



# Civil Resolution Tribunal

Date Issued: 22 December 2021

File: ST-2021-003799

Type: Strata

Civil Resolution Tribunal

Indexed as: *Becker v. The Owners, Strata Plan KAS 3991*, 2021 BCCRT 1335

B E T W E E N :

JOEL BECKER and SAMANTHA BECKER

**APPLICANTS**

A N D :

The Owners, Strata Plan KAS 3991

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Chad McCarthy

## INTRODUCTION

1. This dispute is about strata lot views. The applicants, Joel Becker and Samantha Becker, co-own strata lot 11 (known as unit 11) in the respondent strata corporation, The Owners, Strata Plan KAS 3991 (strata). The Beckers say their neighbours, the

owners of strata lot 12 (known as unit 12), placed 2 objects on strata lot 12 that block the Beckers' view of a lake. The Beckers say this violates several strata bylaws, but the strata has not fined the neighbours or taken steps to have the objects removed.

2. The Beckers claim the following in this dispute, for a total of \$279,141.18:
  - a. An order that the strata council enforce 10 separate "bylaw infractions" and immediately remove an "illegal structure",
  - b. \$3,721.18 for reimbursement of lawyer fees,
  - c. \$2,920 for reimbursement of strata fees for "the period of undue hardship",
  - d. \$12,500 for the Beckers' time spent on the issues being disputed,
  - e. \$30,000 for un-issued bylaw fines, calculated as \$200 for each of 10 bylaws allegedly violated each week for 15 weeks,
  - f. \$50,000 for "hardship due to discrimination and alienation", and
  - g. \$180,000 for allegedly lost property value.
3. The strata says the Beckers are not entitled to lawyer fees, strata fees, consulting fees, or amounts for bylaw fines that allegedly should have been levied against the unit 12 owners. The strata says it has not discriminated against the Beckers, and that it reasonably determined that no bylaws were violated. The strata also says there has been no reduction in strata lot 11's value because of view obstruction, and even if there was the strata would not be liable for it, because it would be a claim against the unit 12 owners who are not named parties to this dispute. The strata says it owes nothing and is not required or permitted to remove the disputed objects from unit 12.
4. Mr. Becker represents the Beckers in this dispute. A strata council member represents the strata.

## JURISDICTION AND PROCEDURE

5. 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.
6. 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.
7. 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.
8. 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.
9. The Beckers submitted late evidence, after the deadline for evidence and submissions had passed. CRT staff gave the strata an opportunity to comment on it, which the strata did. I find that this evidence and the parties' comments on it are relevant and I allow them. CRT staff informed the Beckers that no additional evidence would be accepted. The Beckers then submitted additional late evidence. Given that the Beckers were informed about the time periods and procedures for submitting evidence, I find that it would be procedurally unfair to the strata to allow the Beckers

to continue providing late evidence without limitation. The strata must at some point be able to know and respond to the complete case against it, and the CRT must have an opportunity to decide the dispute on an evidentiary record that is not subject to change. Further, I find it would be contrary to the CRT's mandate, which includes speed, efficiency, and fairness, to allow yet more late evidence from the Beckers. In the circumstances, I refuse to allow the additional late evidence. Neither I nor the strata have seen it, and I have not considered it in my decision.

## **ISSUES**

10. The issues in this dispute are as follows:

- a. Are the Beckers entitled to reimbursements for lawyer fees, strata fees, un-issued bylaw fines, and consulting fees for their time?
- b. Do the disputed objects violate strata bylaws prohibiting nuisance?
- c. Do any other strata bylaws or restrictions prohibit the disputed objects?
- d. Did the strata discriminate against the Beckers or treat them significantly unfairly?
- e. What is the appropriate remedy, if any?

