Civil Resolution Tribunal

Date Issued: June 14, 2019

File: ST-2018-006785

Type: Strata

Civil Resolution Tribunal

Indexed as: *Brakop v. The Owners, Strata Plan K99,* 2019 BCCRT 737

B E T W E E N :

Elisabeth Brakop

APPLICANT

A N D :

The Owners, Strata Plan K99

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Jordanna Cytrynbaum

INTRODUCTION

1. The applicant, Ms. Brakop, owns strata lot 8 (SL) in the respondent strata corporation, The Owners, Strata Plan K99 (strata). The strata is a bare land strata and is made up of 9 strata lots.

2. This dispute is about whether the applicant is entitled to keep the following modifications she made on, or extending onto, common property:

    a. a driveway (driveway);

    b. a rock retaining wall next to the driveway (wall); and

    c. a gate post (gate post) next to the bottom of the driveway

    (collectively, the "modifications").

3. The applicant claims that the modifications should be permitted to remain intact, to enable her to use and enjoy her SL. She seeks orders permitting her to keep the modifications, and an order that the strata pay all of her expenses incurred to date, including legal fees incurred in a claim filed by the strata in the British Columbia Supreme Court (earlier proceedings) prior to this dispute. The strata's position is that the modifications should not remain because they were unauthorized, and they negatively impact other owners' use of the common property access road. The strata characterizes Ms. Brakop's claim as an attempt to convert common property into limited common property for the benefit of her SL. Finally, the strata states that it should not be required to compensate Ms. Brakop for any of her dispute related expenses, or legal fees.

4. The parties were each represented by legal counsel. The applicant was represented by Chystie Stewart and the strata was represented by Jeff Frame.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over strata property claims brought under section 121 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.

6. 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.

7. 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.

8. Under section 123 of the Act and the tribunal rules, in resolving these disputes the tribunal may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUES

9. The issues in this dispute are as follows:

    a. was the strata's permission required, or granted, for the modifications?

    b. should the applicant be permitted to keep the modifications?

    c. what, if any, remedies should the tribunal award the applicant?

10. For the reasons that follow, I find that the applicant has not proven her claims and dismiss the claims in this dispute.

EVIDENCE AND ANALYSIS

Introduction

11. In a civil dispute such as this, the applicant bears the burden of proof on a balance of probabilities. That means, the applicant must prove her claims.

12. In this case, the parties agreed to adjourn and suspend the earlier proceedings in order to proceed with this dispute in accordance with section 15 of the Act. In the circumstances, I am satisfied that the tribunal may determine the issues in this dispute.

13. The parties filed submissions containing both their arguments and evidence, as well as the pleadings in the earlier proceedings. While I have reviewed all of the parties' materials, I will not refer to all of the evidence or deal with each point raised. In particular, I will not deal with the claims or issues raised in the earlier proceedings, which are not before me in this dispute. This includes the applicant's arguments about whether the strata's claims in the earlier proceedings are statute barred. I will refer only to the evidence and submissions that are relevant to my determination of the issues in this dispute, or to the extent necessary to give context to these reasons.

14. The applicant purchased the SL with her late husband in or about 1982. At that time, the applicant claims there was no access route to her SL. Ms. Brakop says that she built the driveway as an access route to her SL in about 1989. Ms Brakop suggests that without the driveway, there would be no access to her SL. Ms. Brakop then says that around the same time, she built the wall to support the driveway out of rock gathered from the natural surrounding. Later in about 2000, she installed a gate, which swings across the driveway to a green gate post. That gate post is located on common property.

15. The strata on the other hand says that the applicant built the driveway in about 2003 – 2004. The strata says this involved:

    a. placing fill both under the driveway and on the far side of the common property access road;

    b. building the wall;

    c. installing the gate post; and

    d. filling in a drainage ditch on the uphill side of the access road.

16. The strata says a number of owners raised objections to the modifications in about 2006. I understand the owners' complaints to be that the modifications narrow the common property access road and cut off a drainage ditch, which in turn affects the common property access road and other strata lots.

