



Civil Resolution Tribunal

Date Issued: March 20, 2023

File: ST-2022-005398

Type: Strata

Civil Resolution Tribunal

Indexed as: *Section 2 of The Owners, Strata Plan EPS1069 v. The Owners, Strata Plan EPS1069, 2023 BCCRT 227*

B E T W E E N :

Section 2 of The Owners, Strata Plan EPS1069

APPLICANT

A N D :

The Owners, Strata Plan EPS1069

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The respondent strata corporation, The Owners, Strata Plan EPS1069 (strata) is a commercial strata development. The strata's bylaws create 3 sections. The applicant is section 2 of the strata, which is the office section. The strata also includes a retail section and a food court section.

2. The office section says that the strata unlawfully refuses to share copies of its daily security reports with the office section executive. The office section asks for orders that the strata provide these reports from March 25, 2022, to the present, and that the strata continue to provide them going forward. The office section is represented by its president.
3. The strata says that the office section's claim should be dismissed because the section executive did not authorize the president to start this Civil Resolution Tribunal (CRT) dispute. The strata did not provide any evidence or submissions about the merits of the office section's claim. The strata is represented by a council member.

JURISDICTION AND PROCEDURE

4. These are the CRT's formal written reasons. The CRT has jurisdiction over strata property claims under section 121 of the *Civil Resolution Tribunal Act (CRTA)*. The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the CRT's process has ended.
5. The CRT has discretion to decide the format of the hearing, including in writing, by telephone, videoconferencing, or a combination of these. I am satisfied an oral hearing is not required as I can fairly decide the dispute based on the evidence and submissions provided.
6. The CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court. The CRT may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.
7. Under section 123 of the CRTA and the CRT rules, in resolving this dispute the tribunal 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.

ISSUES

8. The issues in this dispute are:
 - a. Did the office section executive authorize this dispute? If not, should I pause, refuse to resolve, or dismiss the dispute?
 - b. Is the office section executive entitled to copies of the daily security reports?

BACKGROUND

9. In a civil claim such as this, the office section as the applicant must prove its claims on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. The strata was created in 2013. It is a commercial development consisting of 338 strata lots. The strata undisputedly receives daily reports from its security contractor. There is an example report in evidence, which shows that the reports summarize suspicious or otherwise noteworthy activities from the previous day. The strata has also undisputedly refused to provide copies of these daily reports to the office section executive, despite repeated requests from the office section's president.

EVIDENCE AND ANALYSIS

Did the office section executive authorize this dispute?

11. As mentioned above, the strata argues that the office section president failed to obtain authorization from the office section executive before starting this CRT dispute. I agree with the strata that a CRT dispute commenced on a section's behalf must be authorized by the section's executive. I also agree with the strata that this authorization requires a majority vote at a section executive meeting. See *Louis v. Civil Resolution Tribunal*, 2020 BCSC 2061.
12. Under section 35(1)(a) of the *Strata Property Act* (SPA), a strata corporation must prepare minutes for council meetings, which must include the results of any votes.

Section 194(2) of the SPA says that a section has the same powers and duties as a strata corporation, so I find that section 35(1)(a) applies to sections. This means that the office section's executive meeting minutes must include the results of any votes. The strata says that there are no section executive meeting minutes that include a vote authorizing this CRT dispute. The strata did not provide any section executive meeting minutes, even though its submissions suggest it has copies.

13. In its reply submissions, the office section did not deny that its executive never voted to authorize this dispute at a meeting. Instead, the office section alleges that the section executive authorized this dispute by email. The office section did not provide copies of any emails to prove this allegation. I find that if the office section executive had voted to authorize this dispute and included the result of that vote in its meeting minutes, the office section would likely have said so and provided the supporting evidence. I find that the office section executive did not vote to authorize this dispute at an executive meeting.
14. While a section executive may make a decision via email, the decision must be ratified at a properly constituted and minuted meeting of the section executive. See *Kayne v. The Owners, Strata Plan LMS 2374*, 2007 BCSC 1610. So, even if the section executive's members did send emails supporting the president starting this dispute, I find that these emails would not be proper authorization because the section executive never ratified the decision at an executive meeting.
15. The next question is what the appropriate outcome is. Taking the office section's submissions at face value, it appears that the office section executive wants this dispute to proceed. It simply failed to meet a technical requirement. Bearing in mind the CRT's mandate that includes informality and flexibility, I considered pausing this dispute to give the office section an opportunity to hold a section executive vote to authorize this dispute. I also considered refusing to resolve the dispute under section 11 of the CRTA. Refusing to resolve a dispute is not a final decision on the dispute's merits, so this would leave open the possibility that the office section could bring a new dispute about the same issues if it was properly authorized.

16. I find that a dismissal is appropriate. I say this because, for the reasons set out below, I find that the office section's dispute would have been dismissed on its merits if properly authorized. So, I find it would be pointless and wasteful of the CRT's resources and the parties' time to pause or refuse to resolve this dispute. For these reasons, I dismiss the office section's claims due to the lack of authorization.

Is the office section entitled to copies of the daily security reports?

17. The office section says that the strata's security guards patrol common property areas around the office strata lots. The office section also says that there have been recent break-ins in the strata. So, the office section argues that it has an interest in the security reports' contents and should have the right to review them. The office section does not identify a legal basis for its claim.

18. I reviewed the filed bylaws of both the strata and the office section, and I find nothing in them that requires the strata to share reports from its own contractors with the office section executive. I also find nothing in the SPA that requires information sharing between a strata corporation and a section.

19. I find that the only applicable legal provisions about document disclosure are found in sections 35 and 36 of the SPA. Those sections outline the documents the strata must retain and disclose upon request, including correspondence sent and received by the strata or strata council (section 35(2)(k)). The CRT has interpreted correspondence as including security reports that a security contractor sends to a strata corporation: *Shayesteh-Fard v. The Owners, Strata Plan VR 437*, 2023 BCCRT 179. Other CRT decisions are not binding on me, but I agree with the reasoning in *Shayesteh-Fard*. As mentioned above, the strata's security contractor sends the daily reports to the strata council. I find that the reports are correspondence received by the strata council and are therefore subject to the strata's disclosure obligations under section 36 of the SPA.

20. However, section 36(1) of the SPA says that only owners, tenants who have been assigned a landlord's right to access records under section 147 of the SPA, or a person authorized by an owner or authorized tenant may request records. In other

words, a section has no legal right to receive copies of the strata's records. I therefore find that the office section has not proven that it is entitled to the security reports.

TRIBUNAL FEES AND EXPENSES

21. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. The office section was unsuccessful, so I dismiss its claim for CRT fees and dispute-related expenses. The strata did not claim any dispute-related expenses or pay any CRT fees.

DECISION AND ORDERS

22. I dismiss the office section's claims and this dispute.

Eric Regehr, Tribunal Member