



Civil Resolution Tribunal

Date Issued: December 29, 2020

File: ST-2020-005374

Type: Strata

Civil Resolution Tribunal

Indexed as: *Stimbei v. The Owners, Strata Plan NW3223*, 2020 BCCRT 1463

B E T W E E N :

ELENA STRIMBEI

APPLICANT

A N D :

The Owners, Strata Plan NW3223

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. The applicant, Elena Stimbei owns strata lot 3 in the respondent strata corporation, The Owners, Strata Plan NW3223 (strata). I will refer to the applicant as Elena in my reasons as she requested. This dispute is about Elena's request for copies of the strata's financial records for the 2018 and 2019 fiscal years.

2. Elena says the records the strata provided did not contain financial information in accordance with the *Strata Property Regulation* (SPR). The strata says that it provided a projected budget with the 2019 balance at the January 2020 annual general meeting (AGM). It did not comment on whether the financial records it provided complied with the SPR.
3. Elena is self-represented. The strata is represented by a council member.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over strata property claims under section 121 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the CRT's process has ended.
5. The CRT 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 CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The CRT 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 CRT rules, in resolving this dispute the CRT may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.

ISSUE

8. The issue in this dispute is whether the strata's financial records comply with the SPR and whether the strata must disclose financial statements to Elena.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, Elena, as the applicant, bears the burden of proving her claims on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision. I note that aside from a Dispute Response, the strata did not submit any evidence or written submissions despite having the opportunity to do so.
10. The strata is a residential strata corporation created in April 2000 under the *Condominium Act* that continues to exist under the *Strata Property Act* (SPA) and consists of 12 strata lots.
11. The strata filed bylaw amendments in the Land Title Office (LTO) on January 15, 2001. LTO records shows 1 subsequent bylaw amendment was filed at the LTO, but I find it is not relevant to this dispute.

2018 and 2019 financial statements

12. Elena says she requested financial statements for the 2018 and 2019 fiscal years from the strata in January 2020 but it did not comply until after she submitted an application for dispute resolution to the CRT. Elena submitted copies of the "balances and budget forecasts" for the 2018 and 2019 fiscal years she received from the strata. She says neither document showed details of unapproved expenditures, the monies received and spent, or unbudgeted expenditures as required under section 6.6 and section 6.7 of the SPR. Elena requests the strata provide 2018 and 2019 financial statements that comply with the SPR.
13. Under the SPA section 36, an owner may request to view records and documents listed in section 35 and the strata can charge a fee to obtain copies of those documents. Budget and financial statements for the current year and for previous

years are included in section 35(2)(i). The strata must provide access or copies within 2 weeks of the request, unless the request is for the strata's bylaws or rules.

14. The SPR outlines information that must be included in a budget and financial statement. Section 6.6(1) requires the budget to contain, for both the operating fund and contingency reserve fund: estimated expenditures, total contributions, each strata lot's monthly contribution, and estimated balance at the end of the fiscal year. In addition, it must include the operating fund's opening balance, and the estimated income from all non-strata fee sources.
15. Section 6.7(1) requires the financial statement to contain, for both the operating fund and the contingency reserve fund, the opening and current balances, and expenditures (including details of any unapproved expenditures). In addition, it must also include the strata's income from all sources (except special levies), and special levy income and expenditures.
16. The strata's submissions were brief, and it did not submit any evidence despite being given the opportunity to do so. The strata says owners were provided with a projected budget with the 2019 balance at the AGM. It also says that a copy of the projected budget was placed under the door of any owner who did not attend the AGM and that it placed a copy of the AGM minutes under all owners' doors 4 days after the AGM.
17. The strata did not provide a response about whether its financial statements complied with the SPR. The strata says it is prepared to provide Elena with bank statements at "bank cost", to be paid in advance. The strata did not state how much the "bank cost" was.
18. I have reviewed the financial statements submitted by Elena and I agree that they do not contain details of unapproved expenditures, and the monies received and spent. I order that within 60 days of the date of this decision the strata must prepare and provide Elena with revised financial statements for the 2018 and 2019 fiscal years that comply with section 6.7 of the SPR at no charge. I also order that when preparing future budgets and financial statement, the strata comply with section 6.6 and section 6.7 of the SPR.

Notice of AGM

19. Elena also says the strata did not attach financial statements to the notice of the AGM.
20. Section 45 of the SPA requires a strata corporation to provide written notice of an annual or special general meeting to every owner. Section 103(2) of the SPA says that a proposed budget and financial statement must also be included for distribution with the notice of an AGM.
21. Elena submitted a copy of the AGM Notice and I note that it did not include a proposed budget and financial statement. I find that the strata breached section 103(2) of the SPA. However, since Elena did not seek a remedy for the strata's breach, I decline to make any specific order about this.

CRT FEES

22. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I therefore order the strata to reimburse Elena for CRT fees of \$225. Elena did not claim dispute-related expenses.
23. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Elena.

ORDERS

24. I order that within 60 days of the date of this decision:
 - a. The strata must prepare and distribute to Elena Strimbei revised financial statements for the 2018 and the 2019 fiscal years that comply with section 6.7 of the *Strata Property Regulation* at no charge,
 - b. The strata must comply with section 6.6 and section 6.7 of the *Strata Property Regulation* when preparing future budgets and financial statement, and

- c. The strata must pay Elena Strimbei \$225 for CRT fees.
25. Elena Strimbei is also entitled to post-judgement interest under the *Court Order Interest Act* as applicable.
26. Under section 57 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under section 58 of the CRTA, the order can be enforced through the British Columbia Provincial Court if it is an order for financial compensation or return of personal property under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

Rama Sood, Tribunal Member