



Mediating neighbour disputes – What you need to know about the CDRA 2015

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Overview

- The Community Disputes Resolution Tribunals (CDRT) hear disputes between neighbours that fall under the Community Disputes Resolution Act 2015 (CDRA).
- Section 4 of the CDRA sets out the statutory tort of unreasonable interference with the use or enjoyment of property.
- Some operative characteristics and considerations:
 - The Claimant (or affected party) must be the Respondent's neighbour in order to bring a claim.
 - A neighbour is someone who lives in the same building as the Respondent or within 100 m of the latter.
 - Parties who live in the same residence are not neighbours for the purposes of the CDRA (e.g. subtenants living in the same apartment).
 - Parties are not allowed to have legal representation in CDRT proceedings unless (1) the opposing party gives consent for this and (2) the tribunal grants permission.

Overview

- Section 5 of the CDRA sets out orders which the court may make when the statutory tort is proven at first instance.
- Remedies include damages, an injunction, or an order for specific performance.
- In general, damages are predicated on an ability to prove loss.

How does this relate to the work of mediators?

- If a mediated settlement is not possible, the aggrieved party may have to resort to filing a claim under the CDRA. The aggrieved party bears the legal burden of proof.
- To use technical language, such a claim (and its attendant risks) would be the BATNA (best alternative to a negotiated agreement).

Structure and Coverage



Key Features of the
CDRA 2015

Suggested
Approaches to
Mediation

Case Studies

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Key Features of the CDRA 2015

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Community Disputes Resolution Act 2015

Tort of interference with enjoyment or use of place of residence

4.—(1) An individual who resides in a place of residence (called in this Part the respondent) **must not**, by his or her **act or omission**, directly or indirectly, and whether intentionally, recklessly or negligently, **cause unreasonable interference with his or her neighbour's enjoyment or use of the place of residence** that the neighbour resides in.

Features of the Statutory Tort

- The Claimant or aggrieved party bears the legal burden of proving his/her case on a balance of probabilities.
- Key consideration: alleged interference must relate to the enjoyment or use of a “place of residence”.
- Section 3 of the CDRA defines “place of residence” to mean a house, a flat, an apartment or other dwelling place used for the purpose of residence.
- Hypothetical: Would C succeed against R under the CDRA if R damages C’s bicycle in the car park?

Acts or omission which may cause interference



**Excessive noise,
smell, smoke,
light or
vibration**



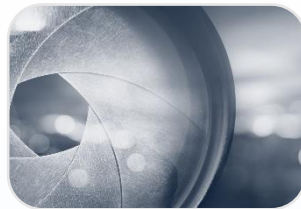
**Littering at or in
vicinity of
neighbour's
residence**



**Interfering with
neighbour's
movable
property**



**Obstructing
neighbour's
place of
residence**



Surveillance



Trespass



Animal Trespass

Who is my "neighbour"?



In same block or building

OR



Within 100m radius

BUT



In **same** house/ flat/ apartment



Community Disputes Resolution Tribunal



**Judge-led,
simplified
process**



**Not bound
by rules of
evidence**



**Monetary
claims limited
to \$20,000**



**Mediation or
counselling
orders**



**NO lawyers
by default**



**Proceedings
heard in
private**

Filing claim under the CDRT should be a last resort. Parties are highly encouraged to attempt other self-help options, including community mediation, first.

Types of CDRT Orders



- Damages ≤ \$20,000
- Injunction
- Specific performance
- Apology
- Disbursements
- Others

When will a Tribunal Order be made?



A) If the court is satisfied, on a balance of probabilities, that the claim is made out against the Respondent

B) If the court is satisfied, that it is
JUST & EQUITABLE
to make the Order

Ordinary instances of daily living expected to be tolerated by reasonable persons in Singapore

