



# Civil Resolution Tribunal

Date Issued: September 29, 2021

File: ST-2021-000080 and ST-2021-000094

Type: Strata

Civil Resolution Tribunal

Indexed as: *Caspersen v. The Owners, Strata Plan VIS 1214*, 2021 BCCRT 1053

**B E T W E E N :**

ZITA CASPERSEN

**APPLICANT**

**A N D :**

The Owners, Strata Plan VIS 1214

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Trisha Apland

## INTRODUCTION

1. The applicant, Zita Caspersen, owns a strata lot in the respondent strata corporation, The Owners, Strata Plan VIS 1214 (strata). Ms. Caspersen brought 2 separate disputes against the strata on January 5, 2021, which I have decided together.

2. In Dispute ST-2021-000080 (ST-80), Ms. Caspersen says the strata failed to provide her with copies of documents she requested under section 36 of the *Strata Property Act* (SPA) and seeks an order that the strata provide those records. The strata says Ms. Caspersen has “bombarded” the strata with numerous requests for documents, which it says it already responded to. However, it says if Ms. Caspersen sets out a list of the alleged outstanding documents and they are not subject to solicitor client privilege, it will provide those documents to her.
3. Dispute ST-2021-000094 (ST-94) is about a glass enclosure on Ms. Caspersen’s strata lot patio that sits on the strata building’s podium. The podium is the roof of the strata’s parkade and is leaking. As part of the strata’s “Podium Membrane Renewal Project” (Project) the strata intends to remove Ms. Caspersen’s patio enclosure to repair the podium. The strata offered to remove and store the patio enclosure at the strata’s expense, which Ms. Caspersen accepted. However, Ms. Caspersen says the strata should also include the patio enclosure as part of its Project scope, pay to reinstall the patio enclosure, and compensate her for any potential loss. Ms. Caspersen seeks the following overlapping remedies:
  - a. \$28,500 for the replacement cost of a new patio enclosure if it is damaged beyond repair,
  - b. an order the strata repair or replace the patio enclosure with an equivalent enclosure if it is damaged or damaged beyond repair,
  - c. an order that the strata approve the storage and reinstallation of the patio enclosure as part of the Project scope, with all costs borne by the Project,
  - d. an order the strata obtain a City of Victoria building permit to reinstall her patio enclosure and either provide her with a copy of the permit or if denied, a copy of the City’s denial, and
  - e. \$20,000 in significant unfairness damages.
4. The strata says it already approved Ms. Caspersen’s request to reinstall the patio enclosure so long as the structure does not damage the podium pavers, its

membrane, or void the warranty. It says Ms. Caspersen's claims are speculative and even if the patio enclosure is damaged, Ms. Caspersen is responsible to repair the damage under the bylaws. The strata denies treating Ms. Caspersen significantly unfairly and says she is responsible to pay to reinstall her own patio enclosure. It asks that I dismiss Ms. Caspersen's claims.

5. Ms. Caspersen is represented by GM, who holds her Power of Attorney, and the strata is represented by a strata council member. Neither representative is a lawyer.
6. For the reasons that follow, I find the strata must produce copies of the documents listed in my order below and I dismiss Ms. Caspersen's claims over the patio enclosure.

## **JURISDICTION AND PROCEDURE**

7. 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). CRTA section 2 says the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
8. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice and fairness.
9. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, even where the information would not be admissible in court. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

10. Under CRTA section 123, 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.
11. CRT documents incorrectly show the name of the respondent as The Owners, Strata Plan, VIS 1214. Based on section 2 of the SPA, the correct legal name of the strata is The Owners, Strata Plan 1214. Given the parties operated on the basis that the correct name of the strata was used in their documents and submissions, I have exercised my discretion under section 61 to direct the use of the strata's correct legal name in these proceedings. Accordingly, I have amended the strata's name above.

## **ISSUES**

### ***Dispute ST-80***

12. Must the strata provide Ms. Caspersen with the documents she requested?

### ***Dispute ST-94***

13. Since the strata already agreed to pay to remove and store the patio enclosure, the remaining issues in this dispute are:
  - a. Must the strata pay Ms. Caspersen for a replacement patio enclosure or repair or replace it with an equivalent enclosure at the strata's expense?
  - b. Must the strata approve the patio enclosure's reinstallation as part of the Project, pay to reinstall the enclosure, and obtain a City permit?
  - c. Is Ms. Caspersen entitled to \$20,000 in significant unfairness damages?

