

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?

Overview

Since the CRT's strata jurisdiction came into force, courts have refused to stay strata property proceedings in favour of the CRT only in a small handful of cases — and until very recently, every such case involved bilateral party consent plus additional factors like exceptional complexity or novel legal questions.

Without consent, courts have retained jurisdiction only where truly exceptional circumstances converge (e.g., claims spanning multiple statutory regimes, novel law, or significant procedural prejudice from a party's delay), while the overwhelming majority of contested applications have resulted in dismissal to the CRT.

MEMORANDUM

TO: File

RE: Refusal of Stay/Dismissal in Strata Property Proceedings under the *Civil Resolution Tribunal Act*

DATE: April 9, 2026

The Statutory Framework

Since the CRT's strata property jurisdiction came into force, sections 16.1, 16.2, and 16.3 of the *Civil Resolution Tribunal Act*, SBC 2012, c 25 (CRTA) have created a strong presumption in favour of CRT adjudication. Section 121(2) of the CRTA expressly provides that "the tribunal is to be considered to have specialized expertise in respect of claims within the jurisdiction of the tribunal under this Division," triggering the mandatory dismissal framework in s. 16.1(1)(b): the court "must" dismiss strata proceedings "unless it is not in the interests of justice and fairness for the tribunal to adjudicate the claim." Section 16.3(1) provides a non-exhaustive, non-mandatory list of factors: precedential importance (s. 16.3(1)(a)), constitutional or *Human Rights Code* questions (s. 16.3(1)(b)), sufficient complexity (s. 16.3(1)(c)), bilateral party consent (s. 16.3(1)(d)), consolidation with existing proceedings (s. 16.3(1)(e)), and unfairness of electronic tools (s. 16.3(1)(f)). Courts have confirmed that ss. 16.1, 16.3, and 16.4 together "effectively impose a rebuttable presumption that the claim should be dismissed by the Court so that it can be heard by the CRT," with the party seeking to maintain court jurisdiction bearing the burden of establishing a basis to do so: *Hui v The Owners, Strata Plan BCS3702*, [2025 BCSC 1209](#) at para 43 ("*Hui*"); *1289083 BC Ltd v Owners, Strata Plan BCS3215*, [2025 BCSC 76](#) at para 64.

The Overwhelming Trend: Courts Dismiss to the CRT

The courts have, in the vast majority of reported cases, dismissed or stayed strata proceedings and referred them to the CRT over the objection of at least one party. The foundational decision is *Yas v Pope*, [2018 BCSC 282](#), in which Justice Baird dismissed the petition despite the petitioners' arguments regarding electronic hearing unfairness, precedential value, and complexity. The court emphasized that "the legislature by necessary inference has mandated that the CRT should handle strata claims in any amount, large or small," and that the Act "was designed to deal quickly, efficiently and inexpensively with strata matters and to remove a wide swathe of strata disputes from the dockets of our over-burdened ordinary courts": *Yas v Pope*, [2018 BCSC 282](#) at paras 14–15. This approach was affirmed in *Downing v Strata Plan VR2356*, [2019 BCSC 1745](#), where Justice Crerar dismissed the petition over the petitioner's objection, rejecting arguments based on precedential value, trespass analogies to constitutional claims, monetary complexity, procedural limitations, and procedural disadvantage, holding that the matter "falls firmly within the specialized expertise and jurisdiction granted to the CRT under s. 121(1)": *Downing v Strata Plan VR2356*, [2019 BCSC 1745](#) at para 40.

The trend has continued in more recent cases. In *Majithia v The Owners, Strata Plan EPS 2884*, [2024 BCSC 1519](#), Justice Latimer dismissed the petition despite arguments of complexity, precedential value, and urgency, finding that "the CRT must resolve factual dispute in the course of exercising its jurisdiction under the CRTA" and that "the CRT is well positioned to develop that body of case law": *Majithia*, [2024 BCSC 1519](#) at paras 26, 33. Similarly, in *1289083 BC Ltd v Owners, Strata Plan BCS3215*, [2025 BCSC 76](#), Justice Branch dismissed the petition and provided a comprehensive survey of the case law, concluding that even a large damages claim, combined with complexity, was insufficient without additional factors: *1289083 BC Ltd*, [2025 BCSC 76](#) at para 64. In *Yeung v The Owners, Strata Plan EPS 1831*, [2025 BCSC 2369](#), the court dismissed over the self-represented plaintiff's objection, finding the issues were "not of such importance or complexity that this Court should adjudicate the matters": *Yeung*, [2025 BCSC 2369](#) at para 27.

