



Civil Resolution Tribunal

Date Issued: June 27, 2022

File: ST-2022-000300

Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan LMS4355 v. Vorias*, 2022 BCCRT 745

B E T W E E N :

The Owners, Strata Plan LMS4355

APPLICANT

A N D :

DESPINA VORIAS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. This strata property dispute is about alleged harassment and bylaws contraventions.
2. The respondent, Despina Vorias, owns strata lot 25 (SL25) in the applicant strata corporation, The Owners, Strata Plan LMS4355 (strata). The strata says Mrs. Vorias and other SL25 occupants continue to harass and intimidate residents, strata agents

and contractors and make unreasonable noise contrary to the bylaws. It says their behaviours have continued despite the strata's efforts to enforce its bylaws. The strata seeks orders that Mrs. Vorias not:

- a. physically or verbally harass, intimidate, and exhibit aggressive behaviour towards other residents, strata council members, strata agents, and strata contractors on common property,
 - b. permit any tenant, visitor, or occupant of her strata lot to physically or verbally harass, intimidate, or exhibit aggressive behaviour towards residents, strata council, strata agents, contractors,
 - c. use foul, abusive, obscene, or demeaning language when addressing other residents, strata council members, strata agents, and strata contractors,
 - d. permit any tenant, visitor, or occupant of her strata lot to use foul, abusive, obscene, or demeaning language towards residents, strata council, strata agents, and strata contractors,
 - e. bang on the walls of her strata lot that adjoin neighbouring units,
 - f. permit any tenant, visitor, or occupant of her strata lot to bang on the walls of her strata lot that adjoin neighbouring units,
 - g. play loud music late at night or in the early hours of the morning on strata corporation property, including inside her strata lot, and
 - h. permit any tenant, visitor, or occupant of her strata lot to play loud music late at night or in the early hours of the morning on strata property, including inside her strata lot.
3. Mrs. Vorias says the strata's accusations against her are false and have caused her stress. In the Dispute Response, Mrs. Vorias nonetheless stated that she agrees with most of the requested remedies above.
 4. The strata is represented by a council member. Mrs. Vorias is self-represented.

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). CRTA section 2 says the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me and neither party requested an oral hearing. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice and fairness.
7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, even where the information would not be admissible in court. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
8. Under CRTA section 123, in resolving this dispute the CRT 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.
9. As a preliminary issue, the strata filed 7 pieces of late evidence in this dispute. I find Mrs. Vorias had a reasonable opportunity to review and respond to this late evidence and I find no prejudice to Mrs. Vorias in allowing it. Consistent with the CRT's mandate that includes flexibility, I allow the late evidence.

ISSUE

10. The issue in this dispute is whether Mrs. Vorias has contravened the bylaws, and if so, what remedies are appropriate.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant strata must prove its claims on a balance of probabilities (meaning more likely than not). I have read all the parties' argument and evidence but refer only to what I find relevant to provide context for my decision.
12. The strata consists of 25 townhouse-style buildings with 112 residential strata lots. Mrs. Vorias' SL25 is a middle strata lot in a row of 5 attached strata lots.
13. The strata filed a full set of bylaw amendments in the Land Title Office in 2003, with some amendments over the following years. Relevant to this dispute, bylaw 3(1) says an owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that causes a nuisance or hazard to another person, causes unreasonable noise, and unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot.
14. The strata says Mrs. Vorias and other SL25 occupants or visitors have been "exhibiting aggressive behaviour on an ongoing basis" that includes verbal and physical intimidation. The strata alleges that Mrs. Vorias, or her "boyfriend", are aggressive almost daily towards other residents, including in front of Mrs. Vorias' neighbour ST's young child.
15. Additionally, the strata says Mrs. Vorias or other SL25 occupants were loudly banging on the party wall that adjoins SL25 and the neighbour, ST's strata lot 26 (ST26). The strata says most concerning is that the reported banging noises are a wall that adjoins the bedroom of SL's child and happened late at night and early in the morning. The strata says it also received complaints about blaring music from SL25.

