



Civil Resolution Tribunal

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Civil Resolution Tribunal

Indexed as: *Siemens v. The Owners, Strata Plan EPS3699*, 2026 BCCRT 401

B E T W E E N :

KENDRA LEE SIEMENS

APPLICANT

A N D :

The Owners, Strata Plan EPS3699

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. This is a final decision of the Civil Resolution Tribunal (CRT) following a judicial review by the BC Supreme Court.
2. Kendra Lee Siemens owns a strata lot in the respondent strata corporation, The Owners, Strata Plan EPS3699. In 2019, the strata repainted some of the parking

stall lines in its underground parkade. As a result of the repainting, the parking stall designated for the exclusive use of Ms. Siemens' strata lot, PS133, became very narrow and difficult to access. Ms. Siemens brought a CRT dispute against the strata, seeking an order that the strata correct PS133's access issues or provide her with another parking stall.

3. In *Siemens v. The Owners, Strata Plan EPS3699*, 2023 BCCRT 633 (original decision), the CRT ordered the strata to relocate PS133 back to its original location or to make other permanent parking arrangements available for Ms. Siemens' strata lot. The strata applied for judicial review of that decision.
4. In *Owners, Strata Plan EPS 3699 v. Siemens*, 2025 BCSC 227 (BCSC decision), the BC Supreme Court found that the CRT's order was patently unreasonable. The court set aside the CRT's order and remitted the dispute back to the CRT for reconsideration, with directions I will discuss further below.
5. Ms. Siemens represents herself. A strata council member represents the strata.

JURISDICTION AND PROCEDURE

6. The CRT has jurisdiction over strata property claims under section 121 of the *Civil Resolution Tribunal Act (CRTA)*. CRTA section 2 says the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It also must recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
7. CRTA section 39 gives the CRT discretion to decide the hearing's format, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice and fairness. So, I decided to hear this dispute through written submissions.

8. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, even where the information would not be admissible in court. In the BCSC decision, the court directed that the parties may raise new remedies and bases for relief which were not argued in the original decision, and that they may provide new evidence relevant to those issues. Both parties provided new evidence and new arguments. I have considered these as well as the evidence and submissions that were before the CRT in the original decision.
9. In the BCSC decision, the court summarized the CRT's factual findings in the original decision, as discussed further below. The court did not set aside those findings, and said they would remain binding on the parties. One of these binding factual findings is that PS133's current configuration makes it "functionally unusable". So, I have not considered the strata's argument that PS133 can technically still be used, albeit inconveniently, and that awarding monetary damages would constitute a windfall to Ms. Siemens.
10. In submissions, Ms. Siemens refers to an offer the strata made to her to settle this dispute. Under CRTA section 89 and CRT rule 1.11, settlement discussions are confidential and must not be disclosed to a tribunal member unless the parties consent. There is no evidence that the strata consented to Ms. Siemens disclosing this settlement offer, so I have not considered it.
11. Under CRTA section 123 and the CRT rules, in resolving this dispute the CRT may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.

ISSUES

12. The issues in this dispute are:
 - a. Did the strata act significantly unfairly by repainting PS133's lines?
 - b. If so, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

13. As the applicant in this civil dispute, Ms. Siemens must prove her claims on a balance of probabilities, meaning more likely than not. I have read all the parties' evidence and submissions, as well as the original decision and the BCSC decision. However, I only refer to what is necessary to explain and give context to my decision.
14. The strata consists of a single building with 194 strata lots. There are 2 levels of underground parking. Except for the visitor stalls, each parking stall is designated as limited common property (LCP) for a particular strata lot. PS133 is designated as LCP for Ms. Siemens' strata lot, SL90.

