

**CONDOMINIUM AUTHORITY TRIBUNAL  
MOTION ORDER**

**DATE:** August 29, 2019

**CASE:** 2019-00058R

**Citation:** Charles Senchire v Metropolitan Toronto Condominium Corporation No.856,  
2019 ONCAT 32

Order under section 1.44 of the *Condominium Act, 1998*.

**Member:** Nicole Aylwin, Member

**The Applicant**

Charles Senchire

Self-Represented

**The Respondent**

Metropolitan Toronto Condominium Corporation No.856

Ehsan Haghi, Agent

**Hearing:** May 22, 2019 to August 14, 2019, written online hearing.

**MOTION DECISION AND ORDER**

**A. OVERVIEW**

- [1] The Applicant, Mr. Charles Senchire applied to this Tribunal for an order directing Metro Toronto Condominium Corporation No. 856 ("MTCC856") to provide him with electronic copies of certain records. On May 22, 2019, a Stage 3 – Tribunal Decision hearing on this matter began. At that time, Mr. Senchire owned a unit in MTCC856. During the hearing, on August 9, 2019, Mr. Senchire acknowledged he had sold his unit and did not own any other units in MTCC856. At this point, I referred both Mr. Senchire and the Representative for MTCC856, Mr. Haghi, to a recent decision of the Tribunal, *Nicholaos Nassios v Grey Standard Condominium Corporation No. 46, 2019 ONCAT 26* ("Nassios Decision"), which considered the question of entitlement to records after the sale of a unit. I invited submissions regarding the applicability of the Nassios decision to this case. MTCC856 then made a motion to have this application dismissed on the grounds that Mr. Senchire is no longer entitled to the records requested under the *Condominium Act, 1998* (the "Act").
- [2] For the reasons set out below, I find that, in this case, Mr. Senchire lacks the proper standing to examine or obtain copies of condominium records he requested under section 55 of the Act. Accordingly, the motion is granted and Mr. Senchire's application is dismissed.

**B. ISSUE AND ANALYSIS**

***Issue: Is Mr. Senchire is entitled to obtain copies of the condominium records he requested now that he is no longer an owner in MTCC856?***

- [3] Mr. Senchire submits that he was a unit owner in MTCC856 when he made his original request for records and thus his application should be allowed to continue. He believes that the entitlement to records should flow from the status of an applicant at the time of the request not their status during a hearing or prior to the release of a Tribunal Decision. Mr. Senchire further submits that he does not agree with the Nassios Decision. He has invited me to consider a number of hypothetical situations that could complicate the Nassios Decision, such as what might happen if an applicant sells their unit after the close of a hearing, but prior the release of a decision by the Tribunal. Mr. Senchire also takes the position that he is acting in the interests of all owners in the building and that there are other issues beyond the issue of the entitlement to records that should be addressed in this hearing. For all of these reasons, Mr. Senchire believes his application should be allowed to continue.
- [4] It is the position of MTCC856 that Mr. Senchire's application should be dismissed as Mr. Senchire is no longer an owner of a unit in MTCC856. MTCC856 has cited subsection 55(3) of the Act, which specifies who is entitled to examine or obtain copies of records. MTCC856 further submits that the reasoning of Nassios Decision should apply in this case and asserts that Mr. Senchire had planned to sell his unit prior to commencing this Tribunal case.
- [5] Both Users have asked me to consider matters which are outside of the scope of what I must decide on this motion. The issue I must decide is a narrow one: is Mr. Senchire is entitled to examine and obtain copies of the condominium records he requested now that he is no longer an owner in MTCC856.
- [6] Subsection 55(3) of the Act reads:
- The corporation shall permit an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing, to examine or obtain copies of the records of the corporation in accordance with the regulations, except those records described in subsection (4). 2015, c. 28, Sched. 1, s. 51 (4).
- [7] Subsection 55(3) of the Act specifies who is entitled to examine and obtain records of the corporation: "an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing". It follows that the relevant time to be an owner is not only when records are requested but also when they are examined or obtained. Thus, in order to have the right to examine and obtain records of the corporation, a person must be an owner at the time they examine or receive copies of the requested records.
- [8] Mr. Senchire was within his rights to make a request for records when he was an owner of a unit in MTCC856; however, when he sold his unit, he thereby lost his

right as an owner to examine or obtain copies of the records of the corporation, and has no other status that replaces that entitlement in respect to this case.

[9] For these reasons, I conclude that, in this case, Mr. Senchire has lost his status to continue this application since he is no longer an owner of a unit in MTCC856 and is no longer entitled to examine or obtain copies of the records of the corporation.

[10] MTCC856's motion is granted and Mr. Senchire's application will be dismissed.

[11] Costs were not requested in this matter, and no order on costs will be issued.

### **ORDER**

[12] The Tribunal grants MTCC856's motion. Mr. Senchire's application is hereby dismissed. No costs are to be awarded to either User.

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Nicole Aylwin  
Member, Condominium Authority Tribunal

Released on: August 29, 2019