

**CONDOMINIUM AUTHORITY TRIBUNAL
MOTION ORDER**

DATE: October 8, 2019

CASE: 2018-00337R

Citation: Joseph Varadi v Metro Toronto Condominium Corporation No. 614, 2019 ONCAT 41

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

Member: Noeline Paul, Member

The Applicant
Joseph Varadi

Self-Represented

The Respondent
Metro Toronto Condominium Corporation No. 614

Amber Taylor, Agent

Hearing: July 8, 2019 – September 4, 2019, Written online hearing

MOTION DECISION AND ORDER

A. INTRODUCTION

- [1] In June 2019, Joseph Varadi (the “Applicant”) applied to the Condominium Authority Tribunal (“CAT”) for an order directing Metro Toronto Condominium Corporation No. 614 (“MTCC 614”) to provide him with copies of and/or access to certain records (the “Application”) pursuant to the *Condominium Act, 1998* (the “Act”). At the time, the Applicant was a unit owner of MTCC 614. In July 2019, the CAT commenced a hearing into the Application and the panel addressed preliminary issues with the parties. On August 7, 2019, MTCC 614 brought a motion to have the Application dismissed without costs on the grounds that the Applicant had sold his condominium on August 6, 2019 and, therefore, he was no longer entitled to continue the Application.
- [2] Neither party has disputed the fact that the Applicant sold his unit of MTCC 614 during the course of the CAT hearing.
- [3] For the reasons set out below, I find that the Applicant is no longer a person entitled to continue his Application to obtain copies of condominium records under the Act. Therefore, the motion is granted and the Application is dismissed.

B. ISSUE & ANALYSIS

- [4] The issue in deciding this motion is whether the Applicant’s sale of his unit in MTCC 614 prevents him from continuing the Application to obtain records under the Act.

- [5] The Act enables the access of condominium records and provides criteria that apply to requests to access such information. Subsection 55(3) of the Act sets out the class of persons who are entitled to examine or obtain records related to a condominium. This section reads as follows:

55(3) 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...

- [6] With respect to the regulation referred to in subsection 55(3) of the Act, the relevant set of regulatory provisions are set out in Ontario Regulation 48/01. Amongst other things, these provisions provide details regarding the method and form for requesting records related to a condominium corporation.
- [7] In terms of whether an applicant has standing to continue an application after it has been filed, the CAT has considered this issue previously in *Nassios v. Grey Standard Condominium Corporation No. 46*, 2019 ONCAT 26 (“Nassios”). In that case, the applicant brought an application to access condominium records and the applicant sold his unit during the course of the CAT hearing. The respondent condominium corporation then brought a motion to dismiss the application on the basis that the applicant was no longer entitled to access the records due to the sale of the unit. The CAT decided that the applicant lost his status to continue his application due to the sale of his unit and granted the motion to dismiss the application.
- [8] The Respondent, MTCC 614, has brought this motion on the basis that the Applicant is not entitled to access records. MTCC 614 submitted that the Applicant lost the ability to continue the Application as a unit owner before the CAT when he sold his unit. MTCC 614 further submitted that this panel should follow the Nassios decision.
- [9] The Applicant submitted that his case can be distinguished from Nassios. He put forth several arguments that relate to the conduct of MTCC 614, including whether the condominium corporation could be considered self-represented or not. He also sought to distinguish his case from Nassios on the basis that he, unlike Mr. Nassios, was not acting as an agent for the Principal. I find these arguments have no bearing on whether or not the Applicant has standing to continue his Application before CAT. This remains the issue to be decided in this motion.
- [10] The Applicant has further submitted that the Nassios decision should not be followed in determining this motion because it was arrived at exclusively on procedural reasons and it did not reference the nature of the documents requested. The Applicant stated that this ignores the potential impact on the condominium corporation’s best financial interests, whether there is strict compliance with its policies, and the owners’ direct interest in the way their monies are spent.

[11] On a plain reading of the Nassios decision, it is clear that the decision does not consider the nature of the documents requested and it was rendered on the basis of whether the applicant had standing as a class of persons who is entitled to continue an application before CAT for access to records. This is the threshold issue that must be satisfied before the CAT can consider other issues, such as the nature of the documents requested. The Applicant's submission that I not follow this line of reasoning is inconsistent with the requirements set out in the law, specifically subsection 55(3) of the Act.

[12] I find that, while the Applicant may have had standing to bring the Application at the time this hearing commenced, he lost his status to continue the Application when he sold his unit in MTCC 614. As a result, I grant MTCC 614's motion to dismiss this Application.

C. CONCLUSION

[13] The Applicant does not have standing to continue this Application to access records pursuant to the Act due to the sale of his condominium unit. Therefore, MTCC 614's motion to dismiss this Application is granted and this Application is dismissed.

ORDER

The Tribunal orders that:

1. The Tribunal orders that this motion is granted and the Application is dismissed. No order will be issued as to costs.

Noeline Paul
Member, Condominium Authority Tribunal

Released on: October 8, 2019