



Civil Resolution Tribunal

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File: ST-2023-011553

Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan VR1353 v. Cheng*, 2025 BCCRT 821

B E T W E E N :

The Owners, Strata Plan VR1353

APPLICANT

A N D :

CHUI CHENG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This strata dispute is about objects on common property. The respondent, Chui Cheng, owns strata lot 3 (SL3) in the applicant strata corporation, The Owners, Strata Plan VR1353 (strata). The strata says Ms. Cheng placed a canopy tent on common property and stored boxes and other personal items beneath it. In submission it says Ms. Cheng recently erected a second tent as well. The strata

seeks an order for Ms. Cheng to remove her personal property from the common property.

2. Ms. Cheng denies liability. She says she removed some her items from the tent but acknowledges there are still some items including a table, teapot, cups, apples, snacks, plants, and flowers. She says she should be allowed to keep the tent on common property because it beautifies the living environment and provides entertainment facilities to neighbors. She does not directly address allegations about the second tent.
3. A strata council member represents the strata. A family member, PC, represents Ms. Cheng.
4. For the reasons that follow, I find the strata has proven its claims.

JURISDICTION AND PROCEDURE

5. 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.
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 that 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 that 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.
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.

ISSUE

9. The issue in this dispute is whether Ms. Cheng must remove the personal items or property from a common property yard.

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant strata must prove its claims on a balance of probabilities. This means more likely than not. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find necessary to explain my decision.
11. A title search shows Ms. Cheng became the owner of SL3 in 2012. The strata plan shows SL3 is located in a low-rise structure labelled the east building. SL3 occupies parts of the the first and second floors.
12. The strata's photos show that the 2 tents are located on a grassy exterior fenced area, next to the building. The parties refer to this as the yard in submissions. On the strata plan, no exterior areas are labelled as part of a strata lot or limited common property. So, I find the yard is common property. This is undisputed in any event.
13. The strata filed a full set of bylaws in the Land Title Office in March 2008. There have been numerous amendments over the years, but these are not relevant.

14. Bylaw 40.8 says in part that a resident must not display or erect fixtures, poles, clotheslines, racks, storage sheds, and similar structures permanently or temporarily on common property.
15. Bylaw 4.1 says that a resident or visitor must not use common property in a way that causes a nuisance or hazard to another person.
16. I turn to the chronology. The emails in evidence show that PC previously stored various personal items on the SL3 exterior balcony. Given this, and PC's familial relationship with Ms. Cheng, I find it likely that PC is also a resident in SL3.
17. On March 20, 2023, the strata manager emailed PC and said they had 48 hours to remove the items from the balcony. PC replied the next day that they would do so.
18. On March 28, 2023, a strata resident complained about SL3. They sent photos that show that someone had moved the item from the balcony. Someone had also erected a large canopy tent and placed items under it.
19. Ms. Cheng admits in submissions that she erected the tent and placed at least some of the items under it. I find it likely that she either owns the tent and the possessions underneath it or, at a minimum, has authority to move or remove them as she sees fit.
20. Photos from March 2023 show the following. The tent is standing on grass at ground level, next to a fence and the building siding. The tent is designed to provide some cover but not meant for camping. The tent is large enough to cover a fair portion of the yard. At the time, there were numerous items under the tent, to the extent that they pushed up against the tent's roof. These items included cardboard boxes and Rubbermaid bins.
21. On June 19, 2023, the strata manager sent a letter to Ms. Cheng. It said that it had fined Ms. Cheng \$200 for contravening bylaw 40.8, cited earlier. It said she did so by placing a blanket on the balcony railing and the tent on common property. The strata does not claim any fines or remedies about the balcony in this dispute.

22. A December 2023 photo shows the tent and items remained in the yard. A December 2024 photos shows the tent substantially deteriorated and became very dirty. A plastic tarp covers part of it. Someone, presumably Ms. Cheng, also placed a second, larger tent over the first one. I find Ms. Cheng owns or has authority to move this second tent as well. Someone also removed some of the items from under the tent. However, many remained, including garbage bags and damaged cardboard boxes. The remaining items appear to be refuse or trash.
23. Ms. Cheng says the area is much nicer now. She provided a photo that shows a table underneath the 2 tents with some hanging baskets, snacks, and the teapot and cups referred to earlier. However, the photo is a closeup with a narrow field of view. This is significant because the strata says this photo is misleading and does not show the other items that are still under the tent. Presumably Ms. Cheng would have photographed more of the tents and surrounding area if it reflected well on her case. As she did not, I find the December 2024 photo is likely a more accurate depiction of the state of the tents and the contents. Given this, I find the tents and the contents underneath them are currently objectively unsightly.

Must Ms. Cheng must remove the personal property from a common property yard?

24. I am satisfied that that Ms. Cheng breached bylaw 40.8. This is because Ms. Cheng had to erect poles to place the 2 tents. In addition to that, I find the tents are prohibited structures under the bylaws as they are similar in nature to storage sheds. This is how Ms. Cheng used them for many months.
25. I am also satisfied that the items breach bylaw 4.1. This is the nuisance bylaw. A nuisance in the strata context is a substantial, non-trivial, and unreasonable interference with use and enjoyment of property. See *The Owners, Strata Plan LMS 1162 v Triple P Enterprises Ltd.*, 2018 BCSC 1502 at paragraph 33. Photos show the items are unsightly as noted earlier. I find they are substantial, non-trivial, and unreasonably interfere with use and enjoyment of common property. I find that the removal of the tents alone would still leave a breach of bylaw 4.1.

26. This leaves the appropriate remedy. SPA section 133(1) says a strata corporation may do what is reasonably necessary to remedy a contravention of its bylaws or rules, including removing objects from the common property or common assets.
27. SPA section 133(2) says a strata corporation may charge the reasonable costs of remedying a bylaw contravention to the person who may be fined for the contravention.
28. I will provide Ms. Cheng some time to remove the items as requested by the strata. Within 14 days of the date of this decision and order, I order Ms. Cheng to remove the personal items, including but not limited to canopy tents, garbage bags plus contents, and boxes plus contents, from the common property yard area shown in the photos in this dispute (yard).
29. If Ms. Cheng does not remove the personal items, I find that the strata is entitled to enforce the bylaws under SPA section 133(1) by removing the items itself. I note that this is something the strata may already do without an order. However, I find that making an order in these circumstances is appropriate to provide finality for the parties. This is important given the length of this dispute. I also find that Ms. Cheng should bear the cost of this work under SPA section 133(2). This is because she breached the bylaws and did so for a very long time. So, after 14 days from the date of this decision and order, I order that the strata may remove and dispose of the above-mentioned personal items from the yard and may charge the reasonable costs of carrying out this work to Ms. Cheng's strata lot account.

CRT FEES AND EXPENSES

30. 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. I therefore order Ms. Cheng to reimburse the strata \$225 in CRT fees. The parties did not claim any specific dispute-related expenses.

31. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Ms. Cheng.

ORDERS

32. Within 14 days of the date of this decision and order, I order Ms. Cheng to remove the personal items, including but not limited to canopy tents, garbage bags plus contents, and boxes plus contents, from the common property yard area shown in the photos in this dispute (yard).
33. After the 14 days from the date of this decision and order, I order that the strata may remove and dispose of the above-mentioned personal items from the yard and may charge the reasonable costs of carrying out this work to Ms. Cheng's strata lot account.
34. Within 30 days of the date of this decision and order, I order Ms. Cheng to reimburse the strata \$225 in CRT fees.
35. The strata is entitled to post-judgment interest, as applicable.
36. 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.

David Jiang, Tribunal Member