## **EVIDENCE AND ANALYSIS**

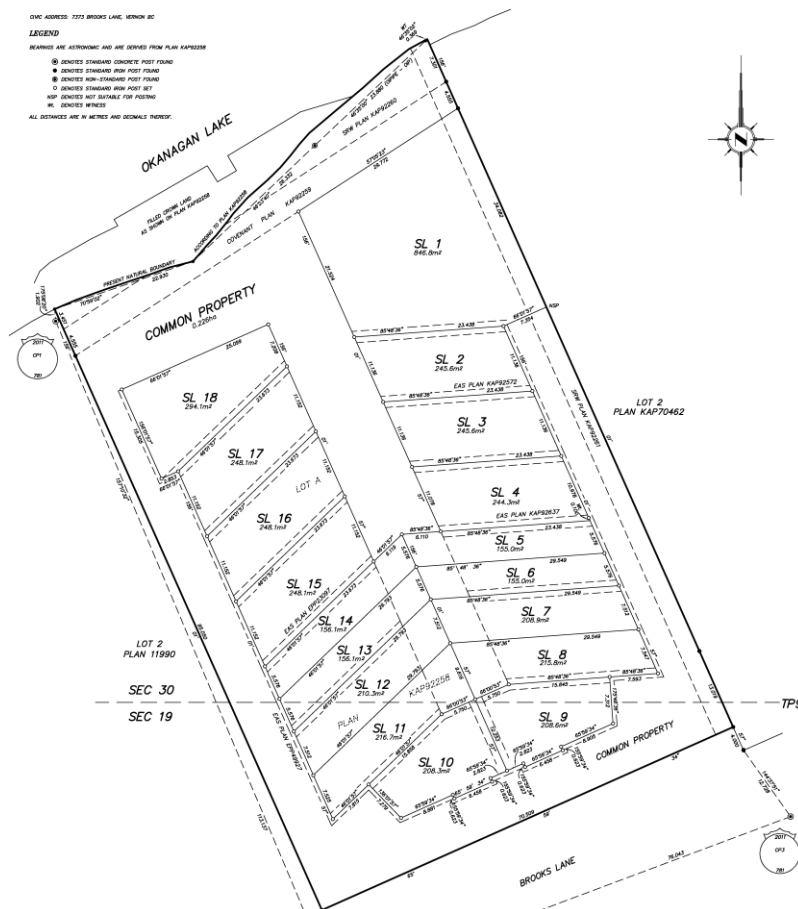
11. In a civil proceeding like this one, as the applicants the Beckers must prove their claims on a balance of probabilities (meaning "more likely than not"). I have read and weighed the parties' evidence and submissions, but I refer only to that which I find necessary to explain my decision.

12. The strata was formed in 2011 under the *Strata Property Act* (SPA). It is a bare land strata consisting of 18 strata lots and common property areas. The owner developer filed non-standard bylaws with the Land Title Office (LTO) on December 8, 2011,

which I find are the bylaws applicable to this dispute. A statutory building scheme applicable to strata lots 7 through 18 was filed with the LTO on April 2, 2013 (SBS).

## Views and Disputed Objects

13. The strata's land is largely rectangular, and is bordered by a lake on one of its short sides. The strata lots are arranged adjacent to each other in a "U" shape within the strata land. The open top of the U faces the lake. Most of each strata lot is filled by a building. Most strata lots on the 2 parallel arms of the U face each other across an open courtyard area in the middle of the U. The strata plan and submitted photos show that those strata lots are oriented parallel to the lakeshore, but are angled slightly toward the lake. Strata lot 11 is on the left arm of the U next to the U's bottom side, and it faces across the courtyard toward the right arm. The following image is a strata plan excerpt showing the placement of the strata lots and the lakefront.



14. Strata lot 11 is adjacent to strata lot 12, which is also on the left arm of the U but is closer to the lake. Submitted photos show that strata lots 11 and 12 share a single duplex building that straddles the 2 lots. Both units have the same orientation, facing mostly across the courtyard to the U's right arm. The building is 2 stories tall. Each unit has a large roof-covered balcony on the courtyard side of the second floor, which also forms the roof and ceiling of a covered patio on the ground floor. The unit 11 and 12 balconies are separated by a glass fence, and their patios are separated by a wall, both of which appear to be located on the boundary between the strata lots.
15. The patio wall is floor-to-ceiling height on the end closest to the building. Starting at a few metres from the building, the wall becomes only about 1 metre high and runs until the ends of the patios furthest from the building. So, the upper portion of the wall appears to have a "cut out" rectangular open area several metres long above the 1-metre-high wall.
16. The owner developer undisputedly installed a tinted glass panel in the cut out, adjacent to the full-height portion of the wall. From photos in evidence, the panel is approximately 1 metre wide and 1 metre tall. There is a similar glass panel between the balconies, adjacent to the building and positioned above the approximately 1-metre-high glass fence there. The patio wall and glass panels appear to be positioned to provide some visual privacy between the unit 11 and 12 balconies and patios.
17. I find photos in evidence show that one can see the lake from the strata lot 11 patio and balcony by looking to the far left. I find it is a narrow view because of the strata lot's position near the bottom of the U-shaped building arrangement and its orientation facing the other buildings across the courtyard. I find that although there is a direct lake view from some positions on the unit 11 balcony and patio, I find that from other positions on the balcony and patio and inside unit 11's building, one can only see the lake by looking through unit 12's balcony and patio area, if at all. From some of those positions, the only view is through the glass privacy panels, and from others it is through the open patio wall cut out or unit 12 balcony airspace.

