



Civil Resolution Tribunal

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Civil Resolution Tribunal

Indexed as: *Hudson Hopkins v. The Owners, Strata Plan LMS 1417*, 2025 BCCRT 646

B E T W E E N :

LEANNE HUDSON HOPKINS

APPLICANT

A N D :

The Owners, Strata Plan LMS 1417

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

J. Garth Cambrey

INTRODUCTION

1. This strata property dispute is about repair and maintenance of common property. It is linked to dispute ST-2023-010511, which includes the same respondent strata corporation, The Owners, Strata Plan LMS 1417 (strata), but different strata lot owner applicants. I have issued separate decisions because I find the linked disputes are not sufficiently related and involve different facts.

2. The applicant, Leanne Hudson Hopkins, owns or owned strata lot 52 in the strata. Ms. Hudson Hopkins was also a past member of the strata council. She says the strata has failed to repair parts of the common property building where her strata lot is located and “flooding damage” to the common property yard area at the rear of the building (backyard), which she completed at her cost. She also says the strata harassed her about an approved fence installation in her backyard. She says the strata’s actions have reduced the value of SL52 by \$20,000. Finally, Ms. Hudson Hopkins says she requested a council hearing under SPA 34.1 to discuss these issues and the strata failed to hold one.
3. Ms. Hudson Hopkins seeks an order for “reimbursement and compensation” for the strata’s failure to repair her common property and for harassment. She values her claims at \$21,000 but does not break down the amount. She also claims \$2,500 for legal fees.
4. The strata says it complied with the *Strata Property Act* (SPA) and its bylaws and argues that some of Ms. Hudson Hopkins’ claims are out of time under the *Limitation Act*. It claims legal fees and disbursements as dispute-related fees and asks that her claims be dismissed.
5. As explained below, I refuse to resolve Ms. Hudson Hopkins’ claim for harassment under CRTA section 10(1) and I dismiss her remaining claims. I also dismiss the strata’s claim for dispute related fees.

JURISDICTION AND PROCEDURE

6. 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.

7. Under CRTA section 10, 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.
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.

Preliminary matters

Limitation Act

10. In its Dispute Response, the strata stated that any of Ms. Hudson Hopkins claims that arose before May 12, 2022, were statute-barred by the *Limitation Act*. However, the strata made no submissions on the issue. Without any submissions or evidence, I am unable to address the alleged *Limitation Act* issue. I also note that none of the issues before me are captured by the *Limitation Act*. For these reasons, I will not address the strata's allegations.

Submissions and evidence about linked dispute

11. Ms. Hudson Hopkins was a strata council member until March 2024. She started this dispute on May 13, 2024, after she resigned from the strata council, in her capacity as a strata lot owner. The majority of her submissions and evidence here is about the fence installations behind SL51 and SL52, which I considered in the linked dispute, ST-2023-010511, to which Ms. Hudson Hopkins was not a party. I do not find her evidence and submissions on the fence installations relevant here, as she does not seek any relief based on that issue, except for her harassment claim, which I decline to address below. Further, the strata submits it has not requested

the fence behind SL52 be removed. Therefore, while I acknowledge Ms. Hudson Hopkins has a strong position on the fence installations, I find I need not address that issue in this decision.

Harassment

12. Ms. Hudson Hopkins claims an unspecified amount in compensation for harassment. I have previously found that a claim for harassment is outside the CRT's strata property jurisdiction under CRTA section 121(1) unless the strata has a valid bylaw that addresses harassment. See *Hu v. The Owners, Strata Plan BCS 1732*, 2025 BCCRT 603 at paragraph 15. Other CRT decision have reached the same conclusion. See for example, *Saigon v. The Owners, Strata Plan KAS1997*, 2021 BCCRT 1010.
13. The strata does not have a harassment bylaw, so I must refuse to resolve Ms. Hudson Hopkins' claim for harassment under CRTA section 10(1).

Late evidence

14. Ms. Hudson Hopkins provided several pieces of evidence after the deadline established by CRT staff. Staff asked the strata to address the late evidence in its submissions. The strata did address some of late evidence, so I find it had the opportunity to do so. I infer it chose not to address evidence it found to be irrelevant. On this basis, I admit the late evidence but only refer to that which I find to be relevant.

