



# Civil Resolution Tribunal

Date Issued: June 20, 2024

File: ST-2023-000689

Type: Strata

Civil Resolution Tribunal

Indexed as: *Bedford v. The Owners, Strata Plan KAS 1216*, 2024 BCCRT 579

B E T W E E N :

FREDERICK ALLAN BEDFORD

**APPLICANT**

A N D :

The Owners, Strata Plan KAS 1216

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Megan Stewart

## INTRODUCTION

1. This dispute is about the validity of a strata corporation's annual general meeting (AGM) and special general meeting (SGM).

2. Frederick Allan Bedford co-owns a strata lot in the strata corporation, The Owners, Strata Plan KAS 1216 (strata). Mr. Bedford says the strata's 2023 AGM was invalid because:
  - a. The strata did not provide financial details of the budget (including income and expenditures) or strata fees in advance of the meeting.
  - b. The strata improperly voted to pay for certain legal expenses after they were removed from the budget.
  - c. The contingency reserve fund (CRF) was drawn down and not replenished.
  - d. The strata did not review the 2022 AGM minutes, or year end reports, including Mr. Bedford's financial reports.
  - e. The strata did not allow voting by proxy for a deceased strata lot owner.
  - f. Certain conversations were not recorded in the 2023 AGM minutes.
3. Mr. Bedford also says the strata improperly passed bylaw amendments at its October 2022 SGM based on a  $\frac{2}{3}$  vote rather than a  $\frac{3}{4}$  vote without discussion, and ignored their proxy vote. They ask the Civil Resolution Tribunal (CRT) to declare the 2023 AGM and October 2022 SGM invalid, and to order the strata to hold new meetings. Mr. Bedford is self-represented.
4. The strata says it followed the correct procedures for the AGM and SGM, and new meetings are not necessary. A strata council member represents the strata.

## **JURISDICTION AND PROCEDURE**

5. 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). 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.

6. 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 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 an oral hearing is not necessary in the interests of justice and fairness.
7. 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.
8. Under CRTA section 123, 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***

9. I was unable to open two pieces of Mr. Bedford's evidence. Through CRT staff, I asked them to resubmit it in an accessible format, but they did not and did not explain why not. I also asked the strata to submit the agenda and minutes of its October 2022 SGM. The strata submitted the requested information. Mr. Bedford commented on the strata's additional evidence, so I find no prejudice arises. I have considered both the evidence and the comments in making my decision below.
10. In submissions, Mr. Bedford suggests the strata council or certain strata council members did not act in the strata's best interests. Section 31 of the *Strata Property Act* (SPA) sets the standard expected of strata council members, which is to act honestly and in good faith with a view to the strata's best interests. 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, at paragraph 267). So, I will not address Mr. Bedford's allegations to the extent they suggest a breach of SPA section 31.

## **ISSUES**

11. The issues in this dispute are:

- a. Did the strata's 2023 AGM and October 2022 SGM meet the requirements of the SPA and its bylaws?
- b. If not, what are the appropriate remedies?

## **EVIDENCE AND ANALYSIS**

12. As the applicant in this civil proceeding, Mr. Bedford must prove their claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence, but refer only to information I find necessary to explain my decision.
13. The strata was created in February 1993 under the *Condominium Act*, and continues under the SPA. It consists of 6 townhouse-style strata lots.
14. On December 12, 2022, the strata filed a complete new set of bylaws with the Land Title Office (LTO) that repealed and replaced all previously registered bylaw amendments and the Schedule of Standard Bylaws. More on this below.
15. Mr. Bedford alleges the strata's 2023 AGM and October 2022 SGM were invalid for the reasons listed above. I address these in turn.

### ***Bylaw amendments***

16. First, the October SGM. Mr. Bedford says the strata held an illegal vote on proposed new bylaws at an October 2022 SGM, securing only a  $\frac{2}{3}$  vote, rather than the  $\frac{3}{4}$  vote mandated by SPA section 128(1)(a). The strata says it achieved an 80% vote. Neither party disputes the bylaw amendment resolution required a  $\frac{3}{4}$  vote.