## **EVIDENCE AND ANALYSIS**

14. In a civil claim such as these ones the applicant, Ms. Caspersen, must prove her claims on a balance of probabilities (meaning "more likely than not"). I have reviewed the parties' submissions and weighed their evidence, but only refer to that necessary to explain my decision.

15. I will start with Dispute ST-94 about the patio enclosure because it provides the background context to both disputes. I then address Dispute ST-80 about the document requests.

## ***Background***

16. The strata was created in 1982. It is a 4-storey wood frame building with 63 strata lots. The building is positioned over a single level parkade that extends beyond the building's footprint. The parkade's roof extends 20 feet from the outside edge of the strata building and is referred to as a "podium" or "plaza". As shown on the strata plan, Ms. Caspersen has a patio that forms part of her strata lot. The patio is on the podium.
17. In April 1998, Ms. Caspersen installed a glass enclosure on her strata lot patio with the strata's approval. The parties have no indemnity agreement for the enclosure. There are about 5 other strata lots that have enclosed patios as well.
18. The strata records show a history of multiple water leaks into the building and parkade. The strata had been attempting to address the leaks with targeted repairs.
19. In November 2017, Total Building Envelope (TBE) reviewed the building's "waterproofing leak issues". It suggested options that included re-reroofing the entire podium with a new waterproof membrane.
20. In January 2019, the strata ownership voted to spend up to \$35,000 to initiate the design and tender phase from the contingency reserve fund (CRF) to remediate the podium. The strata commissioned engineering firm Read, Jones, Christoffersen, Consulting Engineers (RJC) for a proposal. RJC's October 30, 2019 Plaza Restoration Design Development Report recommended replacing the landscape "overburden" and waterproofing the podium, plus other repairs. The landscape overburden refers to the podium's soft landscaping (soil, plants) and hard landscaping (concrete, brick, fencing).
21. After receiving the reports, the strata determined the owners' patio enclosures had to be removed to repair the podium underneath them. The strata offered to pay to

remove the owners' patio enclosures and compensate their depreciated value if they could not be reinstalled. Ms. Caspersen rejected the strata's \$2,191 offer and asked for \$3,200 instead, which the strata rejected. The parties did not then come to an agreement on compensation.

22. At a July 9, 2020 Special General Meeting the owners passed special resolutions approving and funding the Project by a combination of a special levy and the CRF. The Project deliverables did not include removing and reinstalling the owners' patio enclosures.
23. The strata commenced work on the Project in early May 2021. I find it is not clear from the submissions how far the Project might have progressed since that time.
24. After Ms. Caspersen commenced this dispute, the strata offered to pay to remove and store Ms. Caspersen's patio enclosure at the strata's expense, which Ms. Caspersen accepted. However, the strata refused her requests that it include her patio enclosure as part of the Project scope, pay to reinstall the enclosure, or compensate her for a new enclosure if hers is damaged beyond repair. These are the main issues I discuss further below.

### ***Bylaws***

25. After the SPA came into force, the strata repealed and replaced its previous bylaws by filing new bylaw amendments in the Land Title Office on December 19, 2001. Over the years the strata filed several more amendments including 38 amendments on May 5, 2017 that include the bylaws that follow below. I discuss only the relevant portions here.
26. Bylaw 11 sets out an owner's repair and maintenance duties.
27. Bylaw 11(1) says an owner must repair and maintain the owner's strata lot, except for repair and maintenance that is the responsibility of the strata corporation under the bylaws or another law.

28. Bylaw 11(3) says an owner is responsible for and must repair and maintain any improvements, alterations and additions made to their strata lot or adjoining common property, or limited common property, which they have the benefit of, including but not limited to balcony enclosures, or windows or doors, which were constructed, installed or replaced by them or a previous owner of their strata lot. An owner must also make good any damage to a strata lot, limited common property, or the common property that is caused by or arises out of any improvement, alterations and additions made to their strata lot or adjoining common property, or limited common property, which they have the benefit of, which were made by them or a previous owner of their strata lot.
29. Bylaw 12(1) says the strata must repair and maintain the common property. It also requires the strata to repair and maintain the exterior of a strata lot and windows, frames, doors, and structures that enclose patios, balconies and yards. Bylaw 12(1) is then qualified by bylaw 12(2).
30. Bylaw 12(2) says the strata is not obligated to maintain, repair or replace any improvement or alterations made by an owner or former owner to a strata lot, their limited common property, or the common property, including but not limited to balcony enclosures, or window or doors, which were constructed, installed or replaced by them or a previous owner of their strata lot, and any such improvement or alterations in place at the time of passing of this bylaw, all of which shall be the sole responsibility of the current owner of the strata lot which has the benefit of such improvement.
31. I note there are no balconies identified on the strata plan. The plan identifies the areas just outside the interior portions of the strata lots as patios and decks. So, I find “balcony” in the bylaws means a patio or a deck.
32. Bylaw 13 sets out requirements and a process that owners must follow to enclose a strata lot patio. As part of that process, owners must obtain written consent and execute an indemnity and alteration agreement.

