



Civil Resolution Tribunal

Date Issued: December 16, 2019

File: ST-2019-003435

Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan NW 3356 v. Keith*, 2019 BCCRT 1418

B E T W E E N :

The Owners, Strata Plan NW 3356

APPLICANT

A N D :

SCOTT KEITH

RESPONDENT

A N D :

The Owners, Strata Plan NW 3356

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Kathleen Mell

INTRODUCTION

1. The respondent, Scott Keith (owner), owns a strata lot in the applicant commercial strata corporation, The Owners, Strata Plan NW 3356 (strata).
2. The strata claims the following:
 - a. The owner is breaching the bylaws by causing a nuisance as the smell of the owner's marijuana grow operation is interfering with the use and enjoyment of other strata lots and the common property.
 - b. The strata lot is being used in contravention of municipal bylaws and zoning requirements and therefore is illegal.
 - c. The owner has not paid the additional sum for water fees that the bylaws require for grow operations.
 - d. The owner has made changes to the common property.
 - e. The owner has denied entry to his strata lot.
3. As remedy, the strata seeks the following orders:
 - a. Payment of \$4,600.00 in fines for nuisance. It also requests an order that the marijuana grow operation be shut down.
 - b. Payment of the \$8,987.00 water fees outstanding.
 - c. An order allowing it to access the strata lot with the police in attendance. If the owner refuses, the strata requests an order that the police perform a forcible entry.
 - d. An order that the owner return his strata lot to the condition it was in before he made changes or that the strata may do so with the owner paying the costs, including the reasonable costs incurred in enforcing the bylaw.

- e. Recovery of non-discretionary legal costs it paid to enforce its bylaws. It says that this cost is ongoing and its amount is to be determined.
4. The owner claims:
 - a. That the bylaw requiring marijuana grow operators to pay more money for water services should be struck down, or that an exception be made so the bylaw would not apply to medical marijuana grown for personal use.
 - b. The strata breached sections 26 and 31 of the *Strata Property Act*.
 5. Both parties are represented by legal counsel.

JURISDICTION AND PROCEDURE

6. 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.
7. The tribunal has discretion to decide the format of the hearing, including in writing, by telephone, videoconferencing, or a combination of these. In some respects, this dispute amounts to a "it said, he said" scenario with both sides calling into question the credibility of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note the decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. I therefore decided to hear this dispute through written submissions.

8. 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.
9. 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.

ISSUES

10. The issues in this dispute are:
 - a. Did the owner breach the bylaws, cause a nuisance, or illegally operate a grow operation out of his strata lot and, if so, what is the appropriate remedy?
 - b. Is bylaw 36, relating to grow operations, enforceable?
 - c. Must the owner pay the strata \$8,987 for water and sewer fees?
 - d. Are any of the alleged infractions outside the *Limitation Act*?
 - e. Did the owner make alterations to his strata lot in breach of the bylaws and deny the strata access to the strata lot and, if so, what is the appropriate remedy?
 - f. Is the owner entitled to a declaration that the strata breached SPA sections 26 and 31?
 - g. Is the strata entitled to recovery of costs?

EVIDENCE, FINDINGS AND ANALYSIS

11. In a civil dispute such as this, the applicant strata must prove its claims. It bears the burden of proof on a balance of probabilities. The respondent must also prove his counterclaims.

12. While I have reviewed all of the material provided, I have only commented below on the evidence and submissions necessary for this decision.

Did the owner breach the bylaws, cause a nuisance, or illegally operate a grow operation out of his strata lot?

13. The strata consists of 50 commercial strata lots. It is undisputed that the owner is growing marijuana in his strata lot and has been since approximately 2011/2012. It is also undisputed that there are at least three marijuana grow operations in the strata. The strata provided evidence that it has received multiple complaints beginning in 2015 about odours allegedly coming from the owner's strata lot. The strata began imposing fines for nuisance against the owner in April 2016.

Nuisance

14. The strata filed bylaws with the Land Title Office in 2004 which included bylaw 3 that prohibits the use of a strata lot in a manner that causes a nuisance to other owners or unreasonably interferes with the rights of others to use and enjoy the common property, common assets, or another strata lot. The strata has filed subsequent amendments to the bylaws but bylaw 3 has not been amended and is still in effect.

