



# Civil Resolution Tribunal

Date Issued: March 28, 2023

File: ST-2022-002449

Type: Strata

Civil Resolution Tribunal

Indexed as: *Ahn v. The Owners, Strata Plan LMS 4634*, 2023 BCCRT 258

**B E T W E E N :**

EUN KYUNG AHN

**APPLICANT**

**A N D :**

The Owners, Strata Plan LMS 4634

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. The applicant, Eun Kyung Ahn, owns and lives in strata lot 213 (unit 213) in the respondent strata corporation, The Owners, Strata Plan LMS 4634 (strata). Ms. Ahn says she has been subjected to unreasonable noise since the current tenants moved

into unit 313 directly above unit 213. She says the strata has failed to investigate her noise complaints and enforce its noise bylaws. Ms. Ahn claims \$20,125 in damages.

2. Ms. Ahn also seeks orders that the strata:
  - a. Enforce its noise bylaws against unit 313's tenants and owners.
  - b. Investigate the flooring in unit 313.
  - c. Cancel \$400 in bylaw contravention fines it imposed against her, and not impose future fines.
3. The strata says it investigated Ms. Ahn's noise complaints but concluded that there was no unreasonable noise and its noise bylaws were not contravened. The strata denies that it caused any damage or loss to Ms. Ahn and says I should dismiss her claim. It also says Ms. Ahn admitted to contravening the strata's bylaws.
4. Ms. Ahn is self-represented. The strata is represented by its insurer's in-house legal counsel.

## **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. Based on the evidence and submissions provided, I am satisfied that I can fairly decide this dispute without an oral hearing.

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 the parties and witnesses questions of 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.

## **ISSUES**

9. The issues in this dispute are:
  - a. Did the strata adequately investigate Ms. Ahn's noise complaints and enforce its noise bylaws?
  - b. If not, what remedies are appropriate?
  - c. Did the strata comply with the *Strata Property Act* (SPA) before imposing \$400 in fines against Ms. Ahn?

## **EVIDENCE AND ANALYSIS**

10. As the applicant in this civil proceeding, Ms. Ahn must prove her claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
11. The strata was created in 2002 and includes several low-rise, wood-framed buildings. Ms. Ahn purchased unit 213 in January 2021. Unit 213 is on a second floor, directly below strata lot 227 (unit 313). Unit 313 is rented by a family of four with 2 children (the tenants). The tenants moved into unit 313 around May 30, 2021. None of this is disputed.
12. The applicable bylaw is bylaw 3.1. Bylaw 3.1 says, in part, that a person must not use a strata lot in a way that (a) causes a nuisance to another person, (b) causes

unreasonable noise, or (c) unreasonably interferes with another person's right to use and enjoy their strata lot. In the context of this dispute, I find that these 3 bylaws mean the same thing, which is that the tenants cannot make noise that an ordinary person in unit 213 would consider intolerable.

13. The strata does not have any bylaws about hard surface flooring or underlay.

***Ms. Ahn's noise complaints and the strata's investigation***

14. Ms. Ahn says she initially communicated directly with the unit 313 tenants, at their door or by text. She reported in emails to the strata that they were always nice and said they were trying their best. They told her they tiptoed when walking. But she felt their behaviour did not match their words, and eventually she stopped communicating with the tenants.
15. On July 20, 2021, Ms. Ahn first complained in writing about noise to the strata manager. She said since June 1, the tenants had been making noise that included children running and yelling, adults stomping, and people throwing, dropping, rolling and moving heavy things on the hard-surface floor. She said she could hear "each and every step" and had trouble studying, working, and falling asleep. She complained of extreme stress, heart palpitations, anxiety, headache, indigestion, sleep deprivation, tiredness and poor concentration.
16. Ms. Ahn made additional noise complaints on August 4 and 15. I find the strata did not acknowledge Ms. Ahn's first 3 complaints at the time. This is consistent with Ms. Ahn's evidence that TW, an employee of the strata management company, told her in July that the sound of children playing was ordinary living noise and she had to endure it. The strata does not specifically dispute that evidence, and I accept it.
17. With her fourth complaint, on August 22, Ms. Ahn also emailed the strata management company's vice president, AF. AF replied that each of her complaints had been forwarded to the strata council, and council had "deemed the noise to not be a bylaw infraction." AF did not explain how council arrived at that decision.

