



Civil Resolution Tribunal

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Civil Resolution Tribunal

Indexed as: *Simpson v. The Owners, Strata Plan K317*, 2025 BCCRT 1334

B E T W E E N :

KATHERINE ANNE SIMPSON

APPLICANT

A N D :

The Owners, Strata Plan K317

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. The applicant, Katherine Anne Simpson, co-owns a strata lot in the respondent strata corporation, The Owners, Strata Plan K317. This decision is about 2 disputes between these parties.

2. In the first dispute, Mrs. Simpson says the strata allowed an owner, LK, to significantly change the appearance of common property without a resolution passed by a 3/4 vote. She says she wants the voting results stricken from previous annual general meeting (AGM) minutes. In submissions, she clarifies that she wants another vote on the owner's changes, which she says involved structural changes that could affect the strata building. The strata says, in essence, that the common property changes were not significant, and strata council properly approved the owner's renovations.
3. The second dispute is about whether Mrs. Simpson can, from time to time, have an emotional support dog named Juno on strata property. Juno belongs to her husband, Mr. Simpson, who does not live in the strata lot. The strata says Mrs. Simpson is contravening the bylaws.
4. Mrs. Simpson is self-represented. A council member represents the strata. Below, I explain why I dismiss both Mrs. Simpson's 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)*. The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between parties that will likely continue after the CRT process has ended.
6. The CRT conducts most hearings in writing, but it has discretion to decide the format of the hearing, including by telephone or videoconference. The facts are largely undisputed, and these disputes are primarily about how to interpret and apply the *Strata Property Act (SPA)* and the strata bylaws. Based on the evidence and submissions provided for these disputes, I am satisfied that I can fairly decide this dispute without an oral hearing.

7. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

ISSUES

8. The issues in these disputes are:
 - a. Did the strata need a resolution passed by 3/4 vote to allow the common property change that was part of LK's approved renovation?
 - b. If so, what is the appropriate remedy?
 - c. Does Juno's staying with Mrs. Simpson contravene the strata's bylaws?

EVIDENCE AND ANALYSIS

9. As the applicant in this civil proceeding, Mrs. Simpson must prove her claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. The strata was established in 1980 and comprises 15 strata lots in a low-rise building on Okanagan Lake. Some owners use their strata lots as vacation homes. Mrs. Simpson and Mr. Simpson co-own one of the strata lots.
11. The strata filed bylaws in the Land Title Office (LTO) in 1981 under the *Condominium Act*. The SPA came into force on July 1, 2000. The *Strata Property Regulation* (SPR) includes transitional provisions for bylaws filed under the *Condominium Act*. SPR section 17.11 says the SPA's standard bylaws were deemed to be the bylaws for all strata corporations on January 1, 2002, except to the extent that conflicting bylaws were filed with the LTO, unless those filed bylaws also conflicted with the SPA.
12. The strata did not repeal and replace its filed bylaws after the SPA came into force. This means the 1981 bylaws and all filed amendments remained in effect after

January 1, 2002. The SPA's standard bylaws are also applicable to this dispute, except to the extent they conflict with the previously filed bylaws and amendments. I address the relevant bylaws below.

LK's renovation and common property change

13. In 2021, LK wrote to council, asking permission to renovate his strata lot. This included "completely renovating" the kitchen, and changing a sliding glass door to a window to accommodate the renovation. This renovation involved removing part of a wall between the kitchen and living room. Council gave its approval in 2021.
14. In submissions, Mrs. Simpson asks for an order that a structural engineer inspect the building plans and determine if LK's renovations have been carried out according to Work Safe BC practices. I infer that she means the BC Building Code. She wants LK to pay the cost of this report and any alterations required. LK is not a party to this dispute, so I cannot make an order against them. I could order the strata to obtain an engineering inspection.
15. The strata correctly points out that in the Dispute Notice for this claim, Mrs. Simpson did not identify any concern about a structural alteration, and she did not request an engineering inspection. However, I find the issue is sufficiently connected to the claim about LK's renovation, and the strata had the opportunity to address it in its submissions. So, to provide finality for the parties, I will consider whether an engineer's approval was required.
16. For the following reasons, I am not satisfied that LK's alterations were structural or that they required an engineer's approval.
17. First, the photos show the opening between LK's kitchen and living room may have expanded, but the wall is still largely intact. Second, the strata provided written confirmation from LK that no structural changes took place during the renovation. Third, the District of Peachland issued a final building inspection permit and report with no concerns. Given this, there would be no point ordering the strata to obtain an engineering inspection.

