Civil Resolution Tribunal

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Civil Resolution Tribunal

Indexed as: *Siddons v. Gilzean*, 2018 BCCRT 448

B E T W E E N :

Alan Thomas Siddons

APPLICANT

A N D :

Mary Gilzean

RESPONDENT

A N D :

Alan Thomas Siddons and The Owners, Strata Plan VAS 2826

RESPONDENTS BY COUNTERCLAIM

AMENDED REASONS FOR DECISION

Tribunal Member: Eric Regehr

INTRODUCTION

1. This is a dispute between the owners of a 2-unit strata corporation in Vancouver, British Columbia. The applicant and respondent by counterclaim is the owner of strata lot 2. The respondent is the owner of strata lot 1. Together, the owners make up the entirety of The Owners, Strata Plan VAS 2826 (strata). Both owners are self-represented.

2. This dispute arises primarily because the respondent made a number of alterations to their yard and deck, which are designated as limited common property (LCP) on the strata plan. The applicant says that the respondent failed to get strata permission for the alterations as required by the strata's bylaws (bylaws) and that the alterations have created an unreasonable risk to the strata.

3. As a preliminary matter, the strata was not initially a party to this dispute. Some of the orders sought by the respondent would bind the strata, not the applicant. I find that the strata is therefore a necessary party to this dispute.

4. I did not seek submissions from either party on this issue. Because this dispute involves a deadlocked, 2-unit strata, submissions from the strata will not be different from the submissions of the parties. Both parties have had the opportunity to provide their evidence and submissions on all of the issues, so neither party is prejudiced by the addition of the strata as a party. There would be no practical benefit to having the parties provide further submissions and it would delay resolution of this dispute. I find that my approach is consistent with the mandate of the Civil Resolution Tribunal (tribunal) to provide timely and accessible justice, as well as with previous decisions of the tribunal, which I accept even though they are not binding on me: see *The Owners, Strata Plan KAS 2827 et al v. Couchman et al*, 2018 BCCRT 186.

5. Therefore, I exercise my discretion under section 61 of the *Civil Resolution Tribunal Act* (Act), to direct that the strata be added as a respondent by counterclaim. Accordingly, I have amended the style of cause to reflect the additional party.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the tribunal. The tribunal has jurisdiction over strata property claims brought under section 3.6 of the 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. Even though the parties raised credibility issues, I decided to hear this dispute through written submissions because I was able to resolve any credibility issues with the documentary evidence.

8. 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.

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 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

11. The issues in this dispute are:

    a. Did the applicant bring the claims in relation to the 2015 alterations too late?

    b. Are the alterations significant within the meaning of section 71 of the *Strata Property Act* (SPA)?

c. Did the respondent breach the bylaws by failing to seek strata approval for the alterations?

d. Should the respondent register the alterations and an indemnity letter with the Land Title Office?

e. Should I make the respondent's requested orders with respect to the conduct of the applicant?

f. Should I make the respondent's requested orders with respect to the future governance of the strata?

g. Does the strata need an inspection of the exterior common property areas?

h. Should the cedar hedge dividing the back yards be retained?

BACKGROUND AND EVIDENCE

12. Both owners provided a significant volume of evidence and made lengthy submissions regarding the issues in dispute. I have reviewed all of the evidence and submissions, however I find that it is unnecessary for me to comment on all of the material before me. I only refer to the evidence that is necessary to explain my decision.

13. The strata is a side-by-side duplex. Each unit has a front yard and a back yard. Each back yard has a patio area, which in its original form was a simple square of patio blocks. Each front yard has a pathway from the front gate and along the side of the duplex to the back yard.

14. The strata operates pursuant to the standard bylaws in the *Strata Property Act* (SPA).

15. Like many duplexes and small stratas, the strata does not have a history of following the formal requirements of its bylaws. To date, the parties have governed the strata by consensus as issues arise, such as annual strata insurance.

16. The respondent made 2 sets of alterations to their LCP. The first set of alterations were completed in the summer of 2015 (2015 alterations). The 2015 alterations included the construction of a shed along the outside wall of the building, a wood privacy screen on the upstairs deck, and a new wood deck with a glass canopy over the deck area. The new shed contacts the outside of the building but does not appear to be attached to the outside of the building.

