



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Ikkal v. Section 1 of The Owners, Strata Plan LMS 1866*,
2021 BCCRT 5

B E T W E E N :

IPEK IKBAL

APPLICANT

A N D :

Section 1 of The Owners, Strata Plan LMS 1866

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This dispute is about short-term accommodation (STA) in a strata property. The applicant, Ipek Ikkal owns a strata lot in the respondent residential section of a strata corporation, Section 1 of The Owners, Strata Plan LMS 1866 (section). Ms. Ikkal says that the section has acted in a significantly unfair manner by refusing to provide her

with authorization to use her strata lot for STA and by fining her for using her strata lot for STA. Ms. Ikbal seeks declaratory orders about the scope of the section's bylaws, the section's conduct, and her ability to use her strata lot for STA. She also asks for orders that the section provide her with authorization to use her strata lot for STA and reverse the fines assessed against her strata lot.

2. The section denies that it has acted in a significantly unfair manner and says that Ms. Ikbal does not meet the criteria for approval to use her strata lot for STA. Further, the section says the fines it assessed against the strata lot are warranted.
3. Ms. Ikbal is self-represented. The section is represented by a member of the section executive.

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. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues.
7. 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.

8. Both parties submitted evidence as required by the CRT's processes, but Ms. Ikbal provided some of her evidence after the deadline. The section objected to the late evidence, but did have the opportunity to review it and respond to it in its submissions. I find that the section was unlikely to have been taken by surprise by the late evidence, which consists of proxy forms for the 2020 annual general meeting and statements from Ms. Ikbal's strata lot account. I also find that there is no prejudice to the section in my accepting the late evidence. However, I will address the late evidence only to the extent that is necessary to provide context to my decision.
9. 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.
10. Some of the documents incorrectly show the name of the residential section as Strata Corporation 1 of Strata Plan LMS 1866. Based on section 193(4) of the *Strata Property Act* (SPA), the correct legal name of the residential section is Section 1 of The Owners, Strata Plan LMS 1866. Given that the parties operated on the basis that the correct name of the residential section was used in their documents and submissions, I have exercised my discretion under section 61 of the SPA to direct the use of the section's correct legal name, and have amended the style of cause accordingly.
11. In a June 30, 2020 preliminary decision, a CRT Vice Chair ordered that this dispute be adjourned until September 1, 2020 or until either party provided confirmation that a related action in the British Columbia Supreme Court was withdrawn or discontinued. On July 15, 2020, the CRT received a Notice of Discontinuance of the Supreme Court action. Accordingly, the dispute proceeded.

ISSUES

12. The issues in this dispute are:
- a. Whether the CRT has the jurisdiction to address Ms. Ikbal's requests for declaratory orders,
 - b. Whether STA are permitted under the section's bylaws,
 - c. Whether the section has discretion to restrict STA,
 - d. Whether the section executive's decision to deny Ms. Ikbal authorization to operate an STA was significantly unfair,
 - e. Whether the fines levied against Ms. Ikbal's strata lot account should be reversed.

EVIDENCE AND ANALYSIS

13. In a civil dispute such as this, an applicant bears the burden of proof on a balance of probabilities.
14. The strata is located in Vancouver, British Columbia. As noted, Section 1 is the residential section of the strata.
15. Ms. Ikbal purchased strata lot 31, which is also known as suite 506, in August of 2018. Strata lot 31 is a 1-bedroom unit.
16. The section says it has a number of strata lots operating as STA. This is a source of concern for some owners, particularly with respect to noise and the impact of additional occupants on common facilities, including the shared laundry. However, not all owners oppose STA. A $\frac{3}{4}$ vote resolution to amend the bylaws to prohibit STA in the section did not pass at the 2015 annual general meeting.
17. The section's bylaws defines a "Residential Lot" as strata lots 1 through 243. Bylaw 4.1(e) says that a resident or visitor must not use a Residential Lot in a way that is

contrary to a purpose for which the Residential Lot is intended as shown expressly or by necessary implication on or by the strata plan.