***Must the strata pay Ms. Caspersen for a replacement patio enclosure or repair or replace it with an equivalent enclosure at the strata's expense?***

33. As mentioned, Ms. Caspersen seeks \$28,500 for the replacement cost of a new patio enclosure if hers is destroyed or cannot be reinstalled. She also seeks an order that the strata repair or replace the patio enclosure with an equivalent enclosure if it is damaged. I infer these are alternative remedies even though Ms. Caspersen brought them as separate claims.
34. Ms. Caspersen says her patio enclosure will likely get damaged during its reinstallation. She submitted a letter from Kevin Gilbertson of Allied Glass and Aluminum Products Ltd. who assessed whether it was possible to reinstall her patio enclosure. Mr. Gilbertson said it can be done but because the structure is very old, there are some risks involved and the glass might break. Because the strata is requiring her to remove her patio enclosure to repair common property, Ms. Caspersen argues that any damage will be intentional and the strata must pay to repair it or compensate her its full replacement value.
35. Ms. Caspersen relies on the BC Supreme Court (BCSC) decision in: *Baker v. The Owners, Strata Plan NW3304*, 2002 BCSC 1559. In *Baker*, the strata had removed the owner's balcony enclosure to repair common property and did not then permit her to reinstall it. The BCSC awarded the owner compensation for the loss of the enclosure calculated by its depreciated value. I note the BCSC did not award the enclosure's full replacement value.
36. Ms. Caspersen also relies on the CRT decisions in *Thompson v. The Owner's, Strata Plan LMS 2349*, 2018 BCCRT 759, *Ferreira v. The Owners, Strata Plan NW1769*, 2021 BCCRT 305, and *Manak v. The Owners, Strata Plan KAS 2116*, 2020 BCCRT 567. In each of these CRT decisions, the CRT ordered the strata corporations to repair strata lot damage the strata corporations had intentionally caused to the owners' strata lots while repairing and maintaining the common property.
37. The strata says Ms. Caspersen has not suffered any loss and her claims are purely speculative. It also says the bylaws in the decisions cited by Ms. Caspersen do not



include the same repair obligations. It says under its bylaws Ms. Caspersen is solely responsible for costs to repair her own patio enclosure should it be damaged.

38. I agree with the strata. I find Ms. Caspersen's patio enclosure is a strata lot improvement or addition as contemplated by bylaws 11(3) and 12(2). In the cited cases the strata corporations did not have similar bylaws. As mentioned, bylaw 11(3) says an owner must make good any strata lot damage even if it arises out of any improvement, alterations and additions made to the strata lot or to the adjoining common property to which they benefit. I find the Project's repairs fall within this definition of an alteration or improvement to Ms. Caspersen's strata lot (the concrete patio) and the adjoining common property (waterproof membrane). Under bylaw 12(2), I find the strata is also not obligated to repair the patio enclosure improvement. Read together, I find Ms. Caspersen is solely responsible to repair her patio enclosure under these bylaws even if it becomes damaged because of the strata's podium repairs, which are alterations or improvements.
39. In any event, the strata has not damaged Ms. Caspersen's patio enclosure or intentionally damaged her strata lot as was the case in the cited CRT decisions. The strata has also not refused Ms. Caspersen's application to reinstall her patio structure as was the case in *Baker*. I find Ms. Caspersen is not entitled to a remedy from the strata for something that has not happened and might never happen. I also find Ms. Caspersen would not be entitled to reimbursement under the bylaws in any event. So, I dismiss Ms. Caspersen's claims on this issue.

