



Civil Resolution Tribunal

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File: ST-2020-005843

Type: Strata

Civil Resolution Tribunal

Indexed as: *Chan v. The Owners, Strata Plan BCS2583*, 2021 BCCRT 456

B E T W E E N :

ALISA CHAN and TIRRA DEL GUIDICE

APPLICANTS

A N D :

The Owners, Strata Plan BCS2583

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. This is a dispute about noise between residential strata lots. The respondent, The Owners, Strata Plan BCS2583 (strata), is a strata corporation with 206 strata lots in 2 towers. The applicant, Alisa Chan, owns strata lot 127 (unit 610). The other applicant, Tirra Del Guidice, is Ms. Chan's tenant.

2. The applicants say that the resident of the adjacent strata lot, unit 609 (609 resident), causes an unreasonable amount of noise, contrary to the strata's bylaws. They say that the strata has failed to enforce its bylaws to stop the noise. The applicants want an order that the strata enforce its bylaws to stop the noise. The applicants also want the strata to pay Ms. Del Guidice \$4,000 in damages for the loss of quiet enjoyment of unit 610 during her tenancy.
3. The strata denies that the noise in unit 610 is unreasonable. The strata also says that it has reasonably investigated the applicants' noise complaints. The strata asks that I dismiss the applicants' claims.
4. Ms. Chan represents both applicants. A strata council member, SP, represents the strata.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over strata property claims under section 121 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the CRT's process has ended.
6. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
7. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The

CRT may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.

8. Under section 123 of the CRTA and the CRT rules, in resolving this dispute the tribunal may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.

ISSUES

9. In the Dispute Notice, the applicants asked for an order that the strata conduct a sound transmission test but abandoned that claim in submissions. I find that this claim is not before me.
10. The issues in this dispute are:
 - a. Was the noise in unit 610 unreasonable?
 - b. If so, who caused the noise?
 - c. Did the strata fail to investigate Ms. Del Guidice's complaints and enforce its bylaws?
 - d. If so, what remedy is appropriate?

BACKGROUND AND EVIDENCE

11. In a civil claim such as this, the applicants must prove their case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
12. The strata filed a complete set of bylaws on October 18, 2007. Bylaw 5(a)(i) prohibits causing unreasonable noise. Bylaw 5(a)(ii) prohibits causing a nuisance. Bylaw 5(a)(iii) prohibits unreasonably interfering with the right of other residents to use and enjoy their strata lots. The applicants say that the noise in unit 610 is a violation of all 3 of these bylaws.

13. Unit 610's bedroom and balcony both share a wall with unit 609's living room (party wall. The strata provided 4 undated photos of unit 609's living room, which show a television against the wall opposite of the party wall. The photos also show 2 speakers on end tables near, but not against, the party wall.
14. Ms. Chan has owned unit 610 since 2008. She has always rented it out.
15. Ms. Chan's previous tenants, Kevin Lyon and Trevor Leggat, brought a CRT dispute against the strata and the 609 resident about unreasonable noise (see *Lyon v. The Owners, Strata Plan BCS 2582*, 2020 BCCRT 917). Mr. Lyon also provided a written statement in this dispute. He lived in unit 610 from February 15 to October 1, 2019. He said that almost as soon as he moved in, there was a bass noise that came through the party wall, often going until after midnight. Mr. Lyon said that it affected his sleep. He said that by the end of his tenancy, he was sleeping on a pullout sofa in the living room instead of the bedroom because of the noise. He said that the noise was a "major part" of his decision to break his lease early.
16. In the previous dispute, the 609 resident denied causing unreasonable noise. A CRT vice chair dismissed the previous tenants' dispute on August 17, 2020. The vice chair found that unit 609 was the likely source of the noise but found that the previous residents had not proven that the noise coming from unit 609 was unreasonable. Notably, there was no expert evidence or other reliable objective evidence of the noise level in the previous dispute.
17. I note that while the previous decision provides useful context and background, the parties and evidence are different in this dispute. I am not bound by any findings that the vice chair made. This decision is based solely on the evidence and submissions before me.
18. Ms. Del Guidice moved into unit 610 with her partner in mid-October, 2019. She says that noise was a problem almost immediately. She first complained to the strata about the noise in November 2019.

