

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *The Owners, Strata Plan BCS1022 v.*
1067192 B.C. Ltd.,
2026 BCSC 980

Date: 20260501
Docket: S259255
Registry: New Westminster

Between:

The Owners, Strata Plan BCS1022

Petitioner

And:

**1067192 B.C. Ltd., The Toronto-Dominion Bank,
Business Development Bank of Canada and Raj Gill Law Corporation**

Respondents

Before: Associate Judge Bilawich

Oral Reasons for Judgment

In Chambers

Counsel for the Petitioner:

A. Kokanova

Counsel for the Respondents 1067192 B.C.
Ltd. and Raj Gill Law Corporation:

V. Singh, A/S

Place and Date of Hearing:

New Westminster, B.C.
April 23, 2026

Place and Date of Judgment:

New Westminster, B.C.
May 1, 2026
(by videoconference)

Introduction

[1] **THE COURT:** The respondent 1067192 B.C. Ltd. ("106 BC") applies for orders:

- a) Allowing it to pay a portion of the disputed arrears, or \$17,375.30, into trust with the petitioner, or alternatively into Court, pending the resolution of this action;
- b) Discharging the petitioner's strata lien from title to the strata unit owned by 106 BC; and
- c) That this proceeding be converted into an action and referred to the trial list.

[2] The petitioner opposes all of the relief sought. It had set the hearing of its petition in this matter for the same return date as this application, but I adjourned that pending the outcome of this application.

Background

[3] The petitioner is a strata corporation for a property with a municipal address of 12885 80th Avenue, Surrey, B.C. It is a commercial complex known as the Payal Business Centre.

[4] The respondent 106 BC owns one of the strata lots, namely strata lot 290, which has a municipal address of 205 - 12885 80th Avenue, Surrey, B.C. The respondent Raj Gill Law Corporation ("RG Law Corp") occupies the strata unit and operates a law firm there.

[5] The petitioner alleges 106 BC failed or refused to pay the monthly strata fees for its strata lot from August 1, 2020 to present. Interest was charged on overdue amounts at the rate of 10% per annum with interest continuing to accrue until payment is made.

[6] On February 28, 2025, counsel for the petitioner sent a demand letter to 106 BC advising that there were outstanding strata fees of \$17,375.30 and interest of \$4,312.50 owing, for a total of \$21,387.80. A further \$401.42 would become due on March 1, 2025.

[7] On June 19, 2025, 106 BC filed a notice of civil claim against the petitioner in New Westminster registry action S258366 (the "106 Action").

[8] July 29, 2025, the petitioner filed a s. 116 *Strata Property Act*, SBC 1998, c 43 (the "SPA") lien on title to the subject strata lot under Land Title Office registration #CB2208840.

[9] On August 21, 2025, the petitioner filed a petition starting this proceeding. Amongst the relief sought includes:

- a) A declaration that 106 BC is in default of its obligation to pay strata fees and/or special levies as provided in s. 99 of the *SPA* and bylaws of the petitioner.
- b) A declaration that the certificate of lien registered on the subject strata lot on July 29, 2025, ranks in priority to every other lien or registered charge of the named respondent.
- c) A declaration that the amount due and owing to the petitioner under the lien is \$25,215.50 as of August 1, 2025, together with the petitioner's reasonable legal costs, land title fees, court registry fees, and other disbursements for registration of the lien, commencing and prosecuting the action, which is defined as the "debt amount."
- d) Judgment against 106 BC for the debt amount.
- e) An order that the debt amount shall increase as further unpaid special levies, strata fees, interest on strata fees and special levies, reasonable legal costs, land title fees, court registry fees, and other disbursements related to the lien in these proceedings accrue and remain unpaid.
- f) An order setting the last day of payment of the debt amount at 30 days.
- g) Interest on the debt amount pursuant to the bylaws of the petitioner or alternatively pursuant to the *Court Order Interest Act*, RSBC 1996, c 79.
- h) An order that the petitioner is entitled to reasonable legal costs and reasonable disbursements.
- i) Liberty to apply for a further summary of accounting.

