



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Lipton v. The Owners, Strata Plan VIS 4673*, 2022 BCCRT 1010

B E T W E E N :

VALERIE LIPTON

APPLICANT

A N D :

The Owners, Strata Plan VIS 4673

RESPONDENT

AMENDED¹ REASONS FOR DECISION

Tribunal Member:

J. Garth Cambrey, Vice Chair

INTRODUCTION

1. This strata property dispute is about the operation of a strata corporation's water system, posting of documents on a website, and document requests of an owner.

2. The applicant, Valerie Lipton, co-owns a strata lot (SL29) in the respondent strata corporation, The Owners, Strata Plan VIS 4673 (strata).
3. The strata owns and operates a private water reservoir that is fed by underground wells (water system). It is located in the Regional District of Nanaimo (RDN). Most strata lots in the strata are connected to the water system, but some strata lots have their own private wells and are not connected to the system. It is undisputed that the water system falls under the authority of the Vancouver Island Health Authority (VIHA) and the *District Water Protection Act* (DWPA). The strata retains a contractor to operate the water system (water operator). The strata also operates a website with an address of LQRV.ca (strata website).
4. Ms. Lipton says the strata has not posted certain documents relating to its water system to the strata's website. She also says the strata's contracted water operator lacks the necessary qualifications and does not have a back up operator (interim water operator) to operate the water system, which she says is contrary to the DWPA. Ms. Lipton also says the strata has not provided her with copies of documents it is required to provide under the *Strata Property Act* (SPA) and owes her \$77.38.
5. As remedy, Ms. Lipton seeks orders that the strata:
 - a. Post all documents, invoices, and payments associated with the water system to one location on the strata website,
 - b. As a condition of any water operator contract, stipulate an interim water operator and remuneration for that service, with the interim water operator to be selected from among suitable strata owners,
 - c. Provide her with strata documents she requested in 2020 and 2021, but has not received, and
 - d. Reimburse her \$77.83 for a remaining credit on her strata lot account.
6. The strata disagrees with Ms. Lipton. It says the legislation does not require water system documents to be posted on the strata's website. It also says the water operator

is well-qualified and already has a trained interim water operator. The strata says it has provided Ms. Lipton with all requested documents it has that she is entitled to receive under the SPA and that she is not owed any refund. It says Ms. Lipton's claims are either resolved or moot (without any live controversy), and asks that they be dismissed.

7. Ms. Lipton is self-represented. A strata council member represents the strata.
8. For the reasons that follow, I refuse to resolve Ms. Lipton's added claims about strata council members acting contrary to their standard of care. I dismiss Ms. Lipton's remaining claims.

JURISDICTION AND PROCEDURE

9. 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 continue after the CRT process has ended.
10. CRTA section 10 says 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 amended¹ to remove those issues.
11. 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 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.

12. 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.
13. 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.

Preliminary Matters

Withdrawn claims

14. Ms. Lipton's application for dispute resolution services submitted on November 24, 2021 identified 6 claims. Subsequently, she withdrew 3 of her claims leaving those I have set out above plus a claim for dispute-related fees and expenses. The strata did not object to the claims' withdrawal and the CRT issued an Amended Dispute Notice on March 23, 2022. The strata declined to amend its Dispute Response despite being given the opportunity to do so. In these circumstances, I find the process to amend the claims was procedurally fair and there is no prejudice to either party if the CRT adjudicates the remaining claims set out in the Amended Dispute Notice. My decision below relates only to those claims and the related requested remedies I have identified above.

SPA Section 31 claims

15. In submissions, Ms. Lipton raises issues suggesting certain strata council members bullied and harassed her, or used the water operator "as political leverage to achieve their objectives in alienating and prejudicing Owners against [her]". I find these alleged actions fall within the strata council members' standard of care set out in SPA section 31, which Ms. Lipton appears to acknowledge.
16. The court has found that individual strata lot owners do not have standing (legal authority) to make claims for breaches of SPA section 31. See for example, *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32 and *Rochette*

v. Bradburn, 2021 BCSC 1752. As earlier noted, CRTA section 10(1) requires that I refuse to resolve matters that are outside the CRT's jurisdiction.

