



Civil Resolution Tribunal

Date Issued: November 27, 2024

File: ST-2023-001831

Type: Strata

Civil Resolution Tribunal

Indexed as: *Bhullar v. The Owners, Strata Plan EPS6340*, 2024 BCCRT 1201

BETWEEN:

JIT BHULLAR

APPLICANT

AND:

The Owners, Strata Plan EPS6340 and ASHLEY CHUNG

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This dispute is about ongoing noise complaints in a strata building. Jit Bhullar and Ashley Chung own adjacent strata lots in The Owners, Strata Plan EPS6340 (strata).
2. Since December 2021, Ms. Bhullar has frequently complained to the strata about unreasonable noise coming from Ms. Chung's strata lot. Ms. Bhullar says the strata

has failed to sufficiently investigate her noise complaints or enforce its bylaws. She says the noise has unreasonably interfered with her use and enjoyment of her strata lot, caused her severe stress and anxiety, and caused her to incur expenses to purchase sound recording equipment and to stay elsewhere.

3. Ms. Bhullar claims \$5,600 against the strata for breaching the *Strata Property Act* (SPA) and for the cost of purchasing sound recording equipment. She claims \$3,200 against the strata and Ms. Chung for the expenses she incurred to vacate her strata lot to escape the noise, and she claims \$25,000 against the strata and Ms. Chung for loss of enjoyment of her strata lot and nuisance damages. She also claims \$10,000 against Ms. Chung for pain and suffering and loss of peaceful enjoyment of her strata lot. She also asks for the following orders:
 - a. A declaration that Ms. Chung is in violation of the strata's noise and nuisance bylaws.
 - b. An order that Ms. Chung stop the noise and nuisance immediately.
 - c. An order that the strata enforce its nuisance and noise bylaws.
4. The strata says it has reasonably investigated Ms. Bhullar's noise complaints and enforced its noise and nuisance bylaws. It says it does not owe Ms. Bhullar anything, and her claims should be dismissed.
5. Ms. Chung denies that she or her family or visitors caused any unreasonable noise in her strata lot. She says she does not owe Ms. Bhullar anything and Ms. Bhullar's claims against her should be dismissed.
6. Ms. Bhullar and Ms. Chung both represent themselves, and the strata is represented by a strata council member.

JURISDICTION AND PROCEDURE

7. 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.

8. 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. Further, 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.
9. 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.
10. 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.

Tort Claim

11. Ms. Bhullar brought this dispute under the CRT's strata property jurisdiction. The CRTA section 121 says the CRT's jurisdiction over strata property claims is limited to claims that are "in respect of" the SPA. However, Ms. Bhullar's claims against Ms. Chung are for nuisance damages and associated orders. Nuisance is a common law tort, so I find it is not "in respect of" the SPA (see *Alameer v. Zhang*, 2021 BCCRT 435 at paragraphs 11 to 12). So, I find Ms. Bhullar's claims against Ms. Chung are not within the CRT's strata property jurisdiction and must instead be decided under the CRT's small claims jurisdiction.
12. The reason it matters whether the CRT decides claims under its strata property or small claims jurisdiction is because the remedies available in each jurisdiction are

different. The CRT's small claims monetary limit is \$5,000, whereas there is no strata claims monetary limit.

13. Ms. Bhullar claims a total of \$38,500 in nuisance damages against Ms. Chung. After reviewing the parties' evidence and submissions, and keeping in mind the CRT's mandate, I decided it was unnecessary to ask the parties for submissions about the jurisdiction of Ms. Bhullar's tort claim against Ms. Chung. This is because I ultimately determined that the amount of nuisance damages Ms. Chung owes Ms. Bhullar is below the \$5,000 small claims monetary limit.
14. In addition to damages, Ms. Bhullar asks for a declaration that Ms. Chung is in violation of the strata's noise and nuisance bylaws. This type of order is known as "declaratory relief". Ms. Bhullar also asks for an order that Ms. Chung stop the noise and nuisance immediately. An order for someone to do or stop doing something is known as "injunctive relief". With limited exceptions that do not apply here, under section 118 of the CRTA, orders for declaratory or injunctive relieve are outside the CRT's small claims jurisdiction. So, I cannot grant these requested orders. However, I find nothing turns on this because Ms. Chung and her family have undisputedly moved out of her strata lot and so there is no longer any need for these orders.
15. The background facts underlying Ms. Bhullar's claims against Ms. Chung and the strata are the same. Given this, and the CRT's mandate which includes providing speedy, flexible, and informal dispute resolution services, I find it appropriate to decide Ms. Bhullar's claims against Ms. Chung and the strata in a single decision, under CRTA sections 118 and 121, as applicable.