17. I find I do not have to decide whether the vote was passed on an incorrect voting threshold. This is because I find there were irregularities with the notice of the SGM the strata provided to the owners.
18. The SGM was originally scheduled for October 22, 2022, with notice given to the owners on October 7, 2022. Mr. Bedford says they did not sign for the notice, but they do not dispute receiving it on October 7, so I find they likely did. I find if the SGM had been held on October 22, the strata would have provided proper notice. But, the SGM was held on October 16 instead, for reasons that are not explained. I find without evidence the owners waived their right to notice, the previous proper notice was nullified.
19. Next, the agenda circulated with the notice did not include the proposed wording of the bylaw amendment resolution, as required for a  $\frac{3}{4}$  vote by SPA section 45(3). SPA section 47 says failure to give proper notice of an SGM does not invalidate a vote taken at the meeting as long as the strata corporation made a reasonable attempt to give the notice in accordance with that section. Here, I find the strata attempted to give proper notice of the meeting before changing the date. However, I find it did not attempt to provide the wording of the bylaw amendment resolution. So, I find the vote held at the October 16, 2022 SGM was invalid.
20. In these circumstances, I order the strata to hold an SGM within 60 days for the purpose of allowing the owners to vote on the bylaw amendments improperly passed at the October 16, 2022 SGM and filed at the LTO on December 12, 2022. The SGM must comply with the strata's applicable bylaws, which I find are the Schedule of Standard Bylaws and a bylaw amendment filed at the LTO on May 30, 2008, and the SPA, including SPA section 45. I further order the strata not to enforce the December 12, 2022 bylaw amendments unless, and until, they are approved by a  $\frac{3}{4}$  vote at the ordered SGM, and then filed at the LTO.
21. Next, I turn to the 2023 AGM.

### ***Budget and strata fees***

22. Under SPA section 103(1), a strata corporation must prepare a budget for the coming year, and the budget must be passed by a majority vote at the AGM. SPA section 103(2) requires the budget to be distributed in advance of the AGM with the meeting notice, and must be accompanied by a financial statement. SPA section 45 says the strata corporation must give at least two weeks' written notice of an AGM.
23. Mr. Bedford says the strata did not provide the budget's financial details in advance of the February 25, 2023 AGM. The strata says a notice package was hand delivered to the owners on February 11, 2023 and signed for. Mr. Bedford does not deny receiving and signing for the package, so I find they did. The package undisputedly included a copy of the 2023 proposed budget.
24. The *Strata Property Regulation* (SPR) section 6.6(1) lists the information a budget must contain. Based on the 2023 budget in evidence, I find it was missing some of the required information, including the CRF's opening balance and estimated balance at the end of the year, an itemized list of estimated income from sources other than strata fees, and each strata lot's monthly contributions to the operating fund and CRF. It included a global figure for the 2023 strata fees, which showed the strata fees remained unchanged from the previous year.
25. In any case, the strata's fiscal year ended on December 31, 2023. So, I find it would be pointless to invalidate the 2023 AGM based on missing information in the budget, since the money from the 2023 budget has already been collected and spent. I also decline to order the strata to comply with SPR section 6.6(1) in the future. It is already legally obliged to do so, so it would be redundant for me to order that now.

### ***Legal expenses***

26. Mr. Bedford says the strata improperly voted to pay for certain legal expenses after they were removed from the budget. The 2023 AGM minutes show the budget as circulated was approved, and the budget included a line item for "By law reviews 1200.00". Mr. Bedford says at the 2022 AGM, the owners passed a resolution to

remove money from the budget for a bylaw review. I find the minutes of that meeting show the amount of money budgeted for a bylaw review was reduced, not removed.

27. In any case, it is unclear how a decision made at the prior year's AGM would render a decision to pass the 2023 budget, including an amount for bylaw review, improper. That is, there is no evidence the money for bylaw review in the 2023 budget was ever reduced or removed, or that the strata improperly voted for the 2023 budget. So, I find there is no basis to conclude the 2023 AGM was invalid for this reason.

### ***Contingency Reserve Fund***

28. Mr. Bedford also says the strata borrowed money from the CRF to pay for its 2022 insurance, without arranging to pay it back. SPA section 95(4) says a strata corporation may lend money in the CRF to the operating fund as permitted by the regulations. SPR section 6.3(1) says such a loan must be repaid at the end of the fiscal year, and must be made to cover temporary shortages in the operating fund due to expenses becoming payable before budgeted monthly contributions to the operating fund have been collected.
29. It is undisputed the strata borrowed \$6,657 from the CRF to pay for its 2022 insurance. While it does not appear this was repaid by the end of the fiscal year as required, the 2023 budget shows a "Transfer to Contingency 6657", which I infer was to replenish the CRF. So, even though the strata may not have strictly followed the SPR in repaying the borrowed CRF money during the fiscal year by year end, it appears to have done so now. I find the strata's late replenishment of the CRF is not a reason to invalidate the 2023 AGM.