Additional claims and remedies made in submissions

17. In her submissions, Ms. Lipton appears to add a number of claims and remedies. These include that the strata council failed to adequately repair and maintain common property (resulting in significant unfairness), and failed to address known slope failures within the development. She also requested an apology from the strata council.
18. The purpose of the Dispute Notice is to define the issues and provide fair notice to the respondent. Procedural fairness requires that a party be notified of claims against it and have a fair opportunity to respond. Given the Dispute Notice was amended, I find Ms. Lipton had the opportunity at that time to add additional claims and remedies but chose not to do so. Therefore, I decline to address Ms. Lipton's additional claims and requested remedies that were not included in the March 23, 2022 Amended Dispute Notice.

Late Evidence

19. Ms. Lipton provided evidence past the deadline set by CRT staff. The strata says the late evidence should not be admitted and suggests it consists of 149 additional documents that are "either entirely unrelated to the resolutions sought in this matter or ... relate to matters already answered in the Strata Corporation's response submissions". The strata also says that the evidence could have been provided at the outset and admitting the late evidence is procedurally unfair and unreasonably burdensome on the strata.
20. I do not agree with the strata that the late evidence consists of 149 additional documents. However, as discussed below, I agree the evidence is unrelated to the requested remedies. I find the strata had the opportunity to review and provide submissions on the late evidence and did so.
21. Further, after the Tribunal Decision Process was closed, Ms. Lipton emailed CRT staff asking to submit further evidence, which staff brought to my attention. Through staff, I

asked Ms. Lipton to provide the additional evidence to the strata and the CRT, along with reasons why she wanted it considered. The strata provided submissions on the additional evidence and further evidence of its own. Ms. Lipton then provided final submissions on the additional evidence. Given the process that was followed, I find there are no procedural fairness issues for either party. As with Ms. Lipton's late evidence, I find the additional evidence is unrelated to the requested remedies, so I have given both the late evidence and additional evidence no weight.

22. The strata also says the late evidence substantiates its arguments that Ms. Lipton interfered with the strata's governance and management. However, I note the strata did not file a counterclaim, so I have not considered Ms. Lipton's alleged interference with the strata.

Time and character limit extensions

23. Ms. Lipton objected to a time limit extension for submissions granted to the strata by CRT staff. She says she worked hard to meet her timelines, so the strata should have done the same. There is no evidence before me about the strata's request for a time extension. However, CRT rule 1.17 (1) states that the CRT can extend or shorten any timeline for any step or phase of the tribunal process. Also, CRT rule 7.3(8) says a party may contact a case manager to request a time extension or an extension on the character limit for submissions. So despite Ms. Lipton's objection, I find there was no procedural fairness or prejudice resulting to Ms. Lipton for the CRT's action of extending the strata's timeline to submit evidence.
24. I also note that Ms. Lipton acknowledges she was granted an extension on the character limit for her submissions. I find it would be unreasonable for Ms. Lipton to object to the strata's time extension while at the same time requesting a character extension of her own. For these reasons, I decline to address Ms. Lipton's objections about the strata's extension any further.

Strata's use of a helper

25. Ms. Lipton also objects to the strata using a lawyer as a helper. While section 20 of the CRTA creates a general rule that parties must represent themselves (except in certain circumstances that do not apply here), a party is entitled to use a helper throughout the tribunal process under CRT rule 1.16. The strata having assistance, even from a lawyer, in drafting its submissions is not improper. In any event, I am satisfied Ms. Lipton understood the proceedings and that no procedural fairness occurred.

Request to anonymize this decision¹

26. As described in detail below, it came to my attention after I made my original decision that Ms. Lipton had requested of CRT staff on February 1 and May 10, 2022, that her name and the respondent strata corporation be anonymized in the public version of this decision. Ms. Lipton was asked to provide reasons for her request, which she did. However, through inadvertence, Ms. Lipton's requests for anonymity were not before me at the time this dispute was assigned to me.

27. I made my decision on September 22, 2022 without being aware of Ms. Lipton's requests. After CRT staff provided my decision to the parties, staff informed me of Ms. Lipton's email requests and I requested the published version of my original decision be removed from the CRT website until I decided the anonymization request.

28. At common law, an administrative tribunal may reopen a proceeding to cure a "jurisdictional defect", which is reflected in section 51(3) of the CRTA.