Other Preliminary Issues

16. Ms. Chung says Ms. Bhullar illegally recorded her and her children. To the extent she says Ms. Bhullar's recordings are not admissible on that basis, I disagree. Secret recordings may be admitted as evidence if they are relevant, the parties are accurately identified, the recordings are trustworthy, and their probative value outweighs any prejudicial effect (see *KWK v. VLC*, 2022 BCSC 1321). The recordings are clearly relevant to this dispute. The video recordings in evidence do not contain

any images of Ms. Chung or her children. It is not clear from the video or audio recordings alone who is making the noise contained in them, and the only audible voice in the recordings is Ms. Bhullar's. There is no allegation that the recordings are untrustworthy or have been tampered with. If there is any prejudice to Ms. Chung by me admitting the recordings into evidence, I find it is significantly outweighed by the recordings' probative value, as explained below. So, I have admitted the recordings as evidence and relied on them in my decision.

17. In Ms. Bhullar's submissions, she says the strata ignored her June 28, 2023 request for documents related to her noise complaints, in violation of the SPA section 36. However, Ms. Bhullar does not raise this allegation in the Dispute Notice, nor does she request the documents as a remedy in this dispute. I find this claim is not properly before me, so I decline to address it in this decision.
18. In Ms. Chung's submissions, she says the fines the strata imposed against her strata lot should be reversed because the strata failed to conduct a proper investigation. However, Ms. Chung did not bring a third party claim against the strata in this dispute. I find this claim is not properly before me, so I decline to address it in this decision.

ISSUES

19. The issues in this dispute are:
 - a. Was the noise unreasonable?
 - b. Was Ms. Chung's strata lot the source of the noise?
 - c. Was the strata's investigation into Ms. Bhullar's noise complaints significantly unfair?
 - d. What remedies are appropriate?

EVIDENCE AND ANALYSIS

20. As the applicant in this civil proceeding, Ms. Bhullar must prove her claims on a balance of probabilities, which means more likely than not. I have read the parties' submissions and evidence but refer only to what I find necessary to explain my decision.
21. The strata was created in 2019. It is a multi-building strata complex with 177 strata lots. Ms. Bhullar and Ms. Chung's strata lots are in a building with 5 townhouse-style strata lots in a row. Ms. Chung's strata lot is at the end of the row, and Ms. Bhullar's is next door. Both strata lots consist of 3 floors, with a garage on the lower floor, kitchen and living area on the main floor, and bedrooms on the upper floor.
22. The Standard Bylaws under the SPA apply to this dispute, subject to amendments the strata filed with the Land Title Office in 2019. Bylaw 3(1) prohibits an owner from using a strata lot in a way that causes a nuisance or hazard to another person, causes unreasonable noise, or unreasonably interferes with the rights of other people to use and enjoy another strata lot. When it comes to noise, I find these bylaws all amount to the same thing, which is that they prohibit unreasonable noise.

The noise complaints

23. Ms. Bhullar and her son moved into her strata lot on May 15, 2021, and Ms. Chung and her family moved into her strata lot soon after. Ms. Bhullar says she did not hear any unreasonable noises for the first few months that she lived in her strata lot. In September 2021, Ms. Bhullar says she started hearing sudden thumps and vibrations coming from the top floor of Ms. Chung's strata lot late in the evenings, and sometimes continuing after 11:00 p.m. She says these noises frequently disturbed her and her son's sleep. In late October 2021, Ms. Chung spoke with a male occupant of Ms. Chung's strata lot about the noise, but the noise continued. On December 26, 2021, Ms. Chung contacted the same male occupant of Ms. Chung's strata lot several times about unreasonable noise coming from her strata lot. The male occupant told Ms. Chung to stop contacting him and to contact the strata instead.

24. Ms. Bhullar first complained to the strata about unreasonable noise coming from Ms. Chung's strata lot in December 2021. From February 2022 until at least April 2024, Ms. Bhullar made numerous and frequent noise complaints to the strata. Ms. Bhullar has described the noise as stomping, forceful slamming, vibrations, and very loud thumps. She says the noise usually occurred throughout the day and evening, but sometimes occurred in the early mornings. She says that as of May 2024 most of the noises had stopped. In support of her complaints, Ms. Bhullar submitted to the strata audio and video recordings of the noise, decibel readings from an app on her phone, a noise log, and witness statements from her friends and other residents.
25. Ms. Chung denies ever causing any unreasonable noise in her strata lot. She says she and her family lived in the strata lot from 2021 to December 2023 when they moved out because of the continued noise complaints. She says that during the dates and times of most of the complaints, either no one was in her strata lot, or anyone at home was asleep.

