



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Tran v. The Owners, Strata Plan NW468*, 2025 BCCRT 834

B E T W E E N :

CAO TRAN

APPLICANT

A N D :

The Owners, Strata Plan NW468

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Peter Mennie

INTRODUCTION

1. This dispute is about a drainage system and a flooded strata lot.
2. The applicant, Cao Tran, owns a strata lot in the respondent strata corporation, The Owners, Strata Plan NW468 (strata). Mrs. Tran says that the strata failed to repair its drainage system which caused her strata lot to flood. She asks for an order that the

strata install new cove piping around her strata lot, produce all documents related to the drainage system, and pay damages for the loss of use of her strata lot. Mrs. Tran is self-represented.

3. The strata says Mrs. Tran's strata lot flooded because she removed a sump pump from her basement. It says it provided Mrs. Tran with all required documents and that it was not negligent in repairing its drainage system. A strata council member represents the strata.
4. For the reasons below, I dismiss Mrs. Tran's claims.

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 the *Civil Resolution Tribunal Act* (CRTA) section 121. 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. Neither party requested an oral hearing. The parties' credibility is not central to this dispute which largely turns on the reasonableness of the strata's decisions about how to repair and maintain its drainage system. I find that I can assess and weigh the documentary evidence and written submissions to properly decide this dispute. 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.
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.

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.

Late Evidence

9. Both parties provided evidence after the deadline set by CRT staff. Both parties also oppose the admission of the other's late evidence.
10. Mrs. Tran provided a photo of a drainpipe painted red which she says shows that a contractor marked it as blocked. She also provided two recorded phone calls between her former spouse and the owner of Top Gun Drainage Experts (Top Gun), WB, where they discussed the strata's drainage system. The strata provided emails with WB which provide further details about the recorded calls.
11. CRT Rule 1.2(2) says the CRT can waive the application of a rule or timeline "to facilitate the fair, affordable, and efficient resolution of disputes."
12. I admit the photo which is relevant evidence about whether the strata's drainage system was blocked. I find there is no prejudice to the strata because, as I discuss below, the photo does not contradict the strata's evidence.
13. I admit the recorded calls with WB. This evidence goes directly to the reasonableness of the strata's decisions about how to repair and maintain its drainage system which is the central issue in this dispute. I do have concerns about the reliability of WB's statements on the recordings. However, as I discuss below, I will address this through the weight I give WB's statements. I also admit the strata's emails with WB which provide important context and clarification about WB's statements during these calls.

Response Submissions

14. The CRT's system allows parties to make separate submissions on each of the claims raised in Mrs. Tran's Dispute Notice. The strata provided one global response submission and included a portion up to the character limit allowed under each separate claim. Mrs. Tran objects and says she had difficulty knowing what

submission related to each claim. She says the strata should have requested a character limit and not doing so was a breach of procedural fairness.

15. I disagree with Mrs. Tran's submission. The strata provided its submission with clear headings and numbered paragraphs. Its first paragraph also says which paragraph numbers relate to which claim. Mrs. Tran provided extensive reply submissions and was able to address everything raised in the strata's response. So, I find there was no breach of procedural fairness or unfair advantage to the strata in the way it provided its submissions.

Reply Submissions

16. CRT staff granted Mrs. Tran a character extension for her reply. She provided four documents totalling twenty-seven pages of reply submissions. The strata objects to Mrs. Tran's reply submissions which go beyond reply arguments and raise new allegations about the strata's insurance coverage for flood repairs, the strata breaching the *Privacy Act*, and the strata's actions at the 2025 Annual General Meeting. I find that it would be procedurally unfair to consider these additional issues when the strata did not have an opportunity to respond.
17. The strata's objection to Mrs. Tran's reply submissions also contained additional arguments and evidence. The strata was not permitted to provide a surreply. As above, for reasons related to procedural fairness, I have not considered these additional arguments and evidence in my decision.