19. Ms. Del Guidice kept a detailed noise log from October 20, 2019, to November 16, 2020. At different times, Ms. Del Guidice described the noise as bass sounds and bass heavy music. She also described it as thundering, vibrating, pounding, pulsing, booming, thumping, and thudding. She believed that the noise was from a television because it mostly consisted of a low or moderate amount of background noise with sudden, random spikes in volume, consistent with movies or television shows as opposed to music. Ms. Del Guidice said that some nights were quiet, while other nights were loud enough to keep Ms. Del Guidice awake well into the early hours of the morning.
20. I find that Ms. Del Guidice's noise log is reliable and credible evidence of her subjective experience of the noise. I find that it is reliable because she recorded the noise as it happened, not based on her memory after the fact. I find that it is credible because she candidly records when there were nights with little or no noise. She also created most of the log before this CRT dispute to help the strata investigate the noise. The strata does not dispute the accuracy of any of her observations.
21. On November 12, 2019, Ms. Chan requested a hearing with the strata council. Ms. Chan said that Ms. Del Guidice's complaints were very similar to the previous tenants' complaints. The property manager asked Ms. Del Guidice to keep logs of the noise, which Ms. Del Guidice was already doing.
22. At this point, even though Mr. Lyon had already complained that the 609 resident had made unreasonable noise during his tenancy, the strata was apparently not convinced that the noise was coming from unit 609. So, it focused on identifying the noise's source and did not enforce the noise bylaw against the 609 resident or anyone else.
23. On December 2, 2019, 2 strata council members, including SP, went to unit 610 to listen to the noise. Ms. Del Guidice said that the volume was relatively low, but audible, while they were there. SP, who provided a written statement, confirmed that she could hear noise, but she considered it to be the type of noise one expects in strata living. The other strata council member did not provide a written statement.

24. In December 2019, the strata's on-site caretaker, B, started trying to pinpoint the source of the noise. The parties dispute exactly how many times B went to unit 610 to listen to the noise, but I find that it does not matter. According to Ms. Del Guidice's noise log, B was present for low and medium volume events, but no loud or extreme events. There is no written statement from B in evidence.
25. On December 11, 12 and 13, 2019, Ms. Del Guidice texted B minute-by-minute noise reports while he walked around the 5th, 6th and 7th floors to try to find the noise's source by listening at doors. B was uncertain of the source. Around this time, Ms. Del Guidice stopped sleeping in the bedroom. Based to the noise log, it appears that she moved in and out of her bedroom over the following 11 months as the noise levels fluctuated.
26. On January 13, 2020, the strata posted a notice about noise levels, asking residents to be mindful of noise from televisions and sound systems, especially "bass in the evening hours". After this, Ms. Del Guidice said that the noise was less frequent, less intense, and ended earlier in the evening.
27. On March 23, 2020, Ms. Del Guidice reported that the noise got suddenly much worse. On March 24, 2020, Ms. Del Guidice emailed a strata council member that she could hear the noise clearly from her balcony. She reiterated that it was coming from the party wall. While she did not specifically name unit 609, I find that it is clear from the email that that is where Ms. Del Guidice believed the noise was coming from.
28. On May 15, 2020, Ms. Chan requested a strata council hearing about the noise, which was held on June 2, 2020. In response, the strata requested more noise logs and asked that Ms. Del Guidice contact a strata council member when the noise was happening to help the strata find out where the noise was coming from.
29. Ms. Chan responded on June 10, 2020, questioning the point of more logs when the strata already had months of detailed logs. She also suggested third party investigation, at the strata's expense.

30. In response, the strata asked for 3 weeks more of noise logs starting June 28, 2020. The strata said that it would be asking other nearby residents to do the same. The strata declined to involve a “third party” to investigate because they considered B’s efforts to be enough. During this 3 weeks, no other resident reported any noise.
31. On July 28, 2020, Ms. Chan emailed the strata again. Among other things, she wanted to know what Ms. Del Guidice should do if she had more late night complaints since by that time B no longer lived on-site. She also asked what evidence would satisfy the strata about the noise’s source.
32. The strata responded the next day. The strata directed Ms. Del Guidice to contact the police’s non-emergency line if the noise occurred at night. The strata maintained that it could not identify the noise’s source. At this point, the strata had never suggested to either applicant that it considered the noise reasonable.
33. Ms. Chan hired BAP Acoustics (BAP) to conduct acoustic testing, which went from September 11 to 14, 2020. BAP gave Ms. Chan its report on September 23, 2020. Ms. Chan gave it to the strata the next day.
34. By this time, the strata had already hired BKL to conduct acoustic testing, which went from November 9 to 16, 2020. BKL gave the strata its report on December 2, 2020. I discuss the 2 reports in detail below.
35. After November 16, 2020, Ms. Del Guidice stopped logging because she was “burnt out” from keeping nightly logs for over a year, apparently to no effect. In January 2021, she said that the noise had got worse again, often extending to 3:00 am.

