



No. VLC-S-S-256703  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

THE COMMERCIAL SECTION OF  
THE OWNERS, STRATA PLAN EPS 1945

PETITIONER

AND:

THE OWNERS, STRATA PLAN EPS 1945  
THE RESIDENTIAL SECTION OF  
THE OWNERS, STRATA PLAN EPS 1945

RESPONDENTS

**RESPONSE TO PETITION**

**Filed by: The Respondents, The Owners, Strata Plan EPS 1945 and the Residential Section of The Owners, Strata Plan EPS 1945 (the “petitioner respondents”)**

THIS IS A RESPONSE TO the petition filed 05/Sep/2025.

The petition respondents estimate that the application will take 1 day.

**Part 1: ORDERS CONSENTED TO**

The petition respondents consent to the granting of the orders set out in the following paragraphs of Part 1 of the petition: NIL.

**Part 2: ORDERS OPPOSED**

The petition respondents oppose the granting of the orders set out in paragraphs ALL of Part 1 of the petition.

**Part 3: ORDERS ON WHICH NO POSITION IS TAKEN**

The petition respondents take no position on the granting of the orders set out in paragraphs NONE of Part 1 of the petition.

**Part 4: FACTUAL BASIS**

1. The Owners, Strata Plan EPS 1945 (the “Strata Corporation”) and Section 1 of The Owners, Strata Plan No. EPS 1945 (the “Residential Section) (collectively the “Respondents”), deny each and every allegation in the petition unless specifically admitted herein.

**Respondents Version of Facts**

2. In response to paragraph 1, the legal name of the petitioner is Section 2 of The Owners, Strata Plan No. EPS1945. It consists of the owners of strata lots 1 to 10.
3. Paragraph 2 is admitted.
4. In response to paragraph 3, the legal name of the respondent is Section 1 of The Owners, Strata Plan No. EPS 1954. It consists of the owners of strata lots 11 to 70.
5. Paragraph 4 is admitted.
6. In response to paragraph 5, this is a legal statement and not a statement of facts. Sections are responsible for representing the different interests of owners of residential strata lots and owners of nonresidential strata lots.
7. In response to paragraph 6, this is a legal statement and not a statement of facts. The strata council has no obligation to ensure equitable treatment and participation of sections. After the creation of sections, the strata corporation only retains its powers and duties in matters of common interest to all owners.
8. In response to paragraph 7, this is a legal statement and not a statement of facts. The Residential Section does not control the Strata Corporation, it only has powers and responsibilities with respect to matters that relate solely to the section.
9. In response to paragraph 8, the strata council is elected at each annual general meeting. The Commercial Section has no requirement to participate in the strata council because the Commercial Section has powers and authorities with respect to matters that relates solely to that section.
10. In response to paragraphs 9 and 10, notices distributed by the Residential Section are irrelevant to the appointment of an administrator for the governance of the Strata Corporation.

11. In response to paragraph 11, this is denied and particulars of what access was denied and by whom and how access are required.
12. In response to paragraph 12, the strata council does not represent the interests of the sections. The strata council exercises the powers and obligations of the Strata Corporation only regarding matters of common interest to all the owners.
13. In response to paragraph 13, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
14. In response to paragraph 14, there was no amendment to the bylaws. This resolution was to permit the alteration of the use of common property and is a general vote.
15. In response to paragraph 15, this legal advice was incorrect and no amendment to the bylaws have been filed since September 30, 2021 (LTSA document CA9401355).
16. In response to paragraph 16, the strata council has the authority to permit alterations to the common property. Any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
17. In response to paragraph 17, decisions of the strata council are made by majority vote and there is nothing improper about the majority of strata council members supporting a resolution even if another strata council member has a “strong objection.”
18. In response to paragraph 18, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
19. In response to paragraph 19, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
20. In response to paragraph 20, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.

21. In response to paragraph 21, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
22. In response to paragraph 22, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
23. In response to paragraph 23, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
24. In response to paragraph 24, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
25. In response to paragraph 25, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
26. In response to paragraph 26, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
27. In response to paragraph 27, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act. This was not done by the Residential Section.
28. In response to paragraph 28, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
29. In response to paragraph 29, even if true it is not relevant to the appointment of an administrator.
30. In response to paragraph 30, even if true it is not relevant to the appointment of an administrator.