18. I turn to the exterior aspect of LK's renovation. The strata's original bylaw 5 prohibits alterations to wiring, plumbing, piping, or other services, but it does not otherwise address alterations affecting the building's exterior. So, I find standard bylaw 5 and 6 apply. Those bylaws say that an owner needs the strata's written approval before altering the building's exterior or common property.
19. Council approved the renovation in 2021. Council then put the subject of "unit renovations" on the 2022 AGM agenda. The minutes from that AGM incorrectly stated that "exterior alterations require 75%" of strata owners to approve, and that it was an error for council, in 2021, to approve LK's renovations.
20. I say "incorrectly" because not all common property alterations require a resolution approved by 3/4 vote. SPA section 71 says only significant changes in the use or appearance of common property require such a resolution. The responsibility for determining whether a proposed alteration represents a significant change in the use or appearance of common property rests with the strata council.
21. At the 2023 AGM, a motion was passed to amend the 2022 AGM minutes to state that LK received approval from the strata owners to keep his renovation. The minutes say this motion was "carried by 75%". It is not clear whether, by approving an amendment to the 2022 minutes by 3/4 vote, the strata was attempting to retroactively approve a significant change to the appearance of common property under SPA section 71. That would not have been valid, because SPA section 45 requires AGM notices to include the proposed wording of any resolution requiring a 3/4 vote, which did not happen here. However, nothing turns on this because I find a resolution passed by a 3/4 vote was not required.
22. The strata does not explicitly say LK's renovation was not a significant change in the appearance of common property. However, it says this was not the first time council allowed similar common property alterations. It also says the impact of the changes was minimal. Further, the strata relies on a court decision, *Chan v. The Owners, Strata Plan VR677*, about the interpretation of SPA section 71. So, I take

the strata's position to be that the change was not significant and did not require a 3/4 vote.

23. To explain exactly what LK changed, it is necessary to explain that LK's strata lot fronts on common property facing the beach. That frontage, viewed from the beach, from left to right, included a sliding glass door, a 90 degree turn inward with a window perpendicular to the beach, a 90 degree turn to the right, another sliding glass door, and one more window, both facing the beach. After the changes, it had the same sliding glass door, a 90 degree turn inward with a single glass door perpendicular to the beach, a 90 degree turn right, and 2 identical windows facing the beach.
24. The emails exchanged between council members when council approved LK's changes to the exterior show that council turned its mind to whether the changes were significant changes. One council member observed that because LK's strata lot was on the end of the building, it would have "minimal, if any, impact on the outside appearance of the building." Another said anyone on the dock or walking by would not likely notice any significant difference. Mrs. Simpson, a council member at the time, said she did not have any issue with the proposed change.
25. The CRT typically cites *Foley v. The Owners, Strata Plan VR 387*, 2014 BCSC 1333 for the relevant factors to consider when deciding whether a change is significant. I note *Foley* simply paraphrases the *Chan* decision the strata relies on that more thoroughly canvassed the law of significant changes. In any event, the factors are:
 - a. Is the change visible to other residents or the general public?
 - b. Does the change affect the use or enjoyment of other strata lots or a benefit enjoyed by the residents?
 - c. Is there a direct interference or disruption because of the new use?
 - d. Does the change impact the marketability or value of the strata lot?
 - e. How many strata lots are there, and what is the strata's general use?

- f. How has the strata governed itself in the past and what changes has it allowed?
26. Mrs. Simpson argues that the changes affect the view of the building from the beach side, where most residents spend their time. I agree that the new window is visible from the beach or dock. However, it matches the existing window next to it. The new siding below it also matches the surrounding siding. Viewed in context of the whole building, the window, where a sliding door used to be, does not look out of place. The new, single glass door that replaced a window is hidden from view because it is on a wall turned 90 degrees from the face of the building, and the strata lot is at the end of the building. I find the change's visibility is minimal. I also find the changes do not affect the use or enjoyment of any other strata lots, or any benefit enjoyed by the residents.
27. Although I have no evidence about the marketability or value of LK's strata lot, I accept that the changes probably increased its value, particularly when considered along with the interior renovations that these changes accommodated.
28. As noted above, there are 15 strata lots. The strata is on the smaller side and has generally tried to follow its bylaws but has perhaps not always technically complied with the SPA. Mrs. Simpson does not dispute the strata's evidence that it has previously allowed permanent roofs over decks, enclosures of patio end-walls, and changes to window sizes, which are similar to LK's exterior changes. So, I find LK's changes are not out of the ordinary for the strata.
29. Lastly, there is the 3/4 vote at the 2023 AGM. Although I find it was not a valid resolution under SPA section 71, it is nonetheless evidence of the strata community's general approval of the change.
30. As all the factors set out above except marketability indicate the change was not significant, I conclude that a resolution under SPA section 71 was not required. In these particular circumstances, the strata council's approval was sufficient. With that, I dismiss Mrs. Simpson's claim.

31. My decision should not be taken to restrict the strata's ability, in the future, to take a stricter approach when determining whether a change to common property is significant, subject to the requirement that it not be significantly unfair to any owner.

