



# Civil Resolution Tribunal

Date Issued: May 12, 2025

Files: ST-2024-000440 and  
ST-CC-2024-007153

Type: Strata

Civil Resolution Tribunal

Indexed as: *Hu v. The Owners, Strata Plan BCS 1732*, 2025 BCCRT 603

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

YIFEI HU, also know as YI-FEI HU

**APPLICANT**

**A N D :**

The Owners, Strata Plan BCS 1732

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

J. Garth Cambrey

## INTRODUCTION

1. This strata property dispute is about alleged noise and discrimination, and bylaw fines. It involves a claim and counterclaim with the same parties, so I have issued a single decision.
2. The applicant in ST-2024-000440, Yifei Hu, also known as Yi-Fei Hu, owns and resides in strata lot 2 (SL2) in the respondent strata corporation, The Owners, Strata

Plan BCS 1732 (strata). Mr. Hu is self-represented. The strata is represented by a lawyer, Megan Buchanan.

3. Mr. Hu says he uses a shop vacuum to maintain a limited common property patio and terrace next to SL2 over which has exclusive use. He initially said the strata had imposed \$1,400 in bylaw fines for his use of the vacuum alleging it was in violation of the strata's noise bylaws because it created unreasonable noise. When he made submissions, Mr. Hu says the strata imposed fines then totalled over \$9,000. Mr. Hu says the strata treated him significantly unfairly because it did not properly investigate the noise complaints to determine whether the vacuum noise was unreasonable. He seeks orders that the strata remove all the bylaw fines and compensate him \$5,000 for harassment and psychological damages.
4. The strata denies Mr. Hu's claims. It says it has complied with the *Strata Property Act* (SPA) and bylaws, and properly imposed fines for Mr. Hu's continued violation the strata's noise bylaws. I address the amount of fines at issue below. The strata asks that Mr. Hu's claims be dismissed.
5. In ST-CC-2024-007153, the strata counterclaims against Mr. Hu for bylaw enforcement. It seeks orders that Mr. Hu pay its reasonable legal costs under SPA section 133, pay it \$1,600 in bylaw fines, and be restricted from vacuuming more than 5 minutes per day and only between 10 am and 5 pm.
6. Mr. Hu disagrees with the strata and says the noise made from his vacuum was not unreasonable and complies with the City of Vancouver's noise bylaw. I infer he asks that the strata's counterclaim be dismissed.
7. As explained below, I refuse to resolve Mr. Hu's harassment claim. I also find the strata must immediately reverse all bylaw fines it imposed against Mr. Hu for using his vacuum on the LCP patio and terrace since October 2023. I dismiss the parties' remaining claims.

## JURISDICTION AND PROCEDURE

8. 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.
9. 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. I find I am properly able to assess and weigh the documentary evidence and submissions before me. I am satisfied an oral hearing is not necessary in the interests of justice, so I decided to hear this dispute through written submissions.
10. 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.
11. The CRT case manager expedited adjudication of this dispute at the strata's request, which was approved by CRT vice chair on October 24, 2024.

### ***Harassment claim***

12. Mr. Hu claims compensation for harassment. He did not provide any submissions about his harassment claim, but did say some council members had proceeded with a criminal harassment claim against him in BC Provincial Court. It appears those proceedings have been stayed, although further details were not provided. In any event, I will not address those proceedings further given the CRT does not have jurisdiction over criminal matters.
13. I also note Mr. Hu provided 2 unrelated letters from the strata and labelled them "discrimination" letters. The first is a September 25, 2024, letter from the strata alleging he placed paving stones over existing paving stones on a common property walkway leading to SL2 and asked that he remove them for safety reasons. The

second letter is dated December 12, 2024 and states the strata deleted his FOB access to the amenity rooms citing his breach of conditions of a Provincial Court order. He made no submissions about the letters, so I decline to address them.