18. Residential rentals are permitted under bylaw 42, but the section's bylaws do not contain a specific provision that addresses STA. However, bylaw section 4.1(d) says that a resident or visitor must not use a strata lot, the common property, or common assets in a way that is illegal or otherwise contrary to any applicable laws (including the provisions, rules, regulations or ordinances of any statute, whether federal or provincial, or any municipal by-laws).
19. The City of Vancouver (City), in its municipal bylaws, created a scheme for the authorization of STA. Licence By-law 4450, section 25.1, sets out that a person operating STA must have a licence from the Chief Licence Inspector, must operate STA in their Principal Residence Unit, and, if the residence is in a strata, obtain authorization from the strata council before applying for the business licence.
20. By-law 4450 defines a Principal Residence Unit as "the usual dwelling where an individual lives, makes their home and conducts their daily affairs, including, without limitation, paying bills and receiving mail" and is generally the residential address for various forms of billing and other documentation. Under the bylaw, a person may have only 1 principal residence unit.
21. In August of 2018, Ms. Ikbal obtained a business licence for STA from the City of Vancouver.
22. A member of the section executive wrote to the City's mayor and city council on August 8, 2019 about what it said was more than 40 "illegal" STA operations in its building. The letter expressed concern that STA operators had obtained business licences despite the fact that the strata had not provided them with authorization to operate STA. The section executive was also concerned that a number of these strata lots were not the operator's principal residence.
23. The City's Short-term Rental Office decided to audit an unknown number of the STA licence holders in the strata. Ms. Ikbal was among those selected. In an August 6,

2019 letter, the Short-term Rental Office asked Ms. Ikbal to provide proof of her principal residency and a letter of authorization from the strata confirming that STA are permitted on the strata lot. The letter warned that, if Ms. Ikbal did not provide the requested information within 30 days, her business licence would be suspended.

24. On August 12, 2019, Ms. Ikbal requested permission from the section to use her strata lot for STA. She provided information requested by the section's property manager, including a copy of her identification, tax documentation, and a utility bill, all of which showed the strata lot's address. Ms. Ikbal did not provide the requested information about a home owner's grant (which is a grant to reduce the amount of property taxes on a person's principal residence), but advised the property manager that she was not familiar with this grant and did not apply for it. She also did not provide a link to her Airbnb posting, as she said she had deactivated it.
25. In the meantime, the section had received complaints from residents in neighbouring strata lots about what they believed was STA activity in Ms. Ikbal's strata lot on particular dates in July and August of 2019. On August 21, 2019, the section's property manager wrote to Ms. Ikbal about a possible violation of bylaw 4.1(d). The letter cited the municipal bylaws, and asked Ms. Ikbal to cease renting out her strata lot for less than 30-day periods. The letter offered Ms. Ikbal the opportunity to respond to the complaint, and request a hearing if she wished.
26. Ms. Ikbal questioned the basis of the complaints as she said her records did not match the dates of the allegations. She requested a hearing to address the alleged bylaw violation and her outstanding request for STA authorization from the section. The hearing was held on September 23, 2019. Ms. Ikbal made a presentation to the section executive about her belief that STA were permitted in her strata lot and to request a letter of authorization from the section as requested by the City.
27. In a September 27, 2019 letter, the property manager wrote to Ms. Ikbal to advise of the section's decisions following the September 23 hearing. The section decided that there had been "illegal activity" in the strata lot and imposed a \$500 fine. The property

manager advised that Ms. Ikbal could reapply for approval by providing the requested documentation.

28. Ms. Ikbal exchanged emails with the property manager in which they discussed the City's requirement for strata authorization and the contents of the section's bylaws. Ms. Ikbal asked for details about the alleged STA guests and how this information was obtained. Ms. Ikbal also requested that the \$500 fine be waived.
29. In an October 30, 2019 letter, the property manager advised Ms. Ikbal that the section had "eye witness" observations and found that this was sufficient evidence of the bylaw violations. The section declined to waive the \$500, and declined Ms. Ikbal's request for STA authorization due to "insufficient documentation" that Ms. Ikbal was using the strata lot as her primary residence.
30. As Ms. Ikbal could not produce proof of the section's authorization for STA, the City suspended her business licence. In a November 18, 2019 letter, the Deputy Chief Licence Inspector advised that strata authorization would be required for the City to consider re-instating the business licence.
31. On November 19, 2019, the property manager wrote to Ms. Ikbal about complaints of additional STA occupants between September and November of 2019. The letter reminded Ms. Ikbal about bylaw 4.1(d), and asked her to stop providing STA in her strata lot. Based on the evidence before me, it is not clear whether this set of alleged infractions resulted in additional fines.
32. Ms. Ikbal did not pay the fine imposed in the September 27, 2019 letter. She commenced this dispute in March of 2020.
33. Ms. Ikbal's evidence is that the strata lot is her primary residence and she stays there during the week as it is close to her place of employment and she works long hours. Ms. Ikbal says she stays in a relative's home in a suburb on weekends and when she had STA bookings. Sometimes, her family members visit her during the week or use the strata lot on the weekends when she is not there. Ms. Ikbal says that she uses a cleaning service for her strata lot because she is busy. Ms. Ikbal says that she