15. "Nuisance" is not defined in the bylaws. However, the BC Supreme Court has defined nuisance in a strata setting as an unreasonable continuing or repeated interference with a person's enjoyment and use of their strata lot (see *The Owners, Strata Plan LMS 3539 v. Ng*, 2016 BCSC 2462).

16. The strata says that it received complaints about the odour coming from the owner's strata lot and it provided an opportunity for the owner to reply and then levied fines. It states that it complied with section 135 of the SPA, which I will discuss below.

17. The strata provided copies of letters which were sent to the owner indicating that two neighbouring units complained about the smell. The letters say that neighbouring businesses' employees suffered headaches, odours ruined their

clothing, and the businesses received disparaging comments from customers of other strata lots asking if they were growing or smoking marijuana.

18. The letters suggest that it is one person that owns two commercial units in the strata who is lodging the complaints. In a letter dated June 8, 2016, the neighbouring owner indicates that the owner's unit is directly behind him but also notes that he suspects 3 other strata lots of having grow operations. The owner says that it is only this one individual who made complaints and that his other neighbours have indicated that he is not causing a nuisance and they are not disturbed by his operation. The strata did not provide evidence that it spoke to other strata lot owners.
19. The owner says that he did not cause a nuisance and that the strata failed to adequately investigate the complaints and whether it was his strata lot creating the odours. The owner states he complied with the bylaws and had systems in place to manage the escape of odours. He denies that his strata lot was responsible for any odours disturbing other strata lots and points out that other grow operations exist in the strata and that people also smoke marijuana nearby.
20. The strata argues that the owner created a nuisance and it is irrelevant if he took steps to mitigate the nuisance or whether other grow operations in the strata are also contributing to the nuisance.
21. The owner says that the strata is levying fines based on complaints from a neighbouring unit who is biased against him. He notes that although the complaints began in 2015 the only investigation which took place was when the strata manager walked around outside his strata lot in February 2017 and said she smelled marijuana odours. The owner says he has a ventilation system in place and the odours just as likely could have been coming from another strata lot.
22. The evidence indicates that when the strata first imposed fines in 2016 the owner told them that his strata lot was empty of plants for the previous 21 days and the smell could not have been coming from his strata lot.

23. The owner submitted a home inspector's report stating that the owner's ventilation system was working and that the home inspector did not smell marijuana odours coming from the owner's strata lot. The strata takes issue with this report because a home inspector is not an expert in the field of air quality testing. I agree with the strata and do not accept that this report is an expert report. However, I note that the strata has not provided evidence aside from the complaints and the strata manager's opinion. These too are not objective expert evidence.
24. Under section 26 of the SPA, the strata council must exercise the powers and perform the duties of the strata including the enforcement of bylaws. That duty is subject to the SPA, regulations, bylaws and rules. In *Strata Plan LMS 3259 v. Sze Holding, 2016 BCSC 32*, the Supreme Court held that a strata council has discretion whether to enforce its bylaws in certain circumstances, but that discretion is limited, particularly in circumstances where the strata owners have a reasonable expectation that the bylaws will be consistently enforced. The owner says that he is being targeted and the other grow operations are not being investigated as the possible source of the odours.
25. Section 135 of the SPA sets out a procedure for dealing with a complaint, which includes providing the subject owner or tenant the opportunity to be heard, before any fine is levied. This protection is for the benefit of the owner or tenant that is the subject of the complaint, not the person making the complaint. Notably, there is otherwise no particular complaint procedure set out in the SPA and a strata council is permitted to deal with complaints of bylaw violations as the council sees fit, so long as it complies with the principles of procedural fairness and is not "significantly unfair" to any person who appears before the council (*Chorney v. Strata Plan VIS 770, 2016 BCSC 148*). As discussed further below, I find the strata's approach has been significantly unfair to the owner.
26. The phrase "significantly unfair" has been interpreted to be simply a plain language version of earlier terms "oppressive or unfairly prejudicial" (see *Chow v. Strata Plan LMS 1277, 2006 BCSC 335*). As noted in *Chow*, oppressive conduct is

“burdensome, harsh, wrongful, lacking in probity or fair dealing, or has been done in bad faith”.

