

Lo v. The Owners, Strata Plan LMS4555, 2026 BCCRT 1357

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Civil Resolution Tribunal

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Civil Resolution Tribunal

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B E T W E E N :

EDITH LO and YOUNG KWEE TANG KOON CHEONG

APPLICANTS

A N D :

The Owners, Strata Plan LMS4555

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Deanna Rivers

INTRODUCTION

1. The applicants, Edith Lo and Young Kwee Tang Koon Cheong, own strata lot 285 (SL285) in the respondent strata corporation, The Owners, Strata Plan LMS4555. The applicants have complained to the strata about noise from strata lot 291 (SL291), directly above them.

2. The applicants say the strata failed to enforce its bylaws. They ask for orders that the strata properly investigate their complaints and enforce the bylaws. They also ask for \$5,000 in damages for the ongoing noise and nuisance, which they say unreasonably interfered with their quiet enjoyment of their strata lot. Finally, they allege the strata council is biased against them.
3. The strata denies the applicants' allegations. It says it carried out investigations, worked with the parties to resolve the issues, and acted honestly, in good faith, and in the best interests of the strata.
4. Ms. Lo represents both applicants. A strata council member represents the strata.
5. For the reasons that follow, I find the strata must investigate the noise in SL285 and pay the applicants \$1,000 in damages for significantly unfair conduct. I dismiss the applicants' remaining claims.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over strata property claims under *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.
7. 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.

8. 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. Under CRTA section 123, in resolving this dispute the CRT may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.
9. In their submissions, the applicants refer to several CRT decisions that either do not exist or do not say what they claim. Where the cited neutral citations correspond to real cases, those cases do not support the legal principles the applicants say they do. For example, they cite *Strata Plan NW 2772 v. Chen*, 2021 BCCRT 543, for the proposition that a strata has a duty to enforce flooring bylaws. However, neutral citation 2021 BCCRT 543, is *Forrester v. Roberts*, which concerns a puppy's veterinary expenses. There are similar problems with the applicants' other authorities.
10. It is unclear whether the applicants intentionally attempted to mislead the CRT or whether they relied on artificial intelligence (AI) that generated false case references. CRT Rule 8.3(8) prohibits parties from submitting non-existent cases created by AI. CRT Rule 10.5 allows a tribunal member to order one party to pay another party compensation for time spent dealing with a proceeding where a party has misled the CRT, including by providing false cases created by AI. However, the strata has not asked for compensation.
11. In any event, the CRT is not required to address arguments that have no basis in law. While I have reviewed all of the applicants' evidence and submissions, I have addressed only those matters that are relevant to my decision.

ISSUES

12. The issues in this dispute are:
 - a. Did the strata fail to investigate and enforce the flooring bylaws? And if not, what is the remedy?

- b. Did the strata fail to investigate and enforce the noise bylaws? And if not, what is the remedy?
- c. Was the strata council biased against the applicants?

EVIDENCE AND ANALYSIS

- 13. In this civil dispute, the applicants must prove their claims on a balance of probabilities. This means it is more likely than not to be true. I have read all the parties' evidence and submissions but refer only to what is necessary to explain my decision.
- 14. The strata was created in 2001 and consists of 406 residential strata lots in a 34-floor building. The applicants live in SL285 on the 15th floor. SL291 is directly above them.
- 15. On May 30, 2024, the strata repealed and replaced its bylaws, and has periodically amended its bylaws since then. I discuss the relevant bylaws in more detail below.

Did the strata reasonably investigate and enforce its bylaws?

- 16. The applicants say the strata failed to enforce its bylaws or address their ongoing complaints about noise transmission from SL291. The strata says it investigated the applicants' complaints to the best of its ability.
- 17. *Strata Property Act* (SPA) section 26 requires the strata to exercise its powers and perform its duties, including enforcing bylaws. The strata must act reasonably when carrying out those duties. This includes reasonably investigating alleged bylaw contraventions, such as noise complaints. Previous CRT decisions have found that failing to reasonably investigate and enforce bylaws can be significantly unfair. See for example, *Dhanani v. The Owners, Strata Plan NW 2265*, 2021 BCCRT 282.