anticipated being able to use the strata lot for STA, and the inability to do so has created financial difficulties that may require her to sell the strata lot. She states that she would not have purchased her strata lot if there had been any restriction on STA in the bylaws, and that she had a reasonable expectation that she would be allowed to use her strata lot for that purpose.

34. The section says its witnesses saw people coming and going from the strata lot with suitcases and cleaning supplies. According to the witnesses who provided statements, different people stayed in the strata lot for a few days at a time and the strata lot seemed to be otherwise unoccupied. The section's position is that the documentation provided by Ms. Ikbal does not prove that the strata lot is her primary residence, therefore an STA in her strata lot would violate its bylaws.

Jurisdiction for Declaratory Orders

35. Ms. Ikbal asks for the following declaratory orders:

- a. A declaration that the section's bylaws do not prohibit or restrict an owner or tenant from using their strata lot for STA,
- b. A declaration that the section's bylaws do not give the section executive the discretion to prohibit or restrict an owner or tenant from using their strata lot for STA,
- c. A declaration that the section executive is imposing its own undisclosed and subjective criteria to determine whether an owner or tenant is approved to use their strata lot for STA,
- d. A declaration that the section executive's actions were significantly unfair to Ms. Ikbal, and
- e. A declaration that Ms. Ikbal meets the criteria for approval to use her strata lot for STA.

36. In *Fisher v. The Owners, Strata Plan VR 1420*, 2019 BCCRT 1379, a CRT Vice Chair considered the CRT's jurisdiction to grant declaratory orders. She determined that

the CRT may make a declaratory order that is incidental to a claim over which the CRT has jurisdiction. Although *Fisher* is not binding on me, I agree with the Vice Chair's reasoning, and find that the CRT's ability to grant declaratory relief is limited to circumstances in which it is incidental to another claim.

37. Under section 121 of the CRTA, the CRT has jurisdiction over the interpretation of the SPA and bylaws, the use or enjoyment of a strata lot, and decisions of a strata corporation, including its council, in relation to an owner or tenant.
38. I find that I may consider the first 4 of Ms. Ikbal's 5 requested orders in the context of her claims about the interpretation of the section's bylaws and about the section executive's decisions. However, I find that her request for an order that she meets the criteria for approval to use her strata lot for STA is a separate claim for relief and not incidental to a claim within the CRT's jurisdiction. Under section 10(1) of the CRTA, I refuse to resolve Ms. Ikbal's request for an order declaring her eligibility for STA in her strata lot as I find it is outside the CRT's jurisdiction.

Are STA Permitted under the Bylaws?

39. As noted, the section's bylaws permit rentals but do not specifically address STA. STA are not considered rentals but rather licences for the use of a strata lot. A person may occupy a strata lot under a tenancy agreement or a licence agreement, but occupants do not become tenants as a result of a licence agreement (see *Semmler v. The Owners, Strata Plan NES3039*, 2018 BCSC 2064, *HighStreet Accommodations Ltd. v. The Owners, Strata Plan BCS478*, 2017 BCSC 1039, and *Liapis v. The Owners, Strata Plan BCS 1073*, 2018 BCCRT 878).
40. Ms. Ikbal says that, as there are no prohibitions or restrictions in the bylaws about the use of a strata lot for STA, owners and tenants may use the strata lots for this purpose. She also says that the bylaws do not restrict the use of strata lots to a "private dwelling home", and submits that there is nothing inconsistent between residential use and the operation of STA.