18. However, TW quickly followed up to say that the council president and another council member wanted to visit unit 213 the following week to hear the noise. Ms. Ahn identified some evenings that worked for her, but TF did not respond, and no one attended.
19. On August 29, Ms. Ahn made her fifth complaint. She attached audio recordings that I find recorded muffled children's voices and the thumping of footsteps.
20. On September 1, TW emailed Ms. Ahn, saying that they had been to unit 313 and had a video of the flooring. Although it is not clear that it is the same video TW described, I find a video in evidence shows that the tenants had nearly completely covered the floors with foam interlocking tiles, and then rugs overtop, and in some areas, 2 rugs overlapping. Ms. Ahn responded that she could notice the difference, so I find the tenants made these changes in late August or September 1. Ms. Ahn said that since the tenants were making efforts to reduce noise, she would make efforts to put up with the noise. The strata council met in late September and as there had been no new complaints, considered the matter resolved.
21. However, on October 5, Ms. Ahn made a sixth noise complaint and provided more audio recordings. She said the tenants were making noise "until late night almost every day." She said she suspected the tenants had removed the carpets and mats. She said on September 30, she heard laughing, singing, banging and running until 11:30 pm. Ms. Ahn also said the tenants used their washer and dryer until midnight on 2 consecutive nights, and included a noise log and a screenshot of a sound meter phone app showing an average of 55 dBA. She referred to a news article describing a BC Supreme Court ruling that cited World Health Organization guidelines stating that noise of 30 dBA would cause "disturbance in a bedroom." She asked again for council members to visit. TW replied that owners voted against a bylaw that would have prohibited the use of washing machines at night.
22. On October 13, 2021, Ms. Ahn sent the strata a 17-minute recording with better quality. She said the noise indicated bare floor, not carpeted floor. On listening, I am unable to tell whether the floors are bare. The sound on the recording is

predominantly a muffled thumping sound. TW said council would consider the complaint at its next meeting, October 27. There are no minutes from that meeting in evidence and no other evidence to indicate that council did anything in response to this complaint. I find that the strata did not respond and possibly did not consider Ms. Ahn's October 13 complaint.

23. In December 2021, Ms. Ahn began posting noise recording videos publicly on YouTube. I have not listened to those YouTube recordings despite Ms. Ahn's request. Parties are told they cannot provide live webpage addresses as evidence in CRT disputes because the information at the webpage address can change.
24. On December 10, Ms. Ahn emailed an address that she says served the strata council, rather than emailing the strata manager. The strata does not say it did not receive the email, so I find that it did. Ms. Ahn attached an audio recording and said the noise had disrupted her studying. She said she needed to study for a February exam. There was no response to this email.
25. In January 2022, the strata's amenity room reopened. Ms. Ahn says she started studying there to escape the noise. In February, she passed her exam.
26. Ms. Ahn next complained about noise on April 18 and May 3, 2022. The strata manager said on April 21 that the strata would send the tenants "a letter," but there is no evidence that this happened. On May 3, Ms. Ahn provided a recording with her voice in it for reference, which the strata had specifically requested. She also provided a noise log covering April 18 to May 3.
27. The noise log submitted in this dispute includes entries for nearly every day from January 1, 2022 to May 5, 2022. I describe the log entries in more detail below. The log says there was then no noise from May 5 until late August and Ms. Ahn suspected the tenants went on a long trip. The noise returned in September 2022.
28. Ms. Ahn says the strata took no action until after it received the Dispute Notice for this proceeding in June. However, on April 20 a strata council member visited "the area of noise complaints" (another resident had complained about a nearby

neighbour, but not 313). The council member did not contact Ms. Ahn but proposed to council that it have 2 council members attend units 213 and 313, with 1 making noise above and the other listening below. That happened, but not until October 2022. The strata does not explain the delay.

29. I pause to note that Ms. Ahn says on July 6, 2022, 2 council members visited unit 213. The strata did not provide evidence about these council members' noise observations, if they made any. I therefore accept Ms. Ahn's evidence that the council members discussed her noise complaints and the CRT dispute but did not conduct any noise testing or attempt to objectively evaluate noise from the tenants.
30. On October 17, 2022, a strata council member stood in unit 213 with a sound meter while another council member in unit 313, SV, made noise. In a written statement, SV said they made noises such as jumping, running, talking loudly, dropping a bag, and dropping a water bottle.
31. According to an October 31 email from TW, the sound meter did not register when items were dropped or people jumped, but the council member below heard the sounds. In particular, they could hear sound from "loud talking". The strata concluded that the tenants were not making "excessive noise" and therefore were not contravening bylaw 3.1.
32. Ms. Ahn says unreasonable noise is ongoing as of when she made her submissions, November 6, 2022.