17. The respondent made further alterations to their LCP in the summer of 2017 (2017 alterations). The respondent provided the applicant with a quote and scope of work from the landscaping company on July 19, 2017. The scope of work primarily consisted of constructing a new pathway along the side of the respondent's unit and related landscaping improvements.

18. On July 26, 2017, the applicant emailed the respondent suggesting that the 2015 alterations should be approved by the strata. This appears to be the first time the applicant raised the issue of the respondent's failure to get strata approval for the 2015 alterations. The respondent did not respond to this email prior to their contractor beginning work on the 2017 alterations.

19. On July 31, 2017, the respondent emailed the applicant expressing surprise at the applicant's insistence on formal strata approval since, in the respondent's view, the 2015 alterations were minor. In addition, the respondent pointed out that the strata did not have a history of strict adherence to the SPA or the bylaws. In response, the applicant stated that the 2017 alterations did not have their approval.

20. As the 2017 alterations progressed, the applicant repeatedly complained about the level of noise and dust from the patio stone cutting done by the respondent's contractor. The applicant does not seek any relief with respect to the actions of the respondent's contractor.

21. The respondent provided a brief report from a structural engineer, who inspected the back shed, the wood screen on the upstairs balcony, and the new deck. The engineer states that none of the newly constructed items pose a risk to the strata building. The applicant does not accept that report because he does not believe

that the engineer noticed a gap between the shed and the outside of the strata building, which the applicant believes will cause wood rot.

POSITION OF THE PARTIES

22. The applicant seeks the following orders:

- The respondent remove the shed, wood screen, the part of the deck that contacts the strata building, and the 2017 alterations at their own expense.
- The respondent enter into an indemnity agreement regarding the alterations.
- The respondent's alterations to the deck and the indemnity agreement be registered with the Land Title Office.
- The respondent pay the applicant's tribunal fees.

23. In their counterclaim, the respondent seeks the following orders:

- The strata develop a process for granting alterations and addressing maintenance.
- A declaration that the applicant unreasonably interfered with the respondent's use and enjoyment of the respondent's lot.
- The applicant not unreasonably interfere with the respondent's use and enjoyment of the respondent's lot in the future.
- The applicant and the respondent both be included on any communications or actions taken by the strata.
- Neither the applicant nor the applicant's wife may enter the respondent's property without 48 hours written notice and written consent, unless it is an emergency.

- The strata obtain an inspection of the exterior of the building, with the costs shared equally.

- The applicant leave the hedge separating the units on the south side of the building in place.

24. I will address the parties' specific arguments regarding each of the issues below.

ANALYSIS

Did the applicant bring the claims in relation to the 2015 alterations too late?

25. The *Limitation Act* applies to claims brought to the tribunal. The *Limitation Act* creates a 2 year limitation period to bring claims. The applicable date for tribunal claims is the date that the tribunal accepts the dispute by issuing a dispute notice. The tribunal accepted this dispute on August 7, 2017.

26. The respondent states that the 2015 alterations were complete on or before August 4, 2015. The applicant states that the work on the 2015 alterations continued until the end of August 2015.

27. The respondent relies on *Channa v. Carleton Condominium Corp.*, 2011 ONSC 7260. I have reviewed *Channa* and I fail to see any specific relevance on the limitation period issue in this dispute. In *Channa*, the condominium corporation sought to collect arrears for expenses related to common property from an owner but brought its application out of time. This dispute does not involve a claim for money.

28. In general, a limitation period begins to run on the day that the event giving rise to the claim occurs. The parties' submissions suggest that they both consider the limitation period to run from the date that the construction of the 2015 alterations completed. I agree that despite any alleged ongoing effects resulting from the construction from the 2015 alterations, the limitation period began running on the last day of construction.

29. Therefore, if the construction of the 2015 alterations was completed before August 7, 2015, then the applicant's claim regarding the 2015 alterations is too late and must be dismissed.

30. The respondent initially said that the alterations were complete before May 2015. In support of this position, the respondent provided an email from the contractor stating that they had found the invoice associated with the alterations dated May 1, 2015. The contractor concluded that the work was complete in or before May 2015.

31. After the applicant provided evidence that proved that the contractor did not finish the alterations before May 2015, the respondent admitted that they had made a mistake. The respondent submitted that the contractor did not keep detailed time records and had used the invoice for the down payment rather than a final invoice to determine when they completed the alterations. In other words, the respondent says that the contractor made a faulty assumption based on incomplete records.