41. The section admits that its bylaws do not expressly prohibit STA, but says that this does not give an owner or tenant “carte blanche” to use a strata lot for STA. The section’s position is that, under bylaws 4.1 (d) and (e), STA must comply with all applicable laws, including the City’s bylaws, and for a purpose consistent with the strata plan.
42. As discussed, the City imposes a number of requirements for STA, including that it occur only in an operator’s principal residence and with authorization from the section executive. I accept that operating a STA in a manner that does not comply with the City’s regulatory scheme would be contrary to the City’s bylaw, and would be a use of the strata lot that would be prohibited by bylaw 4.1(d). Although not binding on me, another tribunal member made a similar finding in *Hall v. The Owners, Strata Plan EPS2983*, 2019 BCCRT 806 at paragraph 42.
43. Bylaw 4.1(e) says that a strata lot must not be used in a way that is contrary to a purpose for which it is intended on the strata plan. According to the strata plan, the strata lot is located in the residential section. Section 1 of the SPA says that “residential strata lot” means a strata lot designed or intended to be used primarily as a residence.
44. In my decision in *Meloche v. The Owners, Strata Plan BC 478*, 2019 BCCRT 230, I found that the requirement in the City’s bylaws that STA occur only in an operator’s principal residence meets the definition in the SPA for use “primarily as a residence”.
45. I find that the section bylaws permit STA only to the extent that those operations comply with the City’s bylaws (including obtaining authorization from the strata) and occur in the owner or tenant’s principal residence. This is not to say that the owner or tenant must be present in the strata lot at the same time as STA guests. However, the strata lot must be used primarily as the owner or tenant’s residence in addition to any STA operation in order to comply with bylaw 4.1(e).

The Section's Discretion to Authorize STA

46. Ms. Ikbal says that the section does not have the discretion to restrict STA, and that it is imposing its own undisclosed and subjective criteria to determine whether an owner or tenant may operate STA.
47. Ms. Ikbal's position is that restrictions on STA are imposed by the City through its licencing regime, and it is up to the City to determine whether someone meets the licencing requirements. She pointed out that another tribunal member in *Dhanji v. The Owners, Strata Plan LMS 2472*, 2019 BCCRT 1194, held that a strata corporation was attempting to "stand in the shoes of the city and enforce the city's bylaws" (at paragraph 59). He found that the strata corporation could not "treat the city's licences as invalid", and that it could go no further than to "require residents to produce a copy of their city licences in order to ensure that that the strata lot is not being used illegally", and could raise any non-compliance with the city (at paragraph 60).
48. The section says it may rely on other bylaws, such as an illegal use bylaw, to regulate whether owners may licence their units to STA, and refers to another tribunal member's decision in *The Owners, Strata Plan BCS 3625 v. Wiltsey et al*, 2018 BCCRT 155 at paragraph 33 in support of that position. In particular, the section says that bylaw 4.1(e) permits it to investigate whether strata lots are used for residential purposes. The section also points out that in *Section 1 of The Owners, Strata Plan KAS3112 v. Lentz*, 2019 BCCRT 1152, another tribunal member considered the situation where a strata lot tenant operated an unlicensed marijuana dispensary. The tribunal member determined that the municipality's failure to shut down the dispensary was not determinative of the legality of the operation, and found that the use of the strata lot in a way that violated the city's zoning bylaws breached the section's bylaw against illegal activity (see paragraphs 27 to 31).
49. The section submits that using a strata lot solely for STA is contrary to the purpose of residential use. It says that it gets complaints about STA from other residents, and is acting to balance the rights of residents with those who also carry out STA in their strata lots.

50. Section 26 of the SPA states that the strata council must exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws. Under this section, it is not up to the section to enforce the City's bylaws. However, the section must enforce its own bylaws. Under section 194(2) of the SPA, a section is a corporation and has the same powers and duties as the strata corporation.
51. Section 27 of the SPA provides that a strata corporation may not interfere with a strata council's discretion. Ms. Ikbal suggests that a strata council's exercise of discretion is limited to these areas. I disagree, and find that the SPA does not specifically limit a strata council's exercise of discretion. I find that the section executive does have the discretion to interpret and enforce its own bylaws and to make associated decisions.
52. Ms. Ikbal is correct that there is nothing in the SPA or the bylaws that specifically addresses authorization for STA. There is also nothing in the SPA or the bylaws that would require the section to accept and authorize activities in strata lot that do not comply with bylaws 4.1(d) and/or (e). Further, the section is not required to accept non-compliant activity in its strata lots simply because the City issued a business licence for STA. This is particularly so if the business licence was obtained without the necessary authorization from the section. Although the strata in *Dhanji* was also located in the City of Vancouver, the issue of authorization was not addressed in that decision.
53. In addition to *Lentz*, in *The Owners, Strata Plan LMS 4498 v. Mac Phee-Manning et al*, 2019 BCCRT 463, a tribunal member agreed with the strata's argument that the strata lot owners were breaching the strata's illegal use bylaw by violating the municipal zoning bylaw. In that situation, there was no indication that the municipality was involved in investigating or enforcing the zoning bylaw. While these decisions are not binding on me, I agree with the reasoning that a strata corporation (or section) is not required to wait for a municipality to act on municipal bylaw violations before considering whether activities violate its own bylaws.