The strata's investigation

26. Under SPA section 26, the strata council has a duty to exercise the powers and perform the duties of the strata corporation. This includes a duty to investigate alleged bylaw contraventions, such as noise complaints.
27. As noted, Ms. Bhullar first complained to the strata about unreasonable noise coming from Ms. Chung's strata lot at the end of December 2021. On January 6, 2022, the strata notified Ms. Chung about the noise complaint, but it is unclear from the evidence whether she responded. On March 29, 2022, the strata asked Ms. Bhullar what she expected it to do about her ongoing noise complaints. Ms. Bhullar responded by asking the strata for suggestions. In April and September 2022, the strata told Ms. Bhullar that it would be fining Ms. Chung's strata lot for noise bylaw contraventions, but it is unclear from the evidence if it did so.
28. Ms. Bhullar says, and the strata does not dispute, that on August 28, 2022, the strata council president told her the noise from Ms. Chung's strata lot was "serious" and that "no one should have neighbours like them". Ms. Bhullar says the strata president

recommended she download and use a decibel app on her phone to record the noise, which she did.

29. On August 31, 2022 Ms. Bhullar requested a strata council hearing about the ongoing noise complaints. On September 7, 2022, the strata asked Ms. Chung if she would attend a meeting with Ms. Bhullar to attempt to resolve the noise complaints amicably. Ms. Chung refused to meet with Ms. Bhullar but said she was willing to discuss the issue with the strata. On September 9, 2022, the strata told Ms. Bhullar that Ms. Chung had refused a meeting with her, so Ms. Bhullar would have to start a CRT claim to address the allegedly unreasonable noise.
30. On September 28, 2022, Ms. Bhullar again requested a hearing with strata, which it held on October 6, 2022. During the hearing the strata told her it would file a CRT claim against Ms. Chung. The strata asked her to provide it with all the evidence she had of the unreasonable noise, including videos, sound recordings, and decibel readings, which she did.
31. At some point in the fall of 2022, the strata filed a CRT claim against Ms. Chung about the noise complaints. On January 12, 2023, the strata instructed Ms. Bhullar to “use the CRT mechanism to attempt further resolution” of the noise issue. Minutes from the strata’s February 9, 2023 council meeting indicate that the strata withdrew its CRT claim because it wanted Ms. Bhullar and Ms. Chung to “address this matter independently.” The minutes also state, “actionable noise complaints are those that are excessive in nature and corroborated by multiple strata lots as a disturbance.”
32. On February 17, 2023, Ms. Bhullar started this CRT dispute.
33. On April 19 and 21, 2023, strata council members went to Ms. Bhullar’s strata lot for the first time since she started making noise complaints. She says the council members acknowledged that unreasonable noise was coming from Ms. Chung’s strata lot. The strata does not dispute this. On May 15, 2023, Ms. Bhullar texted a strata council member complaining about unreasonable noise from Ms. Chung’s strata lot the previous night and asking her to listen to a recording. The council member responded by text, “You don’t have to prove anything to me. I have heard

the sounds. It's definitely loud and shouldn't be occurring at the late hours/early morning."

34. In May 2023, the strata asked Ms. Chung to provide photos of her top floor to determine if there was something causing the noise. Ms. Chung sent the strata 7 photos. It is unclear from the evidence what the strata did with the photos.
35. On June 5, 2023, the strata imposed four \$200 noise bylaw contravention fines against Ms. Chung's strata lot for unreasonable noise on April 11 and 28, and May 1, 2, and 3, 2023. On January 12, 2024, the strata imposed two \$200 noise bylaw contravention fines against Ms. Chung's strata lot for unreasonable noise in October 2023. The strata says it did not impose fines for any other noise complaints from Ms. Bhullar because it objectively determined that the noise allegations had not been established. However, the strata does not say how it objectively made these determinations, nor does it provide any further explanation about its decision to impose these fines.
36. On April 23, 2024, the strata told Ms. Bhullar it was contacting a sound engineer to determine the source of the noise. At the time of the parties' submissions later in the spring, the strata reiterated its intention to do this. However, there is no evidence the strata has taken any steps to hire an engineer.
37. Ms. Chung says the strata has never come to her unit to investigate the noise. She says she has repeatedly asked the strata to hire an independent third party to inspect her and Ms. Bhullar's strata lots to determine where the noise is coming from, but the strata ignored her requests. The strata does not dispute any of this. On May 6, 2024, Ms. Chung notified the strata that she and her family had not been residing in her strata lot since December 2023.

Was the noise unreasonable?