18. This dispute is about objects placed on the unit 12 balcony and patio so that they overlay the two tinted glass privacy panels between units 11 and 12. Photos show that the objects are rectangular, approximately 2 metres tall and 1 metre wide, thin, and are covered in small, green, plastic leaves. Following the Beckers' initial complaints about the objects, the strata said it would ask the unit 12 owners to remove them. However, October 7, 2020 strata council meeting minutes show that the strata determined this "décor" did not appear to contravene any strata bylaws. The minutes say that the objects should be limited to 40 inches in width, which would be a similar size to the existing glass panels they were positioned behind, and was similar to other shared privacy walls in other duplexes in the strata. I find photos in evidence show that at least one other, similar duplex building in the strata has a full-height shared privacy wall on the patio with no cut out, and likely has less lake view as a result.
19. Much of this dispute turns on the characterization of the disputed objects. The Beckers say the objects are structures or fences, or even a type of hedge or landscaping. They say the objects are prohibited by strata bylaws, were installed without necessary strata authorization, and are contrary to the SBS. The strata says the objects are décor, installed for privacy purposes. The strata says the objects are not prohibited, and their placement does not break any bylaws or other rules.
20. Given the evidence, including a written statement from the unit 12 owners, I find that the objects were placed in front of the glass panels for privacy purposes. It is undisputed that the objects are freestanding, moveable, and not attached to the ground or the building. Based on the submitted photos, I find the objects are best described as privacy screens, which is how I will refer to them.

***Are the Beckers entitled to lawyer fees, strata fees, un-issued bylaw fines, and consulting fees for their time?***

21. The Beckers claim \$3,721.18 in lawyer fees. The Beckers are not represented by a lawyer in this CRT dispute. They undisputedly received assistance from a lawyer about the privacy screen issue before applying for CRT dispute resolution. The claimed lawyer fees pre-date this CRT dispute, so I find they are not CRT dispute-

related expenses, which the CRT only awards in extraordinary circumstances. The Beckers say they were “forced” to hire a lawyer because the strata refused to find that the privacy screens were prohibited. I find the evidence does not show that the strata or its actions required the Beckers to hire a lawyer. Further, I find that nothing in the SPA, strata bylaws, or otherwise, requires the strata to pay for an owner’s lawyer fees. I dismiss the Beckers’ claim for lawyer fees.

22. The Beckers claim \$2,920 for reimbursement of strata fees for “the period of undue hardship.” I infer they mean a time period when the privacy screens have been in place. SPA section 92 says strata lot owners must contribute, by means of strata fees, to the strata’s operating fund and contingency reserve fund. As stated in *Stewart v. The Owners, Strata Plan KAS2601*, 2020 BCSC 809 at paragraph 106, payment of strata fees is mandatory for all strata owners. I find the SPA provides no mechanism by which payments of properly instituted strata fees may be refunded. So, I dismiss the Beckers’ strata fee reimbursement claim.
23. The Beckers claim \$12,500 for 10 days of their time spent dealing with the privacy screen issue, based on Mr. Becker’s alleged consulting rate of \$1,250 per day. Under CRT rule 9.5(5), the CRT does not generally reimburse parties for time spent on a CRT dispute except in extraordinary circumstances, which I find are not present here. Further, there is no provision in the SPA that allows or requires the strata to pay a strata lot owner for their time spent on a disagreement with the strata. I find there is no basis for compensating the Beckers for their time spent on this disagreement, so I dismiss their \$12,500 claim.
24. The Beckers also claim \$30,000 for bylaw fines they say the strata should have issued against the strata lot 12 owners. The strata may issue fines for bylaw contraventions under SPA section 130. However, there is no mechanism under the SPA by which an individual strata lot owner may collect and keep a bylaw fine imposed by the strata. I dismiss the Beckers’ claim for \$30,000 in bylaw fines. I consider below whether the strata unreasonably failed to fine the strata lot 12 owners for alleged bylaw contraventions.