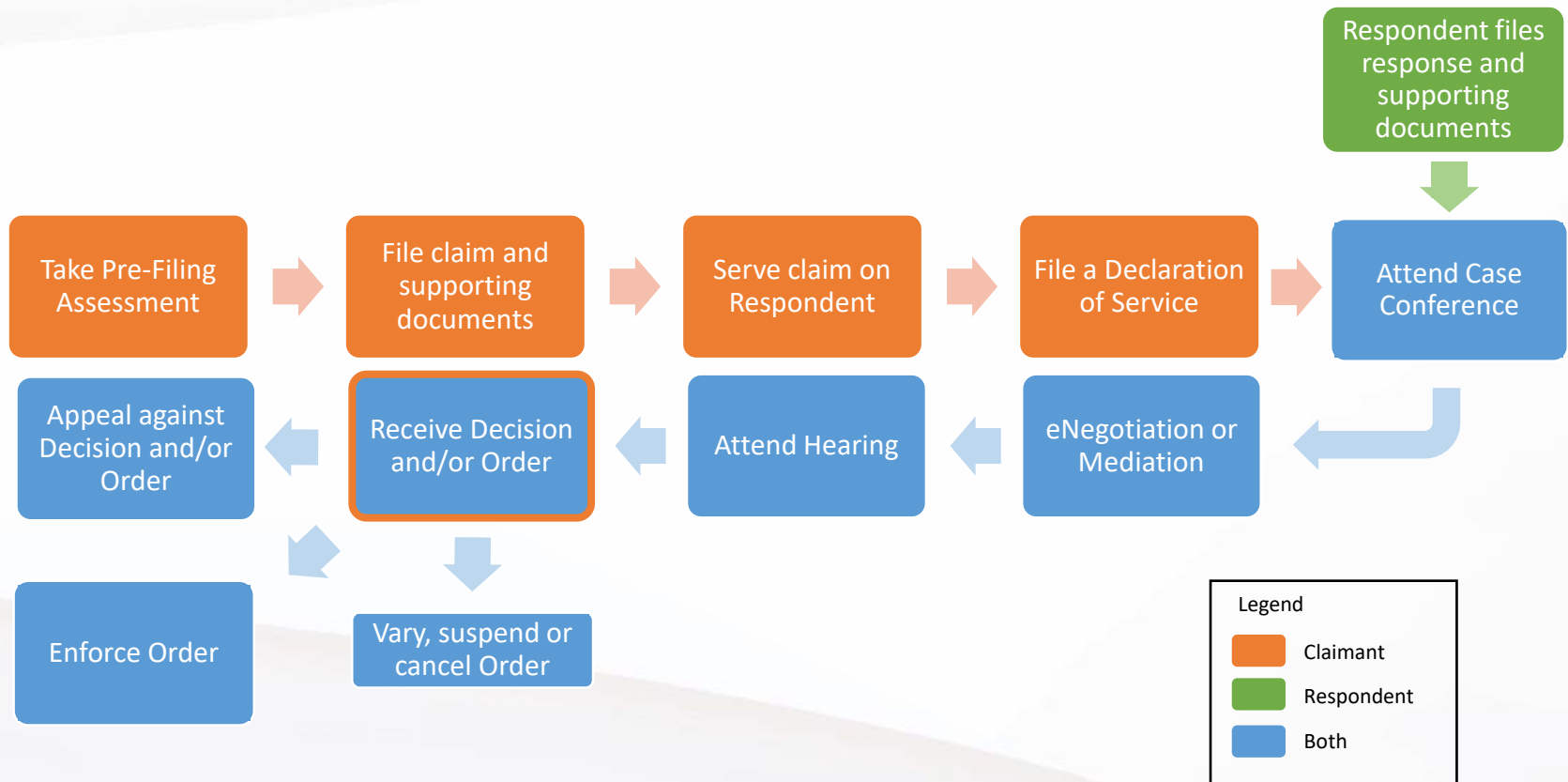
Impact of order on respondent, fellow resident(s), other person(s)

Any other matters as the court deems fit

“Three Strike” Mechanism

- **Strike 1:** Section 5 order is made against Respondent when Claimant proves the claim.
- **Strike 2:** When Respondent fails to comply with initial order, the Claimant may apply for a “special direction” under section 6 of the CDRA:
 - Subject to proof of breach of the initial section 5 order.
 - Court has powers to impose a monetary bond against the Respondent if proven.
 - Failure to comply with order to enter into a bond is punishable with a fine of up to \$2,000.
 - Breach of a special direction is an offence punishable with a fine of up to \$5,000 or up to 3 months’ imprisonment, or both, at first instance (with increased penalties applicable for continuing breaches).
- **Strike 3:** When Respondent fails to comply with a special direction, the Claimant may apply for an order under section 9 of the CDRA for the contravening party to be excluded from his or her place of residence:
 - Subject to proof that the Respondent has failed to comply with a special direction and that it is just and equitable to issue an exclusion order.
 - Breach of an exclusion order is similarly an offence punishable with a fine of up to \$5,000 or up to 3 months’ imprisonment, or both, at first instance (with increased penalties applicable for continuing breaches).