Did the strata fail to investigate or enforce Bylaw 5?

- 18. In the Dispute Notice, the applicants ask for sound testing and an order that the strata fine SL291 daily until it has proved the flooring is compliant. In submissions,

the applicants ask for orders that the strata investigate whether SL291's flooring complies with the bylaws, and confirm whether SL291 received approval for the flooring in accordance with the bylaws.

19. Bylaw 5(1)(j) says an owner must obtain the written approval of the council before making an alteration to the strata lot's flooring. Bylaw 5(4) says that an owner who changes flooring involving a hard surface must sign and return a Hardwood Floor / Hard Floor Authorization Agreement to the strata.
20. Under bylaws 7(8) and (9), the council may require professional supervision or inspection of approved alterations at the owner's cost.
21. The applicants first complained of noise from SL291 in January 2022, and made further complaints after that which I discuss below. On May 13, 2024, Ms. Lo forwarded a complaint form to the strata asking the council to review the flooring installed in SL291. On May 22, 2024, SL291's owner advised that they installed approved floating flooring in 2009. The strata then asked SL291 for a copy of the approval letter.
22. The evidence shows neither the strata nor SL291's owners still have the 2009 approval. There was no requirement for the strata to retain correspondence relating to a 2009 alteration. Under SPA section 35(2)(k) and *Strata Property Regulation* section 4.1(5), the strata is required to keep correspondence sent to or received by the strata for at least 2 years. Previous CRT decisions have found this includes approvals for alterations. See *Liu v. The Owners, Strata Plan KAS1908*, 2021 BCCRT 870 at paragraph 29. Given the age of the alteration and the absence of evidence that the installation was unauthorized, I find the strata was entitled to accept SL291's statement that the flooring was approved in 2009.
23. The applicants further questioned SL291's flooring compliance in June and August 2024.
24. While the applicants say they believe the 2009 flooring did not comply with the bylaws when it was installed, bylaw 5 does not contain any specific requirements for

underlay other than strata approval. Further, while bylaw 7 gives the strata discretion to inspect alterations, it does not require the strata to do so.

25. The applicants refer to *Moojelsky v. Strata Plan K 323 et al*, 2019 BCCRT 698, as a decision where a strata was ordered to investigate noise from unapproved flooring and pay damages. However, in that dispute, the CRT did not order the strata to investigate the flooring. It ordered the strata to investigate the source of the noise in Ms. Moojelsky's strata lot and identify the best way to eliminate or reduce it.
26. I find applicants have not proved the strata failed to enforce bylaw 5 with respect to the 2009 flooring.
27. The parties agree that SL291 replaced its flooring again in 2025.
28. The applicants say the strata has not provided evidence SL291's new flooring complies with the bylaws. They argue some of the supporting documents are unsigned or incomplete. However, the evidence includes a signed Alteration/Renovation Application Checklist and Indemnity Agreement dated February 15, 2025. Further, the strata says the installation was completed to its satisfaction.
29. The applicants note that the strata's approval is dated February 2025, while the strata council minutes state the new flooring was approved in May 2024. While I agree the dates are inconsistent, I find that inconsistency is not material to whether SL291's flooring installation complies with the bylaws.
30. Given the evidence, the applicants have not proved that SL291's 2025 flooring installation failed to comply with bylaw 5. For these reasons, I dismiss the applicants' claim that the strata failed to investigate or enforce bylaw 5.
31. The applicants also complain they did not receive any confirmation of steps taken by strata after their complaints, and ask for an order for daily fines against SL291 until they have proved they are complying with the bylaws. Given my findings above, I dismiss this claim. In any event, the strata has discretion about how to enforce its bylaws, as long as it complies with principles of procedural fairness and

does not act in a significantly unfair way. See *Chorney v. Strata Plan VIS 770*, 2016 BCSC 148 at paragraph 52. I find the applicants are not entitled to direct the strata in its enforcement, or to written reasons for its decisions.

Did the strata fail to reasonably investigate or enforce bylaw 3?