***Must the strata approve the patio enclosure's reinstallation as part of the Project, pay to reinstall the enclosure, and obtain a City permit?***

40. SPA section 3 says that a strata corporation is responsible for managing and maintaining the strata's common property and common assets for the benefit of the owners. Under SPA section 72 the strata has an ongoing duty to repair and maintain common property.
41. There is no dispute that the podium is the strata's responsibility to repair and maintain under SPA sections 3 and 72 and bylaw 12(1). I find the strata can require an owner

to remove their strata lot improvement if it impedes its ability to carry out its duty to maintain the common property for the benefit of the owners: *The Owners, Strata Plan VR 663 v. Murphy*, 2012 BCSC 1294 at paragraph 13 and *Vuilleumier v. The Owners, Strata Plan NW 1662*, 2020 BCCRT 759.

42. Based on the TBE and RJC reports, I find the podium had drainage issues and its membrane was worn out. As a result, the building suffered from multiple leaks over the years and the strata's experts recommended a comprehensive repair.
43. While the RJC report is silent on the patio enclosures, it shows the remediation work includes replacing all the hard landscaping on the overburden and fixing the membrane and drainage. As shown in the photographs and plans, Ms. Caspersen's patio enclosure is positioned directly on and over the podium that is slated for remediation. There is no evidence that the remediation work could happen around Ms. Caspersen's patio enclosure without removing it. Based on the evidence before me, I find Ms. Caspersen's patio enclosure likely impedes the strata's ability to replace the cement and repair the underlying waterproof membrane. I find the strata is entitled to require Ms. Caspersen to remove it so it can perform these repairs. Since the strata has agreed to remove and store the patio enclosure at the strata's expense, the issue is whether the strata must reinstall it as well.
44. As mentioned, I find bylaw 11(3) makes Ms. Caspersen solely responsible for the expenses associated with her patio enclosure, which is an improvement. Under bylaw 12(2), I find the strata is not responsible to reinstall Ms. Caspersen's patio enclosure. For the following reasons, I also find it is not significantly unfair for the strata to refuse to reinstall or pay any costs associated with reinstalling Ms. Caspersen's patio enclosure.
45. Section 123(2) of the CRTA gives the CRT authority to issue orders preventing or remedying a significantly unfair action or decision of a strata corporation: *The Owners, Strata Plan LMS 1721 v. Watson*, 2018 BCSC 164 at paragraph 119. This is similar to the BCSC's power under SPA section 164.

46. The courts have interpreted “significantly unfair” to mean conduct that is oppressive or unfairly prejudicial. In this context, “oppressive” means conduct that is burdensome, harsh, wrongful, lacking in fair dealing or done in bad faith. “Unfairly prejudicial” conduct means conduct that is unjust and inequitable: *Reid v. Strata Plan LMS 2503*, 2001 BCSC 1578, aff’d 2003 BCCA 126.
47. The British Columbia Court of Appeal held in *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342 at paragraph 89 that the consideration of a party’s reasonable expectations is one of several relevant factors when considering significant unfairness.
48. The relevant 2017 bylaw amendments were passed prior to the start of the Project and this dispute. As mentioned, I find the bylaws make Ms. Caspersen entirely responsible for expenses related to her own patio enclosure and they impose no obligation on the strata to reinstall it. The strata has required the other owners to remove their patio enclosures as well and there is no evidence the strata is paying to reinstall any other enclosure. I find the strata did not treat Ms. Caspersen inequitably or otherwise single her out. In the circumstances, I find Ms. Caspersen has no reasonable or objective expectation that the strata will pay to reinstall her patio enclosure or approve it as part of the Project scope. I find the strata reasonably agreed to remove and store the patio enclosure at the strata’s own cost. I find Ms. Caspersen has not proven that the strata acted significantly unfairly in refusing her request that the strata also reinstall it.
49. Next, Ms. Caspersen says the strata constructively denied her request to reinstall the patio enclosure by making her responsible to obtain a “professional solution”. She argues that the strata is acting significantly unfairly because it should find the solution for her, plus obtain a City permit on her behalf.
50. By professional solution, I find Ms. Caspersen is referring to one of the strata’s conditions for its approval. The strata is requiring Ms. Caspersen provide it with a professional opinion that the patio enclosure will not compromise the integrity of the new waterproofing membrane or cause water to pool or damage the building. The

strata is also requiring Ms. Caspersen to take steps to ensure the patio enclosure complies with the City's requirements.

