



Civil Resolution Tribunal

Date Issued: February 19, 2020

File: ST-2019-004435

Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan VR 211 v. Knight*, 2020 BCCRT 193

B E T W E E N :

The Owners, Strata Plan VR 211

APPLICANT

A N D :

TONY KNIGHT

RESPONDENT

A N D :

The Owners, Strata Plan VR 211

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. The respondent and applicant by counterclaim, Tony Knight (owner) owns strata lot 13 (SL13) in the applicant and respondent by counterclaim strata corporation, The Owners, Strata Plan VR 211 (strata).
2. The strata says the owner renovated SL13 without strata approval contrary to its bylaws. The renovations included changes to the SL13's interior space, cutting through the floor slab, and plumbing and electrical work to move a washer and dryer. In its submissions, the strata asks that the owner restore the washer and dryer to their original location, and "seal and cap" the plumbing and wiring. The strata also asks that the owner sign an indemnity agreement related to some of the renovations.
3. The owner says that while he originally started the renovations without strata approval, he has since done everything the strata has asked of him. In his counterclaim, the owner asks that he be permitted to keep his renovations. The owner also asks for two declarations. First, that the strata acted significantly unfairly and contrary to the *Strata Property Act* (SPA) and bylaws by not approving his renovations. Second, that the strata violated the SPA by not holding a hearing under section 34.1.
4. Further, the owner says the strata recorded "falsehoods" in its strata council meeting minutes and in a notice to owners. The owner asks the strata to publish retractions. The owner also claims a total of \$7,945.67 for legal and engineering expenses.
5. The strata denies the owner's counterclaims.
6. The owner is self-represented. The strata is represented by a strata council member. Both parties have had past assistance of lawyers.
7. I have primarily allowed the strata's claims and primarily dismissed the owner's counterclaims for the reasons that follow.

JURISDICTION AND PROCEDURE

8. 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.
9. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. Though I found that some aspects of the parties' submissions called each other's credibility into question, I find I am properly able to assess and weigh the documentary evidence and submissions before me without an oral hearing. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always necessary when credibility is in issue. Further, bearing in mind the tribunal's mandate of proportional and speedy dispute resolution, I decided I can fairly hear this dispute through written submissions.
10. 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.
11. 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.

Preliminary Issues

12. Though not in the Dispute Notice, the owner argues that strata council has not complied with section 31 of the SPA. Section 31 of the SPA requires that in exercising the powers and performing the duties of the strata corporation, each

strata council member must act honestly and in good faith, and must exercise the care, diligence, and skill of a reasonably prudent person in comparable circumstances. The BC Supreme Court has said that an owner has no standing to bring a claim against strata council members under SPA section 31 (see for example, *Wong v. AA Property Management Ltd.*, 2013 BCSC 1551). Section 11(1)(b) of the CRTA says the tribunal may refuse to resolve a claim that does not disclose a reasonable claim. Due to his lack of standing, I find the owner's section 31 claim does not disclose a reasonable claim and I refuse to resolve it.

13. The owner submitted most of his evidence as exhibits attached to his sworn statement. The strata objects to the admissibility of the owner's sworn statement and says it includes opinion, speculation, and argument. The strata asks that I provide it with an additional opportunity to respond to the statement should I decide to admit it. In the alternative, the strata says I should give the statement no weight.
14. I find the owner's sworn statement is mostly his own version of events with explanations of the attached exhibits. I agree the statement includes some argument. I find the argument primarily repeats arguments the owner made in submissions. The strata had the opportunity to review the statement and make submissions in response. I find several of the strata's submissions reply directly to the owner's statement. I find the strata had a fair opportunity to respond.
15. Under section 42 of the CRTA, the tribunal is not bound by the rules of evidence and may admit evidence that is inadmissible in a court. Considering the mandate of the tribunal for speed, flexibility, and informality, and the lack of prejudice to the strata, I have admitted the owner's sworn statement into evidence without providing the strata a further opportunity to respond. I have placed weight on the statement as appropriate and where it is in harmony with the other evidence.

