



DEFAULT DECISION AND ORDER

(This shaded box is for CRT use only)

DISPUTE NUMBER: ST-2023-008005

DISPUTE AREA: Small Claims

DATE OF DECISION: March 13, 2024

TRIBUNAL MEMBER: Sherelle Goodwin

Enter the names of all applicants and respondents, exactly as they appear on the Dispute Notice. Separate names with a comma (for example, "John Doe, Jane Doe").

* **BETWEEN APPLICANT(S):** RAJESH RAM

* **AND RESPONDENT(S):** The Owners, Strata Plan NW 406

Part A: Monetary Claims and Orders

You can only claim what's in the Dispute Notice. Don't add new claims. You can enter a lower amount than you claimed in the Dispute Notice, but not a higher amount. Don't include your CRT fees and dispute-related expenses in your claim totals – enter those in Part C of this form.

Description	Remedy Amount (\$)	(CRT use only) Order Amount (\$)
Requested Resolution 1 (from the Dispute Notice): -----	\$ -----	\$
Requested Resolution 2 (from the Dispute Notice): -----	\$ -----	\$
Requested Resolution 3 (from the Dispute Notice): -----	\$ -----	\$



Part B: Non-Monetary Claims and Orders

You can only claim what's in the Dispute Notice. Don't add new claims or use this space to explain more about your claims. If you filled out Part A (Monetary Claims), don't add the same claims here.

Description

First Non-Monetary Requested Resolution from the Dispute Notice):

I want an order for council to provide requested records and documents as per SPA section 36.

If you named more than 1 respondent in your dispute, which respondent is this claim for?

Why do you want them to do or stop doing this (maximum 100 characters)?

Second Non-Monetary Requested Resolution from the Dispute Notice):

If you named more than 1 respondent in your dispute, which respondent is this claim for?

Why do you want them to do or stop doing this (maximum 100 characters)?

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CRT Decision on Non-Monetary Order:

see attached order.



Part C: Dispute-Related Fees and Expenses

You can claim CRT filing fees and reasonable dispute-related expenses you paid to prepare for the CRT process. Generally, the CRT won't order reimbursement of fees paid to a lawyer or other representative or for your time spent dealing with the dispute.

If you're claiming more than \$50, include receipts. But you don't need to include receipts for CRT fees.

Description	Expense Amount (\$)	(CRT use only) Order Amount (\$)
Fees paid to the CRT. <i>(You don't need to include receipts for these.)</i>	\$ 150.00	\$ 150.00
Service fees, if you served the Dispute Notice yourself. For example, fees for registered mail or a courier.	\$	\$
Total cost of expert reports to support your claim. <i>(Include the reports with your form.)</i>	\$	\$
Other dispute-related expenses <i>(briefly describe the expenses and how they relate to your dispute):</i>	\$	\$
Total amount of claimed fees and expenses.	\$ 150.00	\$ 150.00

(This shaded box is for CRT use only)

CRT Decision on Dispute-Related Fees and Expenses: \$ 150.00



Part D: Interest		
Description	Interest	(CRT use only) Interest Order
<input type="checkbox"/> Check this box if you waive interest. If you check this box, don't enter anything else in this Part.		
The interest accrual date. In the Dispute Notice, this is the line " <i>When interest started applying to the amount owing</i> ".	Date:	
Contractual interest rate. Enter this if you agreed to a specific interest rate in a contract or agreement with the respondent(s), and only if you claimed this rate in the Dispute Notice. In the Dispute Notice, this is the line " <i>Annual rate of interest agreed to in your contract</i> ".	%	%
If you haven't waived interest and didn't agree to a specific interest rate in a contract or agreement with the respondent(s), the CRT will calculate interest according to the Court Order Interest Act .		
Principal amount owing as of the Dispute Notice date, not including interest.	\$	\$
(This shaded line is for CRT use only) Amount of contractual interest, from the date interest arose to the date of this decision.	\$	
(This shaded line is for CRT use only) Amount of court-ordered interest, from the date interest arose to the date of this decision.	\$	
(This shaded box is for CRT use only) <div style="text-align: right;"> CRT Decision on Total Interest Amount: \$ 0.00 </div>		

Part E: Total Monetary Order
(This shaded box is for CRT use only) <div style="text-align: right;"> CRT Total Monetary Order Amount: \$ 150.00 </div>
The applicant is also entitled to post-judgment interest as provided under the <i>Court Order Interest Act</i> .



CRT Default Decision and Order

The applicant(s) applied for strata property dispute resolution with the Civil Resolution Tribunal (CRT) and requested a default decision and order of the CRT. The following is the CRT's default Decision and Order.

CRT DECISION

Proof of Notice:

1. A respondent must respond to a Dispute Notice within 14 days of receiving it as indicated on the Dispute Response Form, or as permitted by the CRT.
2. Having reviewed the evidence, I am satisfied that the respondent(s) received the Dispute Notice and did not submit a completed Dispute Response by the deadline set out in the CRT's rules. This means the respondent(s) are in default, as defined in section 1(1)(a) of the *Civil Resolution Tribunal Act* (CRTA).