32. The respondent now says that the construction was completed on or before July 27, 2015. In support of their position, the respondent points to three pieces of evidence.

33. First, the respondent provided a copy of a cheque that the respondent wrote to the contractor, which is dated July 27, 2015 and is marked "final pymt".

34. Second, the respondent provided an email chain between the respondent and the house painter. In that email chain, the painter sent the respondent an email dated July 29, 2015, stating that the painter hopes that the respondent is happy with the contractor's work. In response, the respondent states that they are "really pleased with the final product".

35. Third, the respondent provided a copy of an email dated August 4, 2015, in which the respondent asked the contractor to return a key to the respondent's unit. The respondent says that they had provided the key to the contractor so that the contractor could use the respondent's washroom while on the job. The respondent

submits that if the respondent wanted the key back then the alterations must have been complete.

36. The applicant believes that the respondent's change in evidence indicates that the respondent asked the contractor to fabricate evidence. The applicant believes that the contractor must have more documents because businesses are required to keep detailed records for tax purposes.

37. The applicant's position before me is in contrast to an email they sent to the contractor on February 24, 2018, pointing out the error in the contractor's earlier evidence. In that email, the applicant stated that they believed that the contractor made a mistake but did not deliberately provide inaccurate evidence.

38. I do not accept the applicant's assertion that the respondent fabricated evidence or conspired with the contractor to fabricate evidence. It is a serious allegation and the applicant provided no basis for their belief that the applicant or any witness lied. The applicant provided no explanation as to why the contractor, who did work for both of the owners, would agree to fabricate evidence and lie for the respondent's benefit. The contractor has no interest in the outcome of this dispute.

39. The applicant also states that the contractor has refused to communicate directly with the applicant regarding the 2015 alterations. The applicant believes that the respondent is blocking that evidence to hide the truth. I have discretion under the tribunal rules to require the contractor to provide evidence. For the same reasons that I rejected the applicant's assertion that there is a conspiracy to fabricate evidence, I reject the applicant's assertion that there is a conspiracy to suppress evidence. I am satisfied that I have sufficient evidence before me to resolve the question of when the 2015 alterations completed. I therefore decline to require the contractor to give evidence.

40. I am persuaded that the construction of the alterations completed on or before July 27, 2015. I rely primarily on the copy of the cheque marked final payment. It is unlikely that the respondent would have provided final payment for work that the contractor had not yet completed.

41. Therefore, the applicant's claims with respect to the 2015 alterations were brought too late. I dismiss the applicant's claims as they relate to the 2015 alterations.

Are the 2017 alterations significant within the meaning of section 71 of the SPA?

42. Section 71 of the SPA provides that a strata must not make a significant change to the use or appearance of common property unless it is approved by a 3/4 vote at a general meeting. While the precise wording of section 71 of the SPA governs the actions of the strata corporation and not individual owners, the Court has applied section 71 to owners who make alterations to common property without strata permission: see, for example, *Foley v. The Owners, Strata Plan VR 387*, 2014 BCSC 1333 and *Sidhu v. The Owners, Strata Plan VR1886*, 2008 BCSC 92.

43. The respondent relies on *Foley*, which sets out the factors that will determine whether a change is significant or not within the meaning of section 71 of the SPA. The factors that are relevant to this dispute are:

- Are the 2017 alterations visible to the applicant or the general public?
- Do the 2017 alterations alter the applicant's use or enjoyment of their own unit?
- Do the 2017 alterations change the use of the LCP?
- Has the strata governed itself in an informal manner with respect to alterations to LCP prior to the 2017 alterations?

44. Answering the first question, the 2017 alterations are not visible to the general public or the applicant unless they make a concerted effort to observe them. In other words, the 2017 alterations are not casually visible from either the sidewalk or the applicant's unit.

45. Answering the second question, the alterations have no ongoing impact on the applicant's use or enjoyment of their unit or their LCP, although the construction of the 2017 alterations did bother the applicant.

46. Answering the third question, although the 2017 alterations have changed the route of the pathway, there is no change in the use of the LCP. It is still a yard with a pathway.

47. The applicant raises two arguments to support their contention that the 2017 alterations are significant.

48. First, the applicant says that the new pathway inhibits access to the water shutoff valve for both units. The respondent admits that this is true, but states that if there is a need to access the valve, they will grant access. I therefore consider this to be a minor issue in the context of determining whether the 2017 alterations are significant.

