



Civil Resolution Tribunal

Date Issued: January 17, 2025

File: ST-2023-010236 and
ST-2023-012985

Type: Strata

Civil Resolution Tribunal

Indexed as: *Tabet v. The Owners, Stata Plan NW1816*, 2025 BCCRT 74

B E T W E E N :

JAD TABET

APPLICANT

A N D :

The Owners, Strata Plan NW1816

RESPONDENT

A N D :

JAD TABET

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Amanda Binnie

INTRODUCTION

1. This strata property dispute involves two linked disputes, which are a claim and a counterclaim about allegedly unauthorized alterations to a strata lot and strata common property. The applicant, Jad Tabet, owns strata lot 22 (SL22) in the respondent strata corporation, The Owners, Strata Plan NW1816 (strata). The strata is the applicant in the counterclaim, ST-2023-012985, and Mr. Tabet is the respondent in that dispute.
2. In ST-2023-010236, Mr. Tabet says the strata has acted significantly unfairly toward him, primarily by initially approving proposed alterations to SL22, but later changing its mind. He says his alterations have not damaged common property and comply with the BC Building Code (code). He says the strata has not given him a valid reason to refuse his proposed alterations.
3. Mr. Tabet asks for the following orders:
 - a. the strata approve his proposed alterations,
 - b. the strata hold a special general meeting (SGM) to replace some or all council members,
 - c. the strata bear its own costs and expenses it incurred dealing with this dispute,
 - d. the strata reimburse his legal fees and dispute-related expenses,
 - e. the strata approve the installation of a doorbell camera,
 - f. the strata and the strata council apologize to Mr. Tabet, and
 - g. the strata reimburse him \$180,000 in “general damages”.
4. The strata says Mr. Tabet did alterations beyond what it had approved. This included an alteration to common property ventilation ducting. It also says Mr. Tabet did not obtain a building permit for these alterations. The strata says the city ordered it to return the ducting to their former position, and it did so. Finally, the

strata says it did not act significantly unfairly by refusing to retroactively approve the unauthorized alterations, or by restoring them.

5. In ST-2023-012985, the strata says because Mr. Tabet completed these unapproved alterations, he breached the strata's bylaws and an assumption of liability agreement (AOL) he signed. So, the strata argues Mr. Tabet is liable for the strata's expenses in returning the common property ventilation and surrounding drywall to its former position, which are \$43,036.84. It also claims \$27,893.32 in legal fees for dealing with this dispute.
6. Mr. Tabet says the strata did not reasonably respond to the city's orders. As a result, he says he could not get the approvals from the city himself to repair the common property. Mr. Tabet also says the strata is not entitled to legal fees because it could have communicated with him directly. Finally, Mr. Tabet says the strata's claims are out of time under the *Limitation Act*.
7. Mr. Tabet is represented by Harry Saini, a lawyer. The strata is represented by Jennifer Lebbert, a lawyer.

JURISDICTION AND PROCEDURE

8. 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.
9. 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, which thoroughly document the parties' actions through this dispute. 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.

10. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues.
11. 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.
12. 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

Replacing council members

13. Mr. Tabet asks for an order that the strata call an SGM to replace some or all of the strata council members, because they have acted deceptively and against the strata's interest. Mr. Saini also alleges in correspondence that the strata council, or certain members, are in a conflict of interest.
14. In *Schuler v. The Owners, Strata Plan BCS 4064*, 2018 BCCRT 175 at paragraph 88, a CRT vice chair found it inappropriate to interfere with the owners' ability to determine its strata council. This was because in *Schuler*, the council members were not named parties and the strata had a bylaw for removing council members by majority vote at an AGM.
15. While not binding on me, I find the reasoning in *Schuler* persuasive and apply it here. In this case, bylaw 11 says a council member may also be removed by an AGM majority vote. There is no evidence Mr. Tabet raised these issues at an AGM. So, I find it is not appropriate to interfere with the owners' democratic rights by ordering any strata council members' removal. I dismiss Mr. Tabet's claim to do so.

ISSUES

16. The remaining issues in this dispute are:

- a. Did the strata treat Mr. Tabet significantly unfairly?
- b. If so, what is the appropriate remedy?
- c. Must the strata approve Mr. Tabet's doorbell?
- d. Who is responsible for the strata's costs and expenses in dealing with Mr. Tabet's alterations?

BACKGROUND

17. In a civil proceeding like this one, Mr. Tabet must prove his claims on a balance of probabilities (meaning more likely than not). The strata bears the same burden for its counterclaim. I have read the parties' lengthy submissions and evidence but refer only to the evidence and argument that I find necessary to explain my decision.
18. The strata plan shows it was created under the *Condominium Act* in 1981 and continues to exist under the SPA. The strata consists of 45 residential strata lots in a 3-storey building. SL22 is on the second floor, with other strata lots both above and below it, and on either side.
19. The strata filed a full set of bylaws with the Land Title Office on April 4, 2002. Other than two amendments related to common property alterations and installation of alternative flooring, subsequent amendments are not relevant to this dispute.

Bylaws

20. The relevant bylaws to this dispute are:

- a. Bylaw 5(1) requires an owner to get strata approval before altering a strata lot if it involves, among other things, windows that front common property, electrical wiring, plumbing or other services within the building, strata lot or common property, and installing hardwood or tile flooring.