Emotional support dog

32. Mrs. Simpson and Mr. Simpson co-own their strata lot, but Mr. Simpson has not lived in it since 2021. Mr. Simpson has an emotional support dog named Juno, who lives with him, away from the strata. Mrs. Simpson has, at times, cared for Juno when Mr. Simpson has asked her to. It is not clear how often this happens. The strata has received complaints about this.
33. Bylaw 8 of the "second schedule" of the filed 1981 bylaws says an owner will not keep any animals unless "prior permission was granted." There is also a filed 2008 bylaw amendment stating, "we re-affirm our existing bylaw that owners are not allowed pets (i.e. no animals are to be allowed on the premises)" and then stating that "Sec.3 Sub Section (4) (a)(b)(c) and (d) of the existing bylaws is deleted." It is not clear to me what bylaws the strata intended to delete in 2008. However, it is clear that the filed bylaws prohibit pets – if not outright, then without prior permission, which is not alleged here. The SPA's standard bylaw about pets therefore does not apply because the strata already had a bylaw about pets.
34. Mrs. Simpson says that, in order to prove a point that council is divided on what the bylaws mean, she obtained written permission from one council member to have Juno when Mr. Simpson is not on the property. She does not argue that the letter validly gives her permission to have Juno on the property, and I find it does not. The strata provided signatures from 3 council members agreeing that council did not approve this letter. In any event, SPA section 18 says that council decisions must be made by majority vote and recorded in council meeting minutes.
35. Mrs. Simpson says she wants the strata to accept Juno as an emotional support dog that is exempt from the bylaws. Essentially, she wants an order that the strata refrain from enforcing its no-pet bylaw with respect to Juno. In submissions, Mrs. Simpson also says the pet bylaw should be revoked. I have no authority to revoke a

bylaw. Bylaws are amended by a 3/4 vote following the process set out in SPA section 128.

36. The strata's position is that Juno can only be on strata property when Mr. Simpson is there. The strata has given Mrs. Simpson written warnings to this effect.
37. A bylaw is not enforceable to the extent that it contravenes the SPA, the *Human Rights Code*, or any other law. Pet bylaws do not apply to certified guide or service dogs under the *Guide Dog and Service Dog Act*, but there is no suggestion here that Juno is such a dog. Strata corporations also have a duty to accommodate people with disabilities who require service or companion animals.
38. The difficulty for Mrs. Simpson is that she does not allege that she has a disability that requires accommodation. She only alleges that her husband has one. Mrs. Simpson submits a July 24, 2023 note from a doctor stating that Mr. Simpson needs an emotional support dog. As Mr. Simpson is not a party to this dispute, it would not be appropriate for me to make findings about the extent to which the strata is required to accommodate Mr. Simpson's potential disability by allowing him to have Juno on strata property, whether he is there or not. It is Mr. Simpson who would have to bring such claim.
39. Because Mrs. Simpson does not allege the strata has discriminated against her, the only issue for me to consider is whether the strata's enforcement of its pet bylaw has been significantly unfair to her. The CRT can make orders preventing or remedying a strata corporation's significantly unfair actions or decisions under CRTA section 123(2). Significantly unfair actions or decisions are those that are burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust, or inequitable. In applying this test, the owner's objectively reasonable expectations may be relevant, but are not determinative. See *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173.
40. Mrs. Simpson says the strata is not applying its bylaws evenly, as there are other emotional support dogs on the property.

41. The strata says it has accepted 3 other requests for emotional support dogs. It says one such dog belongs to a full-time resident owner, and the other 2 dogs belong to “visitors”, one of which is a “partial owner”. The strata says it is not aware of either of those dogs being at the strata without their owners who require them for emotional support. Mrs. Simpson does not dispute the strata’s evidence about the other emotional support dogs, and I accept it. Mrs. Simpson’s situation is different from that of these other owners and visitors, because the dog is not her emotional support dog, and she wants to have the dog when Mr. Simpson is not present.
42. I acknowledge that Mrs. Simpson says when she first moved in, a resident had a cat that everyone turned a blind eye to. She does not say that this is ongoing. Without more evidence about that owner’s circumstances or for how long this was allowed to continue, I find this is insufficient to show that Mrs. Simpson has been treated differently from other owners. I find the strata has applied its pet restriction bylaw consistently and fairly. I find it is not reasonable for Mrs. Simpson to expect the strata not to apply the pet bylaw to her.
43. While I accept that Mrs. Simpson wants to help Mr. Simpson by occasionally taking care of Juno, she does not explain why it is harsh or burdensome, to her, to be prevented from doing so.
44. For these reasons, I find the strata has not been significantly unfair to Mrs. Simpson, and I dismiss her claim.

CRT FEES AND EXPENSES

45. Based on the CRTA and the CRT’s rules, as Mrs. Simpson was unsuccessful, I find she is not entitled to any CRT fee reimbursement. The strata did not pay CRT fees and neither party claims dispute-related expenses.
46. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against the owner.

ORDER

47. I dismiss Mrs. Simpson's claims.

Micah Carmody, Tribunal Member