14. For completeness, I have also considered the strata's argument that the CRT does not have jurisdiction over civil harassment claims. It cites CRTA section 119. However, I note that provision only applies to the CRT's small claims jurisdiction. For the following reasons, I find Mr. Hu's claims of harassment are outside the CRT's strata property claim jurisdiction.
15. First, section 121(1) of the CRTA says CRT has jurisdiction over a claim, in respect of the SPA, concerning one or more listed areas including the interpretation or application of the SPA, or a regulation, bylaw or rule under the SPA, common property, use or enjoyment of a strata lot, money owing, and actions or decisions by a strata corporation against an owner. Absent a bylaw about harassment, as is the case here, I find Mr. Hu's harassment claims do not fall within CRTA section 121(1) and are therefore outside the CRT's strata property jurisdiction.
16. Next, as the strata suggests, Mr. Hu did not specify the strata council members they allege harassed them, and did not name any strata members as respondents in this dispute. So, I cannot make orders against them because they have not had the opportunity to respond to the applicants' allegations.
17. Finally, SPA section 31 sets out the standard that strata council members must meet in performing their duties. It says that each council member must act honestly and in good faith, with a view to the best interests of the strata, and exercise the care, diligence, and skill of a reasonably prudent person in comparable circumstances. I find a strata council member's standard of care would capture claims of harassment. So, I find the applicants' harassment claim is a claim under SPA section 31.
18. In *Rochette v. Bradburn*, 2021 BCSC 1752 at paragraph 82, the BC Supreme Court confirmed that the SPA does not allow another strata owner to sue for violations of section 31. This means that a strata lot owner cannot bring a claim against a strata corporation for duties owed by its strata council members under section 31.

19. The court decision in *Rochette* is binding precedent. So, I find the CRT has no jurisdiction to decide Mr. Hu's section 31 claim, as set out above.
20. Under CRTA section 10, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues.
21. For all of these reasons, I refuse to resolve Mr. Hu's harassment claim.

## **ISSUES**

22. The issues in this dispute are:
  - a. Did the strata sufficiently investigate the noise complaints?
  - b. Did the strata treat Mr. Hu significantly unfairly?
  - c. Must the strata reverse the bylaw fines?
  - d. Is Mr. Hu entitled to damages?
  - e. Must Mr. Hu pay the strata's legal fees?

## **BACKGROUND, EVIDENCE AND ANALYSIS**

23. As applicant in a civil proceeding such as this, Mr. Hu must prove his claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to information I find relevant to explain my decision.
24. The strata plan shows the strata was created under the SPA in March 2006. It consists of 63 strata lots in a 10-storey building. There are 8 2-storey townhouse-style strata lots located on the ground floor of which SL2 is one. The strata plan and photographs show there is patio located on the north side of SL2 at ground level and a terrace located on the south side. The patio and terrace are both limited common property (LCP) for the exclusive use of Mr. Hu as owner of SL2.

25. The strata's bylaws are the Standard Bylaws with several amendments filed with the Land Title Office between March 2006 and July 2022. However, the only bylaws relevant to this dispute are:

Bylaw 3(1), which states in part that:

An owner, tenant, occupant, or visitor must not use a strata lot in a way that causes a nuisance, unreasonable noise, or unreasonably interferes with the rights of other persons to use another strata lot.

Bylaw 23, which permits a maximum fine of \$200 for each bylaw contravention.

26. There is evidence of noise bylaw complaints and fines dating back to August 2022. However, the evidence here suggests the disputed fines relate to complaints made between October 2023 and November 2024. Based on the November 20, 2024 statement of account for SL2, there were fines imposed on December 18, 2023, May 1, 2024, and August 16, 2024 of \$1,400, \$200, and \$4,000, respectively. Further fines of \$2,600 were imposed on December 12, 2024 for bylaw infractions that occurred between October 2, 2024 and November 15, 2024. These fines total \$8,200. Despite the Dispute Notice and the parties' submissions, I find this is the amount of fines in dispute.

***Did the strata act sufficiently investigate the noise complaints?***

27. Under SPA section 26, the strata must enforce its bylaws. In doing so, it must act reasonably. See *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32, at paragraph 237.
28. A strata corporation's duty to enforce its bylaws includes a duty to objectively investigate alleged bylaw infractions, such as noise complaints. See for example, my decisions in *Torabi v. The Owners, Strata Plan EPS6099*, 2024, BCCRT 1164 and *Hu v. The Owners, Strata Plan EPS6099*, 2024 BCCRT 1165.
29. Noise complaints are a form of nuisance. In *The Owners, Strata Plan LMS 1162 v. Triple P Enterprises Ltd.*, 2018 BCSC 1502, the court found that nuisance is an

unreasonable interference with an owner's use and enjoyment of their property. Whether an interference is unreasonable depends on several factors, such as its nature, severity, duration, and frequency. The interference must also be substantial such that it is intolerable to an ordinary person. See *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64.