The Narrow Exception: When Courts Have Refused to Dismiss

Courts have retained jurisdiction in only a small handful of cases, and until very recently, every such case involved bilateral consent. The leading examples are *The Owners, Strata Plan VR 855 v Shawn Oaks Holdings Ltd*, [2018 BCSC 1162](#), where "counsel for the Strata Corporation and counsel for Shawn Oaks both submitted that the appropriate forum was this Court" and the matter involved a complex developer dispute, 27 potential parties, and potential winding-up implications: *Shawn Oaks*, [2018 BCSC 1162](#) at paras 54–58; *Kunzler v The Owners, Strata Plan EPS 1433*, [2020 BCSC 576](#) ("Kunzler"), where "counsel for both parties consent to this Court hearing the matter" and the issue was complex and potentially precedential: *Kunzler*, [2020 BCSC](#)

576 at paras 4, 9; and *Strata Plan VR 2213 v Schappert*, 2023 BCSC 2080, where both parties requested a special case determination and the court found the issues legally complex and of sufficient importance: *Schappert*, 2023 BCSC 2080 at paras 13–15. In *Canadian Ramgarhia Society v Panesar*, 2022 BCSC 751, Justice Walkem noted that "[c]ases where the court assumed jurisdiction from the CRT thus far appear limited to those where the parties consented to the assumption of jurisdiction" and further cautioned that "consent of the parties alone may not be enough for the court to assume jurisdiction" — the court retained jurisdiction in that Societies Act case primarily because of a pre-existing Winteringham Order, multiple proliferating proceedings, and abuse of process concerns: *Ramgarhia*, 2022 BCSC 751 at paras 32, 38, 47.

The Emerging Development: Jurisdiction Without Consent

Only two reported cases have clearly retained strata jurisdiction without bilateral consent. In *The Owners, Strata Plan VIS 1210 v Ngai Estate*, 2024 BCSC 2232, Justice Wolfe granted a s. 16.2 order over the defendants' objection. The determinative factors were exceptional: claims spanning 35 years across two statutory regimes (the *Condominium Act* and SPA), three areas of novel law requiring new judicial authority, numerous defendants, risk of bifurcated proceedings, and significantly advanced proceedings: *Ngai Estate*, 2024 BCSC 2232 at paras 46–54. The court acknowledged that "the lack of a precedent in the strata property context is not, in my view, a bar where the Court must conduct an individualized assessment of what the interests of justice and fairness require," and that consent is "only one factor that may be considered; no single factor under s. 16.3(1) is determinative": *Ngai Estate*, 2024 BCSC 2232 at para 49. Similarly, in *Hui v The Owners, Strata Plan BCS3702*, 2025 BCSC 1209, Justice Dion refused to dismiss to the CRT where the defendant had waited nearly three years to bring the application — filed the day before a contested documents application — and where document discovery under the *Supreme Court Civil Rules* was substantially underway: *Hui*, 2025 BCSC 1209 at paras 68–73. *Hui* confirms that procedural conduct, litigation timing, and access to document discovery can independently constitute factors weighing against CRT referral under the interests of justice and fairness analysis.

Synthesis and Guiding Principles

The body of case law since the CRTA's strata provisions came into force establishes that courts will refuse to stay or dismiss strata proceedings — i.e., will retain court jurisdiction — only in rare circumstances. Bilateral consent, while historically the most common feature of "retained" cases, is neither sufficient on its own nor any longer strictly necessary. What the cases collectively require is a convergence of factors tilting the s. 16.3 analysis clearly against CRT adjudication: exceptional complexity involving interrelated claims spanning multiple statutory regimes or numerous parties (*Ngai Estate*); legally novel questions of broad precedential

importance (*Kunzler, Schappert*); significant procedural prejudice caused by the opposing party's dilatory conduct in seeking referral (*Hui*); or litigation so far advanced that referral would render prior court proceedings wasted (*Hui*). Mere large damages, factual dispute, emotional personal stakes, or the involvement of lawyers on both sides have consistently been held insufficient: *Yas*, 2018 BCSC 282 at paras 45–46; *Downing*, 2019 BCSC 1745 at paras 42–49. As the Court of Appeal cautioned in *Downing v Strata Plan VR2356*, 2023 BCCA 100 at para 65, "the decision to move disputes involving strata corporations into this dispute resolution process is a policy decision of the legislature, and reflects the legislature's balancing of the competing claims of efficiency and fairness." Without bilateral consent plus compelling additional circumstances, courts have consistently, and in virtually all reported cases, dismissed strata proceedings in favour of the CRT.