

CANADA / JUDGMENT

The Owners, Strata Plan VR 778

2023 BCSC 1555

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2023 BCSC 1555 The Owners, Strata Plan VR 778

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

The Owners, Strata Plan VR 778,

2023 BCSC 1555

Date: 20230901

Docket: S224419

Registry: Vancouver

The Owners, Strata Plan VR 778

In the Matter of Section 173 of the Strata Property Act

Before: The Honourable Justice Shergill

Reasons for Judgment on Costs

Petitioner, appearing in person and through its agent:

K. Chan, appearing as agent

Counsel for Respondent, R. Azarnia:

N. Aram

Respondents L. Fanning, N. Wei and S. Yang, appearing in person and through
their agent:

S. Fan, appearing as agent

Written Submissions from Respondent, R. Azarnia:

June 5 and June 25, 2023

Written Submissions from Petitioner:

June 20, 2023

Place and Date of Judgment:

Vancouver, B.C.

September 1, 2023

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I. Overview

- [1] This petition proceeding ("Petition") was commenced by the Owners, Strata Plan VR 778 (the "Strata Corporation" or the "Petitioner") on May 31, 2022, under s. 173 of the Strata Property Act, S.B.C 1998, c. 43 [SPA]. Through it, the Strata Corporation sought Court approval of a resolution (the "Resolution") put forward at the Strata Corporation's March 9, 2022 Annual General Meeting (the "2022 AGM") to raise a special levy to replace the Strata building's roof (the "Roof Project").
- [2] Four Strata owners filed petition responses opposing the relief sought (collectively "the Respondents"). The respondent Ramin Azarnia ("Azarnia") was represented by his own legal counsel, who was acting for him on a pro bono basis. The respondents Linda Fanning, Ning Wei, and Susan Yang (collectively the "Fanning Respondents"), made submissions through their friend Stephen Fan, who appeared as agent on their behalf.
- [3] On April 6, 2023, I issued Reasons for Judgment in this case indexed at 2023 BCSC 552 (the "Reasons"). I dismissed the Petition, and also dismissed Mr. Azarnia's application related to the Petitioner's legal expenses. I invited the parties to make written submissions on the question of costs.
- [4] About one week after the Reasons were released, the Strata filed a Notice of Intention to Act in Person. Katherine Chan, who was a member of the Strata Council, was selected as the Strata's Representative.
- [5] Written submissions were received from Mr. Azarnia and the Strata, along with supporting affidavits.

- [6] At issue is: (1) whether Mr. Azarnia should be awarded costs of the proceeding; (2) if so, whether the costs award should be fixed; and (3) whether he should be absolved from having to contribute a proportionate share of the Strata's legal costs.

II. Should Mr. Azarnia Be Awarded Costs?

- [7] Mr. Azarnia submits that as the successful party, he is entitled to costs pursuant to Rule 14-1(9) of the Supreme Court Civil Rules [Rules]. He seeks a fixed costs award of \$18,549.27, of which approximately \$4,000 constitutes disbursements and related taxes, and the balance as costs under Tariff Scale B.
- [8] The Strata submits that no costs should be awarded to Mr. Azarnia, for various reasons, including: it has no means to pay the costs award as the Owners have refused to approve a budget for legal expenses; the costs sought would impose a tremendous burden on the Owners; and a costs award would result in a windfall to Mr. Azarnia as Mr. Azarnia's legal counsel was working on a pro bono basis.
- [9] Rule 14-1(9) of the Rules stipulates that, subject to subrule (12), costs of a proceeding must to be awarded to the successful party unless the court otherwise orders.
- [10] There is no dispute that Mr. Azarnia is the successful party.
- [11] In *Giles v. Westminster Savings and Credit Union*, 2010 BCCA 282 at para. 74 the Court noted that costs awards are intended to:
- a) Indemnify the successful party;
 - b) Deter frivolous actions or defences;
 - c) Encourage conduct that reduces the duration and expense of litigation and discourage conduct that has the opposite effect;
 - d) Encourage litigants to settle whenever possible, thus freeing up judicial resources for other cases; and
 - e) Serve a "winnowing function" in the litigation process by:
 - i. requiring litigants to make a careful assessment of the strength or weakness of their cases at the commencement and throughout the course of the litigation; and
 - ii. discouraging the continuance of doubtful cases or defences.
- [12] Many of the reasons why costs award should be made, have particular application in this case.
- [13] In the Reasons, I found that the Strata had acted in bad faith; had failed to be forthright with the Owners; had withheld relevant information from the Owners; and had sent intimidating communications to the Owners, all for the purpose of trying to sway the Owners to vote in support of the Resolution. When it failed to secure the necessary 3/4 majority vote, the

