



Civil Resolution Tribunal

Date Issued: June 9, 2022

File: ST-2021-007272

Type: Strata

Civil Resolution Tribunal

Indexed as: *Slack v. The Owners, Strata Plan EPS4413*, 2022 BCCRT 681

B E T W E E N :

WILLIAM SLACK

APPLICANT

A N D :

The Owners, Strata Plan EPS4413

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about access to strata corporation records.
2. The applicant, William Slack, co-owns a strata lot in the respondent strata corporation, The Owners, Strata Plan EPS4413 (strata).

3. Mr. Slack says the strata has refused to provide him access to inspect strata records, contrary to section 36 of the *Strata Property Act* (SPA). He seeks orders that the strata make available for his inspection all of the records that the strata is required to prepare and retain under SPA section 35, and that the strata provide him with copies of records he selects during the inspection.
4. The strata says that Mr. Slack has refused to provide a specific list of the documents he would like to inspect. It says most of its documents are in electronic format located on its strata manager's computer system, and it cannot give Mr. Slack unrestricted access to that system. The strata says it is willing to respond to a reasonable document request, once such a request is made.
5. Mr. Slack is self-represented. The strata is represented by a strata council member.

JURISDICTION AND PROCEDURE

6. 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.
7. 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.
8. 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.

9. 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.

ISSUE

10. Has the strata failed to provide Mr. Slack with the opportunity to inspect documents contrary to section 36 of the SPA?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant Mr. Slack must prove his claims on a balance of probabilities (meaning “more likely than not”). I have read all of the parties’ evidence and submissions, but I refer only to what I find is necessary to explain my decision.
12. The evidence shows that on May 19, 2021, Mr. Slack emailed the strata manager, KD, to request strata records. Mr. Slack referred to the strata’s obligation to make records and documents referred to in section 35 of the SPA available for inspection to owners. Mr. Slack stated that he would like to view the section 35 records at KD’s place of business and requested that he make them available as soon as possible.
13. In response, KD sent Mr. Slack a May 21 email, stating that Mr. Slack must specify the records he wished to inspect, as most of the strata’s documents are electronic and the strata management company could not provide Mr. Slack with access to its system. KD stated that once Mr. Slack provided specific details, KD would obtain and make copies at a cost of \$0.25 per page, plus a \$125 per hour plus GST fee for his time and services, with a 2-hour minimum charge. KD also stated that if Mr. Slack was referencing all strata information under section 36, council members would need to gather the information, as KD could not commit the estimated minimum of 10 hours to complete that work.

14. On June 2, Mr. Slack responded to KD, stating he only wanted to inspect the records, and would be specific about documents he wanted copied when his inspection was complete. He did not agree to any fee for inspecting the records and again requested KD schedule a time for his inspection.
15. On June 3, KD referred Mr. Slack's request to the strata council. The council president, MC, emailed Mr. Slack requesting specific information about the reasons for his request and exactly what he was looking for. MC stated the council was not trying to block his request or deny assistance, but that she could not authorize him to access the strata manager's electronic files and system. Mr. Slack responded that he would not provide his reasons for the request, and he had provided all the information MC needed to comply.
16. On June 18, 2021, Mr. Slack requested a hearing with the strata council, which was held on July 14, 2021. Following the hearing, the strata's lawyer sent Mr. Slack a July 21, 2021 letter confirming the strata's position that due to the electronic format of the strata's records, Mr. Slack must specify the particular records he wished to inspect, so council could make copies for him, for which he would be charged.
17. It is undisputed that despite multiple requests, Mr. Slack has not provided the strata with a specific list of records he wishes to inspect, other than referring to the entirety of SPA section 35.
18. SPA section 35(1) sets out a list of the records that a strata must prepare, such as minutes of council meetings, lists of council members, lists of owners and tenants, books of account showing money received and spent and the reason for the receipt or expenditure.
19. Section 35(2) sets out an extensive list of the records a strata must keep copies of. The list includes specific documents, such as the strata plan, SPA, *Strata Property Regulation* (SPR), bylaws, resolutions for changes to common property, budgets and financial statements, and bank statements, among others. It also includes wider categories of documents such as written contracts the strata has entered into, correspondence sent or received by the strata, certain reports about repair or

maintenance in the strata, and records or documents the owner developer is required to provide to the strata, among others.