ISSUES

16. The issues in this dispute are:
 - a. Which bylaws apply to the strata?

- b. Did the owner carry out unauthorized alterations contrary to the strata's bylaws?
- c. Did the strata act in a significantly unfair manner in refusing the owner's renovation requests?
- d. Did the strata act significantly unfairly by not holding a hearing under sections 34.1 and 135 of the SPA?
- e. Must the owner restore the renovations?
- f. Must the owner sign an indemnity agreement?
- g. Must the strata publish a retraction of alleged "falsehoods" published in strata council minutes and a notice to owners?
- h. Must the strata reimburse the owner's legal and engineering expenses?

BYLAWS AND LEGAL FRAMEWORK

Which bylaws apply to the strata?

- 17. The strata corporation was created in January 1975 under the now repealed *Strata Titles Act*. The strata continues to exist under the current *SPA*.
- 18. The strata has one set of bylaws that were registered in the Land Title Office (LTO) on June 16, 1998. I will refer to these bylaws as the 1998 Bylaws.
- 19. The SPA also includes a set of Standard Bylaws. These Standard Bylaws have applied to a limited extent to strata corporations since January 1, 2002 unless the strata registered different bylaws at the LTO. Where the strata corporation had previously registered bylaws, as is the case here, the Standard Bylaws will apply only where (a) the previous bylaws are silent on an issue dealt with in the Standard Bylaws, and (b) they do not conflict with the law set out in the SPA (see The Strata Property Regulation at section 17.11).

20. The owner says he is uncertain if the 1998 Bylaws apply and says they may conflict with the Standard Bylaws and the SPA. Overall, I find 1998 Bylaws 9(1)(b) and 9(1)(m) do not conflict with the Standard Bylaws. I find both sets of bylaws, either in part or in whole, apply to different issues as I explain below.

21. The relevant sections of the 1998 Bylaws provide that an owner shall not:

9(1) (b) use his strata lot or building contrary to any law, including municipal law; (*paraphrased*)

9(1) (m) make, permit or cause to be made any structural alteration either to the interior or the exterior of the building on his strata lot or add to or alter the wiring, plumbing, piping or other services on his strata lot, or make any structural alteration within any bearing or party wall or the common property without first obtaining the written consent of the Strata Corporation;

22. Standard Bylaw 3(1)(d) says an owner, tenant, occupant or visitor must not use a strata lot, the common property, or common assets in a way that is illegal. I find Bylaw 9(1)(b) is consistent with Standard Bylaw 3(1)(d) in that a strata lot cannot be used illegally. I therefore find 1998 Bylaw 9(1)(b) applies to this dispute and is enforceable.

23. Standard Bylaw 5(1) requires an owner to obtain written approval of the strata before making an alteration to a strata lot that involves the structure of a building, exterior of a building, exterior doors, common property located within the boundaries of a strata lot, those parts of the strata lot the strata must insure under SPA section 149, and other parts not relevant here. Common property includes that part of the land and buildings on a strata plan that is not part of a strata lot (SPA s.1). Standard Bylaw 5(2) states that a strata corporation must not unreasonably withhold its approval but may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alteration.

24. Standard Bylaw 6(1) requires an owner to obtain written approval of the strata corporation before making an alteration to common property, including limited

common property, or common assets. Under Standard Bylaw 6(2) the strata corporation may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alterations.

25. I find 1998 Bylaw section 9(1)(m) applies and is enforceable to the extent it overlaps Standard Bylaws 5 and 6. However, I find the Standard Bylaws are broader. Where 1998 Bylaw 9(1)(m) is silent, I find the Standard Bylaws apply and are enforceable. For example, Standard Bylaw 5(1) requires consent for changes to exterior doors, which is not included in the 1998 Bylaw 9(1)(m). Also, Standard Bylaw 6(1) requires approval for any alteration to common property not just parts listed in 1998 Bylaw 9(1)(m). I find the Standard Bylaws apply to require strata approval for the additional parts not in 1998 Bylaw 9(1)(m).
26. I find 1998 Bylaw 9(1)(m) does not have similar provisions to Standard Bylaws 5(2) and 6(2). I find Standard Bylaws 5(2) and 6(2) apply to the strata and are enforceable.
27. The strata also has a 1998 Bylaw restricting the strata lot to single family use. I have not discussed that bylaw here because I find that I can fairly decide this decision without discussing it. I have also not discussed, or assessed, the enforceability of any sections of the 1998 Bylaws that have no relevance to this dispute.

