of 22 parking stalls. As with the original 1993 disclosure statement, the 11 Stalls were assigned to strata lot 43. Yet, with the 11 Stalls assigned to strata lot 43, the residential strata lots are left with only 61 lots, less than the “minimum” of 72. Thus, the strata argues that the lease assignment of the Stalls was not “as provided in the Disclosure Statement” and thus that assignment cannot be enforced. The strata also argues that if the 11 Stalls are

assigned to Townsite, the strata is not in compliance with the City's requirement of a minimum of 71 residential stalls.

23. On September 28, 1994, the strata plan was deposited with the Land Title Office. The strata plan shows 72 underground stalls that are common property. The 11 Stalls are part of those 72 stalls. The commercial strata lots had 6 LCP stalls outside, 4 LCP stalls in front of Building B, and 8 LCP stalls underground. In addition, each of the 4 commercial strata lots had 2 LCP stalls underground.

24. In May 2006, the strata prepared a notice for a June 1, 2006 annual general meeting (AGM). It is unclear whether the notice requirements under the SPA were met. In any event, the motion that was approved at that time was simply that the strata would "do all things necessary" to convert the existing underground parking lease assignment to LCP and to register that in the Land Title Office. The strata plan was not altered to reflect any changes to parking assignment. Here, I note that limited common property can be designated by a resolution passed by a ¾ vote of the owners or by an amendment to the strata plan passed by a unanimous vote. The vote taken in 2006, even if it did procedurally comply with the SPA, did not result in a change being filed at the Land Title Office. Therefore, any such vote, if it did occur did not designate LCP property such that Townsite has exclusive use of the 11 Stalls.

25. In June 2006, Townsite bought strata lot 43 and with that purchase it was allocated 8 LCP parking stalls. In addition, Townsite says the developer's successor assigned it the lease of the 11 Stalls. The original parking lease assignment from the developer to an affiliated numbered company was signed on September 15, 1994, about 2 weeks before the strata plan was filed. The strata says because the Stalls are common property, the developer had no right to take away the 11 Stalls from the residential owners and sell them to Townsite.

26. In May 2007, at its AGM the strata passed a resolution to "rescind the decision that was made last year to allocate eleven 'Common Property' parking stalls as 'Limited Common Property' for the exclusive use of the marina owners". Again, I

note the 2006 vote to designate the 11 Stalls as LCP was never filed with the Land Title Office and so the 2007 vote was merely a fresh vote on the matter, rather than a reversal of any designation. The 2007 AGM vote was 38 in favour, 1 opposed.

27. Based on the parties' submissions, the developer still controls 3 stalls that the parties refer to as "unassigned stalls". In addition to one other stall, Townsite had offered the strata those 3 stalls, together with the developer's agreement, but the strata rejected that offer.

28. Sections 73 and 74 of the SPA require designation of limited common property either by a ¾ vote of the owners at a general meeting or by a unanimous vote to amend the strata plan. A resolution passed by ¾ vote has no effect until filed in the Land Title Office, as set out in section 74(3) of the SPA. For this reason, there has been no LCP designation of the 11 Stalls.

EVIDENCE, SUBMISSIONS & ANALYSIS

29. In a civil case such as this, the applicant bears the burden of proving their claim, on a balance of probabilities. While I have reviewed all of the evidence and submissions provided, I have only set out below what is necessary to give context to my decision.

30. At the outset, while the strata has a separate commercial section, nothing turns on this fact.

31. No changes have been made to the filed strata plan or the developer's amended disclosure statement. Moreover, there has been no change in designation from common property residential parking stalls to LCP commercial stalls. Such a change has never been registered with the Land Title Office. It is undisputed that the 11 Stalls are common property.

32. The strata says that it is now short 11 parking stalls, and as such, in violation of the City's requirements. The strata wants to "reclaim our fair share as per the

original development permit". The strata says that the developer never had the authority to sell the 11 Stalls and so to the extent Townsite has concerns its remedy is against the seller of strata lot 43.

33. Townsite's argument is that its purchase of the parking lease assignment binds the strata's use of the common property Stalls. I disagree. I will address the relevant arguments below.