The BCSC decision

15. In the BCSC decision, at paragraph 14, the court summarized the following factual findings from the original decision, which as noted are binding:
 - a. Before the lines were repainted, PS133 was usable for a small vehicle.
 - b. PS133 is functionally unusable as currently configured because the parking stall was relocated when the lines were repainted.
 - c. When the parking stall located near the entrance to PS133 is occupied, a vehicle cannot drive into PS133 because the parked vehicle extends partly into the drive aisle.
 - d. After the PS133 was relocated, the chain link fence bordering the east side of the stall was about 5 inches from the middle of the east parking stall line, making it impossible to open the door of a vehicle parked in PS133.
 - e. PS133 is located about 2 feet east of where it is shown on the strata plan.
 - f. Ms. Siemens' position that she is entitled to a usable parking stall is reasonable.

- g. PS133 is LCP and was relocated as a result of the line repainting, without a unanimous vote of the owners, as required by s. 257 of the *Strata Property Act* (SPA).
 - h. All parking stalls, except visitor stalls, are designated as LCP on the strata plan.
 - i. Some strata lots do not have parking stalls and there is a shortage of visitor parking stalls, because the owner developer did not construct the number of visitor stalls required by the City of Kelowna.
16. The court considered the options available to the strata to comply with the CRT's order. First, the court found at paragraph 17 that the strata could not move PS133 back to its original location or move the chain link fence next to it, because the City did not approve either of those options.
17. Second, the court found at paragraph 22 that while the strata could grant exclusive use of a common property visitor parking stall to Ms. Siemens under SPA section 76, this section only allows the strata to grant exclusive use for up to one year. Further, the court found that such a change in use would have to be approved by a 3/4 vote of the owners at an annual or general meeting under SPA section 71. So, this option would not permit the strata to give Ms. Siemens permanent access to a parking stall, as required by the CRT's order.
18. Third, the court found that while the strata could designate a common property parking stall as LCP if approved by a 3/4 vote of the owners under SPA section 74, this designation would not be permanent as it could also be removed by a further 3/4 vote. I note here that in submissions, the strata says that it presented such a resolution at a September 2024 special general meeting (SGM), but the resolution failed. Although the strata provided no evidence of this, such as its SGM meeting minutes, I accept this submission as Ms. Siemens does not dispute it.
19. Finally, the court noted that an amendment to the strata plan under SPA section 257 to designate a common property parking space as LCP requires a unanimous

vote of the ownership. The court found that the strata does not have the jurisdiction under the SPA to unilaterally change the designation of common property.

20. So, the court found that the CRT's order that the strata make other permanent parking arrangements for SL90 did not take relevant statutory requirements into account and would require the strata to exercise powers it does not have under the SPA. The court noted that while CRTA section 123 sets out the orders the CRT may make in strata property claims, the CRT did not explain how that section permitted it to enable the strata to act outside its authority under the SPA. I return to this below.
21. The court remitted the dispute to the CRT to reconsider the issues within the context of the strata's statutory powers and restrictions under the SPA. As noted, the court directed that the parties would remain bound by the CRT's factual findings as outlined above. However, it said the parties may raise new remedies and provide evidence about them.

New arguments – significant unfairness

22. In her new submissions, Ms. Siemens argues that the strata acted significantly unfairly to her by repainting PS133's lines. Ms. Siemens says that because the relocation makes PS133 unusable, the strata has effectively denied her the exclusive use of LCP designated for SL90.
23. Under CRTA section 123(2), the CRT has jurisdiction to make an order against a strata corporation to remedy a significantly unfair action. Significantly unfair actions are those that are burdensome, harsh, wrongful, lacking in probity or fair dealing, or inequitable. In determining whether a strata's actions are significantly unfair, the owner's objectively reasonable expectations are a relevant factor, but are not determinative. See *Dollan v. The Owners, Strata Plan 1589*, 2012 BCCA 44, *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342, and *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173.
24. In the original decision, the CRT found that it was reasonable for Ms. Siemens to expect that she would be entitled to a usable parking stall. I find the strata violated

that reasonable expectation by moving the stall lines. However, as noted, Ms. Siemens' reasonable expectations are only one factor to consider.

