
Legislative Update: Civil Resolution Tribunal

On July 13, 2016 sections of the *Civil Resolution Tribunal Act* and the *Civil Resolution Tribunal Amendment Act* were brought into force. The introduction of the Civil Resolution Tribunal (CRT) will impact the way strata corporations now resolve disputes in British Columbia. For more information visit the CRT website at www.civilresolutionbc.ca.

The consequential amendments to the *Strata Property Act* (SPA) are reflected below. For convenience, each section, in its entirety, has been provided and the relevant changes underlined.

This information is provided for notification purposes only. It is recommended that these legislative updates be printed on coloured paper and inserted into your hard copy of the SPA. For the current version of the SPA and Regulations please refer to the CHOA web site (www.choa.bc.ca) which links to BC Laws.

Part 1 — Definitions and Interpretation

"civil resolution tribunal" means the Civil Resolution Tribunal established under the *Civil Resolution Tribunal Act* ;

"tribunal proceeding" means a tribunal proceeding under the *Civil Resolution Tribunal Act* ;

Part 4 — Strata Corporation Governance

Information Certificate

- 59 (1) Within one week of a request by an owner, a purchaser or a person authorized by an owner or purchaser, the strata corporation must give to the person making the request an Information Certificate in the prescribed form.
- (2) The certificate must contain the information required by subsection (3), as of the date of the certificate.
- (3) The certificate must disclose all of the following in respect of the strata corporation and the strata lot for which the request is made:
- (a) the monthly strata fees payable by the owner;
 - (b) any amount that the owner owes the strata corporation, other than an amount paid into court or to the strata corporation in trust under section 114;
 - (c) any agreements under which the owner takes responsibility for expenses relating to alterations to a strata lot, the common property or the common assets;
 - (d) any amount that the owner is obligated to pay in the future for a special levy that has already been approved and the date by which the payment is to be made;

- (e) any amount by which the expenses of the strata corporation for the current fiscal year are expected to exceed the expenses budgeted for the fiscal year;
- (f) the amount in the contingency reserve fund minus any expenditures which have already been approved but not yet taken from the fund;
- (g) any amendments to the bylaws that are not yet filed in the land title office;
- (h) any resolution passed by a 3/4 vote or unanimous vote that is required to be filed in the land title office but that has not yet been filed in the land title office;
- (h.1) any winding-up resolution that has been passed;
- (i) any notice that has been given for a resolution that has not been voted on, if the resolution requires a 3/4 vote, 80% vote or unanimous vote or deals with an amendment to the bylaws;
- (j) any court proceeding, arbitration or tribunal proceeding in which the strata corporation is a party and any judgments or orders against the strata corporation;
- (k) any notices or work orders received by the strata corporation that remain outstanding for the strata lot, the common property or the common assets;
- (l) the number of strata lots in the strata plan that are rented;
- (l.1) which parking stalls and storage lockers, if any, have been allocated to the strata lot;
- (m) any other information required by the regulations.

(4) Copies of all of the following must be attached to the certificate:

- (a) the rules of the strata corporation;
- (b) the current budget of the strata corporation;
- (c) the owner developer's Rental Disclosure Statement under section 139, if any;
- (d) the most recent depreciation report, if any, obtained by the strata corporation under section 94.

(5) The information in subsection (3) disclosed in a certificate is binding on the strata corporation in its dealings with a person who relied on the certificate and acted reasonably in doing so.

(6) On application by the strata corporation, by an owner or by a person who is affected by a certificate, the Supreme Court may make any order it considers just in the circumstances to give effect to or relieve the strata corporation from some or all of the consequences of an inaccurate certificate.

(7) The strata corporation may charge, to the person requesting the certificate, a fee for the certificate of not more than the amount set out in the regulations and may refuse to issue the certificate until the fee is paid.

Part 6 — Finances

Notice to owner or tenant of money owing to strata corporation

112 (1) Before suing or beginning arbitration to collect money from an owner or tenant or before an initiating notice is given by the tribunal under section 6 (1) of the Civil Resolution Tribunal Act in respect of the collection of money from an owner or tenant, the strata corporation must give the owner or tenant at least 2 weeks' written notice demanding payment and indicating that action may be taken if payment is not made within that 2 week period.

(2) Before the strata corporation registers a lien against an owner's strata lot under section 116, the strata corporation must give the owner at least 2 weeks' written notice demanding payment and indicating that a lien may be registered if payment is not made within that 2 week period.

Disputed debt

114 (1) If there is a dispute over whether an owner or tenant owes money to the strata corporation, the owner or tenant may pay the disputed amount

(a) into court if court proceedings have been started and the Supreme Court Civil Rules allow payment into court, or

(b) to the strata corporation to hold in trust if

(i) the matter has been referred to arbitration,

(ii) an initiating notice has been given under section 6 of the Civil Resolution Tribunal Act, or

(iii) court proceedings have been started.

(2) On receipt of an amount under subsection (1) (b), the strata corporation holds the money and any interest on the money in trust for the parties to the dispute until the dispute is resolved.

(3) After the dispute is resolved, the strata corporation must pay the amount to the party entitled to it as set out in the decision of the arbitrator, the civil resolution tribunal or the court.

Certificate of Payment

- 115** (1) Within one week of the request of an owner or purchaser, or a person authorized by an owner or purchaser, the strata corporation must give the person making the request a Certificate of Payment in the prescribed form if
- (a) the owner does not owe money to the strata corporation, or
 - (b) the owner does owe money but
 - (i) the money claimed by the strata corporation has been paid into court, or to the strata corporation in trust, under section 114, or
 - (ii) arrangements satisfactory to the strata corporation have been made to pay the money owing.
- (2) The certificate is current for the purposes of section 256 for a period of 60 days from the date it is issued.
- (3) The strata corporation may charge a fee for the certificate, but the fee must not exceed the amount set out in the regulations.
- (4) In completing the certificate, the strata corporation may include money owing in respect of
- (a) the matters set out in section 116, and
 - (b) fines and the costs of remedying a contravention of a bylaw or rule charged against the owner or fines and costs for which the owner is responsible under section 131.
- (5) A certificate must not include claims of damages against an owner that have not been determined by a court, by arbitration or by the civil resolution tribunal.