The CDRT Process



Common Difficulties

- Concepts such as excessive noise and excessive smell are not always easy to prove.
- Disputes can become intractable and spill over into the POHA court.
- Occasionally, there are Claimants and Respondents who exhibit signs of mental disorders.

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Suggested Approaches to Mediation

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What has worked for me...

- Identify common interests (e.g. not productive for parties to keep coming back to court when solution might well be practical).
- Cool the temperature – avoid language that apports blame.
- Emphasise the fact that parties will continue to be neighbours regardless of case outcome.
- Find a variable that may affect the state of affairs (e.g. tenants who may be moving out, school holidays, travel, use of noisemaking equipment etc).
- Do not give legal advice
 - Refer them to the statute itself.
 - Ask parties to seek legal advice if necessary.

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Notable Case Studies

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Case Study 1: Noise Complaint (Shouting)

- C brought a claim under section 4 of the CDRA against R, who resided directly upstairs from him and his family.
- Amongst other things, C took issue with R for causing excessive noise by regularly shouting at him and his family.
- C tendered recordings to support his case, and R readily admitted that she was the person depicted shouting in almost all these recordings.
- R claimed that C and his family members were doing the following to her:
 - Using deadly chemicals “toilet bowl cleaning chemical, toxic with smell in liquid form shoot into human life (sic)”.
 - Using “high quality power strong injector...or advance technology shooters...highly advance technology silence killer deadly electricity devices (sic)”.
 - Controlling the dimness of R’s “torchlight” and rendering her unable to read.
 - Causing interruptions to R’s mobile phone reception.

Case Study 1: Noise Complaint (Shouting)

- Based on recordings tendered by C, the tribunal found that R did cause excessive noise by repeatedly shouting at C and his family.
- R did not have any legitimate basis for perceiving that C and his family were “attacking her” and she did not have any justification for shouting at them.
- For completeness, the tribunal dismissed C’s other allegations against R, which related to excessive spraying of insecticide. C did not discharge his burden of proving that this amounted to unreasonable interference with his right to quiet enjoyment of his property.
- The latter underscores the underlying principle that however irrational R may appear to be, C ultimately bears the legal burden of satisfying the elements under section 4 of the CDRA.

Case Study 2: Noise Complaint (Coughing and television/radio sounds)

- C and R were next door neighbours.
- C brought a claim under section 4 of the CDRA alleging that R and her husband were responsible for excessive noise in the form of the following:
 - Frequent loud coughing
 - Loud sounds from their television and radio
- C wished to obtain an injunction prohibiting R and her husband from engaging in “intentional noise nuisance at an inappropriate volume from 7 a.m. to 11 p.m. daily”.
- This case was unusual as C engaged Dropnoise, a company which specialises in tackling noise nuisance, to record the noise levels emanating from R’s flat.
- C submitted a long audio clip purporting to support her claim that the sounds from the television and radio were excessive. C also submitted 18 audio clips containing coughing noises.

Case Study 2: Noise Complaint (Coughing and television/radio sounds)

- The tribunal dismissed the claim.
- The sound recordings did not disclose any noise from the R's television or radio.
- The 18 audio clips disclosed sporadic bursts of coughing at best.
- The tribunal found that the sounds were “from ordinary instances of daily living which could be expected to be tolerated by reasonable persons living in Singapore”.
- While the sounds likely came from R's unit, R and her husband had not unreasonably interfered with C's use or enjoyment of her residence.

Case Study 3: Noise and Abuse Complaint (Exclusion Order)

- C lived in the unit directly above R.
- C filed a claim against R based on 52 instances of offending behaviour encompassing use of abusive language, excessive noise by pounding or hammering on the floor, and calling in reporters to escalate the dispute such that it played out in the public domain.
- Noise disturbance had actually persisted over the preceding 4 years.
- C successfully obtained two orders against R for use of vulgarities and excessive noise
 - July 2019: Initial injunction granted
 - November 2019: Special direction issued
- Due to R's recalcitrance, C successfully applied for an exclusion order lasting for 3 weeks.
- Court balanced R's mental illness (delusional disorder) against the profound impact her actions had on C and her family in arriving at this decision.