38. In the strata context, unreasonable noise is noise that represents a substantial, non-trivial interference with the use and enjoyment of property (see *The Owners, Strata Plan 1162 v. Triple P Enterprises*, 2018 BCSC 1502). To meet this standard, the noise

must be intolerable to an ordinary person (see *St. Lawrence Cement v. Barrette*, 2008 SCC 64). Whether noise constitutes a nuisance depends on factors such as its nature, intensity, frequency, duration, and timing. In the context of a strata development, there must be a “certain amount of give and take” between neighbours (see *Sauve v. McKeage et al.*, 2006 BCSC 781).

39. Ms. Bhullar submitted a combination of audio and video recordings of the noise taken from October 16, 2022 onward. I have listened to all the recordings in evidence and reviewed the decibel readings. In almost all of the recordings, the noise Ms. Bhullar describes is audible.
40. Ms. Bhullar submitted witness statements from several friends and neighbours who all say they observed unreasonable noise while visiting Ms. Bhullar’s strata lot. Both the strata and Ms. Chung argue that these statements are not neutral, however neither of them provided any contradictory witness statements. Ms. Bhullar says some of her neighbours who provided statements she did not previously know, but she asked them to observe the noise from her strata lot. Overall, I find the witness statements are generally consistent with Ms. Bhullar’s noise logs and her other evidence, so I rely on them in my analysis.
41. Ms. Bhullar also submitted decibel readings from the Sound Meter app she downloaded on her phone, taken from October 5, 2023 onward. Some of the decibel readings are shown in the video recordings. The decibel levels tend to have a baseline of 20 to 40 decibels when there is no audible noise, with spikes up into the 70s and 80s with intermittent knocking and thumping noises.
42. Ms. Bhullar did not submit any expert evidence interpreting her decibel recordings. She submitted a \$4,000 estimate for professional sound testing and says she cannot afford this cost. However, she relies on *Suzuki v. Munroe*, 2009 BCSC 1403, in which the BC Supreme Court relied on the World Health Organization (WHO) noise guidelines and said that non-continuous nighttime noises over 45 decibels are considered disturbing. The court also accepted expert evidence that said 70 decibels is about as loud as highway traffic from 15 meters away and is loud enough to make

telephone use difficult. She also relies on *Tran v. The Owners, Strata Plan VIS 6828*, 2021 BCCRT 28, in which a tribunal member found decibel readings with a baseline between 20 and 40 peaking to over 70 with footsteps constituted unreasonable noise. The tribunal member also relied on the applicant's videos, noise log, and witness statements in reaching his conclusion that the noise was unreasonable.

43. *Tran* is not binding on me, but I find the circumstances are similar and I apply its reasoning here. I find the decibel readings Ms. Bhullar submitted generally corroborate her noise logs and witness statements, and so I find the decibel readings that spike into the 70s and above are evidence of unreasonable noise.
44. Ms. Bhullar also notes that when strata council members visited her strata lot in April 2023, they acknowledged the noise was unreasonable. As noted, a strata council member texted her a few weeks later, "You don't have to prove anything to me. I have heard the sounds. It's definitely loud and shouldn't be occurring at the late hours/early morning." The strata did not sufficiently explain why it chose to fine Ms. Chung when it did, but I find it would not have done so if it did not believe the noise was unreasonable.
45. Overall, I am satisfied that much of the noise Ms. Bhullar complained of was unreasonable.

Was Ms. Chung's strata lot the source of the noise?

46. Ms. Chung denies that she or her family ever made unreasonable noise in her strata lot. However, for the following reasons, I find that Ms. Chung or her family caused much of the unreasonable noise Ms. Bhullar experienced.
47. Ms. Chung submitted a statement from her employer stating that she has been working Monday to Friday from 8:30 a.m. to 5:00 p.m. since 2012. She says this shows she is never home during weekdays. However, almost all of Ms. Bhullar's complaints were for noise occurring outside of these hours. Ms. Chung says that when she and her family were living in the strata lot, they typically left every morning

at 7:15 a.m. and were in bed by 8:00 p.m. Ms. Chung admitted to sometimes doing laundry at night but says otherwise no one was awake at night.