### ***The law of significant unfairness***

33. The CRT has authority to make orders remedying a strata corporation's significantly unfair act or decision under CRTA section 123(2). That provision contains similar language to SPA section 164, which allows the BC Supreme Court to make orders remedying significantly unfair acts or decisions. The legal test for significant unfairness is the same for CRT disputes and court actions (see *Dolnik v. The Owners, Strata Plan LMS 1350*, 2023 BCSC 113).

34. In *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, the court confirmed the legal test for significant unfairness. Significantly unfair actions are those that are burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust, or inequitable. In applying this test, the owner or tenant's objectively reasonable expectations are a relevant factor, but are not determinative. The use of the word "significant" means that the impugned conduct must go beyond mere prejudice or trifling unfairness.
35. Several CRT decisions have concluded that it is significantly unfair for a strata corporation to fail to reasonably investigate and enforce its bylaws (see, for example, *Chan v. The Owners, Strata Plan LMS 1946*, 2021 BCCRT 456, and *Dhanani v. The Owners, Strata Plan NW 2265*, 2021 BCCRT 282). While previous CRT decisions are not binding on me, I agree that a failure to investigate and enforce bylaws may be significantly unfair, depending on the impact on the owner or tenant. I say this, in part, because SPA section 26 requires the strata to enforce its bylaws, and so it is reasonable for owners and tenants to expect the strata to do so. Here, I find Ms. Ahn's expectation that the strata would adequately investigate her noise bylaw complaints was objectively reasonable.
36. The SPA does not set out any procedural requirements for addressing bylaw complaints. In *Chorney v. Strata Plan VIS 770*, 2016 BCSC 148, the BC Supreme Court said that the SPA gives strata corporations discretion about how to respond to bylaw complaints, as long as they comply with principles of procedural fairness and do not act in a significantly unfair way. In *Leclerc v. The Owners, Strata Plan LMS 614*, 2012 BCSC 74, the court said that strata corporations are not held to a standard of perfection when responding to bylaw complaints, but instead must take "reasonable action" and have "fair regard for the interests of all concerned."

***Did the strata reasonably investigate Ms. Ahn's complaints?***

37. The strata says it met its duty to investigate Ms. Ahn's complaints by visiting both strata lots to investigate, discussing solutions with Ms. Ahn and the tenants, listening to Ms. Ahn's video and audio recordings, and arranging for informal sound testing. I



accept that the strata did those things. However, I find the strata did not meet its duty to reasonably investigate Ms. Ahn's complaints.

38. I find the strata concluded at the outset that because Ms. Ahn's complaints were about "ordinary living noise," there was no bylaw contravention. However, bylaw 3.1 refers to nuisance, and with nuisance, it is not the cause of the interference that matters but the effect on the use and enjoyment of land. A nuisance can be created even when the activity complained of is otherwise lawful (see *Suzuki v. Munroe*, 2009 BCSC 1403). As Ms. Ahn points out, CRT decisions have found that everyday living noise can rise to the level of intolerable nuisance (see *Lucas v. The Owners, Strata Plan 200*, 2020 BCCRT 238 and *Moojelsky v. The Owners, Strata Plan K 323 et al*, 2019 BCCRT 698).
39. Based on the lack of explanation for how the council "deemed" the noise not to be a bylaw infraction, I find there was effectively no investigation for the first 4 noise complaints. The strata did not do anything that could be considered an investigative step until Ms. Ahn's fifth noise complaint when it contacted the tenants. I find the strata concluded, without investigation, that the tenant's ordinary living noise was not a bylaw contravention no matter how loud it was. By doing so, the strata predetermined the outcome of Ms. Ahn's complaints, which I find was unfair.
40. Further evidence that the strata predetermined the issue is found in council member SV's statement. SV said they were the "point person" on council for Ms. Ahn's complaints. SV said they can hear the unit above them during the day, but consider it "daily living noise which is the same with other units in the complex." However, there is no evidence to support SV's conclusion that sound transmission is the same in SV's strata lot as in Ms. Ahn's strata lot, which SV says are in different buildings. There is also no evidence that their respective neighbours make the same kinds of noise at the same times.
41. Although the strata confirmed that the tenants had put down pads and rugs, it did not conduct any kind of noise testing until October 2022, 15 months after Ms. Ahn's first complaint. I acknowledge the strata's submission that Ms. Ahn wanted to dictate