Strata brought this ill-conceived litigation, rather than trying to address the legitimate concerns raised by the Owners, particularly those concerns voiced by Mr. Azarnia. In my view, a costs order against the Strata would serve the purpose of: deterring or discouraging it from pursuing litigation that is baseless; requiring it to make a careful assessment of the strength or weakness of a case at its commencement and throughout the proceeding; discouraging it from continuing doubtful cases; and stress the importance of conducting itself in an unfair and unreasonable manner in the management of Strata affairs.

- [14] A costs award will also fulfill the goal of encouraging conduct that reduces the duration and expense of litigation and discourage conduct that prolongs and increases litigation expense. In this case, there is evidence that the Strata took an unreasonably harsh stance during the litigation, which increased the duration and cost of the proceeding. For example,
- a) The Strata set the petition hearing for dates that it knew counsel for Mr. Azarnia was not available. The Strata then opposed Mr. Azarnia's application to adjourn the petition hearing to a mutually convenient date. Mr. Azarnia was successful in having the hearing adjourned.
 - b) The Strata refused to allow Mr. Azarnia access to the roof for the purposes of obtaining an expert report. This resulted in Mr. Azarnia having to seek a court order and spend two days in chambers to have the matter heard and determined. Mr. Azarnia was ultimately successful in his application.
 - c) The Strata opposed Mr. Azarnia's request to cross-examine Mr. Silverwood, who was the Strata's main witness and president of the Strata Council. This necessitated another chambers application at which Mr. Azarnia was again successful.
- [15] By opposing a costs award to Mr. Azarnia, the Strata continues to pursue a position that is legally weak. This brings me to the further goal that would be achieved by a costs award. There is a need to stress upon the Strata the importance of trying to settle matters wherever possible so that judicial resources can be freed up. As an example, approximately one week before these Reasons were released, Mr. Azarnia offered to the Strata and the other petition respondents that the petition be dismissed by consent, and the Strata pay Mr. Azarnia \$3,500 for his disbursements. He sent a follow up communication on April 3, 2023, giving the Strata notice of his intention to seek costs if the petition was dismissed. In the same communication, his counsel explained the costs consequences of a win or loss for both the Strata and petition respondents. No meaningful response was sent to these offers. The Strata's position that it could not participate in settlement negotiations because it and the Fanning Respondents had been "rendered impotent by the legal counsels", is simply not supported by the evidence.

- [16] The Strata argues that the goal of indemnification of the successful party is not engaged by a costs award in this case, as Mr. Azarnia's counsel acted on a pro bono basis. This is true insofar as the costs portion of the Bill of Costs is concerned. However, the purpose of costs has expanded beyond indemnification, and entails other considerations which are directed towards guiding litigation conduct.
- [17] It is well established that a party who is not represented by counsel is still entitled to their costs of a proceeding, including consideration for special costs: see *McKnight v. Hutchison*, 2014 BCCA 472 at para. 39.
- [18] In *Skidmore v. Blackmore* (1995), 2 B.C.L.R. (3d) 201 (C.A.) the issue before the court was whether a successful self-represented litigant may be awarded costs in excess of his or her disbursements. At para. 28, Mr. Justice Cumming noted:

the view that costs are awarded solely to indemnify the successful litigant for legal fees and disbursements incurred is now outdated. A review of Rule 37, which deals with offers to settle, reveals that in certain circumstances a party may be entitled to costs, or double costs, or to no costs at all. One of the purposes of the costs provisions in Rule 37 is to encourage conduct that reduces the duration and expense of litigation, and to discourage conduct that has the opposite effect. Thus, although it is true that costs are awarded to indemnify the successful litigant for legal fees and disbursements incurred, it is also true that costs are awarded to encourage or to deter certain types of conduct.