[10] On August 22, 2025, in the 106 Action, the petitioner (as defendant) filed a response to civil claim.

[11] On September 4, 2025, in this proceeding, 106 BC and RG Law Corp filed a joint response to petition opposing all of the relief sought. In the 106 Action, 106 BC (as plaintiff) filed an amended notice of civil claim.

[12] On September 4, 2025, RG Law Corp wrote to petitioner's counsel proposing to deposit the lien amount of \$25,215.50 in trust pending resolution of the 106 Action. They said that while they were agreeing to pay the lien amount, the deposit was being paid under protest and without prejudice to their right to seek recovery of that amount, whether in whole or in part, pursuant to the decision rendered in the 106 Action. They also said that payment would be contingent upon the immediate withdrawal of the petition and petitioner's counsel undertaking to file a consent dismissal order upon receipt of the lien amount in trust.

[13] On September 15, 2025, RG Law Corp, as counsel for 106 BC, wrote to petitioner's counsel proposing that the lien amount of \$25,215.50 be deposited to the petitioner directly, without the requirement that it be held in trust. They reiterated that the deposit was being paid under protest and without prejudice to their right to seek recovery of that amount, whether in whole or in part, pursuant to the decision rendered in the 106 Action. They proposed that upon payment of the lien amount, the petition proceeding would stand as satisfied and that it therefore ought to be withdrawn forthwith via a consent dismissal order.

[14] On September 17, 2025, petitioner's counsel replied, advising that the petitioner did not agree with the September 4, 2025 proposal. The amount which 106 BC proposed to pay into trust was not the full amount set out in the lien. The figure \$25,215.50 represented only the strata fee arrears up to August 1, 2025. The lien is a floating charge and secured additional amounts as they become due. Since 106 BC had not been paying its strata fees for several months, they expected that to continue, so the amount of arrears would continue to grow, and had already increased for strata fees due for September. They also noted the petitioner's

reasonable legal costs in relation to filing and enforcing the lien get added to the amount owing to the petitioner under the certificate of lien, referring to s. 118 of the *SPA*. An additional amount for those would need to be agreed on and added to the sum. Given the nature of the opposition 106 BC was raising, that would need to be a "very healthy sum". Counsel also advised the petitioner would not agree to a consent dismissal order, as that would put an end to its ability to collect the arrears. Finally, counsel took the position that the petition was the proper forum for resolving the matter and that the 106 Action ought to be dismissed.

[15] Also on September 17, 2025, in the 106 Action, the petitioner (as defendant) filed an amended response to civil claim.

[16] On September 24, 2025, at 106 BC's request, petitioner's counsel sent a letter with pay-out statement, breaking down the amounts claimed as owing under the lien. The total claimed at that date was \$33,172.72, which amount was valid for seven days. This consisted of:

ITEM	AMOUNT
Strata fees owing up to September 1 st	\$20,185.24
October 1 st strata fees	\$401.42
Interest	\$5,635.19
Legal fees (demand letter)	\$596.80
Legal fees (lien)	\$685.03
Legal fees (petition, affidavit, negotiations)	\$4,441.78
Legal fees (payout letter)	\$427.18
Legal fees (discharge lien and CPL)	<u>\$800.08</u>
Total	\$33,172.72

[17] On September 26, 2025, RG Law Corp wrote to petitioner's counsel stating that, in consonance with s. 114 of the *SPA*, please note their demand for depositing the amount claimed by the petitioner (\$25,215.50) into trust and repeated their previous proposal. They said they had funds in hand and required a prompt response to mitigate accumulation of interest and/or legal costs. If they did not

receive a response, they would proceed in accordance with s. 114(1)(a) of the *SPA* and deposit the lien amount into court. They understood the lien may have since increased and were agreeable to making additional payments, corresponding to a monthly strata fees. They demanded the petitioner respond by September 29, 2025, failing which they would seek court intervention.