51. While Ms. Caspersen may expect the strata to take these steps on her behalf, I find her expectation is not an objectively reasonable one. Ms. Caspersen is solely responsible for the patio enclosure under the bylaws. So, I find Ms. Caspersen is also responsible to apply for her own City permit and obtain a professional opinion that it will not pose a risk to the rest of the building if she reinstalls it. I find the conditions are not excessive and they are consistent with the strata's responsibility to manage the common property on behalf of the owners. Ms. Caspersen has not shown the strata's conditions themselves are unfairly prejudicial or oppressive. So, I find the strata did not act significantly unfairly by imposing these conditions on its approval or requiring Ms. Caspersen to take these steps herself.
52. In summary, I find Ms. Caspersen has not established any legal basis to order the strata to approve the patio enclosure as part of the Project scope, pay to reinstall her patio enclosure, or obtain a City permit or any professional report on her behalf. So, I dismiss these claims.

***Is Ms. Caspersen entitled to \$20,000 in significant unfairness damages?***

53. Ms. Caspersen says in a June 3, 2020 letter from the strata's lawyer he "alludes to the potential need for a Development permit amendment". He also stated that the City refused to confirm the patio enclosures could be reinstalled if removed. She says the strata gave the same reasoning at its townhall meetings. Ms. Caspersen says the patio enclosures were exempt from requiring a City development permit and the strata should have known this before December 2019 and prior to making these statements. Ms. Caspersen alleges the strata treated her significantly unfairly by providing her with "patently incorrect" information and she seeks \$20,000 in damages.
54. The strata says information it gave owners about what might happen and that its lawyer alluded to in his letter are not significantly unfair decisions or actions. It says Ms. Caspersen has suffered no loss and her claim should be dismissed on that basis alone.

55. The strata also says that it did not miscommunicate about the development permit. The strata says it was concerned the City might not allow owners to reinstall their patio enclosures and it hired architect, Keay Architecture Ltd. (Keay), to look further into the issue. As set out in architect Nicole Showers' October 20, 2020 email, they remeasured the property to determine the Floor Space Ratio (FSR) and concluded the building's FSR with the patio enclosures would meet the City's zoning bylaw. As set out in the October 27, 2020 Project progress bulletin, the strata informed the owners that barring other conditions, the City would allow the reinstallation of the enclosures should owners wish to pursue that option.
56. I find the strata was simply communicating a potential issue, which I find is not a significantly unfair decision or action in itself. I also find Ms. Caspersen suffered no loss because of what the strata told her or what she thought the strata, or its lawyer, was alluding to. I dismiss Ms. Caspersen's \$20,000 damages claim.

***Did the strata fail to provide Ms. Caspersen with documents it was required to produce under SPA section 36?***

57. Ms. Caspersen made several requests for records and documents in 2020 under SPA section 36. She says to avoid ambiguity she set out her outstanding requests in a January 4, 2021 letter.
58. In the January 4, 2021 letter, Ms. Caspersen asked for production of "documentation, correspondence, reports (written or email) for the period of January 4, 2019 to January 4, 2021 sent or received from the strata corporation, strata council, and the property manager to the following entities or individuals: USC/John Grubb and Keay/John Keay". She also requested any depreciation reports and all contracts to which the strata corporation was a party from January 4, 2015 to January 4, 2021. Further, she asked for a list of council members, a list of owners, with their strata lot addresses, mailing addresses if different, and strata lot numbers shown on the strata plan. Ms. Caspersen says the strata failed to provide her with copies of all the documents she requested within the 2 week time frame set out in the SPA or at all.

59. The strata says it was “bombarded” with numerous requests from Ms. Caspersen for document production. It says that although it was late in providing some documents, it did respond to her requests. It says if it missed producing some documents it was due to inadvertence. It also says Ms. Caspersen went beyond what the CRT has permitted in prior decisions: *Mellor v. The Owners, Strata Plan KAS 463*, 2018 BCCRT 1, *Tenten v. The Owners, Strata Plan VR113*, 2019 BCCRT 1427, *West et al v. The Owners, Strata Plan BCS 2637*, 2018 BCCRT 695. However, the strata agrees to provide any outstanding documents “forthwith” so long as they are not solicitor-client privileged.
60. SPA section 35 sets out records and documents that a strata corporation must prepare and retain. SPA section 36(1) states that, upon receiving an owner’s request, a strata corporation must make records and documents referred to in section 35 available for inspection and provide copies of them to an owner. SPA section 36(3) requires the strata to comply with a request within 2 weeks unless the request is in respect of bylaws or rules, in which case the strata corporation must comply with the request within 1 week.
61. In *Mellor*, the owner alleged the strata failed to comply with SPA section 36. The owner had sent about 50 requests for records a day and almost 600 emails in a 3-month period. A CRT Vice Chair concluded, on the evidence before her, that the strata had reasonably attempted to comply with her requests, but the owner’s requests were unreasonable and vexatious. The Vice Chair dismissed the owner’s claim.
62. In *Tenten*, a CRT Vice Chair declined to order the strata comply with the owner’s broad request for correspondence and photographs related to the strata’s work 7 or 8 years prior. The Vice Chair held that the strata was only required to retain correspondence for 2 years under section 4.1 of the Strata Property Regulation and it had no obligation to retain photographs.