29. The British Columbia Court of Appeal discussed the scope of the power to reopen a hearing to cure a jurisdictional defect in *Fraser Health Authority v. Workers' Compensation Appeal Tribunal*, 2014 BCCA 499. Among other things, it is a jurisdictional defect for an administrative tribunal to fail to provide the parties with procedural fairness.

30. I find that in the circumstances of this dispute it would be a breach of procedural fairness for me not to address Ms. Lipton's requests. Therefore, I decided under the

authority of CRTA section 51(3) to reopen this dispute to correct this error in jurisdiction by considering Ms. Lipton's requests for anonymity.

31. Through staff, I requested submissions from Ms. Lipton and the strata on the issue of anonymizing the public version of this decision. Ms. Lipton submits that other parties named in the dispute were not identified in my original decision, but I find Ms. Lipton is mistaken about who is a party. It is clear that only Ms. Lipton and the strata are parties to the dispute. The strata's representative and strata employees are not parties to the dispute although their names were mentioned in submissions and contained in evidence.
32. Ms. Lipton is correct that CRTA section 86(3) permits the CRT to remove or obscure personal information with anonymous identifiers. However, the CRT's decisions generally identify the parties because these are considered open proceedings. This is done to provide transparency and integrity in the justice system. The CRT generally anonymizes decisions in certain limited situations such as disputes that involve a vulnerable party, such as a child or adult with impaired mental capacity. The CRT also anonymizes decisions in disputes that include sensitive information, such as medical issues. Other than these circumstances, the CRT generally discloses the parties' names.
33. Ms. Lipton is also correct that CRT rule 9.4(2) requires the CRT to consider its "Access to Information and Privacy Policy" (Policy) when considering how to protect the privacy of parties. As noted in the Policy at page 4, the CRTA requires the CRT to post all final decisions on its website, stating "**there are extraordinary circumstances where the CRT will not publicly identify the parties to those decisions**" [my emphasis]. The Policy goes on to state:

If a party establishes that the need for protection of personal information outweighs the goal of transparent CRT proceedings, the CRT chair or the member assigned to decide a dispute may direct that a party's name and other personal information be anonymized in the decision that is posted to the CRT website.

34. The Policy also lists factors a tribunal member will consider when deciding to anonymize a decision. They are:
- a. the circumstances of the case and nature of the evidence provided;
 - b. the potential impact of disclosure on the person; and
 - c. how anonymization would impact the CRT's goals of transparent decision-making processes and protection of personal information.
35. Ms. Lipton expressed concern about her potential ability to sell her strata lot and potential repercussions from the strata, citing allegations of repercussions relating to a different CRT dispute between the strata and different owners, should this decision not be anonymized. The strata submits that it has "no problem with the request for anonymity".
36. Considering the factors in the Policy, I find Ms. Lipton has not established that the need for her protection of personal information outweighs the goal of transparent CRT proceedings, so I will not anonymize Ms. Lipton's name. In particular, I find the concerns raised by Ms. Lipton are concerns that any applicant owner could raise and do not rise to the level of extraordinary circumstances.

ISSUES

37. I find the only remaining issues before me in this dispute are:
- a. What documents associated with the water system and water operator, if any, must the strata post to its website?
 - b. Must the strata require its water operator to train an interim water operator as a condition or any water operator contract? If so, should the interim water operator be a strata owner?
 - c. Is the strata required to provide additional documents to Ms. Lipton?
 - d. Is Ms. Lipton entitled to a refund of \$77.83?