Jurisdiction:

3. The CRT's strata property jurisdiction is set out in section 121 of the CRTA. The applicable CRT rules are those in place at the time the Dispute Notice was issued.
4. In a default decision such as this one, the CRT will make a binding decision without the participation of the respondent(s). The CRT will send the parties a copy of the final decision and order.
5. Under the CRTA and the CRT's rules, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

**Decision:**

6. The applicant owns a strata lot in the respondent strata corporation, The Owners, Strata Plan NW 406 (strata). The applicant asks the CRT to order the strata to produce certain records.
7. Liability is generally assumed in default decisions. As the respondent has not participated in the dispute, I find in favour of the applicant.
8. Section 35 of the *Strata Property Act* (SPA) and section 4.1 of the *Strata Property Regulation* (Regulation) set out a list of records that must be retained by a strata corporation. Section 36(1)(a) of the SPA says the strata must provide copies of those records to an owner on request. The CRT only has jurisdiction to order production of records listed in SPA section 35 and the Regulation section 4.1 (see *The Owners, Strata Plan NWS 1018 v. Hamilton*, 2019 BCSC 863).
9. The applicant is entitled to receive copies of the below requested records, for the reasons explained.
 - a. General meeting minutes from 2018 forward. The strata must keep all general and council meeting minutes for at least 6 years, under SPA section 35(1)(a) and Regulation section 4.1(3).
 - b. A list of strata council members. The strata must keep a current council member list under SPA section 35(1)(b).
 - c. The budget and financial statements from 2020 forward. The strata must keep budgets and financial statements for the current and previous years, under SPA section 35(2)(i).
 - d. Books of account showing money received and spent and the reason for the receipt or expenditure. SPA section 35 (1)(d) requires the strata to keep these records. Although the applicant did not specify the time frame for these records,



I infer they request them for the same time frame as the budget and financial statement, that is from 2020 forward.

- e. Any decision of an arbitrator, judge, or the CRT in a proceeding in which the strata was a party. The strata is required to keep these records permanently under SPA section 35(2)(h) and Regulation 4.1(3).
- f. Strata council meeting minutes approving unit 205's deck/balcony glass enclosure, under SPA section 35(1)(a). Also, unit 205's request for permission to install the enclosure, as all correspondence received by the strata council must be kept under SPA section 35(2)(k). Additionally, if the strata received a copy of unit 205's permit to enclose the balcony, it must also provide a copy of that record.

10. As there is no statutory requirement for the strata to create, or retain, "the detailed process it followed" to allow unit 205 to enclose its balcony, I deny the applicant's request for that record. For the same reason, I deny the applicant's request for records showing that bylaws 6 and 7 were followed by unit 205.

11. I also deny the applicant's request that the strata provide a letter confirming the monthly strata fees owed by unit 304, as that is not a record the strata is required to produce under SPA s. 35.

12. Finally, the applicant asks for copies of any legal opinions obtained by the strata corporation. While SPA section 35(2)(h) requires the strata to keep any such opinions, the courts have recently found that SPA sections 35(2)(h) and 36(1) do not expressly set aside solicitor-client privilege, which protects legal opinions from being disclosed to others, such as strata lot owners (see *Mitchinson v. The Owners, Strata Plan VR 1120*, 2024 BCCA 89). For this reason, I decline to order the strata to produce its legal opinions.

13. Under Regulation 4.2, the strata may charge a fee for copies of a requested record or document provided under SPA section 36, up to a maximum of 25 cents per page.



14. The applicant is entitled to their paid CRT fee.

CRT ORDER

15. Within 14 days of receiving this order, the strata must provide the applicant with copies of the following documents:

- a. General meeting minutes from 2018 forward,
- b. A list of current strata council members,
- c. The budget and financial statements from 2020 forward,
- d. Books of account showing money received and spent and the reason for the receipt or expenditure, from 2020 forward,
- e. Any decision of an arbitrator, judge, or the CRT in a proceeding in which the strata was a party,
- f. Strata council meeting minutes approving unit 205's deck/balcony glass enclosure, if any,
- g. Unit 205's request for permission to install the enclosure, if any, and
- h. Unit 205's permit for the structure, if received by the strata.

16. The strata may charge the applicant a copying fee of up to 25 cents per page.

17. In accordance with the CRTA and the CRT's rules, I order the respondent to immediately pay the applicant the monetary orders set out in the preceding pages. The applicant is also entitled to post-judgment interest, as applicable.

18. This is a validated decision and order. Under section 57 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under section 58 of the CRTA, the order can be enforced through the British Columbia Provincial Court if it is an order for financial compensation or return of personal



property under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

Sherelle Goodwin, Vice Chair