



# Civil Resolution Tribunal

Date Issued: April 14, 2022

File: ST-2021-006939

Type: Strata

Civil Resolution Tribunal

Indexed as: *Huff v. The Owners, Strata Plan VR2086*, 2022 BCCRT 437

BETWEEN:

JERRY HUFF and CLAIRE HUFF

**APPLICANTS**

AND:

The Owners, Strata Plan VR2086

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This dispute is about the enforcement of a bylaw. The applicants, Jerry Huff and Claire Huff, own a strata lot in the respondent strata corporation, The Owners, Strata Plan VR2086 (strata). The Huffs want a bylaw (bylaw 2.1) about hiring a management agent to be enforced by the strata, because they say the strata is not properly

addressing repair issues, and so a strata manager would help address these issues. The strata says it already employs a management agent.

2. The owners are self-represented. The strata is represented by a council member.
3. For the reasons set out below, I dismiss the Huffs' claim.

## **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). CRTA section 2 says that 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.
5. Section 39 of the CRTA says that 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.
6. Section 42 of the CRTA says that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
7. Under section 123 of the CRTA, 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.

8. The Huffs provided evidence and some submissions about various issues with the strata's handling of maintenance, such as an incorrect fence paint job, leaks in the carport, and installation of windows. However, the Huffs have not requested any remedy in relation to these complaints, except that they request a management agent be hired, in compliance with the bylaw stated above. As such, I have not addressed these complaints specifically.

## **ISSUE**

9. The issue in this dispute is whether the strata must comply with bylaw 2.1.

## **BACKGROUND**

10. Documents filed with the Land Title Office (LTO) show that the strata was created in December 1987. In February 1988, the Huffs purchased SL3. There are 7 strata lots in the strata, and each owner is a member of the strata council.
11. The Huffs wish to rely on Bylaw 2.1 of the 1989 bylaws, which states "[t]he council will employ a management agent who will administer the day-by-day operations" and lists various functions a management agent may undertake on behalf of the strata.
12. The strata repealed and replaced its 1989 bylaws by filing new bylaws in the LTO in April 2002. The strata filed a further bylaw amendment in 2004, but I find that is not relevant to this dispute. The 2002 bylaws are the strata's current bylaws.
13. In relation to a management agent, the strata's current bylaw 11.1 states "[t]he council will employ a management agent who will administer the day-by-day operations". No examples of duties are listed with the new bylaw.
14. The Huffs requested and received a hearing to propose using a management company. After the hearing, it is undisputed the strata council advised the Huffs their proposal was voted on and 6 of 7 strata lots voted no. The strata says this is because it already employs a management agent, Royal LePage Westside Realty (RLWR).

## EVIDENCE AND ANALYSIS

15. In a civil claim such as this, the Huffs as applicants, bear the burden of proof on a balance of probabilities. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
16. I find the strata is already abiding by bylaw 11.1 by employing a strata manager which administers day-by-day operations of the strata. Therefore, I dismiss the Huffs' claims. My reasons follow.
17. First, the strata says it already has a management company in place, RLWR, which handles the strata's financial reports, banking, paying of utilities and taxes, maintains the contingency reserve fund, does office administration, secures and pays for insurance, prepares annual budgets, collects funds for special levies, and calls and attends AGMs. Although the strata did not provide a contract with this management company, it provided copies of financial reports and balance sheets which indicate they were prepared by RLWR.
18. The Huffs do not dispute that RLWR handles these items, but appear to argue that it is not enough, and that a strata manager needs to be more involved, for example ensuring maintenance around the property is completed. Meanwhile, the strata says it fully complies with the bylaw. Given the Huffs do not dispute it, I accept RLWR handles the duties described above.
19. There is no definition in the strata's bylaws or in the *Strata Property Act* (SPA) that defines "day-by-day operations". Based on the evidence before me, I accept that the strata hired RLWR as its management agent, pursuant to bylaw 11.1. Therefore, I find there is no need to order the strata to comply with the bylaw, as it has already fulfilled its duty to do so.
20. Second, I would not have made the requested order in any event. As outlined in prior CRT decisions, a strata corporation is always required to follow the SPA. This includes a duty under SPA section 26 to enforce its bylaws. Ordering the strata to do

what it is already legally obligated to do would serve no practical purpose, and is likely unenforceable.

21. For these reasons, I dismiss the Huffs' claim.

### **CRT FEES, EXPENSES AND INTEREST**

22. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. As the Huffs were not successful, I find that they are not entitled to reimbursement of their tribunal fees. The strata did not pay any fees, or claim any dispute-related expenses.

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

### **ORDER**

24. I order the Huffs' claims, and this dispute, dismissed.

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Andrea Ritchie, Vice Chair