17. The applicant did not agree that the modifications were on common property. Therefore, around 2008 the strata obtained a survey to confirm that the driveway extended onto the common property access road. The strata invited Ms. Brakop to either purchase an easement over the area, or remove the "encroachments". The strata gave her 6 months to submit a proposal. The strata subsequently obtained a survey in 2011 that determined the "encroachment area" was 84.9 square meters (without taking into account the fill placed on the far side of the access road).

18. It is not disputed that the strata invited Ms. Brakop to make a proposal to purchase that part of the common property she used to make the modifications. It seems that an earlier disagreement involving the owner of another strata lot who built modifications that extended onto common property was resolved in this manner. However, Ms. Brakop appears to have no interest in resolving the dispute on that basis, and the parties have been unsuccessful in finding an alternate resolution.

The parties' positions

19. Ms. Brakop claims that she should be entitled to keep the modifications as status quo on the basis that the modifications are necessary and give rise to easements or other rights in favour of her SL.

20. The strata disputes that the applicant is entitled to keep the modifications. The strata says that Ms. Brakop is using the modifications to convert common property into limited common property. The strata says that the modifications unreasonably interfere with the use of common property by others, including because it restricts the width of the access road. The strata also says that the fill used to build the driveway blocks the drainage ditch further along the access road. The strata says that this in turn causes water to move onto the surface of the access roads causing rutting and wash-boarding, and the water then moves onto strata lots 1 and 2 leading to complaints from those owners.

21. The strata maintains that it did not provide its approval for the modifications, and that the driveway unreasonably interferes with the rights of other persons to use and enjoy the common property access road.

22. Around September 2018 the strata directed the applicant to remove the modifications. The applicant has failed or refused to do so and seeks orders from the tribunal permitting her to keep the modifications intact.

23. I next turn to the issue of whether the strata's authorization was required, or granted, for the modifications.

Was the strata's permission required, or granted, for the modifications?

24. Section 71 of the SPA restricts a significant change in the use or appearance of common property unless: a) the change is approved by a resolution passed by a ¾ vote at an annual or special general meeting; or b) an immediate change is necessary for safety reasons or to prevent significant loss or damage. I find that the latter exception is not applicable to the circumstances before me.

25. The SPA definition of “common property” includes that part of the land and buildings shown on a strata plan that is not part of a strata lot. Based on my review of the strata plan and other evidence in the record, I am satisfied that the modifications were made to common property.

26. Based on my review of the evidence before me and the strata plan, I find that there was a common access route to all strata lots. As such, I do not accept the applicant’s argument that her SL would be “land-locked” without the driveway. Rather, I find that a portion of the driveway extends onto the common access route, which is common property. I also find that this was done inadvertently at the time the driveway was built.

27. A strata corporation’s bylaws may regulate things like the use and enjoyment of common property. Section 120 of the SPA provides that the bylaws of a strata corporation are the standard bylaws set out in the schedule to the SPA, unless a strata corporation amends them or adopts different bylaws. It is not disputed that the strata’s bylaws are the standard SPA bylaws.

28. The relevant sections of the strata’s bylaws provides that an owner must:

    a. obtain written approval from the strata before making an alteration to common property (section 6);

    b. not use common property in a way that unreasonably interferes with the rights of other persons to use and enjoy the common property (section 3).

29. I note that in Ms. Brakop’s submissions, she “admits that she did not obtain approval from the strata corporation before altering common property.”

30. I now turn to consider whether the modifications constitute a significant change in the use or appearance of common property. What constitutes a “significant change” in use or appearance has been determined by the courts with reference to consideration of objective and subjective factors, including the following:

a. A change is more significant if it is visible to residents and the general public;

b. Whether the change to common property affects the use or enjoyment of a strata lot or a number of strata lots;

c. The number of strata lots in the building may be significant; and

d. How the strata corporation has governed itself in the past and what it has allowed, such as whether it permitted similar changes in the past.

See: Foley v. The Owners, Strata Plan VR 387, 2014 BCSC 1333 at para. 18-29.