31. In response to paragraph 31, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
32. In response to paragraph 32, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
33. In response to paragraph 33, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
34. In response to paragraph 34, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
35. In response to paragraph 35, this is admitted.
36. In response to paragraph 36, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
37. In response to paragraph 37, the strata corporation is responsible for the common expenses of the strata corporation.
38. In response to paragraph 38, there are no Residential Section common areas and the elevator is common property and the expense for repair and maintenance is a common expense.
39. In response to paragraph 39, a budget can be approved or amended by a majority vote of the owners.
40. In response to paragraph 40, the apportionment of fees is based on responsibility for an expense and is determined by the strata plan and the bylaws and not by an accountant.
41. In response to paragraph 41, this is denied but any conduct of the Residential Section is not relevant to an order for the appointment of an administrator for the Strata Corporation.

42. In response to paragraph 42, the strata plan clearly notes the property that is designated as common property and the Strata Corporation has not designated any of the common property as limited common property for the exclusive use of any strata lots.
43. In response to paragraph 43, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
44. In response to paragraph 44, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
45. In response to paragraph 45, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
46. In response to paragraph 46, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
47. In response to paragraph 47, this is denied but even if true, is not relevant to the appointment of an administrator for the Strata Corporation.
48. In response to paragraph 48, this is denied, but the failure to provide proper notice for a resolution regarding the change in the appearance (by paint) of common property, even if true, is not relevant to the appointment of an administrator for the Strata Corporation.
49. In response to paragraph 49, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
50. In response to paragraph 50, there is nothing improper about the alleged fact.
51. In response to paragraph 51, this is denied but even if it is true, is not relevant to the appointment of an administrator for the Strata Corporation.
52. In response to paragraph 52, it is denied that there was any deliberate attempted exclusion. The *Strata Property Act* does not require inclusive decision-making processes and instead establishes required percentage of the number of votes that are cast by eligible voters to be in favour of a resolution for that resolution to pass.

53. In response to paragraph 53, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
54. In response to paragraph 54, there are not Form B certificates issues for all strata lots in the Strata Corporation.
55. In response to paragraph 55, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act. Furthermore, the Strata Corporation has no authority or obligation regarding the “collection of Form B data.”
56. In response to paragraph 56, the original developer parking and storage assignments are not relevant to any exercise of the powers of the Strata Corporation. Parking and storage assignments are made based on either the designation of common property as limited common property or through a short term exclusive use agreement.
57. In response to paragraph 57, there is no ability to file meeting minutes and the Strata Corporation must retain minutes of general meetings for six years. Therefore, the failure to provide minutes from general meetings in 2016 and 2017 does not call into question resolutions from those meetings.
58. In response to paragraph 58, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
59. In response to paragraph 59, this is denied, but even if it is true, it is not relevant to the appointment of an administrator for the Strata Corporation.
60. In response to paragraph 60, the Strata Corporation is in the process of adopting a privacy policy.
61. In response to paragraph 61, this statement is overly broad and particulars of the alleged financial mismanagement must be provided. In the absence of particulars, this is denied.
62. In response to paragraph 62, it does not matter if an expense is classified as a capital expense. Payment of money from the contingency reserve fund is subject to the requirements of the *Strata Property Act*.

63. In response to paragraph 63, this is permitted by the *Strata Property Act* and the Strata Corporation complied with the requirements of the Act.
64. In response to paragraph 64, the annual budget is subject to a majority vote at an annual general meeting. If owners decided to vote in favour of a budget without current financials that is wholly within their discretion and irrelevant to the appointment of an administrator.
65. In response to paragraph 65, the annual budget is subject to a majority vote at an annual general meeting. If owners decided to vote in favour of a budget without current financials that is wholly within their discretion and irrelevant to the appointment of an administrator. If this is an allegation against the treasurer in May 2025, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
66. In response to paragraph 66, the budget is subject to amendment at a general meeting. If this is an allegation against the treasurer or secretary, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
67. In response to paragraph 67, this statement is overly broad and particulars of the alleged owners must be provided. In the absence of particulars, this is denied.
68. In response to paragraph 68, the annual budget is subject to a majority vote at an annual general meeting. If owners decided to vote in favour of a budget with increases that is wholly within their discretion and irrelevant to the appointment of an administrator.
69. In response to paragraph 69, it is unclear how the Strata Council could forgive a penalty imposed by the City of North Vancouver. If this is an allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
70. In response to paragraph 70, there is no obligation on the strata council to seek legal advice. Section 95(4) of the *Strata Property Act* permits the Strata Corporation to lend money in the contingency reserve fund to the operating fund.
71. In response to paragraph 71, this is admitted and the budget is subject to approval by the owners at an annual general meeting.

