

**CONDOMINIUM AUTHORITY TRIBUNAL
MOTION ORDER**

DATE: July 17, 2019

CASE: 2018-00435R

Citation: Nicholaos Nassios v Grey Standard Condominium Corporation No. 46, 2019 ONCAT 33

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

Member: Deborah Anschell, Member

The Applicant
Nicholaos Nassios

Self-Represented

The Respondent
Grey Standard Condominium Corporation No. 46

Robert Weinberg, Agent

Hearing: March 24, 2019 to June 20, 2019

MOTION DECISION AND ORDER

A. OVERVIEW

- [1] On December 31, 2018, 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. The matter moved to Stage 2 - Mediation in early January 2019. The Stage 2 Mediation concluded on February 26, 2019. Stage 3 - Tribunal Decision commenced shortly thereafter.
- [2] On May 1, 2019, Mr. Nassios sold his condominium unit (the “Unit”). On the same day, Mr. Nassios received an agency authorization (the “Agency Agreement”) 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”).
- [3] 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. Therefore, the motion is granted and Mr. Nassios’ application is dismissed.

B. ISSUES & ANALYSIS

- [4] The starting point for this determination is Section 55(3) of the Act. This section provides as follows:
- “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...”
- [5] This section provides that both condominium unit owners and agents of a unit owner are entitled to examine or obtain copies of records.
- [6] The key issue that must be determined in this motion is when the determination of ownership status must be made, with respect to a request for records. That same issue was dealt with by the Tribunal in *Nicholaos Nassios v. Grey Standard Condominium Corporation No. 46 (2019-00026R)*. The facts in that decision were essentially the same as in the present case. The only distinguishing characteristic between the two cases was with respect to the specific records sought. This distinction is not material to the analysis relating to ownership status.
- [7] In that decision, Tribunal Member L. Sanford noted as follows at paragraph 6:
- “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.”
- [8] Tribunal Member Sanford’s decision finds that the Act stipulates that one must be a unit owner, a purchaser, a mortgagee of a unit, or an agent at several points in time to successfully obtain records from this Tribunal. An applicant must be eligible at the time of the Request for Records. Furthermore, only a unit owner, a purchaser, a mortgagee of a unit, or an agent can bring a Request for Records forward to this Tribunal. Finally, in order to obtain an order from this Tribunal, an Applicant must continue to be eligible i.e. a unit owner, a purchaser, a mortgagee of a unit, or an agent throughout the hearing process.
- [9] Applying this reasoning to the present case, Mr. Nassios sold the Unit on May 1, 2019. Thus, when Mr. Nassios sold the Unit, he lost the status to continue this application as a condominium unit owner.
- [10] The final question that must be determined is whether Mr. Nassios could obtain the records that he seeks on the basis of the Agency Agreement. Mr. Nassios submits that pursuant to the Agency Agreement he is permitted to continue his application for the records that he seeks.

[11] That issue was also explored by Tribunal Member Sanford in her earlier decision. She found that when Mr. Nassios sold his condominium unit, his Request for Records ceased to have legal effect. There was no evidence that the Principal had initiated his own Request for Records naming Mr. Nassios as his agent.

[12] Further, Tribunal Member Sanford noted that the agency authorization did not extend Mr. Nassios' authority to obtain copies of records. It only permitted Mr. Nassios as agent for the Principal to examine the records of the Respondent. The Agency Agreement did not authorize Mr. Nassios to obtain copies of records. Yet Mr. Nassios' application that is the subject of this Hearing was to obtain electronic copies of records.

[13] The Agency Agreement in this case stated as follows:

“I, Felice Rocci, registered property owner of the above noted property, hereby authorize Nicholaos Nassios (Agent) to act on my behalf to examine the records of Condo Corporation GSCC46 pursuant to subsection 55(3) of the Condominium Act 1998”.

[14] Thus, following the decision in Case No. 2019-00026R, I similarly conclude that Mr. Nassios had no status to continue this application for records, since effective May 1, 2019, he was no longer an owner, and his status as an agent pursuant to the Agency Agreement did not allow him to continue this matter. GSCC46's motion is granted and Mr. Nassios' application is dismissed.

[15] Given my decision on this motion, I find no basis on which to award costs to Mr. Nassios. I will therefore make no order as to costs in this matter.

[16] Further, given my findings, GSCC46 was not obliged to provide Mr. Nassios with the records he requested because of his change in status. I did not find that GSCC46 without reasonable excuse refused to provide records to Mr. Nassios. This is therefore not an appropriate case to impose a penalty.

C. ORDER

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

Deborah Anshell
Member, Condominium Authority Tribunal

Released on: July 17, 2019