



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Romaniwsky v. The Owners, Strata Plan VR 2771*, 2025 BCCRT 1557

B E T W E E N :

DWAYNE BAILEY ROMANIWSKY

APPLICANT

A N D :

The Owners, Strata Plan VR 2771

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Mark Henderson

INTRODUCTION

1. The applicant, Dwayne Bailey Romaniwsky, owns SL29 in the respondent strata, The Owners, Strata Plan VR 2771. This dispute is about whether Mr. Romaniwsky is permitted to smoke cannabis in SL29. Mr. Romaniwsky says the strata improperly passed bylaw 4.8 prohibiting smoking in strata lots. Mr. Romaniwsky seeks an order that the prior version of the bylaws apply to his strata lot. Alternatively, Mr.

Romaniwsky seeks accommodation under the *Human Rights Code* (Code) for a medical exemption from bylaw 4.8.

2. The strata says it gave adequate notice of the proposed bylaw amendment, and the amendments were duly passed. The strata also says that there is no reason to apply the old bylaws to SL29. The strata says Mr. Romaniwsky is not entitled to a medical exemption because he did not provide sufficient medical information to determine if he has a disability that entitles him to accommodation under the Code.
3. Mr. Romaniwsky represents himself. A strata member represents the strata.
4. For the reasons set out below, I dismiss Mr. Romaniwsky'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 *Civil Resolution Tribunal Act* (CRTA) section 121. 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.

ISSUES

8. The issues in this dispute are:
 - a. Did the strata properly pass its amended bylaws, including bylaw 4.8?
 - b. Is Mr. Romaniwsky entitled to continue smoking in his strata lot based on the previous bylaws?
 - c. Is Mr. Romaniwsky entitled to accommodation under the Code?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, as the applicant, Mr. Romaniwsky must prove his claims on a balance of probabilities (meaning 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.
10. The strata consists of 73 residential strata lots in a high-rise residential tower.
11. On July 20, 2022, the strata held an annual general meeting. During this meeting, the strata voted to amend its bylaws. The amended bylaws were registered at the Land Title Office on August 30, 2022.
12. Bylaw 4.8 prohibits smoking of any kind, including marijuana, on the common property, limited common property or in a strata lot.

Did the strata properly pass its revised bylaws?

13. Mr. Romaniwsky says that owners were not aware what they were voting on when the bylaw vote occurred. Mr. Romaniwsky also says there was no advance notice of the amended bylaws. In his reply submissions, Mr. Romaniwsky clarified that he does not dispute the bylaws' legality, but says the bylaws were not passed fairly. Specifically, Mr. Romaniwsky says that the strata did not give him a sufficient opportunity to dispute the bylaw amendments at the meeting.

14. The strata says it gave adequate notice of the AGM, and the bylaws were duly passed.
15. SPA section 45 says a strata must give at least two weeks' written notice of an annual or special meeting. Here, the strata provided evidence of the notice that it sent on June 29, 2022, for the July 20, 2022, AGM. I find that the notice package provided in evidence included the AGM agenda and a copy of the amended bylaws for approval. I find the strata met the notice period under SPA section 45. I find there was sufficient time for owners to review the proposed bylaws during the notice period. I find that this notice period gave owners, including Mr. Romaniwsky sufficient time to review the bylaws before the meeting and organize with other strata members who opposed the bylaw amendments, if they wanted to vote against the bylaw amendments.
16. SPA section 128 says bylaw amendments must be approved at an annual or special meeting by a resolution passed by a $\frac{3}{4}$ vote. The strata provided the AGM minutes showing that the amended bylaws were approved by a vote of 43 to 4 with no abstentions. Based on the voting record, most owners present at the meeting agreed with the amended bylaws as presented. I find the amended bylaws, including bylaw 4.8 were duly passed at the 2022 AGM.

Is Mr. Romaniwsky entitled to continue smoking in his lot based on the previous bylaws?

17. Mr. Romaniwsky says SL29 should be exempt from the smoking bylaw because the previous bylaws permitted smoking in his strata lot and he already lived in the strata when the strata amended the bylaws.
18. The SPA only creates retroactive bylaw exemptions in limited circumstances that do not include smoking bylaws. There is no general provision in the SPA that allows a particular strata lot to rely on prior bylaws. Also, bylaw 4.8 does not include exemptions for existing smokers like a smoking bylaw did in *Ueda v. Dogaru*, 2023 BCCRT 696 or *Mundel et al v. Hastings-Evans et al*, 2017 BCCRT 108.
19. Without an explicit exemption for existing smokers, I find that bylaw 4.8 became effective on the day the strata filed the amended bylaws at the Land Title Office,

based on SPA section 128. I find that it has applied to all strata residents since then, including Mr. Romaniwsky. So, I find that Mr. Romaniwsky cannot rely on the prior bylaws.