27. In *The Owners, Strata Plan BCS 1721 v. Watson*, 2017 BCSC 763, the court restated the test for determining significant unfairness as set out in *Dollan v. Strata Plan BCS 1589*, 2012 BCCA 44. While that test was considered under section 164 of the SPA, as referenced above, I find it would equally apply to an analysis under section 123(2) of the Act. In particular, in *Watson* the court stated: The test under s. 164 of the [SPA] also involves objective assessment. The *Dollan* decision requires several questions be answered in that regard:

- 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 that expectation violated by an action that was significantly unfair?

28. Section 123(2) of the CRTA is substantially similar to section 164 of the SPA and addresses remedies for significant unfairness in strata property disputes. Section 123(2) provides that a 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.

29. I find that the owner’s expectation that the strata properly investigate the odour complaints is reasonable. The owner argues that he has a proper ventilation system and that there is insufficient proof that the odour is coming from his strata lot.

30. I note that the strata alleges that the owner has not allowed it access to his property, but this is in the context of attempting to establish that the owner has made alterations to the property and not for the purpose of determining where the marijuana odour is coming from.

31. The strata has not made an effort to attend at the owner's strata lot when the odour was occurring and it has not provided evidence of any air quality testing showing the other strata lots are affected or establishing the owner's strata lot is producing the smell.
32. I find that the strata's failure to properly investigate the odour and where it was coming from was significantly unfair to the owner and that the strata has not acted reasonably.
33. It is open to the strata to address further nuisance complaints, if they arise, and to perform further investigation including air quality testing. However, at this time the evidence is insufficient to make a finding that there was a contravention of the nuisance bylaw. Therefore, I conclude that the strata has not proven that the owner has caused a nuisance and I order that it must reverse the \$4,600.00 fines imposed. It is also not entitled to an order to shut down the owner's grow operation as it has not proven it to be a nuisance.

Bylaws about water consumption

34. Bylaw 35(2) says that a strata must not be used for or in connection with any marijuana grow operation, marijuana dispensary or any other operation in connection with the cultivation, processing, sale or use of marijuana, whether permitted by law or not.
35. Bylaw 35(4) says that bylaw 35(2) comes into effect in several ways, including when the owner defaults on payment of two months' user fees.
36. Bylaw 36(1) says an owner whose strata lot is used to operate a legal grow operation must pay the sum of \$209.00 per month to the strata corporation and this charge will increase in accordance with water rate increases or increase in water usage in the future.
37. Therefore, although bylaw 35(2) states that, unless certain conditions are met, a strata lot must not be used for or in connection with any marijuana grow operation,

bylaw 36(1) states that an owner whose strata lot is used to operate a legal grow operation must pay the sum of \$209.00 per month to the strata corporation and this charge will increase in accordance with water rate increase or increase in water usage in the future.

38. Bylaw 35(4) specifically states that bylaw 35(2), which makes the grow operation illegal, comes into effect as of November 16, 2016 if the owner defaults on the payment of two months' water user fees. The strata says that the owner did not pay the water fees and therefore under the bylaws he is not allowed to use his strata lot for a grow operation. It also requests the money for the unpaid water fees.
39. The owner argues that bylaw 36(1) is invalid as it is contradictory and vague and therefore unenforceable. I agree that it is contradictory to say that a grow operation is illegal and then also charge grow operations additional expenses for their water usage which suggests they are condoned. Further, the bylaws do not contain a definition of what size an operation has to be before the bylaw applies. The owner points out that an owner of a strata lot growing a few plants for personal usage would have to pay the same amount as a large commercial operation.
40. The owner also argues that bylaw 36(1) is based on an assumption that the grow operations will use more water but there is no evidence to support this. He notes that a florist operated in the strata previously and could just as likely use a large amount of water, but no action was taken against it for its potentially disproportionate use of water. He also notes it is unclear what other businesses are in the strata or what amount of water they might use.
41. I note that the owner did not just not just ignore the demand to pay the extra expense. He wrote to the strata on December 23, 2016 and reiterated that he had been asking the strata since May 2016 to indicate how much water he was using compared to other strata lots. He requested that any billing for extra water usage be explained or removed from his account.
42. There are no water meters for each individual strata lot. The strata has provided evidence that the water usage in the strata generally has gone up, most