[18] On that same day, petitioner's counsel sent an email advising the petitioner had rejected the offer to pay only \$25,215.50 into the petitioner's trust account. They took the position that payment of less than the total lienable amount would not trigger s. 114 of the *SPA*.

[19] On September 29, 2025, 106 BC wrote to the petitioner advising they disagreed that \$33,172.72 needed to be deposited for the liens to be discharged. Amongst the issues they raised:

- a) The amount of interest claimed (\$5,635.19) was more than the amount claimed in the petition (\$5,431.68). They disputed the enhanced amount of interest;
- b) The strata fees for the month of October 2025, had not yet become due and owing. They said they would make the payment when it did; and
- c) The amounts claimed under "legal expenses" were disputed in their entirety. They intended to exercise their rights to the fullest in demonstrating before the Court in the 106 Action that these expenses would not have been incurred had the petitioner been in compliance with their duties under the *SPA* and the bylaws.

[20] 106 BC reiterated its willingness to deposit \$25,215.50, pursuant to s. 114 of the *SPA*. It also advised that payment of strata fees for each month going forward would be made as and when they became due. With regard to any amounts claimed in petitioner counsel's letter of September 24, 2025, which it was disputing, it proposed those amounts be adjudicated by the court, in due course.

[21] On October 15, 2025, in the 106 Action, the petitioner (as defendant) filed an application to dismiss the action, pursuant to s. 16.1(b) and (c) of the *Civil Resolution Tribunal Act*, SBC 2012, c 25. That section is as follows:

Court must stay or dismiss certain proceedings

16.1(1) Subject to subsection (2) and section 16.4 (1), (2) and (2.1) [bringing or continuing claim in court], if, in a court proceeding, the court determines that all matters are within the jurisdiction of the tribunal, the court must,

- (a) in the case of a claim within the exclusive jurisdiction of the tribunal, dismiss the proceeding,
- (b) in the case of a claim in respect of which the tribunal is to be considered to have specialized expertise, dismiss the proceeding unless it is not in the interests of justice and fairness for the tribunal to adjudicate the claim, or
- (c) in any other case, stay or dismiss the proceeding, as the court considers appropriate, unless it is not in the interests of justice and fairness for the tribunal to adjudicate the claim.

[22] On October 22, 2025, the petitioner rejected 106 BC's proposal of September 29, 2025. They advised:

- a) The lien under s. 116 of the *SPA* is a floating charge. Section 107(2) deems interest payable on the late payment of strata fees in accordance with a bylaw as forming part of the strata fees for the purposes of s. 116. Interest accrues monthly as per bylaw 2.1(n), which explains why the amount of the interest has increased. It also sets out the rate of interest, namely 10% per annum;
- b) 106 BC has demonstrated a history of failing or refusing to pay strata fees to the petitioner over the course of several months. The October strata fee amount was added to the pay-out statement because it gave the deadline of October 1, 2025 to pay. The October strata fee would have been (and has) become due as of that date deadline;
- c) The payout letter provided a breakdown of reasonable legal fees claimed by the petitioner under the lien pursuant to s. 116 of the *SPA*; and
- d) They rejected the proposal to deposit an amount which was less than the "total lienable amount" set out in the payout letter (which had since increased).

[23] On November 18, 2025, in the 106 Action:

- a) 106 BC (as plaintiff) filed an application response to the application to dismiss the action; and
- b) 106 BC filed an application seeking leave to file a further amended notice of civil claim. The petitioner says 106 BC sought to raise the same claims and

issues in the draft further amended claim that it is pursuing on the present application, and in this proceeding.

[24] On January 12, 2026, in the 106 Action, the petitioner (as defendant) filed an application response to 106 BC's application for leave to file a further amended notice of civil claim.