32. The applicants say the strata did not reasonably investigate their noise complaints and improperly reversed fines issued against SL291. In the Dispute Notice, they ask for an order that the strata perform sound testing and claim \$5,000 in damages for loss of quiet enjoyment of their property.
33. In submissions, the applicants ask for additional orders requiring the strata to retain an acoustic professional to assess the impact noise transmission and provide the assessment and reasons to them. They also ask for orders requiring the strata to enforce its nuisance bylaw fairly, consistently, and reasonably, including by documenting its investigations, applying enforcement measures where bylaw breaches are established, and providing written decisions with reasons.
34. The strata disputes the applicants' allegations. It says that it investigated the noise complaints with SL291's owners and worked with them to reduce noise transfer. It says it decided not to conduct noise testing because SL291 replaced its flooring.
35. First, as I note above, the strata has discretion about how to enforce its bylaws. So, I find the applicants are not entitled to a written explanation of the strata's investigation, to direct the strata in its enforcement, or to written reasons for its decisions.
36. Bylaw 3(1)(a) to (c) prohibits residents from using their strata lots in a way that creates a nuisance, unreasonable noise, or unreasonable interference with another person's use and enjoyment of their strata lot. Bylaw 3(2) further states that residents are entitled to quiet and peaceful enjoyment of their strata lots and that unreasonable noise is not permitted.
37. Not every noise amounts to a legal nuisance. In a strata setting, a nuisance is a noise that substantially interferes with a person's use and enjoyment of their strata

lot and is unreasonable in the circumstances. See *The Owners, Strata Plan LMS 1162 v Triple P Enterprises Ltd.*, 2018 BCSC 1502 at paragraph 33 and *Antrim Truck Centre Ltd. v. Ontario (Transportation)*, 2013 SCC 13 at paragraph 19 to 24. So, even if noise originates from SL291, bylaw 3 only prohibits unreasonable noise. Some amount of noise is to be expected in a shared residential building. Similarly, bylaw-compliant flooring does not necessarily mean there is no bylaw breach, because a person's activities may still create unreasonable noise.

38. The test for whether noise amounts to a nuisance is objective. This means the question is not whether a particular person is bothered by the noise, but whether a reasonable person living in the strata lot would consider the noise unreasonable in the circumstances. Relevant factors include the noise's nature, severity, duration, and frequency, and the nature of the building or neighbourhood. See *Sauve v. McKeage et al.*, 2006 BCSC 781 at paragraph 18 and *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64 at paragraph 77.
39. A person's complaints alone will not usually be enough to prove that noise is unreasonable. See the non-binding decision of *McCrossan v. The Owners, Strata Plan NW2847*, 2023 BCCRT 537 at paragraph 26. Objective evidence may include observations from neutral witnesses, sound testing, or reports from a qualified expert.
40. The applicants first complained of nighttime running or thumping sounds in January 2022. The strata asked them to complete a bylaw complaint form and provide details of the alleged noise. On October 15 and 16, 2022, Ms. Lo texted the strata concierge complaining of screaming, running, and objects being dropped after 1:00 a.m. On October 16, the concierge replied that he had tried to knock on SL291's door, but no one answered. While Ms. Lo's texts suggest the concierge also heard the noise, there is no statement from the concierge in evidence.
41. I infer the strata fined SL291, because the November 24, 2022 council meeting minutes state that there had been a series of noise complaints over the previous 6 months. The minutes note the concierge had attended the suite but was not able to

verify the disturbance or speak with the resident. The minutes also state that the council could not confirm the source of the noise. SL291's owner told the strata that her son was the only resident. The strata voted unanimously to reverse the fines until it better understood the situation.