which council members participated in testing. However, I find Ms. Ahn clarified in emails that she only wanted to ensure the council members who attended were not already close to the tenants. I find that was a reasonable request and there is no evidence that the strata could not accommodate it. I find the strata was responsible for its failure to attend unit 213 until after Ms. Ahn filed her CRT dispute. In particular, I find the strata unfairly ignored Ms. Ahn's October 2021 request for a council member to visit.

42. I also acknowledge that there are some gaps in the evidence that indicate gaps between Ms. Ahn's complaints. In particular, there are no complaints in evidence between December 10, 2021 and April 18, 2022. I find Ms. Ahn did not complain about noise in that period, in part because she was studying in the amenity room. However, I find the strata had no reason to assume that the noise issue had resolved given that the strata did not answer Ms. Ahn's December 10 complaint.
43. I also find that the strata took the implicit position that the tenants could not make unreasonable noise given the presence of mats and rugs. The strata does not explain how mats and rugs reduce noise from a washing machine or dryer operating at 5 am or midnight, which Ms. Ahn specifically complained about and provided a sound reading of 55 dBA. The strata never explained how it concluded that this was not unreasonable noise. The absence of a bylaw prohibiting washer and dryer use at night does not mean that their use at night cannot create unreasonable noise.
44. The strata never wrote to the tenants about alleged bylaw contraventions. While I do not agree with Ms. Ahn's assertion that every alleged bylaw contravention requires the strata to write to the subject of the complaint, I agree that a written warning about specific alleged contraventions, such as the washer and dryer use at night, would have demonstrated that the strata was taking Ms. Ahn's noise complaints seriously. Similarly, Ms. Ahn complained of running, wrestling and shouting as late as 11 pm. Those activities at those times may not be the kind of "daily living noise" that strata residents are expected to tolerate. There is no evidence that the strata grappled with these questions or considered each complaint on its merits.

45. Next, I find that the strata's conclusion that there was no unreasonable noise was not supported by its own noise testing in October 2022. The strata submitted a brief video of the noise testing. I find it showed a background noise level around 33 dBA, and when footsteps are heard from above, the level increases to 56 dBA. It does not appear that the strata considered whether this is intolerable based on objective standards such as WHO guidelines. It does not appear that the strata has considered whether the frequency and timing of disturbances of this type documented in Ms. Ahn's noise logs amounts to objectively intolerable noise. I acknowledge that the video documents only a small portion of the noise testing, but I find it directly contradicts the strata manager's emailed statement that the sound meter did not register the noise.
46. Finally, there is no evidence the strata made any inquiries about the flooring and underlay in unit 313. The strata does not say whether it is aware of whether the flooring is original or new, and whether any sound-dampening underlay was installed.
47. I acknowledge the strata's submission that it was troubled by Ms. Ahn's behaviour towards the tenants, which resulted in the disputed fines I address below. Ms. Ahn and the tenants were clearly frustrated. However, I find that Ms. Ahn's conduct did not relieve the strata of its duty to investigate her complaints.
48. Overall, I find the strata took too long to investigate Ms. Ahn's complaints, did not take sufficient investigative steps, had no rational basis for concluding that the bylaws were not contravened, and did not consider each complaint on its merits. I find the strata violated Ms. Ahn's reasonably-held expectation that it would fairly and reasonably investigate her noise complaints, which was burdensome and unjust. I find the strata was significantly unfair to Ms. Ahn.

***Did the tenants make noise that was intolerable to an ordinary person?***

49. The strata says if Ms. Ahn does not prove unreasonable noise, then there is no breach of bylaw 3.1 and her claim in significant unfairness must be dismissed. I disagree. The CRT has awarded damages in disputes where the applicant did not prove a bylaw breach. For example, in *Wilkins v. The Owners, Strata Plan LMS1946*, 2022

BCCRT 336, the applicants did not prove that the noise was objectively unreasonable, but were awarded \$1,500 because the strata's investigation was significantly unfair. The CRT found that the strata corporation's failure to adequately investigate noise complaints exacerbated the applicants' frustration with their living situation and deprived them of the possibility of closure. While *Wilkins* is not binding on me, I find the reasoning persuasive and I choose to follow it.