EVIDENCE, ANALYSIS and FINDINGS

28. In a civil proceeding such as this, the strata has the burden to prove its claims on a balance of probabilities. The owner has the same burden on the counterclaim.
29. I have read all of the evidence and submissions provided by both parties but refer only to evidence I find relevant to provide context for my decision.

Factual Background

30. The owner and his spouse purchased SL13 in July 2018. The owner's spouse is not named as a party in this dispute.

31. The registered strata plan shows that the strata is made up of two-level townhouse style buildings with no basements.
32. The owner says that in August 2018 he started to renovate SL13 to “open up the living space of the ground floor”. The owner says he also excavated 2 channels in the concrete slab floor to access the main drain, extend the plumbing, and move the washer and dryer to a new location. The photographs in evidence show the excavation work in the slab.
33. In August 2018 some strata council members noticed the renovations, verbally notified the owner that the bylaws require prior council approval, and asked the owner to stop work.
34. On August 25, 2018 the strata wrote the owner to notify him that the renovation work appeared contrary to the 1998 Bylaw 9(1)(m). The strata asked the owner to stop all electrical, structural and plumbing renovations and invited the owner to “submit a detailed outline of the planned renovations” for the strata’s review.
35. By email the same day, the owner informed the strata he hired a plumber to move the washer and dryer. He also informed the strata that an electrician confirmed the electrical work was up to electrical standards. Further, he stated that he had installed a short wall in the basement and made a 5 foot opening between the laundry and downstairs “rumpus room”.
36. The owner followed up by email dated August 27, 2018. He informed the strata that a plumber verified that the plumbing was up to provincial plumbing standards. The owner asked for retroactive approval for the plumbing work to “cover up the drain”.
37. According to the August 29, 2018 strata council minutes, council was concerned with possible disturbance to the foundation from the owner cutting through the concrete slab. By vote, the strata denied the owner’s request to move the washer and dryer. The strata informed the owner of its decision in writing on August 30, 2018. The strata required the owner to “remedy the situation...with a certified contractor and present the inspection report to council”.

38. The owner informed the strata by email that he had capped the plumbing and moved the washer and dryer back to their original positions, which I find is confirmed on the the owner's plumbing invoice. The owner says that he also filled the trench, which I accept as it is supported by photographs.
39. On September 5, 2018 the owner again requested the strata's consent to hire a plumber to move the washer and dryer. On September 17, 2018 the strata again denied the owner's request to move the washer and dryer.
40. On September 20, 2018 the strata notified the owner that council concluded he had violated strata and municipal bylaws by doing unapproved alterations. The strata asked the owner to restore SL13 to its original floor plan. The strata followed up with its demand in writing on October 17, 2018 and March 19, 2019.
41. On May 27, 2019 the strata council notified the owner it had a bylaw infraction complaint that he altered the structure of the strata lot without strata permission or building permits and to allow it to be used as a multi-family dwelling. The strata demanded that the owner immediately remedy the bylaw contravention by reversing all alterations and warned the owner of possible consequences of non-compliance. I find the evidence does not establish that the strata imposed any consequences for the bylaw breach under section 129 of the SPA. The strata did not subsequently consent to the renovations either.
42. On June 3, 2019, the owner's legal counsel wrote to the strata to put the strata "on notice" that the owner intended to continue the planned renovation because the strata's position was unreasonable and not legally supported. The letter described the owner's renovations as follows: (i) creating a doorway in a non-structural, non load-bearing wall; (ii) relocating the washer and dryer unit by approximately 11 feet and adding 8 feet to the plumbing infrastructure within the concrete slab; (iii) installing a door in an existing opening in a wall; (iv) and cosmetic changes.
43. At some point in July 2019, the owner moved the washer and dryer to the new location and performed related plumbing and electrical work. The owner says he continued his renovations in 2019 despite the lack of approval because he had

“fulfilled every requirement and demand of the strata corporation”, including obtaining municipal permits. I find on the reports and declarations in evidence that the owner obtained municipal approval for the structure, plumbing, and electrical work.

Did the owner carry out unauthorized alterations contrary to the strata’s bylaws?

