



# Civil Resolution Tribunal

Date Issued: June 4, 2025

Files: ST-2023-008127

Type: Strata

Civil Resolution Tribunal

Indexed as: *LV v. The Owners, Strata Plan ABC 1234*, 2025 BCCRT 751

B E T W E E N :

LV

**APPLICANT**

A N D :

The Owners, Strata Plan ABC 1234

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

J. Garth Cambrey

## INTRODUCTION

1. This strata property dispute is about a strata corporation's refusal to allow alterations to a strata lot.
2. The applicant, LV, owns strata lot 37 (SL37) in the respondent strata corporation, The Owners, Strata Plan ABC 1234 (strata). LV is self-represented. The strata is represented by the strata council president.

3. In the published version of this decision, I have anonymized the parties' names to protect the privacy of the applicant's child due to her submissions on the state of her child's mental health.
4. LV has 2 children who she says have special needs. She says the strata has unreasonably refused to allow her to install a partition wall in SL37 to provide a dedicated living space for one of her children. She says the strata denied her request after she had obtained and paid for information requested by the strata, including an engineering report and fire sprinkler inspection. She seeks an order that the strata allow her alteration request. In reply submissions, LV says, as an alternate remedy, she would be willing to construct a "permanent half wall using wood and drywall". I understand the "half wall" would not extend fully to the ceiling but would still be high enough to incorporate a door.
5. The strata says it reasonably denied LV's full wall request based on its review of all information available "with a view to act fairly to all owners", including the strata's occupancy bylaw. The strata says it considered the fire sprinkler inspection letter, which stated 2 additional sprinkler heads were required, and was particularly concerned about potential future maintenance and damage that might result from those changes. The strata also says it suggested that consider a half wall as a "temporary" option. Based on LV's submissions, I infer she initially rejected the strata's suggestion. The strata asks that LV's claims for a full wall be dismissed.
6. As explained below, I find the strata must allow LV to install a "half wall" with certain conditions.

## **JURISDICTION AND PROCEDURE**

7. 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.

8. 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. I find I am properly able to assess and weigh the documentary evidence and submissions before me. I am satisfied an oral hearing is not necessary in the interests of justice. I therefore decided to hear this dispute through written submissions.
9. 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.

## **ISSUES**

10. The issues in this dispute are:
  - a. Did the strata act significantly unfairly by refusing LV's alteration requests?
  - b. Did the strata discriminate against LV or her child by not allowing her alteration request?
  - c. What is an appropriate remedy?

## **BACKGROUND, EVIDENCE AND ANALYSIS**

11. As applicant in a civil proceeding such as this, LV must prove her claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to information I find relevant to explain my decision. I note that the strata provided brief submissions and only 1 piece of evidence about the half wall it suggested LV consider.
12. The strata plan shows the strata was created in October 1994 under the Condominium Act. It continues to exist under the SPA. There are a total of 53

apartment-style strata lots located in a single 4-storey building. Strata lot 37 is a 2-bedroom strata lot with a dining room.

13. The basic facts are not disputed.
14. In August 2022, LV exchanged emails with the strata manager. She said she wanted to install a non-structural partition wall at the dining room entrance with the intention of converting the dining room into a den. She asked what information the strata required to approve the renovation. The strata manager said, based on previous owner requests for this type of alteration, the strata would need a schematic drawing of the requested alteration, a quote from a qualified contractor with WorkSafeBC and liability insurance details, a letter of approval from a structural engineer, and a letter from the local fire department confirming if any fire sprinkler alterations were required to conform to “safety codes”.
15. In the same email thread, LV asked the strata manager whether they could ask other owners who had received approval for similar alterations if she could speak to them about the process. The manager advised that “no other owners had been given approval as they didn’t proceed with the process” by providing the documents the strata had requested.
16. By mid-November 2022, LV had obtained a contractor’s quotation for the proposed work and a professionally sealed letter from a structural engineer. The engineer’s letter stated the proposed wall would conform to the BC Building Code and would “not cause any adverse impacts on the original structural integrity of the existing building”. The engineer’s letter provided a schematic drawing showing the proposed location of the wall that would enclose the dining room.
17. In an undated letter, LV requested permission to install the wall noting she had spoken with the fire department and a sprinkler company. She provided copies of the contractor’s quotation, engineer’s letter, and letter from a local sprinkler company advising that 2 additional fire sprinkler heads were required once the new wall was installed.