Order for Document Disclosure

18. The strata applied to the CRT for document disclosure from Mrs. Tran. Mrs. Tran opposed all of the strata's requests. In a November 1, 2024 decision, a CRT vice chair ordered Mrs. Tran to produce (1) her home's inspection report and (2) all documents and correspondence with Mrs. Tran's insurers that address the cause of the flooding, and the water damage repairs completed to date. Mrs. Tran also had an obligation under CRT Rule 8.1 to disclose all relevant evidence, even if that evidence did not support Mrs. Tran's position.

19. Mrs. Tran provided a copy of her home's inspection report, however, she redacted some parts of the report. While I do not have an unredacted copy of the report, it appears that she did not redact any relevant information.
20. Mrs. Tran also redacted portions of her insurer's cost estimate to repair her strata lot. Specifically, she redacted her insurer's estimates about the amount of work and total cost of each line item needed in the restoration. This was relevant information because it directly addresses the scope of the water damage in Mrs. Tran's strata lot and the strata's proposed repairs. The strata provided evidence showing that the redactions were added after the CRT's disclosure order. It also provided a video of the strata's lawyer removing the redactions and a copy of the unredacted document.
21. Mrs. Tran's disclosure of her insurance documents is also incomplete. Mrs. Tran provided an email she sent on May 3, 2023 to her insurer which attached photos of her strata lot's water damage, however, she did not disclose these photos.
22. Mrs. Tran did not disclose any correspondence or documents which show how her insurer resolved her claim. The documents Mrs. Tran did disclose suggest that her insurer was prepared to repair her strata lot. On May 19, 2023, Mrs. Tran emailed the strata and said her insurer needed a copy of Top Gun's invoice so that she could move forward with repairs to her basement. The strata provided the invoice on the same day and copied her insurer. The insurer approved an estimate in August 2023 which set out the costs to restore the strata lot to its pre-loss condition. On August 25, 2023, a restoration company provided a quote for these repairs. Mrs. Tran did not disclose any documents related to her insurance claim after August 25, 2023.
23. Mrs. Tran says in her reply submissions that she cannot use her insurance funds until cove piping is installed outside her strata lot. This is not confirmed anywhere in the documents she disclosed. Despite the clear terms of the CRT vice chair's disclosure order and Mrs. Tran's obligation to provide relevant evidence under CRT Rule 8.1, I have no objective evidence about what the insurer repaired, paid out in settlement of the claim, or refused to repair. The lack of disclosure on this point is particularly

troubling because Mrs. Tran's largest damages claim is for the alleged loss of use of her strata lot.

24. I find that Mrs. Tran did not comply with the CRT's disclosure order or her obligation to disclose relevant evidence. Mrs. Tran should not have redacted her insurer's cost repair estimates, should have disclosed the photos she sent her insurer, and should have provided documents and correspondence showing how her insurance claim was resolved. All of this evidence addresses water damage repairs required in her strata lot and was captured under the CRT's disclosure order and CRT Rule 8.1.
25. Mrs. Tran argues that she redacted and did not disclose documents because she had a good faith understanding that she only needed to disclose evidence related specifically to the cause of the flooding and completed water damage repairs. I do not accept this. Mrs. Tran's property's title and email signature identify her as a paralegal. As someone with legal training, Mrs. Tran was surely aware of the importance of making full disclosure, particularly when ordered to do so. I find that Mrs. Tran deliberately redacted and withheld relevant evidence in breach of a disclosure order and CRT Rule 8.1. I will return to this finding about non-disclosure below with respect to Mrs. Tran's claim for the loss of use of her strata lot and the strata's claim for its legal fees.

ISSUES

26. The issues in this dispute are:
- a. Should I order the strata to install cove piping at SL9?
 - b. Should I order the strata to disclose documents related to its drainage system?
 - c. Is Mrs. Tran entitled to damages for the loss of use of her strata lot?
 - d. Is Mrs. Tran entitled to reimbursement of her legal fees or punitive damages?
 - e. Is the strata entitled to reimbursement of its legal fees or compensation for time spent dealing with this dispute?

EVIDENCE AND ANALYSIS

27. In a civil proceeding like this one, Mrs. Tran must prove her claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find necessary to explain my decision.