ISSUES

15. The issues in this dispute are:
 - a. Did the strata fail to reasonably repair common property?
 - b. Have the strata's actions devalued SL52?
 - c. Did the strata fail to hold a council hearing?
 - d. What is an appropriate remedy, if any?

BACKGROUND, EVIDENCE AND ANALYSIS

16. As applicant in a civil proceeding such as this, Ms. Hudson Hopkins 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.
17. The strata plan shows the strata was created in September 1994 under the *Condominium Act*. It continues to exist under the SPA. There are a total of 54 townhouse-style strata lots located in 16 buildings. Other than limited common property patios next to the rear of all strata lots, the areas between the buildings are common property.
18. The strata filed a complete new set of bylaws with the Land Title Office on June 30, 2010. Subsequent bylaw amendments are not relevant to this dispute. I discuss the relevant bylaws below, as necessary.

Did the strata fail to reasonably repair common property?

19. Ms. Hudson Hopkins argues that the strata has failed to reasonably repair a damaged gutter and rotted fascia board on the building exterior of SL52, moss growth on the roof above SL52, and an exposed irrigation system in the backyard.
20. There is no issue and based on the strata plan and SPA section 68, I find that the building exterior and roof are common property. As mentioned, the backyard is identified as common property on the strata plan. I infer the irrigation system is either common property or a common asset.
21. Under SPA section 72 and Standard Bylaw 2.8(b), the strata must repair and maintain common property or common assets. Under SPA section 3, the strata is responsible for managing and maintaining its common property for the benefit of the owners.
22. When fulfilling its repair and maintenance obligations, the courts have clearly established that a strata corporation's standard of care is reasonableness. The strata's decisions must be assessed based on what it knew at the time and not with

the benefit of hindsight. See for example, *Dolnik v. The Owners, Strata Plan LMS 1350*, 2023 BCSC 113, at paragraph 69.

23. The reasonableness test requires balancing competing interests of individual owners against those of the remaining owners. See *Weir v. The Owners, Strata Plan NW 17*, 2010 BCSC 784.
24. What is reasonable depends on the circumstances and includes the likelihood of the need to repair, the cost of further investigation, and the gravity of the harm sought to be avoided or mitigated by investigating and remedying any discovered problems. See *Guenther v. Owners, Strata Plan KAS431*, 2011 BCSC 119, at paragraph 40.
25. In *Leclerc v. The Owners, Strata Plan LMS 614*, 2012 BCSC 74, the court found that slowness in completing repairs by a strata corporation may still be reasonable. *Leclerc* was a case of water ingress from common property into a strata lot over an extended period of time. The court said that although the strata corporation could perhaps have hastened its investigations, there was no evidence of deliberate “foot-dragging”, and found the strata took reasonable action with fair regard for the interests of all concerned.
26. Ms. Hudson Hopkins says the strata has failed to address the following repairs or maintenance:
 - a. Rotted fascia board,
 - b. Irrigation system repair,
 - c. Gutter damage,
 - d. Roof moss removal, and
 - e. Rodent control.
27. Ms. Hudson Hopkins says she first raised the need for the fascia board repair in 2020, but she did not provide any supporting evidence, so I find her statement unproven. She also advised the strata manager that a fascia board required repair in an email dated May 27, 2023.