49. Second, the applicant says that the 2017 alterations create an unreasonable liability risk to the strata. I do not agree. In particular, the applicant's reliance on section 149(d) of the SPA is misplaced. Section 149(d) applies to fixtures built by the owner developer as part of the initial construction of a strata lot. Therefore, any risks created by the 2017 alterations is borne by the respondent and the respondent's insurer, not the strata or the strata's insurer.

50. With respect to the fourth question, both owners made extensive submissions regarding whether the applicant had previously altered the fence between the applicant's lot and their neighbour's lot without consulting the respondent.

51. It is not disputed that the applicant caused a hedge and fence to be replaced by a new fence. The dispute centres around whether the fence was on the applicant's LCP or on the neighbour's property. If the fence was on the applicant's LCP, the respondent says it is a precedent for the parties making changes to their respective LCP without consultation or approval.

52. There is no satisfactory evidence one way or another on the location of the fence relative to the property line. However, I find that I do not need to decide this issue. I have previously noted that the strata has not governed itself according to the SPA and the bylaws. Even if I accept the applicant's submissions that the fence and

hedge were located on the neighbour's property, it would not persuade me that the 2017 alterations are significant within the meaning of section 71 of the SPA. The 2017 alterations are primarily cosmetic in nature and have little to no impact on the applicant.

53. For these reasons, I find that the 2017 alterations are not significant changes to the respondent's LCP. Therefore, the respondent has no obligation to have them approved by the strata pursuant to section 71 of the SPA.

Did the respondent breach the bylaws by failing to seek strata approval for the 2017 alterations?

54. Bylaw 6(1) of the standard bylaws provides that an owner must get advance strata approval of any alteration to LCP. All of the alterations in this dispute were to the respondent's LCP. The respondent's obligation to comply with bylaw 6(1) is unaffected by my decision regarding section 71 of the SPA because bylaw 6(1) does not include a threshold that a change be significant. Under bylaw 6(1), any alteration to LCP must be approved by strata council.

55. The respondent relies on bylaw 5(2), which prohibits a strata from unreasonably withholding approval of alterations to a strata lot. Unlike bylaw 5, bylaw 6 does not include a requirement that the strata act reasonably in deciding whether to approve an alteration. Because the 2017 alterations are to LCP and not the respondent's strata lot, the respondent's reliance on bylaw 5(2) is misplaced.

56. Therefore, even though the 2017 alterations were not significant within the meaning of section 71 of the SPA, the respondent still needed to get the advance approval of strata. In the context of a 2 person strata, approval from the strata requires approval from the applicant. The respondent therefore breached bylaw 6 by completing the 2017 bylaws without strata approval.

57. The respondent, as part of this dispute, has argued that they should not have to enter into an indemnity agreement because they have insurance and because they have agreed to repair and maintain the 2017 alterations. However, bylaw 6(2)

gives the strata the right to require a letter accepting responsibility for expenses relating to the alteration.

58. The strata council has never formally met and, therefore, has never considered whether to approve the 2017 alterations. As a result of the disclosure process in this dispute, the applicant has a significant amount of information regarding the 2017 alterations. In addition, as a result of these reasons, the respondent will be aware of their obligation under the bylaws to enter into a written agreement with the strata regarding the 2017 alterations.

59. I find that it would be premature and inappropriate for the tribunal to make an order with respect to the breach of bylaw 6 prior to the matter being fully considered by the strata, including the terms of the letter that the strata can require under bylaw 6(2).

60. I order that the strata hold an annual general meeting within 30 days of this order and that it include on the agenda the question of whether to approve the 2017 alterations. For clarity, this order requires that the strata hold a vote on this issue at the annual general meeting.[i]

61. If the strata does not approve the 2017 alterations, the respondent may make a fresh application to the tribunal based on section 48.1 of the Act that the strata's decision was significantly unfair.

62. Because the parties will need to consider the terms of an indemnity letter as part of their consideration of approving the 2017 alterations at the annual general meeting, I decline to order that the respondent sign an indemnity letter.

63. For clarity, the dismissal of the applicant's claims as they relate to the 2015 alterations means that the respondent does not need to seek retroactive strata approval for the 2015 alterations.