25. The strata argues that the word "significant" means that its conduct must go beyond mere prejudice or trifling unfairness. I agree. See *Reid v. Strata Plan LMS 2503*, 2003 BCCA 126. Further, the strata relies on *Gentis v. The Owners*, 2003 BCSC 120, in which the court noted at paragraph 29 that the Oxford dictionary definition of "significant" is "of great importance or consequence". I infer the strata argues that the issue with PS133 is not of great importance, though it does not explain this position further.
26. Ms. Siemens disagrees that the parking stall issue is trifling or unimportant. She says that the relocation of PS133 has resulted in a continuing loss of use of a "core component" of her property interest in SL90. At paragraph 19 of the BCSC decision, the court noted that an owner's control over their LCP, while not true ownership, is akin to a beneficial interest in it. So, I accept that the LCP parking stall is an important part of Ms. Siemens' ownership of SL90.
27. The strata says that it should not be punished for its compliance with its obligations under the SPA and with the relevant building and fire codes. It says it has not acted in bad faith or unfairly targeted Ms. Siemens. I acknowledge that the line repainting was undisputedly completed to comply with relevant fire codes, and I agree with the strata that it did not act in bad faith. However, in *Dollan*, the court found at paragraph 24 that even if the strata's decision-making process is fair, this does not necessarily mean that the strata's actions are insulated from a significant unfairness finding. Similarly, in *King Day*, the court found that a strata's actions could have a significantly unfair effect on an owner or owners even where the strata followed the SPA's mandatory cost allocation scheme. Based on these decisions, I accept Ms. Siemens' submission that significant unfairness includes conduct that is unjust or inequitable in its effect, even if not undertaken in bad faith. In other words, while the strata's process and motivation may be relevant factors, so are the outcome of the strata's actions and the impact on the affected owner.

28. As noted, the outcome of the line repainting is that SL90 is effectively deprived of a usable parking stall. I find that this is burdensome for Ms. Siemens, who undisputedly purchased SL90 with the reasonable expectation that it included a usable parking stall. I also find the outcome is inequitable to Ms. Siemens. While the strata says that other parking stalls have inconvenient configurations, there is no evidence before me that any other owners' stalls are inaccessible to the same extent as PS133. So, I find Ms. Siemens is in a comparatively inferior position to other owners who purchased a strata lot which included a LCP parking stall.
29. For these reasons, I find the strata's repainting of the parkade lines and the associated relocation of PS133 was significantly unfair to Ms. Siemens.

Remedy

30. So, what is the appropriate remedy for the strata's significant unfairness? As discussed above, the strata's authority under the SPA is limited, and there is no obvious avenue for it to provide Ms. Siemens a permanent parking space without ownership approval under the SPA.
31. Ms. Siemens argues that BC courts have held that remedies for significant unfairness must not require a strata to act outside its powers under the SPA, and that remedies such as permanent allocations of common property are unlawful without the necessary owner votes. In support of this, Ms. Siemens cites 2 cases which either do not exist or do not apply. I find the most likely explanation is that these are "hallucinations" generated by artificial intelligence. Further, I find this is not an accurate statement of the law.
32. Instead, in *Robinson v. The Owners, Strata Plan VR.2001*, 2023 BCCRT 161, a tribunal member found that the CRT's authority to make an order to remedy significant unfairness under CRTA section 123(2) can, in rare cases, supersede mandatory SPA provisions. The tribunal member relied on *King Day*, and also on *Brown v. The Owners, Strata Plan VR 42, VR 64, VR 153*, 2022 BCSC 812. In *Brown*, the court found at paragraph 93 that its authority under SPA s. 164 allowed

it to deem that the owners had passed a unanimous resolution to amend the schedule of unit entitlement.