ANALYSIS

Was the noise in unit 610 unreasonable?

36. As mentioned above, the applicants rely on 3 bylaws. In the context of Ms. Del Guidice’s noise complaints, I find that the 3 bylaws all amount to the same thing. If the noise in unit 610 is unreasonable, it is also a nuisance that unreasonably interferes with Ms. Del Guidice’s use and enjoyment of unit 610.

37. In previous decisions, the CRT has applied the common law of nuisance to noise complaints between strata lots. I agree that this is the appropriate approach.
38. In the strata context, a nuisance is an unreasonable interference with an owner's use and enjoyment of their property: *The Owners, Strata Plan LMS 1162 v. Triple P Enterprises Ltd.*, 2018 BCSC 1502. Whether or not an interference, such as noise, is unreasonable depends on several factors, such as its nature, severity, duration and frequency. The interference must also be so substantial that it is intolerable to an ordinary person, viewed objectively: *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64. This means that often a resident's subjective complaints are not enough to prove that noise is unreasonable.
39. The focus is not on the cause of the noise, but its effect. Several CRT decisions have concluded that noises of "everyday living" can be unreasonable. See, for example, *Lucas v. The Owners, Strata Plan 200*, 2020 BCCRT 238, *Moojelsky v. The Owners, Strata Plan K 323 et al*, 2019 BCCRT 386, and *Torok v. Amstutz et al*, 2019 BCCRT 386.
40. The strata says that the applicants have not proven that the noise is unreasonable. The strata says that the result in this dispute should be the same as the previous dispute. However, this dispute is different because there is reliable, objective evidence about the noise from the 2 acoustic consultants. BAP concluded that the noise likely caused unreasonable intrusions while BKL concluded that there was no evidence of unreasonable noise. So, I find that this dispute turns largely on which report I give more weight. I note that the parties treated both reports as expert reports, and I find that they both meet the requirements for expert reports under the CRT's rules.
41. BAP focused its analysis on September 13, 2020, from roughly 5:00pm until midnight, when Ms. Del Guidice reported the most noise. BAP measured a background noise level of 44 decibels at night (after 10:00 pm). During a 30 minute sample between 10:36 and 11:06pm, BAP recorded 25 "intrusive" noises, 3 from in-suite or traffic noise and 22 from another source, which BAP found was most likely unit 609. BAP also

confirmed the presence of “bass noise” during this time. These 22 intrusive noise events had an average decibel reading of between 46 and 56 decibels with peaks over 60 decibels. The events ranged from a few seconds to over a minute. BAP said that these events would be “readily apparent above the background noise”. Therefore, BAP concluded that the noise “could be considered to have a significant adverse impact” on Ms. Del Guidice.

42. BAP measured “C-weighted” sound for its analysis, which measures low frequency sounds, as opposed to the more commonly used “A-weighted” sound, which measures mid-level frequencies. BAP measured C-weighted sounds based on Ms. Del Guidice’s complaints of bass tones.
43. BKL analyzed the nights of November 12 to 15, 2020, starting at 11:00 pm. BKL based its analysis on the World Health Organization’s (WHO) Community Guidelines for Community Noise, which say that indoor nighttime noise events should not exceed 45 decibels more than 10 to 15 times per night. These guidelines are for mid-level frequencies. The WHO also says that noise levels should be “even lower” for low-frequency sounds because “low-frequency components in noise may increase adverse effects considerably”. There are no specific decibel thresholds for low-frequency noise.
44. BKL measured A-weighted sound. BKL measured background noise of 24 or 25 decibels overnight. BKL found only 1 event that exceeded 45 decibels that BKL attributed to noise from outside another strata lot.
45. BKL also reviewed the night of November 15, 2020, for C-weighted noise. Ms. Del Guidice reported noise disturbances from 11:00 pm to 3:00 am. BKL confirmed that there was “audible TV and/or music noise” in the bedroom but never exceeded 9 decibels above the 37 decibel background noise. The BKL report said that it is “generally considered” that a noise must be 10 dB above the background noise to be considered “intrusive”. It is unclear whether this statement refers to low frequencies or mid-range frequencies.