44. I find that yes, the owner carried out alterations without authorization from the strata council and contrary to the bylaws.
45. I find the owner altered the midway space between the concrete slab and the common property land below, which is common property as defined by section 68 of the SPA. I find the owner required approval under Standard Bylaw 6(1) before cutting through the concrete slab to create a trench for the plumbing. I find the owner required permission for this work even if it did not compromise the foundation. I find the owner did not have such approval.
46. I also find that the plumbing and electrical alterations in moving the washer and dryer 11 feet required strata approval. I find the altered plumbing pipes were common property as defined in section 1(b) of the SPA and required approval before the owner extended them. I find the owner was also required to obtain approval under 1998 Bylaw 9(1)(m), before performing the electrical and plumbing work within his strata lot. I again find the owner did not have such approval.
47. I find the owner required strata approval before he opened up the living space by altering internal walls. I describe the interior strata lot renovations as “the wall alterations” going forward to differentiate them from the excavation, plumbing, and electrical work to move the laundry equipment.
48. I disagree with the owner that he did not require approval because the wall alterations did not involve a “structural” change to load bearing walls. Under 1998 Bylaw 9(1)(m) I find “structural” is not synonymous with a “bearing” wall under the strata’s bylaws. The 1998 Bylaw 9(1)(m) restricts both structural alterations to the

interior a strata lot and structural alterations within any bearing or party wall or the common property. Also, the court in *Harvey v. Strata Plan NW 2489*, 2003 BCSC 1316, held that a “structural” alteration is not limited to load bearing walls and includes “fundamentally reconfiguring the dimensions of an existing space” (at paragraph 19 on Canlii). I find the owner fundamentally reconfigured the space by opening it up. I find the owner required strata approval under 1998 Bylaw 9(1)(m) before commencing the wall alterations and that he did not have that approval.

49. The owner performed some minor cosmetic upgrades that I find did not require approval. The strata does not dispute these cosmetic upgrades.
50. The owner argues that the strata “tacitly approved” his alterations by “constantly and serially setting requirements” on him to fulfill. The owner says he understood that the strata would grant approval once he “satisfied all permits and BC Building Code requirements”.
51. I find the owner’s conclusion of tacit approval is not objectively reasonable based on the parties’ correspondence. I find the strata expressly informed the owner in writing that it did not approve of the alterations and explained why it refused approval.
52. Contrary to the owner’s submissions, I do not find the parties’ correspondence shows “serial” or “numerous” requirements. I find it was the owner who voluntarily hired professionals to verify that the unapproved plumbing and electrical work met Building Code requirements in August 2018. I find the strata required the owner to submit renovation plans and it informed the owner about certain municipal requirements. I also find the strata requested the owner obtain municipal permits to restore the strata lot to its original plan to remedy the contravention. However, I do not find the strata’s requests tacitly approved any of the alterations. Again, it had expressly refused them in writing.
53. I find the owner breached the bylaws by performing the plumbing, electrical, trench excavation, and wall alterations without strata approval. In the following section, I refer to all these alterations as “the renovations” when referring to them as a group.

54. Considering my findings that the owner's unapproved renovations breached the strata's bylaws, I find no need to discuss the strata's allegation about potential multi-family use of the owner's strata lot.

Did the strata act in a significantly unfair manner in refusing the owner's renovation requests?

55. The owner argues that the strata acted significantly unfairly by refusing his renovation requests and says he should be able to keep all his renovations.

56. Under CRTA section 123(2), the tribunal may make an order directed at the strata corporation, 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. This is similar to the British Columbia Supreme Court's power under SPA section 164.

57. The British Columbia Court of Appeal considered section 164 of the SPA in *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44. The test established in this case was restated in *The Owners, Strata Plan BCS 1721 v. Watson*, 2017 BCSC 763, as follows:

- 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?

58. The courts have described "significantly unfair" actions as burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust or inequitable (see *Reid v. Strata Plan LMS 2503*, 2003 BCCA 128).

59. The owner argues that the strata has treated him differently than other strata lot owners in not retroactively approving his renovations. When considering an approval request, I find the strata would need to consider each request individually and make a decision appropriate to the circumstances of the specific request. I find

an owner could be treated differently but still equitably. The owner did not provide information specific to retroactive approvals for other strata lots. Without a comparable, I have insufficient evidence to find the strata treated the owner inequitably. I find the owner has not shown that the strata was significantly unfair in dealing with him as compared to other owners.