28. Sometime before May 2023 Ms. Hudson Hopkins says she reported to the strata manager that irrigation pipes in the backyard were exposed and required repair. On May 5, 2023, the strata manager said the contractor had confirmed the repair was complete, which Ms. Hudson Hopkins denied. The June 22, 2023 council minutes report the irrigations system repairs were complete. On March 20, 2024, Ms. Hudson Hopkins followed up with the manager and said the system was flooding causing damage to the backyard and that the exposed pipes were a tripping hazard. She also says she repaired the area herself in order to be able to sell SL52. She admits the strata tried to investigate the alleged damage with its contractor in April 2024, but that she did not permit them access to the backyard.
29. On November 25, 2023, Ms. Hudson Hopkins reported that her neighbour advised a truck damaged a gutter next her garage, when turning around in a parking stall. The strata said the repair would be completed in January 2025 along with several other gutter repairs.
30. On one hand, except for photographs of the damaged gutter, Ms. Hudson Hopkins did not provide photographs of the rotted fascia or backyard to confirm the state of any required repairs. On the other hand, the strata has a duty to repair common property, which includes a duty to investigate the need for repair as set out in *Geuther*.
31. I find neither party has clearly established whether the repairs are urgent, necessary or complete. Based on the caselaw above, the strata has broad discretion to address routine repairs of common property. On a balance of probabilities, I find the strata has met its duty to repair these things. Given the strata accepts responsibility for the repairs and has been awaiting approval for funds through the budget process, which I understand it now has, I accept the strata will attend to the repairs in a timely manner.
32. As for Ms. Hudson Hopkins' requests to address roof moss and rodent control around SL52, the October 8, 2024 council minutes acknowledge a request for these things. The minutes say the moss removal will occur in 2025 and that the pest control company had increased its service visits and the number of bait stations. I

find the strata's actions to address the moss and rodent control was reasonable. I dismiss Ms. Hudson Hopkins' claim.

Have the strata's actions devalued SL52?

33. Given my conclusion that the strata reasonably addressed its repair and maintenance obligations, I find I need not address Ms. Hudson Hopkins' alleged devaluation of SL52.

Did the strata fail to hold a council hearing?

34. SPA section 34.1 requires a strata corporation to hold a council hearing within 4 weeks of receiving a request from an owner. There is no dispute Ms. Hudson Hopkins requested a council hearing on March 18, 2024, through the strata manager. Although the purpose of the hearing request is unclear, I accept Ms. Hudson Hopkins' assertion it was to ask the strata to address her repair requests. The evidence suggests miscommunication between the strata council and strata manager resulted in no one informing Ms. Hudson Hopkins of the date set for the hearing.

35. The strata argues that Ms. Hudson Hopkins cannot raise her issues now because she breached SPA section 189.1 by not first having a council hearing. However, section 189.1 says only that an owner must request a hearing. It does not say the hearing must be held. So, I do not accept the strata's argument.

36. However, Ms. Hudson Hopkins admits she was invited to attend a council hearing at a later date but declined the hearing because of this dispute. So, while the strata failed to hold the hearing within the time permitted by the SPA, it attempted to correct its error, but Ms. Hudson Hopkins declined. Since nothing turns on whether the hearing was held on time, and Ms. Hudson Hopkins appears not to have requested any direct remedy because the hearing was not held, I find, at best, this was technical breach of the SPA by the strata that did not affect this dispute. I dismiss Ms. Hudson Hopkins' claim.

CRT FEES AND EXPENSES

37. 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. Ms. Hudson Hopkins paid \$225.00 in CRT fees and the strata did not pay CRT fees. The strata was the successful party, so I make no order for payment of CRT fees.
38. Ms. Hudson Hopkins claimed \$2,500 in legal fees, although it is unclear if her claim is for dispute-related fees. However, she do not provide proof she paid legal fees, such as a paid invoice, so I dismiss her claim as unproven.
39. The strata initially claimed dispute-related fees consisting of legal fees and disbursements totaling \$6,379.50 and \$190.00, respectively. It later increased its claimed amounts to \$16,537.00 for legal fees and \$227.00 for disbursements. CRT rule 9.5(3) says for a strata property dispute, the CRT will not order one party to pay another party's legal fees unless there are extraordinary circumstances. Rule 9.5(4) sets out factors the CRT may consider when determining if extraordinary circumstances exist. They include the complexity of the dispute, the degree of involvement by the lawyer, whether a party or their representative has caused undue delay or expense, and any other factors the CRT considers appropriate. The dispute was not complex, there was no undue delay, and I find there are no other factors that might contribute to extraordinary circumstances, so I do not order reimbursement of the strata's legal fees or disbursements.
40. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Ms. Hudson Hopkins.

DECISION

41. I refuse to resolve Ms. Hudson Hopkins' claim for harassment under CRTA section 10(1).

42. I dismiss the parties' remaining claims.

J. Garth Cambrey, Tribunal Member