Should the respondent register the alterations and an indemnity letter at the Land Title Office?

64. The applicant seeks an order that the respondent register the alterations made to the respondent's deck in the Land Title Office.

65. Sections 73 to 75 of the SPA require that changes to the designation of property as common property or LCP be registered with the Land Title Office. None of the alterations change the designation of the affected areas as LCP. Nothing in the SPA requires that alterations to LCP need to be registered.

66. The applicant also seeks an order that the indemnity letter be registered in the Land Title Office. I have not ordered the respondent to sign an indemnity letter so it follows that there is nothing to seek to register. In any event, there is no provision in the SPA for the registration of an indemnity letter on title.

67. I dismiss this aspect of the applicant's claim.

Should I make any of the respondent's requested orders with respect to the conduct of the applicant?

68. The respondent takes issue with a number of the applicant's behaviours over the construction of the 2015 alterations and the 2017 alterations.

69. The respondent seeks a declaration that the applicant has unreasonably interfered with the use and enjoyment of the respondent's strata lot and an order prohibiting future unreasonable interference.

70. The respondent also seeks an order that neither the applicant nor their spouse enter their property without 48 hours written notice and the respondent's prior written approval, unless it is an emergency. The respondent submits that this order will reflect the terms of bylaw 7.

71. Insofar as the respondent seeks orders against the applicant's spouse, the applicant's spouse is not a party. I therefore decline to consider any orders that bind the applicant's spouse.

72. Bylaw 7 only permits people authorized by the strata corporation to enter a strata lot. Therefore, bylaw 7 does not permit the applicant to enter into the respondent's strata lot unless the strata agrees to it.

73. The applicant relies on section 77 of the SPA to assert a right to reasonable access to the respondent's LCP. Section 77 of the SPA allows a strata corporation reasonable access to LCP in order to perform its duties. Section 77 does not give the applicant the right to enter onto the respondent's LCP unless the strata authorizes them to do so.

74. Therefore, the respondent is already protected from unauthorized entry onto their LCP or strata lot by the combined effect of bylaw 7 and section 77 of the SPA. As a general rule, parties are expected to follow the law. It is redundant and unnecessary to make orders requiring them to do so. I therefore decline to make an order requiring the applicant to follow the bylaws and the SPA.

75. However, as mentioned above, the applicant does raise a valid point with respect to access to the water shut off valve. In order to avoid future disputes between the owners, I order the respondent to permit the applicant or their agents access to their LCP for the purposes of accessing the water valve on 48 hours written notice, which must include the reason the applicant requires access to the water valve, or in the case of an emergency.

76. There is also no utility in making a declaration that the applicant has unreasonably interfered with the respondent's use of their lot in the past. I decline to make an order regarding the applicant's past conduct.

Should I make any of the respondent's requested orders with respect to the future governance of the strata?

77. The respondent seeks two orders with respect to the governance of the strata.

78. First, the respondent seeks an order creating a new bylaw that defines certain types of landscaping that do not require approval and sets out a process for

approval of other alterations to LCP. The respondent proposes specific language for this bylaw. The applicant prefers to follow the current bylaws.

79. The respondent submits that the order is necessary because of the conflict over the past several years regarding alterations to LCP. The respondent does not believe that the current bylaws provide sufficient guidance and clarity.

80. I disagree with the respondent that the history of this dispute means that the parties will be unable to operate under the current bylaws, because they have never tried. The bylaws set out a process for calling meetings and seeking approval to any alterations to LCP. An owner may also propose new bylaws at a meeting. I agree with the respondent that the lack of consistent adherence to the bylaws has contributed to the conflict between the owners. In my view, the relationship between the parties will benefit from governing according to the procedures set out in the bylaws and the SPA. I note that prior to this dispute they managed to handle strata matters in a constructive manner.

81. Both parties have the right to have the tribunal or the Court review any decision by the strata or the other party if they believe it is significantly unfair. Ultimately, if the owners are unable to work as a functional strata, either owner may seek a court order appointing an administrator to run the strata for them. It would not be the first deadlocked duplex to be run by an administrator: see *Anthony v. Schnapp*, 2016 BCSC 1839.

82. I am therefore not satisfied that the parties require the imposition of new bylaws to regulate the approval of alterations.