***Do the disputed objects violate strata bylaws prohibiting nuisance?***

25. The Beckers say that the privacy screens block their “entire” lake view. I find this is not completely accurate. I find photos show the objects completely block the lake view from certain positions inside unit 11’s building, and from some locations on the patio and balcony, but there is still a lake view from other locations on strata lot 11. The Beckers also say the screens affect their use and enjoyment of their strata lot, and that they are a nuisance.
26. Nuisance is the unreasonable interference with the use of land. The interference must be intolerable to an ordinary person, and compensation is not awarded for trivial annoyances (see *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64). The Beckers say that the strata should have fined the unit 12 owners, or demanded that they remove the disputed screens, because strata bylaws prohibit nuisance. Specifically, the Beckers say the unit 12 owners have violated bylaws 3(1)(a), 3(1)(c), and 3(3).
27. Bylaw 3(1)(a) says that an owner must not use a strata lot in a way that causes a nuisance or hazard to another person. Bylaw 3(1)(c) says that unless previously agreed to, an owner must not use a strata lot in a way that unreasonably interferes with the rights of other persons to use and enjoy another strata lot. Bylaw 3(3) says that an owner must keep the strata lot in a clean and tidy condition and not use it for storage or for keeping items which in the strata council’s opinion are unsightly or inappropriate.
28. It is undisputed that the privacy screens are entirely within strata lot 12 and are not hazardous. I find the screens do not affect the Beckers’ use of strata lot 11 in any way, except that they partially block a view of the lake, from certain locations on strata lot 11.
29. The Beckers identify other jurisdictions where unreasonably blocking a view can be considered a nuisance. However, in *Zhang v. Davies*, 2017 BCSC 1180, cited by the strata, the BC Supreme Court found that, “Based on the legal principles concerning nuisance, which I set out below, loss of a view – even a beautiful view – cannot be characterized as an interference with the use of land that would be intolerable to an

ordinary person, so as to create an actionable nuisance.” In the circumstances of this dispute, I know of no authority applicable in BC that contradicts *Zhang*, which is binding on me. I find that the disputed screens are not a nuisance. Given the privacy screens’ limited size and position behind existing railings, walls, and glass privacy panels, I find they do not unreasonably interfere with the use and enjoyment of strata lot 11. I find the strata lot 12 owners have not contravened bylaws 3(1)(a) or 3(1)(c).

30. The Beckers says that the screens are made from chicken wire and pallet wood, but I find the photos in evidence show that the materials used to construct the screens are not readily visible. Based on the photos, I find the screens have square edges, and are neat, clean, and uniformly covered in plastic leaves. The strata council chose not to fine the strata lot 12 owners for having screens that were unsightly or inappropriate. I find that determination was reasonable in the circumstances, despite the plastic leaves not being to the Beckers’ taste. I find the evidence does not show that the strata lot 12 owners contravened bylaw 3(3).

***Do any other strata bylaws or restrictions prohibit the disputed objects?***

31. The Beckers allege that the strata lot 12 owners contravened 7 other strata bylaws by placing the screens where they did. I address each of those allegations below.

**Statutory Building Scheme**

32. Strata bylaw 3(1)(f) says that an owner must not use a strata lot in a way that contravenes any provision of a registered statutory building scheme applicable to the strata lot. Bylaw 3(10)(m) says that unless prior written approval is received from the strata council, owners are not permitted to construct any improvements on a strata lot except in compliance with the terms of the statutory building scheme registered against title to the strata lot.
33. Section 1 of the SBS registered against strata lots 11 and 12 says that certain approvals are needed in order for a person to commence “improvements of any sort” on those strata lots. “Improvements” is not explicitly defined, but the SBS says they include excavation or removal of fill, trees, or ground cover, applications for

development approval or a building permit, construction of any buildings or other improvements, and landscape treatment. Section 3 says that no construction trailers, field offices, or similar temporary structures, may be brought onto a lot without prior approval. Notably, nothing in the SBS addresses strata lot views. In context, I find that the improvements requiring approval under the SBS are construction-type permanent alterations to a strata lot or the buildings on it.