54. As I have found that the section can make its own determinations about compliance with its own bylaws, I disagree with Ms. Ikbal's suggestion that the section should be required to grant conditional authorization for STA provided that the owner or tenant complies with all of the requirements and then allow the City to determine the legality of the operation.
55. In addition, when considering compliance with bylaw 4.1(e), the section is not restricted in what criteria it may consider to determine a person's principal residence. While it may choose to consider the criteria set out in the City's bylaws, it may (and indeed does) consider additional factors or information.
56. I disagree with Ms. Ikbal's suggestion that the section's authorization process attempts to prospectively enforce the bylaws by determining whether an owner or tenant may violate the bylaws in the future. It is apparent that the section is assessing the current use of a strata lot when considering requests for authorization for STA. I also find that Ms. Ikbal has not proven her claim that the section is applying undisclosed or subjective criteria to determine whether an owner or tenant is approved to use their strata lot for STA. It is clear that the section's consideration is how the owner or tenant uses their strata lot, and whether that use would comply with the bylaws.
57. I acknowledge Ms. Ikbal's view that the section is motivated by bias against STA, but find that this is not supported by the evidence. As will be discussed below, the section has authorized STA in more than 1 strata lot, and I find that it is attempting to balance the needs of the owners who have opposing views about the desirability of STA in the section.
58. As noted, the section has a duty to enforce its bylaws, and I find that it has the discretion to restrict STA to strata lots where they would be in compliance with the bylaws. That said, the section must exercise this discretion in a fair manner. I will discuss the issue of significant unfairness further below.

Significant Unfairness

59. Ms. Ikbal submits that the section has treated her in a significantly unfair manner by effectively prohibiting her from using her strata lot for STA. The section denies that its treatment of Ms. Ikbal was significantly unfair, and says that it treated Ms. Ikbal no differently than other owners or tenants who operate STA.
60. The courts have interpreted “significantly unfair” to mean conduct that is oppressive or unfairly prejudicial. “Oppressive” conduct has been interpreted as conduct that is burdensome, harsh, wrongful, lacking fair dealing or done in bad faith. “Prejudicial” conduct means conduct that is unjust and inequitable (*Reid v. Strata Plan LMS 2503*, 2001 BCSC 1578, aff’d 2003 BCCA 126).
61. The test for significant unfairness was summarized by a tribunal vice chair in *A.P. v. The Owners, Strata Plan ABC*, 2017 BCCRT 94, with reference to *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44: what is or was the expectation of the affected owner or tenant? Was that expectation on the part of the owner or tenant objectively reasonable? If so, was that expectation violated by an action that was significantly unfair? The British Columbia Court of Appeal confirmed in *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342 that consideration of the reasonable expectations of a party is “simply one relevant factor to be taken into account” (see paragraph 89).
62. Ms. Ikbal’s expectations are that she will be able to use her strata lot for STA, that the section will provide her with authorization for her STA based on her belief that she meets all the necessary requirements, and that the section executive would not seek to restrict STA on its own initiative. While it is objectively reasonable to expect that the section, through its executive, would treat all applications for STA equally, I do not find that it is objectively reasonable for an applicant to expect to receive authorization when they have not provided all information requested as part of the application process and necessary to establish their entitlement.
63. The September 23 and October 28, 2019 section executive meeting minutes show that the section has authorized STA when it received all of the requested

documentation and was satisfied that the owner or tenant lived in the strata lot. The section rejected requests when it was not satisfied that the strata lot was the owner or tenant's residence, or when the owner or tenant did not provide all of the documents and information it requested. I do not find that confirming bylaw compliance amounts to an unreasonable restriction on STA as Ms. Ikbal suggests.