31. The strata is a relatively small strata corporation made up of only 9 strata lots. The modifications appear to convert what was common property into a driveway, a wall and a gate post for the use and benefit of the applicant's SL. On the evidence before me, the modifications are plainly visible to both the other residents and any person using the common property access route. There is no evidence of other similar modifications on common property. By reason of the modifications, the applicant has effectively converted a portion of the common property to her own private use. I find that this has narrowed the common property access road and limits parking for use by adjacent strata lots, and as such the modifications affect other owners' use or enjoyment of their property.

32. Based on the foregoing, I find that the modifications are a significant change in the use and appearance of common property. There is no evidence that the strata passed a ¾ resolution as required by section 71 of the SPA to authorize the modifications as a significant change in use or appearance of common property.

33. The SPA sets out a process for how common property may be converted into "limited common property" (see sections 73-74). According to the SPA definition, limited common property is common property designated for the exclusive use of the owners of one or more strata lots. There is no evidence that the modifications were designated as limited common property, or that there was any agreement to do so.

34. I also find that the modifications are in breach of the bylaws in that the applicant did not obtain approval from the strata to make the modifications (section 6), and the applicant is using common property in a way that unreasonably interferes with the rights of other persons to use and enjoy the common property access road (section 3).

35. In the result, I find that the strata's approval was required, and it did not authorize the applicant to make or keep the modifications.

Should the applicant be permitted to keep the modifications?

36. I note that pursuant to section 133 of the SPA, a strata corporation may do what is reasonably necessary to remedy a breach of its bylaws, and it may require that the person responsible for the breach pay the reasonable costs of remedying the breach.

37. In this dispute, the strata has not filed a counterclaim or otherwise sought orders directing the applicant to remove the modifications. However, I understand that the strata has sought orders to that effect in the earlier proceedings, and the earlier proceedings have been adjourned and suspended. As set out above, I therefore make no orders respecting the removal of the modifications.

38. The applicant makes several arguments in favour of her position that she should be entitled to keep the modifications. I deal with each of these arguments in turn below.

a. Is the driveway an "access route"?

39. First, the applicant claims that the driveway sis an "access route" within the meaning of the *Bare Land Strata Regulations* of the SPA. I understand the applicant's argument in this regard to be that as an "access route", the driveway is necessarily part of the strata plan and that it cannot be removed. The applicant also says that the strata plan should be amended to reflect the driveway as an "access route".

40. Part 14 of the SPA sets out the process for creating strata lots and "depositing" (or registering) strata lots with the land title office. Land may be subdivided into 2 or more strata lots by filing a strata plan in a land title office (section 239). Once this occurs, the strata lots are created and title to those strata lots may be registered in the name of an owner, provided that certain requirements are met (section 240). In the case of a bare land strata (as in this dispute), one must first obtain approval from an approving officer appointed under the Land Title Act before applying to deposit a bare land strata plan. The approving officer may only grant approval of a bare land strata plan if it complies with the regulations (section 243) .

41. The *Bare Land Strata Regulations* of the SPA provide that:

    a. the approving officer may decline to approve a bare land strata plan if he considers that the access routes are not sufficient to provide practical and reasonable access to the strata lots: section 6(b); and

    b. the approving officer shall not approve a bare land strata plan unless the access routes he considers necessary will not encroach on a strata lot: section 7.

42. The *Bare Land Strata Regulations* defines "access routes" as those portions of common property in a bare land strata plan intended to provide vehicles with access to the strata lots in that bare land strata plan.

43. The applicant claims that the driveway is an access route. The applicant does not suggest that the driveway is marked as an access route on the strata plan, and on reviewing the strata plan, I find that the driveway is not marked as an access route.

44. Rather, the applicant's argument seems to be that the driveway as built meets the definition of an access route under the *Bare Land Strata Regulations,* and therefore the strata plan should be amended accordingly. In this regard, Ms. Brakop also relies on communications from an approving officer who she claims concluded that the driveway is an access route. I have reviewed the email correspondence with the

approving officer from September 2018, and I find that the approving officer makes no such conclusion. Rather, the approving officer simply notes that:

a. the strata's bare land strata plan was created over 40 years ago;

b. the area shown as "common" on the plan is common to all lots and likely used for access and utilities for all strata lots;

c. he expects there would be a common access route within the common property, and individual driveways from the common access route to each lot; and

d. the shared common access route and the individual driveways within the strata are private and have no involvement of the Ministry of Transportation or the approving officer.