60. The owner argues that the strata has “baited and switched” him over a 15 month period. I infer the owner is arguing that the strata made him take certain actions to gain its approval but then thwarted his expectation by not granting approval once those actions were complete.
61. I find the owner placed the strata in a difficult position in trying to address a situation retroactively. I find based on the evidence that the strata made reasonable requests for information to allow the strata to make a decision. I find the strata was also responsive to the owner’s family’s medical concerns and gave him reasonable time to provide information and comply with the strata’s direction.
62. I find, based on the evidence before me, that the strata did not violate the owner’s reasonable expectations by not retroactively approving his renovations. Again, the owner performed renovations without strata approval contrary to the bylaws. The strata brought the bylaws to the owner’s attention in August 2018 and the owner still made further renovations. After the strata notified the owner in writing of its decision to deny his request, the owner still went ahead and moved the laundry equipment in July 2019. Given the strata’s clear and express direction to stop, I find that the owner acted unreasonably in performing the renovations and expecting them to be approved retroactively.
63. For the preceding reasons, I find that the strata did not act significantly unfairly in not retroactively approving the owner’s renovations.

Did the strata act significantly unfairly by not holding a hearing under sections 34.1 or 135 of the SPA?

64. The owner argues that the strata acted significantly unfairly by not following sections 34.1 and 135 of the SPA.
65. Section 34.1 is a general section that says strata council must hold a council meeting to hear an owner who requests a hearing in writing. Section 135 provides a mandatory process that a strata corporation must follow before either imposing a fine, requiring a person to pay the costs of remedying a contravention, or denying a person the use of a recreational facility for contravening a bylaw. A strata corporation must receive a complaint about the contravention, give the owner the particulars of the complaint, provide a reasonable opportunity to answer the complaint, including a hearing if requested, and give written notice of its decision.
66. The tribunal member in *The Owners, Strata Plan BCS 2568 v. Rapp*, 2019 BCCRT 677 (*Rapp*) considered a similar issue, though on different facts. In *Rapp*, the owner had installed a hot tub on the balcony of his strata lot without strata approval contrary to strata bylaws. The strata demanded that the owner reconfigure the electricity hookups and get an engineer's report at his own expense. The owner's position was that the strata was requiring him to pay the costs of remedying a bylaw contravention under SPA section 135(1)(b). The owner argued that the strata had to follow the mandatory processes under sections 135. The tribunal member disagreed. The tribunal member found that the mandatory processes apply only to the consequences listed in section 135 and not to every situation where a strata corporation demands an owner to remedy a bylaw contravention. The tribunal member found that the strata in *Rapp* did not impose any of the listed consequences and so, the strata had no obligation to follow the mandatory processes. Though the tribunal member's decision is not binding on me, I agree with his analysis and apply it.
67. The SPA and the strata's bylaws have no specific process about how a strata corporation must demand that an owner remedy a bylaw contravention. I find that the strata was permitted to demand that the owner reverse the alterations. The

strata was not required to follow the mandatory process in SPA section 135 when demanding the restoration to the unapproved alterations under section 133, as there was no fine or charge for remedying the contravention.

68. At any rate, I find the strata did follow the mandatory process in SPA section 135. On May 27, 2019 the strata notified the owner by letter of the particulars of the complaint against him and it gave the owner a reasonable opportunity to respond. I find this letter strictly complied with section 135.

69. The owner argues that the strata did not invite him to a hearing contrary to SPA section 135. However, section 135 says the strata is required to hold a hearing “if requested by the owner”. The owner’s legal counsel’s June 3, 2019 letter requested a hearing only if the strata continued with the bylaw enforcement proceedings. Again, I find on the evidence that the strata did not then impose any consequences listed in section 135(1). In these circumstances, I find a hearing under section 135 was not required. Since the owner’s request was conditional, I find the strata was also not required to hold a hearing under 34.1. I find the strata did not violate sections 135 or 34.1 of the SPA.

70. I dismiss the owner’s requests for declarations.

Must the owner restore the renovations?

71. The owner says the strata’s decision to deny his renovation request is unreasonable because he obtained the necessary municipal approval and the work is “up to code”. The owner argues that the bylaws and SPA do not authorize the council to unreasonably withhold consent for his renovations and he should be allowed to keep them.