18. On June 1, 2023, the strata manager wrote to LV to advise the council had reviewed her request and documents at a May 30, 2023 council meeting and denied her request. The strata's stated reasons for the denial were that it had denied similar requests from other owners and that the bylaws permit a maximum of 4 occupants in a 2-bedroom strata lot.
19. Through her lawyer, LV objected to the strata's decision and requested a council hearing, which was held on June 28, 2023. On July 4, 2023, the strata manager wrote to LV and advised her request was again denied because of the precedent established to deny similar requests from other owners.
20. At some point, the strata suggested LV consider installing a half wall as a "temporary" option to eliminate any need to add fire sprinkler heads required for a "full wall" alteration. LV submits the half wall suggested by the strata is made of plastic, which the strata did not dispute. As noted, LV initially rejected the strata's suggestion but in reply submissions says she is willing to install a permanent half wall constructed of wood and drywall.

#### *The strata's bylaws*

21. The strata filed a complete new set of bylaws with the Land Title Office on March 3, 2023. The filed Form I and bylaws confirm all bylaws filed before March 3, 2023, were repealed and that the Standard bylaws under the SPA do not apply.
22. The SPA is silent on the strata lot alterations, so I find such alterations are governed by the strata's bylaws. The relevant bylaw is bylaw 8.1(a). It says an owner must obtain the written approval of the strata before altering a strata lot that involves, among other things:
  - The structure of the building,
  - The exterior of the building (building envelope),
  - Common property located within the boundaries of a strata lot, such as the fire sprinkler system,
  - Those parts of the strata lot which the strata must insure under SPA

section 149, including fixtures attached to the building that are not easily removed such as flooring and wall coverings, and

- Installation or removal of a wall or walls, whether structural or not.

23. I note that, unlike Standard Bylaw 5 which says the strata cannot unreasonably refuse to withhold its approval for strata lot alterations, bylaw 8.1(a) does not contain that same limitation. Other CRT decisions have found that when bylaws do not include a specific requirement not to unreasonably refuse an alteration request, the only constraint on the strata corporation's discretion is that it cannot make a significantly unfair decision. I agree with those decisions and adopt the same approach here. See for example, my decision in *MacPhee v. The Owners, Strata Plan LMS 2476*, 2022 BCCRT 1128. This means the strata has broad discretion when considering a strata lot alteration request.

24. The CRT has authority to make orders remedying a significantly unfair decision under CRTA section 123. Significantly unfair actions are those that are burdensome, harsh, wrongful, lacking in probity and fair dealing, done in bad faith, unjust, or inequitable. In applying this test, the owner's reasonable expectations are relevant, but are not determinative. See *Dollan v. The Owners, Strata Plan 1589*, 2012 BCCA 44, *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342, and *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173.

***Did the strata act significantly unfairly by refusing LV's alteration requests?***

25. Based on the overall evidence and submissions, I find LV's primary request is for a full height wall, but she requests a half wall in the alternative. I will first address whether the strata acted significantly unfairly when it refused her request for a full height partition wall.

26. LV makes 2 arguments about why her request should be approved. First she says the strata did not consider her unique situation, which I imply is about her special needs children. I find the argument potentially relates to compliance with the BC Human Rights Code (Code), and I address it below.