33. Other CRT decisions that come to the same conclusion are *Chan v. The Owners, Strata Plan LMS295*, 2023 BCCRT 794, and *Heilemann v. Gardner*, 2025 BCCRT 1692. I agree with the reasoning in these decisions, and I find an order to permanently permit Ms. Siemens to use a visitor parking stall is within the CRT's jurisdiction under CRTA s. 123(2). However, as noted in the BCSC decision, the strata already has a shortage of visitor parking stalls. I find that ordering the strata to permit Ms. Siemens to exclusively use a visitor stall would further exacerbate this problem, and neither party argues that this is a desirable remedy. So, I decline to order it.
34. The strata argues that increasing PS133's width is an appropriate remedy. The strata provided a February 4, 2026 quote in evidence from Alliance Response Building Solutions. The quote is to relocate the chain link fence adjacent to PS133, which would include relocating a gas monitor. Handwritten annotations on the quote say that after the proposed relocation, PS133's width would increase from 6 feet 4 inches to 8 feet.
35. Ms. Siemens disputes that this is an adequate solution. She says that while increasing PS133's width would permit a vehicle's doors to open, it would not solve the difficulty with accessing the stall when a vehicle is parked in the perpendicular stall, PS134. While the strata says that the parking lines for PS134 have also been repainted to ensure accessibility, it provided no evidence of this, and Ms. Siemens specifically disputes it. The photographs in the Alliance quote do not obviously show that PS134's lines have been repainted. Finally, in the BCSC decision the court noted that the City had not approved the option to move the fence. The strata provided no evidence that the City has approved the solution proposed in Alliance's quote. For these reasons, I find that the strata has not proved that moving the chain link fence is an appropriate remedy.

36. This leaves monetary compensation. Ms. Siemens argues that monetary compensation is the only appropriate remedy for the strata's significant unfairness. She claims \$58,000, as discussed further below. The strata disagrees that it should pay anything, but says that in any event, Ms. Siemens' claimed \$58,000 is unsupported and disproportionate to SL90's overall value.
37. I agree with the finding in *Dumitrescu v. The Owners, Strata Plan NES2518*, 2022 BCCRT 1226, that the CRT has jurisdiction to award monetary damages for significant unfairness under CRTA section 123. I find monetary compensation is appropriate here, given the challenges with other options as set out above. The question is, what is the appropriate amount?
38. I begin with considering whether Ms. Siemens has proved she has already incurred any monetary damages as a result of PS133 being inaccessible. In her original submissions, Ms. Siemens said that she had to reduce the amount of rent she charged her tenants by \$150 to \$250 per month to compensate for the lack of parking. However, Ms. Siemens did not provide any evidence in support of this, such as a statement from her tenant, or rental agreements showing the amounts charged.
39. Further, Ms. Siemens says that comparable secure underground parking stalls rent for \$85 to \$125 per month. She says that this means she has suffered an \$8,000 loss. However, there is no suggestion that Ms. Siemens previously rented PS133 out separately from renting SL90 to tenants, nor is there any evidence that Ms. Siemens paid to rent a replacement stall for her tenants. So, I find Ms. Siemens has not proved that she has yet incurred any actual monetary damages due to PS133's relocation. To the extent Ms. Siemens claims compensation for her past loss of use of PS133, I find that is adequately captured by my analysis below.
40. Ms. Siemens' claim for \$58,000 is based on what she says is PS133's current market value. In support of this, Ms. Siemens provided a January 13, 2026 letter from Kelly Lawrie, a chartered professional accountant and certified management accountant. Kelly Lawrie said that they have been employed by a number of large

companies in the Kelowna construction and development industry. They said that the construction cost of an average underground parking stall is between \$45,000 and \$87,000. They based this figure on the 2025 Altus Group Canadian Cost Guide, which Ms. Siemens also provided in evidence. This guide sets out the average construction cost per square foot of various types of structures for several Canadian cities.