[25] On January 15, 2026, in the 106 Action, both applications came before Associate Judge Hughes. She ordered that:

- a) The 106 Action was dismissed, pursuant to s. 16.1(1)(b) and (c) of the *Civil Resolution Tribunal Act*;
- b) 106 BC's application to amend its notice of civil claim was dismissed; and
- c) The petitioner was awarded costs of the action.

[26] The basis for dismissal of the action was because the claims that were being advanced within the jurisdiction of the Civil Resolution Tribunal.

Payment of Lien Amount Into Trust

[27] 106 BC now seeks an order allowing it to pay a portion of the disputed arrears, or \$17,375.30, into trust with the petitioner, or alternatively into court pending resolution of this proceeding. It relies on s. 114 of the *SPA*:

Disputed debt

114(1) If there is a dispute over whether an owner or tenant owes money to the strata corporation, the owner or tenant may pay the disputed amount

- (a) into court if court proceedings have been started and the *Supreme Court Civil Rules* allow payment into court, or
- (b) to the strata corporation to hold in trust if
 - (i) the matter has been referred to arbitration,
 - (ii) an initiating notice has been given under section 6 of the *Civil Resolution Tribunal Act*, or
 - (iii) court proceedings have been started.

(2) On receipt of an amount under subsection (1)(b), the strata corporation holds the money and any interest on the money in trust for the parties to the dispute until the dispute is resolved.

(3) After the dispute is resolved, the strata corporation must pay the amount to the party entitled to it as set out in the decision of the arbitrator, the civil resolution tribunal or the court.

[28] It argues s. 116 of the *SPA* provides that a lien cannot be registered if the owner has:

- a) Already paid the amount into court or into trust under s. 114;
- b) Made satisfactory payment arrangements with the strata corporation; and
- c) Section 116 also confirms that once the owner pays the proper amount owing, the strata must discharge the lien within one week.

It also refers to s. 164 of the *SPA*, which allows the Court to make any order necessary to stop or remedy conduct by the strata corporation which is significantly unfair to an owner. It also refers to s. 173, which it says gives the court wide powers to order compliance with the *SPA*, bylaws and rules.

[29] The petitioner says as of April 1, 2026, the total amount of strata fees and interest due and owing to it is \$30,196.14, plus reasonable legal costs. It has demanded payment of all moneys due and owing it to under the lien, but says 106 BC has failed, neglected, or refused to pay. It says there is no statutory or common law authority which allows the strata lot owner to withhold payment of their strata fees or absolving them from having to pay same.

[30] Section 116 allows the petitioner to register a lien against a strata lot. Section 118 allows the petitioner to add to its lien the reasonable legal costs incurred in registering and enforcing the lien, land title and court registry fees and other reasonable disbursements. “Reasonable legal costs” has been interpreted as encompassing the actual costs incurred by a strata corporation in registering and enforcing a lien against a delinquent unit owner, subject to review for reasonableness: see *The Owners, Strata Plan KAS 2428 v. Baettig*, 2017 BCCA 377 at para. 74.

[31] Section 116 lien results in a floating charge and acts as security and ensures the strata corporation has priority for the lienable amounts which 106 BC currently

owes, and for lienable amounts that will become due or accrue. It should not be deprived of that security or priority when the dispute remains pending. It questions whether 106 BC actually intends to pay ongoing strata fees while the dispute is pending.

Analysis

[32] 106 BC did not refer me to any authority which supported the proposition that the amount it proposes to pay into court or into trust is an appropriate amount in all the circumstances. It also did not refer me to any authority suggesting the court can or should order an amount to be posted which is materially less than the current lienable amount.

[33] I agree that 106 BC has not made out a persuasive case that the petitioner's approach to calculating the floating lien amount at the material times was flawed or that there is a valid reason for depriving it of its security and priority protections provided for under the *SPA*. I am not specifically making a finding that the petitioner's calculations of the amount owing are correct. I am just saying its general approach appears sound.

[34] I dismiss 106 BC's application to pay a portion of the disputed arrears or \$17,375.30 into trust with the petitioner or into court.