Background

28. The strata consists of forty strata lots in six separate buildings. Mrs. Tran's strata lot is SL9.

29. Mrs. Tran purchased her strata lot in 2019. She applied to the strata to renovate her strata lot, which included installing a basement bathroom and finishing the basement. The strata approved the renovation.

30. SL9's previous owner had installed a sump pump in the basement to prevent floods. Mrs. Tran's contractor removed the sump pump during the renovation. Her renovation request to the strata did not say that she would remove the sump pump. The strata says it would have asked more questions before agreeing to the renovation if it knew that Mrs. Tran was going to remove the sump pump.

31. Mrs. Tran says that the sump pump was "illegal" because it was done without a permit and contrary to the strata's bylaws. I do not accept that the sump pump was installed without a permit. An email dated July 5, 2013, from SL9's former owner said they used a professional company to install the sump pump, so I find it likely that this company did obtain any required permits. However, I agree that SL9's former owner breached the strata's bylaw 7.1(h) which required the owner to obtain the strata's prior written approval before installing the sump pump. The evidence suggests that the strata was aware of the sump pump and had no issues with its installation. However, there is no evidence that the strata ever provided its written approval.

32. SL7 and SL8, which are in the neighbouring building of SL9, had floods in 2021 and 2022. During the repairs, Top Gun recommended installing new cove piping at SL7 and SL8. Cove piping directs water away from a building's foundation and slab to

prevent basement floods. The strata approved this repair and paid Top Gun \$21,000 to have new cove piping installed at SL7 and SL8.

33. The strata says that SL8 continued to have water ingress issues despite the new cove piping, however, SL8's owner installed a transfer pump which prevented flooding. Mrs. Tran says that SL8 did not have new cove piping installed which is why it continued to experience water ingress. She relies on statements from WB where they say that Top Gun installed cove piping at SL7 and SL13 in 2022.
34. I find that Top Gun did install new cove piping at SL8. As I discuss below, I put very little weight on WB's statements. Moreover, the evidence is clear that Top Gun did repairs at SL7 and SL8 in 2022. The strata provided email correspondence among strata council members, contractors, SL8's owner, and Top Gun which all referenced repairs being done at SL8. Top Gun's quote and invoice # 202203-29 both refer to work done at 2662 Moorcroft, which is SL8's address. The strata's July 5, 2022 minutes noted that Top Gun completed drain repairs at SL8. Top Gun's report from 2022 also said that SL7 and SL8 were "clear and flowing nicely since we did the repairs."
35. On January 2, 2023, a drain in Mrs. Tran's strata lot backed up and her basement flooded. The strata sent its handyperson to clear the drain, however, it was clogged with a tree root. In late January 2023, Top Gun removed the tree root and confirmed that the perimeter drain was free flowing. The strata paid Top Gun \$5,050 for this service. Top Gun recommended that the strata install new cove piping outside SL9 to prevent future flooding. It provided a quote for \$25,200 for this work.
36. The strata decided against installing new cove piping at SL9. The strata discussed this with its handyperson who did not think cove piping would solve the problem. The strata also relied on the fact that SL8 was still experiencing water ingress despite new cove piping. The strata says it did not have extra money to spend on a solution that might not work.
37. Mrs. Tran says that she experienced more flooding on February 4, February 13, and March 21, 2023. The strata says that Mrs. Tran's evidence does not prove there were

floods on February 13 and March 21, 2023. I agree that Mrs. Tran's evidence about these floods is lacking. Mrs. Tran and her former spouse sent the strata photos of the first two floods, however, the only evidence of the next two floods are statements in emails from Mrs. Tran or her former spouse. There are no photos or references to these floods in the insurance documents. Given the lack of supporting evidence, I find that the February 13 and March 21, 2023 floods either did not happen or were minor.