46. BKL concluded that there was not enough noise to be considered “unduly disturbing” or “unreasonable”.
47. I place more weight on the BAP report for several reasons. First, I find the BAP report more persuasive because of its focus on lower frequencies. BKL does not explain why it focused on mid-range sounds even though Ms. Del Guidice complained about bass noises.
48. Most importantly, I find that BKL’s description of its C-weighted measurements were more general than BAP’s. BAP analyzed a short time period with more specificity, identifying individual noise events that lasted from a few seconds to over a minute. In contrast, BKL used an average decibel reading taken over a 45 minute period. However, BKL’s graph showing this 45 minute appears to show at least 3 events above 50 decibels, the loudest around 75 decibels. Along the same lines, for the period of 11:45 pm to 3:00 am, when Ms. Del Guidice also reported television noise, BKL reported an average of 42 decibels. However, the graph appears to show at least 10 and likely more events over 46 decibels. BKL did not explain why it used averages over long time stretches even though Ms. Del Guidice complained about short bursts of noise. BKL also did not explain these apparent spikes in noise.
49. Also, Ms. Del Guidice reported that the noise was quieter than normal during the week BKL measured. She described the noise as moderate during the BAP measurements. So, the 2 reports’ conclusions are not necessarily inconsistent with each other.
50. The strata argues that the BKL report should be given more weight because it assessed the noise against the objective standard from the WHO. The BAP report did not identify an objective standard. This is true. However, as BKL points out, the WHO does not provide an objective standard for C-weighted sounds. So, I find that neither report identified an objective standard for low frequencies.
51. Therefore, I find that the BAP report establishes that Ms. Del Guidice experienced noise that would disrupt an ordinary person’s sleep on the night BAP analyzed. I also find that, despite reaching different conclusions, the both reports corroborate Ms. Del

Guidice's subjective reports of steady low rumbling noise punctuated by loud or very loud periods.

52. The strata says that no other resident on the 5th, 6th or 7th floors has complained about noise from unit 609. I find that this fact does not mean that the noise in unit 610 is reasonable.
53. The strata also says that it is located on a busy, urban street, so noise must be expected. Ms. Del Guidice does not disagree with this. However, I find that the BAP report establishes that the noise in unit 610 goes beyond expected urban noises.
54. With that, I find that Ms. Del Guidice has experienced unreasonable noise throughout her tenancy. It is impossible to know with certainty how many nights this has happened. Based on the noise logs, I estimate that from October 2019 through November 2020 it was at least 150 nights and likely close to 200. I find that the noise Ms. Del Guidice experienced was unreasonable. It was therefore also a nuisance under the bylaws.

Who caused the unreasonable noise?

55. The strata points out that Ms. Del Guidice was careful never to directly accuse the 609 resident. The strata says that it is still "unclear" who the applicants want the bylaw enforced against. The strata says that it should not be expected to send a warning letter or take other enforcement measures before concluding that the complaint is "valid" and unless they have "sufficient particulars" to give the offending resident.
56. It is true that Ms. Del Guidice did not specifically name the 609 resident in her complaints. However, I do not consider Ms. Del Guidice's failure or refusal to accuse unit 609 relevant. It is the strata's obligation to investigate the complaint and come to its own conclusions. In any event, I find that the only reasonable interpretation of the applicants' complaints throughout 2020 is that they believed that the noise was coming from unit 609. I find that the layouts of units 609 and 610 and the fact that the noise is from a television clearly point to unit 609.

57. The strata also suggests that Ms. Chan is at least partly to blame for the noise. The strata points to Ms. Chan's decision to replace the carpeting in the bedroom with laminate flooring. The strata says that Ms. Chan has rented out unit 610 since 2008, and no tenant complained about noise before there was laminate flooring. However, there is no evidence that the installation of laminate flooring impacted noise transfer through the party wall. So, I find that this argument is speculative.
58. Along similar lines, the strata notes that BAP recommended that Gyproc be installed on both sides of the party wall. It is undisputed that Ms. Chan has not taken this step on unit 610's side of the party wall. Still, I find this argument unpersuasive. In essence, the strata wants Ms. Chan to pay to alter her strata lot as an alternative to the strata enforcing its bylaws. I note that section 133 of the SPA says that the strata may do work to a strata lot to remedy a bylaw contravention and require the person responsible for the contravention to pay the reasonable costs. Ms. Chan is not responsible for the noise, so she should not have to pay to remedy it.
59. In summary, I find that the unreasonable noise in unit 610 comes from unit 609.