34. The Beckers say that the privacy screens are structures, and are unapproved improvements that contravene the SBS, so they also contravene bylaws 3(1)(f) and 3(10)(m). An August 31, 2020 letter from the SBS administrators, CG and SG, said that they had not approved the screen “structures” as required, and that the structures did not meet the SBS requirements and must be removed. I am not bound by CG’s and SG’s interpretation of the SBS or their screen removal request.
35. It is undisputed that certain proposed exterior structures, or alterations to structures, have not been allowed at the strata. These include the addition of or changes to an exterior fireplace and an exterior pergola. However, unlike a fireplace or a pergola, I find that the disputed privacy screens are not structures or improvements to strata lot 12. As noted, they are not fixed to the ground or attached to anything, and they are moveable, so I find they are not fixtures that form part of the strata lot. I find the screens are personal property, or what is known in law as “chattels”, and they are not structures or improvements as contemplated by the SBS, strata bylaws, or SPA.
36. So, I find that the SBS does not govern or limit the screens’ use or placement. As a result, I find that bringing the screens onto strata lot 12 and placing them in front of the glass privacy panels does not contravene the SBS or bylaws 3(1)(f) or 3(10)(m).

### Fencing

37. The Beckers say that the privacy screens are a type of fence or railing, and are prohibited by the following strata bylaws. Bylaw 3(14) says that an owner must not cause or permit any part of a strata lot to be fenced. Bylaw 5(1)(e) says that the strata’s written approval is required before an owner may make a strata lot alteration

that involves “fences, railings or similar structures that enclose a patio, balcony or yard of the strata lot”. The Beckers suggest that this defines what a fence is under the bylaws – a structure enclosing a patio, balcony, or yard. Bylaw 3(10)(a) says that without the prior written approval of the strata council, an owner may not alter the exterior appearance of their strata lot in any way by doing certain listed things, which include installing fences.

38. For the following reasons, I find that the privacy screens are not fences, railings, or similar structures under the strata bylaws. As noted, the screens are moveable and are approximately 1 metre wide. They are positioned in front of existing glass privacy panels, a glass balcony fence, and a low patio wall. Although they are parallel to the fence and wall, I find the screens are not themselves fences, as they do not physically separate the neighbouring strata lots, define the edges of the balconies or patios, or prevent or discourage access to an area. I also find the relatively narrow screens do not enclose all or part of a patio, balcony, or yard. So, I find the strata lot 12 owners have not violated bylaw 3(14), 5(1)(e), or 3(10)(a) by positioning the privacy screens where they are shown in the submitted photos.
39. Strata bylaw 5(1)(g) says that the strata’s written approval is required before an owner makes a strata lot alteration involving any landscaping on that portion of the strata lot that is not occupied by a building located on the strata lot. In a September 22, 2020 letter to the strata council, the Beckers’ lawyers said that a city zoning bylaw says landscaping “means changing, modifying or enhancing the visual appearance of a site including reshaping the earth, planting lawns, shrubs, trees or preserving the original natural vegetation, adding walks, fencing, patios and other ornamental features for the purpose of beautifying or screening the appearance of a lot.” I find the Beckers suggest that the disputed screens may be fences, patios, vegetation, or another ornamental feature.
40. Strata bylaw 5(1)(g) only applies to landscaping on the part of a strata lot that is not occupied by a building. The screens are undisputedly positioned on the building’s second floor, roofed balcony, and underneath that balcony on the building’s covered, tiled-floor patio. On balance, given that the balcony and patio are both within the

perimeter of the building's roofed area, I find the screens are in a portion of the strata lot occupied by a building, and strata bylaw 5(1)(g) does not apply to that area. Even if I found bylaw 5(1)(g) applied to the balcony and patio, I find the privacy screen placements were not alterations to strata lot 12, and were not landscaping as that term is used in the strata bylaws.

41. The Beckers allege that the privacy screens are analogous to a "spite fence" structure, which they admit is "not a Canadian term" but which is allegedly illegal in other civil law jurisdictions and states. The privacy screens are not fences in any event, and I know of no authority applicable in BC that defines what a spite fence is or that prohibits one from being built. Overall, I find that the strata lot 12 owners did not contravene strata bylaw 5(1)(g) by placing the screens in the locations shown in the photos.