Conversion of Petition Proceeding to an Action

Applicable Law

[35] Rule 16-1(18) of the *Supreme Court Civil Rules*, BC Reg 168/2009 provides:

Powers of court

(18) Without limiting the court's right under Rule 22-1 (7) (d) to transfer the proceeding referred to in this rule to the trial list, the court may, whether or not on the application of a party, apply any other of these Supreme Court Civil Rules to a proceeding referred to in this rule.

[36] Powers of the court in a foreclosure proceeding are set out in Rule 21-7(5):

Powers of the court

(5) The court may do one or more of the following in a proceeding under subrule (1):

...

(k) make an order under Rule 22-1(7).

[37] Rule 22-1(7)(d) allows the court on a chambers hearing to order trial of the chambers proceeding, generally or as to an issue:

Power of the court

(7) Without limiting subrule (4), on the hearing of a chambers proceeding, the court may

(d) order a trial of the chambers proceeding, either generally or on an issue, and order pleadings to be filed and, in that event, give directions for the conduct of the trial and of pre-trial proceedings and for the disposition of the chambers proceeding.

[38] In *HGE Administrative Services Ltd. v. Perrick*, 2011 BCCA 308, at paras. 17-20, the Court of Appeal set out the test for determining whether there is a triable issue:

[17] It is well established that an order nisi will not be granted unless it is "manifestly clear" that there is no bona fide triable issue. In *Northland Bank v. Kocken* (1993), 1993 CanLII 287 (BC CA), 100 D.L.R. (4th) 753 at 760, 77 B.C.L.R. (2d) 377, this Court found:

The issue raised by the appellants was whether the proceeding should go to trial in the ordinary way or be determined on affidavit evidence. In *Bank of British Columbia v. Pickering* (1983), 1983 CanLII 178 (BC CA), 62 B.C.L.R. 136 (C.A.), this court set out the question that must be asked in deciding just such an issue. At p. 138 Mr. Justice Taggart said:

On an application such as this the provisions of R. 52(11) govern.... There has been some suggestion in some of the authorities to which we were referred that there is a distinction to be drawn between what must be found in order to act under R. 18, the summary judgment rule, and that which must be found in order that the court may act under R. 52(11). I think the distinction is somewhat illusory. To me, I think the matter is stated as clearly as it can be stated by Seaton J.A. in the *Skalbania* case, [*Memphis Rogues Ltd. v. Skalbania* (1982), 1982 CanLII 469 (BC CA), 38 B.C.L.R. 193, 29 C.P.C. 105 (C.A.)]. There at p. 202 he said:

"The question has been stated in a number of ways: Is there no real substantial question to be tried? Is there no dispute as to facts or law which raises a reasonable

doubt? Is it manifestly clear that the appellants are without a defence that deserves to be tried? Although cast in different terms, all point to the same inquiry, namely, is there a bona fide triable issue?"

[18] In *Royal Bank of Canada v. Rizkalla* (1984), 1984 CanLII 396 (BC SC), 59 B.C.L.R. 324 at 325, 50 C.P.C. 292 (S.C. Chambers), McLachlin J., as she then was, set out the principles that should guide the court in determining whether a petition for foreclosure should be referred to the trial list:

There is no dispute as to the legal principles which should guide this court in determining whether the petitioner's claim should be referred for trial. Unless it is manifestly clear that the mortgagors are without a defence that deserves to be tried, their application to place the matter on the trial list should be granted [Emphasis added.]

[19] In determining whether a triable issue exists, the role of a judge in chambers or a master is not to determine any issue of fact or law. Rather, their function is limited to a determination of whether a bona fide triable issue arises on the material before the court in the context of the applicable law: *Re Hughes v. Sharp* (1969), 1969 CanLII 792 (BC CA), 5 D.L.R. (3d) 760 at 763, 68 W.W.R. 706 (B.C.C.A.).

