



# Civil Resolution Tribunal

Date Issued: December 12, 2023

File: ST-2022-008828

Type: Strata

Civil Resolution Tribunal

Indexed as: *Thompson v. The Owners, Strata Plan EPS3097*, 2023 BCCRT 1091

B E T W E E N :

BRODIE THOMPSON

**APPLICANT**

A N D :

The Owners, Strata Plan EPS3097

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. This dispute is about a doorbell camera.
2. Brodie Thompson rents a strata lot (unit 94) in the strata corporation The Owners, Strata Plan EPS3097 (strata). Mr. Thompson installed a doorbell camera without the

strata's approval. At the strata's request following a bylaw complaint, he removed the doorbell camera. He later applied for approval, but the strata denied his request.

3. Mr. Thompson says the strata is unfairly denying him a doorbell camera that it has allowed for 40 other strata lots. Mr. Thompson asks for an order that the strata allow him to install his doorbell camera or remove all other doorbell cameras in the strata complex. He also wants \$400 for his time spent installing and removing the doorbell camera. Mr. Thompson represents himself.
4. The strata says I should dismiss the claim. The strata says it has treated Mr. Thompson the same way it has treated other strata lot owners who have been the subject of complaints about their doorbell cameras. The strata also says Mr. Thompson is free to reapply for approval of the doorbell camera. A council member represents the strata.
5. As I explain below, I dismiss Mr. Thompson's claim.

## **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). 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 parties that will likely continue after the CRT process has ended.
7. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. Based on the evidence and submissions provided, I am satisfied that I can fairly decide this dispute without an oral hearing.
8. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

### ***Mootness and prematurity***

9. The strata has invited Mr. Thompson to reapply for permission to install the doorbell camera and he has not done so. Based on this, the strata argues that Mr. Thompson's claim is either moot or premature.
10. A claim is moot when something happens after a legal proceeding begins that removes any "present live controversy" between the parties (see *Binnersley v. BCSPCA*, 2016 BCCA 259). Mr. Thompson asks for an order that the strata approve his existing doorbell camera set up, which it already rejected. I find there is a live controversy between the parties about whether the strata's rejection was fair, and what Mr. Thompson needs to provide to obtain permission. So, I find this claim is not moot.
11. On prematurity, the strata relies on *Shirazian v. The Owners, Strata Plan EPS3626*, 2023 BCCRT 600. There, the CRT found an owner's request for an order that the strata corporation allow him to reinstall a camera was premature because he had not submitted an alteration application. Here, Mr. Thompson submitted an application and the strata rejected it for reasons Mr. Thompson says are unfair. So, I find the claim is not premature.

### **ISSUES**

12. The issues in this dispute are:
  - a. Was it significantly unfair for the strata to deny Mr. Thompson's doorbell camera installation request?
  - b. If so, is Mr. Thompson entitled to an order that the strata allow his doorbell camera? And is he entitled to any installation or removal costs?

### **EVIDENCE AND ANALYSIS**

13. As the applicant in this civil proceeding, Mr. Thompson must prove his claims on a balance of probabilities, meaning more likely than not. While I have considered all the

parties' evidence and submissions, I only refer to what is necessary to explain my decision.

### ***Background***

14. The strata was created in 2016 and includes 162 townhouse-style strata lots in various buildings. In September 2022, Mr. Thompson mounted a doorbell camera on unit 94's front door. The parties agree that unit 94's front door is common property as that term is defined in the *Strata Property Act* under sections 1(1) and 68(1).
15. Under the strata's bylaw 7, owners must obtain the strata's written approval before altering common property. Bylaw 8 sets out the information that the strata may require an owner to provide when seeking written approval. Mr. Thompson is not an owner, so these bylaws are not directly applicable to him, but I find other bylaws such as bylaw 3(8)(d) prevent him from affixing anything to his building's exterior without the strata's permission. Mr. Thompson does not argue otherwise. It is undisputed that neither Mr. Thompson nor unit 94's owner sought the strata's permission before Mr. Thompson installed the doorbell camera.
16. The strata does not have bylaws about surveillance generally or doorbell cameras specifically. Bylaw 14(4) prohibits taking photos or videos of children on common property without permission from the child's parent or guardian. The strata says Mr. Thompson's doorbell camera is capable of taking such photos and videos. I accept that this is true, but I find it is true of any camera that records common property. The strata does not take the position that bylaw 14(4) prohibits all recording of common property. There is no evidence that Mr. Thompson's camera has recorded children. Mr. Thompson says, and I accept, that he wants to see when a package has arrived so he can secure it.
17. On September 21, 2022, a neighbouring strata resident complained to the strata about Mr. Thompson's doorbell camera. The complaint asked the strata to confirm that the complainant's windows and front door were not visible to the camera.

18. On October 4, 2022, the strata manager wrote to Mr. Thompson about the doorbell camera complaint. The strata manager said Mr. Thompson was required to first obtain the strata's written approval before installation.
19. On October 11, 2022, unit 94's owner signed an "assumption of liability" form for the doorbell, which also served as an authorization request form. At the strata's request, Mr. Thompson provided a screenshot showing the camera's view. That screenshot shows that the camera's view included unit 94's porch, a short sidewalk connecting the porch to a main sidewalk, a road parallel to the main sidewalk, and across that road, 2 garage doors and 3 entrance doors of adjacent strata lots. I do not agree with Mr. Thompson's characterization of the neighbouring strata lots as being out of focus. Everything in the photo appears to be in reasonable focus.
20. On November 7, 2022, the strata manager wrote to Mr. Thompson stating that his doorbell camera infringed on other residents' privacy and asked him to remove it or face a \$200 fine every 7 days. There is no evidence that the strata imposed any fines.
21. Mr. Thompson said his doorbell camera was no different from those of other strata lots. The strata manager said bylaw enforcement was a complaint-driven process, so he was free to file complaints about those other cameras. The same day, Mr. Thompson filed formal bylaw infraction complaints against 37 other strata lots with doorbell cameras.
22. On November 15, the strata repeated its request for Mr. Thompson to remove the doorbell camera, copying unit 94's owner. The strata invited Mr. Thompson to submit an alteration request showing that the camera did not capture "any parts of common areas or other units' door entrances." Mr. Thompson then removed the doorbell camera and filed his CRT dispute application.

