

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *The Owners, Strata Plan LMS 2461 v. Wong*,  
2022 BCSC 1222

Date: 20220719  
Docket: S-210235  
Registry: Vancouver

In the Matter of the *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25, the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241, and the *Administrative Tribunals Act*, S.B.C. 2004, c. 45

Between:

**The Owners, Strata Plan LMS 2461**

Petitioner

And

**Li Heng Luo, Pui Ching Li, Edna Wong, Gay Yuen Wai Chan, Wei Jing Yao,  
Yong Gang Wei, and Tsui Leung Wong**

Respondents

Before: The Honourable Justice Edlmann

On judicial review from: An order of the Civil Resolution Tribunal, dated November 9, 2020 (*The Owners, Strata Plan LMS 2461 v. Luo*, 2020 BCCRT 1264, ST-2019-007667)

## Reasons for Judgment

Counsel for Petitioner:

P. Mendes  
V. McArther, Articled Student

The Respondent, appearing on his own  
behalf:

E. Wong

Counsel for the Civil Resolution Tribunal,  
appearing via videoconference:

Z. Rahman

Place and Dates of Hearings:

Vancouver, B.C.  
June 16-17, 2022

Place and Date of Judgment:

Vancouver, B.C.  
July 19, 2022

**Table of Contents**

**OVERVIEW..... 3**

**ISSUES..... 4**

    Bylaw Fines ..... 5

    Emails and posted videos..... 6

    Mr. Wong’s conduct at Strata Council meetings..... 6

    Declaratory Relief ..... 8

    Defamation ..... 8

**LEGAL FEES ..... 9**

**CONCLUSION..... 9**

**Overview**

[1] There is longstanding conflict between the Respondent, Edna Wong (“Mr. Wong”), and other owners in the petitioning Strata Plan LMS 2461 (the “Strata”). The Strata alleges that for the past 9 or 10 years, Mr. Wong has been disruptive at meetings of the Strata corporation, including by shrieking, yelling and interrupting the meetings with repetitive statements.

[2] Between November, 2017, and June, 2019, Mr. Wong sent 18 emails to the Strata owners. The emails accuse members of the Strata Council of being in a criminal conspiracy with the Strata manager to steal money from the Strata corporation. Although the emails were sent by Mr. Wong, several emails are also signed on behalf of the other personal Respondents who apparently share Mr. Wong’s concerns.

[3] During this period, Mr. Wong also made several video recordings of Strata corporation meetings without the consent of the meeting participants. Mr. Wong then posted those videos on a public YouTube channel along with his comments which highlighted his allegations.

[4] In July, 2019 the Strata issued fines of \$5,100 against Mr. Wong for 30 purported bylaw infractions between 2017 and 2019 related to the emails, videos and other incidents of disruptive behavior. Multiple additional fines were issued against the other personal Respondents in relation to the emails, totaling between \$1,000 and \$1,200 for each Respondent.

[5] In September 2019, the Strata made an application to the Civil Resolution Tribunal (the “Tribunal”) seeking eight orders related to the dispute:

1. An order for payment of outstanding bylaw contravention fines in the amount of \$10,200.

2. An order that the Respondents' emails and internet posts accusing Strata Council members and the Strata property manager of fraud and theft constitute a nuisance and unreasonable interference, contrary to the bylaws.
3. An order restraining the Respondents from circulating emails to Strata owners suggesting that Council members or the Strata property manager have engaged in any criminal conduct, including fraud or theft.
4. An order restraining the Respondents from making any other detrimental false statements about the Council members and Strata property manager, either in written material circulated to the owners or posted online.
5. An order that the Respondents may not video record Strata Council or general meetings, or post them online without the Strata's consent.
6. An order that Edna Wong remove all videos and comments he has posted to YouTube about Strata Council or general meetings.
7. An order restraining Edna Wong from interfering with the registration process at general meetings.
8. Reimbursement of legal fees.

[6] Following a hearing, the Tribunal made orders that the Respondents not video record Strata meetings without consent and that Mr. Wong remove his YouTube videos and comments. The Tribunal dismissed all the other relief sought by the Strata.