48. Ms. Chung says there is often construction and other noises from outside the strata building. She also says residents must tolerate a certain amount of everyday living noises in a townhouse complex. She says Ms. Bhullar should have spent more money to buy a corner strata lot to have fewer neighbours. However, I find the evidence shows that the noises Ms. Bhullar complained of were not coming from outside, nor do I consider the nature of the noises to be everyday living noises.
49. Ms. Chung provided evidence of trips her family took out of the country in January and July 2023. She says Ms. Bhullar continued to make noise complaints while she and her family were away, which she says proves she and her family were not the source of the noise. However, I find Ms. Bhullar's noise logs indicate that she did not complain about unreasonable noise coming from Ms. Chung's strata lot during the dates of Ms. Chung's trips.
50. As noted, Ms. Bhullar submitted witness statements from several friends and neighbours who all say they observed unreasonable noise coming from Ms. Chung's strata lot. Two of Ms. Bhullar's friends, SF and JM, said that while they were at Ms. Bhullar's for dinner on the evening of May 21, 2022, they heard thumping and banging on the walls coming from Ms. Chung's strata lot. One of them described the sounds as "disturbing" and "unbelievable", and said they went home early because of the noise. The other said the noises were not everyday living noises.
51. Ms. Bhullar's neighbour IJ said that while at her strata lot for dinner on September 23, 2022, they observed loud noises including banging and thumping against the wall, coming from a party in Ms. Chung's strata lot. They said the noise was so loud that it was difficult to carry on a conversation, and it continued late into the evening.
52. SF said that while visiting Ms. Bhullar's strata lot on the evening of October 3, 2022, they heard startling thumps that made the wall décor vibrate. They said it sounded like someone was kicking into the wall from Ms. Chung's strata lot.

53. Another of Ms. Bhullar's friends, AMR, said they slept over at her strata lot on December 5, 2022, and between 9:20 and 11:20 p.m. they heard random thumping noises coming from Ms. Chung's strata lot that made the bedroom she was sleeping in vibrate.
54. IJ said that while at Ms. Bhullar's strata lot on the evening of January 12, 2023, they heard excessively loud banging noises coming from Ms. Chung's strata lot that continued into the night. IJ said they heard similar excessive noise coming from Ms. Chung's strata lot on many occasions when visiting Ms. Bhullar's strata lot but did not give any other specific dates.
55. One of Ms. Bhullar's neighbours, HS, said they heard the noises Ms. Bhullar complains of from inside her strata lot many times in the day, evening, and at night between 2022 and 2024. Specifically, they said that on February 9 and 20, 2023, they heard "shockingly loud banging" and unexpected knocking coming from Ms. Chung's strata lot that they described as scary and startling. They said they could feel Ms. Bhullar's strata lot shaking.
56. All of these incidents in Ms. Bhullar's witness statements are consistent with her noise logs and recordings. The noise log indicates that five of these eight incidents disrupted her sleep. Most of Ms. Bhullar's noise logs, recordings, and decibel readings are consistent with the nature, frequency, duration, and general pattern of the unreasonable noise corroborated by her witness statements. Given Ms. Bhullar cannot be expected to have a witness present for every instance of unreasonable noise, I find her evidence establishes that it is more likely than not Ms. Chung caused much of the unreasonable noise Ms. Bhullar experienced, with one exception I explain below.
57. Ms. Chung says she and her family moved out of their strata lot in December 2023 because of the constant noise complaints. She says that since Ms. Bhullar's noise complaints continued for the first few months of 2024, this proves her family was not causing the noise. While Ms. Bhullar admits that Ms. Chung and her family had vacated their strata lot as of the time of submissions in late spring 2024, she disputes

that they moved out in December 2023. Ms. Chung submitted a statement from next-door neighbours of her extended family who say Ms. Chung's family is staying with them. However, the statement does not say when Ms. Chung and her family started staying there. Ms. Bhullar says she noticed people coming and going from Ms. Chung's strata lot in 2024, including Ms. Chung. This is also supported by one of her witness statements. Given this conflicting evidence, I find the statement Ms. Chung submitted is insufficient evidence to establish that she and her family moved out of their strata lot in December 2023.

58. What I do find persuasive, however, are the security system records from Ms. Chung's strata lot. She submitted these records for many dates between March 11 and April 26, 2024. I compared these records with Ms. Bhullar's noise logs and decibel readings. I find that Ms. Bhullar complained about unreasonable knocking noises coming from Ms. Chung's strata lot at night on many dates and times at which Ms. Chung's security system records indicate there was no one in her strata lot. I also note that in HS's statement, they said when they were in Ms. Bhullar's strata lot in February and March 2024, they continued to hear unexpected knocking noises coming from Ms. Chung's strata lot, but they did not hear any of the banging and other noises that they had heard previously. Based on this evidence, I find it is possible the noise could have been caused by a building system or other source. I find Ms. Bhullar has failed to prove on a balance of probabilities that these knocking noises were caused by Ms. Chung or her family members.

59. It is impossible to know with certainty what caused the knocking noises, and the exact extent those noises are from a different source than the other noises Ms. Bhullar complained of. However, considering all of the evidence, I am satisfied that Ms. Chung caused much of the unreasonable noise Ms. Bhullar experienced, except for the knocking noises she heard at night.

Was the strata's investigation into Ms. Bhullar's noise complaints significantly unfair?