- [19] I turn now to the Strata's argument that a costs award would result in unfairness to the Strata.
- [20] I turn first to the ability to pay. The fact that the current year's operating budget does not allocate sufficient funds for Mr. Azarnia's costs, is irrelevant to the question of whether Mr. Azarnia is entitled to his legal costs. Provided that there is legal justification for such an award, the Court may make a costs order against the Strata, even if the Strata has not allocated funds for that purpose. Further, litigation costs would not normally be paid out of the operating budget - they are extraordinary non-recurring expense that are to be paid out of the Contingency Reserve Fund ("CRF"): See ss. 92 and 96 of the SPA, and *Dockside Brewing Co. Ltd. v. The Owners, Strata Plan LMS 3837*, 2005 BCSC 1209, para. 41-42; affirmed 2007 BCCA 183; leave to appeal denied 2007 CanLII 40504 (S.C.C.).
- [21] Further, even if I was to accept that half of the Owners are "senior citizens" or on fixed incomes, that is not sufficient reason to deny Mr. Azarnia his costs. Due to Mr. Azarnia's efforts and out of pocket expenditures, the Owners have benefitted from his participation in the litigation, and opposition to the Petition. For example, the "non-liable owners" have been relieved from having to contribute towards the repair and replacement of property which was the responsibility of the "beneficial owners", a prospect which I found would have been significantly unfair. Further, Mr. Azarnia provided the Strata and the owners with a more reliable professional assessment of the roof project (the Hemmati report). Finally, there is evidence that the Strata has now retained a different roofing company to address some of

the deficiencies raised in the litigation, and provide solutions to some of the contentious repair items. The end result is that depriving Mr. Azarnia of a costs award, would be unfair, particularly where the Owners have derived a significant benefit from his efforts in the litigation.

- [22] I also do not agree that a costs award would result in a windfall to Mr. Azarnia. In para. 29 of its submissions, the Strata acknowledges that the Owners who did not respond to the Petition were unable to or were too intimidated to respond, "due to threats of the Litigation Committee or the potential liability resulting from an unsuccessful response to the Petition". It is disingenuous for the Strata to argue now that while Mr. Azarnia took the risk of being liable for costs if he was unsuccessful, costs payable to him following his success would result in a windfall.
- [23] I turn now to the Strata's argument that the "Owners are merely innocent bystanders, many of whom did not agree with the Litigation Committee on the Petition" (para. 31 of the Petitioner's Submission on Costs). In advancing this argument, the Strata has taken great pains to separate itself from the previous Strata Council members who were on the Litigation Committee and "acting on the tenuous advice of their legal counsel" (para. 3 of the Petitioner's Submission on Costs). While it may very well be the case that the Strata Council was controlled by some rogue members, I do not agree that the Owners were merely innocent bystanders. The Owners all have personal agency. They have a duty to keep themselves informed, the right to make inquiries if they do not understand what is transpiring, the right to attend and participate in meetings, and the right to exercise their vote if they disagree with steps being taken by the Strata Council. If they choose not to exercise those rights, and allow the Litigation Committee or Strata Council to proceed unchecked, then they only have themselves to blame for any fallout.
- [24] After having regard to all of the evidence in this case, and the submissions of the parties, I conclude that there is no justiciable reason to depart from the ordinary rule that the successful party is entitled to its costs.
- [25] Consequently, I conclude that Mr. Azarnia is entitled to his costs of the Petition proceeding at Scale B, including costs for three days for his two chambers applications in which he was successful.

III. Should Costs be Fixed?

- [26] I turn now to the second issue relating to fixed costs of the proceeding.
- [27] Rule 14-1(15) of the Rules permits the court to award costs of a proceeding and to fix the amount of costs, including the amount of disbursements.
- [28] In *Gichuru v. Smith*, 2014 BCCA 414, leave to appeal ref'd [2014] S.C.C.A. No. 547, one of the issues on appeal was the summary assessment of a costs award made by the trial judge. In setting aside the assessment of special costs, the court stated as follows at para. 154:

The decision to fix the quantum of costs under R. 14-1(15) is a matter of judicial discretion that should be sparingly exercised. The court officer best placed to conduct an assessment is usually the registrar, whose knowledge and experience in assessing legal bills is extensive and seldom matched by that of a trial judge. An exception may arise in cases when the judge is intimately familiar with the litigation or the time and cost of a registrar's hearing cannot be justified or where the parties consent. The fact that a judge has heard the trial does not necessarily lead to the conclusion that the best use of judicial resources is for the judge to assess costs. A concern that a party who might have to pay costs will prolong the costs assessment by requiring a microscopic review of the services provided by counsel must be balanced against the right of that party to challenge the reasonableness of the proposed costs.