BACKGROUND

38. As applicant in a civil proceeding such as this, Ms. Lipton must prove her claims on a balance of probabilities, meaning “more likely than not”. I have reviewed all the submissions and evidence provided by the parties, but I refer only to information I find relevant to give context for my decision.
39. The strata is a unique residential strata corporation created in October 1998. It is undisputed, and I agree based on the strata plan, that the strata is not a bare land corporation, despite previous CRT decision involving the strata that describe it as such.
40. The strata plan shows the strata consists of 286 strata lots. The strata lots are made up of 2 parts. The first part is what the bylaws refer to as “storage units”. The second part is shown as “private yard areas” on the strata plan. The storage units appear to be of equal size and are located within 9 buildings located on common property. The private yard areas range in size and have different zoning under the RDN as expressed in the strata bylaws. According to the strata, the strata lots occupy 575 acres of land.
41. The strata filed a complete new set of bylaws with the Land Title Office (LTO) on January 18, 2018, which I find are the strata’s bylaws applicable to this dispute. I find bylaw amendments filed in 2019 and 2020 are not relevant to this dispute. The Standard Bylaws do not apply. I address relevant bylaws applicable to this dispute below, as necessary.
42. There is no dispute that the strata must abide by decisions, policies and guidelines of the VIHA and that its water system is defined as a small water system under the *Drinking Water Protection Regulation* (DWPR). There is also no dispute that the strata website is registered to and operated by the strata.

REASONS AND ANALYSIS

What documents associated with the water system and water operator, if any, must the strata post to its website?

43. Both parties provided extensive submissions and evidence about the water system. Most were about historical issues, and in some, Ms. Lipton alleges the strata and its council failed to perform its duties and obligations. The strata addressed Ms. Lipton's arguments, but I find a great amount of the submissions and evidence are not relevant to this dispute. I appreciate that the water system has posed several problems to the strata in recent years and that some strata owners, including Ms. Lipton, feel the strata council could do a better job of informing owners on the water system status, repairs, and upgrades. However, based on Ms. Lipton's requested resolution, namely that certain water system information should be posted to the strata website, I find I need not address the background issues that gave rise to Ms. Lipton's claim. Nor do I need to determine if the strata is operating contrary to SPA or DWPA, except to directly address Ms. Lipton's claim that certain documents and information should be posted to the strata website. This is the focus of my discussion.
44. I note that nothing in this decision should be considered enforcement of the DWPA or DWPR, as I find enforcement of that legislation lies with the Public Health Officer.
45. Ms. Lipton requests 12 items associated with the water system be posted to strata website. I summarize them as follows:
- a. The water operator's contract, license credentials, certificate & operating permit, and system decals,
 - b. Emergency Response Contingency Plan required under the DWPA,
 - c. Monthly/periodic water operator invoices and payments,
 - d. Water system construction permit,
 - e. Water operator maintenance reports listing purchases and installation of hardware and equipment,

- f. Invoices detailing purchased water system equipment and maintenance reports,
 - g. VIHA and Ministry of Forestry correspondences, advisories, licenses and permits, Certificate of Public Convenience and Necessity water operator certificate,
 - h. VIHA/Provincial Health Drinking Water Protection Plan,
 - i. Environmental Operators Certification Program Guide,
 - j. Links to the DWPA and DWPR,
 - k. Strata well water system equipment specifications and registration numbers (backup generators), and
 - l. Drilled well records, well schematics, and engineering reports.
46. In reply, the strata says there is no requirement under the SPA or DWPA for the strata to post any of its water system records or documents to its website. For the following reasons, I agree with the strata.
47. Ms. Lipton identifies some of the listed documents as records the strata is required to maintain and disclose under the SPA. Other documents she says are required to be prepared and maintained under the DWPA. However, contrary to Ms. Lipton's submissions, just because the strata is required to prepare or disclose a document to an owner does not mean the document must be posted to its website.
48. I find the notice requirements under both the SPA and DWPA do not require posting information to a website. There is no mention of "website" in the SPA nor the DWPA. While the DWPA and DWPR require notification to the public and water system users in certain circumstances, and making documents "accessible" to users (see for example DWPR section 13(54)), I do not find posting information to a website is a required method of notification or accessibility under the legislation.
49. SPA section 61 addresses how a strata corporation may give notice to a person under the SPA, but does not require notice be posted to a website. Ms. Lipton relies, in part,

on SPA section 65(b) as the reason the strata must post documents to its website. Section 65(b) permits the strata to post documents to inform owners or tenants of certain specific matters under the SPA “in a part of the common property designated by the strata corporation for posting such documents”. Ms. Lipton says that common property referred to in section 65(b) is, “by definition the LQRV.ca website”. I disagree.

