

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** August 14, 2020

**CASE:** 2020-00175R

**CITATION:** Yeung v. Metropolitan Toronto Condominium Corporation No. 1136, 2020 ONCAT 28

Order under section 1.41 of the *Condominium Act, 1998*.

**Member:** Ian Darling, Chair

**The Applicant,**

Kai Sin Yeung  
Self-Represented

**The Respondent,**

Metropolitan Toronto Condominium Corporation No. 1136  
Represented by Tony Bui, Counsel

### **DISMISSAL ORDER**

- [1] The Applicant filed an application with the Condominium Authority Tribunal (CAT). The case proceeded to Stage 2 - Mediation on July 9, 2020.
- [2] Under Rule 32.3 of the CAT's Rules of Practice, the CAT can close a case in Mediation if the CAT determines that it does not have jurisdiction to deal with the issues in dispute, or if a case is about issues that are so minor that it would be unfair to make the Respondent go through the CAT process to respond to the case.
- [3] The Applicant made a three-part claim:
  - a. The Periodic Information Certificates (PICs) issued by the Respondent in December 2018; June 2019 and December 2019 contain errors.
  - b. The PICs were not issued in a timely manner.
  - c. A penalty should be imposed on the Respondent as a consequence of the errors, and lack of timely responses.
- [4] The Respondent made a motion to dismiss the case because the issues in question are minor and easily resolvable, and/or the CAT does not have the authority to hear them.

- [5] The Tribunal's jurisdiction is limited to the sections of the *Condominium Act, 1998* (the "Act") and of *Ontario Regulation 48/01* ("O. Reg. 48/01") which relate to the requirements that a corporation keep adequate records and permit an owner to examine or obtain copies of those records (s. 55 of the Act).
- [6] The Applicant asserts that there are errors in three different sections of the PICs. The Respondent has stated that it is willing to correct certain errors cited by the Applicant. However, whether or not the PICs contain errors based on the Applicant's interpretation of the information required in a PIC is not an issue which the Tribunal has jurisdiction to decide under s. 55 of the Act.
- [7] The requirement to provide information certificates (the PICs) is established in s. 26.3 of the Act. Section 11 of O.Reg 48/01 establishes the requirements for the content and timing for delivery of the certificates to owners. In this case there is no dispute that the January 2020 PIC was delivered outside of the timelines established in the Regulation. Information certificates are identified in s.55 of the Act as records that a corporation must maintain, and are subject to request from owners. This is not a dispute about entitlement to a record, or record retention. Section 55 does not provide for a mechanism for disputes over the timing of the certificates. Therefore, this issue falls outside of the jurisdiction of the Tribunal.
- [8] The Applicant requested that the Tribunal impose a penalty due to the accuracy and timing concerns with the certificates. The relevant section of the Act relating to the imposition of a penalty is [s.1.44 \(1\)](#) 6. It states that the Tribunal may make:

*[a]n order directing a corporation that is a party to a proceeding with respect to a dispute under [subsection 55 \(3\)](#) to pay a penalty that the Tribunal considers appropriate to the person entitled to examine or obtain copies under that subsection if the Tribunal considers that the corporation has without **reasonable excuse refused to permit the person to examine or obtain copies** under that subsection (emphasis added).*

There is no evidence, or allegation by the Applicant that the Respondent has refused access to the record. Therefore, there is no basis for a penalty.

- [9] Section 55 does not provide for a mechanism for disputes over the content of the records. Therefore, I find that this issue falls outside of the jurisdiction of the Tribunal. Accordingly, I order that this case be dismissed.

## **ORDER**

- [10] The Tribunal orders that:

1. This case is closed in Mediation under Rule 32.3 of the CAT's Rules of Practice.
2. Any documents and messages that have been shared for this Case in Stage 1 - Negotiation and/or Stage 2 - Mediation are private and confidential. That means that the Users cannot share, or tell anyone about, messages or documents they received from other Users during these stages without the permission of the other User.
3. The Users may share a copy of any document they received during the course of this case if required by law, such as to a government organization or a court.

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Ian Darling  
Chair, Condominium Authority Tribunal

Released on: August 14, 2020