45. These comments are consistent with my finding above that the driveway is not necessary to provide an "access route" to the SL. Rather, the common access route within the common property is accessible by all strata lots. I also find that it was up to the individual owners to build driveways to connect to the common access route.

46. Finally, Ms. Brakop asks that the tribunal make an order that the access route be surveyed and added to the strata plan. Division 1 of Part 15 of the SPA sets out how and when a strata plan may be amended. Amendments are contemplated to do things like: designate limited common property, change the boundaries of a strata lot, create new strata lots, and add a strata lot to common property. There is no process under the SPA for adding an access route to a strata plan. Even if there were, applications to amend are submitted to the registrar of land titles who in turn determines whether the proposed amendments comply with the SPA and the *Land Title Act* and applicable regulations, and whether to make changes to give effect to the proposed amendments (SPA section 267).

47. Further, and in any event, on a plain reading of the provisions of the *Bare Land Strata Regulations* and the SPA, the relevant time for determining whether common

property constitutes an access route is when the bare land strata plan is submitted for approval – not after. See: *Cornick v. Owners of Strata Plan VIS7092*, 2019 BCSC 710 at para. 11. Therefore, I find that nothing turns on whether the driveway (built after the creation of the strata plan) may meet the definition of an access route within the meaning of the *Bare Land Strata Regulations.*

48. In sum, I decline to find that the driveway is an access route, and decline to make any order that the strata plan be amended.

b. Is the driveway an implied easement of necessity?

49. The applicant also argues she should be entitled to keep the driveway because without it, there would be no way for vehicles to access her SL. She claims that without the driveway she would not be able to obtain medical care, groceries, or receive visitors (among other things). On this basis, the applicant argues that the driveway is an implied easement of necessity.

50. For the purpose of this argument, I will consider only that portion of the driveway that extends onto common property (extended driveway).

51. The general rule is that an easement gives one property owner (the dominant tenement) the right to use the property of another (the servient tenement): *Gale on Easements*, 19th ed. (London: Sweet & Maxwell, 2012). Once an easement is established, at common law, it runs with the land and can only be extinguished by express release, implied release, or operation of law: Megarry and Wade, *The Law of Real Property*, 7th ed. (London: Sweet & Maxwell, 2008) at 1286-1288. See also: *Allen v. 0990199 B.C. Ltd.*, 2018 BCSC 1465 (”*Allen”*) at para. 84-85.

52. An implied easement of necessity arises when there is no access to the grantee’s property (i.e. it is land-locked) and necessity requires an implied easement for the owner to use the property. The test for “necessity” is very strict: it will only be available where the property cannot be used at all, or where there is no alternative

way of accessing the dominant tenement's property. Mere inconvenience will not be sufficient. See: *Roop v. Hofmeyr*, 2016 BCCA 310 and *Allen* at para. 90, 92, 109.

53. I have already found that the SL would not be land locked without the extended driveway. The SL borders upon, and appears to have access to, the common access route within the common property. The SL also appears to border upon and have access to Squilax – Anglemont Road. There is no evidence that the extended driveway is necessary to prevent the SL from being cut off from the access route. Nor has the applicant provided any explanation for why the extended driveway cannot be removed. Rather, it seems that doing so will be inconvenient and/or cause the applicant to incur costs. In the circumstances, I find that the applicant does not meet the criteria for "necessity" and that no implied easement of necessity arises in relation to the extended driveway.

c. Does shared use of the driveway entitle the applicant to an implied road access agreement?

54. The applicant also argues that she should be entitled to an implied road access agreement on the basis of the "shared use of the driveway from the outset for ingress and egress". In advancing this argument, she relies on *Sauer v. 648657 BC Ltd.*, 2019 BCSC 43 ("*Sauer*").

55. In *Sauer*, one of the issues in dispute was whether a party should be granted an implied road access easement over the only access road to a development project's amenities. The court noted that where neighbouring landowners (as in that case) have participated jointly in an enterprise and where the circumstances are such that it is obvious and necessary that both parties will benefit, principles of equity and fairness may result in an access agreement.

