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## **Civil Resolution Tribunal – 6 years of Resolving Strata Property Disputes**

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**Written by:** Garth Cambrey / Civil Resolution Tribunal (CRT)

The CRT is an administrative tribunal that forms part of the British Columbia justice system. It started to resolve strata property disputes of any monetary amount under the *Strata Property Act* (SPA) in July of 2016. In June of 2017, the CRT began resolving small claims disputes under the *Small Claims Act* valued at \$5,000 and under. In April of 2019, the CRT began resolving minor accident claims under the *Insurance (Vehicles) Act*, and claims involving cooperatives under the *Cooperative Association Act* and societies under the *Societies Act*.

The CRT's governing authority is the *Civil Resolution Tribunal Act* (CRTA) and associated CRT rules. The CRT's mandate is to provide dispute resolution services about matters within its authority in a manner that is accessible, speedy, economical, informal and flexible, and applies the principles of law and fairness: see CRTA section 2. Strata property claims the CRT may resolve must concern one or more of the following under CRTA section 121(1):

- a) the interpretation or application of the *Strata Property Act* or a regulation, bylaw or rule under that Act;
- b) the common property or common assets of a strata corporation;
- c) the use or enjoyment of a strata lot;
- d) money owing, including money owing as a fine, under the *Strata Property Act* or a regulation, bylaw or rule under that Act;
- e) an action or threatened action by a strata corporation, including the council, in relation to an owner or tenant;
- f) a decision of a strata corporation, including the council, in relation to an owner or tenant;
- g) the exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting.

There are also several sections of the SPA over which the CRT does **not** have jurisdiction. These include things like remedies for a strata council member's failure to disclose a conflict of interest, forced sale of a strata lot to collect monies owing to a strata corporation, appointment of an administrator, several things involving phased strata plans, and matters involving cancelling a strata plan and winding up a strata corporation. See CRTA section 122 for a full list.

After 6 years of strata property dispute resolution, there are still some common public concerns raised with CRT staff that appear to be based on misunderstandings of the CRT's role, mandate and authority. Below is a non-exhaustive list of some of these things, based on feedback provided by people who have participated in the CRT's processes.

- For fairness reasons, the CRT can't provide legal advice, provide an opinion on likelihood of success of a claim, help parties conduct research or get evidence, or tell them what evidence would help prove their case. Parties are free to get whatever advice they wish, including legal advice, to assist them in deciding whether their claims have merit.
- Strata management companies – The CRT still gets a lot of strata management companies or managers named as respondents in strata property disputes. Generally speaking, strata managers act as agents for the strata

corporation under a contract, so the letters they write, and actions they take, are considered to be written or taken on behalf of the strata corporation. Typically, only strata corporations can file a CRT dispute against a strata management company, for example under breach of contract. However, that claim could fall under the CRT's small claims jurisdiction provided it was for \$5,000 or less.

- General misconceptions around evidence – Parties sometimes say things in their submissions like “I have a witness, here’s their number, call them” or, “I have evidence about xx if you need it”. Parties are given a fixed period to provide evidence, and are required to provide all relevant evidence in their possession that may prove or disprove an issue in the dispute, even if the evidence does not support their position: see CRT rule 8.1
- Some of the early misconceptions about the CRT being the “strata police” or investigating conduct or behaviour in strata corporations still linger. The CRT does not investigate claims, but rather it assists parties to resolve them. If that is not possible, a tribunal member can make a binding decision that is enforceable in court.
- Another common concern is CRTA section 92, which makes it an offence to provide false or misleading evidence in a CRT proceeding. The CRT does not have authority to enforce that section of the CRTA. It is up to the appropriate law enforcement agency to investigate and pursue alleged violations of section 92.
- Enforcement of CRT orders, and other post-decision processes such as judicial review proceedings, are also controlled by the courts, and the CRT can’t help parties navigate them. The CRT does not have authority to enforce its own orders. That must be done by the appropriate court: see CRTA section 57. For

judicial review, the typical remedy if a CRT decision is set aside by the court, is that the dispute is remitted back to the CRT for a new decision.

- The CRT doesn’t control what’s in the SPA, CRTA and other legislation – that is up to the government, through the Legislature. The CRT only makes decisions based on applicable legislation and case law.
- Jurisdiction - A decision-maker is often required to interpret the CRT’s jurisdiction contained in legislation and assess case law. For example, claims under SPA section 31 about a strata council member’s standard of care are not contained in CRTA section 122, but the BC Supreme Court has determined that individual owners do not have legal authority to make claims for breaches of section 31: see for example *Rochette v. Bradburn*, 2021 BCSC 1752. Also, bullying and harassment between council members and owners is a common allegation, but it’s generally not within the CRT’s jurisdiction unless there’s a strata bylaw in force. There are many decisions about the CRT’s jurisdiction.
- The CRT receives numerous applications about disputes between strata lot owners that don’t include the strata corporation. For example, water damage from a strata lot that only affects one other strata lot, where the strata corporation’s insurance policy isn’t triggered. The CRT’s current approach to these strata lot owner disputes has been addressed in decisions such as *Almeer v. Zhang*, 2021 BCCRT 435, and others. The CRT has found that an application under its strata property dispute jurisdiction must involve the SPA, which many owner-owner disputes do not. However, a dispute between strata lot owners could likely fall within the CRT’s small claims jurisdiction, if the value of the claim is under \$5,000.

Potential parties thinking of starting a CRT dispute are encouraged to review the CRT's Solution Explorer, which is designed to assist individuals and strata corporations to determine if they have a valid claim or dispute, and what remedies might be available. The Solution Explorer provides guidance and self-help tools through a series of questions, provides detailed information on common topics, and is free to use. It can be accessed through the CRT's website at [www.civilresolutionbc.ca](http://www.civilresolutionbc.ca).

Finally, in its 6 years of operation, the CRT has resolved thousands of disputes, and all of its final decisions are published on the CRT's website. All the decisions are searchable and although not binding, could prove helpful by providing information about potential outcomes under similar circumstances.