[29] I agree with Mr. Azarnia that given the Strata's current self-representation, and the delays and challenges associated with completing an assessment of the Bill of Costs, it is appropriate for this Court to exercise its discretion and fix Mr. Azarnia's costs. Doing so will give finality to the parties, avoid the costs of a further hearing before the Registrar which cannot be justified based on the time and cost; and put an end to the protracted and acrimonious litigation that has taken over a full year to conclude.

[30] I turn first to the disbursements. The Strata argues that the invoices provided do not support the total disbursements claimed; there is no evidence that the invoices were paid by Mr. Azarnia rather than his legal counsel; and it is likely that Mr. Azarnia was refunded a filing for the CRT filing which was withdrawn by the Strata.

[31] I note as follows in relation to the disbursements claimed:

- a) There are no ethical issues raised by the claim advanced in the Bill of Costs.
- b) Whether the invoice was paid for by Mr. Azarnia or his legal counsel, it is still a disbursement expense which Mr. Azarnia is entitled to have reimbursed.
- c) There is sufficient evidence that the expert report fee of \$1,500 was incurred, and was reasonable. This expense is allowed.
- d) There is insufficient evidence to support the \$500 claimed for photocopying, scanning and printing costs. I accept Mr. Azarnia's explanation that there are no receipts available for photocopying, scanning and printing costs. However, in the absence of such, the party must still provide some basis on which the cost claimed can be examined for reasonableness. In this case, Mr. Azarnia has not provided any breakdown for the number of pages that were copied, printed, or scanned, and what amount was being charged per page. As such, this expense is disallowed.
- e) Mr. Azarnia has not addressed the concern that the Civil Resolution Tribunal ("CRT") may have refunded him the \$125 incurred for filing the CRT claim. As such, this expense is not approved.

- [32] I conclude that the disbursements on the Bill of Costs should be reduced by \$625, of which \$500 is taxable. Thus, the total disbursements approved on the Bill of Costs are \$3,325.06 (\$3,155.56 taxable disbursements[1] + \$169.50 non-taxable).
- [33] I turn now to the costs. Mr. Azarnia has claimed a total of 118.5 units, which includes the costs for his three days of chambers applications. While most of the costs submitted are reasonable, I find the units claimed for items 1, 2, and 7 to be excessive. The matter was only in litigation for approximately one year, and was resolved after a 3.5 day petition hearing. Consequently, the units claimed for those items should be reduced. I also find that the units claimed for item 44 should be reduced, as the parties did not have lengthy settlement negotiations or mediation.
- [34] I find that a total of 105 units for costs are appropriate, having regard to the complexity of the matter, and the length of time towards final resolution. The total approved for the costs is therefore \$12,936 (105 units x \$110/unit = \$11,550 + \$577.50 GST + \$808.50 PST).
- [35] Thus, the Strata is ordered to pay Mr. Azarnia fixed costs in the amount of \$16,261.06.

IV. Should Mr. Azarnia be Absolved from Contributing to the Strata's Legal Fees?

- [36] Mr. Azarnia seeks the following orders that would result in absolving him from having to pay his proportionate share of the Strata's legal expenses relating to this litigation:
- (1) an order directing the Strata to reimburse him for his proportionate share of the Strata's 2022 legal expenses, which he calculates as \$1,924.64 in accordance with s. 99 of the SPA (800 / 45205 x \$108,754);
 - (2) an order directing the Strata to refund him the \$983.50 he contributed to the Strata's legal expenses;
 - (3) an order directing the Strata to reimburse him for his proportionate share of the Strata's 2023 legal expenses relating to this litigation, as soon as practicably possible when the final amount of 2023 legal expenses are known;
 - (4) If an award of costs is made in his favor, a declaration that he is exempted from contributing to the costs award and an order directing the Strata to not charge him for contribution to the costs award or to reimburse him for his contribution to same, as applicable (depending on whether the costs award is paid by way of a special levy or transfer from the CRF).
- [37] Mr. Azarnia argues that he is not liable to pay for legal fees incurred by the Strata pursuant to ss. 167(2), 169(1)(a), and 171(5) of the SPA. The relevant portions of those provisions are as follows:

Owner's liability for judgment against strata corporation

- 166 (1) A judgment against the strata corporation is a judgment against all the owners.

- (2) A strata lot's share of a judgment against the strata corporation is calculated in accordance with section 99(2) or 100(1) as if the amount of the judgment were a contribution to the operating fund and contingency reserve fund, and an owner's liability is limited to that proportionate share of the judgment.