[7] In the petition before me, the Strata seeks to have the decision set aside and remitted back to the Tribunal for reconsideration. For the reasons below, the petition is dismissed.

### **Issues**

[8] In its written materials, the Strata alleges seven or eight distinct errors on the part of the Tribunal. Following oral submissions, it became evident that several of

the alleged errors either overlapped or were moot if other portions of the decision were upheld. I therefore propose to address the following issues:

- a) Was the decision of the Tribunal that the alleged contraventions of the bylaws were not established patently unreasonable?
- b) Did the Tribunal err in declining to grant declaratory relief about the nature of the emails?
- c) Did the Tribunal err in declining to grant injunctive relief against defamatory statements?
- d) Was the decision of the Tribunal not to award legal fees patently unreasonable?

[9] The *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25 [CRTA] sets out in s. 121 the areas of strata disputes over which the Tribunal has exclusive jurisdiction. The CRTA was amended in October 2021 to establish that a finding of fact or law, or an exercise of discretion, by the Tribunal must not be interfered with unless it is patently unreasonable. In my view, the primary issues to be addressed in this case are to be decided under this standard. With this in mind, I will proceed to address in turn each of the issues identified above.

### **Bylaw Fines**

[10] In June, 2019, the Strata issued letters to the Respondents under s. 135 of the *Strata Property Act*, S.B.C. 1998, c. 43, [SPA] alleging multiple breaches of the Strata's bylaw 3, which reads as follows:

#### **Use of Property**

3(1) An owner, tenant, occupant, or visitor must not use a strata lot, the common property or common assets in a way that

- (a) causes a nuisance or hazard to another person,
- (b) causes unreasonable noise, [...]
- (c) unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot,

[11] The allegations related to two types of conduct. First, all the Respondents were alleged to have breached the bylaw as a result of emails sent by Mr. Wong. Secondly, Mr. Wong was alleged to have breached the bylaw by his disruptive conduct at meetings and by recording and posting videos of the meetings.

**Emails and posted videos**

[12] The Tribunal Member concluded that the bylaw infractions were not made out, as she found that writing and sending emails is not using a Strata lot, common property, or common assets. The Member noted that there was no evidence about where the emails were written or sent from, and even if there was, it would be an overly broad interpretation of the bylaw to apply it to sending emails from Strata property. She found the same reasoning applied to the YouTube videos and comments that Mr. Wong had posted.

[13] The Strata argues that the Member defined the word “use” too narrowly, and that the Respondents could only send the emails because they had access to the contact information of the recipients by virtue of being Strata owners. Aside from the fact that it does not appear that this argument was made to the Tribunal, counsel for the Strata was unable to take me to any evidence in the record that the email addresses were obtained by virtue of ownership in the Strata. Even had the addresses been obtained at some point in the past by virtue of ownership, it is not evident to me how all subsequent use of the emails is “use of property”. I do not find the Member’s conclusion on this issue to be unreasonable, in particular given the submissions and evidence before her.

**Mr. Wong’s conduct at Strata Council meetings**

[14] As for Edna Wong’s conduct at Strata Council and general meetings, the Strata says this was a nuisance and an unreasonable interference with the rights of other persons, including the Council, the Strata property manager, and the Strata corporation’s lawyer, to use and enjoy Strata lots and the common property.

[15] The Tribunal Member reviewed a related case in which the Tribunal had faced the issue of a Strata using a nuisance bylaw to govern conduct at meetings, and made the following finding at paras. 37 and 38 of her reasons:

37. [...] I find it would be unreasonable for a strata corporation to hold its meetings on common property, or in a strata lot, and then rely on a nuisance bylaw to govern how participants must conduct themselves during that meeting. It is clear from the evidence that Edna Wong has highly contentious relationships with the strata council members and others. However, I find that bylaw protections against nuisance and interference with use of and enjoyment of a strata lot or common property cannot reasonably be used to sanction owners for their conduct during meetings.