Is Mr. Romaniwsky entitled to accommodation under the Code?

20. Mr. Romaniwsky says that he has a medical condition that requires treatment with marijuana and that smoking is the only effective treatment method. Mr. Romaniwsky says he needs a medical exemption from the bylaw under the Code.
21. The first part of the test under the Code is whether the person has proven that they have a disability that requires accommodation. If they do, the strata must reasonably accommodate the disability. Here, Mr. Romaniwsky provided a doctor's note dated September 28, 2022, that says he used marijuana to treat a medical condition. The doctor's note said that Mr. Romaniwsky had tried edible alternatives but found them ineffective. Mr. Romaniwsky obtained a further doctor's note dated April 16, 2025, that said he had a chronic, debilitating medical condition treated partially with marijuana. The doctor's note suggested vaping might be a possibility but would cost Mr. Romaniwsky more.
22. The strata told Mr. Romaniwsky that it was open to considering his request for accommodation, but that it required more information about Mr. Romaniwsky's disability. Mr. Romaniwsky refused to provide more detailed information about the medical condition or otherwise explain his medical condition.
23. Whether a particular medical condition is a disability within the Code depends on the facts and circumstances of the specific case. The Code does not define disability, but the Human Rights Tribunal has interpreted disability to mean a physiological state with some permanence that impairs a person's ability to carry out normal daily functions. See *Greenwood v. Werner Smith Mechanical Inc. and another*, 2024 BCHRT 192 at paragraph 21.
24. A person seeking accommodation must provide enough information for the strata to understand the person has a disability that is negatively impacted and cooperate with

the strata to provide sufficient medical information. A brief doctor's note is probably not sufficiently comprehensive to establish the requested accommodation. See *Leary v. Strata Plan VR1001*, 2016 BCHRT 139 at paragraph 68.

25. The strata must address requests for accommodation promptly, gather enough information to understand the nature and extent of the accommodation needed, and restrict access to a person's medical information to only those individuals who are involved in the accommodation process and who need to understand the underlying medical condition. See *Leary* at paragraph 69.
26. Although the doctor's notes show that Mr. Romaniwsky has a medical condition that requires treatment with marijuana, I find that these notes do not provide enough detail to explain how Mr. Romaniwsky's medical condition meets the test for a disability or that the disability requires accommodation under the Code. Based on *Leary*, I find that the strata did not ask for more than it was entitled to. I recognize Mr. Romaniwsky's desire to retain privacy over his personal medical information. But, I find that Mr. Romaniwsky cannot rely on a broad concept of "medical privacy" to refuse requests for more information.
27. The guidelines in *Leary* show that the strata must sensitively gather the necessary information to assess an accommodation request. Under the Code, Mr. Romaniwsky has the burden to prove he has a disability, which triggers the duty to accommodate. Mr. Romaniwsky must also demonstrate that the lack of accommodation has an adverse impact on him. He must also show a connection between the adverse impact and the disability. After that, the burden shifts to the strata to show a genuine and reasonable justification for refusing the accommodation.
28. Mr. Romaniwsky has only offered a consultation with his cardiologist. Mr. Romaniwsky says his cardiologist advised that he should not take edible marijuana products because they may increase his risk of heart attack. I find that this information does not assist in determining what his disability is, although it may sufficiently explain why edible marijuana is not a viable treatment option.

29. I agree with the strata that the medical information should include what the disability is, why smoked marijuana is the only treatment option, as opposed to vaping, and why it must be smoked within the strata lot and not elsewhere. Under the Code, disabled persons are not entitled to perfect accommodation. The strata must provide reasonable accommodation that balances Mr. Romaniwsky's interests with the interests of other residents.
30. For that reason, I find that, on present evidence, Mr. Romaniwsky has not proved the need for accommodation under the Code. So, I dismiss Mr. Romaniwsky's request for a medical exemption from bylaw 4.8.
31. The strata has an ongoing duty to accommodate under the Code. So, the strata must consider any further and more detailed medical information that Mr. Romaniwsky provides in support of his requested accommodation.

CRT FEES AND EXPENSES

32. 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. Mr. Romaniwsky was unsuccessful, so I dismiss his claim for CRT fees and dispute-related expenses.
33. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Mr. Romaniwsky.

ORDER

34. I dismiss Mr. Romaniwsky's claims.

Mark Henderson, Tribunal Member