38. Mrs. Tran requested a hearing with the strata and, through her former spouse, asked the strata to install cove piping as recommended by Top Gun. The strata recommended that Mrs. Tran reinstall her sump pump which the strata believed would solve the flooding issues. An April 11, 2023 letter from the strata's property manager confirmed this decision and again recommended that Mrs. Tran install a sump pump.
39. The strata says Mrs. Tran never responded to the April 11, 2023 letter, and it assumed that Mrs. Tran's insurer repaired the water damage and Mrs. Tran installed a sump pump to prevent future floods.
40. Mrs. Tran says her strata lot flooded again on October 21, November 13, December 4, and December 25, 2023, and January 26, 2024. The strata says, and Mrs. Tran does not deny, that she did not report these floods to the strata. The strata says it learned about these floods in September 2024 when Mrs. Tran provided her submissions to the CRT. Again, there is very little evidence about the severity and cause of these floods, so I find that these floods either did not happen or were minor.
41. Mrs. Tran hired a plumber who attended her residence on January 26, 2024. The plumber's report says it found water and dirt around the basement drain and believed that the exterior drains were likely blocked. The plumber stated that a sump pump would not solve the problem.
42. The strata says Top Gun cleared all the drains in fall 2024. Mrs. Tran says this is a misrepresentation and points to a photo from August 2024 of a drain marked by red paint to show a clog. I do not agree that the strata misrepresented the facts. The report from the strata's handyperson says that it and Top Gun were unable to clear some of the drains on August 29, 2023, however, they successfully cleared the

remaining drains on September 4, 2023. In an email dated February 19, 2025, WB confirmed that the perimeter drains in Mrs. Tran's building were free flowing in September 2024.

43. The strata says, and Mrs. Tran does not deny, that it has not received any complaints about flooding from Mrs. Tran or any other owners in her building since Top Gun and the handyperson cleared the strata's drains.
44. In October 2024, during an atmospheric river, the strata approved a \$500 reimbursement to Mrs. Tran if she installed a sump pump in her basement. Mrs. Tran did not accept this offer.

Should I order the strata to install cove piping at SL9?

45. Section 72 of the *Strata Property Act* (SPA) and the strata's bylaw 11.1 both require the strata to repair and maintain common property. The parties agree that the drainage system is common property and is the strata's responsibility.
46. The British Columbia Supreme Court has summarized the principles of a strata's duty to repair its common property: the strata is given deference on how to fulfill this duty, the strata must implement repairs which the owners can afford, the strata's actions are assessed on a standard of reasonableness, not perfection, and choosing a "good" solution rather than the "best" solution is not unreasonable.¹
47. Mrs. Tran says the strata failed to repair its drainage system when it decided not to install cove piping as recommended by Top Gun. She asks for an order that the strata make the necessary repairs around SL9, which I infer means install new cove piping.
48. Mrs. Tran relies on the recommendations made by WB in recorded phone calls. However, I place very little weight on these recordings. WB was not aware that the calls were being recorded for use in this dispute. Mrs. Tran's former spouse asked leading questions during the calls, and WB answered vaguely without referring to any documents or notes. WB also referred to lowering pipes as a different solution, however, this was not fully explained in the calls. One of the recordings cuts off early

and Mrs. Tran provided no explanation for this. I find that these recordings are not reliable evidence.

49. Mrs. Tran also relies on a written statement from WB which she obtained from a summons request. However, I place very little weight on this evidence as well because I find that Mrs. Tran improperly influenced WB.
50. When sending the summons form to WB, Mrs. Tran stated in her August 15, 2024 email that "...this situation can be resolved without having you appear at the tribunal as long as you confirm the repairs needed the cove when you came onsite on January 21 2023." This was effectively a threat to force WB to give evidence at an oral hearing if they did not provide the evidence Mrs. Tran wanted.
51. Mrs. Tran also told WB in an email dated August 22, 2024, that she could ask the CRT to order WB to testify at a hearing. This was a misrepresentation because CRT Rule 9.1 says CRT hearings are generally held in writing and a party must request an oral hearing. Mrs. Tran never requested an oral hearing. There is also nothing in the CRT Rules which would allow me to order an unwilling third party to give oral evidence. In this same email, Mrs. Tran sent WB a report which suggested there was mould in her home, mentioned she had a four-year-old child which she needed to keep safe, and asked WB to do "the honourable thing."
52. I find these emails tainted WB's evidence to the point where I cannot rely on WB's written statement. Mrs. Tran's communications to WB included misrepresentations about forcing WB to testify if they did not give the evidence she wanted and statements meant to draw sympathy. WB also sent an email to the strata on October 11, 2024, where they agreed that cove piping may not be the best solution and lowering perimeter drains may be better. I conclude that WB's evidence is equivocal and does not establish that cove piping at SL9 is currently necessary.
53. I note that Mrs. Tran alleges that the strata attempted to "tamper with or coerce" WB because the strata member's email in October 2024 asked WB to reply "yes" or "yes with edits" to its statements. I do not agree that the strata tampered with or coerced WB. The strata member summarized a phone call with WB and gave WB the option