Part 7 — Bylaws and Rules

Voluntary dispute resolution bylaw

- 124** (1) The bylaws may provide for a process for the voluntary resolution of disputes among owners, tenants and the strata corporation or any combination of them.
- (2) A voluntary dispute resolution process in the bylaws must not
- (a) require a person to use the voluntary dispute resolution process, or
 - (b) confer on any person or body a power to make a binding decision.

(3) The use of a voluntary dispute resolution process in the bylaws does not affect a person's powers, duties or rights including, without limitation, the right to sue, begin arbitration or mediation or request that the tribunal resolve a claim under the *Civil Resolution Tribunal Act* .

(4) An admission, statement, document or record that is made only for the purpose of a voluntary dispute resolution process in the bylaws may not be used in court, in an arbitration or mediation, in a tribunal proceeding or in any other proceeding.

Part 10 — Legal Proceedings and Dispute Resolution

Suit requirements and procedures apply

176 The requirements and procedures regarding authorizations for suits and liability for expenses and judgments in suits by and against the strata corporation, as set out in the following sections, apply to an arbitration in which the strata corporation is a party:

- (a) section 166 [owner's liability for judgment against corporation];
- (b) section 167 [defending suits];
- (c) section 169 [limit on owner's responsibility for costs];
- (d) section 171 [corporation may sue as representative of all owners];
- (e) section 172 [corporation may sue on behalf of some owners].

Disputes that can be arbitrated

177 (1) Subject to sections 178 (1) and 178.1 (1), the strata corporation may refer to arbitration a dispute with an owner or tenant if the dispute concerns a matter set out in subsection (3) of this section.

(2) Subject to sections 178 (1) and 178.1 (1), an owner or tenant may refer to arbitration a dispute with the strata corporation or with another owner or tenant if the dispute concerns a matter set out in subsection (3) of this section.

(3) A dispute may be referred to arbitration under subsection (1) or (2) if it concerns any of the following:

- (a) the interpretation or application of this Act, the regulations, the bylaws or the rules;
- (b) the common property or common assets;
- (c) the use or enjoyment of a strata lot;
- (d) money owing, including money owing as a fine, under this Act, the bylaws or the rules;

(e) an action or threatened action by, or decision of, the strata corporation, including the council, in relation to an owner or tenant;

(f) 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.

Effect of tribunal proceeding on arbitration

178.1 (1) Subject to subsection (2), a dispute must not be referred to arbitration under section 177 (1) or (2) of this Act once an initiating notice has been given under section 6 of the *Civil Resolution Tribunal Act* in relation to the dispute.

(2) A dispute may be referred to arbitration under section 177 (1) or (2) if the civil resolution tribunal notifies the parties of its refusal to resolve the dispute.

Division 5 — Civil Resolution Tribunal

Strata corporation initiating tribunal proceeding

189.1 (1) Subject to subsection (2), a strata corporation, owner or tenant may make a request under section 4 of the *Civil Resolution Tribunal Act* asking the civil resolution tribunal to resolve a dispute concerning any strata property matter over which the civil resolution tribunal has jurisdiction.

(2) An owner or tenant may not make a request referred to in subsection (1) unless

(a) the owner or tenant requested a council hearing under section 34.1, or

(b) the civil resolution tribunal, on request by the strata corporation, owner or tenant, directs that the requirements of paragraph (a) of this subsection do not apply.

Repealed

189.2 [Repealed 2015-16-48.]

Repealed

189.3 [Repealed 2015-16-48.]

Suit requirements and procedures apply

189.4 The requirements and procedures regarding authorization for suits and liability for expenses and judgments in suits by and against the strata corporation, as set out in the following sections, apply to a dispute being resolved by the civil resolution tribunal in which the strata corporation is a party:

- (a) section 166 [owner's liability for judgment against corporation];
- (b) section 167 [defending suits];
- (c) section 169 [limit on owner's responsibility for costs];
- (d) section 171 (5) and (6) [corporation may sue as representative of all owners];
- (e) section 172 (1) (a), (2) and (3) [corporation may sue on behalf of some owners].

Repealed

189.5 [Repealed 2015-16-48.]

Proceedings within jurisdiction of civil resolution tribunal

189.6 (1) If the Supreme Court determines that all matters in a proceeding before it are within the jurisdiction of the civil resolution tribunal, the Supreme Court must dismiss the proceeding unless it is not in the interests of justice and fairness for the civil resolution tribunal to resolve the dispute.

(2) When deciding whether it is in the interests of justice and fairness for the civil resolution tribunal to resolve a dispute under this section, the Supreme Court may consider the following:

- (a) whether the use of electronic tools in the process of the civil resolution tribunal would be unfair to one or more parties in a way that cannot be accommodated by the civil resolution tribunal;
- (b) whether an issue raised by the dispute is of such public interest or importance that the dispute would benefit from being resolved by the Supreme Court to establish a precedent;
- (c) whether an issue raised by the dispute relates to the constitution or the *Human Rights Code* ;
- (d) whether an issue raised by the dispute is sufficiently complex to benefit from being resolved by the Supreme Court;
- (e) whether all of the parties to the dispute agree that the dispute should be resolved by the Supreme Court;
- (f) whether the claim should be heard together with a claim currently before the Supreme Court.