- b. Bylaw 5(2) sets out the process for obtaining strata's approval.
- c. Bylaw 5(3) says such alterations must be done a good and workmanlike manner by qualified tradesman, contractors or workers.
- d. Bylaw 5(4) says such alterations must be done at the owner's sole risk, cost and expense. The owner (and subsequent owners) must indemnify the strata for any and all costs and expenses incurred by the strata in any way arising from any act or omission of the owner relating to the alterations. This includes all costs, legal fees, expenses and liabilities.
- e. Bylaw 6(1), requires an owner to obtain written approval before making alterations to common property. It adopts the requirements in bylaws 5(2), (3) and (4) for common property alterations.

Evidence

- 21. There was significant evidence in this dispute, including affidavits from Mr. Tabet and strata council president RD, which were each over 300 pages. However, much of the evidence was in the form of emails and reports, as well as correspondence between the parties' lawyers. As each party largely produced the same documentary evidence, I will go through the chronology of this dispute based on that documentary evidence. Where a party disputes receiving a document or disagree about what inference to draw from it, I will make my own findings.
- 22. Mr. Tabet signed a contract for purchase and sale for SL22 in March 2021, with possession to take place on June 1, 2021. On March 22, Mr. Tabet emailed the strata manager about renovations. Despite initially providing information about the process for alteration approval, the strata manager then said Mr. Tabet would have to wait until he took possession to make an application.
- 23. Mr. Tabet did so, and on June 24, 2021, provided the required drawings, the qualifications of his structural engineer Sal Tabet, a signed AOL, an asbestos report, flooring material specifications, and a general contractor liability form.

24. The AOL specified that the alterations would be “installing vinyl plank, removing a kitchen wall, and replacing the kitchen”. I return to the AOL below. The drawings show the stove would be moved to another location. The asbestos report found asbestos in the kitchen floor backing.
25. After the strata manager forwarded Mr. Tabet’s application to the strata council, the members had concerns about the Mr. Tabet’s plans. In particular, they were concerned about Mr. Tabet using a relative as the structural engineer, whether he had obtained a permit, and removing a wall that included stove ventilation ducting.
26. The ventilation ducting goes vertically through that wall, down to the unit below and also up to the unit above. Each unit then has a range hood attached to the ducting. The parties agree this ducting is common property.
27. Through the strata manager, the strata asked Mr. Tabet for clarity on these issues, and included a drawing noting the ducting’s location.
28. Mr. Tabet confirmed that Sal Tabet was a distant cousin, and had been practicing since 2005. The strata was satisfied with this.
29. With respect to the ventilation ducting, Mr. Tabet initially said it would be “covered by a post, (going to the unit above and below), and [Mr. Tabet] will have a bulkhead in [his] unit to allow for ducting to be connected”. Mr. Tabet said a permit would not be given without strata’s approval, but also confirmed his engineer told him that a permit would not be required because the wall being removed was not structural. The parties agree the wall was not structural.
30. However, an hour after Mr. Tabet sent his initial response about where the ducting was going go, he quoted a response from his contractor that the “plan is to open the wall and (partial) ceiling to have the ducting run thru the cabinetry, into existing joist space and reconnect to existing ducting”. Further, nine feet of ducting and three 90-degree fittings would be added, with any additional pressure to be accounted for by a new hood fan.

31. On June 30, the strata manager sent Mr. Tabet an email saying “Council has approved your renovations”.
32. Mr. Tabet began his renovations the following week. Mr. Tabet says his contractors removed the kitchen appliances and the sink, the kitchen cabinets and the kitchen wall. They had also removed the kitchen flooring to redirect the ducting through the floor, and then into the ceiling.
33. However, on July 27, 2021, the owners of the unit below reported cement or grout leaking from their ceiling down onto their hood fan and stove. As a result, on July 28, two council members went to SL22 to investigate.
34. Council were immediately concerned with the relocated common property ducting, which was relocated through the floor, up the wall between the bedroom and kitchen, and back into the ceiling. Council’s position was that this was unapproved, in that it exceeded what they had agreed to. I infer from their emails council understood Mr. Tabet was only re-routing ducting connecting Mr. Tabet’s range hood to the common property ducting, not the common property ducting itself. As a result, they asked for a copy of Mr. Tabet’s permit. It is undisputed that Mr. Tabet did not have a permit.
35. On July 29, Mr. Tabet proposed he have a mechanical engineer assess the ducting’s new location. He suggested if there was no harm to the venting, the venting would be left as it was. If not, Mr. Tabet would have his contractor return it to its previous location.
36. The strata did not agree with this and reported Mr. Tabet to the city. The city put a stop work order on Mr. Tabet’s strata lot on July 29.
37. Mr. Tabet confirmed in emails to the strata his misunderstanding came from Sal Tabet. In fact, the city confirmed an architectural permit was required for the work.
38. On August 13, the city advised Mr. Tabet he had 45 days to apply for a building permit, and could get professional drawings with the current state of venting because it was compliant with the code. On August 19, the city confirmed Mr. Tabet

needed a permit to restore the fire suppression between the floors, and strata would need to sign off on that work.

39. While there is some allegation that Mr. Tabet did work on SL22 during the stop work order, I find this was exploratory work, which the city allowed. As the strata was responding to complaints from the owners below, I find there was nothing improper in confirming with Mr. Tabet he was not doing work under the stop work order.
40. On September 25, Ms. Lebbert emailed Mr. Tabet saying the strata fined Mr. Tabet \$200 for unauthorized alterations and ordered him to repair the damage by October 25. The strata also required new experts to approve the work, a new engineering report and design plan, and building permits from the city, before it would consider approving the alterations.
41. On October 14, Mr. Tabet emailed the strata a new application for its approval, which included drawings explicitly showing the moved venting. Ms. Lebbert replied that the strata was getting its own inspection to assess the damage.
42. At this point, the parties disagreed about what the strata had initially approved. The parties also disagreed about whether Mr. Tabet could continue using the same professionals.
43. On November 5, Ms. Lebbert wrote Mr. Tabet the strata denied his application because he did not use new professionals. Further, she told Mr. Tabet the strata was retaining its own experts for an inspection to return the venting to its previous state and charging that cost back to him.
44. On November 25, the strata stated it wanted SL22 returned to its previous state, and was coordinating 3 contractors to attend.
45. Over early 2022, the strata confirmed its position Mr. Tabet could make a new application for alteration after the strata restored fire suppression between SL22 and the strata lot below was restored.