to correct those statements. Unlike Mrs. Tran, the strata member did not threaten any sort of sanction if WB provided different evidence. WB made no corrections, so I find that the strata council member accurately summarized the conversation.

54. With that all said, I do agree with Mrs. Tran that Top Gun's previous owner recommended that the strata install cove piping outside Mrs. Tran's home in 2023. This is stated in an email from Top Gun dated February 17, 2023. The issue is whether it was reasonable for the strata to disregard this recommendation. I find that the strata acted reasonably for three reasons.
55. First, I accept the strata's evidence that the installation of cove piping in SL8 did not stop water ingress. This means Top Gun's recommendation about how to fix the flooding in the building next to SL9 was not successful. So, I find that it was reasonable for the strata to conclude that cove piping would not be an effective solution for flooding in SL9 as well.
56. Second, the strata voted in 2021 to wind up and sell to a developer. While these plans were put on hold in March 2023, the strata is now listed for sale after favourable zoning changes. This does not mean the strata was entitled to ignore its duty to repair and maintain common property. However, I find that it was reasonable for the strata to try to avoid large repair expenses when it was seeking to wind up in the near future, especially when it was uncertain whether the repairs were necessary or would be effective.
57. Third, the strata chose to rely on the opinion from its handyperson as well as a member of its council, BM, rather than Top Gun. The handyperson is a licensed electrician who has experience managing strata complexes and monitoring drainage systems. BM is a professional engineer with over thirty years' experience in the design and construction of wastewater infrastructure. Mrs. Tran argues that the handyperson is biased because they are related to a strata council member. I disagree. The handyperson's correspondence and reports in evidence all appear to be objective and professional. I find that it was reasonable for the strata to rely on the handyperson and BM who both had relevant experience involving drainage systems.

58. While the strata's decision should not be assessed in hindsight, I note the strata's uncontradicted evidence that there were no reported floods in Mrs. Tran's building during the 2024 atmospheric river. This suggests that the strata's decision to ensure its drains were clear rather than install cove piping was not only reasonable but also correct.
59. I have reviewed the parties' evidence and can find nothing which suggests that the strata failed to repair and maintain its drainage system. Since 2018, the strata has cleaned out its perimeter drains every two years and its catch basins each November. The strata was proactive in addressing the 2023 floods when it sent its handyperson and then hired Top Gun to clear out the drains. Mrs. Tran did not report floods after April 2023 to the strata, and I find that the strata cannot be negligent for failing to address problems it was unaware of.
60. To summarize, cove piping did not stop water ingress in SL8, the strata wished to avoid large expenses when it was attempting to wind up, and the handyperson and BM both had expertise which led them to believe that cove piping was not required. The strata is entitled to deference on how to make these decisions, and I find that it was reasonable for the strata to disregard Top Gun's recommendation in these circumstances. So, I dismiss Mrs. Tran's claim for an order that the strata install cove piping at SL9.

Should I order the strata to disclose documents related to its drainage system?

61. Mrs. Tran asks for an order that the strata produce all records respecting inspection, repair, and maintenance of all the strata's perimeter drains. Both her Dispute Notice and submission make this request broadly and do not refer to any specific document.
62. SPA section 35 sets out records a strata corporation must prepare and retain. SPA section 36(1)(a) says on receiving an owner's records request, the strata corporation must make the records referred to in section 35 available for inspection and must provide copies upon payment of any applicable fee.