***Was it significantly unfair for the strata to deny Mr. Thompson's doorbell camera installation request?***

23. Mr. Thompson says the strata has treated him differently from others by denying his doorbell camera request. He says this raises serious questions about the decision-making process and whether it has been consistent and fair. He says the strata

should have to submit photos from other residents' doorbell cameras to prove they are not recording common property.

24. The strata says it investigated complaints about Mr. Thompson's doorbell camera in the same way it now has investigated his complaints about other residents' doorbell cameras. The strata says those residents have either removed their doorbell cameras or sought approval and the strata has considered those applications the same way it considered Mr. Thompson's.
25. The CRT has authority to make orders remedying a strata corporation's significantly unfair act or decision under CRTA section 123(2). The court has the same authority under SPA section 164, and the same legal test applies (see *Dolnik v. The Owners, Strata Plan LMS 1350*, 2023 BCSC 113). In *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, the court confirmed that significantly unfair actions or decisions are those that are burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust, or inequitable. In applying this test, the owner's objectively reasonable expectations are a relevant factor but are not determinative.
26. The test for assessing an owner's reasonable expectations is from *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44:
  - a. What was the owners' expectation?
  - b. Was that expectation objectively reasonable?
  - c. Did the strata violate that expectation with a significantly unfair action or decision?
27. Mr. Thompson's expectation was that the strata would approve his doorbell camera or order all other strata lot's doorbell cameras removed. I find this expectation was not objectively reasonable for the following reasons. First, I accept that the strata manages doorbell cameras using a complaint-driven process. I find that approach is reasonable given that SPA section 135 requires the strata to receive a complaint before taking bylaw enforcement steps. Second, the evidence shows that the strata issued bylaw warning letters to numerous other owners in response to Mr.

Thompson's complaints. Some have removed their doorbells while others are seeking approval. So, there is no evidence that the strata has treated Mr. Thompson differently from other strata residents.

28. I acknowledge that the strata's communication with Mr. Thompson about its requirements for doorbell cameras was not ideal. In particular, I find the strata's insistence that Mr. Thompson show his camera was not capturing any parts of "common areas" was confusing at best. The SPA defines common property as the part of the land and buildings shown on a strata plan that is not part of a strata lot. This means the strata's internal roads, sidewalks, and entryways right up to and including the strata lot doors are common property. Even as recently as June 6, 2023, the strata manager told Mr. Thompson that his camera should "not capture any views beyond the boundaries of the strata lot in which you reside." To only capture views within a strata lot would entirely defeat the purpose of a doorbell camera. If the strata is going to allow doorbell cameras, it must allow recording of some common property.
29. Despite the strata's confusing communications on this issue, I find the strata's refusal to give Mr. Thompson permission to reinstall the doorbell camera was not significantly unfair. I say this because the doorbell camera's view undisputedly included other strata lot entrances. It was appropriate for the strata to consider the privacy rights of other residents, including the person who complained about Mr. Thompson's doorbell camera, and balance them against Mr. Thompson's security concerns. In other words, protecting Mr. Thompson's neighbours' privacy in their doorways was a legitimate reason to deny Mr. Thompson permission for the doorbell camera given the camera's view. Contrary to Mr. Thompson's submissions, I see no evidence that the strata's decision was motivated by prejudice or discrimination.
30. For these reasons, I dismiss Mr. Thompson's claim for an order that he can install his doorbell camera. It follows that I also dismiss Mr. Thompson's claim for compensation for installing and removing the doorbell camera. He had no authority to install the doorbell, and the strata was justified in asking him to remove it. I also note that bylaw 8(3) says anyone who alters common property without adhering to the bylaws must restore the common property to its previous condition at their expense.

## **CRT FEES AND EXPENSES**

31. Based on the CRTA and the CRT's rules, as Mr. Thompson was unsuccessful I find he is not entitled to any reimbursement. The strata did not pay CRT fees.
32. The strata claims \$6,500.00 in legal expenses. The CRTA generally requires parties to represent themselves. Consistent with that principle, rule 9.5(3) says that the CRT will not order one party to pay another party's legal fees in a strata property dispute unless there are extraordinary circumstances. I find the circumstances of this dispute are not extraordinary, and the strata does not argue otherwise.
33. The strata says that in *Kotowska et al v. The Owners, Strata Plan BCS 2742*, 2018 BCCRT 802, the CRT awarded a strata corporation reasonable dispute-related expenses. However, in that dispute, the CRT dismissed the strata corporation's claim for legal fees and most of its disbursement costs "paid to legal counsel or otherwise", and only allowed BC Online registry and land title search fees. Here, the strata has claimed a global figure and provided no supporting invoices or receipts to identify registry or search fees or other specific expenses. As a result, I make no order for dispute-related expenses.
34. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against Mr. Thompson.

## **ORDER**

35. I dismiss Mr. Thompson's claims, the strata's claim for legal expenses, and this dispute.

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Micah Carmody, Tribunal Member