

ARBITRATION

**Pursuant to the Regulation respecting the guarantee plan
for new residential buildings
(LRQ, c. B-1.1, r. 8)**

Arbitration body authorized by the Régie du bâtiment du Québec (RBQ)
Groupe d'arbitrage – Juste Décision (GAJD)

Between

Zbigniew Piatek et Anna Borysiuk
(herein after « the Beneficiaries »)

And

Les Habitations Sylvain Desrochers inc.
(herein after « the Contractor »)

And

La garantie de construction résidentielle (GCR)
(herein after « the Administrator »)

GCR file No: 141999-1582

GAJD file No: 20190212

ARBITRATION DECISION

Arbitrator : Rosanna Eugeni

For the Beneficiaries: Zbigniew Piatek

For the Contractor : Sylvain Desrochers

For the Plan Manager : Me Éric Provençal

Date of hearing: N/A

Date of the decision: March 15, 2021

Identification of the parties

THE BENEFICIARIES	Zbigniew Piatek and Anna Borysiuk 976, Des Monarques street Saint-Lazarre (Québec) J7T 0K7
THE CONTACTOR	Les habitations Sylvain Desrochers inc. 1701, Route Harwood, suite 100 Vaudreuil-Dorion (Québec) J7V 8P2
THE PLAN MANAGER	La Garantie de Construction Résidentielle (GCR) 7171, rue Jean-Talon Est, suite 200 Montréal (Québec) H1M 3N2

Mandate and jurisdiction:

[1] The case is referred to the Tribunal by appointment dated December 3, 2019. No objection to the jurisdiction of the Tribunal was raised by the parties and the jurisdiction of the Tribunal is thus confirmed.

The context:

[2] The case regards an isolated single-family building, of which the reception by the Beneficiaries took place on March 20, 2018 (A-3).

[3] On August 6, 2018, the Beneficiaries forwarded a list of deficiencies to the Contractor and the Plan Manager (A-6).

[4] On September 6, 2018, the Plan Manager received a claim from the Beneficiaries (A-6).

[5] The Plan Manager issued the report entitled "Manager's Decision" dated February 13, 2019 (English version and French version) which deals with 19 points, received by the Beneficiaries on February 26, 2019 (A-41).

[6] The Plan Manager issued a second report entitled "Manager's Supplementary Decision" dated October 22, 2019 (English version and French version) which deals with nine (9) points, received by the Beneficiaries on November 4, 2019 (A-42).

[7] On December 3, 2019, the Beneficiaries appealed against the decisions of the Plan Manager issued pursuant to the Regulation respecting the guarantee plan for new residential buildings (LRQ c. B-1.1, r.8) (The Regulation ") regarding the following points :

- Point no 2: Cracking floors on the ground floor
- Point no 6: St-Laurent exterior siding
- Point no 8: Electrical panel safety and its cover
- Point no 10: Window screen in the dining room
- Points 11.1, 11.2 and 11.3: Heating system - capacity of the electric furnace, difference in air intake flow, and heat difference
- Point no 12: Steel beam on the ground floor
- Point no 13: Storage cabinets - kitchen and bathroom
- Point no 14: Color of kitchen cabinet doors and drawers
- Points no.16.1 and 16.2: Crack in the concrete slab of the garage and basement
- Point no 19: Central air conditioning - temperature difference and discomfort

Decision on preliminary objection:

[8] On March 16, 2020, by preliminary means, the Plan Manager's attorney, requests the rejection of the arbitration request of the Beneficiaries with regard to the following eight (8) points, points 8,11.1,11.3, 12, 13 , 14 and 16.1 and 16.2, on the grounds that they had been formulated outside the prescribed period of appeal of 30 days.

[9] The hearing regarding this preliminary objection was held on June 30, 2020 by conference call.

[10] The Tribunal accepted the preliminary plea presented by the Plan Manager as regards points 8,11.1,11.3, 12, 13, 14 and 16.2, rejected the preliminary plea as regards point 16.1 "Crack of the concrete slab of the garage », and confirmed that the hearing of the arbitration will be solely on points: 2, 6, 10, 11.2 16.1 and 19, as appears in the Decision on Preliminary Objection dated July 30, 2020 concerning this file.

Conciliation report on the other points of the claim:

[11] On January 13, 2021, the Beneficiaries informed the Tribunal as to point 16.1 that the repairs recently carried out by the Contractor are satisfactory to them and that they are withdrawing their request for arbitration on this point.

[12] On February 3, 2021, the Beneficiaries informed the Tribunal:

- as to point 2, that the repairs carried out by the Contractor are satisfactory to them and that they withdraw their request for arbitration on this point;
- as to point 10, that they accept the supplier's proposal to repair the plastic corner of the screen of the window if necessary and that they withdraw their request for arbitration on this point;
- as to points 11.2 and 19 that these matters are settled and that they withdraw their request for arbitration on these points; and
- that there remained only one unresolved point, point 6 "St-Laurent exterior siding" of their arbitration request.

[13] On February 26, 2021, the Beneficiaries informed the Tribunal that they signed a Transaction agreement proposed by the Contractor relating to point 6 "St-Laurent exterior siding", and that all points of their claim are therefore settled.

Arbitration fees:

[14] Authorizing the discretion provided for in Article 123 of the Rules and taking into account the outcome of this arbitration for the Beneficiaries, the Tribunal orders that the costs of this arbitration be the sole responsibility of the Plan Manager.

FOR THESE REASONS, THE ARBITRATION TRIBUNAL:

TAKES NOTE of the Beneficiaries' withdrawal of their arbitration requests

TAKES NOTE of the closure of the file

ORDERS that the Plan Manager cover the costs of this arbitration.

In Montreal, March 15, 2021



Rosanna Eugeni, Eng.
Arbitrator