46. At some point, Mr. Tabet retained Mr. Saini, who sent a demand letter asking for approval of Mr. Tabet's new application in February 2022.
47. On March 14, C&C Electrical Mechanical, which I infer is an HVAC company, inspected SL22. It found the kitchen drain stack had not been compromised, and only the kitchen trap arm had been directed, which was done to code.
48. The strata then had an engineer from BMAC Technologies & Consulting attend to inspect SL22 on March 23. Mr. Tabet says this is because the strata did not like that C&C found nothing was wrong. However, based on C&C's very brief report, I accept the strata's argument this was because C&C did not address the re-routed ducting or include a quote to restore it. In any event, emails with C&C employee LC confirms C&C was not interested in the project, due to the ongoing legal dispute.
49. On April 7, BlueShore Projects, a company related to BMAC, provided an estimate of \$4,830 to restore the ducting.
50. On April 8, due to the compromised fire separation in the floor, the city ordered the strata to reinstate the venting and fire separation to its original condition. Over the following months, Ms. Lebbert, the strata, and BlueShore worked with the city on the scope of work needed to comply with that order.
51. On June 8, engineer Farhad Hemmati of BMAC provided his report. He found the structural integrity of the original construction was not compromised, but the fire-proofing might be, and ductwork joints still need to be air sealed.
52. On July 4, the strata manager asked for clarification about Mr. Hemmati's report and asked BMAC to proceed with the work required by the city. Mr. Hemmati advised an architect would need to be involved to complete the work. The strata responded within a day asking BMAC to proceed with adding an architect, and Fariba Gharaei of M+ Architecture became involved on July 11.
53. Over the following months, Ms. Gharaei prepared her drawings for the building permit, and submitted them to the city for review on September 26. The strata

confirmed it wanted the venting returned to its original placement, regardless of Mr. Tabet's requests.

54. In August 2022 Mr. Tabet attempted to get his own conditional permit from the city, but the city told him it could not issue a permit without the strata's approval.
55. On October 6, Ms. Gharaei submitted the building permit application. As the city required a contractor's name and insurance, she sought quotes for this work. Ms. Gharaei had difficulty getting quotes due to the small scope, and in the end only two were provided, from Smith & Sons and Mint Construction. The strata hired Smith & Sons, I infer because it was the most affordable option Ms. Gharaei presented.
56. In December 2022, Ms. Gharaei tried to hire a structural engineer. Initially, Mir Afashar Niakouri was retained. However, he resigned when he realised Sal Tabet was already involved, saying only one structural engineer could be involved at a time.
57. While Ms. Gharaei suggested strata hire Sal Tabet, strata felt this was a conflict. Given Sal Tabet was initially unaware of the requirement for a permit, I find this was reasonable. In the end, strata retained Tarek El-Armoury of Tides Consulting, though I accept Mr. Tabet's evidence Sal Tabet was never asked to resign.
58. The city issued the building permit for the reinstatement work on February 28, 2023. Mr. Tabet told Smith & Sons all information was to go through Mr. Saini.
59. In March 2023, the work was delayed because Mr. Saini felt the permit was improperly obtained, as it incorrectly listed the strata as the owner, not Mr. Tabet. This required the city's lawyer to get involved to confirm as the work concerned common property, the strata was listed correctly as the owner on the permit.
60. Neither party's affidavit addresses what happened after March 2023, but on July 20, the city sent an email to all parties asking the work to get started. After that point, Mr. Tabet and Smith & Sons had other commitments so work did not start until August 24, 2023.

61. The city inspected the work on September 1, and found deficiencies that needed to be corrected. The city finally approved the work in October 2023. I understand from the Mr. Saini's March 2024 submissions that Mr. Tabet has not yet completed his alterations and SL22 remains unfinished.

ANALYSIS

Significant unfairness

62. Mr. Tabet argues that the cumulative effect of:

- a. the strata's retracted approval of his initial alteration application and refusal to approve subsequent applications,
- b. delayed restoration of SL22's ventilation,
- c. delayed and incomplete disclosure,
- d. council members' breach of privacy,
- e. parking bylaw warning, and
- f. doorbell bylaw warning,

amount to the strata treating him significantly unfairly.

63. The strata argues Mr. Tabet's renovations went beyond what it approved, and it was entitled to return the common property to its previous condition as a result. It says while some disclosure was delayed, other disclosure was not required by SPA section 35. The strata says there was no breach to Mr. Tabet's privacy, because actions of individual former council members are not the actions of strata. Finally, the strata says Mr. Tabet breached the strata's bylaws by parking his own vehicle in visitor parking and installing a camera doorbell, and the violation notices sent to Mr. Tabet were not targeted at him.

64. I turn to the law. As discussed in *Reid v. Strata Plan LMS 2503*, 2003 BCCA 126, stratas must often make decisions which affect various owners or tenants. At times,

the strata corporation's duty to act in the best interests of all owners is in conflict with the interests of a particular owner, or group of owners.