50. I find a website is not common property because it does not meet the definition of common property set out in SPA section 1(1). That section defines common property as the part of the land and buildings shown on the strata plan plus certain pipes, wires and other physical property. Rather, I find the website is captured under the definition of common asset, which includes personal property held by the strata. I find the strata website can properly be categorized as intangible personal property. I also note that section 65(b) is permissive and does not create a mandatory obligation on the strata.
51. Given, the strata council is responsible for exercising the strata’s powers and performing its duties, including maintaining common assets under SPA sections 4 and 26, I find use of the strata website is at the sole discretion of the strata council, subject to the strata’s bylaws. This includes determining what may or may not be posted to the strata website, or any website maintained by a strata manager retained by the strata. I note that SPA section 27 permits strata owners to direct the strata council in its exercise of powers and performance of duties, but that direction must be made by a resolution passed by a majority vote at a general meeting. There are no general meeting minutes before me that show the strata has been directed to post water system information to its website.
52. There is also mention of “website” in the strata’s bylaws. If the strata had a bylaw addressing posting information to its website, such as the information requested by Ms. Lipton, I might have reached a different conclusion.
53. For these reasons, I find the strata is not required to post any documents or information to its website and has discretion to determine what information, if any, should be posted. Accordingly, I dismiss Ms. Lipton’s claim. Given my conclusion, I find I do not need to discuss each of the documents referenced by Ms. Lipton in her submissions.

Significant unfairness

54. In her submissions, Ms. Lipton discusses the strata's obligation not to act significantly unfairly and cites several CRT decisions that address this issue. Ms. Lipton does not expressly state the strata has treated her in a significantly unfair manner. However, I infer from her submissions that she suggests that the strata has treated her significantly unfairly by not posting the information she requested to the strata website. The strata denies the allegation.
55. The CRT has jurisdiction to determine claims of significant unfairness under CRTA section 121(1): see *The Owners, Strata Plan BCS 1721 v. Watson*, 2018 BCSC 164.
56. The courts and the CRT have considered the meaning of "significant unfairness" in many contexts and have equated it to oppressive or unfairly prejudicial conduct. In *Reid v. Strata Plan LMS 2503*, 2003 BCCA 126, the BC Court of Appeal interpreted a significantly unfair action as one that is burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith and/or unjust or inequitable. See also *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173.
57. In *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44, the BC Court of Appeal established a reasonable expectations test, restated in *Watson* at paragraph 28 as follows:
- a. What is or was the expectation of the affected owner or tenant?
 - b. Was that expectation on the part of the owner or tenant objectively reasonable?
 - c. If so, was that expectation violated by an action that was significantly unfair?
58. More recently in *Kunzler*, the Court of Appeal determined the reasonable expectations test set out in *Dollan* could be considered a factor in deciding whether significant fairness has occurred, together with all other relevant factors including the nature of the decisions and the effect of overturning it.
59. Given my finding above that the strata is not required to post any information to its website, I find Ms. Lipton's expectation to interfere with the strata's discretion to post

things to its website, is not objectively reasonable. Further, the strata council is made up of volunteers. The undisputed evidence is that the strata's webmaster is also a volunteer owner. I find it is also not objectively reasonable for Ms. Lipton to require strata volunteers to do additional work that is not required of the strata.

60. For these reasons, I find the strata's decision to refrain posting Ms. Lipton's requested information to its website is not significantly unfair, so my conclusion above to dismiss Ms. Lipton's claim is unchanged.

Must the strata require its water operator to train an interim water operator as a condition in its contract?

61. As with the previous claim, I note the parties provided extensive submissions and evidence about the strata's water system operator and interim water system operator concerning historical issues and the actions of previous strata councils. I again find the submissions and evidence is not relevant because of the remedy requested by Ms. Lipton. Therefore, I focus my discussion on Ms. Lipton's requested remedy that the strata require the water operator to train an interim water operator as a condition in its contract, and not whether the strata has acted contrary to the SPA, DWPA, or DWPR about other unrelated matters.

62. Neither the DWPA nor the DWPR address contracts involving water operators. As I have noted, the strata council must exercise the powers and perform the duties of the strata under SPA sections 4 and 26. SPA section 38 gives the strata authority to enter into contracts in respect of its powers and duties. Considering these sections of the SPA together, I find the SPA gives the strata council discretion to enter into contracts, including water operator contracts under the DWPA and DWPR, as it sees fit, subject to its bylaws and any direction given to it by its owners.