Defending suits

167 ...

- (2) The expense of defending a suit brought against the strata corporation is shared by the owners in the same manner as a judgment is shared under section 166, except that an owner who is suing the strata corporation is not required to contribute.

...

Limit on owner's responsibility for costs

169 (1) If the strata corporation joins or sues an owner in the owner's capacity as owner or as owner developer, or if an owner sues the strata corporation, that owner

- (a) is not liable to contribute to legal costs that a court or arbitrator requires the strata corporation to pay,
- (2) If the strata corporation pays an amount to an owner in full or partial satisfaction of the owner's claim against the strata corporation, whether or not under a judgment, the owner is not liable to share in the cost of the payment with other owners.

Strata corporation may sue as representative of all owners

171(5) All owners, except any being sued, must contribute to the expense of suing under this section.

- [38] Mr. Azarnia submits that the Strata incurred \$108,754.31 in legal fees in 2022. His proportionate share of that amount was \$1,924.64, which he paid. In addition, Mr. Azarnia submits that the legal fees created a budget deficit of \$111,143.17. A resolution was approved at the Special General Meeting on 18 April 2023 to eliminate the deficit by transferring \$55,572 from the CRF to the operating fund and charging a special levy in the amount of \$55,572 to the owners. The resolution was approved. Based on Mr. Azarnia's unit entitlement of 800 out of 45205, his proportionate share of the approved special levy was \$983.50, which he also has paid.
- [39] Mr. Azarnia submits he is a litigant who sued the Strata and was sued by the Strata. As the successful party and pursuant to ss. 167(2), 169(1)(a) and 171(5), he should be exempted from contributing to the Strata's legal expenses and any costs award made against the Strata. He has already contributed to the Strata's legal expenditure by paying his share of the special levy (\$983.50) and his past contributions to the CRF and operating fund.

- [40] In *Oldaker v. The Owners, Strata Plan VR 1008*, 2010 BCSC 776, Justice Voith (as he then was) heard an application by several individuals who were owners of strata lots within a building, for an order that they be exempted from having to pay their respective shares of both the legal fees incurred by and the costs awarded against the respondent Strata. The central issue raised was whether there existed a basis within the SPA for such an order and, if so, whether the circumstances of the case support the order.
- [41] The conundrum faced by the applicant (and Mr. Azarnia) was succinctly summarized by Justice Voith, as follows:
- [24] If, for example, the individual respondents had merely voted against the resolutions directed to defending the Petition, they accept they would be responsible for their unit share of the legal fees and costs arising from the Petition. This would reflect a common scenario where a minority of owners, who oppose the defence of an action, are proven in the result to have been correct. In such circumstances there is no question but that both minority and majority owners share in both the legal fees and costs that emanate from the action in accordance with the owner's proportionate share of those amounts.
- [25] Conversely, if the individual respondents had been named as petitioners in the Petition and were thereby each "an owner" who "sues the strata corporation" their immunity from having to contribute to the Strata Corporation's legal fees and costs would be clear.
- [42] In dismissing the application, Justice Voith considered the provisions of the SPA that are raised here by Mr. Azarnia. Justice Voith held that the "suing" of an owner is limited to the owner against whom relief is sought and as against whom some lis exists (para. 36).
- [43] In my view, Justice Voith's analysis is sound, and I see no avenue for Mr. Azarnia to argue that his circumstances fit within the narrow interpretation of ss. 167, 169, and 171 of the SPA as found by the court in *Oldaker*. Indeed, Mr. Azarnia concedes that on a strict application of the *Oldaker* criteria, the Strata did not sue Mr. Azarnia as it did not bring a suit or seek relief against him.
- [44] However, counsel for Mr. Azarnia submits that because Mr. Azarnia and the Strata were adverse parties, he comes within the definition of an owner who sued the Strata and was sued by it. Specifically, it is argued that:
- a) He sought orders against the Strata.
 - b) He actively opposed the Strata in extensive litigation including 3 chambers days, cross-examination of the Strata's witness, and 4 hearing days.
 - c) The Strata opposed all of his interim applications and arguments at the petition hearing.
 - d) It was open to the Strata to seek costs against him if it was successful, and indeed it indicated in its argument that it would.

