



Civil Resolution Tribunal

Date Issued: February 2, 2023

File: ST-2022-002541

Type: Strata

Civil Resolution Tribunal

Indexed as: *Keri v. The Owners, Strata Plan VIS 4339*, 2023 BCCRT 96

B E T W E E N :

JANOS KERI and ERIKA MAJOR KERI

APPLICANTS

A N D :

The Owners, Strata Plan VIS 4339

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

J. Garth Cambrey, Vice Chair

INTRODUCTION

1. This strata property dispute is generally about strata corporation governance and document disclosure. It is 1 of 2 disputes that involve the same respondent strata corporation, but different applicants. The applicant in the other dispute, ST-2022-

004483, is 1 of the applicants in this dispute. I have issued a separate decision in the other dispute, indexed as *Keri v. The Owners Strata Plan VIS 4339, 2023 BCCRT 97*.

2. The applicants, Janos Keri and Erika Major Keri, co-own strata lot 1 (SL1) in the respondent strata corporation, The Owners, Strata Plan VIS 4339 (strata). The applicants, together the Keris, are represented by Janos Keri. A strata council member represents the strata.
3. In general terms, the Keris say the strata has “avoided” providing them with access to documents. This has caused the Keris to question the strata’s operation, which they believe is contrary to the *Strata Property Act* (SPA), at least in part. As remedy, they request a non-financial audit by an independent third party to “catalog and assess all documents, and prepare a summary report”.
4. The strata says it has not withheld any documents from the Keris that it is required to disclose under SPA section 35. The strata also says it has acted honestly and in good faith with a view to the best interests of the strata corporation and exercising the care, diligence and skill of a reasonable person in comparable circumstances, citing SPA section 31. The strata asks that the Keris claim be dismissed.
5. As explained below, I dismiss the Keris’ claim and this dispute.

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 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 Issues

Amended Dispute Notice

10. The Dispute Notice was amended on July 7, 2022 to remove 1 of the Keris' original claims. The removed claim now forms the basis of the other dispute. I find no procedural fairness issues arise from this process.

SPA Section 31

11. As noted, the strata says it has complied with SPA section 31. However, I note section 31 applies to individual strata council members and not to the strata. To the extent the Keris say strata council members did not comply with section 31, I decline to address their concerns. I say this because the courts have 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.

.ISSUE

12. The sole issue in this dispute is whether the Keris are entitled to an order that the strata obtain a summary report following a non-financial audit of its documents.

BACKGROUND, REASONS AND ANALYSIS

13. As the applicants in a civil proceeding such as this, the Keris must prove their 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.
14. The strata was created in July 1997 under the *Condominium Act (CA)* and continues to exist under the SPA. It consists of 6 2-level residential strata lots in 3 buildings. The strata’s bylaws are the Standard Bylaws under the SPA given no other bylaws have been filed with the Land Title Office.
15. The strata council is comprised of 3 elected strata council members, even though the bylaws permit the election of between 3 and 7 members. Neither of the Keris are strata council members.
16. The Keris purchased SL1 in February 2021. They admit to being new to strata living at that time and say they began to educate themselves on strata corporation governance shortly after they purchased SL1. It also appears the Keris retained the services of Condo Clear Services to assist them in their review of strata documents they received at the time of their purchase. They refer to this document review as a “Strata review”, which I infer is the basis for their requested remedy in this dispute.
17. I find the Keris’ submissions difficult to follow and do not see how the issues they raise are tied to their requested order for a document review. Some examples follow.
18. The Keris submit that the “Strata review” they obtained identified 2 “notable issues”. The first was that the strata fees were equal for all strata lots and not based on unit entitlement. The second was that their secondary parking space was their driveway.

The Keris provide submissions on the 2 notable issues but it is unclear how the issues factor into this dispute given the Keris do not request any remedies to cure them.

19. The same can be said about a \$5,000 expense from the contingency reserve fund (CRF) concerning a water leak, and the strata's operating budget water expense. It appears the Keris requested details on the expense, possibly verbally at a general meeting, and it is unclear what the strata provided in response, if anything.
20. Based on the parties' overall submissions and evidence, I infer the issues relate to the Keris' document requests. However, there is no evidence about any specific requests for documents in the material before me. I also see no valid reason to order a third party to obtain and assess strata documents when the Keris' already have this ability under SPA sections 35 and 36. For these reasons, I dismiss the Keris' claim.
21. For the benefit of the parties, I include a summary of the law about document requests. I also note that if the Keris want a specific strata document, they should review SPA section 35 and make a clear written request of the strata provided their requested document is captured by section 35.

Document Requests

22. SPA sections 35 and 36 address 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.
23. Regulation 4.2 sets the maximum a strata corporation can charge for copies of documents at \$0.25 per page. It also says the strata may **not** charge an owner, tenant, or person authorized by an owner or tenant to inspect a record or document under SPA section 36.
24. 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 any other documents. See for example, *The Owners, Strata Plan NWS 1018 v. Hamilton*, 2019 BCSC 863 at paragraph 3.

25. Further, 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.

Other submissions

26. Finally, I note the some of the Keris’ submissions raise concerns about whether the strata has properly followed the SPA in other areas. These include how the strata calculates strata fees, the strata’s preparation of general meeting notices, and meeting minute content. I would encourage the parties to educate themselves on strata property governance to ensure SPA requirements are followed, such as reviewing the BC Government’s Strata Housing website located at <https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing> or joining one of the strata associations listed on the website.

CRT FEES AND EXPENSES

27. 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 not to follow this general rule in these disputes. The strata was the successful party but did not pay CRT fees or claim dispute-related fees, so I make order for reimbursement of fees.
28. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against the Keris or SL1.

ORDER

29. I dismiss the Keris' claim and this dispute.

J. Garth Cambrey, Vice Chair