20. SPA section 36 says that on receiving a request, the strata must make the records described in section 35 available for inspection and provide copies to an owner within 2 weeks.
21. Mr. Slack argues that he has made a “simple” request for documents that he is entitled to inspect under the SPA, and that the strata has failed to comply with its obligations under SPA section 36.
22. Mr. Slack refers to the CRT decision *Johnson v. The Owners, Strata Plan KAS 3716*, 2021 BCCRT 797, in which a tribunal member addressed an owner’s request for the strata to provide an owner contact list. The strata had refused to provide the list for privacy reasons. I agree with the tribunal member’s conclusion in *Johnson* that the strata cannot refuse to provide owners with records or documents it is required to prepare and keep under section 35 of the SPA. However, I find that the strata has not explicitly refused to provide Mr. Slack with any particular records, so *Johnson* is not directly relevant to this dispute.
23. Rather, it is the strata’s position that Mr. Slack’s request is unreasonable because he has not identified the specific records that he wishes to inspect.
24. Previous CRT decisions have found that it is implied in SPA sections 35 and 36 that document requests must be reasonable, even though those section are, on their face, mandatory provisions: see *McDowell v. The Owners, Strata Plan 1875*, 2018 BCCRT 11 at paragraphs 98 to 99, *Mellor v. The Owners, Strata Plan KAS 463*, 2018 BCCRT 1 at paragraphs 34 to 37, and *Bowie v. The Owners, Strata Plan VIS 5766*, 2020 BCCRT 733. While these decisions are not binding on me, I agree with the reasoning in them, and I apply it here.

25. I find Mr. Slack's request is essentially a request to review all documents the strata is required to keep under SPA section 35(1) and (2). I note that Mr. Slack did not include any date range in his request to inspect documents. So, I infer his request is to inspect every document the strata is required to keep under SPA section 35 for the entire period the strata is required to keep it, as set out under regulation 4.1 of the SPR.
26. On balance, I find Mr. Slack's request is unreasonable because it is overly broad. I find there are many records listed in SPA section 35 that are available online for free or as evidence in this dispute, such as the strata plan, the SPA, the SPR, and the bylaws. From the evidence Mr. Slack provided in this dispute, I find he already has a list of council members, the minutes from strata council meetings, as well as budgets and financial statements. It is also undisputed that Mr. Slack made a separate request for the strata to provide a list of owners, which the strata has provided.
27. Further, as noted, SPA section 35 says the strata must keep all correspondence sent or received by the strata and the strata council. I find this likely includes voluminous documents that could be an enormous undertaking to compile. While having to produce large numbers of documents does not in itself mean that a records request is unreasonable, I find under the circumstances here, Mr. Slack's blanket request for all existing documents is unnecessary and excessive.
28. I agree with the comments in *Bowie* that unreasonable document requests can unduly burden the strata, to the detriment of all the other owners. I find that requiring the strata to compile each and every section 35 document and record for Mr. Slack's inspection, including documents he reasonably knows he does not want or need, or that he already has, would be a waste of the strata's time and resources. For this reason, I dismiss Mr. Slack's claim for the strata to make all documents listed in SPA section 35 available for his inspection.
29. I note that the strata also suggested Mr. Slack's request was unreasonable because it would require the strata to provide full access to the strata manager's computer system to inspect the documents, which are largely in electronic format. The evidence

shows the strata has taken the position that instead, it would copy any requested documents and charge Mr. Slack for those copies.

30. The strata may charge a fee for copies of a requested record or document that it provides under section 36, up to a maximum of 25 cents per page, as set out in SPR 4.2(1). Prior non-binding CRT decisions, with which I agree, have found that owners are not obligated to pay any additional fees for copies, which I find would include charges for a strata manager's time to compile requested documents: see for example *Deng v. The Owners, Strata Plan LMS 3904*, 2018 BCCRT 495 and *Drance v. The Owners, Strata Plan KAS 3625*, 2021 BCCRT 725.
31. However, Mr. Slack was very clear that he did not want copies of the requested documents, as he wanted to inspect the documents before determining what he wanted copied. Under SPR 4.2(2), no fee can be charged to an owner for the inspection of a record or document requested under section 36 of the SPA.
32. I find this means the strata is required to make any documents set out in SPA section 35 available to owners for inspection on reasonable request, for no charge. How the strata chooses to accomplish this, I leave up to the strata. So, while I do not find it is necessary to order the strata to do so, I remind the strata that it must comply with SPA section 36 regarding producing its records for inspection at no charge to the owner regardless of whether they exist in paper or electronic format.

CRT FEES AND EXPENSES

33. 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. As Mr. Slack was unsuccessful, I dismiss his claims for reimbursement of CRT fees and dispute-related expenses.
34. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Mr. Slack.

ORDER

35. I dismiss Mr. Slack's claims and this dispute.

Kristin Gardner, Tribunal Member