72. In response to paragraph 72, it is denied that there is any misapprehension and an allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
73. In response to paragraph 73, there is no requirement for a resolution regarding activities that must occur pursuant to the *Strata Property Act* and a resolution is only required when there is the exercise of discretion.
74. In response to paragraph 74, it is denied and the property manager is not an employee or agent of the Residential Section.
75. In response to paragraph 75, any allegation against the individuals on the strata council must be based on section 33 of the *Strata Property Act* and requires an allegation that they failed to comply with section 32 of that Act.
76. In response to paragraph 77, the members of the strata council are elected at general meetings and exercise the powers and obligations of the Strata Corporation with respect to matters of common interest to all the owners.

#### **Additional Facts**

77. The Strata Corporation was established by the deposit of the strata plan on March 10, 2014.
78. The Strata Corporation's bylaws, and the *Strata Property Act*, obligate it to repair and maintain common property that has not been designated as limited common property.
79. The expenses related to repairing and maintaining common property are expenses relating to the common property and therefore must be satisfied by strata fees calculated on a per strata lot basis by the portion that strata lot has to the total unit entitlement of all strata lots.
80. The total unit entitlement of the residential strata lots is 4,438 and the total unit entitlement of nonresidential strata lots is 1050. The unit entitlement of each residential strata lot is the habitable area of the strata lot, in square metres, rounded to the nearest whole number.
81. The contribution of nonresidential strata lots to the common expenses of the Strata Corporation, when calculated based on unit entitlement is 19.13%.

82. The Strata Corporation's bylaws state that at an annual general meeting a council must be elected, that the number of council members is at least three and not more than five and that a person may serve on both a section executive and the strata council.
83. The number of votes per residential strata lot is 1 (regardless of size of the strata lot) and the number of votes per nonresidential strata lot is calculated by dividing the unit entitlement of each nonresidential strata lot by the average unit entitlement of residential strata lots. Consequently, the number of votes for the nonresidential strata lots are as follows:
- a. Strata lot 1: 1.5 votes;
  - b. Strata lot 2: 1.4 votes;
  - c. Strata lot 3: 1.4 votes;
  - d. Strata lot 4: 1.1 votes;
  - e. Strata lot 5: 1.1 votes;
  - f. Strata lot 6: 2.2 votes;
  - g. Strata lot 7: 1.9 votes;
  - h. Strata lot 8: 1.3 votes;
  - i. Strata lot 9: 1.1 votes;
  - j. Strata lot 10: 1.1 votes.
84. The nonresidential strata lots have 14.1 votes out of a total of 74.1 votes or 19% of the total votes.

## **Part 5:LEGAL BASIS**

### **Governance Structure and Accountability**

85. The *Strata Property Act* permits the creation of sections.
86. A strata corporation with sections has at least three elected bodies with the authority and obligation to exercise powers and perform duties. These elected bodies have parallel jurisdiction (none is dominant over another) that does not overlap.
87. The Strata Corporation has an elected strata council. It has powers and duties in matters of common interest to all the owners.
88. The Residential Section has an elected executive. It has powers and duties in respect to matters that relate solely to that section.

89. The Commercial Section has an elected executive. It has powers and duties in respect to matters that relate solely to that section.
90. The members of the strata council, the residential executive and the commercial executive are obligated when they have a direct or indirect interest in a contract, transaction or matter that is to be the subject of consideration by the body they are part of to disclose that interest, abstain from voting on that contract, transaction or matter and to leave the meeting while that contract, transaction or matter is discussed and voted on.
91. If a member fails to comply with those requirements, an owner can make an application to the court.
92. Several of the facts alleged in the petition deal with actions of the strata council, including failing to comply with the Act, granting permissions, and enforcement of the bylaws. However, the petition does not name any of the strata council as respondents and does not allege any failure to comply with section 32 of the *Strata Property Act*.

#### **Democratic Nature of Governance**

93. The powers and obligations of the Strata Corporation, the Residential Section and the Commercial Section are exercised in the context of democratic decision-making.
94. When the decision requires a resolution of the owners, there are four possible thresholds: majority,  $\frac{3}{4}$  resolution, 80% resolution and unanimous. When the decision is within the authority of the strata council or a section executive, the threshold is a majority vote of the members of the council or the executive.
95. Several of the facts alleged in the Petition deal with complaints about resolutions that passed.