27. LV also alleges that the strata did not previously deny other owners' similar alteration requests as it said it did, which I consider to be an argument that she was treated significantly unfairly. LV bases her argument solely on her August 2022 email exchange with the strata manager where the manager advised that no other owners had applied for similar strata lot alterations. I agree that the statements of the strata and strata manager cannot both be true. But without more, I cannot properly assess her argument, so I dismiss it. I also find her argument is irrelevant to the outcome of this dispute.
28. I turn now to the strata's reasons for refusing LV's request.
29. I find there is no merit to the strata's stated concern about future occupancy of SL37 being contrary to the bylaws. First, bylaw 4.6 governs strata lot occupancy. It says that unless the strata grants permission, a resident must not allow more than four persons to occupy a strata lot "originally designated by the owner developer as a two bedroom unit". Since SL37's designation as a two bedroom strata lot would not change and the strata has discretion to permit increased occupancy, I reject the strata's argument about occupancy.
30. Second, the strata's refusal of LV's alteration request based on setting a precedent appears unreasonable. The fact that the strata owners approved a specific bylaw about adding walls in a strata lot suggests that the owners agreed that the strata council should consider such applications. I am not persuaded LV's proposed alteration sets a bad precedent, which might be a valid and reasonable reason for the strata to deny it, but if that was the case, I would not find the strata's decision reaches the level of being significantly unfair.
31. In reviewing bylaw 8(a), I find the engineer's letter confirms there is no concern about the structure of the building. Given the requested wall is entirely within SL37, there is also no concern about the building envelope, as expressed by the strata. LV agreed to sign an indemnity agreement to assume responsibility for repair and maintenance of the alteration as permitted under bylaw 8.3. I find this would eliminate any reasonable concerns about fixtures with SL37, such as flooring and

wall coverings, because I find such alterations would have no real impact on the strata.

32. This leaves the required alterations to the fire sprinkler system, which I find, and LV admits, is common property. LV agreed to sign an indemnity agreement for the alterations, but the strata expressed significant concern with any alterations to the fire system, including future maintenance issues. There is no proposed indemnity agreement before me, but if LV was to sign one, she would be responsible for any issues arising from the sprinkler head additions for as long as she owns SL37. If the strata is concerned about future owners of SL37, there are ways an indemnity agreement can transfer liability to a new owner. This was the decision found in *The Owners, Strata Plan NW 2476 v. Jensen*, 2023 BCCRT 623.
33. Overall, I find the strata's concerns are rational, despite the fact there are ways it can protect itself through indemnity agreements. I do not find the strata's actions to deny LV's request to install a full partition wall in SL37 meet the definition of significantly unfair. So, I dismiss her claims relating to significant unfairness.

***Did the strata discriminate against LV or her child by not allowing her alteration request?***

34. I turn now to LV's discrimination argument. Strata corporations have a duty to accommodate people with disabilities under section 8 of the Code, unless doing so would create undue hardship to the strata corporation. See *Konieczna v. The Owners Strata Plan NW2489*, 2003 BCHRT 38 and *Mitchell v. The Owners, Strata Plan VR284*, 2023 BCCRT 1008.
35. LV provided a very detailed Psychology Assessment Report of one of her children. It confirms they take medication for Attention Deficit Hyperactivity Disorder and have other mental health challenges. I acknowledge that the assessment report recommended consideration be given to improving ways to provide LV's child with their own living space or room, apart from their sibling. The report is dated June 28, 2023, the same day the council hearing was held at which the strata denied LV's request for the second time.