### ***2022 AGM minutes and year end reports***

30. Next, Mr. Bedford says the strata did not review the 2022 AGM minutes, or year end reports, including their financial report. Bylaw 28 in the Schedule of Standard Bylaws, which I have already found are the applicable bylaws further to one amendment, sets out the order of business at an AGM or SGM.

31. Bylaw 28 includes approving minutes from the last meeting and receiving reports of council activities and decisions since the previous meeting, including committee reports. The 2023 AGM minutes show the 2022 AGM minutes were approved, as required. I find they were circulated in the agenda package provided, and so were available to owners to review in advance of the AGM. The 2023 AGM minutes also reflect the strata council did not receive any reports, though it is undisputed Mr. Bedford had a financial report to present. While I agree with Mr. Bedford that this process did not follow the applicable bylaws, I find their requested remedy that I declare the 2023 AGM invalid and order a new AGM is not appropriate. Events have overtaken the matter, since the evidence suggests the 2024 AGM has already been held. So, I decline to order Mr. Bedford's requested remedies to address these concerns.

### ***Voting by proxy***

32. Under SPA section 56, a person entitled to vote at an AGM may appoint a proxy to vote for them.

33. Mr. Bedford says they were appointed proxy by the owner of another strata lot, but that owner died before the 2023 AGM. Mr. Bedford says the AGM chair did not allow them to vote by proxy for the deceased owner on the basis that when the owner died, the proxy appointment terminated. The strata denies Mr. Bedford tried to vote by proxy at the 2023 AGM. The meeting minutes record "Proxy Unit 21 – undetermined", so I find it likely Mr. Bedford did raise the question of voting by proxy at the 2023 AGM. However, as the strata indicated to Mr. Bedford, a proxy appointment ends on an owner's death, once the strata has been notified of the death. Mr. Bedford did not submit evidence the owner's executor appointed them as a proxy. So, I find it unproven the strata council improperly denied Mr. Bedford the opportunity to vote by proxy at the 2023 AGM, and I decline to invalidate the meeting on that basis.

### ***Minutes***

34. Next, Mr. Bedford says the meeting minutes did not reflect certain conversations that took place at the 2023 AGM. For example, they say they were prevented from



presenting the financial report mentioned above because they were told it was unnecessary, and because they had already spoken for two minutes earlier on another topic. They say the two-minute time limit was improperly imposed without a vote.

35. SPA section 35 requires a strata corporation to take minutes at every general meeting and every strata council meeting, including the results of any votes. The SPA does not further specify what those minutes must contain, and the applicable bylaws are silent on the content of meeting minutes. The courts have considered the degree of detail required in meeting minutes. While minutes must contain records of the decisions made, they may or may not report in detail the discussions leading to those decisions (see *Kayne v. The Owners, Strata Plan LMS 2374*, 2007 BCSC 1610, at paragraph 8). The purpose of minutes is to inform the members of decisions made and money spent on their behalf (see *Yang v. Re/Max Commercial Realty Associates (482258 BC Ltd.)*, 2016 BCSC 2147, at paragraph 133).
36. Based on the above, I find the strata was not obliged to record the detail of any discussion that may have occurred at the 2023 AGM. As for Mr. Bedford's assertion that a two-minute time limit was imposed on individuals without having been voted on, there is no evidence the time limit had any effect beyond that AGM. That is, there is no evidence the strata has continued to impose a time limit without putting it through an appropriate decision-making process. So, I decline to invalidate the 2023 AGM for these reasons as well.

## **CRT FEES AND EXPENSES**

37. 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. Each party was partly successful, but since Mr. Bedford paid more in CRT fees, I find they are entitled to reimbursement of \$100. Mr. Bedford also requests that \$3,400 they say was paid out of the strata's accounts be returned. I find this is not a dispute-related expense, so I dismiss it. Even if this had been part

of Mr. Bedford's main claim, I would have found there was insufficient evidence to support the claimed remedy.

38. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Mr. Bedford.

## **ORDERS**

39. Within 60 days of this decision, I order the strata to hold an SGM in accordance with the SPA and applicable bylaws for the purpose of allowing the owners to vote on the bylaw amendments improperly passed at the October 16, 2022 SGM.
40. I order the strata not to enforce the bylaw amendments improperly passed at the October 16, 2022 SGM unless, and until, they are approved by a  $\frac{3}{4}$  vote at the ordered SGM, and then filed at the LTO.
41. Within 15 days of the date of this decision, I order the strata to reimburse Mr. Bedford \$100 for CRT fees.
42. Mr. Bedford is entitled to post-judgment interest under the *Court Order Interest Act*.
43. I dismiss Mr. Bedford's remaining claims.
44. 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.

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Megan Stewart, Tribunal Member