

CONDOMINIUM AUTHORITY TRIBUNAL

DATE: October 16, 2019

CASE: 2019-00183R

Citation: William Siudak v Wentworth Condominium Corporation No. 171, 2019 ONCAT 43

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

Member: Ian Darling, Chair

The Applicant
William Siudak

Self-Represented

The Respondent
Wentworth Condominium Corporation No. 171

Paul Casuccio, Agent

Written Submissions: September 16, 2019 – September 27, 2019

MOTION AND ORDER

A. INTRODUCTION

- [1] On August 27, 2019, William Siudak (the “Applicant”) filed a case with Condominium Authority Tribunal (“CAT”) for an order directing Wentworth Condominium Corporation No. 171 (WCC 171) (the “Respondent) to provide copies of records pursuant to the *Condominium Act, 1998* (the “Act”).
- [2] WCC 171 joined the case on September 9, 2019. On September 16, 2019, the Respondent submitted a motion to dismiss the case because the Applicant had sold the condominium on September 13, 2019 and was no longer entitled to obtain records under the Act.
- [3] Neither party has disputed that the Applicant was a unit owner of WCC 171 when the case was filed with the CAT, and that the Applicant sold his unit.
- [4] For the reasons set out below, I find that the Applicant is no longer a person entitled to obtain copies of condominium records under s. 55 of the Act. I grant the motion and dismiss the case.

B. ISSUE & ANALYSIS

- [5] The Act grants the right to access of condominium records. Subsection 55(3) of the Act sets out who is entitled to examine or obtain records related to a condominium. This section states that:

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] The regulation referred to in subsection 55(3) of the Act is Ontario Regulation 48/01. The Act and Regulation detail the method for an owner to request condominium records, and the responsibilities of the corporation to respond to the request.
- [7] The issue of whether an applicant has standing to continue a case after a unit has been sold was considered by the CAT in *Nassios v. Grey Standard Condominium Corporation No. 46*, 2019 ONCAT 26 (“Nassios 1”); *Nassios v Grey Standard Condominium Corporation No. 46*, 2019 ONCAT 33 (“Nassios 2”); *Senchire v Metropolitan Toronto Condominium Corporation No.856*, 2019 ONCAT 32; and *Varadi v Metro Toronto Condominium Corporation No. 614*, 2019 ONCAT 41.
- [8] In those cases, the applicants also sold their units while a CAT case was active. The respondent condominium corporations asked the CAT to dismiss the cases because the applicants were no longer entitled to access the records due to the sales of their units. In each of those instances, the CAT decided that the applicant lost their status to continue and dismissed the case.
- [9] The Respondent brought this motion on the basis that the Applicant is not entitled to access records. WCC 171 submits that the Applicant lost the ability to continue the Application as a unit owner before the CAT when he sold his unit. WCC 171 cited the Nassios decisions to support their argument.
- [10] In their submissions, the Applicant focused on the intent of the request, and the intention to share the records with current owners. The Applicant submitted:
- the request for the invoices from the corporate lawyer was made on behalf of all homeowners and not for myself. At the time that that the request was made I was a homeowner and the invoice’s (sic) were produced at that time. The request was made on July 19, 2019, and if the response would have been provided within the 30-day mandated time period there would be no questions as to whether I was a homeowner or not. If the tribunal should deem that I am not entitled to receive these documents then these documents should be forwarded to one of the other homeowners. If this is the case, I will provide you with a name of a homeowner.
- [11] Subsection 55(3) of the Act specifies that “an owner, a purchaser or a mortgagee of a unit or an agent of one of them duly authorized in writing” is entitled to examine and obtain records of the corporation. The applicant was an owner when the request was made. By referring to “examining and obtaining” the records, the Act establishes that the person requesting the record must be an owner when the records are requested, and when they are examined or obtained.

[12] The Applicant stated that he would share the records with current owners if he was successful. There is no evidence before me that would allow me to conclude that the Applicant was acting as an authorized agent for current owners. If current owners would like to see the records in question, they must make a request to the corporation on the prescribed form.

[13] The Applicant raised a concern that he would have received the record if the Respondent had responded to the request on time. The Applicant uploaded the Corporation's Response to Records form which indicated the records would be provided for a fee. The dispute before the Tribunal was about the cost of the records and scope of redactions. Based on the evidence and submissions before me, I do not conclude that the Respondent delayed its response in order to run out the clock to avoid providing the record. Respondents should not use an impending sale to avoid their obligations to provide access to records under the Act.

C. CONCLUSION

[14] I find that the Applicant had standing to submit the case to the Tribunal when the case was filed. Since the case related to section 55(3) of the Act, he lost standing to continue this case when he sold the unit. Therefore, WCC 171's motion is granted, and this case is dismissed.

ORDER

[15] The Tribunal orders that this motion is granted, and the case is dismissed. No order will be issued as to costs.

Ian Darling
Chair, Condominium Authority Tribunal

Released On: October 16, 2019