42. The applicants made further complaints between November 25 and 29, 2022, on December 24, 2022, and in February 2023. Those complaints again reported running and loud dropping sounds after midnight. The January 26, 2023 council meeting minutes state the council reviewed the complaints and directed the concierge team to verify future complaints. Ms. Lo's February 13, 2023 text stated the concierge confirmed the noise. However, the concierge's responding text states he placed his ear to SL291's door but did not hear anything. I infer the concierge could hear noise while in SL285, but could not confirm that it came from SL291. On March 2, 2023, the strata sent 4 bylaw contravention letters to SL291 relating to complaints from February 5 to 14, 2023.
43. On May 2, 2024, the applicants sent the strata a noise log covering January 9 to April 28, 2024. The log reported loud, unexpected, and sudden noises. In a May 22, 2024 email, SL291's owner stated the resident did not wear shoes indoors and noted there had been no complaints from 2009 until 2022. They invited the strata to inspect the flooring and noted they had put carpets down. They said there was no one in the unit when some of the reported incidents occurred, and provided hotel receipts for April 23 to 26, 2024. They also said their son was away the following week. I note that the applicants' noise log reports loud dropping sounds during the night on April 23 and from April 25 to 28.
44. On June 5, 2024, the strata told the applicants that it had sent a bylaw contravention letter to SL291 and asked the applicants to provide weekly noise logs. On June 22, the applicants emailed that the running noise had stopped, but that dropping sounds continued. The June 26 council meeting minutes show that the strata levied a fine in response to the noise complaints. On June 28, SL291 emailed that the unit had been vacant for the previous month as their son was away. Again, I note the applicants' noise logs record loud dropping sounds and slamming noises

throughout June. The applicants say the strata checked the fob access data but did not provide them with other details of their investigation.

45. In July 2024, SL291 asked again for an inspection of both strata lots to establish the source of the noise, and said the applicants had refused to allow an inspection the previous year. The July 31, 2024 minutes note the council reversed the fines against SL291. The minutes state that no further action would be taken, but also that the council discussed having a mechanical contractor investigate the source of the noise.
46. The applicants continued to complain of dropping sounds from June to October 2024. In August, the applicants noted that the dropping noise had reduced except for occasional accidental sounds. On August 12, 2024, the strata told the applicants that the resident of SL291 was not at home during the majority of the noise incidents they reported. The applicants replied that the noise reduction after their complaints proved that SL291 was the source.
47. On December 12, 2024, a proposal from BAP Acoustics, an acoustic engineering firm, noted that in concrete buildings, it was possible that impact noise from adjacent units could appear to come from the unit above. It recommended impact sound transmission tests between all adjacent units.
48. The strata was entitled to rely on the applicants' complaints when issuing bylaw contravention letters to SL291 without first investigating the alleged violations. Had SL291 admitted the violations, there would be no reason for further investigation. After SL291 disputed the complaints and provided a response, the strata reversed the fines. I find the strata reasonably concluded there was insufficient evidence to support the fines.
49. Although the applicants say they have recordings of the noise, they did not submit them as evidence, explaining that impact noises do not record well. They say the sounds are caused by running or weight lifting.

50. Given the evidence noted above, and particularly that the reported noise consisted of intermittent impact sounds, sometimes occurring once to multiple times in a night, including when SL291's occupants were not at home, I find the applicants have not proved SL291 caused the noise.
51. I also find the applicants have not proved the alleged noise amounted to a nuisance. While I accept that the applicants have experienced recurring noise in SL285, there is no objective evidence of the volume or duration of the noise. There is no independent evidence identifying the source of the noise. Given this, I find the applicants have not proved SL291 breached bylaw 3. As I have found the applicants have not proved that SL291 breached the bylaws, I dismiss their claim for an order that the strata take specific enforcement action.
52. However, the applicants have repeatedly complained of noise transference between the strata lots since 2022. The applicants say the noise continues even though SL291 has installed new flooring.
53. As I noted above, failing to investigate bylaw complaints can be significantly unfair. In *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, the court confirmed significantly unfair actions are those that are burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust, or inequitable. The use of the word "significant" means that the impugned conduct must go beyond mere prejudice or trifling unfairness. In applying the significant unfairness test, an owner's objectively reasonable expectations are a relevant factor.
54. I find the applicants expected the strata to adequately investigate their noise complaints, and I find that expectation was objectively reasonable. I also find the applicants have proved the strata's investigation was not adequate. Other than the concierge attending on 3 occasions, there is little evidence the strata investigated the complaints. There is no evidence it attended either SL285 or SL291. The strata did not complete the recommended impact sound testing, initially because SL291's resident was away during some of the reported incidents and later because the

flooring had been replaced. However, as noted above, compliant flooring does not necessarily mean there is no nuisance.