63. The strata says that it has complied with SPA sections 35 and 36. It provided evidence showing that it had made all documents it had in its possession available for Mrs. Tran or her former spouse's inspection.
64. Mrs. Tran applied to the CRT for document production at an earlier stage in this dispute. In a preliminary decision dated February 6, 2025, a CRT vice chair found that Mrs. Tran's request for documents and correspondence was essentially a "fishing expedition" because she had not established that any of these documents existed. I find the same is true here. Mrs. Tran has not identified any documents which exist that the strata has failed to provide contrary to SPA sections 35 and 36. So, I dismiss Mrs. Tran's claim for document disclosure.

Is Mrs. Tran entitled to damages for the loss of use of her strata lot?

65. In her Dispute Notice, Mrs. Tran seeks an order that the strata pay \$2,860 per month from January 2023 until present for the loss of use and enjoyment of her strata lot. In her submissions, she claims \$63,370.93 in general damages, \$3,554.78 for mould remediation, \$1,326.88 for damage to her furnace during a flood, \$252 for money paid to a plumber, and \$208.88 for the cost of a dehumidifier.
66. Mrs. Tran makes this claim on the basis that the strata was negligent and under the law of nuisance. Past CRT decisions have held that common law tort claims are within the CRT's strata property jurisdiction because the strata must fulfill its repair and maintenance obligations in a manner that is not negligent and does not cause a nuisance.² I agree with this reasoning and have considered Mrs. Tran's claims in this context.
67. Under the law of negligence, the strata must act reasonably in carrying out its duty to repair and maintain common property.³ Under the law of nuisance, the strata must not cause a substantial and unreasonable interference with an owner's use and enjoyment of their property.⁴ The applicable test for negligence or nuisance is essentially the same and is informed by the analysis under SPA section 72. Mrs. Tran must prove that the strata failed to take reasonable steps to repair and maintain its common property which caused water damage in her strata lot.

68. The difficulty for Mrs. Tran is that there is no evidence that the strata acted unreasonably in maintaining its drainage system. As I discussed above, the strata was permitted to ignore Top Gun's recommendations and it implemented a regular drain cleaning schedule. The strata is responsible for damages only if it has negligently failed to repair and maintain the common property at issue.⁵ So, I dismiss Mrs. Tran's claim for negligence and nuisance.
69. Mrs. Tran also says that the strata acted in a significantly unfair manner. The basis of a significant unfairness claim is that a strata corporation must have acted in a way that was "burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust or inequitable."⁶ In applying this test, the owner's reasonable expectations may be relevant but are not determinative.
70. A previous CRT decision found that an owner cannot reasonably expect a strata corporation to go beyond the duty it owes under SPA section 72.⁷ I agree with this reasoning. I found above that the strata fulfilled its duty to repair common property under SPA section 72. So, I find that Mrs. Tran could not reasonably expect the strata to go beyond its statutory obligation.
71. I also find there is no evidence that the strata acted in a manner rising to the level of significant unfairness. I do not accept Mrs. Tran's allegation that the strata treated her unfairly by installing cove piping at SL7 and SL8 but not at SL9. As I discussed above, the strata noted that cove piping was not effective at SL8 and reasonably concluded that it would not be an effective solution for SL9.
72. If I am wrong in my findings about the reasonableness of the strata's decisions, then I would have dismissed this claim in any event. It is well-established law that Mrs. Tran had a duty to mitigate her losses and cannot recover damages which she could have avoided by taking reasonable steps.⁸ Here, I draw an adverse inference against Mrs. Tran for failing to produce relevant documents related to her insurance claim. This means I will assume that Mrs. Tran's insurer was prepared to pay for the water damage repairs and Mrs. Tran's strata lot could have been fully restored in fall 2023.

I find that Mrs. Tran failed to mitigate her damages because she did not use her insurance to repair her strata lot.

