

i Opinions expressed in this report are those of the author and should not be taken to be those of The Legal Education Foundation.



## Neighbourhood disputes

Disputes between neighbours are often the most intractable of all.<sup>1</sup> They seem to be a particular problem in British Columbia, where more than a million people live in, or work from, shared buildings. If you own your home or office in this way, you won't find yourself in a dispute with a distant landlord – because there isn't one. Instead, any dispute will be with your fellow residents: the people you have to get on with every day. That makes it much more painful.

In some countries, people refer to an apartment in a shared building as a *condo* (short for *condominium*). An apartment owned in this way in British Columbia is called a *strata lot* or, colloquially, a strata unit. The concept is of a building divided into layers, or strata – although each resident may occupy only part of a floor and the same term is used for an estate of single-storey buildings.<sup>2</sup>

Strata developments in British Columbia are governed by legislation such as the Strata Property Act<sup>3</sup> and by bylaws that reflect each strata community's values. There must be a *strata corporation* to administer and maintain the common property and any common assets for the benefit of individual owners of strata lots. Those *strata owners* are all members of the strata corporation. They elect a *strata council* to run it. This council will charge for common services and can impose financial penalties for breaches. Disputes between strata owners are known as *strata title disputes* or just strata disputes. When people speak of the *strata*, they usually mean the strata corporation.<sup>4</sup>

The government of British Columbia decided that strata disputes should be the first type of case to be handled when the CRT opened for business in 2016. Richard Fyfe QC, the deputy attorney general, told me why:<sup>5</sup>

Usually, in this case there is an imbalance between an individual property owner and a strata council. Under our legislation those disputes had to go to our supreme court,<sup>6</sup> which can be very rules-heavy and expensive for individuals.

According to Tony Gioventu, executive director of the Condominium Homeowners Association of British Columbia, strata disputes almost always come down to what those in the business call "the five Ps." These, he told an interviewer, are "people, pets, pools, parking and prostitution".<sup>7</sup>

As he explained, “it’s either noise; or it’s smoking; or it’s pets not behaving; or it’s security issues relating to illegal activities; or people parking where they shouldn’t be.”

The CRT’s jurisdiction was extended in 2017 to include small claims worth no more than \$5,000<sup>8</sup> (just under £3,000). This limit is likely to be increased during 2018 and it’s intended that the CRT will eventually become mandatory for money claims worth up to \$25,000. Small claims may include, for example, disputes arising from insurance contracts, personal injury, buying or selling goods or services, residential construction or employment.

And the government of British Columbia announced in February 2018 that certain types of motor insurance claims would be brought within the CRT’s jurisdiction from April 2019. Details have yet to be confirmed.

What of the future? “We are looking at areas such as child maintenance, child support,” the deputy attorney general told me in December 2017. Some of the CRT features could be adapted for use in existing tribunals. Richard Fyfe QC envisaged a single “guided pathway” that would direct people to whichever tribunal was appropriate for their needs.

The CRT’s jurisdiction does not extend beyond British Columbia. To qualify, strata disputes must relate to land within the province. Small claims may be decided by the CRT if the defendant lives in British Columbia or, for example, if the contract was made there. No other Canadian province has yet set up its own online tribunal but Richard Fyfe believes the CRT is changing the nature of dispute resolution more widely.<sup>9</sup>

## References

1. See, for example, Couple lose home after 3-inch “land grab”, The Times, 21 December 2017, <https://www.thetimes.co.uk/edition/news/couple-lose-home-after-3-inch-land-grab-h255g3ktl>
2. Strata housing can also include: duplexes, townhouses, fractional vacation properties—even single homes in bare land strata corporations: [https://www2.gov.bc.ca/gov/content/housing\\_tenancy/strata-housing/understanding-stratas/kinds-of-stratas](https://www2.gov.bc.ca/gov/content/housing_tenancy/strata-housing/understanding-stratas/kinds-of-stratas)
3. [https://www2.gov.bc.ca/gov/content/housing\\_tenancy/strata-housing/operating-a-strata/roles-and-responsibilities/strata-corporations](https://www2.gov.bc.ca/gov/content/housing_tenancy/strata-housing/operating-a-strata/roles-and-responsibilities/strata-corporations)
4. For a detailed guide, see The Condominium Manual: <http://www.condomanual.ca/tcm3/introduction/>
5. Interview with the author, Victoria BC, 6 December 2017.
6. [http://www.courts.gov.bc.ca/supreme\\_court](http://www.courts.gov.bc.ca/supreme_court)
7. <http://vanmag.com/city/strata-wars-neighbours-disputes-vancouver>
8. Canadian dollars.

9. A privately-run online dispute resolution service for condominium owners and residents in Ontario began offering a very limited tribunal service on 1 November 2017.

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