

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** June 20, 2019

**CASE:** 2019-00026R

**Citation:** Nicholaos Nassios v Grey Standard Condominium Corporation No. 46, 2019 ONCAT 26

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

**Member:** Laurie Sanford

**The Applicant**  
Nicholaos Nassios

Self-Represented

**The Respondent**  
Grey Standard Condominium Corporation No. 46

Robert Weinberg, Agent

**Hearing:** April 22, 2019 to June 3, 2019

### **MOTION DECISION AND ORDER**

#### **A. OVERVIEW**

- [1] On February 10, 2019, Mr. Nicholaos Nassios applied to this Tribunal for an order directing Grey Standard Condominium Corporation No. 46 (“GSCC46”) to provide him with electronic copies of certain records. At the time, Mr. Nassios was a unit owner of GSCC46. On May 1, 2019, Mr. Nassios sold his condominium unit. On the same day, Mr. Nassios received an agency authorization from another unit owner (the “Principal”) to act on the Principal’s behalf “to examine the records of [GSCC46] pursuant to subsection 55(3) of the Condominium Act 1998.” GSCC46 brings this motion to have Mr. Nassios’ application to the Tribunal dismissed on the grounds that Mr. Nassios is no longer entitled to obtain copies of the records under the *Condominium Act, 1998* (the “Act”).
- [2] For the reasons set out below, I find that Mr. Nassios is no longer a person entitled to obtain copies of condominium records under section 55 of the Act. Accordingly, the motion is granted and Mr. Nassios’ application is dismissed.

#### **B. ISSUES & ANALYSIS**

- [3] In order to determine if Mr. Nassios’ application to this Tribunal may continue, it is necessary to consider two issues. First, what is the effect of Mr. Nassios’ sale of his condominium unit on this proceeding? Second, what is the effect of the agency authorization that Mr. Nassios received from his Principal on this proceeding?

- [4] Subsection 55(3) of the Act states, “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, . . . .” Thus, the Act specifies which people are entitled to examine or obtain copies of records and this class of people includes both condominium unit owners and an agent of a unit owner.
- [5] The regulation referred to in subsection 55(3) is Ontario Regulation 48/01 (the “Regulation”). The Regulation sets out detailed procedures for obtaining copies of requested records. This procedure includes provisions for making a formal Request for Records in the prescribed form, which initiates the request process. The Regulation sets out how and when the condominium corporation is to reply to a Request for Records, including provisions for setting fees for producing the records. The Act also provides for applications to this Tribunal and sets out a procedure for these applications.
- [6] Mr. Nassios submits that he was a unit owner of GSCC46 “through every critical stage of this case”. The detailed procedures established in the Act and Regulation make it clear that the relevant time to be a person entitled to obtain copies of condominium records extends from the time of the Request for Records through to the date on which the condominium corporation provides copies of the requested records, whether as a result of an Order of this Tribunal or otherwise. Mr. Nassios was a unit owner and therefore entitled to obtain copies of certain records specified in the Act and the Regulation when he initiated the Request for Records. He was still a unit owner when he applied to this Tribunal. However, on May 1, 2019, his status changed. With the sale of his condominium unit, Mr. Nassios was no longer a condominium unit owner. The sale took place before the hearing was concluded and, accordingly, before an Order was issued either directing GSCC46 to provide copies of the records or not. In these circumstances, when Mr. Nassios sold his condominium unit, he lost the status to continue this application as a condominium unit owner.
- [7] The next question is whether Mr. Nassios qualifies under any other heading as a person entitled to obtain copies of the records. Mr. Nassios submits that he is an agent of the Principal, acting pursuant to an agency authorization entered into on May 1, 2019, the same day he sold his unit. As such, Mr. Nassios contends, he is able to continue this application for the records he seeks. Mr. Nassios submits that the wording of the agency authorization is sufficiently broad that it should not be restricted to any particular request for records but rather applies to any request for records.
- [8] There are two problems with Mr. Nassios’ goal of relying on the agency authorization he received from the Principal to continue his current application to this Tribunal. The first problem is that there is no Request of Records supporting the agency authorization. As noted above, the Request for Records initiates the request process. Without it, a condominium corporation is under no obligation to

provide copies of the records being sought. When Mr. Nassios sold his condominium unit, his Request for Records ceased to have legal effect. There is no evidence that the Principal has initiated a Request for Records. Even if the Principal had made such a request, it would be a new records request, not a continuation of the Request for Records that forms the basis of this application.

- [9] The second problem is the wording of the agency authorization itself. The authorization specifies that Mr. Nassios is authorized to act on the Principal's behalf to "examine the records of [GSCC46] pursuant to subsection 55(3) of the Condominium Act 1998." The problem for Mr. Nassios is that subsection 55(3) requires a condominium corporation to permit qualified people to "examine or obtain copies of records . . .". The agency authorization does not extend Mr. Nassios' authority to obtaining copies of records. The plain wording of the agency agreement is that Mr. Nassios is authorized to examine GSCC46's records, if granted access, but is not authorized to obtain copies of the records. This application was brought for the express purpose of obtaining electronic copies of certain records.
- [10] I conclude that Mr. Nassios has lost his status to continue this application since he is no longer an owner and his status as an agent for another owner does not provide him with authority to continue this matter. GSCC46's motion is granted and Mr. Nassios' application will be dismissed.
- [11] Mr. Nassios requests costs in this matter. Costs generally flow from the success in the case. Having lost this motion, and in the absence of extraordinary circumstances, I can see no justification for an award of costs to Mr. Nassios. GSCC46 has not requested costs. Accordingly, no order as to costs will issue.
- [12] Mr. Nassios also requests a penalty in this matter. Subsection 1.44(1) 6 of the Act gives the Tribunal the jurisdiction to order a penalty be paid to Mr. Nassios if the Tribunal considers that GSCC46 refused to provide Mr. Nassios the records he requested without reasonable excuse. However, in this case, GSCC46 is not obliged to provide the records due to Mr Nassios' change in status. There will be no penalty.
- [13] Mr. Nassios submits that GSCC46 refused to reply to his request for records as required by the Regulation. Mr. Nassios also submits that he sold his condominium unit as a result of the conduct of GSCC46 and its Board. Mr. Nassios asserts that a "moral hazard" would be created if GSCC46 were permitted to escape its obligation to provide the records by violating the Act in not replying to his Request for Records, delaying the proceeding and then pointing to the sale of his unit. Mr. Nassios submits that the Tribunal has the "responsibility and authority to investigate and take action against any Condo Corporation who fails to comply with condominium law provisions related to records." Mr. Nassios' submission concerning the role of the Tribunal in the case of an alleged breach of the Act and any moral hazard that might arise is not correct. The Tribunal's jurisdiction is set

out in the Act and does not extend to investigating and taking action against GSCC46 in the circumstances of this case.

**C. ORDER**

[14] The Tribunal orders that this motion be granted. Mr. Nassios' application is therefore dismissed. No order will issue as to costs or penalties.

---

Laurie Sanford  
Member, Condominium Authority Tribunal

Released on: June 20, 2019