73. I also find that Mrs. Tran has not proven that her strata lot is uninhabitable. The photos she provided are not dated and only show some mould that could be easily cleaned and other minor damage not obviously related to a flood. The estimate for mould remediation she provided does not say that anyone inspected her home or that there is currently mould. There is no objective evidence to prove that Mrs. Tran lost the use of half of her strata lot, as she alleges in her Dispute Notice.
74. Finally, I acknowledge the strata's argument that Mrs. Tran removed her sump pump without the strata's approval, and that she should be responsible for any damage under the parties' indemnity agreement. While SL9's previous owner failed to obtain strata approval before installing the sump pump, that does not mean Mrs. Tran could do the same. I find that Mrs. Tran breached bylaw 7.1(h) because she did not obtain approval before removing the sump pump which was connected to the plumbing.
75. With that said, the fact that SL9's previous owner experienced no floods after the sump pump was installed does not mean the sump pump would have prevented Mrs. Tran's floods. The only evidence I have on this point is the plumber's report which says the sump pump was installed in a different part of the basement so it would not have prevented these floods. So, I find that the strata's argument is unproven because it did not provide any independent expert evidence saying the sump pump would have stopped the floods.

Is Mrs. Tran entitled to reimbursement of her legal fees or punitive damages?

76. Mrs. Tran's Dispute Notice claims \$3,500 for special costs. In her submissions, she clarified that she is asking for \$2,945.51 for her legal fees.
77. CRT Rule 9.5(3) says that the CRT will not order one party to pay another party's legal fees in a dispute unless there are extraordinary circumstances which make it appropriate. Rule 9.5(4) goes on to say that in determining whether a party must pay the fees that a lawyer charged to another party, the CRT may consider:

- a. the complexity of the dispute,
- b. the degree of involvement by the representative,
- c. whether a party or representative's conduct has caused unnecessary delay or expense, and
- d. any other factors the CRT considers appropriate.

78. Past CRT decisions have applied the law on special costs as part of the analysis under CRT Rule 9.5(4)(d). Special costs are ordered against a party when their conduct in the litigation is deserving of rebuke or blame.⁹ While this is not binding on me, I agree that this type of analysis is appropriate.

79. Mrs. Tran argues that she should receive special costs because of the strata's conduct in this CRT dispute. She makes allegations about the strata misleading the CRT, abusing the CRT's process, fabricating evidence, tampering with witnesses, and acting in bad faith. I dealt with specific allegations about the strata coercing WB and being dishonest about the blocked drainpipe in August 2024 above. I find no merit in any of these other allegations about the strata's conduct. Mrs. Tran was not successful in any of her claims and there are no extraordinary circumstances which would justify reimbursement of Mrs. Tran's legal fees. So, I dismiss this claim.

80. Though not raised in her Dispute Notice, Mrs. Tran also claimed \$10,000 in punitive damages in her submissions. Punitive damages are awarded to deter a wrongdoer's conduct rather than to compensate a victim. They are only awarded where the wrongdoer's conduct is so outrageous or egregious that the court, or CRT, wants to condemn it.¹⁰ I dismiss this claim as well on the basis that the strata acted reasonably both in repairing its drainage system and in its conduct in this CRT dispute.

Is the strata entitled to reimbursement of its legal fees or compensation for time spent dealing with this dispute?

81. The respondent claims \$10,000 for its legal costs. As noted above, CRT Rules 9.5(3) and (4) apply and the CRT will not order reimbursement of a party's legal expenses except in extraordinary circumstances.
82. In the parties' previous CRT decision, the tribunal member found that Mrs. Tran had made multiple allegations of bad faith, fraud, and other blameworthy conduct that were not proven on the evidence. The tribunal member noted that these unproven allegations could attract a special costs award. However, the tribunal member ultimately found that Mrs. Tran was motivated by a "misguided but genuine belief" that the strata had not fulfilled its legal duties.¹¹
83. I am not persuaded that Mrs. Tran should receive the benefit of the doubt a second time. As discussed above, Mrs. Tran failed to comply with a disclosure order, made improper statements to WB when obtaining evidence, and made meritless allegations against the strata that went far beyond what was reasonable in the circumstances. I find this was conduct deserving of rebuke. Mrs. Tran's actions also unnecessarily complicated this matter which, at its core, is a simple dispute about the strata's decision on drainage repairs. Considering this altogether, I find these are extraordinary circumstances and that it is appropriate to order Mrs. Tran to pay for the strata's legal fees.
84. I turn to the strata's claimed \$10,000 for its legal fees. The strata's legal expenses must be reasonable in the circumstances.¹² The strata's lawyer provided a letter explaining their involvement in this dispute. Past CRT decisions have accepted a letter as evidence to avoid issues with privilege,¹³ and I accept this is a reasonable approach. The strata's lawyer charged \$350 per hour and billed \$6,234 in this dispute up to December 2, 2024. The lawyer estimated that they would require another \$2,000 for unbilled time, finalizing arguments, and responding to Mrs. Tran's reply.
85. I find that \$350 per hour for a lawyer called to the bar for eight years is reasonable. I allow the \$6,234 which I also find to be a reasonable fee for a lawyer to review and