38. I note that it is open to a strata corporation to enact bylaws governing meeting procedures and conduct.

[16] The Strata argues that the decision of the Tribunal is patently unreasonable as it allows individuals to cause a nuisance at Strata meetings with impunity. Essentially, the Strata disagrees with the approach taken by the Tribunal Member and invites this Court to opine on the proper approach to be taken to governance of Strata meetings. That is simply not this Court's role. The legislature has granted exclusive jurisdiction over these aspects of strata governance to the Tribunal, and has clearly articulated that the Tribunal's expertise includes such questions.

[17] The decision clearly says that it is open to the Strata to enact bylaws to govern meetings. As noted by the Member, Strata meetings are an exercise in democracy in which owners may vigorously disagree and express their opinions in various ways. While there may be other possible approaches to Strata governance, I do not find a requirement for specific bylaws governing conduct at meetings to be a patently unreasonable one. In my view it was clearly within the range of options open to the Tribunal Member, and it is therefore not open to this Court to interfere with it.

[18] I note that the Strata also made extensive submissions about the reasonableness of the decision not to issue an order in relation to Mr. Wong's conduct at meetings. As was addressed in oral submissions, the Strata only sought

an order that Mr. Wong not interfere with the meeting registration process. The Member's conclusion on this issue dealt directly with the nature of the relief sought:

52. The strata requests an order that Edna Wong not interfere with the general meeting registration process. I find this request is vague and unspecific. I also find the strata has not provided sufficient particulars about the alleged interference to justify an order. I therefore dismiss this claim.

[19] I have been taken to no evidence that was before the Tribunal indicating interference with the registration process at meetings. I do not find the Tribunal's conclusion on this issue to be unreasonable on the evidence before it.

### **Declaratory Relief**

[20] As set out above, the Strata sought an order that the Respondents' emails and internet posts accusing Strata Council members and the Strata property manager of fraud and theft constitute a nuisance, contrary to the Strata's bylaws. The Tribunal declined to grant the order, finding that it did not have the power to grant declaratory relief unless it is incidental to a claim for relief in which the Tribunal has jurisdiction. The Strata argues this was in error.

[21] In my view, little turns on the question of the Tribunal's jurisdiction to order declaratory relief. It is evident that the Strata was seeking a finding of fact. The Tribunal made findings with respect to nuisance and breach of the relevant bylaws in the context of the fines imposed for bylaw breaches that were before it. Either there was a breach of the bylaws or there was not. There was no reason such findings should take the form of a stand-alone declaration.

### **Defamation**

[22] As noted above, the Strata sought the following two orders enjoining the Respondents in relation to the allegations of wrongdoing:

1. An order restraining the Respondents from circulating emails to Strata owners suggesting that Strata Council members or the Strata property manager have engaged in any criminal conduct, including fraud or theft.



2. An order restraining the Respondents from making any other detrimental false statements about the Strata Council members and Strata property manager, in written material circulated to the owners or posted online.

[23] The Tribunal found that it did not have jurisdiction over libel or slander claims, as they are specifically barred from the Tribunal's small claims jurisdiction under *CRTA* s. 119(a) and do not fit within the Tribunal's Strata property jurisdiction in *CRTA* s. 121(1). The Tribunal therefore declined to make a prospective order in the circumstances.

[24] I do not find the decision by the Tribunal to decline to make the orders sought to be patently unreasonable. The second order sought clearly seeks to restrain defamatory statements in the form of "detrimental false statements" and is in no way limited to the current dispute. The first order sought is arguably even more broad, as it is not limited to false statements. In my view, it was reasonable for the Tribunal to decline to make the orders sought.

### **Legal Fees**

[25] The Strata argues that it should have been allowed to recover its legal fees in relation to the enforcement of the bylaws. Given my findings on the other issues, I do not find it necessary to address this issue. As the Strata was not successful in making out any of the bylaw infractions, I fail to see the basis upon which it would collect its legal fees.

### **Conclusion**

The petition is dismissed with one set of costs to the personal Respondents. The Tribunal did not seek costs and did not take a position on the petition. Therefore, no costs are awarded to or against the Tribunal.

"Edelmann, J."