

Noise disputes in old strata schemes

The recent decision of *Field v O'Grady* [2025] NSWCATCD 224 involved a noise dispute between two lot owners in a heritage listed strata building constructed 110 years ago.

The Respondent, Ms O'Grady purchased the top unit 3 on 29 February 2020 and moved in on 22 May 2020 after the removal of carpet and installing floating timber floor throughout the unit, due to her son being highly allergic to dust mite.

The Applicants, the Fields and their two children moved into the unit below on 30 July 2024. The Fields experienced extensive noise from unit 3, which greatly disrupted all facets of their lives. The Fields suffered from sleep deprivation, an inability to concentrate and an inability to work efficiently from home.

Section 153 of the *Strata Schemes Management 2015 (NSW)* outlines that owners, occupiers and other persons are not to create nuisance. While rule 14 of the *Strata Schemes Management Regulation 2016 (NSW)* operated as a by-law provided:

"14 Floor coverings

(1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot."

In October 2024, Ms O'Grady purchased a large Persian rug and laid it in the bedroom above the master bedroom of unit 2. However, loud noises, footfall and vibration in the ceiling above was still noticed in unit 3.

In September 2024, the Fields' retained an expert to conduct acoustic testing and provided numerous expert reports. The objective measurement of the L'nT, w noise measurements were taken through the floor with a finding of two stars or below, as per the Association of Australasian Acoustical Consultants ("AAAC") Guide for Apartment and Townhouse Acoustic Rating below the minimum 4-star rating required.

Generally, whether there is noise likely to disturb or interfere with the peaceful enjoyment is assessed objectively taking into account “*all relevant evidence, not just the subjective beliefs or interpretations of the applicant*”, as per *Felcher v Owners of Strata Plan No 2738 [2017] NSWCATAP 219 at [31]*. However, both the evidence provided by the Fields’ expert witness Ms Hanrahan-Tan and a noise diary Ms Field kept detailing all instances of noise events complained of including footfall, vibration and airborne noise were considered.

Remedial orders were made by the Tribunal that the Respondent was to either treat or replace the floors in a manner that the floors achieve a 4-star rating under the AAAC Guideline for Apartment and Townhouse Acoustic Rating.

Key takeaways

- The NCAT decision highlighted the obligations of strata owners to prevent noise disturbances.
- Acoustic compliance is essential, with a minimum 4-star rating required for floor coverings.
- Evidence from expert reports and noise diaries can significantly impact the outcome of noise disputes.
- Remedial orders can be issued to ensure compliance with acoustic standards in strata schemes.

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