16. The strata says it determined that Mrs. Vorias and the other SL25 occupants' behaviours constituted a nuisance, hazard to other residents, and unreasonably interfered with the rights of other persons, including of a young child. It says the behaviours are contrary to bylaw 3(1) and their bylaw enforcement measures, including imposing fines, have not resolved the alleged violations. It says Mrs. Vorias refuses to acknowledge her behaviour and instead, Mrs. Vorias says the strata council is harassing her.
17. Mrs. Vorias admits to some incidents of hammering when someone in SL25 hung pictures, cabinets and a TV. She says her family listens to music but, in her view, it is well under the legal decibel level. She does not admit to the alleged aggressive behaviours or harassment. Mrs. Vorias mainly argues that the strata is falsely accusing her of violating the strata's parking bylaws but I find parking is not at issue in this dispute. The strata is not seeking any orders to enforce its parking bylaws and so, I have not discussed the parking issue any further.
18. The strata submitted multiple complaint emails about Mrs. Vorias and other occupants of SL25, with audio and video recordings that I have reviewed.
19. I am satisfied from my review of the audio-video recordings with accompanying emails describing the recordings that they record someone inside SL25 repeatedly banging on the party wall and it can be heard loudly in SL26. Some of the recordings are unrefutably taken late at night and over periods of many days. Some of the banging has a rhythm to it as if someone is using the wall as drums. Even if the banging was from a normal activity of hammering to hang things on the wall, I find it was unreasonable that the banging occurred late at night and over many days. I find the banging noises from SL25 were unreasonable and contrary to bylaw 3(1). However, I find the audio-video recordings and other evidence do not establish unreasonably loud music from SL25.
20. In addition to banging, the audio-video recordings record Mrs. Vorias swearing and yelling at her SL26 neighbour, ST. In one audio-video, Mrs. Vorias is heard swearing at ST while ST is walking into their strata lot with a very young child. In another video,

Mrs. Vorias is heard singing a crude song that I find is meant to taunt ST, who is walking into ST's home with their young child. In other videos, Mrs. Vorias is shown holding a phone while filming ST, including inside ST's garage. Another video shows Mrs. Vorias stepping in front of ST's slow-moving vehicle and purposely blocking ST from accessing their strata lot. Mrs. Vorias' body language appears aggressive in the videos. I find Mrs. Vorias filming, use of profanities, and taunting song were inappropriate, especially in front of a small child.

21. The strata submitted an April 6, 2022 witness statement from ST about the negative impact of the banging noises and Mrs. Vorias' behaviours on their sleep and overall mental health and enjoyment of their property. I am persuaded by ST's statement and the audio-video evidence of repeated loud banging at night and Mrs. Vorias' behaviours, particularly the use of aggressive and profane language in front of a small child, negatively impacted the neighbours' enjoyment of the property. I am satisfied Mrs. Vorias' behaviours unreasonably interfered with the rights of other persons to use and enjoy the common property and breached bylaw 3(1).
22. The strata is empowered to take bylaw enforcement action against, Mrs. Vorias, including by imposing fines if she contravenes bylaw 3(1) in the future. The strata's only requested remedies are for Mrs. Vorias not to engage or permit others to engage in the above behaviours and Mrs. Vorias agrees to most of the strata's requested remedies. Mrs. Vorias is also required to comply with the bylaws.
23. To that end, I find it appropriate to order Mrs. Vorias to immediately comply with bylaw 3(1) not to use foul, abusive, obscene, or demeaning language towards the residents in SL26 or in front of children on common property. I also order Mrs. Vorias not to bang on the party walls that adjoin SL25 and SL26.
24. However, I find the requested order that Mrs. Vorias not physically or verbally harass, intimidate, and exhibit aggressive behaviours towards other residents, council members, agents, and contractors is too broadly worded, stretches beyond bylaw 3(1), and is too vague to be an appropriate remedy. I find an order that Mrs. Vorias not "permit any tenant, visitor, or occupant" to engage in behaviours would be difficult,

if not impossible to enforce, and would serve no useful purpose. So, I decline to grant these other requested remedies.

25. Otherwise, I find insufficient evidence of frequent loud or blaring music from SL25 and I dismiss the strata's claim over the loud music.

CRT FEES AND EXPENSES

26. 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. The strata claims total reimbursement of the \$237.27, for \$225 in paid CRT fees and \$12.27 for serving Mrs. Vorias by registered mail. As the strata was partially successful in its claims, I order that Mrs. Vorias reimburse the strata for half its paid CRT fees and half its expenses for a total of \$118.64.

27. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Mrs. Vorias.

ORDERS

28. I order that:

a. Mrs. Vorias immediately comply with bylaw 3(1) and must:

- i. not use foul, abusive, obscene, or demeaning language towards the residents in SL26 or in front of children on common property, and
- ii. not bang on the party walls that adjoin SL25 and SL26.

b. Within 30 days of the date of this order, Mrs. Vorias must pay the strata a total of \$118.64, calculated as \$112.5 in CRT fees and \$6.14 in expenses.

29. The strata is entitled to post judgment interest under the *Court Order Interest Act*, as applicable.

30. I dismiss the strata's remaining claims.

31. 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.

Trisha Apland, Tribunal Member