60. The CRT has authority to make orders remedying a strata corporation's significantly unfair actions or decisions. The court has the same authority under section 164 of the

SPA, and the same legal test applies (see *Dolnik v. The Owners, Strata Plan LMS 1350*, 2023 BCSC 113). In *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, the court confirmed that significantly unfair actions or decisions are those that are burdensome, harsh, wrongful, lacking in probity and fair dealing, done in bad faith, unjust, or inequitable. In applying this test, the owner's objectively reasonable expectations are a relevant factor, but not determinative.

61. The courts have held that a strata corporation may investigate bylaw contravention complaints as its council sees fit, so long as it complies with the principles of procedural fairness and is not significantly unfair (see *Chorney v. Strata Plan VIS 770*, 2016 BCSC 148).
62. The parties agree that Ms. Bhullar had an objectively reasonable expectation that the strata would reasonably and fairly investigate her noise complaints. The parties disagree about whether the strata did so. For the following reasons, I find the strata's investigation was inadequate and significantly unfair to Ms. Bhullar.
63. As noted above, the strata did not have any council members visit Ms. Bhullar's strata lot to hear the noise she complained of until April 19, 2023, almost 16 months after she first started complaining. In that 16-month period, the strata issued Ms. Chung some warning letters and filed a CRT claim against her. However, it withdrew the CRT claim a few months later because it thought Ms. Bhullar and Ms. Chung should address the noise "independently". Ms. Bhullar refers to *Yang v. The Owners, Strata Plan VR732*, 2020 BCCRT 361, in which the CRT said that promoting resolution between owners may be helpful in some instances, but the strata still must conduct a fair investigation and enforce its bylaw consistently. There is no evidence that the strata ever asked Ms. Chung to take any actions to reduce the noise in her strata lot or took any other measures to address the noise.
64. Even after the strata visited Ms. Bhullar's strata lot in April 2023, I find it failed to adequately continue its investigation. Ms. Bhullar cites *Tran v. The Owners, Strata Plan VIS 6828*, 2021 BCCRT 28, in which the CRT held that a strata observing the noise was a step in the right direction, but it was insufficient to discharge the strata's

investigatory obligations given the number and character of the complaints. I find the strata's inaction here is worse than in *Tran*, because here the council members heard the noise, agreed it was unreasonable, and still chose to do nothing to address it. It was not until a year later, in April 2024, that the strata notified Ms. Bhullar it of its plans to speak with a sound engineer. At that point Ms. Bhullar had been continuously complaining about the noise for well over two years.

65. In its June 1, 2023 Dispute Response, the strata said it was preparing to attend Ms. Chung's unit to observe and assess the environment. However, there is no indication it ever did so.
66. The strata says Ms. Bhullar provided no professional analysis indicating that the decibel readings from her mobile phone are reliable or that they establish unreasonable noise. While it is true that Ms. Bhullar provided no expert reports about her decibel readings, she undisputedly started using the decibel app on her phone at the advice of the strata council president. I have found the decibel readings, in combination with the noise logs, recordings, and witness statements, are evidence of unreasonable noise. The strata also made no effort to measure the noise independently until at least April 2024.
67. As noted above, the strata also says Ms. Bhullar's witness statements are exclusively from friends and family. However, Ms. Bhullar says that in March 2022 the strata told her to obtain witness statements to support her complaints, which she did. She says she approached two of her neighbours whom she had never met before, and they agreed to provide statements. She also says the strata relied on the statements when deciding to issue noise bylaw contravention fines, and never suggested there was a problem with the statements not being neutral. The strata does not dispute any of this.
68. The strata also says Ms. Bhullar's noise complaints continued in 2024 despite Ms. Chung and her family moving out of her strata lot in December 2023. The strata says this suggests the noise may not all have been caused by Ms. Chung or her family.

While this may be true, this is precisely why the strata was required to investigate Ms. Bhullar's noise complaints.

69. The strata says it has exhausted all options to investigate the noise complaints and that it is "stuck in the middle" of Ms. Bhullar's and Ms. Chung's dispute. I disagree. I find that at a minimum the strata should have attended both Ms. Bhullar's and Ms. Chung's strata lots within a reasonable time after Ms. Bhullar started complaining about the noise. I find that waiting 16 months to do so was an unreasonable delay. I find it was unreasonable for the strata to expect Ms. Bhullar to collect evidence to support her complaints when it made no effort to collect any of its own evidence. Ms. Bhullar says the strata put the burden of investigating the noise on her. I agree. The strata also fails to explain how there was nothing else it could do to investigate the noise while at the same time deciding to fine Ms. Chung six times. I find the strata's delayed and inadequate investigation into Ms. Bhullar's noise complaints was significantly unfair to her. I address remedies below.