Case Study 4: Claiming against neighbours who have moved out

- C brought a claim under section 4 of the CDRA against a couple (R1 and R2), who were his neighbours in a condominium complex.
- C made the following allegations, amongst other things:
 - R1 interfered with the quiet enjoyment of C's property by not wearing a mask outside C's unit, which was purportedly in breach of the applicable Covid-19 regulations.
 - R2 interfered with the quiet enjoyment of C's property by being in a group of six persons at the swimming pool; not wearing her mask outside C's unit, and hosting more visitors than permitted on multiple occasions.
- C sought, amongst other things, damages, a letter of apology and an order prohibiting both Rs from violating Covid-19 regulations.
- C persisted in his claim despite the fact that both R1 and R2 had moved out by the time this matter was fixed for trial. R1 and R2 did not attend the trial.

Case Study 4: Claiming against neighbours who have moved out

- The tribunal dismissed C's claim against R1.
- C had earlier lodged an unsuccessful claim against R1 for allegedly conducting surveillance on C's unit.
- This time, C relied on *identical photographs* of R1 from the previous claim and used them to allege that R1 was interfering with C's enjoyment of his property by not wearing a mask.
- The tribunal found that the matter against R1 had been litigated and determined previously, with the court finding on that occasion that R1 had not committed any tort of reasonable interference against C.
- It was an abuse of process for C to file a fresh claim against R1 in reliance of the same factual incident when the allegation that R1 was in breach of the Covid-19 regulations should also have been placed before the earlier court.

Case Study 4: Claiming against neighbours who have moved out

- The tribunal dismissed C's claim against R2.
- The tribunal found that the swimming pool was too far away from C's unit for R2's act of being in a group of six persons to constitute interference with C's enjoyment of his property.
- C accepted that R2's failure to wear a mask along the common corridor and her act of hosting multiple guests did not result in any significantly increased risk to him.
- In particular, there was no evidence that R2 or her guests lingered outside C's unit in a manner that may be said to constitute interference with C's enjoyment of his property.

Case Study 5: Surveillance Complaint

- C lived in the unit directly above R's unit on the ground floor.
- C filed a claim against R for repeatedly shining a light source into his home and conducting surveillance of C and his family.
- R's actions were motivated by a suspicion that C was responsible for noise disturbance.
- C sought, amongst other things, an injunction to prohibit R from (1) carrying out surveillance and (2) causing security officers from the condominium and other relevant authorities from attending at C's residence to investigate noise complaints.

Case Study 5: Surveillance Complaint

- R did not deny conducting surveillance on C.
- Based on R's past conduct and the sequence of events, the tribunal found that there was a high likelihood that R would continue to harass C.
- R's actions caused unreasonable interference with C's enjoyment of his home, and were not ordinary instances of daily living that could be expected to be tolerated by reasonable persons living in Singapore.
- The tribunal issued an injunction against R to stop him from doing the following:
 - Shining lights into C's residence
 - Causing or instigating anyone else to shine lights into C's residence
 - Carrying out surveillance of C and his family
 - Stalking C and his family
 - Causing or instigating any security officers or authorities from attending at C's residence to investigate any noise complaint

Case Study 6: Omission to grant access for repairs

- C and R were the respective owners of two neighbouring terrace houses separated by a common boundary wall.
- C noticed water patches forming on the inner side of the exposed wall (adjoining R's property) in her house.
- The water ingress eventually caused relatively extensive damage to the interior of C's property, such that a sink fell off the wall due to corroded supports.
- C attempted to get R's permission to allow C's workmen to access R's roof so that the exposed wall could be waterproofed.
- R refused to give permission and directed C to seek help from the property developer. It transpired that R had previously been engaged in a dispute with the property developer, which explained his position.

Case Study 6: Omission to grant access for repairs

- Issue: Whether R's failure to grant C access to his property for repair work constituted unreasonable interference with C's rights under section 4 of the CDRA
- The tribunal granted an order in C's favour, compelling R to allow C's workmen to access his roof.
- C's right to enjoy or use her property included the right to rectify or carry out necessary repairs or rectification works to her property when there was damage caused to her property such as to affect her enjoyment or use of her property.
- R's refusal to give access had resulted in C being unable to carry out the necessary repairs and rectification works to the exposed wall of her property.

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Q & A

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