65. Following *Reid*, this means that for the court (or CRT) to intervene, a strata corporation must act in a significant unfair manner, resulting in something more than mere prejudice or trifling unfairness. Conduct may be significantly unfair to one owner even if it benefits a majority of other owners.
66. The basis of a significant unfairness claim is that a strata must have acted in a way that was “burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust or inequitable” (see: *Reid, Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44, and *Kunzler v. The Owners, Strata Plan EPS 1433*, 2020 BCSC 576, affirmed 2021 BCCA 173).
67. In *Dollan*, the BC Court of Appeal established the following reasonable expectations test:
- a. Examined objectively, does the evidence support the asserted reasonable expectations of the owner?
 - b. Does the evidence establish that the reasonable expectation of the owner was violated by the action that was significantly unfair?
68. More recently in *Kunzler*, the BC Court of Appeal determined the reasonable expectations test set out in *Dollan* is a factor in deciding whether significant fairness has occurred, together with other relevant factors, including the nature of the decision in question and the effect of overturning or limiting it.
69. For the following reasons, I find the strata did not treat Mr. Tabet significantly unfairly.

Did the strata approve the alterations?

70. The parties agree that the ventilation ducting that Mr. Tabet’s contractor re-routed was common property. The SPA confirms this, as the definition of “common property” includes ducts within a strata lot, if they are intended to also be used for

the enjoyment of another strata lot. As this ducting undisputedly serviced the strata lots above and below, it was common property. The parties agree under bylaw 6 this meant Mr. Tabet needed the strata's approval to alter it.

71. I accept Mr. Tabet applied to the strata to make alterations to SL22 and that the strata approved. The issue is what the strata actually approved.
72. I accept the strata's argument it intended to approve the moving of the range hood, and required ducting from the new range hood's location to the vertical stack, but did not approve moving the vertical stack itself.
73. I say this acknowledging Mr. Tabet's arguments that he was not copied on all the emails outlining strata council's specific concerns, and that strata did not understand his drawings. I find the drawings and Mr. Tabet's emailed clarifications are relatively straightforward, but simply do not say anything about re-routing common property ducting through the floor.
74. I find his initial application did not include pictures or other information that would indicate Mr. Tabet would be moving common property ducting, particularly underneath flooring that had tested positive for asbestos. I find removing the kitchen wall did not necessarily mean there would be no pole remaining, particularly in light of Mr. Tabet's clarification emails.
75. In his initial clarification email to the strata, Mr. Tabet said a pole would be covering the ducting going above and below. I find this is a reference to the common property ducting in its original location. In his follow-up email with his contractor's correction, Mr. Tabet corrected that the ducting would be going into the ceiling and cabinetry, but does not say there would be no pole. Also, crucially, that email says the ducting will *reconnect to existing ducting*. Given Mr. Tabet was moving his stove, I find "existing ducting" can only be referring to the common property ducting in the original vertical stack.
76. Based on the above, even if Mr. Tabet intended to get approval to move the common property ducting, his application was vague and ambiguous about doing

so. I find the strata's interpretation of Mr. Tabet's application, together with his clarifications, was reasonable.

77. Mr. Tabet argues that the strata manager told him only an engineer's report would be required for removing the wall. I accept the strata manager told him an engineer's report would be required to remove the wall, but I find the strata manager did not say this was all that was required. Further, this email was before Mr. Tabet even took possession of SL22, and seems to be general information about alteration approvals for Mr. Tabet's benefit. I find it cannot overcome the AOL Mr. Tabet signed saying he would comply with municipal codes, or bylaws that applied to his request.
78. It was Mr. Tabet himself who told the strata that a permit would not be issued until the strata approved his alterations. Further, his engineer told him no permit was needed for removing the wall, because it was not load bearing. His engineer was mistaken, but that mistake is not the strata's fault. I find the strata never told Mr. Tabet no permit would be required, which is consistent with council's internal emails which show they assumed he would be getting a permit after their initial approval.
79. I now turn to whether Mr. Tabet should have been able to keep the altered ducting. It is undisputed that Mr. Tabet's subsequent two applications for alterations included the common property ducting remaining in its altered position, both of which strata rejected.

Was Mr. Tabet entitled to retroactive approval of the alterations?

80. Mr. Tabet relies on C&C and BMAC's reports that there were no issues with the alterations, other than the interference with the fire suppression. I find it is clear from Mr. Tabet's communications with the strata and his submissions in this dispute, that since the alterations were done to code, he expected to be able to keep them and continue with his other alterations.

81. Mr. Tabet also points to another strata lot, unit 304, within the strata that made similar alterations. The strata argues it was not required to keep records of unit 304's application, and no similar application has been approved in the last 10 years.
82. Though the strata is mistaken that it was not required to keep records of unit 304's alterations, I accept the strata likely approved them at some point.
83. Mr. Tabet provided photos of what appear to be two different real estate listings for unit 304. I accept from these photos that unit 304's current or previous owner removed the same kitchen wall Mr. Tabet wanted to remove in SL22. However, I agree with the strata that unit 304's alteration do not assist Mr. Tabet. This is because unit 304's photos show there is a pole remaining at the edge of the kitchen. I infer this pole contains the ducting for the range hood, which is exactly what the strata wanted Mr. Tabet to keep.
84. Further, if the strata did not approve unit 304's renovations, the remedy would be to enforce the bylaw equally against unit 304, not approve Mr. Tabet's application.
85. Finally, I find Mr. Tabet's arguments ignore the strata's responsibility to other owners with respect to altering common property. I find the strata has a legitimate concern that potential issues caused by altering ducting that services more than one unit, particularly since the building is over 40 years old.
86. In *Getzlaf v. The Owners, Strata Plan VR 159*, 2015 BCSC 452, the court confirmed a strata must act in the interest of all owners. The CRT has also confirmed a strata is entitled to consider the cumulative effects of potential future applications (see, for example: *Rasmussen v. The Owners, Strata Plan VIS 1611*, 2022 BCCRT 711 at paragraphs 29 to 31 and *Binge v. The Owners, Strata Plan LMS 988*, 2023 BCCRT 441 at paragraphs 29 to 30).
87. I accept the ventilation system was able to handle Mr. Tabet's alterations. However, Mr. Tabet provided no evidence to support this would be the case if ducting was re-routed in other strata lots.