What remedies are appropriate?

70. With respect to the strata, Ms. Bhullar claims \$5,600 for breaching the SPA and for the cost of purchasing sound recording equipment. She claims \$3,200 against both respondents for the cost of accommodation for times she says she stayed elsewhere to take a break from the noise in her strata lot. She claims \$25,000 against both respondents for loss of peaceful enjoyment of her strata lot and an additional \$10,000 against Ms. Chung for pain and suffering and loss of peaceful enjoyment of her strata lot.
71. Ms. Bhullar provided no documentary evidence that she incurred any accommodation expenses, so I find her \$3,200 claim unproven.
72. Next, I address Ms. Bhullar's claim against the strata for \$5,600 for breaching the SPA and for sound recording equipment. With respect to the sound recording equipment, Ms. Bhullar submitted an October 16, 2022 Best Buy receipt for \$618.62 for a security camera system. On Oct 26, 2022, Ms. Bhullar notified the strata that she had purchased security cameras, and that she would send videos of the noise to

accompany future noise complaints, which she did. Having found the strata failed to adequately investigate Ms. Bhullar's noise complaints, actively encouraged her to gather her own evidence, and relied on that evidence in deciding to fine Ms. Chung for noise bylaw contraventions, I find it is appropriate for the strata to reimburse Ms. Bhullar for this purchase. So, I find the strata must pay Ms. Bhullar \$618.62 for the cost of her security cameras.

73. With respect to damages for the strata's breach of the SPA, the CRT has previously awarded damages to remedy a strata's significantly unfair action, even when the applicant could not prove a nuisance. In *Wilkins v. The Owners, Strata Plan LMS1946*, 2022 BCCRT 336, a tribunal member awarded \$1,500 in damages for the strata's failure to act on the applicants' noise complaints, which he found exacerbated the applicants' frustration with their living situation independently of the noise itself and deprived them of closure. Here I have found Ms. Bhullar has proven she experienced a noise nuisance. However, I find the strata's failure to adequately investigate the noise caused Ms. Bhullar significant frustration independent from her frustration with the noise itself, particularly since it agreed that the noise was unreasonable but did very little about it. The strata's inaction also deprived Ms. Bhullar of the opportunity for independent noise testing, or other evidence that might have strengthened her claim against Ms. Chung. I find a damages award similar to that in *Wilkins* is appropriate here. So, I find the strata must pay Ms. Chung \$1,500 in damages for failing to adequately investigate the noise.

74. Next, I address Ms. Bhullar's damages claim for loss of peaceful enjoyment of her strata lot because of the noise itself. Ms. Bhullar says the sleep loss from the ongoing noise has caused her to develop severe anxiety, headaches, and emotional distress. She submitted an April 18, 2024 letter from her family doctor diagnosing her with severe anxiety due to mental stress, and tension headaches. The doctor's medical records for Ms. Bhullar starting on February 28, 2023, indicate that the noise and resultant sleep deprivation was the main contributing cause of these conditions. Ms. Bhullar also submitted reports from her physiotherapist and registered professional counsellor which I find are consistent with her family doctor's conclusions. The

evidence shows that Ms. Bhullar repeatedly told the strata that the ongoing noise was causing her sleep deprivation, stress and anxiety.

75. Ms. Bhullar says she often works from home, and the noise and its effects on her health have affected her work productivity. She says she has had to miss work because of her headaches and anxiety. She submitted an April 11, 2024 letter from her employer confirming her absence from work on several days in 2023 and 2024. The employer said Ms. Bhullar told them her absences were because of ongoing disruptive noise from her neighbours. They said Ms. Bhullar advised she had trouble concentrating at work and had developed stress and anxiety.
76. Ms. Bhullar also says the noise has interfered with her son's sleep, concentration, and ability to complete his schoolwork. She says he has developed headaches and stress from sleep deprivation. However, since Ms. Bhullar's son is not a party to this dispute, I find I must limit my analysis to the noise's effect on Ms. Bhullar, not her son.
77. Ms. Bhullar cited several CRT decisions in which the CRT has awarded damages for a strata's failure to adequately investigate noise complaints. She refers to *Tollasepp v. The Owners, Strata Plan NW 2225*, 2020 BCCRT 481, in which a tribunal member reviewed previous CRT decisions to determine that damages awarded in similar circumstances ranged from \$500 for limited instances of balcony noise to \$5,000 for almost three years of droning and living noise.
78. Ms. Bhullar also refers to *Chen v. The Owners, Strata Plan NW 2265*, 2017 BCCRT 113, in which the CRT found the strata failed to properly investigate and remedy ongoing noise for over 2.5 years, which it found was significantly unfair to the owner, and awarded \$4,000 for loss of enjoyment of their strata lot.
79. In *McCrossan v. The Owners, Strata Plan NW2847*, 2023 BCCRT 537, a vice chair awarded \$5,000 for 21 months of disturbing noise. In *Lucas v. The Owners, Strata Plan 200*, 2020 BCCRT 238, a tribunal member awarded \$5,000 in damages for daytime noises occurring over 3 years. In *Bartos et al v. The Owners, Strata Plan BCS 2797*, 2019 BCCRT 1040, a tribunal member awarded \$8,000 in damages for 3 years of elevator noise. In *Sereda v. The Owners, Strata Plan LMS 1351*, 2024