30. Living in a strata building involves some degree of give and take among neighbours when it comes to noise and other potential nuisances. See *Sauve v. McKeage et al.*, 2006 BCSC 781. This means that often a resident's subjective complaints are not enough to prove that noise is unreasonable.
31. The SPA does not set out any procedures for assessing bylaw complaints. However, in *Chorney v. Strata Plan VIS 770*, 2016 BCSC 148, the BC Supreme Court found at paragraph 52, that the SPA allows strata corporations to deal with matters of complaints for bylaw violations as it sees fit, as long as it complies with the principles of procedural fairness and its actions are not significantly unfair to any person who appears before it.

*Was the noise from SL2 unreasonable?*

32. The evidence is that, on October 30, 2023, the strata received a complaint from an owner on the 6<sup>th</sup> floor above SL2 about the noise of Mr. Hu's vacuum and that he uses it almost daily, sometime for several hours. The strata manager wrote to Mr. Hu on November 17, 2023, to advise the strata had receive 6 noise complaints between October 21 and November 14, 2023, and that Mr. Hu was in contravention of bylaw 3(1). The letter gave Mr. Hu 14 days to respond or request a hearing, failing which the strata might impose a \$200 fine for each contravention.
33. The strata sent Mr. Hu a similar letter on November 21, 2023, about a November 19, 2023, noise complaint. It does not appear that Mr. Hu responded to the strata's November 17 or 21, 2023 letters.
34. On December 18, 2023, the strata manger wrote to Mr. Hu stating the strata council decided at its November 26, 2023 council meeting to impose fines of \$1,400 for the 7 noise complaints.

35. Mr. Hu met with strata council members on December 12, 2023. Details of Mr. Hu's request and of the meeting are not before me. However, in a December 29, 2023, email to Mr. Hu from the strata manager, the strata advised that it would consider "the matter of vacuuming" in the New Year and saw no reason to "pause" the fines. The parties disagree whether the hearing was a council hearing, but nothing turns on this.
36. The next letter is dated April 16, 2024. In it, the strata manager confirmed the earlier correspondence and said the strata received a further noise complaint about Mr. Hu's use of his shop vacuum and hedge trimmer on April 10, 2024. The letter gave Mr. Hu 14 days to respond or request a hearing, failing which the strata may impose a \$200 fine. The strata suggested that Mr. Hu use a "broom, brush and dustpan", but also said it was willing to "test" the use of his vacuum and hedge trimmer for no more than 5 minutes per day between 10 am and 5 pm.
37. Mr. Hu responded on April 23, 2024, stating he did not accept the limited approval of the vacuum and hedge trimmer. He also questioned the number of complaints the strata had received.
38. I acknowledge that Mr. Hu appears to have used his vacuum for extended periods over several days to keep his LCP patio and terrace clean. However, the evidence suggests that the strata did not conduct any inspections of the patio or terrace to determine whether the noise was unreasonable. Some of the noise complaints included video evidence. Two recordings were provided into evidence, but it is not possible to accurately determine the level of noise from the video evidence. The strata says the vacuum used by Mr. Hu **can** exceed 80 decibels and that his vacuum produced noise between 70 – 80 decibels. However, it did not provide any decibel recordings into evidence, so I find the actual noise level of the vacuum is unproven.
39. Also of importance, Mr. Hu provided information about the decibel level of his vacuum, suggesting it is reasonable. The strata rejects this argument on the basis Mr. Hu is not a qualified sound expert and, therefore, cannot provide such an opinion. I agree. However, the same argument can be applied to the strata when it suggests the vacuum noise is unreasonable without any supporting objective evidence.
40. The strata also did not retain an independent third party to conduct any noise tests.