[20] In *Northland Bank*, this Court found at 760-761:

In determining whether there is a bona fide triable issue the chambers judge does not enter upon a detailed consideration of the merits. This is so because there may be a trial of that issue in any event. Rule 18 does not give rise to a summary trial: See *Soni v. Malik* (1985), 1985 CanLII 375 (BC SC), 1 C.P.C. (2d) 53, 61 B.C.L.R. 36 (S.C.).

This distinction is especially relevant in mortgage proceedings. The introduction of Rule 50 recognized that in many, if not most, foreclosure proceedings default is not contested. Removing all foreclosure proceedings into chambers effected a saving in time and money in most cases. In my view, however, Rule 50 was not intended to derogate from the legitimate rights of mortgagors. The same can be said of the interests and rights of guarantors who may be joined in the same petition under Rule 50(3).

[39] 106 BC also relies on *British Columbia (Milk Marketing Board) v. Saputo Products Canada G.P. / Saputo Produits Laitiers Canada S.E.N.C.*, 2017 BCCA 247, at para. 43 as authority for the proposition that all that is required is that it raise a bona fide triable issue or disputes of fact or law, unless the requesting party is bound to lose.

[40] I note that in *Cepuran v. Carlton*, 2022 BCCA 76, at paras. 159-160, the Court of Appeal overturned the test in *Saputo* and found that judges hearing petitions

which raise triable issues now have greater discretion to tailor pre-trial procedures and are not automatically required to refer matters to the trial list:

[159] The modern approach to civil procedure, as encouraged in *Hryniak*, is to allow parties and the trial courts to tailor the pre-trial and trial procedures to a given case, in the interests of proportionality and access to justice, while preserving the court's ability to fairly determine a case on the merits. In my view, R. 16-1(18) and R. 22-1(4) work to reflect this modern approach within a petition proceeding.

[160] To summarize, I am of the view that a judge hearing a petition proceeding that raises triable issues is not required to refer the matter to trial. The judge has discretion to do so or to use hybrid procedures within the petition proceeding itself to assist in determining the issues, pursuant to R. 16-1(18) and R. 22-1(4). For example, the judge may decide that some limited discovery of documents or cross-examination on affidavits will provide an opportunity to investigate or challenge the triable issue sufficiently to allow it to be fairly determined by the court within the petition proceeding, without the need to convert the proceeding to an action and refer it to trial.

106 BC's Position

[41] 106 BC argues there are triable issues in the case. These include production of financial disclosures of the petitioner, disclosure of the rate of interest to be charged, and mode and frequency for invoicing strata lot owners. On the latter point, 106 BC complains it did not receive monthly invoices from the petitioner for strata fees due, that it did not receive notice of AGMs in various relevant years, and that it did not receive notice of proposed or approved budgets. Counsel pointed to several entries in various accounting summaries attached to supporting affidavits and argues there are irregular amounts which the petitioner has never adequately explained. It points to interest calculations appearing in several of the statements and raises concerns about how these sums were calculated. It refers to interest calculations as appearing to be based on changing interest rates.

Petitioner's Position

[42] The petitioner argues there are no triable issues identified. It says its amended bylaws were registered with the Land Title Office on October 28, 2004. The applicable rate of interest is set out in bylaw 2.1(n). It says, 2.1 (n):

2.1 A strata lot owner or tenant must:

...

(n) pay to the strata corporation when due all strata fees levied or assessed against the strata lot together with interest the rate of ten (10%) percent per annum from the date due until payment;

[43] The bylaws are accessible to all owners through the Land Titles Office, and they can also request a copy from the petitioner at any time. I pause to note that a copy of the bylaws is attached to one of 106 BC's supporting affidavits filed for this application.

[44] Each year it prepares the annual operating budget, which includes a breakdown of total strata fees due monthly for each strata lot. The petitioner or its strata manager circulates the proposed budget to all strata lot owners with a notice of annual general meeting. At the annual general meeting, the strata lot owners vote on the proposed budget. Once approved, all owners are informed of the approved budget via the AGM minutes. The petitioner says it informed 106 BC of the approved budgets for 2024 and 2025 through AGM minutes which were emailed to it following those respective AGMs.