63. The strata's bylaws also do not specify what terms must be incorporated into a contract involving the strata. Specifically, there is no bylaw that governs what terms the strata must include in any water operator contract.

64. I again note that SPA section 27 permits strata owners to direct the strata council in its exercise of powers and performance of duties provided that direction is made by a resolution passed by a majority vote at a general meeting. As with the previous claim, there are no general meeting minutes before me that direct the strata to include the terms requested by Ms. Lipton in the water operator contract.
65. Therefore, I dismiss Ms. Lipton's claim that the strata's contract with its water operator must include a term to require the water operator to train an interim water operator.
66. I understand Ms. Lipton's concerns about any potential resignation of the strata's water operator leaving the strata without a qualified water operator. However, even if there was a term in the water operator contract for the operator to train an interim operator, that does not mean the interim water operator would be bound to continue as the water operator, or to service the strata at all.

Is the strata required to provide additional documents to Ms. Lipton?

67. Again I note that considerable background information and details about the requested documents were provided by the parties that I find is not relevant to the issue before me. I also agree with Ms. Lipton that she is not required to provide reasons for her document requests, so I will not review those reasons or discuss matters leading up to her document requests here. Ms. Lipton says she requested copies of documents in 2020 and 2021 from the strata that it did not provide. I agree with the parties that SPA sections 35 and 36 govern what documents an owner, such as Ms. Lipton, is entitled to receive.
68. SPA sections 35 and 36 relate to document disclosure and refer to the *Strata Property Regulation* (regulation). Put broadly, section 35 of the SPA and section 4.1 of the regulation set out what documents and records the strata must prepare and retain, and the length of time the strata must retain them. Section 36 of the SPA and section 4.2 of the regulation address what documents can be requested, who can request them, and how much a strata corporation may charge to provide copies. The courts have found that a strata corporation is only required to provide access to or copies of documents that are listed in SPA section 35. It is not required to disclose or provide to

owners any other documents. See for example, *The Owners, Strata Plan NWS 1018 v. Hamilton*, 2019 BCSC 863 at paragraph 3.

69. I also note that in *Kayne v. The Owners, Strata Plan LMS 2374*, 2007 BCSC 1610, the BC Supreme Court found that the SPA does “not require the production of every bill or receipt” that may be reflected in the strata’s books of account. This means that the strata is not required to disclose copies of invoices. The court also found that correspondence between strata council members is not captured under SPA section 35, so such correspondence, including emails, is not required to be disclosed.
70. For reasons largely involving COVID-19 and the resignation of the strata council in mid-2021, the strata says it could not respond to Ms. Lipton’s requests (as well as other owner correspondence) in a timely fashion. It says while there was a delay in responding to her document requests, she has been provided with all the documents she is entitled to receive under the SPA and informed why she was not entitled to receive other requested documents.
71. Ms. Lipton does not expressly object to the strata’s stated position that she has received the documents she requested or an explanation why she did not. The correspondence in evidence shows Ms. Lipton began requesting documents in November 2020. The correspondence generally included requests for correspondence and contracts, water system documents, lists of owners, banking and insurance information, and invoices. On different occasions, such as in November 2020 and May 2021, the strata wrote to Ms. Lipton saying she needed to pay for copies of her requested documents before it would provide them. On September 29, 2021, the strata wrote a detailed letter to Ms. Lipton summarizing her document requests and advising that it would only provide her with copies of documents or records set out in SPA section 35 and that it would not provide privileged legal correspondence. On June 7, 2022, the strata wrote to Ms. Lipton enclosing several documents she had requested and asked her to clarify an April 2021 request to provide copies of owner correspondence. There is no evidence that Ms. Lipton clarified her request.

72. The strata provided a written statement from its current vice president that addresses documents the strata provided to Ms. Lipton, among other things. Based on my review of the statement and relevant correspondence in evidence, I find that the strata has provided the documents Ms. Lipton is entitled to receive under SPA section 36, except document requests for which the strata asked for clarification.
73. In her submissions, Ms. Lipton says the strata presented “unsatisfactory excuses as to why this issue was delayed”. She did not identify specific documents that were not provided. As earlier mentioned, it is up to Ms. Lipton to prove her claim that the strata has not provided her with copies of documents she is entitled to receive. I find she has not done so.
74. For these reasons, I dismiss Ms. Lipton’s claim that the strata must provide her with additional documents.