Has the strata failed to investigate Ms. Del Guidice's complaints and enforce its noise bylaw?

60. The applicants say that the strata failed to reasonably investigate Ms. Del Guidice's noise complaints and enforce its bylaws. It is undisputed that the strata has not enforced the noise bylaw against unit 609.
61. Until the strata received the BKL report, it was essentially in a constant state of investigation, focusing entirely on finding concrete proof of the noise's source. It never questioned that the noise that Ms. Del Guidice complained about was unreasonable, even after B and 2 strata council members listened to the noise. In fact, the strata repeatedly told the applicants that it took the complaints very seriously. So, I find that the strata had accepted, or at least assumed, that the noise was unreasonable. If the strata had concluded that the noise was reasonable, I find that it would not have put such effort into trying to conclusively prove the source.

62. The strata says that this was a reasonable approach. The strata held multiple hearings for Ms. Chan. B and 2 strata council members went to unit 610 to hear the noise. They also walked the halls to try to find the noise. The strata sent out notices to keep volumes down and sent letters to immediate neighbours to try to pinpoint the sound's source. The strata retained BKL to monitor the sound, at its expense.
63. The strata relies on *Chorney v. Strata Plan VIS 770*, 2016 BCSC 148. In that case, the court said that a strata council can investigate bylaw contravention complaints as it sees fit, as long as it complies with principles of procedural fairness and does not act significantly unfairly. Although the applicants do not use these words, they effectively argue that the strata acted significantly unfairly by failing to enforce the noise bylaw in response to Ms. Del Guidice's complaints. The CRT can make orders to remedy significantly unfair actions or decisions by a strata corporation, including its council, under section 123(2) of the CRTA.
64. In *Reid v. Strata Plan LMS 2503*, 2003 BCCA 126, the BC Court of Appeal interpreted a significantly unfair action as one that is burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust or inequitable. In *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342, the BC Court of Appeal confirmed that the reasonable expectations of an owner or tenant may also be relevant to determining whether the strata's actions were significantly unfair. I find that the applicants' reasonable expectations are relevant in this dispute, consistent with previous CRT decisions about how a strata corporation enforces its bylaws. See, for example, *Tran v. The Owners, Strata Plan VIS 6828*, 2021 BCCRT 28. The questions on this point are from *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44:
- a. What were the applicants' expectation?
 - b. Was that expectation objectively reasonable?
 - c. Did the strata violate that expectation with a significantly unfair action or decision?

65. I find that, at first, the strata did act reasonably. I accept that the 609 resident had denied making unreasonable noise and the strata wanted to be confident about where the noise was coming from. I find that its attempt to locate the noise by coordinating with Ms. Del Guidice in December 2019 was an appropriate first step, even though it ended up not working. In January 2020, still unsure where the noise was coming from, the strata posted a notice about noise, which reduced the noise temporarily.
66. However, according to the noise log, which I have placed significant weight, on March 23, 2020, Ms. Del Guidice said that there was “extreme” noise that went past 3:00 am. On March 24, 2020, Ms. Del Guidice told the strata that it was the one of the loudest nights she had experienced. Importantly, she also gave the strata clear evidence that the likely source of the noise was unit 609. I find that at this point, the strata needed to take a different approach.
67. By this time, the strata must have at least strongly suspected that unit 609 was the noise’s source given the units’ layouts, Ms. Del Guidice’s and Mr. Lyon’s description of the noise as television noises, and Mr. Lyon’s previous complaints that named the 609 resident. I find that after receiving Ms. Del Guidice’s email, the strata could no longer reasonably question the noise’s source. I find that the strata acted unreasonably by refusing or failing to conclude that the noise was coming from unit 609. In other words, I find that by March 24, 2020, the strata had an obligation to enforce the noise bylaw against unit 609. I find that the applicants both had a reasonable expectation that the strata would do so.
68. Instead, through the spring and summer of 2020, the strata asked Ms. Del Guidice to keep more noise logs so that it could definitively identify the noise’s source. I find that these efforts were unnecessary. More importantly, they distracted the strata from taking any enforcement steps that could have reduced the noise. The strata also told Ms. Del Guidice to call the police if there was noise at night. The strata, in effect, attempted to offload its responsibility to enforce its bylaws onto the police.