83. The respondent also seeks an order that both owners be included in any strata-related communications and actions. I agree that such transparency will assist with the smooth functioning of the strata. I therefore order that unless the owners agree otherwise, both owners will be included in all strata-related correspondence. If either owner receives strata-related correspondence that is not addressed to both owners, they will immediately provide a copy of that correspondence to the other owner.

84. I do not order that both parties be involved in all strata actions, as sought by the respondent. The SPA and the bylaws, when properly followed, will ensure joint decision making on strata matters.

Does the strata need an inspection of the exterior common property areas?

85. The respondent seeks an order that the exterior common property of the strata be professionally inspected, with the exception of the areas that the respondent's engineer already inspected. The respondent seeks an order that the cost be shared.

86. The respondent seeks this order because the applicant has demanded the right to access the respondent's LCP to complete their own inspection. As discussed above, section 77 of the SPA does not give the applicant the right to inspect the respondent's LCP unless the strata authorizes them to do so on the strata's behalf. Given that the strata is deadlocked, the applicant cannot say that they seek to inspect the respondent's property on behalf of the strata.

87. The parties replaced the siding to the strata building in 2015. It would generally be premature to order another professional inspection of the exterior of the building so soon. However, given the applicant's insistence that the 2015 alterations have created a risk of wood rot, I agree with the respondent that it is sensible to have the exterior LCP professionally inspected to identify whether there are any existing or potential issues with respect to wood rot.

88. I do not agree with the respondent that the inspection should exclude the items inspected by their previous engineer. If the inspection is going to be useful to the parties, both owners must trust its outcome. Because the applicant rejects that the previous engineer was properly instructed, it would be counterproductive to include any restrictions in the inspection. For the same reasons, both owners should be present on an initial review of the exterior of the building so that they can each bring any issues to the attention of the engineer.

89. I therefore order that the strata retain an engineer, other than the engineer that the respondent previously retained, to inspect the exterior common property of the strata, including LCP, and provide a report to the strata on any existing or potential issues with respect to the maintenance and repair of the exterior common property. I also order that the owners may both accompany the engineer on an initial review of the entire exterior of the building.

90. I order that the cost of the report be shared equally between the owners of strata lots 1 and 2.

Should the cedar hedge dividing the back yards be retained?

91. The respondent seeks an order that the hedge that currently divides the owners' back yards be retained. In response, the applicant states that they would prefer to remove the hedge and replace it with a fence. The applicant did not seek an order in their claim with respect to this issue.

92. Therefore, in this dispute, the only order sought is to maintain the status quo. I find that it would be redundant and unnecessary to make such an order. There is no evidence that the applicant intends to remove the hedge unilaterally. If the applicant wishes to make a change to common property, including the hedge, they must seek approval from the strata under bylaw 6.

93. I decline to make an order about this aspect of the respondent's claim.

DECISION AND ORDERS

94. I order that:

    a. The strata is added as a respondent by counterclaim to this dispute and the style of cause is amended to include the strata.

    b. Within 30 days of the date of this order, the strata will hold an annual general meeting with a vote on the approval of the 2017 alterations on the agenda.

c. The owners of both strata lots will be included on any strata-related correspondence unless they agree otherwise.

d. If either of the owners receives strata-related correspondence that does not include the other owner, they will immediately provide a copy to the owner that did not receive the correspondence.

e. The respondent will permit the applicant or the applicant's agents access to their LCP for the purposes of accessing the water shutoff valve on 48 hours written notice, which must include the reason the applicant requires access to the water valve, or in the case of an emergency.

f. Within 30 days of the date of this order, the strata will retain an engineer, other than the engineer that the respondent previously retained, to conduct an inspection of the exterior common property of the strata, including LCP, and to provide a report to the strata.

g. Both owners may accompany the engineer on an initial review of the exterior common property of the strata, including LCP, to identify any issues for the engineer.

h. The owners will share equally the cost of the engineer's inspection and report.

95. I dismiss the remaining claims of the applicant and the respondent.

96. 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 dispute-related expenses. Both parties have been successful in aspects of this dispute. I therefore decline to order either party to reimburse the other for tribunal fees or other dispute-related expenses.

97. 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.

Eric Regehr, Tribunal Member

[i] Amendment pursuant to section 51 of the Act to clarify my original intention that the strata vote on whether to approve the 2017 alterations at the annual general meeting.