Is Ms. Lipton entitled to a refund of \$77.83?

75. It is undisputed that Ms. Lipton’s claim for \$77.83 stems from charges to her SL29 account by the strata for copies of documents in November 2020 and a refund of strata fees in July 2021. A brief history follows.
76. Ms. Lipton was charged \$42.50 in November 2020 for copies of documents she requested. She does not dispute this charge. Also in November 2020, Ms. Lipton obtained copies of BC Supreme Court orders affecting the strata. She paid \$36.00 to obtain these documents. Ms. Lipton provided the court documents to the strata and deducted the \$36.00 from the amount she owed the strata. She paid the difference of \$6.50 to the strata by cheque, which was applied to the SL29 account in December 2020. Ms. Lipton says the strata required the court documents for disclosure under the SPA and posting to the strata website. She says the strata accepted the \$36.00 reduction when it cashed her \$6.50 cheque. The strata rejected Ms. Lipton’s position about the reduction stating it never requested Ms. Lipton obtain the court documents. So the strata maintained that Ms. Lipton still owed it \$36.00. As earlier noted, Ms. Lipton continued to request copies of documents in December 2020 and into 2021. It appears from the correspondence that the strata requested payment for the \$36.00

and at least some of the additional requested documents before turning additional documents over to Ms. Lipton as it was entitled to do. I find details of this correspondence is not relevant given the strata ultimately refunded Ms. Lipton her claimed amount as discussed below.

77. At the strata's annual general meeting (AGM) held June 2021, the strata passed a budget that was lower than the previous budget. This resulted in a reduction of strata fees, which created a credit of \$113.38 due to Ms. Lipton because she had effectively overpaid part of her strata fees for the newly passed budget. The account statement for SL29 shows the credit was applied July 5, 2021 leaving a credit balance of \$77.38, the amount Ms. Lipton claims the strata owes her.
78. Further correspondence was exchanged between Ms. Lipton and the strata about the credit balance between the June 2021 AGM and June 2022. Of note is a letter from Ms. Lipton to the strata dated November 4, 2021 where Ms. Lipton requests a refund of the \$77.38. In their written statement, the strata council's vice president admits the strata "did not realize" Ms. Lipton's request. On June 6, 2022, the strata issued Ms. Lipton a cheque refunding the \$77.38 credit balance. A copy of the cheque is attached to the vice-president's statement and Ms. Lipton does not dispute that she received the cheque. Based on this, I find the strata has paid Ms. Lipton her claimed amount and I dismiss her claim.

CRT FEES AND EXPENSES

79. Under section 49 of the CRTA, and CRT rule 9.5(1), the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Ms. Lipton was not successful, so I find she is not entitled to reimbursement of CRT fees. The strata did not pay CRT fees, so I order none.
80. Ms. Lipton claims \$3,426.17 in legal fees, which I decline to award for the following reasons. The amount claimed is the total of invoices Ms. Lipton received from her lawyer. The first invoice dated November 26, 2021 is for \$1,835.20 and the second invoice dated January 31, 2022 is for \$1,59.97. As noted by the strata, the first invoice

pre-dates the original Dispute Notice. Therefore, I do not consider it to be a dispute-related expense. The second invoice covers the period December 15, 2021 through January 21, 2022 and could include disputed-related expenses, but it is difficult to determine based on the description of the services noted on the invoice. In any event, Ms. Lipton was not successful in her claims, so I find she is not entitled to reimbursement of the second legal invoice. Further, CRT rule 9.5(3) states the CRT will not award one party to pay another party any fees a lawyer has charged except in extraordinary circumstances, which I find do not exist here.

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

ORDERS

82. I refuse to resolve Ms. Lipton's allegations about strata council members' not meeting their standard of care under SPA section 31 for lack of jurisdiction.

83. I dismiss Ms. Lipton's remaining claims.

J. Garth Cambrey, Vice Chair

¹ Amendment note

Paragraphs 26 through 36 have been added to correct a jurisdictional defect and to explain my reasons for not anonymizing the public version of this decision.