88. So, I find Mr. Tabet has not established his expectations he be allowed to modify common property ducting were reasonable.
89. As noted above, Mr. Tabet's reasonable expectations are not determinative, and I must consider whether the strata acted in a way that was "burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust or inequitable".
90. Mr. Tabet argues that the strata had no rational reason to refuse his re-routed ventilation and acted in bad faith.
91. I find the strata acted in good faith, justly and equitably. It carefully considered Mr. Tabet's initial application, which it subsequently approved. It remained open to further applications once the common property ducting was restored. Mr. Tabet provided no evidence the strata approved other owners re-routing common property ducting.
92. Mr. Tabet's argument the strata should have retroactively approved the re-routed ducting because it was done properly ignores the strata's duties to all owners I discuss above. Further, it ignores the broad discretion the strata has over common property, which is not changed by bylaw 6(1). This means the strata is entitled to take a cautious approach towards common property alterations that might affect building-wide systems, like ventilation. I find it was rational for the strata to consider the effects of potential future applications to alter ducting. As noted, Mr. Tabet provided no evidence about the system's ability to handle multiple alterations.
93. Based on the above, I find the strata did not act significantly unfairly in rejecting Mr. Tabet's applications to alter common property ducting.

Delayed restoration of SL22's ducting

94. Mr. Tabet says, and I accept, that he was without a proper functioning kitchen for a significant amount of time. He argues that a part of that was because the strata took 1.5 years to restore the ducting to SL22.

95. In particular, Mr. Tabet points to the delay between November 2021, when the strata said it would be doing the work itself, to March 2022, when C&C first did its inspection.
96. In *Slosar v. The Owners, Strata Plan KAS 2846*, 2021 BCSC 1174, the court said a strata's decisions about repairs are to be assessed based on when the strata made the decision, not with the benefit of hindsight. Further, a strata council is made up of lay volunteers, who may not have expertise in building repairs.
97. In *Dolnik v. The Owners, Strata Plan LMS 1350*, 2024 BCCRT 88, a CRT vice chair found where a strata proceeded reasonably with repairs, meeting its obligation under SPA section 72, there is no further obligation on the strata. So, if a strata's repair decisions are reasonable, the strata has not acted significantly unfairly. While not binding on me, I find the reasoning persuasive and adopt it here.
98. Here, I find the strata did proceed reasonably. The strata said it would complete the repairs itself on November 25, 2021. However, in January and February 2022, Mr. Saini continued to demand strata approve Mr. Tabet's application, so that he could obtain an architectural permit from the city. I find the strata reasonably thought Mr. Tabet had chosen to take on the work himself, and was waiting for him to provide drawings that included the restored common property ducting.
99. That did not happen, and the strata proceeded with C&C's inspection in March 2022. I have found above it is not the strata's fault C&C did not want to get involved, given the ongoing legal dispute. When the strata became aware of that, it promptly hired BMAC.
100. As I note above, the ducting restoration was not complete until October 2023. While I accept this is a long time, I find the evidence shows the strata followed its professionals' advice, and at all times asked its professionals to move the work forward.

101. I also find many of those months were due to the process of getting a building permit, Mr. Saini's objection to how the building permit was obtained, and scheduling conflicts between the strata's contractors and Mr. Tabet.

102. So, I find the strata did not act significantly unfairly to Mr. Tabet based on the length of time the work took.

Delayed and incomplete disclosure

103. SPA section 35 sets out the records that a strata corporation must prepare and retain. SPA section 36(1)(a) says that on receiving an owner's request, the strata corporation must make the records referred to in section 35 available for inspection, and must provide copies upon payment of any applicable fee.

104. Mr. Tabet argues the strata did not produce BMAC's report until this litigation, provided certain truncated emails, and delayed other disclosure. The strata agrees it delayed providing disclosure, but argues it was not required to disclose BMAC's report or emails between strata council members.

105. I agree with strata that courts have held emails between individual strata members are not required disclosure under SPA section 35 (*Louis v. Civil Resolution Tribunal*, 2020 BCSC 2061, at paragraph 29). As these are the emails Mr. Tabet points to, I find the strata was not required to produce anything further. It is also not clear to me what, if anything, has been truncated in these emails.

106. With respect to BMAC's report, Mr. Saini began demanding its report on April 1, 2022. However, the report is dated June 8, 2022, and so I find it could not have been produced when Mr. Saini first requested it. Further, for the strata to be required to produce it under SPA section 35, it must be respecting "repair or maintenance of major items", an electrical planning report or a report regarding EV charging infrastructure.

107. Neither party provided specific submissions on why the strata should, or should not, have disclosed BMAC's report.

108. In any event, Mr. Tabet has that report now and he does not ask for any other remedies related to that report, other than remedies related to the strata's significant unfairness.
109. Finally, the strata accepts that it provided delayed disclosure after the 2 weeks required under SPA section 36. The evidence shows Mr. Saini initially requested disclosure on January 17, 2023, and Ms. Lebbert did not provide disclosure until Mr. Saini requested dates for a hearing, March 24, 2023.
110. I find the strata breached SPA section 36 by failing to send Mr. Tabet or Mr. Saini the records within 2 weeks of Mr. Saini's request. However, I find in the context of a long-standing legal dispute, this was a technical delay that does not amount to significant unfairness. There is no evidence Mr. Tabet was prejudiced by the delay. Further, the strata ultimately produced the documents and Mr. Tabet has requested no other remedy about the delayed disclosure.