72. I find that reasonableness is a lower threshold than significant unfairness. Therefore, the strata’s refusal to approve can be unreasonable and yet not significantly unfair. For this reason my above findings do not resolve this dispute over the renovations.

73. Standard Bylaw 5(2) prohibits the strata from unreasonably withholding authorization for certain alterations within the owner's strata lot. Under Standard Bylaw 6(2), I find the strata can unreasonably withhold approval of the common property alterations.
74. I find the alterations involving the laundry equipment were complex. I find they involved interrelated alterations to common property within and outside the strata lot boundaries. I find the owner was only able to move and connect the laundry equipment to the new location because of the underground alterations to the common property. I find the strata was entitled under the bylaws to withhold its approval for the owner's retroactive request to excavate the common property land and extend the common property pipe. I also find the strata was entitled to withhold its retroactive approval for the interrelated common property and strata lot plumbing and wiring needed to move the laundry equipment. I find its decision to withhold approval consistent with the strata's general duty under sections 3 and 72 of the SPA to manage, maintain, and repair strata property for the benefit of all owners.
75. In the strata's application for dispute resolution, the strata asked that the owner "reverse all of the alterations and restorations he has conducted to his unit without Strata's approval or building permits". However, in the strata's written submissions the strata's requested remedy is worded differently. The strata asks instead for an order that the owner "restore the washer/dryer to the original laundry room and seal and cap the plumbing and wiring access that was installed in the hallway closet where the washer/dryer is currently housed". For the preceding reasons, I find the strata's requested remedy appropriate in the circumstances. I find the owner must move the washer and dryer back to the original laundry room location and seal and cap the plumbing and wiring access in the hallway closet where the washer and dryer are currently located. I find the strata is entitled to inspect the owner's strata lot to ensure the laundry equipment has been moved and the plumbing and wiring sealed and capped.
76. I infer that the strata is not also asking that the owner excavate the concrete slab and remove the extended underground plumbing pipes or it would have specifically

requested this order. Since it was not specifically requested and involves major work to common property, I have made no order that the owner remove the underground plumbing pipes.

77. The strata says that it will approve the owner's strata lot but not common property alterations if the owner provides proof that the alterations are approved by a municipal building inspector and if he signs an indemnity agreement. I infer the strata is conditionally agreeing to approve "the wall alterations" alone. I find on the evidence that the owner already obtained the required municipal approvals. Therefore, I find this condition is met.
78. I find that the strata can require as a condition of its approval that the owner accept responsibility for expenses relating to the alteration under Standard Bylaw 5(2). I find there is a reasonable risk of future expense due to the owner's wall alterations. As I understand the owner's submissions, he did not refuse to take responsibility for future expense but refused to sign a generic indemnity that relates to more than wall alteration expenses. Only a template and not the strata's intended indemnity terms are before me. Therefore, I do not know if the intended agreement complied with the bylaws or SPA.
79. Under section 123 of the CRTA and the tribunal rules, the tribunal has authority to order a party to do something in relation to a strata lot and a decision of a strata corporation in relation to an owner.
80. Considering the owner's request to keep the wall alterations and the strata's concern of future expense, I find that it is appropriate to order the owner to take responsibility for expenses as permitted by Standard Bylaw 5(2) and then be allowed to keep the wall alterations.
81. I order the owner to provide a signed written statement agreeing to take responsibility for any future expenses resulting from the wall alterations. I order that once the owner has provided the strata with this written statement that the strata is deemed to have approved the wall alterations in accordance with the 1998 Bylaw 9(1)(m) and the owner may keep the wall alterations.

Must the strata publish a retraction of “alleged” falsehoods published in strata meeting minutes and a notice to owners?