***Limitation Act* defence**

34. Section 13 of the Act states that the *Limitation Act* applies to the tribunal as if it were a court. The *Limitation Act* defines a "claim" as "a claim to remedy an injury, loss or damage that occurred as a result of an act or omission". The 2-year limitation period (or 6 years in contract, if the claim arose before June 1, 2013) only applies to claims, as defined.

35. Townsite submits that it has "the right to invoke the *Limitation Act*", but did not provide any further argument. I infer Townsite says that because the parties' debate about the 11 Stalls has been ongoing since 2006 or 2007, the strata is now out of time to pursue the matter. I disagree.

36. The strata's stated claim in the December 2017 Amended Dispute Notice (originally issued in November 2017) is that the developer had no right to "take away" the 11 Stalls and sell them to the owner of strata lot 43, now owned by Townsite. The strata's requested remedy is for "return of the eleven common property residential parking stalls to all the strata owners". Consistent with section 20 of the Act, the parties are not represented by lawyers in this dispute, though I acknowledge they have each had the benefit of counsel in the past. As discussed below, that the parties are not represented in this dispute is a factor in my decision to look at the true character of the strata's claim, rather than just the words used to describe it.

37. It is appropriate in some cases, such as this one, to analyze the claim's true character (see *Young v. Borzoni et al,* 2007 BCCA 16 at paragraphs 28 and after,

citing *Rogers v. Bank of Montreal (1986)*, 1986 CanLii 847 (BCCA)). I find the gravamen or true character of the strata's claim is for a declaration as to who has the right to use the common property Stalls. I say this because it is undisputed that the Stalls have always remained as common property, which under the SPA the strata has the right to control. It is inaccurate to state the developer took away the 11 Stalls or sold them.

38. Given my conclusion that the strata's claim is in fact for a declaration, I find it is not a claim to remedy an injury, loss or damage within the meaning of the *Limitation Act*. The issue here is who has the right to use the Stalls. Therefore, I find the *Limitation Act* does not apply to the strata's claim.

The Parking Facility Lease –developer's grant of exclusive use of common property

39. I find that the 1994 parking head lease cannot bind the strata in any way as to how it handles its common property parking stalls. My reasons follow.

40. In *Hill v. Strata Plan NW 2477* (Owners), 1991 CanLii 529 (BC CA), the court held that a developer has no right to guarantee to a purchaser the exclusive use of common property, other than through its designation as LCP. The court held that the developer must act in the best interests of all strata lot owners, including future purchasers. Under what is now section 66 of the SPA, each strata lot owner owns a portion of the common property based on a unit entitlement formula. The court in *Hill* held that the developer cannot make an arrangement about the common property that would affect the investment of the other strata lot purchasers.

41. The strata relies on *Hill*, which I find is factually very similar to the case before me. In particular, while *Hill* did not involve a developer's lease of parking stalls, I find the court's conclusion still applies. There, the developer guaranteed the exclusive use of 2 additional parking stalls to the Hills. In that case, as here with the 11 Stalls, all of the relevant parking stalls were common property and no designations were made to create LCP. In *Hill*, the court concluded the developer could have

made such a designation at the time he registered the strata plan, and "regrettably, he failed to do that". As in *Hill*, the strata's developer was required to act in the best interests of all owners, not just the owner of strata lot 43.

42. In *Hill*, the court also considered the argument that it would be inequitable for the strata to take advantage of the developer's failure to designate the Stalls as LCP. The court found that the argument did not apply, citing *York Condominium Corporation No. 167 et al v. Newrey Holdings Ltd. et al (1981)*, 1981 CanLii 1932 (ONCA), which is also relied upon by the strata here. In *Hill*, the court found that the Hills could not say that they had no notice prior to their completion date that they would not have exclusive use of the 2nd parking stall. The court said this was because they had a lawyer who must have searched the Land Title Office and been well aware of the fact that that the filed strata plan made no provision for any designation for the stalls. I say the same about Townsite in the case before me.

43. As in *Hill*, the *Condominium Act* governed at the time the original 'Parking Facility Lease" was created in 1994. The court held that the strata council, once in place, is bound to control and manage all common properties for the benefit of all owners, and, the developer is in "precisely that same position until the first annual general meeting".

44. I find the head parking lease is not enforceable against the strata, who was not a party to that contract, and therefore in turn neither is Townsite's parking lease assignment.