#### Views and Vegetation

42. In an undated letter to the CRT, the SBS administrators CG and SG said that strata bylaws were developed to ensure that each resident would have their views of the lake protected, which usually required a sightline through neighbouring properties. However, CG and SG did not identify any specific bylaws that protect strata lot views. I find the only strata bylaw that addresses view preservation is bylaw 3(12). It says that an owner shall not allow trees, shrubs, or other vegetation on their strata lot to grow to a height that, in the strata council's opinion, would unreasonably interfere with the view from any other strata lot and the house constructed on it. If over-height vegetation exists on a strata lot, the strata may trim it at the owner's expense.
43. The Beckers say that the strata has described the privacy screens as artificial vegetation or decorative plants. So, the Beckers say that the screens unreasonably interfere with the view from their strata lot and in particular their house, and should be prohibited by the strata council as a contravention of bylaw 3(12). They also say that this bylaw demonstrates the importance the bylaws place on preserving strata lots' view corridors.

44. In context, I find bylaw 3(12) refers only to trees, shrubs, and other living vegetation. I find it does not apply to an artificial screen that is not subject to growth or the trimming described in the bylaw. So, I find bylaw 3(12) does not apply to the privacy screens even if they are properly characterized as artificial vegetation, and I find they are not. I find that the privacy screens have the appearance of screens covered in plastic leaf décor, as opposed to artificial vegetation designed to mimic living plant landscaping. I also find that bylaw 3(12) relates to preserving views unreasonably obstructed by trees, shrubs, and other living vegetation, but it does not suggest that any strata lot views are protected for any other reason or in any other way. I find that the strata lot 12 owners' placement of the privacy screens did not violate bylaw 3(12).
45. In summary, I find that the strata lot 12 owners did not violate any of the 10 bylaws as alleged by the Beckers. So, I find there was no basis for imposing bylaw violation fines, retroactively or otherwise, on strata lot 12. I dismiss the Beckers' claim that the strata should have imposed \$30,000 in bylaw fines against the strata lot 12 owners, and that the strata be ordered to "enforce" the alleged bylaw infractions. I note that even if I had determined that the strata should have imposed fines, I would not have ordered it to do so, because the strata lot 12 owners are not named parties to this dispute. The strata lot 12 owners have not had a sufficient opportunity to respond to the bylaw violations alleged in this dispute, as required under SPA section 135 and the principles of procedural fairness.
46. I also dismiss the Beckers' claim for an order that the strata council immediately remove the privacy screens. They are not safety hazards or likely to cause significant damage (see bylaw 7(1)(a)), are not the strata's responsibility to repair and maintain (see bylaw 7(1)(b)), are not vegetation subject to pruning (see bylaw 3(12)), and are not part of the strata's landscape or irrigation maintenance responsibilities (see bylaws 7(3) and 8(2)). So, I find the bylaws provide no authority for the strata to remove the privacy screens from within strata lot 12.

***Did the strata discriminate against the Beckers or treat them significantly unfairly?***

47. The evidence and submissions show that the Beckers have poor relations with the strata lot 12 owners, whom they accuse of harassment and “stalking”, among other complaints. However, as noted the strata lot 12 owners are not named parties to this dispute, and the requested relief is not directed toward the strata lot 12 owners.
48. I find the Beckers allege that the strata council, and specific council members they identify only by the strata lots they own, have harassed them and treated them unfairly, including by making slanderous statements. They seek \$50,000 in damages for “hardship due to discrimination and alienation”.
49. The Beckers have brought this dispute under the CRT’s strata property jurisdiction. CRTA section 121(1) says the CRT has jurisdiction over a claim in respect of the SPA, concerning listed topics including the interpretation or application of the SPA or a regulation, bylaw, or rule under the SPA, use or enjoyment of a strata lot, money owing, and actions or decisions by the strata against an owner, among others. There is no strata bylaw about harassment or slander, so I find the Beckers’ harassment and slander allegations do not fall within CRTA section 121(1), and are beyond the CRT’s strata property jurisdiction.
50. The Beckers do not identify by name the strata council members who allegedly harassed them. No individual strata council members are named as parties to this dispute. So, I cannot make orders against them, because they have not had an opportunity to respond to the Beckers’ allegations.
51. The Beckers also suggest that in performing their duties, the strata council members have breached the standard of care set out in SPA section 31. That section says that each council member must act honestly and in good faith, with a view to the best interests of the strata. Council members must also exercise the care, diligence, and skill of a reasonably prudent person in comparable circumstances. I find that this standard of care would capture claims of harassment by council members, so I find the Beckers’ harassment claim is a claim under SPA section 31.