Council members' breach of privacy

111. Mr. Tabet says strata breached his privacy in two ways. First, a strata council member placed her ear on the door during BMAC's inspection when Mr. Tabet refused that strata council member entry. Second, another strata council member's wife read a notice on his door. While Mr. Tabet refers to the strata council member in submissions, I am satisfied from the video it was that council member's wife who opened the notice.
112. First, I find the actions of a council member's wife do not amount to the strata's actions. Second, I accept the overheard conversation occurred in Mr. Tabet's strata lot. However, other than location, Mr. Tabet does not say why he had an expectation of privacy in a conversation with the strata's contractor.
113. So, even if I found the eavesdropping amounted to a breach of Mr. Tabet's privacy, I find that breach was trivial. In any event, the strata confirmed its council members agreed not to repeat this behaviour. As a result, I find the strata did not act significantly unfairly about these alleged privacy breaches.

Bylaw Warnings

114. Mr. Tabet says the strata sent him bylaw warnings about his video doorbell and parking in the visitor's parking. The parties agree the strata has not fined Mr. Tabet for these, and has agreed to delay any enforcement until after this dispute is resolved.

115. I find there is no significant unfairness in the strata warning Mr. Tabet he was violating its bylaws. Mr. Tabet does not dispute the doorbell violates the bylaws, and that he improperly parked in visitor parking.

Conclusion on significant unfairness

116. Based on the above, I find Mr. Tabet has not proven the strata treated him significantly unfairly, through any individual actions or collectively. As a result, I dismiss Mr. Tabet's claimed remedies.

117. Given my finding on significant unfairness, I do not need to consider the strata's arguments about estoppel.

Must the strata approve Mr. Tabet's doorbell?

118. Mr. Tabet asks for an order that the strata approve his Ring doorbell, which as noted has a camera. He does not dispute that bylaw 5(1)(d) required him to get the strata's approval before altering a door that fronts onto common property, which Mr. Tabet's door does. So, I find installing the camera required that approval, which Mr. Tabet undisputedly did not obtain. Mr. Tabet relies on the same breaches of privacy listed above to justify the doorbell's installation.

119. The strata relies on the CRT's decision in *Herr v. The Owners, Strata Plan KAS 1824*, 2020 BCCRT 496, where the tribunal member found it was reasonable for a strata to consider the privacy interests of other owners when refusing video camera on common property. The strata says the camera records both video and sound, and records people walking by, and that Mr. Tabet never asked for the strata's approval to install it.

120. Mr. Tabet does not address the other owners' privacy. Based on the videos he submitted, I find the audio of private conversations within the entryway of at least one other strata lot are captured and recorded by the camera.
121. I find while the evidence shows Mr. Tabet asked for a hearing about the doorbell's bylaw violation notice, he has not asked for approval to install it.
122. While not binding on me, I agree with the reasoning in *Herr* and apply it here. I infer from the strata's arguments it has a concern about other owners' privacy on common property. So, I dismiss Mr. Tabet's claim that the strata approve his doorbell.
123. I note it is open to Mr. Tabet to make an application to the strata for the doorbell's approval, providing information that addresses the strata's concerns about privacy. If the strata rejects the application, Mr. Tabet's recourse is to advocate for a new strata council who takes a different view on how to balance security and privacy, or to advocate for a bylaw amendment to address doorbell cameras.

Who is responsible for the strata's costs and expenses in dealing with Mr. Tabet's alterations?

124. In the counterclaim, the strata claims \$43,036.84 in expenses related to restoring the ducting in SL22. It says under the AOL and its bylaws, Mr. Tabet is required to pay these amounts.
125. The strata relies on *The Owners, Strata Plan KAS 1771 v. Flaman*, 2024 BCSC 1242, where the court allowed chargebacks against an owner who completed unauthorized alterations, including ones that went beyond the scope of the strata's approval.
126. Mr. Tabet says some of the strata's expenses are out of time because of the two year limitation period in the *Limitation Act*. So, the strata cannot recover damages before March 26, 2022, two years before it filed its CRT counterclaim.

127. Further, Mr. Tabet argues that SPA section 133 says the strata must do what is *reasonably necessary* to correct a bylaw contravention, while the strata's expense are excessive and disproportionately high. Finally, he argues that the issue is the strata did not properly understand his alteration application. I note I have already found the strata's interpretation of Mr. Tabet's application was reasonable, but that interpretation did not include moving the common property ducting.
128. First, I address Mr. Tabet's argument some of the strata's expenses are out of time. A party may be prevented from relying on the *Limitation Act* as a defence, based on the legal principle of promissory estoppel. To establish promissory estoppel, the strata must be shown that Mr. Saini, on behalf of Mr. Tabet, by words or conduct, made a promise or assurance that was intended to affect the parties' legal relationship, and that the strata acted on it or in some way changed their position in reliance on the promise (see: *Maracle v. Travellers Indemnity Co. of Canada*, 1991 CanLII 58 (SCC)).
129. Here, I find the strata has proven promissory estoppel. The evidence shows in September 2022, Mr. Saini specifically asked to have the expenses dealt with at the end of the matter. He confirmed this position in 2024, when he asked the strata not to enforce chargebacks until the resolution of the CRT proceeding. The strata agreed. So, I find the Mr. Tabet explicitly agreed to waive the limitation period with respect to the invoices.
130. I turn now to Mr. Tabet's liability for the strata's expenses. Bylaw 5(2) requires Mr. Tabet to get required permits for any alterations. Bylaw 6(2) requires Mr. Tabet to get the strata's approval for any common property alterations, and to comply with bylaw 5(4). Bylaw 5(4) requires Mr. Tabet to indemnify the strata from any costs and expenses in any way arising from Mr. Tabet's act or omission, relating to the alteration. This includes all costs, legal fees, expenses, and liabilities.
131. I found Mr. Tabet exceeded the strata's approval and altered common property, and did so without the required permit. So, I find under bylaw 5(4) he must reimburse the strata for its expenses. He also agreed to do this under the AOL,