45. Townsite argues the strata relies on old cases that have been "questioned or overturned", without any further explanation. In particular, Townsite says Hill was "overtaken" by *The Owners, Strata Plan VIS 2968 v. K.R.C. Enterprises Inc*., 2007 BCSC 774. I do not agree that a BC Supreme Court decision has "overtaken" the higher BC Court of Appeal decision in *Hill*. Further, in *K.R.C.*, the court concluded that it has no power to enforce a positive covenant or promise against a successor in title, given that successor was not a party to the original agreement. That scenario applies here: the strata was not a party to the Parking Facility Lease. To

the extent the strata's 1994 bylaws referenced the Parking Facility Lease, it was at most that the strata would seek a resolution to approve limited common property. As noted above, the strata's bylaws cannot bind owners to vote a certain way, and in any event any approval in 2006 was never formalized because nothing was filed in the Land Title Office.

46. In summary, the court in *Hill* found the *Condominium Act* did not permit a developer to make arrangements with a particular owner for the exclusive use of common property. I find *Hill* is binding upon me and its conclusion applies to the facts of the present case. I find the developer had no right to sign a parking lease giving exclusive use of common property to one strata lot owner. The Stalls were not the strata lot 43 vendor's to lease to Townsite. Further, Townsite knew or ought to have known that the Stalls were common property and not LCP for Townsite's exclusive use. Again, this is because the Stalls were never designated as LCP, either on the strata plan or by a ¾ vote.

Grant of use & significant change in use of common property

47. Based on the evidence before me, the strata has in the past believed it was bound by the purported "lease assignment" of the 11 Stalls, which has been described in historical records dating back to 2006 as "72 remaining underground parking stalls under partial lease assignment ending 2093, all of which have been approved for conversion to Limited Common Property".

48. However, at the same time, since 2007 there have been ongoing legal discussions between Townsite's counsel and the strata's counsel, and to some extent between Townsite and the strata directly. Throughout, based on the evidence before me, Townsite has in practice enjoyed the exclusive use of the 11 Stalls, although there have been some concessions along the way about its use.

49. In accordance with the *Condominium Act*, the 1994 bylaw 4.01(f) gave the strata the right to grant an owner exclusive use and enjoyment of common property, and cancel that grant on notice.

50. Section 76 of the SPA only permits the strata to grant exclusive use of common property for 1 year, although such a grant can be renewed. The strata can cancel that grant or permission by giving the owner reasonable notice. To the extent Townsite was ever given short-term exclusive use of the 11 Stalls, I find the strata has given Townsite reasonable notice that it has cancelled such permission.

51. Section 76 of the SPA is subject to section 71, which provides that a strata must not make a significant change in the use of common property without that change being approved by a resolution approved by a ¾ vote at a SGM or AGM (¾ vote), or if immediate change is necessary to ensure safety or prevent significant loss or damage. I find the owners have already had that ¾ vote. In particular, as set out in the strata's minutes, including council meeting minutes, at the strata's October 28, 2017 special general meeting the owners defeated a motion to approve assignment of the 11 Stalls to Townsite. I therefore conclude the owners have approved the strata's decision to change Townsite's effective exclusive use of the 11 Stalls.

Significant unfairness

52. It is undisputed that the marina's membership did not turn out as anticipated, namely that most would be strata lot owners with their own parking stall. It is also undisputed that the marina finds it needs more parking stalls.

53. As noted above, Townsite has exclusive use of 2 LCP stalls, and 3.5 stalls based on its proportionate share of the 14 LCP stalls allocated to all commercial tenants, for a total of 5.5 stalls. The City's requirement is 71 stalls for residential use and 8 stalls for Townsite's marina.

54. Townsite submits that it would be unfair if the strata designated all 71 or 72 stalls as LCP for residential use. The strata says it would be unfair otherwise, given the development disclosure statement, the strata plan, and the City's permit all indicated those 71 stalls should be for residential use.

55. So, would it be significantly unfair to Townsite to conclude it does not have exclusive use of the 11 Stalls? As set out below, I find the answer is no.