56. In this case, there is no evidence before me of any "shared use" of the driveway by the strata any of the other owners in the strata. Nor is there any evidence that the strata, or any other owners, jointly participated in some venture related to the driveway. Rather, on the evidence I find that only the applicant, and persons

entering onto the applicant's SL, use the driveway. While it may be that other owners inadvertently pass over the extended driveway (because it extends onto common property), there is no evidence that those actions are in any way related to a joint enterprise with the applicant. There is therefore no basis for granting an implied road access agreement.

d. Does section 69(1)(a) of the SPA create an implied easement for the wall?

57. The applicant also argues that the wall is necessary for lateral support of the SL. Part of the wall extends onto common property (extended wall). As such, Ms. Brakop says the tribunal should find an implied easement for the extended wall under section 69(1)(a) of the SPA.

58. Section 69(1)(a) provides that there are easements in favour of each strata lot in a strata plan, and for the owner of each strata lot, for the strata lot's vertical and sideways support by: (i) the common property, and (ii) by every other strata lot capable of providing support. Since the extended wall involves common property in a bare strata corporation, I find that the latter is not applicable.

59. There are few cases that have considered the provisions of section 69(1) of the SPA, and I am not aware of any cases dealing specifically with section 69(1)(a).

60. The purpose of section 69 of the SPA is primarily to set out the legal framework for the provision of essential services and lateral support to the separate parcels of land created when a strata plan is filed.

61. As the court held in *Legend Holding Group Ltd. v. Chen,* 2014 BCSC 1064, section 69 provides owners with a legal assurance that the services they have in place when they acquire their strata lot will continue to be in place. There is nothing in section 69 or elsewhere in the SPA to support the conclusion that either a strata corporation or other owners can require new services or facilities to be installed within a strata lot simply to benefit other owners. If the Legislature had intended to

grant such a power, it would have expressed that intention (at para. 31-32. See also *Shaw v. Cablesystems Ltd. v. Concord Pacific Group Inc.*, 2008 BCCA 234 at para. 37).

62. While those cases dealt with the essential services assurance set out in section 69(1)(b), I find that the reasoning is also applicable to the support assurance set out in section 69(1)(a). In other words, I find that section 69 does not create a right to require a strata corporation to permit new support features to be installed on common property – just that it provides an assurance that the support in place when they acquire their strata lot will continue. Accordingly, I find that section 69 of the SPA does not give the applicant a right to require that the extended wall (built after the strata plan was created, and after the applicant acquired her SL) remain in place.

63. Further, and in any event, there is no evidence before me as to how the extended wall is said to provide lateral support to the applicant's SL. Given the applicant's description of the wall as having been built by hand from rock from the natural surrounding, it is difficult to conceive of how the wall provides any meaningful support to the SL. Without such evidence, I am not prepared to find any easement under the SPA arises.

e. Does the balance of convenience favour leaving the gate post intact?

64. The applicant argues that the "balance of convenience" favours leaving the gate post intact. The applicant's rationale seems to be that the gate post poses no harm, so there is no reason to require that it be removed. On this point, the applicant suggests it is significant that the strata has not put forward evidence to prove the gate post creates a hazard. No authority is offered in support of this argument.

65. It seems the sum total of the applicant's argument regarding the gate post is that the gate post is not causing any harm, and it would be inconvenient for her to move it: therefore she should not have to move it. The evidence before me does not

establish whether the gate post is a hazard or not. However, I find that determining this point is not necessary to resolve the issue.

66. There is no dispute that the gate post is on common property, and was not authorized by the strata. The gate post is part of the applicant's gate across the bottom of the driveway. The gate post was built and is used for Ms. Brakop's sole benefit. The gate post is part of the modifications that were built on common property that the applicant appears to have converted to her own use, without the necessary authorization set out in the bylaws or section 71 of the SPA. In the circumstances, I find that there is no easement or other legal right that would entitle the applicant to keep the gate post.

f. Significant unfairness

67. I now turn to deal with the applicant's argument about significant unfairness.

68. I understand the applicant's argument on this point to be that the strata's decision to direct her to remove the modifications is significantly unfair to her.