69. I note that the strata did not change its position after receiving the CRT's decision in the previous dispute on August 17, 2020, or the BAP report on September 24, 2020. They both identified unit 609 as the likely source of the ongoing noise.
70. I find that the strata's ongoing refusal to attribute the noise to unit 609 was burdensome and wrongful. This is because this decision prevented it from taking any enforcement action that could have helped reduce the noise. So, Ms. Del Guidice experienced months of intrusive noise unnecessarily. I therefore find that the strata's response to Ms. Del Guidice's complaints after March 24, 2020, was significantly unfair.

What remedy is appropriate?

71. The applicants ask that the strata enforce its noise bylaw and that the strata pay Ms. Del Guidice damages.
72. I agree with the strata that it would not be appropriate to order the strata to take any specific enforcement action. This is because the strata must respond to complaints as they happen. The most recent complaints before me are from January 2021. There is no way for me to know whether the noise continues. Also, while the strata has no discretion about whether to enforce the noise bylaw if the unreasonable noise is ongoing, it does have discretion about how best to go about it. I find that the strata should decide how to address the noise if there are ongoing complaints.
73. I also agree that a general order that the strata enforce its bylaws would serve no purpose because the strata must do so whether I order it to or not. So, I dismiss the applicants' claims about bylaw enforcement.
74. That leaves the question of damages. I note that the strata refers to Ms. Del Guidice's claim as being for pecuniary damages, which are damages that compensate for monetary loss, and punitive damages, which are damages that punish reprehensible behaviour. I find that Ms. Del Guidice does not ask for pecuniary damages or punitive damages. She asks for non-pecuniary damages, which are meant to compensate for intangible losses. Several CRT disputes have awarded non-pecuniary damages for

the loss of use and enjoyment of a strata lot where a strata unreasonably failed to enforce its nuisance bylaws to address unreasonable noise, such as *Lucas*, *Moojesky*, and *Torok*, referred to above.

75. The strata says that Ms. Del Guidice has not proven damages because there is no medical evidence beyond a referral to a sleep clinic. Non-pecuniary damages compensate for intangible losses like decreased quality of life. So, I find that medical evidence is not necessary.
76. I find that the appropriate date to start assessing damages is March 24, 2020. While cautious, I do not consider the strata's actions before this date to have been significantly unfair to Ms. Del Guidice. The noise lasted for at least 9 months after this date. The noise was frequent, came on at random times, and lasted for unpredictable durations. I also accept Ms. Del Guidice's evidence that this randomness reduced her quality of life because she never knew when the noise would start and, when it did, how long it would last. The noise often went late into the night. I accept that the noise affected Ms. Del Guidice's sleep, ability to focus at work, and overall well-being.
77. Based on these facts, I find that Ms. Del Guidice \$4,000 claim is reasonable. So, I order the strata to pay Ms. Del Guidice \$4,000 in damages.

TRIBUNAL FEES, EXPENSES AND INTEREST

78. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I therefore order the strata to reimburse the applicants for CRT fees of \$225, or \$112.50 each.
79. Ms. Chan initially claimed the cost of the BAP report, which was \$3,150, but abandoned that claim in submissions. The applicants did not claim any other dispute-related expenses.

80. The strata asked to be reimbursed \$5,250.00 for the BKL report and \$25 for documents related to the previous CRT disputes. I decline to reimburse these amounts because the strata was unsuccessful.
81. The *Court Order Interest Act* (COIA) applies to the CRT. I find that Ms. Del Guidice is entitled to pre-judgement interest on the damages award from March 24, 2020, to the date of this decision. This equals \$35.88.
82. The strata must comply with the provisions in section 189.4 of the SPA by not charging dispute-related expenses against Ms. Chan.

DECISION AND ORDERS

83. I order that within 30 days of the date of this order, the strata pay Ms. Del Guidice a total of \$4,148.38, broken down as follows:
 - a. \$4,000 in damages,
 - b. \$35.88 in prejudgment interest under the COIA, and
 - c. \$112.50 for CRT fees.
84. I order that within 30 days of the date of this order, the strata pay Ms. Chan \$112.50 for CRT fees.
85. I dismiss the applicants' remaining claims.
86. I dismiss the strata's claim for dispute-related expenses.
87. The applicants are also entitled to post judgement interest under the COIA, as applicable.
88. Under section 57 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under section 58 of the CRTA, the order can be enforced through the British Columbia Provincial Court if it is an order

for financial compensation or return of personal property under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

Eric Regehr, Tribunal Member