50. I find that the existence and extent of intolerable noise is a factor in determining damages to compensate for significant unfairness. This is reflected in decisions like *Chan*, *Lucas*, and others where the damages award was based, at least in part, on the loss of use and enjoyment of a strata lot arising from the noise. So, before determining the appropriate remedy, I will consider the whether the tenants' noise was intolerable to an ordinary person.
51. Ms. Ahn says that sometimes the tenants' noise was so loud and vivid that it sounded like they were living in her strata lot, which startled her. She says the most unbearable noise is the impact sound when the vibration travels through her ceiling and walls and throughout her strata lot. She describes it as "torture" and "violence" to her.
52. Generally, a resident's subjective noise complaints will not be enough to prove that noise is intolerable (see *Wilkins* at paragraph 31). So, while I accept that Ms. Ahn subjectively found the tenants' noise intolerable at times, this is insufficient. I find that Ms. Ahn must provide objective evidence that the noise is intolerable to an ordinary person. This may include observations from neutral parties, sound measurements, or expert evidence from acoustic professionals.
53. The objective evidence here includes Ms. Ahn's sound measurement when unit 313's washer or dryer was operating, and the strata's sound measurement from its October 2022 test. Those measurements were 55 and 56 dBA. Ms. Ahn does not provide any details about where she made the measurement. So, I put little weight on that evidence. The strata's measurement was taken with a handheld sound level meter. The sound appears to be from running or stomping above, but it is not clear if this

was on padded or bare floor. It is also not clear if this sound was representative of the noise the tenants made.

54. The only other objective evidence is an email from the tenants' neighbour. On September 9, 2022, around 7pm, they texted Ms. Ahn, saying "Omg are they banging upstairs for you right now? They're so loud" and "It's shaking my condo." I find the neighbour was talking about the tenants. While statements from neutral parties can be helpful in determining whether noise is unreasonable, I find this text describing a single incident insufficient to prove that the noise was intolerable to an ordinary person.
55. On balance, I find Ms. Ahn has not proven that the noise she experienced from the tenants was noise that an ordinary person would find intolerable in a strata lot. That finding informs the remedy I order below.

### ***Remedy for significant unfairness***

56. Ms. Ahn says the strata corporation caused harm to her health, loss of use and enjoyment of her strata lot, and harm to her career and studies. She claims \$20,125. This includes \$10,000 for loss of use and enjoyment of her strata lot (\$1,000 per month for 10 months as of when she started her claim), \$10,000 for lost income, and \$125 for an exam fee.
57. Because Ms. Ahn has not proven objectively intolerable noise, it follows that I find she is not entitled to most of her claimed damages. However, as I explain below, I would not have awarded most of her claimed damages in any event.
58. Ms. Ahn says she lost her job because of poor performance as a result of the impact of the tenants' noise. However, her September 3, 2021 termination letter does not provide a reason why her employer ended her employment except to allow her to "pursue other career opportunities." Ms. Ahn provided no other supporting evidence, such as performance reports or statements from coworkers or supervisors. I find she has not proven that the tenants' noise had any impact on her job.

59. Ms. Ahn says she delayed taking an exam to become a strata manager by 2 months, causing her to pay a \$125 fee and lose “a possible income of \$5,000 a month” for that time. I find Ms. Ahn did not prove that she had to postpone her exam for noise. I also find she did not prove her lost income claim, as she did not support it with any objective evidence about the job market, incomes for strata managers, or her own employment.
60. Ms. Ahn’s claims about health effects are not supported by any medical evidence. However, I accept that she subjectively experienced anxiety, fatigue, and irritation from the noise and the strata’s inadequate response to her complaints.
61. I find that if the strata had more thoroughly and promptly investigated, it may have revealed objectively intolerable noise and sparked the strata to take further action. I find the strata’s half-measures and delays in investigating allowed the noise dispute to linger and bad feelings between Ms. Ahn and the tenants to fester. I find that a fair and prompt investigation would have, at least, prevented Ms. Ahn from several months of frustration with her living situation. I find this entitles Ms. Ahn to damages.
62. As for the amount of damages, I find a useful starting point is *Wilkins*, in which the applicant was awarded \$1,500. The noise in *Wilkins* was similarly a family’s “everyday living noise”, but it went uninvestigated for several years. Unlike the applicant in *Wilkins*, Ms. Ahn made frequent complaints and was frustrated by the strata’s response. With that in mind, I award Ms. Ahn \$1,000.
63. Ms. Ahn asked for an order that the strata enforce its noise bylaws against the tenants. I decline to make that order. The SPA already requires the strata to enforce its bylaws, so I find the order would serve no purpose.
64. Ms. Ahn also asked for an order that the strata investigate unit 313’s flooring. While I agree that flooring and underlay investigation may be a reasonable step for a strata to take when investigating a noise dispute, I decline to order the strata to do so here. Orders that a party do something must clearly define the standard of compliance (see *Nova Scotia v. Doucet-Boudreau*, 2003 SCC 62). I find the requested order to investigate unit 313’s flooring is not sufficiently defined. I also find there is insufficient