69. As noted above, the strata has not filed a counterclaim, and has not otherwise sought an order from the tribunal directing the applicant to remove the modifications. I will therefore only deal with those issues in the dispute before me, and decide the applicant's unfairness argument on the basis that the strata will not agree to permit her to keep the modifications.

70. Section 123(2) of the Act provides the tribunal with discretion to make orders directed at a strata, its 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 in strata property disputes.

71. The British Columbia Supreme Court recently confirmed the tribunal's jurisdiction to remedy significant unfairness on the part of a strata corporation: *The Owners, Strata Plan BCS 1721 v. Watson,* 2018 BCSC 164 at para. 119 ("*Watson*").

72. Since section 123(2) of the Act is substantially similar to section 164 the SPA, the case law interpreting section 164 of the SPA is instructive. The leading case on significant unfairness is *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44 ("*Dollan*"). In order to be significantly unfair, the conduct at issue must be more than "mere prejudice" or "trifling unfairness". To meet the threshold, the actions of a strata corporation would at the very least encompass oppressive conduct and unfairly prejudicial conduct or resolutions. Oppressive conduct is conduct that is "burdensome, harsh, wrongful, lacking in probity or fair dealing, or has been done in bad faith." Unfairly prejudicial conduct means "conduct that is unjust and inequitable." See also: *Sherwood v. The Owners, Strata Plan VIS 1549*, 2018 BCSC 890.

73. The test established in *Dollan* involves an assessment of the following questions:

    a. What is or was the expectation of the affected owner or tenant?

    b. Was that expectation on the part of the owner or tenant objectively reasonable?

    c. If so, was the expectation violated by an action that was significantly unfair?

    Dollan at para. 30 and Watson *at para. 121.* See also: *Prior v. The Owners, Strata Plan VR 269*, 2019 BCCRT 649 at para. 43

74. Applying the test to the facts before me, I find the applicant's stated expectation that the strata would allow her to keep the modifications was not objectively reasonable. I come to this conclusion based on the following factors:

    a. The strata did not authorize the modifications;

    b. The modifications extend onto common property and affect other owners' enjoyment and use of that common property;

    c. After the strata learned that the modifications extended onto common property, it consistently advised the applicant that she would have to remove

the modifications from common property – unless the parties agreed on another resolution;

d. While the applicant's daughters refer to their late father's belief that other owners may have altered common property, there is no direct evidence that the strata has permitted other owners to make or keep similar modifications on common property without compensation and/or a formal agreement; and

e. The strata's refusal to let the applicant keep the modifications was in keeping with s. 71 of the SPA and the strata's bylaws.

75. For these reasons, I do not find that the strata's decision to be significantly unfair. In coming to this conclusion, I find that the strata made its decision putting the matters to a vote of the owners. As in *Dollan*, I agree that the tribunal should give deference to the democratic decisions of the strata.

76. For these reasons, it cannot be said that the strata's conduct toward the applicant is oppressive or unfairly prejudicial. As such, I conclude that the strata has not acted in a significantly unfair manner and I decline to grant the applicant's requests for relief on that basis.

What, if any, remedies should the tribunal award the applicant?

77. Based on my conclusions above, I find the applicant has failed to establish her claims on a balance of probabilities. As such, it is unnecessary to consider the applicant's request for remedies.

78. Further, and in any event, the applicant's claim for compensation for her legal fees incurred in the earlier proceedings would have the tribunal determine the parties' entitlement to legal fees for steps taken in the British Columbia Supreme Court. That is not a matter within the jurisdiction of the tribunal. Accordingly, I decline to resolve that part of the claim under section 10 of the Act.

TRIBUNAL FEES AND EXPENSES

79. 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. I see no reason in this case to deviate from the general rule. Given the applicant was not successful, I find she is not entitled to reimbursement for tribunal fees or expenses.

80. The strata must comply with the provisions in section 189.4 of the SPA, such as not charging dispute-related expenses against the owner.

ORDER

81. I order that the applicant's claims in this dispute are dismissed.

Jordanna Cytrynbaum, Tribunal Member