64. In this case, as noted above, Ms. Ikbal did not provide the section proof of a home owner's grant or a link to her Airbnb posting. She did provide all other information requested by the section, as well as explanations for the missing items.
65. The section's submissions show that it was not satisfied that the information provided by Ms. Ikbal established that the strata lot was her principal residence. The section's position is that Ms. Ikbal has admitted that the strata lot is not her principal residence, and the fact that she receives mail at the strata lot does not prove that she resides there.
66. I agree that a person's mailing address, by itself, is not determinative of residence. Further, while a utility bill proves the presence of an account, it does not prove residence.
67. I find that the more significant issue was the information that was not provided. As noted, Ms. Ikbal did not provide information about the home owner's grant to the section. She did not explain to the section or in her submissions whether she attempted to claim the grant retroactively for 2019 or in the 2020 tax year to take advantage of tax savings for a principal residence.
68. In addition, Ms. Ikbal failed to provide evidence about her Airbnb listing. The section says a link to the listing would have provided information about how the strata lot was advertised, the number of guest reviews, and possibly a guest schedule. I am satisfied that this information would have helped to confirm whether strata lot's use as STA was also consistent with it being used primarily as a residence.
69. I note that Ms. Ikbal did include in her evidence a printout of her Airbnb transaction history that shows no payouts between December of 2019 and August of 2020.

However, this document did not cover the period of time during which the section was considering her request for authorization.

70. The section's concerns about documentation appear to have been heightened as a result of complaints from 2 neighbouring strata lot owners who say that they believe nobody lives in Ms. Ikbal's strata lot. These owners reported that, on a regular basis, they have seen people in the common hallway that they believe are Ms. Ikbal's STA guests. Based on the statements from these owners that are included in the section's evidence, it is apparent that the majority of these reports represent observations made through the peepholes in their suite doors rather than any personal interactions. While these observations are not determinative of how the strata lot is being used, I find that it was reasonable for the section executive to consider them.
71. Based on the evidence before me, I find that Ms. Ikbal has not established that she provided all of the information requested by the section or that she was treated in a different way than other owners and tenants who requested authorization for STA. Accordingly, I find that the section's decision to deny authorization for STA was not significantly unfair.
72. While I dismiss this claim, I would point out that nothing in my decision prevents Ms. Ikbal from applying for section executive authorization for STA again should her circumstances change or should she obtain additional information that was missing from her previous application (such as information about her Airbnb listing or the status of her home owner's grant).

Fines

73. Ms. Ikbal asks for an order that the \$500 fine for her purported illegal use of her strata lot for STA be cancelled as it does not comply with the SPA or the bylaws. Ms. Ikbal did not explain how the fines violate the SPA. The section says that the fines are warranted.
74. The September 27, 2019 letter imposed a fine of \$500 for the "illegal" activity of operating STA without the section's authorization.

75. Ms. Ikbal admits that she did not have the section's authorization for STA, and it appears that this resulted from a misunderstanding about the City's requirements. Although she says the dates of the alleged infractions do not match her records, Ms. Ikbal did not provide documentation to support this position prior to or at the section executive hearing, or in her submissions. Based on the available evidence, I find that it was reasonable for the section to determine that there had been a breach of bylaw 4.1(d).
76. Section 135 of the SPA sets out the procedural requirements that a strata corporation must follow before imposing a fine for a bylaw contravention. In this case, before the section imposed a fine, it received a complaint, and provided Ms. Ikbal with details of the alleged contravention and an opportunity to address the matter at a hearing. I find that the requirements of section 135 were met.
77. However, the amount of the fine is problematic. The section imposed a \$500 fine for the contravention described in its August 21, 2019 letter. The section did not explain how the fine was calculated either in this letter or in its submissions.
78. I agree with Ms. Ikbal that the amount of the fine is not consistent with bylaw 26, which provides for a fine of up to \$200 for each bylaw contravention. The August 21, 2019 letter described a contravention, not contraventions, of bylaw 4.1(d). Given the singular nature of the contravention, and the lack of a continuing contravention as contemplated by bylaw 27, I find that the \$500 fine is not consistent with bylaw 26 and must be reversed.

CRT FEES AND EXPENSES

79. 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. As Ms. Ikbal was largely unsuccessful, I find that it would be appropriate for her to bear her own CRT fees.
80. The section must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Ms. Ikbal.

ORDERS

81. I order that the \$500 fine imposed in the September 27, 2019 letter is invalid and must be reversed from Ms. Ikbal's strata lot account.

82. The remainder of Ms. Ikbal's claims are dismissed.

83. 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.

Lynn Scrivener, Tribunal Member