dramatically around 2015. However, the evidence shows that the owner has been growing marijuana in his strata lot from before this date. It is unclear on the evidence when the other grow operations started or whether other commercial units might be responsible for this increase in water usage. The strata points out the increase in 2015 coincides with the complaints of a marijuana odours. However, the strata has not provided any expert evidence as to how much water the grow operations in the strata consume as compared to other businesses. It has also not proved that the increase in odours is coming from the owner's strata lot. The evidence shows that the strata is only speculating about each owner's water consumption.

43. In *Esfahani v. The Owners, Strata Plan BCS 2797*, 2018 BCCRT 176, this tribunal considered a bylaw about the size of dogs allowed in a strata lot. The Tribunal Member followed *Kelowna Mountain Development Service Ltd. v. Central Okanagan (Regional District)*, 2014 BCCA 369 (CanLII), and decided the test for assessing vagueness asks whether a reasonably intelligent person would be unable to determine the meaning of the bylaw and govern his or her actions accordingly. The Tribunal Member found the bylaw unenforceable for vagueness because there was no clear definition as to what a small dog was.
44. I find that the bylaws here are similarly vague as they do not define what a grow operation is. It is unclear if bylaw 36(1) only applies to large commercial operations or if it also applies to the cultivation of a few plants. I also note that the purpose of the bylaw is to hold responsible those strata lots who are using a significantly larger amount of water, but the purpose of this bylaw would not be met by charging the grower of a few plants the same amount as a large commercial producer.
45. My finding on this point is supported by the fact that the strata said in its submission that if the owner limited his operations to four plants then bylaw 36 need not apply to him at all. However, the bylaw does not say that and this suggests that the bylaw's enforcement can be arbitrarily applied.

46. Further, section 6.9 of the *Strata Property Regulation* says that the strata cannot collect a user fee unless the amount is reasonable. I find that the \$209.00 is arbitrary, and therefore not reasonable, as the amount is not based on the actual use of water per strata lot.
47. For the above reasons, I find bylaw 36(1) unenforceable for vagueness. This means that the owner does not have to pay the outstanding water fees. This also means he is not subject to bylaw 35(4) which would make his grow operation illegal because he did not pay the water charges for two consecutive months.
48. I note that the owner also made several arguments that he suffers from a medical condition which necessitates the use of marijuana. He argues that the strata charging him for extra water is discriminatory as the strata is obligated to accommodate his disability. The strata argues that this tribunal has limited jurisdiction applying the BC Human Rights Code.
49. Because I have found that the bylaw is unenforceable, I need not make a determination on these issues. However, I do note that the Chair of this tribunal decided in *The Owners, Strata Plan LMS 2900 v. Hardy*, 2016 BCCRT 1, that this tribunal has jurisdiction to apply the Human Rights Code. The Chair also found that the medical necessity to ingest marijuana did not mean that a person is entitled to smoke it. Following this line of analysis, it would also not mean that a person is allowed to grow it without complying with strata bylaws. However, since the strata here allows grow operations to exist in the strata, I find that I need not consider these arguments further.

Breach of zoning bylaws

50. The strata also argues that the owner's grow operation should be shut down because it violates the city's zoning bylaws which prohibit grow operations. The strata also says that the owner has not proved that he has a license to grow marijuana. The strata argues that because the grow operation is illegal it is contrary to bylaw 3(1)(d) which says an owner must not use the strata lot for an illegal purpose.