evidence here to support a more specific order, such as checking for underlay of a specific insulation rating. As noted above, the strata has no flooring or underlay bylaws.

65. I turn to the fines the strata imposed against Ms. Ahn.

***Bylaw contravention fines imposed against Ms. Ahn***

66. On January 4, 2022, the tenants wrote to the strata, saying that Ms. Ahn had connected a speaker to the ceiling and played a variety of “zombie musics, [and] bad annoying sounds like someone banging.” They also alleged that Ms. Ahn had spoken profanities through the speaker.

67. On January 5, 2022, the strata manager wrote to Ms. Ahn and advised of the complaint. The letter said council had decided to impose a \$200 fine for “noise/nuisance” citing bylaw 3.1(a) and (b), and another \$200 fine for “harassment” citing bylaw 3.1(c).

68. Ms. Ahn says the strata did not comply with SPA section 135. Section 135 sets out the process a strata corporation must follow before imposing a fine. Under section 135(1), before imposing a fine, the strata must receive a complaint, give the person written particulars or details about the complaint, and give the person a reasonable opportunity to answer the complaint, including a hearing if requested. I find the strata did not give Ms. Ahn details of the complaint, such as the dates and times the alleged bylaw contraventions occurred. I also find the strata did not give Ms. Ahn an opportunity to answer the complaint before imposing fines. The letter said the council had already decided to impose the fines.

69. The requirements of section 135(1) must be strictly followed (see *Terry v. The Owners, Strata Plan NW 309*, 2016 BCCA 449). As the strata did not follow section 135(1), I order the strata to cancel the \$400 fines it imposed against Ms. Ahn on January 5, 2022.

70. Given my conclusion, I find it unnecessary to consider whether Ms. Ahn breached the bylaws as alleged.

71. Ms. Ahn asked for an order that the strata not impose future fines against her “for the same reasons,” which I take to mean for future alleged noise bylaw contraventions. I decline to make that order. The strata is required to enforce its bylaws and may do so by imposing fines, so long as it is fair and follows the requirements of SPA section 135. It would not be appropriate to restrict the strata’s authority to respond to events that have not yet occurred.

## **CRT FEES, EXPENSES AND INTEREST**

72. Under CRTA section 49 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. Ms. Ahn was generally successful, so I order the strata to reimburse Ms. Ahn for \$225 in CRT fees. The strata did not pay CRT fees, and neither party claimed any dispute-related expenses.

73. The *Court Order Interest Act* (COIA) applies to the CRT. I find Ms. Ahn is entitled to prejudgment interest on the \$1,000 from October 13, 2021, the date I find the strata failed to respond to her complaints, to the date of this decision. This equals \$22.52

74. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against Ms. Ahn.

## **ORDERS**

75. I order that, within 30 days of the date of this order, the strata pay Ms. Ahn a total of \$1,247.52, broken down as follows:

- a. \$1,000.00 in damages,
- b. \$22.52 in pre-judgment interest under the COIA,
- c. \$225.00 for CRT fees.

76. I order the strata to immediately cancel the \$400 in bylaw contravention fines it imposed against Ms. Ahn on January 5, 2022.



77. I dismiss Ms. Ahn's remaining claims.

78. Ms. Ahn is also entitled to post-judgment interest, as applicable.

79. Under CRTA section 57, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under CRTA section 58, 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.

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Micah Carmody, Tribunal Member