which has a broad provision requiring Mr. Tabet to indemnify the strata all costs related to the alterations, including their removal.

132. However, I find that the strata must still prove its expenses were reasonable. I turn now to the specific expenses.

AXIN Architecture

133. The strata claims \$10,414.60 for Ms. Gharaei's work, based on three invoices.

134. Mr. Tabet provided an estimate from SKArchitect for \$4,800, which is similar to Ms. Gharaei's original estimate of \$5,800.

135. However, I find Ms. Gharaei's estimate was just that, an estimate. I accept she was involved longer than initially expected.

136. Further, SKArchitect's quote specifically does not include: disbursements plus administrative fee, assistance with finding contractors, or field visits, which may vary depending on any municipal requirements. Finally, SKArchitect did not comment on whether Ms. Gharaei's invoices were reasonable, in light of her assistance finding a contractor and structural engineer, the project's length, and the city's deficiency list in 2023.

137. Given the length of time Ms. Gharaei was involved and services provided, I find her invoices were reasonable and Mr. Tabet must reimburse the strata \$10,414.60.

BMAC

138. The strata claims \$1,484.60 for BMAC's invoice. Mr. Tabet says the strata has not proven what services BMAC provided or its scope of work, and so is not entitled to this expense.

139. The strata provided Mr. Tabet with BMAC's invoice on July 29, 2022. That invoice shows BMAC billed for interior modelling review, mileage, and liability insurance. Further, Mr. Tabet was aware BMAC had done an inspection and prepared a report.

I find this expense was reasonable and Mr. Tabet must reimburse the strata \$1,484.60.

TIDES Consulting

140. The strata claims \$2,837.63 for TIDES' two invoices. Mr. Tabet says the strata has not provided TIDES' retainer or explained why TIDES was required.
141. The strata retained TIDES, and more specifically Mr. Almoury, as a structural engineer to supervise the project. The city required this. Mr. Tabet was aware of this, as the strata's communications with Mr. Almoury are included in his affidavit.
142. Mr. Almoury provided engineering services and did additional site inspections, prepared reports, and corresponded with the strata's contractor. Mr. Tabet does not comment on these specific costs.
143. I find as the city required a structural engineer be involved, and the strata had concerns about using Sal Tabet, hiring Mr. Almoury was reasonable. Further, I find his invoices are reasonable, and I find Mr. Tabet must reimburse the strata \$2,837.63.

Smith & Sons

144. The strata claims \$13,843.98 for Smith & Sons' work in restoring SL22's ducting. Mr. Tabet says the strata has only provided an invoice, not the original quote. Further, Mr. Tabet argues Smith & Sons' invoice is nearly \$10,000 more than both Blueshore's estimate to complete the work, and the amount it cost Mr. Tabet to do the work originally. Finally, Mr. Tabet says the strata did not provide Mint Construction's quote, likely because it was less than Smith & Sons'.
145. Mint Construction's quote is not attached to the email purporting to include it, which the strata gave as evidence, and the strata does not say what the quote's amount was. While Mr. Tabet argues this was deliberate on the strata's part, I find there is no evidence to support this. Given the large amount of evidence in this case, I accept this attachment was likely not included inadvertently.

146. However, without Mint Construction's quote, Smith & Sons' estimate, or an explanation of why the strata did not hire Blueshore, I find it is difficult to assess whether Smith & Sons' invoice was reasonable.
147. I find what it cost Mr. Tabet to alter the ducting is not determinative of the cost to restore it. Blueshore's estimate was \$4,830, plus material and labour to install the fire suppression items according to the city's requirements. Mr. Hemmati estimated these additions would be around \$2,000.
148. Based on the above, I find \$7,500 is a reasonable amount Mr. Tabet must reimburse the strata for Smith & Sons' invoice.

Strataforce

149. The strata claims \$750 for an invoice from Strataforce, its former property management company. Mr. Tabet says the strata has not proven Strataforce was entitled to bill for this.
150. I agree with Mr. Tabet. The strata did not provide its contract with Strataforce, or explain how Mr. Tabet's claim went above its usual duties. So, I find the strata has not proven this invoice was reasonable and I dismiss the strata's claim for reimbursement.

FirePro

151. The strata claims \$294 for Fire Pro's invoice, after it attended to check unit 108's fire alarm. Mr. Tabet says this was not a result of any bylaw breach.
152. I find the evidence supports that Fire Pro attended to inspect unit 108, as its fire alarm kept going off after the leaking cement from SL22. While Fire Pro ultimately found the unit 108's alarm was working, I find it was reasonable for the strata to investigate. I also find that investigation was related to Mr. Tabet's work. So, I find Mr. Tabet must reimburse the strata \$294.