41. While I accept that Kelly Lawrie is qualified to provide evidence about construction costs, I find that this is not relevant to the question of appropriate compensation. There is no suggestion that Ms. Siemens can or will construct a replacement parking stall for herself. So, evidence of the construction cost does not assist Ms. Siemens.
42. Kelly Lawrie also said that to the best of their knowledge based on purchases and sales they have observed, underground parking stalls in the downtown Kelowna area are worth \$50,000 to over \$75,000. I return to this below.
43. Ms. Siemens also relies on an undated letter from Pat Klassen, a realtor. Pat Klassen said that direct listings for individual parking stalls are scarce. However, they said they contacted several recent condominium developments in the Kelowna North area to ascertain values. They said that market offerings are currently priced between \$50,000 to \$58,000, plus GST, across comparable properties.
44. In Ms. Siemens' original evidence, she also provided an undated letter from Carla Green, another realtor. Carla Green said that a parking stall in a concrete building is worth roughly \$50,000 to \$60,000. They said that Central Okanagan residents rely heavily on vehicles, so parking stalls are a priority when making real estate purchases.
45. Ms. Siemens also provided an email from Jeffery Berrie, the Community Director at a different development, the Waterscapes complex. Jeffery Berrie said that they have seen a "handful" of parking stalls change hands, with prices ranging from \$35,000 to \$50,000, though they note that the last sale was before the Covid pandemic.

46. Finally, Ms. Siemens says that a new development in Kelowna, Alma on Abbott, is charging \$65,000 for owners wishing to purchase a second parking stall. She provided a link to what I presume is Alma's website. The CRT instructs parties not to provide website links as evidence, because website content can change and there is no way for a CRT member to know whether they are viewing the same content the parties viewed. So, I have not considered the website link Ms. Siemens provided.
47. I agree with the strata's submission that Ms. Siemens' evidence in support of her claim for \$58,000 is vague and unsupported. The letters from Kelly Lawrie, Pat Klassen, Carla Green, and Jeffery Berrie do not provide any specific examples in support of the figures they provide. They do not explain whether they are referring to residential or commercial buildings. They do not specify whether the parking stalls they refer to are standalone titled parking stalls, or whether they are LCP, common property, or otherwise. In the absence of any further details or supporting evidence, it is difficult to tell whether the parking stalls referred to in Ms. Siemens' evidence are comparable to PS133. So, I place little weight on this evidence.
48. I pause to note that Pat Klassen's letter says that they are willing to provide additional details upon request. However, it is not the CRT's role to contact witnesses on behalf of parties. It was open to Ms. Siemens to request that Pat Klassen provide additional information, but I infer she chose not to do so.
49. For its part, the strata says that because parking stalls cannot be sold independently from an owner's strata lot, PS133's market value cannot be accurately determined. The strata provided a February 2, 2026 letter from Danielle Medley, a realtor. Danielle Medley says that LCP forms part of a unit's overall value, and it cannot be separated, sold, or transferred on its own, like a titled parking stall. They say that because of this, a LCP parking stall's value is reflected in the overall value of the unit, which will rise and fall with market conditions. While they acknowledge that in some new build developments, developers may assign a separate price to parking stalls, they say this pricing structure does not translate to

the resale condominium market where LCP parking is inseparable from the unit itself.

50. I accept Danielle Medley's evidence that a LCP parking stall cannot be sold separately from a strata lot, and that the amount a developer charges for a parking spot in a new building does not directly translate to resale value. However, I do not find that this means that a parking stall has no impact on a strata lot's value.
51. So, I turn to whether damages can be measured by SL90's change in market value as a result of not having a usable LCP parking stall. Ms. Siemens argues that SL90's value is "significantly diminished" because it no longer has usable parking. However, she provided no objective evidence of this, such as an appraisal or information about comparable property sales.
52. The strata provided a BC Assessment listing showing that SL90's assessed value as of July 1, 2025 was \$231,300. The strata also provided a BC Assessment listing for strata lot 71 (SL71), which it says has a smaller balcony, less desirable view, and no parking stall. SL71's July 1, 2025 assessed value is \$220,000. While Ms. Siemens argues that the assessment does not clearly indicate that SL71 does not have a parking stall, I accept that it does not, as the strata plan does not show a parking stall designated as LCP for SL71.
53. However, it is not clear based on the BC Assessment listings whether the assessed value takes parking into consideration, as parking is not listed on the property information summaries. Further, assessed value is not necessarily indicative of market value. Finally, I note that BC courts have cautioned against using property assessments as a replacement for expert evidence, though they can be used to support an expert appraisal. See *Dosanjh v. Liang*, 2015 BCCA 18, and *van Dishoeck v Centre Stage Holdings Ltd.*, 2023 BCSC 1500. So, I place limited weight on the strata's BC Assessment evidence.
54. The strata also provided screenshots of real estate listings for 3 other strata lots in the building, with listing prices ranging from \$245,000 to \$299,900. I find these listings are also of little assistance in determining the effect of parking availability on