[45] Counsel indicated that the petitioner or its strata manager did not issue monthly invoices for strata fees to owners, suggesting the approved budget adequately expressly sets out monthly amounts due for each strata unit. It says 106 BC was made aware of the amounts due in this manner, and that this satisfies its notice obligations under ss. 61, 65, and 106 of the *SPA*. There is no statutory or common law requirement that it provide 106 BC or other owners with a payment schedule or invoice for the strata fees due on their strata lot. Owners can request a copy of their strata lot account statement at any time, under s. 35 of the *SPA*. This will set out monthly strata fees, interest, penalties, legal fees and closing balance for their lot.

Analysis

[46] Numerous issues which 106 BC initially raised in its petition response and on this application were also set out in the 106 Action, which it started back in June

2025. That action has now been dismissed, on the basis that those issues fall under the jurisdiction of the Civil Resolution Tribunal. I am not aware of 106 BC having appealed that decision. In the circumstances, it is also not appropriate for 106 BC to try to raise those issues as triable issues in this proceeding. Presumably, they will be addressed before the Civil Resolution Tribunal in the fullness of time, if 106 BC chooses to pursue them in that venue.

[47] The remaining triable issues which 106 BC pointed to included:

- a) Whether and how notice was given to them of the monthly strata fees due and owing during the relevant period;
- b) Whether notice was given to 106 BC of AGMs and proposed operating budgets in the relevant years;
- c) Whether 106 BC was given notice of AGM minutes with approved operating budgets following the AGMs in the relevant years;
- d) Whether and how 106 BC was given notice of arrears of strata fees and accruing interest from time to time during the relevant period;
- e) Questions about certain "irregular" charges which appear on statements setting out strata fee arrears owing; and
- f) The manner in which interest was calculated on the outstanding and overdue strata fees.

[48] During argument, it appeared that the amounts involved in some of these, (discrepancies and interest calculations, for instance) were relatively modest. For example, counsel for 106 BC pointed to a discrepancy in interest calculations set out in two different amounts, which amounted to a little over \$200. It appeared there may be an issue with regard to how interest is calculated. Interest rates set out in the bylaws is 10% per annum. During argument, petitioner's counsel described interest as being calculated monthly. If interest is being compounded monthly, this may bring

into question what the effective annual rate of interest is and whether it complies with the rate specified in the bylaws.

[49] In some instances, such as the issue 106 BC raised regarding lack of monthly invoicing of strata fees, appear to have been acknowledged by the petitioner, who is relying on alternative methods of notice to the strata lot owners. The question for the Court appears to be whether the alternative modes of notice constitute adequate notice to 106 BC in all the circumstances.

[50] Overall, it does appear there are some arguably triable issues, but they appear to be relatively modest in number and in terms of the amounts involved. I am not persuaded that a wholesale transfer of the petition to the trial list is necessary or proportionate in this case. I do agree that it is appropriate to allow the parties to use some hybrid procedures to assist in determining the issues in dispute. The procedures which make sense include:

- a) Discovery of documents, which I would limit to triable issues I have identified in items a) through f) above. This is not intended to involve requiring the petitioner to provide a detailed accounting of its operating budgets in the relevant years. It is just intended to focus on specific items which were identified as discrepancies;
- b) Examinations for discovery, which I would limit to a maximum of two hours for each side; and
- c) This proceeding will otherwise continue as a petition.

Costs

[51] I have not heard submissions on costs. My initial inclination is that costs ought to be in the cause, but if the parties wish to make submissions, they are welcome to do so.

[SUBMISSIONS ON COSTS]

[52] THE COURT: There will be no order as to costs. The parties are at liberty to address costs of this application at the conclusion of the proceeding.

“Associate Judge Bilawich”