55. There is no evidence the strata took any independent steps to investigate the ongoing complaints. After years of repeated complaints, I find this fell short of a reasonable investigation and did not meet the applicants' reasonable expectations. I find the strata acted significantly unfairly.
56. So, I find the strata must investigate the source of the reported noise. I order the strata to hire an acoustic engineer to test the noise levels in SL285 and attempt to determine the source of the noise. The strata should provide a copy of any report to the applicants within 28 days of receiving it. Depending on the circumstances and the outcome of that investigation, the strata may take other steps it considers appropriate.
57. The applicants ask for \$5,000 for loss of the use and enjoyment of their property. I find they are effectively asking for compensation for the strata's significantly unfair conduct. CRTA section 123(2) permits the CRT to make an order remedying significantly unfair actions or decisions. So, I find I have authority to order damages in these circumstances.
58. In *Wilkins v. The Owners, Strata Plan LMS1946*, 2022 BCCRT 336, the CRT found that damages can be a remedy for significant unfairness even when the owner has not proved a nuisance. The tribunal member noted that in some circumstances, monetary damages are the only way to remedy significantly unfair actions or decisions. Here, the applicants have made noise complaints for about 3 years without an effective investigation of their complaints.
59. In *Wilkins*, the tribunal member awarded \$1,500 for a strata's failure to investigate a noise complaint. In *Skogland v. The Owners, Strata Plan NW2068*, 2026 BCCRT 1010, the CRT awarded \$750 in damages where the strata's actions were burdensome on the applicants although there was no evidence of any proven losses to the applicants. These disputes reference other decisions in similar circumstances.

60. Using these non-binding decisions as guidance, I find in the circumstances the applicants are entitled to \$1,000 in damages, and order the strata to pay them that amount.

Was the strata council biased against the applicants?

61. Finally, the applicants claim the strata council was biased against them. They say the council acted negligently and in bad faith, alleging the strata reversed bylaw fines with clear evidence and without investigation. The strata denies this allegation.
62. Bias occurs when a person is influenced by personal views, interests, relationships, or preconceived ideas, rather than deciding the matter fairly on the evidence. In *Bajwa v British Columbia Veterinary Medical Assn*, 2011 BCCA 265, at paragraph 25, the court said the test for bias is whether a reasonably informed bystander could reasonably perceive bias. This decision was in the context of an adjudicator, not a strata council, but the test is the same.
63. The applicants have the responsibility of proving their allegations are true. They provided no evidence that any member of the strata council was biased other than their belief. I find the strata reasonably reversed the fines on SL291 after a hearing and obtaining further evidence. I find no suggestion of bias or appearance of bias in the strata's actions or its investigation of the noise complaints.
64. In any event, the applicants did not claim a remedy for this. I dismiss this claim.

CRT FEES AND EXPENSES

65. 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. I find the applicants were partially successful. I order the strata to reimburse the applicants \$112.50 for half of their CRT fees. Neither party claimed dispute-related expenses.

66. While the Court Order Interest Act applies to monetary judgments at the CRT, the applicants explicitly waived their claim for pre-judgment interest in the Dispute Notice. So, I make no award.
67. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against the applicants.

ORDERS

68. I order that within 30 days of this decision, the strata must:
- a. retain an acoustic engineer or other qualified professional to investigate the noise affecting SL285 and attempt to determine its source,
 - b. pay the applicants \$1,000 in damages, and
 - c. reimburse the applicants \$112.50 for CRT fees.
69. Within 28 days of receiving any report prepared as part of its investigation, the strata must provide a copy of the report to the applicants.
70. I dismiss the applicants' remaining claims.
71. The applicants are also entitled to post-judgment interest under the *Court Order Interest Act*.
72. 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 in which it is filed.

Deanna Rivers, Tribunal Member

