



Civil Resolution Tribunal

Date Issued: December 5, 2019

File: ST-2019-003869

Type: Strata

Civil Resolution Tribunal

Indexed as: *Orban v. The Owners, Strata Plan 963*, 2019 BCCRT 1365

B E T W E E N :

LEVENTE ORBAN

APPLICANT

A N D :

The Owners, Strata Plan 963

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. This dispute is about the installation of an electric car charger (EV charger). The applicant, Levente Orban, asked the respondent strata corporation, The Owners, Strata Plan 963 (strata), if he could install an EV charger in his parking stall. The applicant says that the strata initially said yes, but later changed its mind. By that

time, the applicant says he had spent \$429.45 on utility mapping. He asks for reimbursement of this amount.

2. The strata says that it only approved the installation “in principle” and had not approved the EV charger. The strata asks that I dismiss the applicant’s claim.
3. The applicant is self-represented. The strata is represented by an owner who I infer is a strata 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 under section 121 of the *Civil Resolution Tribunal Act* (CRTA). The tribunal’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The tribunal must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the tribunal’s process has ended.
5. The tribunal has discretion to decide the format of the hearing, including in writing, by telephone, videoconferencing, or a combination of these. I am satisfied an oral hearing is not required as I can fairly decide the dispute based on the evidence and submissions provided.
6. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The tribunal may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.
7. Under section 123 of the CRTA and the tribunal rules, in resolving this dispute 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.
8. Tribunal documents incorrectly show the name of the respondent as The Owners, Strata Plan, NW963. Based on section 2 of the SPA, the correct legal name of the

strata is The Owners, Strata Plan 963, because that is what is shown on the first page of the strata plan filed with the Land Title Office. Given the parties operated on the basis that the correct name of the strata was used in their documents and submissions, I have exercised my discretion under section 61 to direct the use of the strata's correct legal name in these proceedings. Accordingly, I have amended the style of cause above.

ISSUES

9. The issues in this dispute are:
 - a. Did the strata approve the applicant's plan to install the EV charger?
 - b. If so, is the applicant entitled to be reimbursed for the cost of mapping the utilities under the driveway?

BACKGROUND

10. In a civil claim such as this, the applicant must prove his case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain and give context to my decision.
11. The strata consists of 134 strata lots in 11 buildings. The applicant owns a strata lot in a 4 floor building. The applicant's strata lot is one of 4 strata lots that take up the third and fourth floors of the building. The applicant also has an uncovered parking stall across a driveway from the building, which is common property.
12. The strata filed a complete set of bylaws on March 17, 2009, in the Land Title Office, which repealed and replaced all former bylaws. It has filed a number of amendments since then, but none are relevant to this dispute.

EVIDENCE AND ANALYSIS

Did the strata approve the applicant's plan to install the EV charger?

13. The applicant says that he first proposed installing EV chargers in July 2018. He made 3 proposals. One of them involved installing 3 EV chargers in common property parking stalls near the strata's pool. The other 2 proposals involved installing an EV charger on the applicant's parking stall. Both of these proposals would require running electricity from the building across the driveway to the applicant's parking stall. One proposal had the wires running on the surface of the driveway while the other had the wires running under the driveway. This would be accomplished by boring a hole underneath the driveway's surface.
14. On July 20, 2018, the applicant emailed the strata's property manager for an update on his proposals. The property manager said that the strata would not consider the option that involved running wires over the driveway. However, the property manager said that the strata council "had no issue with the other 2 choices". The property manager said that the strata council was "vetting a formal response" to the applicant's proposals.
15. The applicant followed up on December 9, 2018, after hearing nothing further. He said that he was still waiting for "formal approval" of the proposal to run electricity to an EV charger on his parking stall via a drilled hole.
16. The property manager responded that he had not received a formal request for permission to install the EV charger. The property manager said that the strata needed more details about the proposal. The property manager later clarified that "the strata has no issue with approving the request as long as certain requirements are met". The property manager said that the strata needed a detailed proposal before it could determine what requirements it would need the applicant to meet. The property manager asked the applicant to confirm which of his proposals he was pursuing and how the EV charger would be mounted.
17. On December 14, 2018, the applicant said that the strata had already approved the project "without any conditions" in July 2018. The property manager responded that

all he had said was that the strata council had approved 2 of the 3 proposals in principle. The property manager also said the strata would need details so that it could craft an alteration agreement.

18. On January 9, 2019, the applicant hired a utility company to map the location of the utilities under the driveway. The company invoiced the applicant \$429.45 for the work.
19. The applicant followed up with the property manager again on January 21, 2019. On January 22, 2019, the property manager reiterated that the strata could not approve the applicant's proposal unless the applicant gave all the details about his plan. The property manager asked more specific questions about how the EV charger would be installed and what it would look like. The property manager said it needed these details for strata council to "finalize the approval" and complete an alteration agreement.
20. On April 15, 2019, the property manager wrote the applicant a letter stating that the applicant's request to install the EV charger was "denied at this time". The property manager said that the strata was "working on the ramifications of allowing Owners to make significant changes to the common property". According to the applicant, nothing had changed between January 22, 2019, and April 15, 2019. I take from the applicant's statement that he had not provided the strata with any of the requested information or answered the strata's questions.
21. The only expense that the applicant claims is the utility mapping, which he had done on January 9, 2019. Based on the emails summarized above, I find that the strata had not approved the applicant's proposal at that time. I find that the property manager's emails made clear that the applicant had to provide more information before the strata would approve his proposal. I find that the property manager's emails did not signal the strata's unconditional approval as the applicant alleges.
22. In particular, I find that there is no evidence that the applicant complied with bylaw 8.2, which sets out what an owner must provide before the strata will give

permission to alter common property or common assets. As I understand the applicant's proposal, it will require alterations to common property.

23. Therefore, I find that the strata did not change its mind about the applicant's proposal. The strata's approval was always conditional. I see no reason for the strata to be responsible for the applicant's decision to get a utility map before the strata had approved his proposal, particularly since the applicant acknowledged in his December 9, 2018 email that he had not yet received formal approval for the EV charger.
24. Also, I do not interpret the strata's letter as permanently closing off the possibility of the applicant installing an EV charger. This interpretation is supported by the strata's Dispute Response, which says that "the idea is approved [in] principle but details still need to be worked out". Nothing stops the applicant from submitting a different or more detailed proposal that will satisfy the strata's requirements. In that event, the utility mapping would likely still be of use to the applicant and not a wasted expense.
25. The applicant suggests in his submissions that the strata should have approved the proposal. He says that the strata council is "biased" against the "upper units". However, he does not ask for an order that the strata approve the installation of the EV charger. If the applicant submits a new proposal and the strata council denies it, nothing in this decision prevents the applicant from bringing a new tribunal dispute to challenge the strata's decision. I make no comment about the merits of such a claim, as there is very little evidence before me about the applicant's proposal.
26. In conclusion, I dismiss the applicant's claim for reimbursement of the utility mapping service.

TRIBUNAL FEES AND EXPENSES

27. Under section 49 of the CRTA, 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. The applicant was unsuccessful so I dismiss his claim for tribunal fees and dispute-related expenses.

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

DECISION AND ORDERS

29. I dismiss the applicant's claims, and this dispute.

Eric Regehr, Tribunal Member