

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?

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OVERVIEW

Refusals are rare. Since the *Civil Resolution Tribunal Act* came into force, the research located only two clear cases in which a court retained a strata proceeding over a party's objection: *Ngai Estate*, [2024 BCSC 2232](#) and *Hui*, [2025 BCSC 1209](#). Every earlier retention (*Shawn Oaks*, *Kunzler*, *356 Cathedral*, *Schappert*, *Keen*) rested on all-party consent. The statutory default is dismissal in favour of the tribunal, and the party resisting bears the burden: *Dolnik*, [2023 BCSC 113](#); *1289083*, [2025 BCSC 76](#). Lack of consent is only one non-determinative factor; it neither compels referral nor, standing alone, justifies retention. Retention without consent requires an affirmative driver such as genuine multi-regime complexity, precedential novelty, risk of split proceedings, or advanced court discovery coupled with the applicant's delay. Note that the corpus is a sample, not an exhaustive census, so the true count may be higher.

ANALYSIS

Refusals to send strata proceedings to the Civil Resolution Tribunal without all-party consent are rare, and the research located only two clear examples in the strata context. The default is the opposite: *Civil Resolution Tribunal Act*, SBC 2012, c 25 [CRTA] at s 121(2) deems the tribunal to have specialized expertise over strata claims, which engages s 16.1(1)(b) and requires the court to dismiss the proceeding “unless it is not in the interests of justice and fairness for the tribunal to adjudicate the claim”. Together, ss 16.1, 16.3 and 16.4 “effectively impose a rebuttable presumption that the claim should be dismissed by the Court so that it can be heard by the Tribunal instead”: *Dolnik v The Owners, Strata Plan LMS 1350*, [2023 BCSC 113](#) [*Dolnik*] at para [52](#). The party resisting referral bears the burden of justifying retention: *1289083 B.C. Ltd. v Owners, Strata Plan BCS3215*, [2025 BCSC 76](#) [*1289083*] at para [64](#).

Until December 2024, every reported strata retention rested on party agreement. In *Downing v Strata Plan VR2356*, [2019 BCSC 1745](#) [*Downing* (BCSC)] at para [50](#), Crerar J observed that a court “assuming jurisdiction over a CRT matter over a party's objection — would be unprecedented”, the only s 16.2 transfer case then located, *The Owners, Strata Plan VR 855 v Shawn Oaks Holdings Ltd.*, [2018 BCSC 1162](#) [*Shawn Oaks*], having involved all-party consent. That pattern held through *Kunzler v The Owners, Strata Plan EPS 1433*, [2020 BCSC 576](#)

[*Kunzler*], *356 Cathedral Ventures Ltd. v Owners of Strata Plan BCS3598*, [2020 BCSC 1583](#) [*356 Cathedral*], *Strata Plan VR 2213 v Schappert*, [2023 BCSC 2080](#) [*Schappert*], and *Keen v The Owners, Strata Plan NW 2408*, [2026 BCSC 325](#) [*Keen*], where the court granted s 16.2(1)(b) orders on the express basis that the parties agreed referral would not serve justice and fairness. Branch J's survey in *1289083* at para [62](#) confirms that as of January 2025 the retained-in-court cases all involved consent, save one.

The two non-consensual strata refusals 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*]. In *Ngai Estate*, Wolfe J made a s 16.2 order over the defendants' objection, holding that whether all parties agree "is only one factor that may be considered; no single factor under s 16.3(1) is determinative", and that the absence of a strata precedent was no bar to the individualized assessment the statute requires: at para [49](#). The refusal rested on complexity spanning two statutory regimes since 1989, novel issues of precedential importance, avoidance of bifurcated proceedings, and the fact that referral would prolong rather than resolve the dispute: at paras [47](#), [48](#), [50](#), [51](#). In *Hui*, Dion J dismissed the strata's s 16.1(1)(b) application notwithstanding that "[t]here is no agreement that this matter should be heard by the Court": at para [57](#). What carried the day was the court's broader document-discovery process and the strata's delay in applying, filed the day before the owner's documents application: at paras [70](#), [73](#). Notably, in *Hui* the consent factor was expressly tallied on the referral side of the ledger and the court retained the matter anyway: at para [72](#).

The counterweight is substantial, and a practitioner should not read these two cases as loosening the presumption. Courts have repeatedly referred strata claims over an objecting party where no other factor was made out: *Yas v Pope*, [2018 BCSC 282](#) [*Yas*] at para [50](#) (predecessor s 12.3, consent factor of "no application here" at para [30](#)); *Downing* (BCSC); *Majithia v The Owners, Strata Plan EPS 2884*, [2024 BCSC 1519](#); *Nwabuikwu v Remi Realty Inc.*, [2024 BCSC 1371](#) at para [64](#); *1289083*; *Yeung v The Owners, Strata Plan EPS 1831*, [2025 BCSC 2369](#); and *Vazquez v The Owner's Strata Plan NWS13*, [2026 BCSC 1584](#) [*Vazquez*]. Quantum does not save a claim from referral: the legislature "has mandated that the CRT should handle strata claims in any amount, large or small" (*Yas* at para [14](#)), and re-framing a strata dispute as trespass or conversion

does not either, where at its core it concerns strata powers and property (*Res. Sec. of the Owners, Strata Plan LMS3463 v Just George*, [2022 BCPC 55](#) at paras [49-53](#)). The Court of Appeal’s observation that a chambers judge “should ... pay close attention to the fact that there are limited procedural safeguards at the CRT”, and that in cases involving significant sums or other important issues those limits “may militate against the referral”, is *obiter* and has not by itself produced refusals: *Downing v Strata Plan VR2356*, [2023 BCCA 100](#) [*Downing* (BCCA)] at para [8](#). Both *1289083* and *Vazquez* quoted it and referred anyway.

Practically, the answer is that lack of consent is neither fatal nor helpful on its own. Consent is not necessary to retention (*Ngai Estate; Hui*), and it is not sufficient either: even in the consent cases the court “did not assume jurisdiction over a matter before the CRT just because the parties consented”, and pointed to complexity as well (*Canadian Ramgarhia Society v Panesar*, [2022 BCSC 751](#) at para [38](#)). Its absence simply “negat[es] a factor in favour of the Court retaining jurisdiction”: *1289083* at para [44](#). To resist referral without consent, a client needs an affirmative driver of the kind that succeeded in *Ngai Estate* (genuine complexity, multiple regimes, precedential novelty, risk of split proceedings) or *Hui* (advanced court discovery plus opposing-party delay). Two cautions bear noting: the research corpus is a sample rather than an exhaustive census of the case law since the *CRTA* came into force, so the true count of non-consensual refusals may be higher; and one further retention, *Wight v Strata Plan VR 123*, [2024 BCSC 1952](#), is an imperfect fit because no party there actually sought referral, the court having raised jurisdiction on its own motion. Where the claim is a two-party, fact-driven dispute of modest value, expect referral regardless of the applicant’s identity.