

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

Since the strata jurisdiction provisions of the *Civil Resolution Tribunal Act*, SBC 2012, c 25 came into force, courts have refused to stay strata property proceedings in favour of the CRT, over at least one party's objection, in only two reported decisions: *Ngai Estate*, [2024 BCSC 2232](#) and *Hui*, [2025 BCSC 1209](#). Every prior case in which a court retained jurisdiction involved the agreement of all parties, and courts regularly dismissed proceedings to the CRT over the objecting party's resistance. Non-consensual retention is legally available but requires exceptional circumstances, and the absence of consent under s 16.3(1)(d) of the *Civil Resolution Tribunal Act* weighs against retention even if it is not determinative.

ANALYSIS

Under the *Civil Resolution Tribunal Act*, SBC 2012, c 25 [CRTA], strata property claims fall within the CRT's specialized expertise under s 121, and s 16.1(1)(b) requires a court to dismiss any proceeding involving such claims unless it is not in the interests of justice and fairness for the CRT to adjudicate the claim. Courts have read ss 16.1, 16.3, and 16.4 together as imposing a rebuttable presumption in favour of CRT adjudication, which places the burden on the party seeking to remain in court: *Dolnik v The Owners, Strata Plan LMS 1350*, [2023 BCSC 113](#) at para [52](#); *1289083 B.C. Ltd. v Owners, Strata Plan BCS3215*, [2025 BCSC 76](#) [1289083] at para [33](#). The factors in s 16.3(1) are neither mandatory nor exhaustive, and s 16.3(1)(d), whether all parties agree the matter should not be heard by the CRT, is only one non-determinative consideration. Unlike accident claims, strata claims have no statutory pathway permitting court adjudication by consent alone.

From the time the strata jurisdiction provisions came into force through late 2024, every reported case in which a court retained jurisdiction over a strata property claim involved the agreement of all parties. *1289083* surveyed the field at paras [51-56](#) and confirmed that *The Owners, Strata Plan VR 855 v Shawn Oaks Holdings Ltd*, [2018 BCSC 1162](#), *Kunzler v The Owners, Strata Plan*

EPS 1433, [2020 BCSC 576](#), *356 Cathedral Ventures Ltd v Owners of Strata Plan BCS3598*, [2020 BCSC 1583](#), and *Strata Plan VR 2213 v Schappert*, [2023 BCSC 2080](#) were all consent cases. Throughout the same period courts consistently dismissed proceedings over the objection of the party wishing to remain in court: *Downing v Strata Plan VR2356*, [2019 BCSC 1745](#) at para [50](#), where Crerar J. described non-consensual retention as “unprecedented”; *Majithia v The Owners, Strata Plan EPS 2884*, [2024 BCSC 1519](#) at para [28](#); *Nwabuikwu v Remi Realty Inc*, [2024 BCSC 1371](#) at paras [58](#), [63](#).

That position changed with *The Owners, Strata Plan VIS 1210 v Ngai Estate*, [2024 BCSC 2232](#) [*Ngai Estate*]. Wolfe J. retained jurisdiction over the defendants’ express objection, relying on the exceptional complexity of a multi-party, multi-decade claim straddling two statutory regimes and presenting several novel legal questions warranting court determination (at paras [47-49](#)). The court acknowledged the absence of strata-specific precedent for non-consensual retention but drew on *Canadian Ramgarhia Society v Panesar*, [2022 BCSC 751](#), which had already assumed jurisdiction over objecting parties in the Societies Act context, and held that s 16.3(1)(d) was not a bar to an individualized interests-of-justice analysis (at para [49](#)). *1289083* subsequently confirmed *Ngai Estate* as the only non-consensual retention in the strata context, finding that the petitioner before it had not met the threshold where there were only two parties, no novel questions of law, and no bifurcation risk (at paras [56](#), [62-64](#)).

The second instance of non-consensual retention is *Hui v The Owners, Strata Plan BCS3702*, [2025 BCSC 1209](#) [*Hui*]. Dion J. refused to stay the proceedings despite the defendant strata corporation’s objection, relying on the superior document discovery process available under the Supreme Court Civil Rules, particularly the limitations on the CRT’s ability to order production beyond s 35 of the *Strata Property Act*, SBC 1998, c 43 [*SPA*], and the defendant’s tactical delay in bringing its jurisdictional application the day before a contested documents hearing (at paras [52-56](#), [68-73](#)). *Hui* confirmed that *Ngai Estate* had ended any notion that non-consensual retention was categorically unavailable, while reaffirming that the absence of consent weighs against retention even if it is not determinative (at paras [58-59](#)).

In sum, courts have refused to stay strata proceedings in favour of the CRT, over at least one party's objection, in only two reported decisions: *Ngai Estate* and *Hui*. A borderline third instance is *Wight v Strata Plan VR 123*, [2024 BCSC 1952](#), where the court raised the forum issue *sua sponte* and concluded on its own motion that the advanced stage of the proceedings and urgency of underlying repairs weighed against dismissal (at para [30](#)); however, no party formally contested jurisdiction in that case. The consistent weight of authority runs the other way: non-consensual retention is available in principle but requires exceptional circumstances, such as genuine complexity involving multiple parties and novel legal questions (*Ngai Estate*) or advanced document discovery proceedings combined with evidence of tactical forum-shopping (*Hui*), that ordinary strata disputes will rarely present.