82. Section 35(1)(a) of the SPA and 1998 Bylaw 4.11(a) require the strata to keep minutes of strata council meetings, including the results of any votes. I find there are no SPA or bylaw provisions about retractions or corrections of minutes.
83. The owner alleges that the August 24, 2018 strata council “emergency executive meeting” minutes include falsehoods, primarily because the reported dates are wrong by a few days. The minutes record that 3 council members reported that they noticed the owner performing unapproved alterations and asked him to stop. Based on the owner’s diary and rental invoice, I find the dates the members reported were likely incorrect. I find the purpose of the meeting minutes was to record what was said at the meeting. The owner was undisputedly not at the meeting. The owner has not shown that the meeting minutes inaccurately reflect what the members said during the meeting. I also do not find the incorrect dates particularly relevant. I decline to order the strata publish a retraction of the August 24, 2018 minutes.
84. The owner alleges that the August 29, 2018 strata council meeting minutes show a wrong date and improperly say he performed foundation work. I find nothing of consequence about the exact date. I do not find the strata misleading in recording the word foundation in the minutes. I find the records in evidence show that the strata council members likely believed as of August 29, 2018 that the owner cut into the foundation. Therefore, I find they likely used the word foundation at the meeting. I therefore decline to order the strata to publish a retraction of the August 29, 2018 minutes.
85. The owner alleges that the October 14, 2018 meeting minutes are inaccurate because they make it sound like the owner did not have a good reason for cancelling a meeting. The October 14, 2018 meeting minutes state that council received an email that the owner “did not want to pursue this approval meeting”. The owner’s email had actually stated that cancellation was because he and his spouse “decided not to pursue this, as we have more urgent medical matters to

attend to”. I find no reason for the strata to retract the minutes. I find the minutes are not inaccurate by omitting the medical reason. I find the strata was not required to detail the reason for the cancellation. I decline to order the strata to publish a retraction of the October 14, 2018 minutes.

86. The strata sent the owners a letter dated June 8, 2018 that notifies the owners that it has filed a claim with the tribunal and provides reasons for taking this action. The owner alleges that the strata’s notice is false and misleading. The owner says he was not afforded any chance to answer any bylaw complaint against him and the notice implies he was “guilty” of bylaw infractions without “due process” under section 135.

87. I disagree. I find the owner was afforded the opportunity to respond to the bylaw complaint and was treated fairly. Also, the notice does not name the owner personally nor mention his strata lot. The notice states that for privacy reasons the strata would not be discussing the case. I find the owner has established no basis for me to require the strata to retract any part of the notice. Therefore, I decline to order the strata to publish a retraction of the notice.

TRIBUNAL FEES and DISPUTE-RELATED EXPENSES

88. 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. I see no reason in this case not to follow that general rule. As the primarily successful party, I will allow the strata part of its tribunal fees. I order the owner to reimburse the strata a total of \$112.50 for tribunal fees. As the owner was mainly unsuccessful on his counterclaims, I dismiss the owner’s request for tribunal fees.

89. Under the tribunal rules, the tribunal will not order one party to pay to another party any fees charged by a lawyer or representative in a strata property dispute except in extraordinary cases. I find the fact that the owner chose to hire a lawyer to challenge the strata’s decision on the bylaw breach does not in itself entitle the

owner to legal costs. The owner was mostly unsuccessful in this dispute and the evidence does not show that the strata's conduct during the tribunal process was improper. I find this is not an extraordinary case. I dismiss the owner's claim for legal fees.

90. I find the owner has not established that the strata is required to pay the engineering expenses under the bylaws or the SPA. Again, as the owner's counterclaims were mainly unsuccessful, I dismiss the owner's claim for engineering expenses.

91. The strata corporation must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against the owner.

ORDERS

92. I order that:

- a. the owner move the washer and dryer to the original laundry room location and seal and cap the plumbing and wiring access in the hallway closet where the washer and dryer are currently located in SL13,
- b. the owner permit the strata to inspect the strata lot to ensure the laundry equipment was moved and plumbing and wiring sealed and capped,
- c. within 15 days of this order, the owner must provide the strata with a written statement agreeing to take responsibility for any expenses relating to the wall alterations,
- d. after the owner has provided the strata with the written statement as set out in order (c) above, the strata is deemed to have approved the wall alterations and the owner is entitled to keep the wall alterations,
- e. the owner reimburse the strata \$112.50 for tribunal fees,
- f. the strata's remaining claims are dismissed, and

g. the owner's remaining counterclaims are dismissed.

93. The strata is entitled to post-judgement interest as applicable under the *Court Order Interest Act*.

94. 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.

95. 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 strata 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.

Trisha Apland, Tribunal Member