SL90's value. Only one full listing is provided, for unit 407, which says that it includes one underground parking stall. The other screenshots do not include property details, so it is unclear whether these units include parking spaces. So, it is also difficult to compare these units to SL90. Finally, I find that listing price also does not necessarily reflect market value. There is no evidence of whether these strata lots ultimately sold, or for how much, nor is there any evidence from a realtor of what an appropriate current listing price for SL90 may be in comparison.

55. Overall, I find the evidence provided by both parties leaves significant uncertainty about how the lack of a usable parking stall affects SL90's current market value. I acknowledge that because market value is always changing, and there is no indication of whether or when Ms. Siemens intends to sell SL90, any evidence about SL90's market value would not perfectly reflect her anticipated monetary loss in any event. With that said, I find the best evidence of Ms. Siemens' damages would be an appraisal or other expert opinion about SL90's market value with and without a LCP parking stall. Neither party provided such evidence, and so it is difficult to appropriately determine a damages award.
56. In *Nickel v. Takhar*, 2020 BCSC 1462, aff'd 2021 BCCA 268, the BC Supreme Court found at paragraph 62 that the fact that damages are difficult to assess does not mean that a claim should be dismissed entirely. In some cases, a rough estimate of damages is the only option. Where evidence is limited, a modest damages award is appropriate. See *Davidge v. Fairholm*, 2014 BCSC 1948 at paragraph 191.
57. So, I must do the best that I can with the evidence before me. I begin with Ms. Siemens' claimed amount of \$58,000. Despite the challenges with determining SL90's current market value, if I accept that it is somewhere between the assessed value of \$231,300 and the highest list price of another strata lot in the building, which is \$299,900, Ms. Siemens' claim is for 19% to 25% of SL90's total value. I agree with the strata that this amount is disproportionately high. Further, while I accept that a purchaser may pay upwards of \$50,000 for a parking stall in a new building, I also accept Danielle Medley's evidence that this does not necessarily reflect the amount that a parking stall increases a strata lot's resale value. Without

evidence of the actual impact on SL90's market value, I find Ms. Siemens has not established that she is entitled to an award of \$58,000, or an amount close to that.

58. With that said, I accept that the fact that SL90 does not have a usable parking stall likely affects its market value both for rentals and for resale. Considering all of the above, and bearing in mind that my award should be modest given the lack of evidence, I conclude that a damages award of \$10,000 is appropriate. I order the strata to pay Ms. Siemens this amount.

CRT FEES, EXPENSES, AND INTEREST

59. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Ms. Siemens was partially successful, I order the strata to reimburse her \$112.50, for half of her CRT fees. Neither party claimed dispute-related expenses.

60. The *Court Order Interest Act* (COIA) applies to the CRT. Ms. Siemens is entitled to prejudgment interest on the \$10,000 damages award. As the evidence is that PS133's lines were repainted in the last week of July 2019, I order prejudgment interest from July 31, 2019, to the date of this decision. This equals \$1,700.34.

61. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against Ms. Siemens.

ORDERS

62. Within 60 days of this decision, I order the strata to pay Ms. Siemens \$11,700.34, broken down as follows:

- a. \$10,000 in damages,
- b. \$1,700.34 in pre-judgement interest under the COIA, and
- c. \$112.50 in CRT fees.

63. Ms. Siemens is entitled to post-judgment interest under the COIA.

64. This is a validated decision and order. Under CRTA section 57, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under CRTA section 58, the order can be enforced through the British Columbia Provincial Court if it is an order for financial compensation or return of personal property under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

Alison Wake, Tribunal Member