52. However, in *Rochette v. Bradburn*, 2021 BCSC 1752 at paragraph 82, the court found that the SPA does not allow a strata lot owner to sue the strata for violations of section 31. Further, in *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32 at paragraph 267, the court found that the duties of strata council members are owed to the strata and not to individual strata lot owners. This means that a strata lot owner may not bring a claim against the strata for a breach of strata council members' SPA section 31 duties. I am bound by the decisions in *Rochette* and *Sze Hang*, so I find the Beckers have no standing to bring their SPA section 31 claims against the Beckers. I dismiss the Beckers' claims to the extent they allege harassment or slander by strata council members.
53. I find the Beckers also claim, in substance, that the strata treated them significantly unfairly by not ordering the removal of the privacy screens at issue. Under section 123(2) of the CRTA (formerly section 48.1(2)), the CRT may make orders remedying significantly unfair actions or decisions by a strata corporation or its strata council (see *The Owners, Strata Plan LMS 1721 v. Watson*, 2018 BCSC 164).
54. Given my findings above, including that no bylaws were violated and there was no basis for the strata to remove the privacy screens or fine the strata lot 12 owners for them, I find the strata did not treat the Beckers significantly unfairly or discriminate against them. In particular, I find the Beckers were not treated differently than other strata lot owners with respect to moveable patio and balcony items, and as noted the Beckers are not entitled to views through the privacy screens placed on strata lot 12. Upon weighing all of the evidence before me, I find that it does not show that the strata's decisions and actions involving the privacy screens were based on anything other than a desire to balance the strata lot 12 owners' privacy with the Beckers' lake views. The Beckers allege that the strata council has a vendetta against them, and that the strata went to great lengths to ensure that their interior lake view was "stolen" from them, but I find this is not supported on the evidence before me.
55. I dismiss the Beckers' \$50,000 hardship claim.

***What is the appropriate remedy, if any?***

56. The Beckers' remaining claim is for \$180,000 for strata lot 11's allegedly lost property value due to "complete obstruction of lake view". As noted, I find the Beckers' lake view is not completely obstructed by the disputed privacy screens. I find certain narrow lake views from inside the strata lot 11 building are blocked, but I find that the majority of the strata lot 11 lake views, particularly from locations on the balcony, patio, and courtyard, are not blocked. As noted, nothing in the bylaws or the SPA protects the Beckers' view through the strata lot 12 privacy screens.
57. Given my above findings that the strata was not required to fine the strata lot 12 owners for the privacy screens or to request their removal, and did not treat the Beckers unfairly, I find there is no basis for finding that the strata is responsible for any alleged reduction in strata lot 11's market value due to reduced lake views.
58. Further, although the Beckers' strata lot is listed for sale, I find there is insufficient evidence showing that its value has decreased at all, much less as a result of reduced lake views. The Beckers submitted value calculations based on their strata lot having no lake view, which I find is not the case. I find those calculations are speculative and based on faulty assumptions, and are therefore unreliable. I also find there is insufficient evidence showing what the Beckers paid for strata lot 11, what the likely or actual sale price of strata lot 11 is at present, and whether any reduction is due to the presence of the strata lot 12 privacy screens. Further, I find the Beckers do not adequately explain how it is possible for the strata lot 12 owners to instantly alter strata lot 11's market value by \$180,000 simply by repositioning the approximately 1-metre-wide moveable privacy screens from behind the existing wall, fence, and glass privacy panels. I dismiss the Beckers' claim for \$180,000 for decreased property value.

**CRT FEES AND EXPENSES**

59. 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 find the Beckers were unsuccessful in this dispute, but the strata paid no CRT fees and claims no dispute-related expenses. So, I order no reimbursements.

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

## **ORDER**

61. I dismiss the Beckers' claims, and this dispute.

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Chad McCarthy, Tribunal Member