BCCRT 1195, a tribunal member awarded \$5,000 in damages for frequent nighttime noise over a 22-month period.

80. In *Chu v. Sefat*, 2021 BCCRT 723, a tribunal member awarded an applicant \$2,500 in nuisance damages for unreasonable noise heard on 19 occasions that disturbed their sleep on 16 occasions.
81. In *Chan v. Gibb et al*, 2019 BCCRT 1210, a tribunal member awarded the applicant \$5,000 in damages when they experienced unreasonable daytime noise interfering with their ability to work for seven months. The tribunal member apportioned the damages equally between the owner who caused the noise and the strata for failing to adequately investigate it.
82. Previous CRT decisions are not binding on me, but I find they are helpful in determining an appropriate damages award, and I have considered them for that reason. I have also accounted for inflation for the older decisions. Having found Ms. Bhullar experienced unreasonable noise for more than 2 years and given the extent to which the noise affected her sleep and overall health, I find she is entitled to \$8,000 in damages for loss of peaceful enjoyment of her strata lot. I order the strata to pay Ms. Bhullar \$4,000, and Ms. Chung to pay Ms. Bhullar \$4,000. While I have found both respondents liable for these damages, I find their liability arises separately, not jointly. So, I find they must pay Ms. Bhullar separately.
83. Ms. Bhullar also asks the CRT to order the strata to enforce its nuisance and noise bylaws. However, Ms. Chung and her family have undisputedly moved out of her strata lot, and the strata is already legally required to enforce its bylaws. I find there is no utility in making such an order, and I decline to do so.
84. In conclusion, I order the strata to pay Ms. Bhullar \$6,118.62 in damages, and I order Ms. Chung to pay Ms. Bhullar \$4,000 in damages.

CRT FEES, EXPENSES AND INTEREST

85. 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 see no reason in this case not to follow that general rule. Since Ms. Bhullar was generally successful, I find she is entitled to reimbursement of the \$225 she paid in CRT fees. Since I have found the strata and Ms. Chung are separately liable, I order each of them to pay Ms. Bhullar \$112.50 in CRT fees.
86. Neither the strata nor Ms. Chung paid any CRT fees or claimed any dispute-related expenses.
87. Ms. Bhullar claims \$2,290 in dispute-related expenses for registered mail and courier, health records, and expert medical reports. However, she provided no receipts or other documentary evidence to prove her entitlement to these expenses, so I find them unproven.
88. The *Court Order Interest Act* (COIA) applies to the CRT. Ms. Bhullar is entitled to prejudgment interest on the \$5,500 in damages owing from the strata. I find it is appropriate to award interest from October 6, 2022, which is the date of Ms. Bhullar's hearing, to the date of this decision. This equals \$528.73. Ms. Bhullar is also entitled to prejudgment interest on the \$618.62 owing from the strata for the recording equipment, calculated from October 16, 2022, which is the purchase date, to the date of this decision. This equals \$59.93. So, I find Ms. Bhullar is entitled to a total of \$588.66 in prejudgment interest from the strata.
89. Ms. Bhullar is also entitled to prejudgment interest on the \$4,000 owing from Ms. Chung. I find it is appropriate to award interest from December 29, 2021, the date of Ms. Bhullar's first noise complaint, to the date of this decision. This equals \$416.52.
90. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Ms. Bhullar.

ORDERS

91. Within 30 days of the date of this decision,

a. I order the strata to pay Ms. Bhullar \$6,118.62 in damages, plus \$588.66 in pre-judgment interest, plus \$112.50 in CRT fees, for a total of \$6,819.78.

b. I order Ms. Chung to pay Ms. Bhullar \$4,000 in damages, plus \$416.52 in prejudgment interest, and \$112.50 in CRT fees, for a total of \$4,529.02.

92. Ms. Bhullar is also entitled to post-judgment interest on the amounts owing, as applicable.

93. I dismiss Ms. Bhullar's remaining claims.

94. This is a validated decision and order. 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.

Sarah Orr, Tribunal Member