56. First, as noted above, section 48.1(2) of the Act mirrors the "significantly unfair" language set out in section 164 of the SPA. The phrase "significantly unfair" has been interpreted to be simply a plain language version of earlier terms "oppressive or unfairly prejudicial". In particular, in *Chow v. Strata Plan LMS 1277*, 2006 BCSC 335, the test was summarized as follows (my bold emphasis added):

> It must be accepted that **some actions of a strata corporation will be unfair to one or more strata lot owners** in that the will of the majority may often serve the interest of the majority of owners to the detriment of a minority. **Thus, to obtain relief, an owner must establish significant unfairness**.

57. As noted in Chow, the case law is clear that "significantly unfair" would at the very least encompass oppressive conduct and unfairly prejudicial conduct. Oppressive conduct is "burdensome, harsh, wrongful, lacking in probity or fair dealing, or has been done in bad faith". Conduct that is "unfairly prejudicial" is unjust and inequitable conduct. For reasons discussed further below, I cannot conclude that saying the 11 Stalls are not exclusively Townsite's falls within any of those descriptions.

58. In *Dollan v. Strata Plan BCS 1589*, 2012 BCCA 44 (CanLii), Garson J.A. developed a test for analysis under section 164, which I find would apply to an analysis under section 48.1(2) of the Act as follows:

1. Examined objectively, does the evidence support the asserted reasonable expectations of the owner?
2. Does the evidence establish that the reasonable expectation of the owner was violated by action that was significantly unfair?

59. The court in *Dollan* noted that outcomes should be considered, which is what the "reasonable expectation" test above addresses. The strata is not insulated from a significant unfairness finding if it acts reasonably and in good faith. There can be

no such absolute or automatic conclusion. However, nothing in *Dollan* changes the fact that significant unfairness does not *necessarily* result "merely" because a decision adversely affects some owners to the benefit of other owners. In some cases, some owners will end up with less and that fact alone will not necessarily result in a significant unfairness conclusion.

60. I find here the relevant point in *Hill* is that the strata must act in the best interests of all owners. I find the conclusion in *Hill* is determinative here.

61. I find Townsite's reliance upon the parking lease assignment for the 11 Stalls was not a reasonable expectation. I say this because it knew, or ought to have known, that the strata was not a party to that lease. It ought to have known that the Stalls were designated as common property, and there had been no LCP designation in favour of strata lot 43.

62. At the same time, I find that it cannot be significantly unfair for the strata to allocate the 11 Stalls for residential use. Such use is consistent with the strata plan, the development permit and disclosure statements, and the City's permit, which was all information available to Townsite at the time it purchased its strata lot 43.

63. Even if Townsite's reliance upon the parking lease was a reasonable expectation, I find it would not be significantly unfair for the strata to say Townsite could not have exclusive use of the 11 common property Stalls, for the same reasons as set out above. I cannot conclude the strata's allocation of the 11 Stalls to residential owners, in accordance with all of the plan and permit documentation, is wrongful or unfair. As noted above, without the 11 Stalls Townsite has at minimum the exclusive use of 5.5 stalls. Further, that the commercial strata lots have mutually agreed to equally share the 14 LCP stalls does not mean Townsite only has access to 5.5 stalls. Setting aside the commercial strata lots' private agreement, Townsite has access to all 14 LCP stalls. Thus, on balance, I cannot find that Townsite has access to less than the 8 stalls required by the City.

64. Nothing in this decision prevents Townsite from coming to an arrangement with the other commercial lots for greater use of the 14 LCP stalls allocated to all commercial lots. That issue is not before me in this decision, and, as earlier noted, I do not have any evidence about those other commercial lots. I say the same about the 3 "unassigned" stalls held by the developer, which as noted above Townsite had offered to the strata in March 2017.

65. Given my conclusions above, I find the strata is entitled to a declaration that the 11 Stalls are common property available for its allocation as it sees fit, including to residential strata lot owners.

66. As the strata was successful in this dispute, I find it is entitled to reimbursement of $225 in tribunal fees, in accordance with the tribunal's rules.

ORDERS

67. I order that the strata has control of the 11 common property Stalls to assign as it sees fit, including for residential use. For clarity, I order that the commercial strata lot 43, owned by the respondent Townsite, is not entitled to use the 11 Stalls.

68. Within 30 days of this decision, I order Townsite to pay the strata $225 in tribunal fees. The strata is entitled to post-judgment interest, as applicable.

69. 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.

70. 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.

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Shelley Lopez, Vice Chair