51. The owner states that his strata lot is being used for personal use and not a commercial business. He notes that the strata had the police attend his premises and he was not criminally charged. He also argues that a zoning issue would be a municipal bylaw infraction and this tribunal does not have the jurisdiction to adjudicate a municipal bylaw infraction.
52. I note that in its submissions the strata states that in 2019 the strata confirmed through the RCMP that the owner had a license to operate the grow operation with “multiple end-users.”
53. I find that the strata has not provided evidence of a decision from a court or municipal government establishing a breach of municipal or federal laws. Therefore, the strata has not proved on a balance of probabilities that the owner’s grow operation is illegal. I also note that absent evidence of a charge or conviction for breaking the law it would be significantly unfair for the strata to only enforce a breach of bylaw 3(1)(d) against the owner while allowing the other known grow operations in the strata to continue to operate.
54. Accordingly, I dismiss the strata’s claim that the owner has violated bylaw 3(1)(d).

Limitation Act

55. Since I have found that the owner is not subject to fines for nuisance and does not have to pay for extra water usage, I need not consider whether any of these incidents started before the two-year limitation and are barred by the *Limitation Act*.

Did the owner make alterations to his strata lot in breach of the bylaws and deny the strata access to the strata lot and, if so, what is the appropriate remedy?

56. Bylaw 5(1) says that an owner must obtain the written approval of the strata before making an alteration to the strata lot that involves the exterior of a building, doors, windows, and common property.

57. The strata says that the owner has made visible changes to his strata lot including adding a security camera, an air conditioner, and that he added additional locks. The strata also notes that the owner sent an email to the property manager in 2011 saying that he was going to make alterations and install a 10' ceiling vent and production equipment. The strata says the owner has not provided proof he received strata approval for this. However, the strata also has not provided proof that it responded to the owner's email and refused him the right to make alterations.
58. The strata argues that there is sufficient evidence that the owner has altered his strata lot to justify the strata being granted an order allowing it access to the owner's strata lot. It points to the fact that the owner stated he has installed an exhaust fan, custom exhaust vent, and three air conditioning units to control the odours coming from his strata lot.
59. The owner says that the strata is speculating that he made changes to the common property and that the strata has not provided particulars about the specific reason it wants access to his strata lot.
60. Bylaw 7(1) says that an owner must allow a person authorized by the strata to enter the strata lot without notice in an emergency and at a reasonable time on 48 hours' written notice to inspect, repair or maintain common property, common assets, and any portion of a strata lot that are the responsibility of the strata corporation to repair and maintain under the bylaws or insure under section 149 of the Act. Bylaw 7(2) says the notice must include the date and approximate time of entry, and the reason for entry.
61. The strata asks for an order that it may attend the strata lot with 48 hours' notice to the owner. The strata submits that the owner may attend but must not impede the strata's review of the interior of the strata lot to determine what alterations have been made.
62. The strata requests the order state that the police attend and may arrest a person suspected of breaching the order. The strata also requests that the owner remove all property from the common property and restore the common property and the

building envelope to its prior condition within 30 days of the order. If the owner fails to comply, the strata wants the order to say that the strata may enter the owner's unit by force and remove the property on the common property, repair the common property, and seal the building envelope.

63. I note that the tribunal does not have jurisdiction to make any order involving the police.
64. The owner states that he was unavailable when the strata last requested access to his property. He says that only minimal changes have been made to the strata lot which are not within the scope of the SPA and the bylaws. He has included a blueprint to indicate the layout of the unit showing no illegal alterations have been made.
65. Based on the evidence, it is unclear if the owner has made illegal alterations to his strata lot. The strata has not provided specific details about the size of the air conditioner(s) or the camera and where they are specifically located. Further, the evidence suggests that the owner did request approval for some of the changes made. It is unclear whether that approval was granted.
66. I find that the evidence supports a finding that further investigation is necessary and that the strata is entitled to access the owner's strata lot to determine what alterations have been made. The strata at that point will determine if any of the alterations are in breach of the bylaws. I find it would be premature for me to make a blanket order based on what might be found inside the strata lot. The strata should first carry out an investigation. The owner must allow access to his unit for this investigation to take place in accordance with bylaw 7 so long as the strata complies with the notice requirements.

Recovery of costs

67. The strata argues that it is entitled to recover actual costs incurred to enforce its bylaws. It argues that these are not legal fees and are distinguishable from fees

charged by a lawyer under the tribunal's rules. It states that \$16,067.13 was owing at the time of filing evidence.