63. In *West*, a CRT Vice Chair refused to order the strata to produce requested documents. The evidence showed the strata had already provided records and the owner did not specify which documents, if any, were outstanding.
64. I find Ms. Caspersen's requests in the January 4, 2021 letter are records or documents the strata is required to keep under SPA section 35 and section 4.1 of the Regulation. Ms. Caspersen is not seeking any privileged legal communication or a legal opinion and so I find there is no privilege issue to decide here.
65. I find Ms. Caspersen's January 2021 requests were not unreasonable or vexatious as was the case in *Mellor*. I also find Ms. Caspersen's requests were not overly broad and I find the strata was required to comply with them within 2 weeks under SPA section 36(3). As it is admitted, I find the strata did not comply with its section 36 obligations within that time limit.
66. I turn to Ms. Caspersen's January 2021 requests. In her reply submissions, Ms. Caspersen says the strata has since provided her with some of the requested documents, including a USB with 6 years of contracts. However, she says the strata has still not provided her with all the requested "documentation between Strata/Strata Council and Property Manager to Unity Services Corporation/John Grubb and Keay Architecture/John Keay". Specifically, Ms. Caspersen says the strata did not provide her the strata's "original" contract with Unity Services Corporation (USC) or "documentation/contract for Keay Architecture", apart from Keav's draft report. Further, Ms. Caspersen says the strata did not provide her with its depreciation reports or engineering reports.
67. I find the strata already provided Ms. Caspersen with a copy of its contract with USC signed on August 12, 2020. It is in evidence for dispute ST-94. The contract shows it was signed after the owners' approval to move forward with the Project. While the parties' records show USC did some preliminary work for the Project, they do not show the strata had entered into a prior written contract about it. I find the August 12, 2020 is likely the original contract. As it was already disclosed to Ms. Caspersen, I make no order about it.

68. Ms. Caspersen did not request any specific engineering report in her January 4, 2021 letter and the strata already provided the RJC engineering report. So, I have made no order that the strata produce engineering reports.
69. Ms. Caspersen does not identify any specific email or other outstanding correspondence between the strata and USC or Keay. She also does not say in her reply submissions that her requests for the council member and owners' lists are outstanding. So, I infer these were all provided to her.
70. The strata did not provide evidence, such as a cover letter or witness statement, proving that it provided written contracts with Keav, the final report, and all its depreciation reports requested on January 4, 2021. So, I accept, on balance, that the strata likely did not provide the requested copies. I find the strata must provide Ms. Caspersen the strata's written contracts with Keay for the Project, Keay's final report, if one exists, and any depreciation report the strata obtained under SPA section 94.

## **CRT FEES AND EXPENSES**

71. 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. Ms. Caspersen paid a total of \$350 in CRT fees for both disputes. I find Ms. Caspersen was largely successful in Dispute ST-98 because the strata did not provide all the documents until late in this CRT process. I find she is entitled to \$175 in paid CRT fees. As Ms. Caspersen was unsuccessful in Dispute ST-98, I dismiss her claim for the remaining \$175 in CRT fees. The strata paid no CRT fees and neither party seeks dispute related expenses.
72. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Ms. Caspersen.



## ORDERS

73. I order that:

- a. Within 15 days of this order, the strata provide Ms. Caspersen with the following documents:
  - i. Any contract between the strata and Keay for the Project.
  - ii. Keay's final report related to the Project, if one exists.
  - iii. Any depreciation report the strata obtained under SPA section 94.
- b. Within 15 days of this order, the strata pay Ms. Caspersen a total of \$175 for CRT fees.
- c. Ms. Caspersen's is entitled to post-judgement interest as applicable under the *Court Order Interest Act*
- d. Ms. Caspersen's remaining claims are dismissed.

74. 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.

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Trisha Apland, Tribunal Member