- [45] Mr. Azarnia advances his argument on the grounds of fairness. He submits that the objectives of the SPA are met by ensuring that owners who are involved in litigation with their strata do not end up unfairly having to pay both their own legal expenses and contributing to the strata's.
- [46] Mr. Azarnia submits that the facts of Oldaker are distinguishable from his case. Whereas Mr. Azarnia has played an active role in the petition proceeding by actively opposing the relief sought, this was not the case in Oldaker. The Court found that the owners had merely filed a petition response taking no position, or consenting to the relief sought, in an attempt to insulate themselves from having to contribute to the strata's legal expenses and costs (para. 8-9, 29-30). Justice Voith noted his concern about owners who may take a merely formal role in the litigation for strategic economic purposes without actively participating (para. 41-42).
- [47] To that extent, Mr. Azarnia's case is distinguishable from Oldaker. However, those distinctions do not affect the interpretation of the impugned provisions of the SPA. Rather, in the words of Justice Voith, Mr. Azarnia is advancing a "middle ground not squarely addressed by the Act": Oldaker at para. 23.
- [48] In my view, the only statutory avenue available in the SPA that could potentially address the "middle ground" situation that Mr. Azarnia finds himself, is contained in s. 164 of the SPA. Section 164 provides:

Preventing or remedying unfair acts

164(1) On application of an owner or tenant, the Supreme Court may make any interim or final order it considers necessary to prevent or remedy a significantly unfair

- (a) action or threatened action by, or decision of, the strata corporation, including the council, in relation to the owner or tenant, or
 - (b) exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting.
- (2) For the purposes of subsection (1), the court may
- (a) direct or prohibit an act of the strata corporation, the council, or the person who holds 50% or more of the votes,
 - (b) vary a transaction or resolution, and
 - (c) regulate the conduct of the strata corporation's future affairs.

- [49] As Justice Voith noted, s. 164 gives rise to a possible exception to the statutory requirements of s. 166, 16, and 169 of the SPA: Oldaker at para. 46.

- [50] Indeed, had Mr. Azarnia advanced his argument under s. 164 of the SPA, he may have had a strong argument on the grounds of significant unfairness. However, Mr. Azarnia has not plead or relied on s. 164 in this costs hearing.
- [51] In Oldaker, Justice Voith was not prepared to entertain an argument that there had been a violation of s. 164 of the SPA, because no declaration to that effect had been sought. Justice Voith held as follows:
- [57] I begin by noting that the individual respondents have not, on this application, sought any declaration that the conduct of the Strata Corporation has given rise to a breach of s. 164. Instead, they simply seek, as I said at the outset, an Order that they be exempted from paying their unit share of Mr. Oldaker's costs and of the legal fees of defending the Petition. Under such circumstances, I do not believe it would be appropriate nor am I prepared to make the necessary findings of fact that would be required to support the conclusion that the Strata Corporation had offended s. 164.
- [52] In this costs hearing, not only has Mr. Azarnia not sought a declaration that the conduct of the Strata has resulted in a breach of s. 164, but he has made no reference to s. 164 whatsoever in his submissions in support of the orders he is seeking in relation to the Strata's legal costs. In the circumstances, it would be inappropriate, and indeed, significantly unfair to the Strata, for me to make an order under s. 164 of the SPA, without the provision having been raised and fully argued by the parties.
- [53] I therefore dismiss the relief sought in terms 1 to 3 as set out at para. 36 of these Reasons.
- [54] With respect to the fourth order sought, I have no difficulty in concluding that Mr. Azarnia should be exempt from contributing to his own costs award. Insofar as Mr. Azarnia is seeking costs against the Strata, there is a lis between him and the Strata. Consequently, he falls within the provision of s. 169(2), and is "not liable to share in the cost of the payment [of the costs award] with other owners".

V. Orders Made

- [55] I therefore order as follows:
1. Mr. Azarnia is entitled to his costs of the Petition proceeding at Scale B, including costs for three days for his two chambers applications in which he was successful.
 2. The Strata is ordered to pay Mr. Azarnia fixed costs in the amount of \$16,261.06 (the "Costs Award").
 3. I declare that Mr. Azarnia is exempt from contributing to the Costs Award pursuant to s. 169(2) of the Strata Property Act.
 4. The Strata is not to charge Mr. Azarnia for contribution to the Costs Award, or must reimburse him for his contribution to the same, depending on if the Costs Award is paid by way of a special levy or transfer from the Contingency Reserve Fund.

"Shergill J."

[1] Figure includes 5% GST.

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