

Input query

Since the advent of the Civil Resolution Tribunal Act, how often have the courts refused to stay strata property proceedings where both parties haven't consented to the issue continuing in court?

Format: Legal memo

Level of detail: Moderate

Model: Normal

OVERVIEW

Almost never: only twice. The *Civil Resolution Tribunal Act* presumptively requires courts to dismiss strata claims in favour of the CRT, and the absence of unanimous consent counts against retention. The only two decisions retaining a strata proceeding without both parties' consent are *Ngai Estate*, [2024 BCSC 2232](#) (claims spanning 1989 to 2020 under two statutory regimes, where referral would have split and prolonged the litigation) and *Hui*, [2025 BCSC 1209](#) (a referral application brought nearly three years into the action, on the eve of a document-production hearing the CRT process could not equally accommodate). Every other retained case, including *Shawn Oaks*, [2018 BCSC 1162](#), *Kunzler*, [2020 BCSC 576](#) and *Schappert*, [2023 BCSC 2080](#), proceeded with both parties' consent, and every other contested application was referred to the CRT, as the survey in *1289083*, [2025 BCSC 76](#) confirms.

ANALYSIS

Courts have refused to stay or dismiss a strata property proceeding in favour of the Civil Resolution Tribunal, over one party's objection, only twice. Where all matters in a court proceeding fall within CRT jurisdiction, s 16.1(1)(b) of the *Civil Resolution Tribunal Act*, SBC 2012, c 25 [*CRTA*] requires the court to dismiss a strata claim, in which the CRT is deemed to have specialized expertise (at s 121(2)), "unless it is not in the interests of justice and fairness for the tribunal to adjudicate the claim"; ss 16.1, 16.3 and 16.4 together impose a rebuttable presumption in favour of dismissal: *Dolnik v The Owners, Strata Plan LMS 1350*, [2023 BCSC 113](#) at para 52. The unanimous agreement of all parties that the CRT should not adjudicate is only one listed consideration in that analysis (*CRTA* at s 16.3(1)(d)). The two exceptions are *The Owners, Strata Plan VIS 1210 v Ngai Estate*, [2024 BCSC 2232](#) [*Ngai Estate*] and *Hui v The Owners, Strata Plan BCS3702*, [2025 BCSC 1209](#) [*Hui*].

The founding contested decision set the pattern. In *Downing v Strata Plan VR2356*, [2019 BCSC 1745](#), the court stayed an owner's claims, potentially exceeding \$100,000, over her objection, observing that for the court to assume jurisdiction over a party's objection "would be unprecedented"; the only transfer case then found was one in which all parties had consented (at paras 36, 50). When the CRT's decision later reached the Court of Appeal on procedural-fairness

grounds (the referral itself was not appealed), the court cautioned in *obiter* that chambers judges should “pay close attention to the fact that there are limited procedural safeguards at the CRT,” which may militate against referral in cases involving significant sums or important issues: *Downing v Strata Plan VR2356*, [2023 BCCA 100](#) at para [8](#).

Every other contested application in the record has been dismissed or referred in favour of the CRT: *Yas v Pope*, [2018 BCSC 282](#) at para [50](#); *Majithia v The Owners, Strata Plan EPS 2884*, [2024 BCSC 1519](#) at paras [26-28](#); *Nwabuikwu v Remi Realty Inc.*, [2024 BCSC 1371](#) at paras [64-66](#); *Yeung v The Owners, Strata Plan EPS 1831*, [2025 BCSC 2369](#) at paras [27-28](#); and, in the Provincial Court, *Res Sec of the Owners, Strata Plan LMS3463 v Just George*, [2022 BCPC 55](#) at paras [55-57](#). Surveying the field in *1289083 B.C. Ltd. v Owners, Strata Plan BCS3215*, [2025 BCSC 76](#) [1289083], the court confirmed that every retained case “save *Ngai Estate*” had involved both parties’ consent, and itself referred a \$280,000 claim for want of a basis to rebut the presumption (at paras [52-56](#), [61-64](#)). The most recent authority is consistent, restating the presumption and leaving a strata claim with the CRT despite years of related court litigation: *The Owners, Strata Plan KAS 53 v Ireson*, [2026 BCSC 1472](#) at paras [20-21](#).

Ngai Estate was the first exception. The court retained a strata corporation’s claim exceeding \$1 million against its developers’ estates despite the defendants’ objection, granting an order under s 16.2 that the CRT not adjudicate (at para [54](#)). The interrelated claims stretched back to 1989, straddled two statutory regimes (one outside the CRT’s claim categories), and raised issues of precedential importance, so referral would have prolonged the dispute and split the proceedings (at paras [47-51](#)). Acknowledging the lack of any strata precedent for retention over objection, the court held that party agreement “is only one factor that may be considered; no single factor under s 16.3(1) is determinative” (at para [49](#)).

Hui was the second. The court refused a strata corporation’s application to refer an owner’s significant-unfairness claim to the CRT, where the application came nearly three years into the action and on the eve of a document-production hearing at which the owner intended to challenge the strata’s privilege claims (at paras [67-70](#)). The court found the Supreme Court Rules

provide “a more robust process for document discovery” than the CRT, whose production orders may be confined to the records a strata must statutorily keep, and held that the delay, the costs already incurred, and the application’s timing weighed against referral (at paras [52-56](#), [70-73](#)). Following *Ngai Estate*, the lack of agreement was treated as one non-determinative factor, and the limited precedent as no bar to an individualized assessment (at paras [57-59](#)).

Otherwise, retention has occurred only with both parties’ consent, and never on consent alone: *The Owners, Strata Plan VR 855 v Shawn Oaks Holdings Ltd.*, [2018 BCSC 1162](#) [*Shawn Oaks*] at paras [54-58](#); *Kunzler v The Owners, Strata Plan EPS 1433*, [2020 BCSC 576](#) [*Kunzler*] at paras [4](#), [9](#); *Strata Plan VR 2213 v Schappert*, [2023 BCSC 2080](#) [*Schappert*] at paras [13-16](#). The non-strata decision on which *Ngai Estate* relied, *Canadian Ramgarhia Society v Panesar*, [2022 BCSC 751](#), shows the point cuts both ways: retention over objection is possible, yet “consent of the parties alone may not be enough for the court to assume jurisdiction” (at paras [32](#), [38](#)). In short, refusal without mutual consent is exceptional but not foreclosed; it has required justification of the *Ngai Estate* or *Hui* order, and non-consent otherwise counts against retention (*1289083* at para [44](#)).