#### **Use of Property**

96. The strata plan designates significant portions of the building shown on the strata plan as common property. As such, it is owned by each owner “as a tenant in common in an share equal to the unit entitlement of the owner’s strata lot divided by the total unit entitlement of all the strata lots.”
97. There are no bylaws prohibiting any owner from accessing the common property.

98. The bylaws state that the strata corporation must repair and maintain common property that has not been designated as limited common property.
99. There are no bylaws requiring a section to repair or maintain any portion of the common property.

**The Appointment of an Administrator is Improper**

100. The Petition properly sets out the factors to consider when considering the appointment of an administrator.

***Established Inability to Manage the Strata Corporation***

101. There is no mismanagement alleged in the facts or established in the evidence. The closest thing to mismanagement is an allegation that the repainting and carpeting of hallways was a significant change to the appearance of common property and required a  $\frac{3}{4}$  resolution being passed at a general meeting.

***Misconduct and Mismanagement***

102. Most of the allegations in the petition involve the Residential Section. The Residential Section does not have any authority over matters of common interest to all the owners. It is inappropriate to appoint an administrator for the Strata Corporation where the concerns of the Commercial Section are about the conduct of the Residential Section.

***There is Order to the Strata Corporation's Affairs***

103. The Petitioner mischaracterizes any potential conflict between the Residential Section and the Commercial Section. The Residential Section has powers and duties in respect to matters that relate solely to that section and the Commercial Section has powers and duties in respect to matters that relate solely to that section. They cannot be in conflict over matters that are of common interest to all the owners because they have no power or duties in that aspect.
104. There may be conflict between individual owners regarding their preferences regarding matters of common interest to all the owners. However, this is not unusual. The Strata Property Act addresses this potential for conflict by having the requirement for certain powers be exercised only after a resolution by the owners at a general meeting.
105. There is no structural imbalance in power dynamics. If there is an imbalance it is in favour of the owners of nonresidential strata lots because they have more votes than residential strata lots based on their unit entitlement. For example, strata lot 5 has 1.1 votes based on a unit entitlement of 83, while strata lots 14, 18, 19, 27, 28, 34, 38, 39, 47, 48, 54, 58, 59, 67 and 68 all have 1 vote with larger unit entitlements.

***There is No Internal Struggle***

106. The Petitioner characterizes as a power struggle what is simply the exercise of democracy. There is no “factional conflict”. The petition refers to the “Residential Section’s exercise of power” being “without meaningful consultation or consensus” but the Residential Section only has powers and duties in respect to matters that relate solely to that section and there is no requirement for it to consult with owners that have no involvement or interest in its matters.

***No Significant Unfairness***

107. The Petition alleges that “the Residential Section has systematically marginalized Commercial Section owners by excluding them from critical decisions regarding property rights and procedural fairness, meeting the threshold of significant unfairness.” However, as stated above: the Residential Section only has powers and duties in respect to matters that relate solely to that section. There can be no unfairness from the Residential Section not including owners of another section, to find otherwise would make the distinction between sections meaningless.

**Conclusion**

108. The petition indicates that the Petitioner is frustrated that the owners of strata lots 1 to 10 cannot control the agenda or the decision making of the Strata Corporation. This is because owners of strata lots 1 to 10 control 19% of the votes. This does not support the appointment of an administrator.

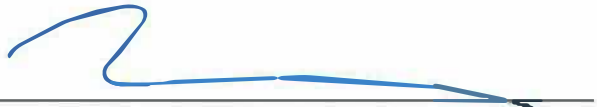
109. The Petitioner also appears to consistently conflate the actions of the Residential Section with the actions of the Strata Corporation. Any assumption that the owners of strata lot 11 through 70 act as a monolithic faction in matters of common interest to all the owners is misplaced.

110. The bylaws of the Strata Corporation specifically permit a person to “serve on both a section executive council and the strata council.” Despite this authority, any person on either of those governing bodies must act honestly and in good faith with a view to the best interests of the section or the Strata Corporation when performing their duties.

**Part 6: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Lisa Shortt, made November 5, 2025.

Date: Nov 6, 2025

  
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Signature of lawyer for the petition respondent,  
Trevor Morley

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This RESPONSE TO PETITION was prepared by Trevor Morley, Barrister and Solicitor, of the law firm of Reed Pope Law Corporation, whose place of business and address for delivery is 202 – 1007 Fort Street, Victoria, BC, V8V 3K5 Tel: 250-383-3838 Fax: 250-385-4324