Ainsworth

153. The strata claims \$334 for Ainsworth's invoice. Mr. Tabet says there is no evidence of what this invoice is for or why it was needed.
154. I agree with Mr. Tabet. The strata's expense sheet says this is for "attempted inspection of 208", but does not say when. The strata also did not provide an invoice for this, nor is hiring Ainsworth mentioned in the strata's arguments. So, I dismiss the strata's claim for reimbursement.

C&C

155. The strata claims \$786.45 for C&C's invoice. Mr. Tabet says the strata is not entitled to reimbursement because it provided C&C with incorrect instructions.
156. I found above that C&C was not interested in completing the work once it became aware of the legal dispute. This is not the strata's fault, and I find Mr. Tabet must reimburse the strata \$768.45.
157. In total, I find Mr. Tabet must reimburse the strata \$23,299.28 in expenses. As a result, I dismiss Mr. Tabet's claim that the strata bear its own expenses.
158. As I have found in the strata's favour on other grounds, I do not need to consider its argument the re-routed ducting was a significant change to the use of common property, so that it could not approve it without the required $\frac{3}{4}$ majority vote required by SPA section 71.

CRT FEES, EXPENSES AND INTEREST

CRT fees

159. 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 in this case not to follow that general rule. The strata was successful in the claim and mostly successful in the

counterclaim, and I order Mr. Tabet to reimburse the strata \$125 in paid CRT fees. I dismiss Mr. Tabet's claim for reimbursement of CRT and legal fees.

The strata's legal expenses

160. The strata claims \$27,893.32 in legal fees, and has provided 27 paid supporting invoices from Ms. Lebbert's firm, Refresh Law.

161. Mr. Tabet says the strata missed the limitation deadline for certain invoices. Further, he says certain invoices are not related to this dispute, and deducts \$2,881.76. Finally, he says the remaining invoices were excessive and should be reduced by \$12,000. Though he does not provide a final total, I infer Mr. Tabet argues the strata is only entitled to \$13,011.56.

162. First, I find the parties' agreement about the limitation period applied to Refresh's invoice. This is because one of Refresh's invoices was included on the initial chargeback Mr. Saini responded to, asking the strata to wait until the end of these proceedings to enforce them.

163. As noted above, bylaw 5(4) says Mr. Tabet must indemnify the strata for all legal fees related to the alterations. The AOL has a similar provision. However, the strata must still show that these legal fees are reasonable (see: *The Owners, Strata Plan BCS2438 v. Graham*, 2022 BCCRT 904 at paragraphs 72 to 74).

164. In *The Owners, Strata Plan NWS3075 v. Stevens*, 2018 BCSC 1784, the court, referring to "reasonable costs" under SPA section 133(2), said that proportionality is an important consideration in assessing to what extent the strata's actual costs are reasonable.

165. Further, in *Wanson (Bristol) Development Ltd. v. Sahba*, 2019 BCCA 459, the Court of Appeal registrar considered a bylaw similar to bylaw 5(4), and found that such a bylaw does not entitle a strata to full reimbursement. Instead, registrar found the following factors were relevant:

- a. the complexity, difficulty or novelty of the issues involved,

- b. the skill, specialized knowledge and responsibility required of the lawyer,
- c. the lawyer's character and standing in the profession,
- d. the amount involved,
- e. the time reasonably spent,
- f. if there has been an agreement that sets a fee rate that is based on an amount per unit of time spent by the lawyer, whether the rate was reasonable,
- g. the importance of the matter to the client, and
- h. the result obtained.

166. Here, I find there was nothing particularly complex about this matter, but instead the amount of fees is due to the length of this dispute and volume of materials. Mr. Tabet does not dispute Ms. Leppert's skills or fee, and I find based on the submissions prepared her hourly rate was reasonable.

167. However, while I find the matter was important to the strata, I find the amount involved in this dispute, particularly given the cost to repair the damage, was not particularly high.

168. I have reviewed Refresh's invoices, and I accept they accurately reflect Ms. Lappert's time spent, which Mr. Tabet does not dispute. However, I agree with Mr. Tabet there are a few charges which seem to relate to other matters, and other charges appear to be excessive.

169. On the facts of this case, I find that a 20% reduction is appropriate. So, I find \$22,314 is a reasonable amount for Refresh's invoices and I order Mr. Tabet to reimburse the strata that amount. I dismiss Mr. Tabet's claim the strata bear its own costs.

Pre-judgment interest

170. The *Court Order Interest Act* (COIA) applies to the CRT. The strata claims pre-judgment interest on its expenses and legal fees, beginning December 20, 2023.
171. I find the strata is entitled to prejudgment interest on the pre-CRT legal expenses from December 20, 2023, to the date of this decision. Given the timing of Refresh's bills and the Dispute Notice's date, I attribute \$18,966.90 of Refresh's bills as pre-CRT bills. Together with the strata's expenses, this amount is \$42,226.18, so the pre-judgment interest equals \$2,287.30.
172. COIA section 2(c) says there is no interest on costs, so I order no interest on the remaining \$3,347.10 awarded that I attribute to the strata's CRT legal expenses.
173. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against Mr. Tabet.

ORDERS

174. I order that within 90 days of this dispute, Mr. Tabet pay the strata a total of \$48,025.58, broken down as follows:
- a. \$23,299.28 in expenses,
 - b. \$18,966.90 in pre-CRT legal expenses,
 - c. \$3,347.10 in CRT legal expenses,
 - d. \$2,287.30 in pre-judgment interest, and
 - e. \$125 in CRT fees.
175. The strata is also entitled to post-judgment interest under the COIA.
176. I dismiss Mr. Tabet's claims.
177. 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.

Amanda Binnie, Tribunal Member