36. Details of the council hearing are not before me, so I cannot determine the nature of the discussion including whether the assessment report was before the strata council members present at the council hearing. More importantly however, neither LV's nor her lawyer's communications with the strata stated the reason she wanted to close off the dining room was because of her child's mental health. On a balance of probabilities, I find the strata was likely unaware of the state of her child's mental health until the assessment report was provided in these proceedings. All of this to say that I find LV did not reasonably raise any Code compliance concerns at the time of her initial request.
37. However, that does not mean her claim must be dismissed. I agree that a strata corporation's obligations under the Code are ongoing as a tribunal member found in *Hovhannisyan v. The Owners, Strata Plan NW 180*, 2025 BCCRT 282. I also agree with the member's finding that the ongoing nature of the strata's obligations mean the applicant was open to argue discrimination in the CRT proceedings. Therefore, I find I must consider LV's argument here.
38. I find the assessment report provided for LV's child is the only evidence that involves the Code. The strata did not provide any submissions on report. The report is authored by a Psychologist and Assessment Clinician. Although the report does not meet the requirements of expert evidence set out in CRT rule 8.3, I am satisfied the authors are qualified to provide an accurate neutral opinion on the mental health of LV's child. I accept the report on that basis.
39. As I have mentioned, one of the recommendations in the assessment report is that consideration be given to improving ways to provide LV's child with their own living space or room, apart from their sibling. I find that statement amounts to a strong suggestion rather than an express recommendation. While LV might rely on the report to support her alteration request, she did not mention it in her communications with the strata. Nor did she make any argument that the report supports her alteration request. Rather, LV's approach appears to have been to provide the report and let the strata reach its own conclusion.

40. Based on these circumstances, I dismiss LV's argument that the strata did not consider her unique family situation such that it contravened the Code. In the event I am wrong, I find that the strata's offer to allow installation of a half wall is a reasonable accommodation under the Code, which would support my conclusion below about why a half wall is a reasonably remedy.

***What is an appropriate remedy?***

41. I turn now to LV's alternative remedy for permission to add a permanent half wall to partition the dining room. In submissions, LV said she considered the strata's proposed option, but that half wall was more expensive and made of plastic. The photograph of the suggested half wall the strata gave as evidence describes it as a modular wall system but does not detail the wall's construction.
42. Regardless, the engineer's letter confirmed there were no structural concerns with a full wall constructed of wood and drywall. It follows that a lower height wall of the same construction would weigh less, which would also pose no structural concerns.
43. I have found that the strata's only reasonable concern is related to necessary alterations to the fire sprinkler system. The strata suggests there would be no required alterations to the fire sprinkler system if the partition wall was not full height, but did not provide any evidence, such as a letter from a fire sprinkler contractor, that this would be the case.
44. Based on the overall evidence and submissions, I find it would be reasonable for the strata to permit LV to alter SL37 by installing a half wall constructed of wood (or metal studs) and drywall, provided there are no alterations required to the fire sprinkler system. Therefore, I order the strata to approve LV's alternative request to construct such a wall to partition the SL37 dining room provided LV, within 60 days of this decision:
- a. Makes a written request to install a partition wall across the dining room entrance that does not attach to the ceiling which sets out the maximum height of the requested wall, and

- b. Provides a letter from a qualified sprinkler contractor that fire sprinkler alterations are not required in SL37 for the height of the partition wall she requests.
- 45. The strata must act reasonably in exercising its discretion set out in bylaws 8.2, about documentation it may require, and 8.3, about an alteration agreement it may require, to approve LV's request.

## **CRT FEES AND EXPENSES**

- 46. Under CRTA section 49 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. LV paid \$225.00 in CRT fees and the strata did not pay CRT fees. In the circumstances of this dispute, I make no order for payment of CRT fees, given the parties' essential agreement about LV's alternative request.
- 47. Neither party requested disputed-related expenses, so I order none.
- 48. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against LV.

## **DECISION AND ORDER**

- 49. I order the strata approve LV's written request to install a partition wall, constructed of drywall and wood or steel studs, at the entrance to the dining room in SL37, provided, within 60 days of this decision, she:
  - a. Makes a written request to install a partition wall at the dining room entrance that does not attach to the ceiling that sets out the maximum height of the wall, and
  - b. Provides a letter from a qualified sprinkler contractor that fire sprinkler alterations are not required in SL37 for her requested wall.
- 50. I dismiss LV's remaining claims.

51. 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 in which it is filed.

---

J. Garth Cambrey, Tribunal Member