While the strata argues Mr. Hu did not request an independent noise test, I find he did not need to do so. Rather, it is the strata's duty to reasonably investigate the noise complaints, and I find it did not.

41. For these reasons, I find the strata has not proven Mr. Hu contravened bylaw 3(1) by creating unreasonable noise or nuisance. Given my conclusion, I find the strata's claim that Mr. Hu's use of his vacuum be restricted to 5 minutes per day between 10 am and 5 pm is also dismissed. I also find that I need not address Mr. Hu's significant unfairness claim.
42. It follows that the strata must reverse all noise bylaw fines imposed against Mr. Hu for using his vacuum since October 2023, and I so order.
43. To be clear, I do not find the vacuum noise is reasonable. My finding is that the strata did not prove with sufficient evidence that the noise is unreasonable. The strata's duty to enforce its bylaws is ongoing, so my decision should not be interpreted to approve Mr. Hu's use of his vacuum to clean the patio and terrace without limitation. If the strata receives further noise complaints and provides objective evidence the noise is unreasonable, proper enforcement of its bylaws under the SPA would likely be valid.
44. Even if the strata had proved Mr. Hu contravened bylaw 3(1), I would still order the strata to reverse the fines. This is because the strata did not follow the procedural requirements of SPA section 135. That provision sets out procedural requirements the strata must follow when considering bylaw fines. Under SPA section 135(1), before imposing fines, the strata must have received a complaint, and given the owner written particulars of the complaint and a reasonable opportunity to answer the complaint, including a hearing if one is requested. Under section 135(2), the strata must give the owner written notice of its decision to impose fines "as soon as feasible".
45. If a strata corporation fails to strictly follow these procedural requirements, bylaw fines can be found to be invalid. See *Terry v. The Owners, Strata Plan NW 309*, 2016 BCCA 449 and *The Owners, Strata Plan NW 307 v. Desaulniers*, 2019 BCCA 343.
46. As Mr. Hu correctly points out, the strata gave him 2 weeks to respond to the November 17 and 23, 2023, letters, but decided to impose fines at its November 26,

2023 council meeting, before the 2 weeks had expired. As for the remaining fines, there is no evidence the strata informed Mr. Hu of its decision to impose the fines as required under SPA section 135(2).

***Is Mr. Hu entitled to damages?***

47. As noted, Mr. Hu claims a total of \$5,000 for harassment and psychological damages, but he does not break down the amounts. I have refused to resolve his claim for harassment. I find his claim for psychological damages is akin to a claim for mental stress. As discussed in *Lau v. Royal Bank of Canada*, 2017 BCCA 253, there must be an “evidentiary basis” for a claim of mental distress. Given Mr. Hu did not provide any evidence to support his claim, such a doctor’s note, I find his claim for psychological damages unproven, and I dismiss it.

***Must Mr. Hu pay the strata’s legal fees?***

48. The strata is also seeking reimbursement under SPA section 133 of an undetermined amount of legal expenses it allegedly incurred to enforce its bylaws against Mr. Hu. Section 133(2) says the strata may require an owner to pay reasonable costs of remedying a bylaw contravention. Given I have found that Mr. Hu did not contravene bylaw 3(1), the strata’s claim must fail. Further, the strata did not provide any evidence to prove it paid legal expenses, such as paid invoices.

**CRT FEES AND EXPENSES**

49. 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. Mr. Hu paid \$225 in CRT fees and the strata paid \$125. Therefore, I order the strata to pay Mr. Hu \$225 for CRT fees.

50. Mr. Hu claims \$40 in dispute-related expenses for printing and scanning. However, he did not provide copies of his expenses, so I order none.

51. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Mr. Hu.

## DECISION AND ORDER

52. I refuse to resolve Mr. Hu's harassment claim under CRTA section 10(1).
53. I order the strata to immediately reverse all noise bylaw fines imposed against Mr. Hu for using his vacuum since October 2023.
54. Within 15 days of the date of this decision, I order the strata to pay Mr. Hu \$225 for CRT fees.
55. The parties' remaining claims are dismissed.
56. Mr. Hu is entitled to post-judgement interest under the *Court Order Interest Act*, as applicable.
57. 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 in which it is filed.

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J. Garth Cambrey, Tribunal Member