

**CONDOMINIUM AUTHORITY TRIBUNAL
MOTION ORDER**

DATE: July 19, 2019

CASE: 2018-00345R

Citation: Charlene Aquilina v Middlesex Standard Condominium Corporation No. 823,
2019 ONCAT 22

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

Member: Laurie Sanford, Member

The Applicant
Charlene Aquilina

Self-Represented

The Respondent
Middlesex Standard Condominium Corporation No. 823

John Goudy, Counsel

MOTION DECISION AND ORDER

A. OVERVIEW

- [1] On June 20, 2019, following a hearing on the matter, the Tribunal ordered that Middlesex Standard Condominium Corporation No. 823 (“MSCC823”) provide Ms. Aquilina with certain records, subject to specified redactions and subject to the payment of an amount for the costs of producing the records. The decision of the Tribunal was released to the parties. Under the provisions of section 1.48 of the *Condominium Act, 1998* (the “Act”) and section 2 of Ontario Regulation 179/17 to the Act, the Tribunal is required to make any order it issues available to the public without charge on the internet in a searchable database.
- [2] Ms. Aquilina brings this motion to have her name redacted from any publication. MSCC823 opposes the motion.
- [3] For the reasons set out below, I find that Ms. Aquilina has not demonstrated that her interests in having her name removed from the published decision outweigh the principle that the public should have full access to decisions of the Tribunal, including the names of the parties.

B. ISSUES & ANALYSIS

- [4] Ms. Aquilina moves to have her name “redacted from any publication.” She also seeks to have her home address kept private “because of abuse”. She writes, “Exposing my address could get me exposed to violence.” A second ground for her request to have her name redacted is that she does not feel she was allowed to participate in the hearing. She submits that accommodations were not made for

her disabilities. Her third reason for not wanting her name published is that she alleges that her privacy has been invaded by a member of the board of MSCC823. In conjunction with this alleged invasion of privacy, Ms. Aquilina writes, "I do not wish to submit this on your public website I'm not witting(sic) on a public website details about my private life."

[5] MSCC823 opposed Ms. Aquilina's motion on several grounds. The condominium corporation notes that Ms. Aquilina's address is not disclosed in the decision and neither is that of MSCC823. MSCC823 submits that Ms. Aquilina provided no explanation as to how the publication of the decision would create a risk of abuse or violence. MSCC823 disputes Ms. Aquilina's position that she was denied the right to participate in the hearing and submits that she was consulted about the need for accommodations. MSCC823 submits that a failure to accommodate would, in any event, "not support a request for redaction of the Tribunal's decision." Concerning the allegation that her privacy was invaded by a member of the board of MSCC823, while MSCC823 is unaware of the complaint, it submits that the alleged invasion of privacy is irrelevant to the motion Ms. Aquilina brings. Concerning Ms. Aquilina's statement that she does not want details of her private life on a public web site, MSCC823 notes that no details about Ms. Aquilina's private life are contained in the decision. Finally, MSCC823 submits that Ms. Aquilina brought this application and consented to the use of her name in these proceedings and that the decision should likewise bear her name.

[6] In balancing the public interest in open courts, including public access to decisions of courts and tribunals, against an individual's interests in privacy, the Superior Court of Justice, in the case of *Toronto Star v. AG Ontario*, 2018 ONSC 2586 held:

The open court principle is the fundamental one and the personal information and privacy concerns are secondary to it. That principle directs administrative tribunals to protect confidentiality only where a party seeking it establishes that it is necessary to protect important interests.

[7] The question in this motion is whether Ms. Aquilina has demonstrated that removing her name from the decision is "necessary to protect important interests". I conclude that she has not.

[8] Obviously, the risk of violence or abusive behaviour is such an important interest and, to establish it, it is not necessary that actual violence be demonstrated. But the apprehension of violence or abuse must be a reasonable one. In this case, Ms. Aquilina has not established that her concerns are well-founded or supported her assertions with any evidence. MSCC823 is correct in noting that Ms. Aquilina's address was not disclosed in the decision and I accept MSCC823's statement that the address given for it is a business address, not its street address. Therefore, her concern that publishing her address could expose her to

violence or abuse is not supported by the facts of this case. She has provided no evidence that publishing her name would create a risk of violence or abuse.

- [9] Ms. Aquilina's concern that she was not given the opportunity to participate in the hearing and that accommodations were not made for her disability were not supported by evidence. Even if those concerns had been substantiated, the remedy would not include withholding her name from the decision. Likewise, the alleged invasion of her privacy by a member of the board is a matter that Ms. Aquilina is free to pursue but it does not constitute grounds for anonymization of the decision in this matter. These allegations are separate from and irrelevant to the question of whether Ms. Aquilina's name should be published as part of the decision.
- [10] Ms. Aquilina submitted that she did not wish to disclose details of her private life on a public web site. Her meaning is unclear. MSCC823 interpreted her remarks as a concern that details of her private life were contained in the decision and responded that the decision did not contain personal information other than the necessary recital of the context of Ms. Aquilina's request for records and MSCC823's response. It is true that details of Ms. Aquilina's private life are not included in the decision, other than in general statements about the circumstances of her records request. However, that may not be what Ms. Aquilina was referring to. It is possible that she meant that she did not want to disclose details about the alleged invasion of privacy on a public website. If that is the case, then it should be noted there was no need for such a disclosure since, as discussed above, the alleged invasion of privacy is not relevant to this motion.
- [11] Ms. Aquilina brought an application for access to certain records. At the outset of the hearing, she agreed to use her own name, after initially resisting the request. Subsequently in the course of the hearing, she requested anonymity. In response, she was informed of the Tribunal's policy of disclosing the names of the parties in decisions and she was also advised that she could bring a motion at that time for an exception. She chose to proceed with the hearing without bringing the motion. I conclude that Ms. Aquilina was aware that her name was going to be published in the decision and she elected to proceed on that basis.
- [12] Ms. Aquilina has not established that her interests in having her name removed from the June 20th decision in her case outweigh the public's right to full access to the decisions of this Tribunal.

C. ORDER

- [13] The Tribunal orders that this motion be dismissed.

Laurie Sanford
Member, Condominium Authority Tribunal

Released On: July 19, 2019