respond to all of Mrs. Tran's evidence, allegations, and legal claims. I do not allow the additional \$2,000 which is only an estimate and, in any event, I did not consider the strata's surreply. I also do not allow the disbursements which appear to have been charged to the strata because there is no evidence about what these disbursements were for. Adding GST and PST to the \$6,234 equals \$6,982.08, and I order Mrs. Tran to pay the strata this amount.

86. The strata also claims \$300 and \$750 for time spent on this dispute by two of its council members, LJ and BY. CRT Rule 9.5(5) says that the CRT will not order a party to pay compensation for time spent dealing with a CRT proceeding except in extraordinary circumstances. The strata provided a timesheet which says that LJ spent 71.5 hours and BY spent 171 hours working on this dispute. While I accept that this dispute was time consuming, the time entries do not say what LJ and BY were doing so I cannot determine whether these hours are reasonable. So, I find that this claim is unproven. Nothing in this decision prevents LJ and BY from claiming compensation for their time from the strata under the bylaws.

CRT FEES AND EXPENSES

87. 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. Mrs. Tran was not successful, so I do not order any reimbursement of her CRT fees. The strata did not pay any CRT fees. I dealt with the parties' claims for dispute-related expenses above.
88. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against Mrs. Tran beyond what I have ordered above.

ORDERS

89. I dismiss Mrs. Tran's claims.
90. Within 30 days of the date of this decision, I order Mrs. Tran to pay the strata \$6,982.08 for its legal fees.

91. The strata is entitled to post-judgment interest, as applicable.
92. This is a validated decision and order. 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.

Peter Mennie, Tribunal Member

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- ¹ *Dolnik v. The Owners, Strata Plan LMS 1350*, 2023 BCSC 113, at paragraph 69.
- ² *Almasry v. The Owners, Strata Plan EPS1991*, 2023 BCCRT 750, at paragraphs 23 to 25.
- ³ *Weir v. Strata Plan NW 17*, 2010 BCSC 784, at paragraph 23.
- ⁴ *The Owners, Strata Plan LMS 1162 v. Triple P Enterprises Ltd.*, 2018 BCSC 1502, at paragraph 33.
- ⁵ *John Campbell Law Corp. v. Owners, Strata Plan 1350*, 2001 BCSC 1342, at paragraph 18.
- ⁶ *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, at paragraphs 80 to 95.
- ⁷ *Dolnik v. The Owners, Strata Plan LMS 1350*, 2024 BCCRT 88, at paragraph 38.
- ⁸ *Southcott Estates Inc. v. Toronto Catholic District School Board*, 2012 SCC 51, at paragraph 24.
- ⁹ *Garcia v. Crestbrook Forest Industries Ltd.*, [1994] B.C.J. No. 2486 (BC CA).
- ¹⁰ *Hill v. Church of Scientology of Toronto*, 1995 CanLII 59 (SCC), at paragraph 196.
- ¹¹ *Tran v. The Owners, Strata Plan NW468*, 2022 BCCRT 575, at paragraphs 179 to 180.
- ¹² *Wanson (Bristol) Development Ltd. v. Sahba*, 2019 BCCA 459, at paragraph 13.
- ¹³ *Parpia v. The Owners, Strata Plan LMS 94*, 2021 BCCRT 575, at paragraph 36.