68. The strata is claiming legal fees under section 133(2) of the SPA and cites the British Columbia Court of Appeal's decision in *The Owners, Strata Plan KAS 2428 v. Baettig*, 2017 BCCA 377 as authority that these fees are recoverable because they are distinguishable from the usual type of legal fees the tribunal generally refuses to reimburse under its rules.
69. SPA section 132(2) says a strata may require that the reasonable costs of remedying a bylaw contravention be paid by the person who may be fined for the contravention. In *Baettig* the Court of Appeal decided that actual reasonable legal costs should be awarded to a strata that takes action to remedy a bylaw contravention so bylaw-compliant owners in the strata do not have to pay the cost of remedying bylaw infractions of non-compliant owners.
70. Therefore, *Beattig* and Section 133(2) of the SPA are specifically about bylaw enforcement costs. Since I have found that the strata has not established that the owner has breached the bylaws, I find that the strata is not entitled to recovery of bylaw enforcement costs.

TRIBUNAL FEES

71. Under section 49 of the Act, and the tribunal's rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. The strata was largely unsuccessful in its claims. Accordingly, the strata is not entitled to reimbursement of its tribunal fees.

The Counterclaim

72. The owner requests a finding that bylaw 36 be struck down and deemed unenforceable because it is a violation of the Human Rights Code. The strata argues the bylaw requiring grow operators pay extra for services is not discriminatory but based on the fact that grow operations use a lot of water. The

strata also says that the tribunal has limited jurisdiction to consider human rights complaints.

73. I have already decided this issue above and determined that the bylaw is unenforceable due to vagueness. I find it unnecessary to make a finding whether the bylaw violates the Human Rights Code.
74. The owner also seeks a finding that the strata failed to enforce bylaws in a consistent and fair manner. The strata states that it properly investigated the complaints and fairly enforced the nuisance bylaws. I have already found that the strata did not carry out a proper investigation and was significantly unfair to the owner.
75. The owner seeks an order that the strata act honestly and in good faith and in compliance with the SPA going forward. I decline to issue this order since the strata is already required to comply with the SPA. I find that such an order, about events that have not yet occurred, would have no meaning beyond the provisions already set out in the SPA.
76. Also, under section 31 of the SPA, it is individual strata council members who have a duty to act honestly and in good faith. Following the BC Supreme Court's decisions in *Wong v. AA Property Management Ltd*, 2013 BCSC 1551 and *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32, I find that a strata lot owner does not have standing to file a claim under SPA section 31 against individual strata council members or the strata. In making this finding, I adopt the reasoning set out in paragraphs 15 to 18 of *Greene v. Moxham et al*, 2019 BCCRT 1176. For these reasons I dismiss this claim.
77. I find that the owner was substantially successful in his counterclaim since I have found that bylaw 36 is not enforceable. Therefore, he is entitled to reimbursement of his \$125.00 tribunal fees.
78. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against the owner.

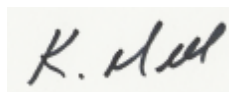
ORDERS

79. I order that:

- a. Within 14 days of the date of this decision the strata reverse all fines and fees charged against the owner relating to the nuisance bylaw and to bylaw 36(1),
- b. Within 30 days of the date of this decision, with proper notice to the owner, the owner grant access to the strata to inspect his strata lot to determine whether unauthorized alterations have been made to the strata lot in violation of the strata bylaws.
- c. Within 30 days of the date of this decision the strata reimburse the owner his \$125.00 tribunal fees.

80. Under section 57 of the CRTA, a party can enforce this final tribunal decision by filing a validated copy of the attached order in the Supreme Court of British Columbia (BCSC). Once filed, a tribunal order has the same force and effect as a BCSC order.

81. Orders for financial compensation or the return of personal property can also be enforced through the Provincial Court of British Columbia (BCPC). However, the principal amount or the value of the personal property must be within the BCPC's monetary limit for claims under the *Small Claims Act* (currently \$35,000). Under section 58 of the CRTA, the applicant can enforce this final decision by filing a validated copy of the attached order in the BCPC. Once filed, a tribunal order has the same force and effect as a BCPC order.



Kathleen Mell, Tribunal Member